

GENERAL LIABILITY AND AUTO LIABILITY COVERAGE

General Liability and Auto Liability extends coverage to all third parties suffering bodily injury or property damage caused by the member agency.

This line of coverage includes errors and omission coverage and employment practices liability coverage.

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MEMORANDUM OF COVERAGE DECLARATIONS

GENERAL LIABILITY AND AUTO LIABILITY COVERAGE

(applicable to claims within YCPARMIA's Self-insured Retention)

DEDUCTIBLE SELECTED AND COVERAGE AMOUNTS

DEDUCTIBLE SELECTED PER OCCURRENCE

YCPARMIA - 0
City of Davis - \$5,000
City of Woodland - \$5,000
County of Yolo - \$5,000
City of West Sacramento - \$5,000
City of Winters - \$2,000
Esparto Unified School District - \$1,000
Springlake Fire District - \$1,000
Yolo-Solano Air Quality Management District - \$1,000
Capay Valley Fire Protection District - \$1,000
Yolo Emergency Communications Agency - \$1,000
East Davis County Fire Protection District - \$1,000
No Man's Land Fire Protection District - \$1,000
Yolo County Law Library - \$1,000
In-Home Supportive Services Public Authority - \$1,000
Yolo County LAFCO - \$1,000
Davis Cemetery District - \$1,000
Madison Fire District - \$1,000
Yolo County Habitat Conservation JPA - \$1,000
Winters Cemetery District - \$1,000
Dunnigan Fire Protection District - \$1,000
Cottonwood Cemetery District - \$1,000
Clarksburg Fire Protection District - \$1,000
Sacramento-Yolo Port District - \$1,000
Winters Fire Protection District - \$1,000
Madison Community Service District - \$1,000
Woodland-Davis Clean Water Agency - \$1,000
Willow Oak Fire Protection District - \$1,000
West Plainfield Fire Protection District - \$1,000
Valley Clean Energy Alliance JPA - \$1,000
Esparto Fire Protection District - \$1,000

YCPARMIA SELF INSURED LIMIT

Difference between entity deductible selected and \$500,000 per occurrence.

EXCESS PROVIDER LIMIT

The current excess provider is California Joint Powers Risk Management Authority, who is responsible up to \$39,500,000 in excess of \$500,000 per occurrence depending upon the type of occurrence and subject to specified sublimits.

Any losses over \$40,000,000 per occurrence are the responsibility of the covered party.

GENERAL/AUTO LIABILITY
COVERAGE AGREEMENT
FOR THE
YOLO COUNTY PUBLIC AGENCY
RISK MANAGEMENT INSURANCE AUTHORITY

In consideration of the payment of the General/Auto Liability cash payment, Yolo County Public Agency Risk Management Insurance Authority (YCPARMIA) agrees with the covered parties as follows:

SECTION I - COVERAGES

YCPARMIA will pay up to the self insured limit on behalf of the covered party, those sums which the covered party shall become legally obligated to pay as damages because of bodily injury, property damage, personal injury, public officials errors and omissions, and employment practices liability as those terms are herein defined and to which this agreement applies, caused by an occurrence during the coverage period, except as otherwise excluded. YCPARMIA shall have the right and duty to defend any claim or suit against any covered party seeking damages on account of such bodily injury, property damage, personal injury, public officials errors and omissions, and employment practices liability 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. However, YCPARMIA shall not be obligated to pay any claim or judgment or to defend any suit after the applicable self insured limit has been exhausted by payment of judgments, expense costs, or settlements or it is determined that the damages result from exclusions stated in this or CJPRMA's coverage agreement.

This Memorandum of Coverage does not provide insurance, but instead provides for pooled self-insurance. This Memorandum is a negotiated agreement amongst the members 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 the contract law, giving full effect to the intent of the members of the Authority, acting through the Board of Directors in adopting this Memorandum. As the Authority is not an insurer, it has no obligation to issue reservation of rights letters, nor does it have an obligation to provide "Cumis" counsel to a covered party in disputed coverage situations under Civil Code Section 2860. Finally, failure to provide notice to a covered party of any coverage dispute shall not operate to waive any of the provisions of this Memorandum.

SECTION II - DEFINITIONS

1. **Aircraft** means a vehicle designed for the transport of persons or property principally in the air.
2. **Airport** means an area of land or water used or intended to be used for the landing and taking off of aircraft; including an appurtenant area used or intended to be used for airport buildings or other airport facilities or right of way; and airport buildings and facilities located in any of these areas. "Airport" includes a heliport.
3. **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. **Covered indemnity contract** means that part of any contract or agreement pertaining to the covered party's governmental operations (easements or license agreements; leases; public works contracts; service contracts; mutual aid agreements; special events sponsored by the covered party; or use of facilities or equipment by the covered party) 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. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
7. **Covered party** means:
 - (a) The entity named in the Declarations, including any and all commissions, agencies, authorities, boards, including the governing board or similar entities coming under such entity's direction and control or for which such entity's board members sit as the governing body except an airport or hospital board/commission, regardless of how such body is denominated. Entity includes all departments and constituent agencies of the entity except a housing authority, or 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 participating agency, whether or not compensated, while acting for or on behalf of the participating agency, including while acting on outside boards at the direction of the covered party, except any hospital board or commission, regardless of how such body is denominated.
- (c) Any person or entity identified as a covered party holding a certificate of coverage duly issued by YCPARMIA, 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) With respect to any automobile owned or leased by a member entity, or loaned to or hired for use by or on behalf of the member entity, any person while using such automobile, and any person or organization legally responsible for the use thereof, provided the actual use is with the express permission of the member entity. The definition of a covered party is also extended to the spouse of an official or employee of a Participating Agency, while operating an automobile owned by the entity or leased or hired for use by or on behalf of the entity, provided that the actual use is with the permission of the entity and the official or employee is physically present in the vehicle while the spouse is operating it.
 - (1) This definition of covered party does not apply to any person or entity while employed or otherwise engaged in the business of selling, repairing, servicing, storing or parking vehicles designed for use mainly on public highways. This includes road testing and delivery.
 - (2) This coverage does not provide uninsured or underinsured motorist coverage.
- (e) 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 that is not shown as a named covered party in the declarations.

However, for any person,

- (1) who is an official, employee, or volunteer of an entity covered by (a) or (b) herein, and
- (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.

- (f) Notwithstanding sections (b) and (d) above, the defense and indemnity coverage afforded by this agreement to a past or present official, employee or volunteer of a participating agency (described in (a) or (b) above) is not broader than the participating agency's duty to defend and indemnify its official, employee or volunteer pursuant to California Government Code Sections 815 to 815.3 and 825 to Section 825.6, inclusive, and Section 995 to Section 996.6, inclusive, and any amendments thereof. If the participating agency 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 participating agency 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 participating agency under California Government Code Sections 815 to 815.3 and 825 to Section 825.6, inclusive and Section 995 to Section 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 participating agency's official, employee or volunteer.

- 8. **Dam** means any artificial barrier, together with appurtenant works, which does or may impound or divert water, and which either (a) is 25 feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream, channel or watercourse, to the maximum possible water storage elevation; or (b) has an impounding capacity of 50 acre-feet or more. Any such barrier which is not in excess of 6 feet in height, regardless of storage capacity, or which has a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a dam.

No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwaters, 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 the ground, no water or waste water 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 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 water from a sewage treatment plant be considered a dam. Nor shall any wastewater treatment or storage pond exempted from state regulation and supervision by Water Code Section 6025.5 be considered a dam.

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

Damages with respect to employment practices liability shall not include those sums owed by a covered party as contract damages, prospective salary or wages, prospective benefits, any wage or salary 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.

10. **Deductible** means the amount specified in the applicable declaration which the participating agency must pay at the direction of YCPARMIA to cover investigation or defense costs and/or to satisfy a settlement or judgment.

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

Defense costs shall not include:

- (a) the office expenses, salaries of employees or officials, or expenses of the covered party or the Authority;
 - (b) any fee or expense relating to coverage issues or disputes between the Authority and any covered party; or
 - (c) attorney fees, interest on judgments, or costs awarded to a prevailing plaintiff against the covered party.
12. **Discrimination** means an act or failure to act with respect to any present or former employee or applicant for employment with regard to compensation, terms, conditions, privileges or opportunities of employment because of race, color, religion, age, sex, disability, pregnancy, national origin, sexual orientation, or protected category or characteristic established pursuant to any applicable federal, state, or local statute or ordinance.
13. **Employee** means a person whose labor or services is engaged and directed by a covered party described in definition of a covered party above. This includes part-time, seasonal, and temporary labor or services, as well as any person employed in a supervisory, managerial or confidential position. Employee shall not include an independent contractor, volunteer or agent, and shall not include any person performing work pursuant to a court order in lieu of a fine or jail sentence.
14. **Employment Practices Liability** means liability arising from discrimination, sexual harassment, and/or wrongful termination claimed by an employee, former employee or applicant for employment of a covered party.
15. **Housing authority** means a public corporation created pursuant to California Health and Safety Code Section 34200, et seq.
16. **Limit of coverage**. Refer to Section IV.

17. **Marina** means facilities which include floating docks, boat berthing spaces, marine fueling operations, marine repair facilities, storage facilities for boats and other related marine materials, and other related facilities in which berthing spaces are leased, rented or otherwise made available 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.

18. **Medical malpractice** means the rendering of or failure to render any of the following services:

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

Medical malpractice does not include first aid administered by employees, nor does it include advice or services rendered by a 911 emergency dispatcher or any physician while operating in a consultant or supervisory role for that emergency dispatch service.

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

20. **Occurrence** means:

- (a) With respect to bodily injury or property damage: an accident, including continuous or repeated exposure to substantially the same generally harmful conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the covered party. Property damage that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the occurrence that caused it.
- (b) With respect to personal injury, public officials errors and omissions, employment practices liability respectively; an offense described in the definitions of those terms in this coverage agreement.

21. **Participating Agency** means any associate member agency or member agency who is a party to the JPA Agreement.
22. **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. Provided, 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 a refund or restitution of taxes, fees or assessments or a claim arising out of or in connection with land use regulation, land use planning, the principles or eminent domain, condemnation proceedings or inverse condemnation by whatever name called.
 - (e) Injury resulting from the use of reasonable force for the purpose of protecting persons or property.
23. **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; except those materials being collected as part of any curbside recycling program implemented and operated by the covered party. The term pollutants as used herein does not mean potable water, agricultural water, water furnished to commercial users or water used for fire suppression.
24. **Property damage** means:
- (a) Physical injury to tangible property, including all resulting loss of use of that property; or
 - (b) Loss of use of tangible property that is not physically injured or destroyed.
25. **Public officials errors and omissions** means any actual or alleged misstatement or misleading statement or act or omission by any covered parties (individually or collectively) arising in the course and scope of their duties with the covered party or claimed against them solely by reason of their being or

having been public officials or employees, and which results in damage neither expected nor intended from the standpoint of the covered party.

26. **Sexual harassment** means unwelcome sexual advances, and/or requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when such conduct is made either explicitly or implicitly, a condition of an individual's employment; when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
27. **Self-Insured Limit** is the amount YCPARMIA must pay, after the covered party(ies) deductible(s) and before the excess coverage provider is obligated to make any payment subject to the following:
- (a) For each occurrence, there shall be only one self-insured limit regardless of the number of claimants or covered parties against whom a claim is made. If the covered parties have different deductibles, each party's deductible will apply. Payment of the self-insured limit shall be apportioned amongst the covered parties in accordance with their proportionate shares of liability.
 - (b) If the payment is for a settlement, the self insured limit shall be apportioned amongst the covered parties, in accordance with the respective parties' agreed upon or court-determined share of liability. In the event that the apportionment requires court determination, the covered parties will pay all costs of YCPARMIA in seeking such determination, including its attorney's fees, in proportion to the court's determination of liability.
28. **Ultimate net loss** means the total of all defense costs incurred by the covered parties and all damages, attorney's fees or cost 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. Ultimate net loss does not include attorney 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 damages covered by this agreement.
29. **Wrongful termination** means any unlawful termination of an employee or applicant for employment.

SECTION III - DEFENSE AND SETTLEMENT

YCPARMIA shall have the right to control the negotiation, investigation, selection of defense attorneys, defense, appeal or settlement of any claim or proceeding, which in the opinion of YCPARMIA, 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 for an amount in excess of the deductible without the prior consent of YCPARMIA and YCPARMIA shall not be required to contribute to any settlement to which it has not consented.

If YCPARMIA denies coverage for a claim, the covered party may elect to settle or litigate the claim on its own behalf. In the event of such election, the covered party shall be liable for the full amount of the settlement or litigation, including all defense costs in connection therewith.

SECTION IV - YCPARMIA'S LIMIT OF COVERAGE

The limit of coverage is the most that YCPARMIA will pay for any ultimate net loss arising out of any one occurrence, and the amount payable for ultimate net loss under this agreement shall be reduced by the amount of the deductible. (As an example, if the covered party has YCPARMIA's \$500,000 limit of coverage and a \$5,000 deductible, YCPARMIA will pay no more than \$495,000 after the exhaustion of the deductible.) Regardless of the number of (1) persons or entities covered under this agreement, (2) persons or organization making claims or bringing suits, or (3) claims made or suits brought, the self insured limit is the most YCPARMIA will pay for the expenses, total damages and defense costs arising out of any one occurrence. The limit for coverage for an additional covered party (including its officials, employees and volunteers) shall be the lower of (1) the Coverage Amount stated in the YCPARMIA Memorandum Coverage Declaration; (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.

SECTION V - COVERAGE PERIOD AND TERRITORY

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

SECTION VI - EXCLUSIONS

This agreement does not apply to:

1. Aircraft

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

2. Airports

Claims arising out of ownership, maintenance, management, supervision or the condition of any airport. However, this exclusion does not apply to public officials errors and omissions or employment practices liability coverage arising from the ownership, maintenance, management, supervision or the condition of any airport. Notwithstanding what is stated in the applicable declarations, public officials errors and omissions the limit of coverage described in this exception will be subject to a sub-limit of \$5,000,000. (\$500,000 YCPARMIA and \$4,500,000 CJPRMA)

3. Air Shows

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

4. Bid Specifications

Claims arising out of estimates of probable cost or cost estimates being exceeded or faulty preparation of bid specification or plans including architectural plans.

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

5. Contractual Obligations

Claims arising out of:

- (a) 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.

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.

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, unborn child, fetus, child, 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 – Class Actions

Under employment practices liability, 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 – 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.

12. 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.

13. 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.

14. 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.)

15. Employment Benefits

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.

These exclusions 9, 14 and 15 apply whether the covered party may be liable as an employer or in any other capacity.

16. ERISA

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

17. Failure to Supply

Claims arising out of the failure to supply or provide an adequate supply of gas, water, electricity, or 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, or 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.

18. 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.

19. 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 of a covered party.

20. Hospitals

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

21. Intentional Conduct

Claims for personal or bodily injury or damage 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.

22. Jumping / Propelling Activities

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

23. 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.

24. 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.
- (b) Bodily injury or property damage occurring on, in or about any private boat or any boat owned or operated by the covered party (whether such vessel is being operated or has broken away from any dock or mooring) or any repair, fueling or storage facility within a marina while present at or in a marina owned, operated or controlled by a covered party.

25. Medical Malpractice

Claims arising out of any professional medical malpractice except medical malpractice committed by any employee or volunteer of the covered party, if (1) that employee or volunteer is licensed and certified as an R.N., L.P.N., L.V.N., E.M.T., M.F.C.C., L.C.S.W., M.S.W. or holder of a masters degree in psychology or ethics who has not less than three thousand (3,000) hours of counseling experience, or who is an M.F.C.C. intern, L.C.S.W. intern, or associate clinical social worker as provided under California Business and Professional Code Section 4980.03, 4996.15, and 4996.18, or who is a psychologist, psychological intern or trainee (as provided under California Business and Professional Code Sections 2911, 2913, and 2914) paramedic or laboratory technician, and (2) is not employed by or 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.

26. Multi Passenger Vehicles

Claims arising out of the ownership, operation, maintenance or use of any vehicle (1) with over 20 passenger seats or carry over 20 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".

27. Nuclear Material

Claims arising out of the hazardous properties of nuclear material.

28. Pollution

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

- (a) This exclusion does not apply to fire fighting activities, including training burns, or intentional demolition or burns for the purpose of limiting a fire, or the discharge of pollutants for the purpose of controlling a fire; or to

police use of mace, oleoresin capsicum (O.C.) or pepper gas or tear gas; or to weed abatement or tree spraying.

- (b) This exclusion does not apply to claims arising from sudden and accidental sewer backups. Notwithstanding what is stated in the applicable declarations, the limit of coverage for claims described in this exception will be subject to a sub-limit of \$5,000,000 (\$500,000 YCPARMIA and \$4,500,000 CJPRMA).
- (c) This exclusion does not apply to claims arising from sudden and accidental discharge, dispersal release, or escape of chlorine and other chemicals (gas, liquid or solid) which are being used or being prepared for use in fresh or wastewater treatment or in water used in swimming pools, wading pools or decorative fountains. Notwithstanding what is stated in the applicable declarations, the limit of coverage for claims described in this exception will be subject to a sub-limit of \$5,000,000 (\$500,000 YCPARMIA and \$4,500,000 CJPRMA).
- (d) This exclusion does not apply to claims arising from materials being collected as part of any drop-off or curbside recycling program implemented and operated by the covered party; if the materials have not been stored by the covered party or parties for a continuous period exceeding ninety (90) days. Notwithstanding what is stated in the applicable declarations, the limit of coverage for claims described in this exception will be subject to a sub-limit of \$5,000,000 (\$500,000 YCPARMIA and \$4,500,000 CJPRMA).
- (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, this exclusion does apply once 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, cleanup, 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.

As used in Paragraphs (b), (c), (d), (e), and (f) 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.

29. 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, cleanup, 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 government 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.

30. 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.
- (c) Aircraft or watercraft in the covered party's care, custody or control.

31. Public Officials Errors and 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.

32. Public Officials Errors and Omissions - Bodily Injury / Property Damage

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

33. 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.

34. Reasonable Accommodation

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

35. Refunds / Restitution

Refund or restitution of taxes, fees or assessments.

36. Reimbursement of Money

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

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

Claims arising out of 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 the knowledge or with its consent of any covered individual.

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 YCPARMIA:

Written notice shall be given by the covered party to YCPARMIA 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 a claim is made or suit is brought against the covered party, the covered party shall be obligated to forward immediately to YCPARMIA every claim demand, notice or summons.
- (c) The covered party shall cooperate with YCPARMIA and upon its request assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the covered party because of bodily injury, personal injury, property damage, public officials errors and omission, 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 settlement of any claim.
- (d) Any payments made or expenses incurred by the covered party in relation to the claim prior to giving notice of the claim to YCPARMIA shall be the sole responsibility of the covered party and YCPARMIA shall have no obligation to pay said costs or to reimburse the covered party therefore.

2. Action Against Authority / Subrogation

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

Memorandum to join the Authority as a party to any action against the covered party to determine the covered party's liability, nor shall the Authority be impeded by the covered party or its legal representative.

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.

- (b) The Authority 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) The Authority shall be reimbursed first to the extent of its actual payment thereunder. If any balance then remains unpaid, it shall be applied to reimburse the covered party.
 - 2) The expenses of all such recovery proceedings shall be apportioned in the ratio of respective recoveries. If there is no recovery in proceedings conducted by the Authority, it shall bear the expenses thereof.

3. Bankruptcy or Insolvency

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

4. Other Coverage

If insurance or any other coverage with any insurer, joint powers authority or other source respectively is available to the covered party covering a loss also covered hereunder (whether on 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 this Agreement and/or coverage provided by the California Joint Powers Risk Management Authority.

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 YCPARMIA's liability or its Self Insured Limit per occurrence. If more than one member entity is involved in a claim or occurrence, each participating entity will be responsible for its full deductible.

6. Accumulation of Limits

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

7. Termination

This Agreement may be terminated at any time in accordance with the JPA Agreement or ByLaws of YCPARMIA.

8. Changes

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

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 retention, or (b) in the event of an 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 YCPARMIA has agreed.

10. Arbitration of Coverage Disputes

(a) Coverage Determinations

The CEO/Risk 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 self-insured retention.

A decision by the CEO/Risk 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 CEO/Risk 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 will be postponed to the next following Board meeting. The CEO/Risk Manager and the covered party will have the right to submit written materials and present oral argument to the Board, subject to reasonable time constraints. Any dispute concerning a decision by the Board to deny coverage for all or part of a claim shall not be subject to any court action, but may instead be submitted to binding arbitration in accordance with the procedures set forth below. Notice of a request for binding arbitration by the covered party 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 a Board decision is submitted to arbitration, each side shall, within ten (10) calendar days, select one (1) arbitrator and submit his or her name in writing to the other side. Within ten (10) calendar days after their selection, these two arbitrators shall select a third independent arbitrator. If the two sides cannot agree on the selection of the third arbitrator within ten (10) calendar days, either side may petition the Yolo 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. No arbitrator shall be employed or affiliated with YCPARMIA or the covered party or parties.

The arbitration hearing shall commence within forty-five (45) calendar days from the date of the selection of the Chairperson, unless both sides agree to an extension.

Each side shall pay the cost of its selected arbitrator and one-half of the cost of the third selected arbitrator. In addition, each side 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 either side and the arbitrator(s) relating to the subject of the arbitration other than at oral hearings.

(2) *Discovery*

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

(3) *Testimony Under Oath*

The testimony of witnesses shall be given under oath.

(4) *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 sides within thirty (30) calendar days of the close of the hearing.

(5) *Certified Shorthand Reporter*

Either side wishing a certified shorthand reporter record shall make arrangements directly with a certified shorthand reporter and notify the other side of such arrangements in advance of the hearing. The requesting side 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.

(c) Funding of Defense and Payment of Claims Pending Resolution of Dispute

During the course of the 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 coverage applies for such defense costs, the Authority will reimburse the covered party as directed by the panel.

(d) Effects of Arbitration Decisions

All decisions on appeals, whether by the Board of Directors (after the time to request arbitration has expired) or by the 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 Code of Civil Procedures Sections 1286.2 and 1286.4 (relating to fraud or corruption, etc.).

(e) General Law

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

ENDORSEMENT #1

Watercraft Endorsement deleted 8/28/02

Watercraft use within the course and scope of employment covered in the Memorandum of Coverage.

ENDORSEMENT #2

This endorsement, effective 12:01 a.m., July 1, 1990, forms a part of the General and Auto Liability Coverage Agreement for the Yolo County Public Agency Risk Management Insurance Authority. It is issued to the school bus system operated by Esparto Unified School District. The exclusion found in the Coverage Agreement, Section VI, (37) is hereby modified by exempting therefrom the participating agency's bus system noted here for occurrences arising out of the use or operation of the transit system by entity employees within the course and scope of employment.

6/27/2019
DATE


CEO/RISK MANAGER

ENDORSEMENT #3

Skateboard Endorsement deleted 8/23/00.

ENDORSEMENT #4

Public Officials and Employee Liability Endorsement deleted 8/28/02.

Public Officials and Employee Liability covered in Memorandum of Coverage.

ENDORSEMENT #5

This endorsement, effective March 22, 2012, forms a part of the General and Auto Liability Coverage Agreement for the Yolo County Public Agency Risk Management Insurance Authority. It is issued that the Redevelopment Oversight Boards for the various members of YCPARMIA will be covered under the General Liability Memorandum of Coverage until dissolved.

3/22/2012
DATE

8/25/2016
REVISED DATED



CEO/RISK MANAGER

GENERAL AND AUTO LIABILITY CLAIMS PROCEDURES

1. **Any written notice should be treated as a claim.**
2. Each agency should have blank claim forms available to provide citizens wishing to make a claim, but note the claimant does not have to use an agency form.
3. Immediately report all claims involving bodily injury to a third party, property damage to a third party that exceeds the entity deductible, or other potential liability to a third party to YCPARMIA.
4. **Do not delay reporting claims** for internal investigation, additional fact-finding, rejection, or insufficiency. Our window of opportunity to investigate the claim prior to possible alienation of the claimant by the rejection letter is limited.
5. Identify the department involved, and a contact in that department to assist YCPARMIA in the investigation.
6. All claims for bodily injury to a third party must be investigated and handled by YCPARMIA.
7. Claims involving property damage that fall under the entity's deductible may (after confirming that there is not bodily injury involved) be handled by the entity. If the entity chooses to handle the claim in-house YCPARMIA should be copied on the claim with a note that the entity is handling the claim in house. YCPARMIA is available for consultation and assistance on any claims handled in-house.
8. In incidents involving serious bodily injury, death, substantial property damage, or where evidence must be preserved, immediately telephone YCPARMIA. Do not wait for a claim to be filed!
9. The agency need not, and should not, be drawn into arguments with potential claimants. Advise the claimant that YCPARMIA handles the claims, and provide them with YCPARMIA's phone number. Then advise YCPARMIA of the problem by phone or letter.
10. Immediately forward all correspondence received on existing claims from attorneys, representatives, claimants or insurance carriers to YCPARMIA.
11. Forward police reports, fire reports and all internal reports pertaining to existing claims to YCPARMIA as soon as they are available.
12. Instruct involved personnel to give no information concerning accidents or claims to anyone other than the Authority's risk manager or General Adjuster.

13. Immediately telephone YCPARMIA to report service of any suit. Then send the original to YCPARMIA. Do not wait for internal action or direction.
- 14. Do not sign or return service acknowledgement on any summons or suit received by mail.**
15. Each member entity is responsible for responding on a timely basis to claims received; YCPARMIA is available for consultation and direction as needed.
16. YCPARMIA should be copied on all entity responses to claims.
17. Advise YCPARMIA of the date the claim will be rejected; allow at least 30 days before rejection in order for YCPARMIA to investigate and advise the agency if some other procedure should be followed.

To assist in responding to claims the following is offered:

The California Tort Claims Act has codified that, generally, an action for “money or damages” may not be maintained against a public entity unless a written claim has first been timely presented to the entity and rejected in whole or in part (Govt. Code 905, 905.2 and 945.4). Similarly, presentation of a claim to the public employer is a prerequisite for a legal action against a public employee for acts or omissions within the course and scope of employment (GC 950.2). There are some notable exceptions to this requirement including inverse condemnation and Federal civil rights actions, claims for specific/injunctive relief (i.e. not money) and claims by the state or another local entity. The purpose of the claims presentation procedure is to give the public entity the opportunity to evaluate the merit and extent of its liability and determine whether to grant the claim without the expense of litigation. Generally presentation of a claim is mandatory, and failure to file the claim is fatal to the claimant’s cause of action.

- **Who may submit a claim?**
 - The claimant (GC 910)
 - A person acting on behalf of the claimant including an attorney or parent (GC 910.2)
- **Time frame to present claim**
 - Six (6) months after the date of injury or damage for (GC 911.2):
 1. Personal injuries
 2. Wrongful death
 3. Damage to personal property
 4. Damage to crops

- One (1) year from the date of accrual for all other claims including
 1. Damage to real property
 2. Breach of contract
 3. Equitable estoppel
 - These time frame provisions apply to minors, subrogation demands (date of payment is the accrual date), and cross-complaints (date of service of the complaint is the accrual date).
 - Presentation of the claim is deemed completed when it is deposited in the mail or personally delivered (GC 915.2).
 - The Delayed Discovery Rule sets an accrual date, in very rare situations, where the claimant suspects, or should suspect that someone has done something wrong to the claimant.
-
- **Response by the Public Entity to the Claim**
 - Forty-five (45) days from the date of presentation, or later if the parties agree in writing (GC912.4; 913)
 - The entity may allow claim by notice of total or partial allowance; or
 - The entity may reject the claim either wholly or partially by:
 - Operation of law if the entity refuses or fails to act within 45 days (i.e. it is deemed rejected after 45 days); or
 - Notice of rejection
 - The rejection notices must include a warning advising the claimant that he has only six (6) months from the date of notice to file a court action and that the claimant may seek the advice of an attorney (GC 913 (b)).
 - Rejection of a claim on its merits with proper notice to the claimant may waive any late claim defense.
-
- **Proof of mailing of notices**
 - The public entity must be prepared to offer legal proof of mailing; if the entity can prove deposit in the mail, receipt by the claimant will be presumed (GC915.2).
 - A declaration is required, based on personal knowledge, that the declarant deposited the notice of rejection at a facility maintained by the government of the United States, when and where it was deposited, and that it was properly addressed with postage paid (GC 915.2).
-
- **Insufficiency**
 - A claim can be returned to the claimant within twenty (20) days to allow revision if it is insufficient (GC 91.8).
 - The issuance of a notice of insufficiency does not extend the 45 day period for the entity to reject or return the claim as untimely.
 - Failure to issue a notice of insufficiency waives the potential procedural claim defense (GC 911).

- The claimant can amend the claim anytime before the expiration of the six month claims presentation period, or action by the Board, whichever is later (GC 910.6a)
 - The amendment shall be considered as part of the original claim for all purposes.
 - The amended claim will not extend the statutory periods, nor require a new rejection.
 - The essential elements of a claim are (GC 910):
 - Name and addresses of the claimant and person to whom notices are to be sent
 - The statement of fact
 - Description of the injury and amount claimed as of the time of presentation
 - The name of the public employee who caused the injury, if known
 - The Doctrine of Substantial Compliance is applied making minor defects moot; if the general description includes date and place and other circumstance of the occurrence sufficient to allow the entity to investigate and consider the merits it is sufficient.
 - The claimant is only required to provide the limited information specified in the statute (listed above). More information can be asked for but not required.
-
- **Late Claims Procedures**
 - Failure to return a late claim on the ground of untimeliness within forty-five (45) days of the receipt of the claim waives the potential defense (911.3b).
 - This would include claims filed after the one-year limit.
 - The late claim period may be tolled beyond a year if the claimant was “mentally incapacitated”(911.4b)
 - An Application for Late Claim must be presented within one (1) year (GC 911.4)
 - The proposed claim must be attached to the Application (GC 911.4b); if it is not the application should be denied.
 - The Entity has forty-five (45) days to grant or deny an application for late claim (GC 911.6(a).)
 - The application will be deemed denied after 45 days (i.e. by operation of law).
 - The entity is required to grant a late claim if:
 - The claimant is a minor during the entire 6 month period
 - The claimant is either physically or mentally incapacitated during the entire 6 month period
 - The claimant dies before the expiration the 6 month period
 - The denial notice must contain statutory language advising the claimant of his or her right to petition the appropriate court for relief.
 - Claimant has six (6) months from denial to petition the court for order relieving the claimant from complying with the claims requirements (GC 946.6 (a) and (b).) The courts are liberal in granting relief.

- Grounds for the court relieving the claimant of the requirements are mistake, inadvertence, surprise or excusable neglect.
- **Actions Against Public Entities**
 - Suit must be filed within six (6) months of the date of rejection
 - The six months begins to run when the rejection is personally delivered to the claimant, or deposited in the mail.
 - If no notice of rejection is given the claimant has two (2) years from the accrual of the cause of action to file suit.
 - Failure to use the proper form of rejection can extend the statute to two years.
 - If the court has granted late claim relief the claimant has thirty (30) days to file a complaint (GC 946.6 (f).)
 - Cases not falling under the government code apply the normal statute of limitations
 - One (1) year from the date of accrual for bodily injury
 - Three (3) years from the date of accrual for property damage
- **Pleadings**
 - Plaintiff must show presentation and rejection of the claim in the complaint
 - Causes of action must substantially correspond with those in the claim
- **Form of Response**
 - The Government Code is very specific in the form and content of the responses required of the member entity.
 - Failure to comply with content and form could result in voiding the notice, losing potential procedural defenses, and extending the statute of limitations to two years.
 - Should there be a need to correspond with the claimant, it should be done separately, and not incorporated into the formal claim response.
- Exhibits “A” through “F” are samples of various types of notices to send claimants in response to claims.
 - Exhibit A- Rejection by the Board: to be used when the governing board rejects the claim on its merits; it should be sent within 45 days of receipt of the claim.
 - Exhibit B- Rejection by Operation of Law: to be used when the agency is rejecting a claim by operation of law (i.e. no action is necessary by the agency’s governing board. This notice cannot be sent out before the 46th day after the receipt of the claim.

- Exhibit C- **Insufficiency Notice**: to be used when there is a material insufficiency in the filed claim.
- Exhibit D- **Late Notice with no application for leave to present a late Claim**: to be used when a claim required to be filed within 6 months is made after 6 months, but before one year from the date of accrual, and is not accompanied by an application for leave to present a late claim.
- Exhibit E- **Deny Late Claim Application**: to be used when responding to an application to present a late claim that is received after the 6 month filing period, but before the one year accrual date.
- Exhibit F- **Return Late Claim Application received after one year**: is used to deny/return the late claim application to claimant after failure to file a late claim application within the acceptable time period.
- Exhibit G- **Sample Claim Form**: should be available to citizens wishing to make a claim against the member entity.

THIS LETTER SHOULD BE TYPED ON AGENCY LETTERHEAD
AND USED TO NOTIFY A POTENTIAL CLAIMANT THAT HIS/HER CLAIM HAS BEEN
REJECTED ON ITS MERITS, NOT BECAUSE THE CLAIM IS LATE, OR THAT THE
CLAIM IS INSUFFICIENT IN CONTENTS. IF USED, THIS FORM MUST BE MAILED
WITHIN 45 DAYS OF PRESENTATION OF THE CLAIM.

DATE:

"NOTICE OF REJECTION OF CLAIM,
(Name of Agency)"

TO: (Name and address of Claimant and Name and Address of Claimant's attorney,
if attorney filed claim)

NOTICE IS HEREBY GIVEN that the claim which you presented to the (name of agency) Clerk of the (name of agency) on (indicate date of claim) was rejected by the (agency's governing board) at its regular meeting on (date).

W A R N I N G

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a State court action on this claim (refer to State of California Government Code Section 945.6). Your time for filing an action in Federal court may be less than six months.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the (name of agency) will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

All further inquiries should be directed to YCPARMIA, 77 West Lincoln Avenue, Woodland, California 95695.

Sincerely,

cc: Risk Manager

THIS LETTER SHOULD BE TYPED ON AGENCY LETTERHEAD
AND USED TO NOTIFY A POTENTIAL CLAIMANT THAT HIS/HER CLAIM HAS BEEN
REJECTED ON ITS MERITS, NOT BECAUSE THE CLAIM IS LATE, OR THAT THE
CLAIM IS INSUFFICIENT IN CONTENTS. IF USED, THIS FORM MUST BE MAILED
45 DAYS AFTER THE RECEIPT OF THE CLAIM AND MUST BE DATED AFTER
DATE (1) BELOW. THIS FORM MEANS THE MATTER DOES NOT NEED TO GO
BEFORE THE GOVERNING BODY FOR REJECTION.

DATE:

"NOTICE OF REJECTION OF CLAIM,
(Name of Agency)"

TO: (Name and address of Claimant and Name and Address of Claimant's attorney,
if attorney filed claim)

NOTICE IS HEREBY GIVEN that the claim which you presented to the
(name of agency) on (indicate date of claim) was rejected by operation of law on (date
(1).

W A R N I N G

Subject to certain exceptions, you have only six (6) months from the date this
notice was personally delivered or deposited in the mail to file a State court action on
this claim (refer to State of California Government Code Section 945.6). Your time for
filing an action in Federal court may be less than six months.

You may seek the advice of an attorney of your choice in connection with this
matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the
California Code of Civil Procedure, the (name of agency) will seek to recover all costs
of defense in the event an action is filed in the matter and it is determined that the
action was not brought in good faith and with reasonable cause.

All further inquiries should be directed to YCPARMIA, 77 West Lincoln Avenue,
Woodland, California 95695.

Sincerely,

cc: Risk Manager

THIS LETTER SHOULD BE TYPED ON AGENCY LETTERHEAD
AND USED TO NOTIFY POTENTIAL CLAIMANTS OF INSUFFICIENCIES
IN CLAIMS FILED

(date)

Re: Notice of Insufficiency of Claim Filed
with the _____ (name of agency) _____

Dear _____:

Your claims which was received by the (Name of agency) on (date) failed to comply substantially with the California Government Code. It was insufficient for the following reason(s):

(give reasons for insufficiency)

For your information, consult Sections 910, 910.2, 910.4, 910.8 and other sections of the California Government Code pertaining to the filing of claims against a public entity. Due to specific time requirements for correcting these deficiencies, this should be tended to immediately.

Very truly yours,

cc: Risk Manager

THIS LETTER SHOULD BE TYPED ON AGENCY LETTERHEAD
AND USED TO NOTIFY POTENTIAL CLAIMANTS WHO FILE LATER THAN
6 MONTHS (BUT WITHIN ONE YEAR), BUT WITH NO ACCOMPANYING
APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM

(date)

Re: Response to your Late Claim Filed with

(Name of Agency)

Dear _____:

The claim (or material) which you presented to the (name of agency) on (date) is being returned to you herewith, without any action having been taken by the (name of agency's governing board).

The claim (or material) is being returned because it was not presented within the time required by law. See California Government Code Sections 911.2 to 912.2 and 946.6. Your only recourse at this time is to file a written Application for Leave to Present a Late Claim as required by the Government Code. After this Application has been received by the (agency's governing board), it will be reviewed and considered.

Due to legal time requirements, this should be done without delay. To determine if you have a further remedy, or whether further procedures are open to you, you may wish to consult with an attorney of your choosing. If you desire to consult with an attorney, you should do so immediately!

Very truly yours,

cc: Risk Manager

THIS LETTER SHOULD BE TYPED ON AGENCY LETTERHEAD
AND USED TO DENY LATE CLAIMS PRESENTED WITHIN ONE YEAR OF
INCIDENT WITH AN ACCOMPANYING APPLICATION FOR LEAVE
TO PRESENT A LATE CLAIM

(date)

Re: Denial of Application for Leave
to Present a Late Claim to the
(name of agency)

Dear _____:

Your Application for Leave to Present a Late Claim was presented to the (Agency's governing board) of the (Name of Agency) on (date), and was denied on (date).

WARNING

If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of California Government Code Section 945.4. Also see Government Code Section 946.6. Such petition must be filed with the court within six (6) months from the date your Application for Leave to Present a Late Claim was denied.

You may seek the advice of an attorney of your choosing in connection with this matter. If you desire to consult an attorney, you should do so immediately!

Very truly yours,

cc: Risk Manager

THIS LETTER SHOULD BE TYPED ON AGENCY LETTERHEAD
AND USED TO REJECT LATE CLAIMS PRESENTED AFTER ONE YEAR FROM
INCIDENT WITH AN ACCOMPANYING APPLICATION FOR LEAVE
TO PRESENT A LATE CLAIM

(date)

Re: Denial of Application for Leave to
Present a Late Claim to the (Name of Agency)

Dear _____:

The Application for Leave to Present a Late Claim which you presented to the (Name of Agency) on (date) is being returned to you herewith, without any action having been taken on it by the (Agency's governing board).

The Application is being returned because it was not presented with the time required by law.

To determine whether you have any further remedy or whether further procedures are open to you, you may wish to consult with an attorney of your choosing. If you desire to consult with an attorney, you should do so immediately!

Very truly yours,

cc: Risk Manager

CLAIM FOR DAMAGES TO PERSON OR PROPERTY

TO: (Entity) _____

1. Claims for death, injury to person or to personal property must be filled out not later than six months after the occurrence. (Gov. Code Sec. 911.2)
2. Claims for damages to real property must be filled not later than 1 year after the occurrence.
3. Read entire claim form, both sides, before filing.
4. See page 2 for diagram upon which to locate place of accident.
5. This claim form must be signed on page 2 at bottom.
6. Attach separate sheets, if necessary, to give full details. SIGN EACH SHEET.

NAME OF CLAIMANT		Date of Birth of Claimant
Home Address of Claimant		Occupation of Claimant
City and State		Home Telephone Number
Business Address of Claimant		Business Telephone Number
City and State		
Give address and telephone number to which you desire notices or communications to be sent regarding this claim:		
When did DAMAGE or INJURY occur? Date _____ Time _____ If claim is for Equitable Indemnity, give date claimant served with the complaint: Date _____	Section 111 of the Medicare Medicaid & S-CHIP Extension Act requires the entity to report certain claims to the federal government. Please indicate if the claimant is: 65 years of age or older, or is receiving Social Security Disability Insurance Benefits for 24 or more months, or has End Stage Renal Disease. If yes, you may be required to provide additional information to process your claim. YES / NO <div style="text-align: right;">(circle one)</div>	

Where did DAMAGE or INJURY occur? Describe fully, and locate-on-diagram on Page 2. Where appropriate, give street names and address and measurements from landmarks.

Describe in detail how the DAMAGE or INJURY occurred:

Names of any employees involved in INJURY or DAMAGE:
Why do you claim the Entity is responsible?

Describe in detail each INJURY or DAMAGE:

The amount claimed, as of the date of presentation of the claim, is computed as follows:

Damages incurred to date (exact)	Estimated prospective damages as far as known
Damage to property.....\$ _____	Future expenses for medical and hospital care....\$ _____
Expenses for medical and hospital care...\$ _____	Future loss of earnings.....\$ _____
Loss of earnings.....\$ _____	Other prospective special damages.....\$ _____
Special damages for.....\$ _____	Total estimate prospective damages.....\$ _____
General Damages.....\$ _____	
Total damages Incurred to date.....\$ _____	
Total amount claimed as of date of presentation of the claim: \$ _____	

Was damage and/or injury investigated by police? _____ If so, what city? _____
Were paramedics or ambulance called? _____ If so, name city or ambulance _____
If injured, state date, time, name and address of doctor of your first visit _____

WITNESSES to DAMAGE or INJURY. List all person and addresses of persons known to have information:

Name _____	Address _____	Phone _____
Name _____	Address _____	Phone _____
Name _____	Address _____	Phone _____

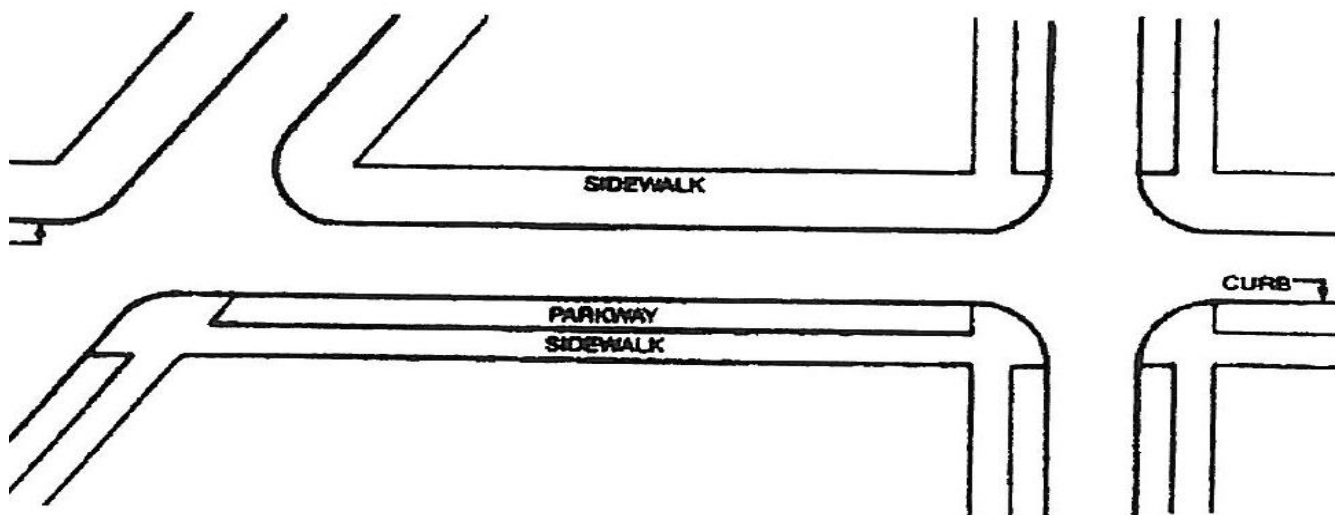
DOCTORS and HOSPITALS

Hospital _____	Address _____	Date Hospitalized _____
Doctor _____	Address _____	Date of Treatment _____
Doctor _____	Address _____	Date of Treatment _____

READ CAREFULLY

For all accident claims place on following diagram names of streets, including North, East, South and West. Indicate place of accident by "X" and by showing house numbers or distance to street corners.

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Signature of Claimant or person filing on his behalf giving relationship to Claimant:

PRINT Name:

Date:

NOTE: CLAIMS MUST BE FILED WITH THE CLERK OR GOVERNING BOARD (Gov. Code Sec. 915a). Presentation of a false claim is a felony (Pen. Code Sec. 72)

NAMES AND TELEPHONE NUMBERS OF CONTACTS

Armond Sarkis
YCPARMIA
77 W. Lincoln Avenue
Woodland, CA 95695
Telephone: (530) 666-4456

SCHOOL BUS LIABILITY

School Bus Liability coverage covers all school buses for third party claims listed in the policy.

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DEDUCTIBLE AND COVERAGE AMOUNTS

SCHOOL BUS LIABILITY

DEDUCTIBLE SELECTED

Esparto Unified School District - \$0

SELF-INSURANCE FUND

None

(This premium included in the General/Auto Liability premium)

EXCESS INSURANCE

Up to \$5,000,000 per accident or loss in liability coverage

AND

\$60,000 in uninsured motorist insurance

NOTE: There is no coverage agreement attached because there is no self-insured pool. Coverage goes directly to excess carrier.

INSTRUCTIONS FOR FILING CLAIMS

All claims under the School Bus Liability should be reported immediately to the YCPARMIA Risk Manager and the insurance company. Adjustment services for these claims will be provided by the excess carrier. The Risk Manager will coordinate all claims with the carrier.

BLANK INTENTIONALLY