



**EMPLOYMENT RISK MANAGEMENT AUTHORITY
UNDERWRITING COMMITTEE MEETING
AGENDA**

**Wednesday, June 3, 2020
1:00 p.m.**

Webex

Dial-in Number: (904) 900-2303

Meeting Number: 472-400-176

[Meeting Link](#)

This meeting will be conducted by teleconferencing in accordance with the State of California Executive Order N-29-20.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Mona Hedin at (916) 290-4645 or mona.hedin@sedgwick.com. Requests must be made as early as possible, and preferably at least one full business day before the start of the meeting.

Documents and materials relating to an open session agenda item that are provided to the ERMA Underwriting Committee less than 72 hours prior to a regular meeting will be available for public inspection. Please contact Mona Hedin at (916) 290-4645 or mona.hedin@sedgwick.com.

-
- Page* **1. CALL TO ORDER/ROLL CALL**
- 2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)**
- 3. PUBLIC COMMENTS** - This time is reserved for members of the public to address the Committee relative to matters of the Employment Risk Management Authority not on the agenda. Members of the public may submit comments by email in advance of the meeting by emailing Mona Hedin at mona.hedin@sedgwick.com no later than 5:00 p.m. on Tuesday, June 2, 2020. If a member of the public would like to address the Committee during the meeting, the person may email Ms. Hedin during the meeting and, if timely received, Ms. Hedin will read or summarize the email to the Committee. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person and twenty minutes in total.



- 3 **4. CONSENT CALENDAR** - If the Committee would like to discuss any item listed, it may be pulled from the Consent Calendar.
- *A. Minutes – May 21, 2020, Underwriting Committee Meeting
 Recommendation: Approval of the Consent Calendar.
- 7 **5. MEMBERSHIP MATTERS**
- *A. Review of the City of American Canyon’s (PLAN) Request for a \$50,000 Self-Insured Retention
 Recommendation: Staff recommends the Underwriting Committee revise their recommendation to the Board of Directors to approve the City of American Canyon, effective July 1, 2020, at a \$50,000 SIR.
- 12 *B. Review of Prospective New Member Application – City of Beaumont (ERMAC)
 Recommendation: Staff recommends the Underwriting Committee approve the City of Beaumont (ERMAC) at a \$500,000 SIR, effective July 1, 2020, with the express conditions that: 1) All employment matters are to be managed by a pre-identified member of ERMA’s defense panel; and 2) Any EPL claims are to be defended by an approved member of ERMA’s defense panel. Failure to comply with these conditions will constitute grounds for immediate expulsion.
- 6. CLOSING COMMENTS**
This time is reserved for comments by the Committee members and staff and to identify matters for future Committee business.
- A. Underwriting Committee
 B. Staff

7. ADJOURNMENT

* = Material on agenda item enclosed

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE UNDERWRITING COMMITTEE MEETING OF MAY 21, 2020

The meeting of the ERMA Underwriting Committee meeting was held on May 21, 2020, all portions of this meeting were conducted via Webex in accordance with Government Code Section 54953(b). The meeting was conducted under Governor Gavin Newsom's Executive Order N-25-20 wherein public noticing of teleconference locations for each participant is suspended.

COMMITTEE MEMBERS PRESENT: John Gillison, President, PARSAC
Truc Dever, Vice President, VCJPIA
Stuart Schillinger, Treasurer, BCJPIA
Scott Ellerbrock, PERMA

COMMITTEE MEMBERS ABSENT: None

OTHERS PRESENT: Jennifer Jobe, Executive Director
Mona Hedin, Board Secretary

1. CALL TO ORDER/ROLL CALL

The May 21, 2020, ERMA Underwriting Committee meeting was called to order at 9:13 a.m. by President John Gillison. It was determined a quorum was present.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Truc Dever moved to approve the agenda as posted. Seconded by Scott Ellerbrock. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock and John Gillison, with no nays or abstentions. The motion passed unanimously.

3. PUBLIC COMMENTS

None.

4. CONSENT CALENDAR

Truc Dever moved to approve the consent calendar as follows: Item A. Minutes – October 15, 2019, Underwriting Committee Meeting. Seconded by Stuart Schillinger. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock and John Gillison, with no nays or abstentions. The motion passed unanimously.

5. MEMBERSHIP MATTERS

A. Review of Prospective New Member Applications – Pooled Liability Assurances Network (PLAN) and Underlying Member Entities

Jennifer Jobe, Executive Director, advised the Committee the Pooled Liability Assurances Network (PLAN) has applied as a participating JPA in ERMA. She noted of PLAN's twenty-eight underlying member entities, three have applied for ERMA membership for the

2020/21 Program Year. Ms. Jobe stated it is staff's opinion PLAN is a good fit with ERMA's other members and noted the program is administered by a third party, Sedgwick, with no in-house staff. She continued with a review of the applications and supporting documentation for each of the three prospective underlying member entities.

City of American Canyon

Ms. Jobe stated the City of American Canyon (City) requested a \$100,000 self-insured retention (SIR); reports payroll of \$7.2M for the 2019 calendar year; and seventy-one (71) full-time and fifteen (15) part-time employees. Ms. Jobe noted there is a discrepancy in the payroll reported by the City and the payroll utilized for the Indication. She advised PLAN collects projected program year versus actual calendar year payroll utilized by ERMA as the exposure base. Ms. Jobe advised staff obtained calendar year payroll from each of the prospective members and will provide updated Indications.

Ms. Jobe advised the City reports three losses within the previous seven fiscal years, all of which are closed, and reviewed each one with the Committee.

Ms. Jobe stated the City is in the process of a comprehensive update of its written policies and procedures with plans for Legal Counsel review upon completion. She noted the City participates in Liebert Cassidy Whitmore's (LCW) Consortium and actively engages LCW to assist in both the defense of claims and all state-mandated training.

John Gillison, Board President, inquired as to the lack of an employee orientation program as indicated on the City's application. Ms. Jobe advised that during a discussion with the City, it was determined the City does, in fact, have a formal orientation program in place.

The Town of Atherton

Ms. Jobe stated the Town of Atherton (Town) requested a \$100,000 SIR; reports payroll of \$7.2M for the 2019 calendar year; and thirty-five (35) full-time and ten (10) part-time employees. Ms. Jobe noted the Town has written personnel policies and procedures in place that have been updated in the most recent five years and are regularly reviewed by Legal Counsel. She further noted the Town is compliant with all state-mandated training.

Ms. Jobe advised the Town reports one loss in the previous seven program years and discussed the details of the pending matter with the Committee.

The Committee noted the lack of a formal orientation process as part of the Town's new employee on-boarding and expressed the requirement for a formal process to be implemented.

Town of Woodside

Ms. Jobe advised the Town of Woodside (Town) requested a \$50,000 SIR; reports payroll of \$2.2M for the 2019 calendar year; and nineteen (19) full-time and twenty-four (24) part-time employees. Ms. Jobe stated the Town reports no incurred losses within the previous seven program years and has issued a Statement of No Known Losses.

Ms. Jobe confirmed the Town has written personnel policies and procedures in place and is in the process of updating their policies. Upon completion of the updates to the policies and procedures, a thorough review will be conducted by Legal Counsel. The Town is compliant with state-mandated training requirements and stated it frequently coordinates training efforts with neighboring PLAN agencies.

The Committee acknowledged the importance of the Town to formalize a claims handling process immediately, and requested staff work with the Town to ensure the subject process is documented. Ms. Jobe noted during a discussion with the Town, they expressed desire to work with one of ERMA's strategic partner firms to develop a claims handling process, pending approval of its application.

Scott Ellerbrock moved to recommend the Board of Directors approve the Pooled Liability Assurances Network (PLAN) and their underlying members – City of American Canyon at a \$100,000 SIR, Town of Atherton at a \$100,000 SIR and Town of Woodside at a \$50,000 SIR, effective July 1, 2020. Seconded by Stuart Schillinger. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock and John Gillison, with no nays or abstentions. The motion passed unanimously.

B. Review of Prospective New Member Applications – City of Beaumont (ERMAC)

Ms. Jobe reminded the Committee the City of Beaumont (City) applied for participation in ERMA along with two other ERMAC underlying members for the 2016/17 Program Year and was ultimately denied based upon concerns regarding the City's sustainability following then pending legal judgements. Ms. Jobe advised the City currently states significant changes have occurred within the executive management team since their last application and assures ERMA both the City's culture and employment practices have greatly improved and are consistent with the stated policies and procedures.

She advised the City is re-applying for membership with a requested \$500,000 SIR; reports payroll of \$12.7M for the 2019 calendar year; and one hundred sixty-three (163) full-time and fourteen (14) part-time employees. Ms. Jobe reviewed the two losses reported by the City in the previous seven fiscal years, and advised they have both been closed.

Ms. Jobe stated the City has comprehensive written personnel policies and procedures in place that were reviewed in 2019 by the City Attorney and is compliant with state-mandated training requirements.

The Committee expressed concern regarding the following items included in the City's application:

- Discrepancy in payroll reported during 2013-2019; and
- Lack of written procedures regarding handling of claims.

The Committee requested staff obtain the City's plan regarding anticipated layoffs projected over the next twenty-four (24) months as indicated on the application.

Finally, the Committee requested staff advise the City of express participation conditions, as follows:

- The City will retain a pre-identified member of ERMA's defense panel for on-going advice and counsel relating to all employment matters; and
- All claims are to be defended by an approved member of ERMA's defense panel.

Discussion ensued regarding the desire to allow the City to provide additional information based upon the Committee's concerns. The Committee determined that pending receipt of the information, a formal recommendation as to the City's application for participation could be made.

6. CLOSING COMMENTS

A. Board

None.

B. Staff

None.

7. ADJOURNMENT

The May 21, 2020, ERMA Underwriting Committee meeting adjourned at 10:20 a.m. by general consent.

Mona Hedin

Mona Hedin, Board Secretary

MEMBERSHIP MATTERS

SUBJECT: Review of the City of American Canyon's (PLAN) Request for a \$50,000 Self-Insured Retention

BACKGROUND AND STATUS:

At the May 21, 2020 Underwriting Committee Meeting, the Committee reviewed a prospective member application for the City of American Canyon (City) and recommended approval as an underlying member of the Pooled Liability Assurances Network (PLAN), at the requested \$100,000 self-insured retention (SIR).

The City subsequently contacted staff and advised they mistakenly requested a \$100,000 SIR, when in fact, had budgeted for a \$50,000 SIR. A revised application was submitted along with the City's formal request for approval at a \$50,000 SIR.

As previously reported and discussed with the Committee, the City reports \$7.2M payroll and has issued a Statement of No Known Losses in the previous seven fiscal years. The City's request for a \$50,000 SIR is in accordance with the payroll thresholds established within ERMA's Underwriting Guidelines.

RECOMMENDATION:

Staff recommends the Underwriting Committee revise their recommendation to the Board of Directors to approve the City of American Canyon, effective July 1, 2020, at a \$50,000 SIR.

REFERENCE MATERIALS ATTACHED:

- City of American Canyon Revised Potential New Member Application

Agenda Item 5.A.

Employment Risk Management Authority (ERMA)

Intent to Participate

Entity or JPA Name: City of American Canyon

Contact Person: Jason B. Holley

Mailing Address: 4381 Broadway St. Suite 201
American Canyon, CA 94503

Telephone: (707) 649-4351 FAX: () E-mail: jholley@cityofamericancanyon.org

Please check the appropriate box(s):

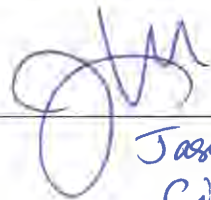
☒ Having received an indication for membership participation in the ERMA program, we agree to participate effective July 1, 2020, at the following retention level.

☐ \$25K ☒ \$50K ☐ \$75K ☐ \$100K ☐ \$250K ☐ \$500K

☐ We are presently unable to commit to program participation but would appreciate receiving additional information concerning ERMA. Please provide us with: _____

Signature of representative authorized to bind the entity or JPA: _____

Please return this form to:


Jason Holley
City Manager

Sedgwick
1750 Creekside Oaks Drive, #200, Sacramento, CA 95833
Attention: Jennifer Jobe, Executive Director
Jennifer.jobes@sedgwick.com
FAX: (916) 244-1199

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

LIABILITY COVERAGE APPLICATION

If completed electronically, this application will adjust to allow space for any answers. If not completed electronically, then additional sheets may be needed.

ENTITY NAME: <u>City of American Canyon</u>		Date: <u>March 14, 2020</u>
EMPLOYMENT PRACTICES INFORMATION		
A. Policies and Procedures		
1.	Does the Entity have written personnel policies and procedures?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.	Does the Entity distribute the manual/rules to all employees?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3.	Does the Entity have employees sign an acknowledgement form indicating they have read and understood the above-referenced policies?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4.	Are the following policies or procedures included in the manual? Check all that apply:	
	<input checked="" type="checkbox"/> Hiring	<input checked="" type="checkbox"/> Termination
	<input checked="" type="checkbox"/> Medical Leave	<input checked="" type="checkbox"/> Unpaid Leave
	<input checked="" type="checkbox"/> Drug & Alcohol Testing	<input checked="" type="checkbox"/> Discipline
	<input checked="" type="checkbox"/> Family Medical Leave Act	<input checked="" type="checkbox"/> Attendance
	<input checked="" type="checkbox"/> Written Job Description for all Positions	<input checked="" type="checkbox"/> Anti-Harassment Policies
	<input checked="" type="checkbox"/> Workplace Violence Policies	
	<input checked="" type="checkbox"/> Annual Written Performance Evaluations for all Employees	
	<input checked="" type="checkbox"/> Employee Hotline/Complaint Procedure	
5.	Do the policies/rules include all protected categories under the Fair Employment and Housing Act (FEHA), Ca. Gov't. Code section 12940)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6.	Does the Entity have legal counsel regularly review the manual/rules?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7.	Have the above-referenced policies been updated within the past five years?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	If no, when was the manual or rules last reviewed?	
8.	Were the above-referenced policies formally approved and adopted by council/governing board?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9.	Does the Entity have legal counsel to provide advice regarding disciplinary matters?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10.	Does the entity have an orientation program for all employees that addresses workplace conduct, EPL policies and practices, and grievance procedures?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p><i>If you answered no to any of the above, please use this space to provide more information:</i></p> <p><u>The City of American Canyon does not currently have EPL.</u></p>		

B. Employee Information					
1.	Number of Full Time Employees:	<u>71</u>			
2.	Number of Part time Employees:	<u>15</u>			
3.	For each of the past five years, what has been your annual percentage turnover rate of employees?				
	<u>2015</u>	<u>9%</u>	<u>2016</u>	<u>9%</u>	<u>2017</u>
				<u>10%</u>	<u>2018</u>
					<u>13%</u>
					<u>2019</u>
					<u>6%</u>
4.	How many involuntary employment terminations have occurred in the past three years?				
	<u>2017</u>	<u>1</u>	<u>2018</u>	<u>2</u>	<u>2019</u>
					<u>0</u>

		<i>Involuntary employment termination with respect to this questionnaire means notification to an employee that such employee will no longer be employed whether such notification is effective immediately or in the future. Involuntary employment termination shall also include actual or alleged constructive discharge.</i>
5.	Percentage of Employees with salaries less than \$100,000 <u>80</u> %	Should = 100%
6.	Percentage of Employees with salaries greater than \$100,000 <u>20</u> %	

C. Employment Practices Claims Handling	
1.	Who in the Entity has been designated to handle claims? <u>The City Contracts of Health & Safety</u>
2.	(a) With respect to oral or written claims, do you have a written procedure for obtaining information and conducting required follow up on the claim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (b) Do you require written claims for EEO-related complaints? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	If yes to 2(a), describe the policy and procedure for receiving, reviewing, and responding to claims:
3.	Does the Employment Claims handler coordinate with the Workers' Compensation Administrator on all claims involving actual or potential industrial injuries? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4.	Has your entity received any claim in the previous 7 completed fiscal years, including the partial current fiscal year, (including but not limited to Tort Claim, any and all claims filed with the DFEH, EEOC, Department of Labor or Federal Department of Justice, any civil lawsuit or other written claim) alleging the following?
	(a) Allegations of discrimination or harassment under FEHA, Title VII or any other federal or state law relating to discrimination based on race, sex, religion, disability, national origin, marital status, age, sexual orientation, retaliation or any other protected legal status; <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>See attached sheet</u>
	(b) Allegations of retaliation relating to an Employee engaging in protected activity involving any EEO-related complaint, protected leave status, worker's compensation claim, or any other protected activity or status; <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	(c) Actual or alleged constructive termination of an employment relationship in a manner which is alleged to have been against the law or wrongful, or in breach of an implied employment contract or breach of the covenant of good faith and fair dealing in the employment contract; <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>See attached sheet</u>
	(d) Allegations of negligent or wrongful evaluation, wrongful demotion, wrongful discipline, failure to promote, failure to grant tenure, or wrongful deprivation of career opportunity; <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>See attached sheet</u>
	(e) Allegations of misrepresentation or defamation made by an Employee which arise from an employment decision to hire, fire, promote, demote or discipline; <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	(f) Allegations of infliction of emotional distress, mental injury, mental anguish, shock, sickness, disease or disability made by an Employee which arise from an employment decision to hire, fire, promote, demote or discipline; <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>See attached sheet</u>
	(g) Allegations of false imprisonment, detention, or malicious prosecution made by an Employee which arise from an employment decision to hire, fire, promote, demote or discipline; <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	(h) Allegations of libel, slander, defamation of character, invasion of privacy made by an <i>Employee</i> which arise from an employment decision to hire, fire, promote, demote or discipline; and	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	(i) Other personal injury allegations made by an <i>Employee</i> which arise from an employment decision to hire, fire, promote, demote or discipline.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If the answer is yes to any of the above, please attach a listing of the loss(es) showing a full description of each claim, including the date filed, the substance of the allegations, the disposition of the claim, and any monetary amounts paid in connection with the claim.		

D. Employment Practices Risk Management		
1.	Does the applicant have a Human Resources or Personnel Department?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	If no, please describe handling of this function:	
2.	Do you have any established set of grievance or complaint procedures as an effective means of resolving disputes prior to litigation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3.	Do you anticipate any "layoffs" during the next 24 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	If yes, please provide details. <i>See attached sheet</i>	
4.	Have you had any "layoffs" in the past 36 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	If yes, please provide details.	
5.	Is your entity in full compliance with the training requirements set forth in AB 1825, SB 1343 and SB 778?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	If no, please explain.	
6.	Briefly describe the procedure for maintaining AB 1825 and SB 1343 training records: <i>Training logs, reports and certificates</i>	
7.	Does your entity provide SB 1343 training?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.	Are elected officials trained on the entity's policy regarding harassment, discrimination, and retaliation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

E. DESIRED SELF-INSURED RETENTION							
<input type="checkbox"/> \$25K	<input checked="" type="checkbox"/> \$50K	<input type="checkbox"/> \$75K	<input type="checkbox"/> \$100K	<input type="checkbox"/> \$250K	<input type="checkbox"/> \$500K		
Please attach the following:							
<ul style="list-style-type: none"> • Member application fee of \$1,000 for individual, direct members. (Upon approval and completion of the first year of membership, a credit in the amount equal to the fee remitted upon application will be issued in the form of a premium credit.) • EPL individual loss information (including Date of Loss and total incurred) for the previous 7 completed fiscal years, including the partial current fiscal year; • Payroll information for the previous 7 completed calendar years; • Completed resolution authorizing participation in ERMA; • Completed intent to participate; and • Most Recent Financial Audit. 							

MEMBERSHIP MATTERS

SUBJECT: Review of Prospective New Member Application – City of Beaumont (ERMAC)

BACKGROUND AND STATUS:

At the May 21, 2020 Underwriting Committee Meeting, the Committee reviewed a prospective member application for the City of Beaumont (City), an underlying member of ERMAC. Following a review of the application and supporting documents, the Committee requested staff obtain additional information regarding the following:

- 1) Reconciled annual payroll for years 2013-2019;
- 2) Claim handling written procedures; and
- 3) Anticipated layoff details, as indicated on the City's application.

Additionally, the Committee determined the following express conditions must be met for the City to be further considered for participation in ERMA:

- 1) The City will retain a pre-identified member of ERMA's defense panel for on-going advice and counsel relating to all employment matters; and
- 2) All claims are to be defended by an approved member of ERMA's defense panel.

The City has provided staff with all requested information as well as verbal acknowledgement of their agreement to the conditions of participation in ERMA. The City will provide a formal acknowledgment letter to be issued to the Committee under separate cover.

RECOMMENDATION:

Staff recommends the Underwriting Committee approve the City of Beaumont (ERMAC) at a \$500,000 SIR, effective July 1, 2020, with the express conditions that: 1) All employment matters are to be managed by a pre-identified member of ERMA's defense panel; and 2) Any EPL claims are to be defended by an approved member of ERMA's defense panel. Failure to comply with these conditions will constitute grounds for immediate expulsion.

REFERENCE MATERIALS ATTACHED:

None.

Agenda Item 5.B.