

**BAY CITIES JOINT POWERS INSURANCE
AUTHORITY (BCJPIA)**

POOLED WORKERS' COMPENSATION PROGRAM

MEMORANDUM OF COVERAGE

**FOR THE 2017-2018 PROGRAM YEAR
EFFECTIVE JULY 1, 2017**

FORM NO. BCJPIA 2017-18 WC

BAY CITIES JOINT POWERS INSURANCE AUTHORITY

POOLED WORKERS' COMPENSATION COVERAGE

POLICY NUMBER BCJPIA 2017-18 WC

DECLARATIONS

NAMED COVERED PARTY: Bay Cities Joint Powers Insurance Authority,
et. al., as per Endorsement No. 1

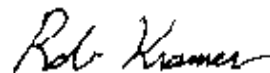
1750 Creekside Oaks Drive, Suite 200
Sacramento, CA 95833

POLICY PERIOD: From 7-1-2017 to 7-1-2018
12:01 a.m. Pacific Standard Time

LIMIT OF LIABILITY: \$1,000,000 Each Occurrence Less Member's
Retained Limit listed in Endorsement No. 1

FORM AND ENDORSEMENTS: Form No. BCJPIA 2017-18 WC,
FORMING PART OF THE POLICY AT INCEPTION Endorsement No. 1 and No. 2

ON BEHALF OF BAY CITIES JOINT POWERS INSURANCE AUTHORITY



Authorized Representative

**POOLED WORKERS' COMPENSATION PROGRAM
MEMORANDUM OF COVERAGE**

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BAY CITIES JOINT POWERS INSURANCE AUTHORITY (BCJPIA)

POOLED WORKERS' COMPENSATION PROGRAM (PWCP)

MEMORANDUM OF COVERAGE

FORM NO. BCJPIA 2017-18 WC

2017-2018

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the Pooled Workers' Compensation Program (PWCP). The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions" or in the Master Program Document.

GENERAL SECTION

A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Authority** shall mean the Bay Cities Joint Powers Insurance Authority.
2. **Bodily injury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include **occupational disease**.
3. **Covered Party** shall mean a participant in this PWCP which has sustained a loss which is covered under this MOC of Coverage.
4. **Cumulative Injury or Illness** means occupational disease or cumulative injury caused by repeated events or repeated exposures at work, limited to the last date on which the employee was employed in an occupation exposing him or her to the hazards of the occupational disease or cumulative injury, whichever occurs first. The liability period for occupational disease or cumulative injury shall be limited to one year per California Labor Code 5500.5(a).
5. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation Act of the State of California, or under the common law of the State of California.
6. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable Workers' Compensation Law, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the

Workers' Compensation Act or other law for **bodily injury** or **occupational disease** to an **employee**.

7. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
8. **Occurrence** means an injury or disease of an employee arising out of and in the course of employment. Bodily injury, illness, or disease sustained by one or more employees, as a result of a single accident, incident or exposure, shall be deemed to arise from a single occurrence. The occurrence shall be deemed to take place on the earlier of (a) the last day of the last exposure, in the employment of the **Covered Party**, to conditions causing or aggravating the disease, or (b) the date upon which the employee first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by employment with the **Covered Party**. All occupational disease sustained by one or more employees as a result of an outbreak of the same communicable disease shall be deemed to arise from a single occurrence. An outbreak of the same communicable disease that spans more than one coverage period shall be deemed to take place during the first such coverage period.
9. **Participant** shall mean a **Member Entity**, which shall mean a signatory to the **Agreement** establishing the Bay Cities Joint Powers Insurance Authority, who has elected to participate in the PWCP.
10. **Retained limit** shall mean the amount stated on the Declarations page and all endorsements listed on the Declarations page, which will be paid by the **Covered Party** before the **Authority** is obligated to make any payment from the pooled funds.

B. THE MEMORANDUM OF COVERAGE

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the **Authority**. The terms of this MOC may not be changed or waived except by endorsement issued by the **Authority** to be part of this MOC.

C. COVERAGE PERIOD

This MOC applies to **losses** occurring during the coverage period defined in the Declarations.

D. WHO IS COVERED

The **Covered Party** is a **Participant** in the **Authority's** PWCP. If a **Covered Party** loses its status as a **Member Entity**, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf

of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **employees** of the **Covered Party** for purposes of Workers' Compensation Law.

E. WORKERS' COMPENSATION LAW

Workers' Compensation Law means the workers' or workmen's compensation law and **occupational disease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal **occupational disease** law, or the provisions of any law that provide non-occupational disability benefits.

F. QUALIFIED SELF-INSURER

The **Covered Party** represents that it is a duly qualified self-insurer under the Workers' Compensation Law of the State of California and will continue to maintain such qualifications during the term this MOC is in effect. If the **Covered Party** should fail to qualify or fail to maintain such qualifications, the coverage provided under this MOC shall automatically terminate at the first date of such failure.

PART I – WORKERS' COMPENSATION COVERAGE

The **Authority** will provide coverage for workers' compensation **losses** up to the **Authority's** Limit of Liability stated in the Declarations Page.

This coverage applies to **bodily injury**.

1. **Bodily injury** by accident must occur during the coverage period.
2. **Bodily injury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **employee's** last day of last exposure to the conditions causing or aggravating such **bodily injury** by disease must occur during the coverage period.

A. DEFENSE OF SERIOUS AND WILLFUL CLAIMS AND 132a ACTIONS:

The **Authority** will provide a defense for serious and willful claims and Labor Code Section 132a actions, as set forth below, brought before the Workers' Compensation Appeals Board (WCAB), but in no event shall the **Authority** provide any indemnity for any such claim or action:

- 1) Serious and willful misconduct by the **Covered Party** against an **employee** involved in a claim for workers' compensation benefits. (Labor Code §4553.).

- 2) Discrimination by the **Covered Party** against an **employee** involved in a claim for workers' compensation benefits. (Labor Code §132a.)

Such defense will be provided only until such time as the underlying claim for workers' compensation has concluded. The **Authority** shall have the sole discretion to determine when and whether the underlying claim has "concluded." The **Authority** may, at any time, exercise its right to withdraw from the defense of these claims, and such decision shall be final.

B. PAYMENTS THE COVERED PARTY MUST MAKE

The **Authority** is not responsible for any payments in excess of benefits regularly provided by the Workers' Compensation Law including any payment based on the following conduct by the **Covered Party**:

1. Serious and willful misconduct;
2. Knowing employment of an **employee** in violation of law;
3. Knowing failure to comply with a health or safety law or regulation;
4. Discharge, coercion or otherwise discriminating against any **employee** in violation of the Workers' Compensation Law; or
5. Violation of or failure to comply with any Workers' Compensation Law.

If the **Authority** makes any payments in excess of the benefits regularly provided by the Workers' Compensation Law on the **Covered Party's** behalf, the **Covered Party** will reimburse the **Authority** promptly for such payment.

PART II – EMPLOYER'S LIABILITY COVERAGE

The **Authority** will provide coverage for employer's liability **losses** up to the **Authority's** Limit of Liability stated in the Declarations Page.

This coverage applies to **bodily injury**. This coverage will apply to amounts awarded against the **Covered Party** in excess of the **Covered Party's Retained Limit** and subject to the Limit of Liability set forth herein, provided that those amounts awarded are the direct consequence of **bodily injury** that arises out of and in the course of the injured **employee's** employment by the **Covered Party**, and are claimed against the **Covered Party** in a capacity other than as employer.

1. The **bodily injury** must arise out of and in the course of the injured **employee's** employment by the **Covered Party**.
2. **Bodily injury** by accident must occur during the coverage period.

3. **Bodily injury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **employee's** last day of last exposure to the conditions causing or aggravating such **bodily injury** by disease must occur during the coverage period.

PART III - POLICY EXCLUSIONS

This MOC shall not apply to:

- A. Liability imposed by the Workers' Compensation Laws because of **bodily injury** to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the Workers' Compensation Laws because of **bodily injury** to participants of a work release program or other community service program established by a county of the State of California;
- B. Employer's Liability Coverage herein does not apply to any obligation imposed by a workers' compensation, **occupational disease**, unemployment compensation, or disability benefits law, or any similar law.
- C. **Bodily injury** intentionally caused or aggravated by the **Covered Party**.
- D. **Bodily injury** to an **employee** while employed in violation of law with the actual knowledge of the **Covered Party**.
- E. Liability for additional compensation imposed on the **Covered Party** under Labor Code Section 4557 by reason of injury to an **employee** under sixteen years of age and illegally employed at the time of the injury.
- F. Liability imposed by Labor Code Section 4856.

PART IV - THE COVERED PARTY'S RETENTION AND AUTHORITY'S LIMIT OF LIABILITY

A. LIMIT OF COVERAGE BY AUTHORITY

The **Authority** will indemnify the **Covered Party** for **loss** under Workers' Compensation Laws, but will not exceed the Limit of Liability stated in the Declarations Page on any one **loss**. Coverage will include all benefits required under Workers' Compensation Laws, including full salary benefits listed in Labor Code Section 4850. The **Authority** will pay on behalf of the **Covered Party** for Employer's Liability **losses** but will not exceed the Limits of Liability stated in the Declarations Page on any one **loss**.

B. HOW THE LIMIT OF COVERAGE APPLIES

The **Authority's** Limit of Coverage stated in the Declarations Page applies to claims covered under the Workers Compensation Coverage or Employer's Liability Coverage as follows:

1. To one or more **employees** for **bodily injury** or death in any one accident;
2. To any one **employee** for **bodily injury** or death by disease; and

If, an employee of two or more **Covered Parties** incurs a cumulative injury or illness as defined in General Section A(10) then the Retained Limits of the involved **Covered Parties** will be adjusted by applying the pro-rata percentage of exposure for the Cumulative Trauma period to each Member's SIR.

Nothing contained herein shall operate to increase the **Authority's** Limit of Coverage under this MOC.

PART V - CONDITIONS

A. NOTICE OF ACCIDENT OR CLAIM

1. The Covered Party shall give written notice within five days of the Covered Party's knowledge to the **Authority** if a claim for a **bodily injury** or disease occurs which appears to involve coverage by the **Authority**.
2. Notice of accident given to the **Authority** shall contain complete details on the **bodily injury**, disease, or death. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the **Authority**, the **Covered Party** shall give the **Authority**:
 - a) All notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers; and
 - b) Copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.
3. If written notice is not provided by the **Covered Party** to the **Authority** within thirty (30) days of knowledge of such claim, coverage may not be provided under this MOC. This requirement is a condition precedent to coverage under this MOC.

B. SUBROGATION - RECOVERY FROM OTHERS

The **Authority** has the **Covered Party's** rights, and the rights of persons entitled to compensation benefits from the **Covered Party**, to recover the **Authority's loss** from any third party liable for the **bodily injury**. The **Covered Party** will do everything necessary to protect those rights for the **Authority** and to assist in enforcing them. Any recovery, after

deducting the **Authority's** recovery expenses, will first be used to reduce the **Authority's loss**. The balance, if any, will be returned to the **Covered Party**.

If the **Covered Party** waives its rights to subrogation on a claim covered under, or that may be covered under, this MOC, and if the amount of the claim exceeds the **Covered Party's Retained Limit** (and therefore comes within the **Authority's** layer), then the **Authority's** coverage shall not apply to the claim and the **Authority** shall not be liable for any indemnity, reimbursement, payment, or costs on the claim exceeding the **Covered Party's Retained Limit**, unless the **Authority's** Workers' Compensation Program Manager approves the waiver of subrogation in writing.

The exclusion of coverage for waiver of subrogation shall apply only to a waiver of subrogation made or approved by a **Covered Party** after the date of the injury or illness that resulted in the claim. This exclusion shall not apply to a waiver of subrogation contained in an agreement or contract that was approved by the **Covered Party** prior to the date of the injury or illness that resulted in the claim.

C. MEMORANDUM CONFORMS TO LAW

If any provision of this MOC is in conflict with Workers' Compensation Laws applicable to this MOC, the **Authority's Agreement**, the **Authority's** Bylaws, or the **Authority's** PWCP Master Program Document, this statement amends this MOC to conform to such law or document.

BAY CITIES JOINT POWERS INSURANCE AUTHORITY

MEMORANDUM OF COVERAGE

WORKERS' COMPENSATION COVERAGE

ENDORSEMENT NO. 1

It is understood that the named Covered Party of the Declarations is completed as follows:

Bay Cities Joint Powers Insurance Authority (BCJPIA),
City of Albany,
City of Brisbane,
Central Marin Police Authority
Town of Corte Madera
City of Emeryville,
Town of Fairfax,
City of Larkspur,
City of Menlo Park,
City of Mill Valley,
City of Novato,
City of Piedmont,
Town of San Anselmo,
City of Sausalito,
Town of Tiburon, and
City of Union City.

Attached to and forming part of Policy No. BCJPIA 2017-18 WC

Effective Date: July 1, 2017



AUTHORIZED REPRESENTATIVE

BAY CITIES JOINT POWERS INSURANCE AUTHORITY

MEMORANDUM OF COVERAGE

WORKERS' COMPENSATION COVERAGE

ENDORSEMENT NO. 2

Retained Limits applicable to each Participant are as follows:

<u>Member</u>	<u>Retained Limit</u>
City of Albany	\$ 150,000
City of Brisbane	\$ 150,000
Central Marin Police Authority	\$ 150,000
Town of Corte Madera	\$ 250,000
City of Emeryville	\$ 350,000
Town of Fairfax	\$ 150,000
City of Larkspur	\$ 150,000
City of Menlo Park	\$ 350,000
City of Mill Valley	\$ 150,000
City of Novato	\$ 150,000
City of Piedmont	\$ 150,000
Town of San Anselmo	\$ 150,000
City of Sausalito	\$ 150,000
Town of Tiburon	\$ 150,000
City of Union City	\$ 250,000

Attached to and forming part of Policy No. BCJPIA 2017-18 WC

Effective Date: July 1, 2017



AUTHORIZED REPRESENTATIVE