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CLAIMS COMMITTEE MEETING AGENDA

**Thursday, February 22, 2018
1:30 p.m.**

Teleconference

All or portions of this meeting will be conducted by teleconferencing in accordance with Government Code Section 54953(b). Teleconference locations are as follows: Bickmore, 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833; City of Benicia, 250 East L St, Benicia, CA 94510; City of Burlingame, 501 Primrose Rd, Burlingame, CA 94010; City of Cupertino, 10300 Torre Ave, Cupertino, CA 95014; City of East Palo Alto, 2415 University Ave, East Palo Alto, CA 94303; Town of Hillsborough, 1600 Floribunda Ave, Hillsborough, CA 94010; Town of Los Gatos, 110 East Main St, Los Gatos, CA 95030; City of San Bruno, 567 El Camino Real, San Bruno, CA 94066.

Each location is accessible to the public, and members of the public may address the Claims 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 Katie Sullivan at (916) 244-1164 or (916) 244-1199 (fax). Requests must be made as early as possible, and 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 Associations of Bay Area Governments Pooled Liability Assurance Network (ABAG PLAN) Claims Committee less than 72 hours prior to a regular meeting will be available for public inspection at 1750 Creekside Oaks Dr., Suite 200, Sacramento, CA 95833.

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| <u>Page</u> | 1. CALL TO ORDER |
| | 2. INTRODUCTIONS |
| | 3. APPROVAL OF AGENDA AS POSTED (OR AMENDED) |

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4. **PUBLIC COMMENTS** - This time is reserved for members of the public to address the Committee relative to matters of the ABAG PLAN not on the agenda. 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.

5. **CONSENT CALENDAR**
If a Committee member would like to discuss any item listed, it may be pulled from the Consent Calendar.
4 *A. Minutes – December 28, 2017, Claims Committee Meeting
Recommendation: Staff recommends the Committee approve the Consent Calendar.

6. **COVERAGE MATTERS**
8 A. Town of Woodside Coverage Appeal
Recommendation: None.

7. **CLOSED SESSION**
A. Pursuant to Government Code Section 54956.95(a), the Committee will hold a closed session to discuss the following claims:
 - Reyering v. Town of Woodside
 - Harrison v. Gilroy
B. Pursuant to Government Code Section 54957.1, the Committee will report in open session any reportable action taken in closed session.

8. **CLOSING COMMENTS**
This time is reserved for comments by Claims Committee members and/or staff and to identify matters for future Claims Committee business.
 - A. Claims Committee
 - B. Staff

9. **ADJOURNMENT**

NOTICES:

- The next Board of Directors meeting will be held on June 20, 2018, at 9:30 a.m.
- The next Executive Committee meeting will be held on June 6, 2018, at 10:00 a.m.

* Reference materials enclosed with staff report.

February 22, 2018

Agenda Items 5.A.

CONSENT CALENDAR

SUBJECT: Consent Calendar

BACKGROUND AND HISTORY:

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.

STAFF RECOMMENDATION:

Staff recommends the Committee approve the Consent Calendar.

REFERENCE MATERIALS ATTACHED:

A. Minutes from the December 28, 2017, Claims Committee Meeting

**POOLED LIABILITY ASSURANCE NETWORK JOINT POWERS
AUTHORITY**

**MINUTES OF THE CLAIMS COMMITTEE
MEETING OF DECEMBER 28, 2017**

A regular meeting of the Claims Committee was held on December 28, 2017, via teleconference.

MEMBERS PRESENT: Kathleen Kane, Chair, Burlingame
Marc Zafferano, San Bruno
Robert Schultz, Los Gatos
Randolph Hom, Cupertino
Brenda Olwin, East Palo Alto

MEMBERS ABSENT: Heather McLaughlin, Benicia
Kathy Leroux, Hillsborough
Scott Corey, Suisun City

OTHERS PRESENT: Rob Kramer, General Manager
Yahaira Martinez, Assistant General Manager
Jon Paulsen, Senior Consultant
William Portello, Director of Litigation Management
Craig Wheaton, Litigation Manager
Katie Sullivan, Analyst
Jill Stallman, Metropolitan Transportation Commission (MTC)

1. CALL TO ORDER:

The December 28, 2017, Claims Committee meeting was called to order at 1:35 p.m. by Chair Kathleen Kane.

2. INTRODUCTIONS:

Those present introduced themselves.

3. PUBLIC COMMENTS:

None.

4. APPROVAL OF AGENDA AS POSTED (OR AMENDED):

Kathleen Kane moved to approve the agenda as posted. Motion passed unanimously by Kathleen Kane, Marc Zafferano, Robert Schultz, Randolph Hom, and Brenda Olwin.

5. CONSENT CALENDAR:

Robert Schultz moved to approve the following items: A) Minutes from the June 22, 2017, Claims Committee Meeting; and B) Minutes from the October 24, 2017, Claims Committee Meeting. Brenda Olwin seconded the motion. Motion passed unanimously by Kathleen Kane, Marc Zafferano, Robert Schultz, Randolph Hom, and Brenda Olwin.

6. DISCUSSION OF CALENDAR:

A. Review of Coverage Counsel Request for Qualifications (RFQs):

Mr. Rob Kramer, General Manager, reviewed the facts surrounding the retirement of ABAG/PLAN's Coverage Counsel, Mr. Ken Moy, effective January 5, 2018. In light of Mr. Moy's upcoming departure, staff reached out to the President and members of the Claims Committee to recommend a Request for Qualifications (RFQ) be developed and disseminated to four legal firms with extensive experience and success working with California Joint Powers Authorities in the past. The deadline to submit the RFQ was December 22, 2017, and a matrix outlining the qualifications of the proposers was created to present to Committee members. The four firms that submitted a proposal are as follows:

Johnson, Schachter & Lewis
Murphey, Campbell, Alliston & Quinn
Gibbons & Conley
Farmer Smith & Lane

Mr. Kramer reviewed the RFQs with the Committee, and a discussion ensued regarding each firm. Since Johnson, Schachter, & Lewis listed Mr. Craig Wheaton, Litigation Manager, as a reference on their RFQ, Committee members requested Mr. Wheaton's input as to the firm. Mr. Wheaton advised that Johnson, Schachter, and Lewis is a qualified firm with extensive experience. Upon further discussion and inquiry from the

Committee, Mr. Wheaton stated he has worked with Gibbons & Conley with other clients and has had a positive experience with the firm, noting their presentation of information is clear and concise.

The Committee requested a recommendation from staff to which staff and some Committee Members agreed that Gibbons & Conley would be an excellent fit for PLAN and SHARP based on prior experience and the information provided in the proposals.

The Committee raised a concern regarding each firm's capacity to take on another client and whether that was considered. Mr. Kramer and Mr. Wheaton responded that from their knowledge of the firms they did not believe that to be an issue and that some important considerations for the committee included each firm's experience with municipal joint powers authorities, pooling governing documents, pooling memoranda of coverage, as well as the ability to peacefully advocate for the JPA in a way that is still collaborative with the members. Mr. Kramer and Mr. Wheaton both commented that staff has had positive experience with all firms and were confident all options provided would have the pool's best interests at heart and perform well if selected.

Ms. Kane thanked everyone for their input and proposed she could conduct a phone interview with the Committee's first selection if the committee felt that was appropriate. It was the general consensus of the Committee that Gibbons & Conley was their first choice and pending the outcome of a telephonic interview, the recommended firm be engaged. It was further decided this matter should be considered by the Executive Committee with a recommendation from the Claims Committee that they ratify the selection.

Kathleen Kane moved to select Gibbons & Conley as coverage counsel, pending the positive outcome of a telephonic interview of the firm on January 2, 2018, after which the committee would recommend to the Executive Committee ratification of the selection. Marc Zafferano seconded the motion. Motion passed unanimously by Kathleen Kane, Marc Zafferano, Robert Schultz, Randolph Hom, and Brenda Olwin.

7. CLOSING COMMENTS:

A. Committee:

In response to an inquiry about another entity's coverage appeal, Mr. Kramer informed the Committee that Mr. Moy agreed to provide services through the next Executive

Committee meeting to advise new counsel on said appeal. Ms. Kane stated since Mr. Moy provided the original opinion on the issue, it would be beneficial to keep him engaged as long as possible.

B. Staff:

None.

8. ADJOURNMENT:

The December 28, 2017, Claims Committee meeting was adjourned at 2:08 p.m. by a general consensus of the Committee members.



Heather McLaughlin, Secretary

February 22, 2018

Agenda Item 6.A.

COVERAGE MATTERS

SUBJECT: Town of Woodside Coverage Appeal

BACKGROUND AND HISTORY:

On June 8, 2017, Mr. Ken Moy, former Coverage Counsel reviewed and denied coverage for a claim submitted by the Town of Woodside, *Reyering v. Town of Woodside, et al.*

Mr. Byrne Conley, Coverage Counsel, recently reviewed the matter and although he approached the claim from a different angle than Mr. Moy, he came to the same conclusion and determined there is no coverage for this claim under the Memorandum of Coverage.

Pursuant to ABAG PLAN's Claim Policy, section 3.3 Coverage Determination, the Town of Woodside exercised its right to appeal the coverage opinion with the Claims Committee. Representatives from the Town will be present at the meeting to present the appeal and answer any questions of the Claims Committee.

STAFF RECOMMENDATION:

None.

REFERENCE MATERIALS ATTACHED:

None.