



**EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)
UNDERWRITING COMMITTEE MEETING
AGENDA**

**Thursday, May 12, 2022
3:00 p.m.**

[Zoom](#)

**Dial-in Number: (669) 900-6833
Meeting ID: 894 3665 3128
Passcode: 263351**

All portions of this meeting will be conducted via teleconference in accordance with Government Code Section 54953. The teleconference locations are as follows: *Sedgwick, 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833; City of Rancho Cucamonga, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730; City of Brisbane, 50 Park Place, Brisbane, CA 94005; City of Hollister, 375 Fifth Street, Hollister, CA 95023.*

Each location is accessible to the public, and members of the public may address the Committee from any teleconference location.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Danielle Davis (danielle.davis3@sedgwick.com or 916-244-1116) 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 Committee will be available for public inspection. Please contact Ms. Davis.

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|--------------------|--|
| <u>Page</u> | 1. CALL TO ORDER; ROLL CALL |
| | 2. APPROVAL OF AGENDA AS POSTED (OR AMENDED) |
| | 3. PUBLIC COMMENTS - The Public may submit any questions in advance of the meeting by contacting Danielle Davis at: danielle.davis3@sedgwick.com . This time is reserved for members of the public to address the Committee relative to matters of the ERMA not on the agenda. No action may be taken on non-agenda items unless authorized by law. |

4. CONSENT CALENDAR

3 If a Committee member would like to discuss any item listed, it may be pulled from the Consent Calendar.

- *A. Minutes of the September 28, 2021, Underwriting Committee Meeting
Recommendation: Approval of the Consent Calendar.

5. ADMINISTRATIVE MATTERS

6 *A. Proposed Updates to ERMA Underwriting Guidelines
Recommendation: Staff recommends the Underwriting Committee approve the proposed updates to ERMA Underwriting Guidelines, as presented.

6. MEMBERSHIP MATTERS

10 *A. Review of Prospective New Member Application – City of Tracy (CSJVRMA)
Recommendation: Staff recommends the Underwriting Committee approve the City of Tracy (CSJVRMA) at a \$100,000 SIR, effective July 1, 2022

16 *B. Review of Prospective New Member Application – City of Colton (PERMA)
Recommendation: Staff recommends the Underwriting Committee approve the City of Colton (PERMA) at a \$500,000 SIR, effective July 1, 2022, with the condition the city's personnel policies and procedures are updated, reviewed by legal counsel with expertise in public sector employment law, and approved by City Council, no later than July 1, 2024.

7. CLOSING COMMENTS

This time is reserved for comments by the Committee members and staff and to identify matters for future Committee business.

- A. Committee
- B. Staff

8. ADJOURNMENT

CONSENT CALENDAR

SUBJECT: Consent Calendar

BACKGROUND AND STATUS:

The Consent Calendar consists of items that require approval or acceptance but are self-explanatory and require no discussion. If the Committee would like to discuss any item listed, it may be pulled from the Consent Calendar.

RECOMMENDATION:

Approval of the Consent Calendar.

REFERENCE MATERIAL ATTACHED:

- A. Minutes of the September 28, 2021, Underwriting Committee Meeting

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE UNDERWRITING COMMITTEE MEETING OF SEPTEMBER 28, 2021

An ERMA Underwriting Committee Meeting was held on September 28, 2021. All portions of this meeting were conducted via Zoom in accordance with Government Code Section 54953.

COMMITTEE MEMBERS PRESENT: John Gillison, President, PARSAC
Truc Dever, Vice President, VCJPA

COMMITTEE MEMBERS ABSENT: Stuart Schillinger, Treasurer, BCJPIA

OTHERS PRESENT: Jennifer Jobe, Executive Director, ERMA
Danielle Davis, Sedgwick

1. CALL TO ORDER/ROLL CALL

The September 28, 2021, ERMA Underwriting Committee Meeting was called to order at 11:06 a.m. A roll call was taken, and 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 John Gillison. A roll call vote was taken. The motion passed unanimously.

3. PUBLIC COMMENTS

None

4. CONSENT CALENDAR

Truc Dever moved to approve the Consent Calendar. Seconded by John Gillison. A roll call vote was taken. The motion passed unanimously.

5. MEMBERSHIP MATTERS

A. Review of Prospective Member Application – City of Lindsay (CSJVRMA)

Jennifer Jobe, Executive Director, reported staff received an application in May 2021 from the City of Lindsay for participation in ERMA effective July 1, 2021, at a \$25,000 self-insured retention (SIR); however, staff was unable to complete the underwriting process prior to the 2021/22 Program Year. She indicated the City agreed to act as an active ERMA member until such date as the application is presented to and approved by the Board of Directors for retroactive coverage, as recommended by the Underwriting Committee at the May 25, 2021, meeting. Ms. Jobe reminded the Committee the City of Lindsay is an underlying member of the Central San Joaquin Valley Risk Management Authority (CSJVRMA) and summarized the application as follows:

The City of Lindsay reported payroll of \$3M for the 2020 calendar year, 40 full-time employees, and 17 part-time employees. The City has written personnel policies and procedures in place that have been adopted by City Council but have not been formally reviewed since 2011. The City is compliant with AB 1825 and SB 1343 training requirements and, as a member of the Consortium, utilizes the services of Liebert Cassidy Whitmore (LCW) for training.

Truc Dever moved to recommend the Board approve the City of Lindsay at a \$25,000 SIR, effective July 1, 2021, with the condition the City's personnel policies and procedures are updated, reviewed by legal counsel with expertise in public sector employment law, and approved by the City Council no later than July 1, 2023. Seconded by John Gillison. A roll call vote was taken. The motion passed unanimously.

6. CLOSING COMMENTS

A. Committee Members

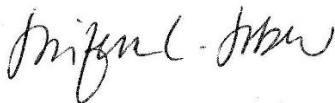
None

B. Staff

None

7. ADJOURNMENT

The September 28, 2021, ERMA Underwriting Committee meeting adjourned at 11:19 a.m. by general consent.



Jennifer Jobe, Executive Director

ADMINISTRATIVE MATTERS

SUBJECT: Proposed Updates to ERMA Underwriting Guidelines

BACKGROUND AND STATUS:

ERMA's Underwriting Guidelines were established and are utilized by staff and the Underwriting Committee in reviews and evaluations of prospective members. The last formal review of the guidelines took place in February 2014 with substantive updates made to minimum payroll and retrospective claims history required of prospective members as part of the application for participation.

The addition of the seventh self-insured retention option of \$350,000, effective July 1, 2022, necessitated staff's review, update, and general "clean up" relative to minor changes to the underwriting process that have transpired over the past several years.

Attached are the proposed Underwriting Guidelines in redline/strikeout with the recommended changes.

RECOMMENDATION:

Staff recommends the Underwriting Committee approve the proposed updates to ERMA Underwriting Guidelines, as presented.

REFERENCE MATERIALS ATTACHED:

- ERMA Underwriting Guidelines – redline/strikeout

ERMA Underwriting Guidelines:
Adopted June 21, 2010; Amended June 18, 2012; Amended February 21, 2014;
Amended June 6, 2022

Any public agency acceptable to the Board of Directors shall be eligible for membership in ERMA. Agencies may request a preliminary premium indication by providing ERMA with total payroll for the last completed calendar year to mirror data collection for the annual budget process.

Upon request from a prospective member, a preliminary premium indication will be provided including available self-insured retention (SIR) options. If the request for a premium indication is presented prior to the next fiscal year premium rates, an indication will be provided based on the rates used for the current program year. Approval for membership will be contingent upon the review of a formal submission of the required documents by the Underwriting Committee (Committee), the Committee's recommendation for membership to the Board of the Directors, and membership approval by the Board of Directors, at a regular or special Board meeting. A prospective member may select from a variety of SIRs, but any selection of an SIR outside these Guidelines' recommendations must be specifically approved by the Board of Directors.

The member's SIR must be exhausted prior to ERMA paying any defense or indemnity to which the member may become liable. The applicant must have the financial ability to pay for all claims that fall under their SIR. A copy of the ERMA governing documents will be included in the premium indication for the prospective member's review.

Formal Submittal Documents Required:

1. Completed ERMA Liability Coverage Application ~~-(including desired SIR)~~ and the entity's most recent audited financial statements;
2. Payroll for the most current seven calendar years;
3. Seven completed fiscal years, and including the partial current fiscal year, of currently valued loss runs for wrongful employment practices coverage, employment practices liability insurance, and self-insured losses including SIRs and deductibles;
- 3-4. Completed Intent to Participate, including statement of desired SIR; and
- 4-5. Signed Resolution acknowledging acceptance of the rules and regulations set forth in the ERMA Governing Documents and the minimum three-year participation period.

Upon receipt of a prospective member's formal submission to join ERMA, staff will:

- Review the submission documents for completion and prepare a report to be presented at the next Underwriting Committee meeting, to review the prospective applicant for a recommendation to the Board.
- If a regular Board of Directors' meeting is not scheduled prior to the desired membership inception date, a special Board of Directors' meeting will be called.
- ~~• The prospective member may be invited to attend the Underwriting Committee meeting and Board meeting to answer questions regarding the submission.~~
- Staff will provide a letter to the prospective member, notifying them of the Board's decision regarding membership, within 15 business days of the Board's decision, or sooner if necessary to accommodate the prospective member's desired inception date.
- The Underwriting Committee's recommendation may include conditions of acceptance of

ERMA Underwriting Guidelines

Adopted June 21, 2010; Amended June 18, 2012; Amended February 21, 2014; Amended

June 6, 2022

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~~participation such as, requiring a an abbreviated mini-risk assessment of the new member within 60 days of joining ERMA, requirements regarding updates to personnel policies and procedures, -and/or a higher-larger self-insured retention-SIR from what-that which was requested at the time of application.~~

Underwriting Guidelines:

1. Completeness of submission materials as requested on the ERMA Liability Coverage Application

- Policies and procedures are in place as indicated on the application;
- ~~Attachments provided as indicated on the application;~~
- Completed Intent to Participate; and
- Signed Resolution.

2. Acceptable detailed loss history for last seven completed years including:

- Claim frequency (reportable claim count per \$100,000 payroll), not to exceed two-times the ERMA average for the past five completed program years.
- ~~Claim severity (incurred claim cost per \$100,000 payroll) not to exceed two-times the ERMA average for the past five completed program years.~~

- ~~Loss Ratio not to exceed 80% for the last five completed program years. (Applicable to current JPA members moving to individual member or underlying JPA member joining ERMA).~~

3. Acceptability of SIR request, based on payroll and loss history.

- Review of payroll for the last seven years relative to losses.
- Comparison to members with similar payroll.
- Review of SIR request in consideration of the Recommended SIRs.

4. SIR guidelines have been developed as a guide for new members applying to join ERMA, either as ~~an individual,~~ direct ~~member~~ or underlying member of an ERMA member JPA.

ERMA Recommended SIRs	Payroll Range
25K	< \$10,000,000
50K	< \$25,000,000
75K	< \$30,000,000
100K, 250K, <u>350K</u> or 500K	< \$50,000,000

5-6. Thresholds for membership

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ERMA Underwriting Guidelines

Adopted June 21, 2010; Amended June 18, 2012; Amended February 21, 2014; Amended

June 6, 2022

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- New direct members: Must meet the minimum payroll requirement of \$5,000,000.
- Underlying members of a participating JPA member: Will not have any minimum requirements.

ERMA's Board of Directors will reserve its rights to evaluate any other relevant factors and/or data for inclusion in this Joint Powers Authority. Moreover, ERMA's Board of Directors further reserves its rights to approve an increase or decrease of an applicant's SIR based on the SIR guidelines and the review of the applicant's most current financial statements.

MEMBERSHIP MATTERS

SUBJECT: Review of Prospective New Member Application – City of Tracy (CSJVRMA)

BACKGROUND AND STATUS:

The City of Tracy (City), an underlying member of the Central San Joaquin Valley Risk Management Authority (CSJVRMA), provided an application and supporting documentation for participation in ERMA at a \$100,000 self-insured retention (SIR).

The City's application materials have been reviewed by staff, as follows:

- The City reports payroll of \$41M for the 2021 calendar year and has 408 full-time employees and 77 part-time employees.
- The City has written personnel policies and procedures last reviewed in 2019/20, though not yet adopted by City Council.
- The City is compliant with AB 1825 and SB 1343 training requirements and utilizes Liebert Cassidy Whitmore to conduct training.

RECOMMENDATION:

Staff recommends the Underwriting Committee approve the City of Tracy (CSJVRMA) at a \$100,000 SIR, effective July 1, 2022.

REFERENCE MATERIALS ATTACHED:

- City of Tracy Premium Indication
- City of Tracy Completed Potential New Member Application

EMPLOYMENT RISK MANAGEMENT AUTHORITY CONTRIBUTION INDICATION

CSJVRMA

Name of Entity	City of Tracy
2021 Calendar Payroll ^	\$41,023,558
Coverage Period	July 1, 2022 to June 30, 2023

CALCULATION

Retained Limit Options		\$100,000	\$250,000	\$350,000	\$500,000
Retained Limit Factor		0.82	0.50	0.36	0.19
Retained Limit Rate		0.488	0.298	0.214	0.113
Defense & Indemnity: Pooled Funding		\$200,154	\$122,045	\$87,872	\$46,377
Administration	0.0527	21,633	21,633	21,633	21,633
Loss Prevention & Training	0.0081	3,303	3,303	3,303	3,303
Subtotal		\$225,090	\$146,981	\$112,808	\$71,313
JPA Participation Credit	7.23%	(\$16,270)	(\$10,624)	(\$8,154)	(\$5,155)
Individual Experience Mod Factor *		1.000			
Off-Balance Factor		1.154			
Excess Insurance \$2 million x \$1 million	0.0400	16,409	16,409	16,409	16,409
ERMA CONTRIBUTION		\$257,429	\$173,792	\$137,201	\$92,769
CSJVRMA Administration Fee	5.00%	\$12,871	\$8,690	\$6,860	\$4,638
TOTAL CONTRIBUTION		\$270,300	\$182,482	\$144,061	\$97,408

^ 2021 calendar year payroll less approximately \$20,400,000 of fire personal payroll

* New members are assigned an experience modification factor of 1.000 their first year in ERMA.

Administration fee of 5% charged by the CSJVRMA.

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

LIABILITY COVERAGE APPLICATION FOR PROSPECTIVE MEMBERS OF A PARTICIPATING JOINT POWERS AUTHORITY

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 Tracy</u>		Date: <u>2/14/2022</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"/> Suspension
	<input checked="" type="checkbox"/> Medical Leave	<input checked="" type="checkbox"/> Unpaid Leave	<input checked="" type="checkbox"/> Grievance Procedures
	<input checked="" type="checkbox"/> Drug & Alcohol Testing	<input checked="" type="checkbox"/> Discipline	<input checked="" type="checkbox"/> Attendance
	<input checked="" type="checkbox"/> Family Medical Leave Act	<input checked="" type="checkbox"/> Anti-Harassment Policies	
	<input checked="" type="checkbox"/> Written Job Description for all Positions	<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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Not all policies updated		
	If no, when was the manual or rules last reviewed? Personnel Rules - 2009 Policies/Procedures - 2019/20		
8.	Were the above-referenced policies formally approved and adopted by council/governing board?	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input 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>Policies and procedures are reviewed and approved by the City Manager and City Attorney.</p>			

B. Employee Information					
1.	Number of Full Time Employees: 408				
2.	Number of Part time Employees: 77				
3.	For each of the past five years, what has been your annual percentage turnover rate of employees?				
	<u>2021</u> 9.0 %	<u>2020</u> 6.83 %	<u>2019</u> 5.37 %	<u>2018</u> 5.48 %	<u>2017</u> 8.35 %
4.	How many involuntary employment terminations have occurred in the past three years?				
	<u>2021</u> 8	<u>2020</u> 4	<u>2019</u> 3		

		<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 % 61.19	Should = 100%
	6.	Percentage of Employees with salaries greater than \$100,000 % 38.81	

C. Employment Practices Claims Handling			
	1.	Who in the Entity has been designated to handle claims? Director of Human Resources	
	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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		If yes to 2(a), describe the policy and procedure for receiving, reviewing, and responding to claims: Policy attached.	
	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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		(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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		(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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		(e) Allegations of misrepresentation or defamation 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
		(f) Allegations of infliction of emotional distress, mental injury, mental anguish, shock, sickness, disease or disability 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
		(g) Allegations of false imprisonment, detention, or malicious prosecution 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

	(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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	If yes, please provide details.	
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: Employee attends training, signs acknowledgment form and training/form is tracked in VectorSolutions.	
7.	Does your entity provide SB 1343 training?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.	Are elected or appointed 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"/> \$350K <input type="checkbox"/> \$500K
Please attach the following: <ul style="list-style-type: none"> <i>EPL individual loss information (including Date of Loss and total incurred) for the previous 7 completed fiscal years, including the partial current fiscal year;</i> <i>Payroll information for the previous 7 completed calendar years;</i> <i>Completed resolution authorizing participation in ERMA;</i> <i>Completed intent to participate; and</i> <i>Most Recent Financial Audit.</i> 	

The undersigned declares that no fact, circumstance, or situation indicating the probability of a claim or action is now known to any person proposed for this coverage; and it is agreed by all concerned that if there be knowledge of any such fact, circumstance or situation, any claim or action subsequently emanating therefrom shall be excluded from coverage under the coverage for herewith being applied. The undersigned being authorized by, and acting on behalf of, the applicant and all persons or concerns seeking coverage, has read and understands this application, and declares all statements set forth herein are true, complete, and accurate, and include all material information.

The undersigned further declares and represents that any occurrence taking place prior to the inception of the coverage for which is being applied, which may render inaccurate, untrue or incomplete any statement made herein will immediately be reported in writing to ERMA. The undersigned acknowledges and agrees that the submission and ERMA's receipt of such report, prior to the inception of the coverage for which being applied, is a condition precedent to coverage.

The undersigned acknowledges:

- (1) ERMA does not require the submittal of the aforementioned policies and procedures. ERMA does, however, rely on the information provided by the applicant in review of the application and the undersigned, therefore, declares and represents that the policies and procedures as represented above are the current policies and procedures of the entity.
- (2) ERMA's Board of Directors may recommend a risk assessment of any new member within 60 days of joining ERMA and/or a higher self-insured retention from what was requested, if an application for membership is approved.

The undersigned further acknowledges and agrees this application contains requests for information and requests for data on a range of exposures, but such requests do not imply that coverage is afforded in the program for which is being applied.

City of Tracy

Agency or Entity Name

Kimberly Murdaugh

Applicant's Name (please print)

Kimberly Murdaugh
Digitally signed by Kimberly Murdaugh
Date: 2022.02.22 14:04:11 -08'00'

Applicant's Signature

Director of Human Resources

Title

2/22/22

Date

MEMBERSHIP MATTERS

SUBJECT: Review of Prospective New Member Application – City of Colton (PERMA)

BACKGROUND AND STATUS:

The City of Colton (City), a prospective underlying member of the Public Entity Risk Management Authority (PERMA), provided an application and supporting documentation for participation in ERMA at a \$500,000 self-insured retention (SIR).

The City's application materials have been reviewed by staff, as follows:

- The City reports payroll of \$29M for the 2021 calendar year and has 315 full-time employees and 107 part-time employees.
- The City has personnel policies and procedures in places that are regularly reviewed by legal counsel and adopted by City Council, but do not include all protected categories. The City is in the process of updating their policies, with an expected completion date of March 2023.
- The City is compliant with AB 1825 and SB 1343 training requirements and utilizes Core 360, a third-party provider, to conduct online training.

RECOMMENDATION:

Staff recommends the Underwriting Committee approve the City of Colton (PERMA) at a \$500,000 SIR, effective July 1, 2022, with the condition the city's personnel policies and procedures are updated, reviewed by legal counsel with expertise in public sector employment law, and approved by City Council, no later than July 1, 2024.

REFERENCE MATERIALS ATTACHED:

- City of Colton Premium Indication
- City of Colton Completed Potential New Member Application

EMPLOYMENT RISK MANAGEMENT AUTHORITY CONTRIBUTION INDICATION

PERMA

Name of Entity	City of Colton
2021 Payroll	\$29,170,475
Coverage Period	July 1, 2022 to June 30, 2023

CALCULATION

		\$75,000	\$100,000	\$250,000	\$350,000	\$500,000
Retained Limit Options						
Retained Limit Factor		0.90	0.82	0.50	0.36	0.20
Retained Limit Rate		0.542	0.494	0.301	0.217	0.120
Funding for Losses		\$158,046	\$143,997	\$87,803	\$63,218	\$35,121
Administration	0.0526	15,334	15,334	15,334	15,334	15,334
Loss Prevention & Training	0.0084	2,447	2,447	2,447	2,447	2,447
Subtotal		175,827	161,778	105,584	81,000	52,903
JPA Participation Credit	8.88%	(15,620)	(14,372)	(9,380)	(7,196)	(4,700)
Individual Experience Mod Factor *		1.000	1.000	1.000	1.000	1.000
Off-Balance Factor		1.068	1.068	1.068	1.068	1.068
ERMA CONTRIBUTION		\$171,065	\$157,398	\$102,728	\$78,809	\$51,472

* New members are assigned an experience modification factor of 1.000 their first year in ERMA.

**EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)
LIABILITY COVERAGE APPLICATION FOR PROSPECTIVE MEMBERS
OF A PARTICIPATING JOINT POWERS AUTHORITY**

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

PROGRAM YEAR: 2022/23

ENTITY NAME: City of Colton	Date: 3-14-22
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"/> Suspension <input checked="" type="checkbox"/> Medical Leave <input checked="" type="checkbox"/> Unpaid Leave <input checked="" type="checkbox"/> Grievance Procedures <input checked="" type="checkbox"/> Drug & Alcohol Testing <input checked="" type="checkbox"/> Discipline <input checked="" type="checkbox"/> Attendance <input checked="" type="checkbox"/> Family Medical Leave Act <input checked="" type="checkbox"/> Anti-Harassment Policies <input checked="" type="checkbox"/> Written Job Description for all Positions <input type="checkbox"/> Workplace Violence Policies <input checked="" type="checkbox"/> Annual Written Performance Evaluations for all Employees <input 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 type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	If no, when was the manual or rules last reviewed? unsure. \$100K budgeted 22/23 to review all by AALRR law firm
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 checked="" type="checkbox"/> Yes <input 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>HR will take a comprehensive review of all Rule and Regulation and HR policies in 22/23 by AALRR</p>	

B. Employee Information											
1.	Number of Full Time Employees: 315										
2.	Number of Part time Employees: 107										
*	3.	For each of the past five years, what has been your annual percentage turnover rate of employees?									
		20 5	%	205-	%	20 4	%	208	%	206	%
	4.	How many involuntary employment terminations have occurred in the past three years?									
		20 21	Terminations: 0	20 20	Terminations: 0	20 19	Terminations: 1				

*3. Fillable form does not add space for percentage and year; should read as follows:
2021 - 5%; 2020 - 5%; 2019 - 4%; 2018 - 8%; 2017 - 6%

		<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 % 80	Should = 100%
	6.	Percentage of Employees with salaries greater than \$100,000 % 20	

C. Employment Practices Claims Handling			
	1.	Who in the Entity has been designated to handle claims?	
	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:	
		Part of the Harassment prevention policy. Depending on the severity, either the HR Director would conduct an investigation or an outside investigator. Can provide a copy	
	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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		(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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		(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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		(e) Allegations of misrepresentation or defamation 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
	*	(f) Allegations of infliction of emotional distress, mental injury, mental anguish, shock, sickness, disease or disability made by an <i>Employee</i> which arise from an employment decision to hire, fire, promote, demote or discipline;	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		(g) Allegations of false imprisonment, detention, or malicious prosecution 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

*Regarding the checked box on C4F of the ERMA application regarding a ELP claim. Mr. Ted Cooper was the City's former Human Resource Manager. At the time, the City had a Department of Administrative Services in which there is a Director of Administrative Services overseeing the department. Mr. Cooper was the Manager overseeing the division of Human Resources. This lawsuit stemmed from the Departure of the Dir. of Administrative Services and for a period of time Mr. Cooper reported directly to the City Manager. He petitioned the City Manager, since he was reporting directly to him, that he was entitled to the position of Director of Human Resources. This request was not granted and these circumstances resulted in this lawsuit. I do not believe Mr. Cooper won any damages but I am checking with the TPA right now. Attached is the loss run on this particular item.

01/16/22

	(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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	If yes, please provide details.	
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: Just conducted, 11/21, City wide AB 1825 and 1343 on-line training for all city employees.	
7.	Does your entity provide SB 1343 training?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.	Are elected or appointed 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 type="checkbox"/> \$50K <input type="checkbox"/> \$75K <input type="checkbox"/> \$100K <input type="checkbox"/> \$250K <input type="checkbox"/> \$350K <input checked="" type="checkbox"/> \$500K *
Please attach the following:	
<ul style="list-style-type: none"> 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. 	

* OR UP TO \$/MIL

The undersigned declares that no fact, circumstance, or situation indicating the probability of a claim or action is now known to any person proposed for this coverage; and it is agreed by all concerned that if there be knowledge of any such fact, circumstance or situation, any claim or action subsequently emanating therefrom shall be excluded from coverage under the coverage for herewith being applied. The undersigned being authorized by, and acting on behalf of, the applicant and all persons or concerns seeking coverage, has read and understands this application, and declares all statements set forth herein are true, complete, and accurate, and include all material information.

The undersigned further declares and represents that any occurrence taking place prior to the inception of the coverage for which is being applied, which may render inaccurate, untrue or incomplete any statement made herein will immediately be reported in writing to ERMA. The undersigned acknowledges and agrees that the submission and ERMA's receipt of such report, prior to the inception of the coverage for which being applied, is a condition precedent to coverage.

The undersigned acknowledges:

- (1) ERMA does not require the submittal of the aforementioned policies and procedures. ERMA does, however, rely on the information provided by the applicant in review of the application and the undersigned, therefore, declares and represents that the policies and procedures as represented above are the current policies and procedures of the entity.
- (2) ERMA's Board of Directors may recommend a risk assessment of any new member within 60 days of joining ERMA and/or a higher self-insured retention from what was requested, if an application for membership is approved.

The undersigned further acknowledges and agrees this application contains requests for information and requests for data on a range of exposures, but such requests do not imply that coverage is afforded in the program for which is being applied.

City of Colton

Agency or Entity Name

Tom Cody

Applicant's Name (please print)

HR Director

Title


Applicant's Signature

3-17-2022

Date