



## AGENDA

**LEGEND:** A - Action may be taken  
I - Information  
1 - Included  
2 - Handout  
3 - Separate  
4 - Verbal

**JPA:** ACCEL UNDERWRITING COMMITTEE MEETING

**DATE/TIME:** Tuesday, January 7, 2025 at 3:00 PM

**LOCATION:** Teleconference

Link: <https://alliantinsurance.zoom.us/j/91857870191?pwd=iBI2OgY2zHUaDFudaBM5QKkNbnZNDZ.1>

Dial: 1 (669) 900 6833

Meeting ID: 918 5787 0191

Passcode: 750453

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***In accordance with the requirements of the Brown Act, notice of this meeting must be posted in publicly accessible places, 72 hours in advance of the meeting, at the office of ACCEL's Secretary.***

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*Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact Alliant Insurance Services at (415) 403-1400, 24 hours in advance of the meeting. Access to some buildings may require routine provision of identification to building security. However, ACCEL does not require any member of the public to register his or her name, or to provide other information, as a condition to attendance at any public meeting and will not inquire of building security concerning information so provided. See Government Code section 54953.3.*

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- MEMBER** • **City of Anaheim**, 201 South Anaheim Boulevard, Suite 503, Anaheim, CA 92805
- LOCATIONS** • **City of Burbank**, 275 E Olive Avenue, Burbank, CA 91510
- VIA TELE -** • **City of Salinas**, 200 Lincoln Avenue, Salinas, CA 93901
- CONFERENCE** • **City of Santa Barbara**, 735 Anacapa Street, Santa Barbara, CA 93101
- **City of Santa Cruz**, 1200 Pacific Avenue, Suite 290, Santa Cruz, CA 95060

### PAGE

#### **A. CALL TO ORDER**

#### **B. CONSENT CALENDAR**

- 2-4 1 1. Approval of Minutes for the September 25, 2024 Underwriting Committee Meeting (A)  
*The Committee will review these minutes and will take action to approve or give direction.*

#### **C. REPORTS**

##### **1. UNDERWRITING COMMITTEE'S REPORT**

- 5-15 1 a) New ACCEL Exposure Questionnaire: City of Palo Alto – Broadband/Internet (A)  
*Members will review and discuss the new exposure questionnaire and may take action or provide direction.*
- 16-33 1 b) ACCEL's Policies & Procedures Review: (A)  
*The Committee will conduct its review and may take action to provide a recommendation to the Board or give direction.*
- i. Underwriting Standards Policy and Procedure
  - ii. New Exposure Questionnaire
  - iii. Applicant Fee Structure

#### **D. PUBLIC COMMENTS**

- 4 *The public is invited at this point to address the Committee on issues of interest to them.* (I)

### **ADJOURNMENT**

**MINUTES OF THE  
ACCEL UNDERWRITING COMMITTEE  
MEETING**

**Wednesday, September 25, 2024 at 1:30 PM**

**LOCATION:**

**Teleconference**

Link: <https://alliantinsurance.zoom.us/j/92399078747?pwd=5onghBXx5fi3VVnCOsZvbwS5UoD4bR.1>

Dial: 1 (669) 900 6833

Meeting ID: 923 9907 8747

Passcode: 832377

**MEMBERS PRESENT:**

Tracey Matthews, City of Anaheim

Alvaro Valdez, City of Burbank

Rhonda Combs, City of Salinas

Mark Howard, City of Santa Barbara

Ross Brandon, City of Santa Cruz (left at 2:31 PM)

**MEMBERS ABSENT:**

None

**GUESTS AND CONSULTANTS:**

Conor Boughey, Alliant Insurance Services

Thomas Joyce, Alliant Insurance Services

Lorissa Huey, Alliant Insurance Services

**A. CALL TO ORDER**

Tracey Matthews called the meeting to order at 1:32 PM.

**B. CONSENT CALENDAR**

**B1. Approval of Minutes for the January 31, 2024 Underwriting Committee Meeting**

A motion was made to approve the Consent Calendar.



**MOTION:** Mark Howard **SECOND:** Ross Brandon **MOTION CARRIED**

	Tracey Matthews	Alvaro Valdez	Rhonda Combs	Mark Howard	Ross Brandon
Aye	X	X	X	X	X
Nay					
Abstain					

### C. REPORTS

#### C1. UNDERWRITING COMMITTEE'S REPORT

##### C1a. Review of Medical Malpractice Exclusion

Conor Boughey reported that ACCEL's Memorandum of Coverage (MOC) has a longstanding exclusion for medical malpractice claims, with a giveback for emergency medical response such as paramedics.

The Committee discussed recent events relating to Members and their potential ancillary medical malpractice exposure largely as it pertains to the unhoused community. The intent of the current exclusion was discussed.

Direction was given to the Program Administrator to request ACCEL's Legal Counsel to propose new broader language and add "mobile medical clinic" to the current exclusion for this evolving risk, and approach PRISM for a potential group purchase of a medical malpractice policy for incidental exposure. The Program Administrator will report to the Board at the October 2024 Board Meeting.

##### C1b. Review of Fixed Transit Language in ACCEL MOC

Conor Boughey reported that ACCEL's 4x1 MOC is silent on fixed transit exposure, but this exposure is excluded on the 5x5 MOC and excess insurance tower, with a carveback for Santa Monica's Big Blue Bus. The City of Mountain View recently brought up questions regarding its Mountain View Community Shuttle transit operations.

Discussion centered around whether an exclusion should be added to the 4x1 with carvebacks available by endorsement, or whether ACCEL should blanket cover this exposure.

A motion was made to direct the Program Administrator to draft an exclusion for the 4x1 layer and to survey the ACCEL Membership to better understand the pool's exposure for discussion at the October 2024 Board Meeting.

**MOTION:** Mark Howard **SECOND:** Alvaro Valdez **MOTION CARRIED**



	Tracey Matthews	Alvaro Valdez	Rhonda Combs	Mark Howard	Ross Brandon
Aye	X	X	X	X	X
Nay					
Abstain					

### D. PUBLIC COMMENTS

There were no public comments.

### ADJOURNMENT

Tracey Matthews adjourned the meeting at 2:58 PM.

DRAFT



**Item No. C.1.a**  
**Underwriting Committee**  
**January 7, 2025**

### **NEW ACCEL EXPOSURE QUESTIONNAIRE: CITY OF PALO ALTO BROADBAND/INTERNET**

**ISSUE:** The City of Palo Alto is building a fiber infrastructure (the Palo Alto Fiber Project) to provide residents and businesses with broadband and high-speed internet services within City limits. The Project is expected to begin deploying services in December, 2025.

Under the Underwriting Standards Policy and Procedure, the following applicable criteria warrants this review:

2. A new service within the Member Agency that would not be considered traditional for the majority of cities in California.
8. Any service agreement situation or arrangement that brings about an increased exposure to loss that is concerning, or reasonably should be concerning, to the risk management personnel/function of the Member Agency.

Previously when this specific issue came up with the City of Ontario, the Board moved to broaden the “failure to supply” exclusion to include broadband internet. Below is the current text of the exclusion in the MOC:

- J. To liability arising out of or contributed to by any complete or partial failure to supply utilities including but not limited to: water, electricity, gas, and broadband/internet/wireless communication services.

**RECOMMENDATION:** It is recommended that the Committee review Palo Alto’s new exposure questionnaire and provide feedback, direct staff, or take action.

#### **Additional Consideration**

**In favor:** A member of ACCEL is disclosing a new risk to ACCEL. Typically, ACCEL provides feedback to confirm if an exposure is likely to be covered or not, or provide feedback to the entity regarding structure, contract language or other input. In this case, the Committee may want to discuss how uniform this exposure is among the members and provide guidance on ideal implementation.

**Against:** The Underwriting Committee may become aware of a risk that is challenging and not suited for ACCEL because it is not common to Members, not covered by policy language or should be addressed through separate available coverage. If the Committee were to want to move towards excluding an exposure, the Committee should take action to recommend action by the Board of Directors.



**FISCAL IMPACT:** No immediate financial impact is expected.

**BACKGROUND:** Article online regarding Palo Alto Fiber (<https://medium.com/paloaltoconnect/whats-in-store-for-palo-alto-fiber-in-2024-10ee21c49165>):

The City Council approved moving forward with broadband fiber internet services in December 2022. In a recent update to the Council, staff shared the latest on this effort to make fiber services for our residents a reality. Read on to gain details about an innovative approach the City has been exploring to providing fiber and aligning it with our sustainability goals and modernizing our electrical grid and what's planned in 2024.

### Bridging Technology and Sustainability

Palo Alto Fiber *and* sustainability? The two go hand-in-hand! In June the Council approved the FY 2024 Capital Improvement Program budget to include the fiber to the premises project and the grid modernization project. This accelerated efforts to align both projects.

The grid modernization project involves replacing and upgrading over a thousand pole top transformers, which deliver electricity between circuits. Wires will be replaced through a multi-year upgrade of the electric distribution system to meet the City's goal of being ready for full-scale electrification by 2030.

Coupling these two efforts are anticipated to reduce community disruption in neighborhoods and capitalize on economies of scale. It reduces community disruption by grouping construction activities together and minimizing the number of backyard visits. When complete, residents can take advantage of locally owned internet services in Palo Alto and use new whole home electrification technologies with ease like vehicle charging, home appliance electrification, solar energy generation, and battery storage.

### Phasing in Fiber

The pilot area has been identified to determine the best approach at integrating the fiber expansion and grid modernization. An area of Palo Alto, which was previously identified to begin modernizing the grid, was selected as Phase 1, the starting point to expand fiber broadband internet services. The pilot will inform how closely the two projects may be aligned and is anticipated to bring about new levels of reliability, resiliency, and operational efficiencies across a brand new high-performance electric grid and fiber optic network. Some criteria that will be used to analyze alignment include impact costs, reductions to community disruptions, internal staffing, and project timelines.



The blue outline is the anticipated Phase 1 boundaries, which may change as the pilot informs on how closely the two projects may be aligned. The red shaded area covers the pilot area, which is a component of Phase 1.

### Even Faster Internet is On Its Way

The pilot area, shaded in red above, was previously in development for grid modernization because it was part of the remaining neighborhood areas requiring an updated electric distribution system. To date, about 80% of the City is converted to a higher electric load bearing system. This pilot area for fiber to the premises and grid modernization will convert about 10% of the remaining areas. Grid modernization will double the electric load capacity for the entire City.

In accordance with state environmental law, the City retained a consultant to prepare an Initial Study on potential environmental impacts associated with construction and operation of the citywide fiber network. This network would include much of the City of Palo Alto, adding new infrastructure such as fiber huts, fiber cabinets, aerial and underground cables, and more. The preliminary assessment will determine if a full Environmental Impact Report will be necessary according to the California Environmental Quality Act (CEQA). This process is anticipated to be complete in June or July 2024.

To help reduce the pilot area construction timeline, existing contractors will perform the engineering design, overhead and underground construction, and installation for about 400 poles and 1,200 homes. By using existing resources, construction time will likely reduce by 6–9 months. Construction in the pilot area to get the poles ready for electrification and fiber will begin in early 2024. Completion is anticipated in 2025.

### ATTACHMENT:

1. New Questionnaire proposed by City of Palo Alto.
2. Broadband survey from 1.31.24 UC Meeting
3. Byrne's Failure to Supply comments from 1.31.24 UC Meeting

New Exposure Questionnaire

Amended Date: 10/17/19

Reviewed Date: 9/25/23

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Member Agency: CITY OF PALO ALTO

Date: 12/11/2024

New Exposure Proposal Name: BROADBAND/ INTERNET SERVICES

Expected Implementation Date: JULY 1,2025

Ongoing Program/Service: Yes

If time-limited, end date:

Does current MOC address exposure proposal: **No**

If yes, please insert applicable language:

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1. Provide a brief summary of your request (i.e., the Member Agency is proposing to implement/expand “x” program and wants the Board to amend the MOC to cover the new exposure – or – confirm that coverage is already available).
  - a. The City of Palo Alto is building a fiber infrastructure (the Palo Alto Fiber project) to provide residents and businesses with broadband and high-speed internet services within City limits. The Palo Alto Fiber project will begin deploying services in December 2025. The City of Palo Alto requests the Board to confirm that coverage is already available for liability arising out installation and maintenance or amend the MOC for any complete or partial failure to supply broadband/internet and wireless communication services.
2. Describe the proposal under consideration (include information on the size/extent of the proposal; key factors driving the proposal; key hazards or exposures created by the proposal; proposal partners and their respective roles; etc.).
  - a. Size/Extent of the proposal:
    - i. The estimate size of the project is between \$140-160M
  - b. Key Factors driving proposal:
    - i. The immediate need to provide high-speed and reliable internet for our community to support work, education and learning, health care, and the delivery of government services.
    - ii. The MOC excludes coverage for the supplying of broadband/internet/wireless communication services.
    - iii. Potential liability claims arising out of the failure to supply broadband/internet/wireless and communication services may exceed the City’s Self-Insurance limits
  - c. Key hazards/exposures created by proposal:

- i. Property damage or breakage of the fiber cables, connectors, splices, and other integral equipment due to negligent handling, installation, testing, repair, rodents, vandalism, or catastrophic natural disasters.
    - ii. Property damage to third-party property due to negligent construction, installation, maintenance, and repair
    - iii. Bodily injury to a third party, including the general public, of the eye, the skin, and the lungs due to fiber scraps, use of chemical cleaners and adhesives, or a trip and fall during construction, installation, maintenance, and repair.
    - iv. Personal and Advertising Injury to a third party, including the general public, due to loss of data, service interruptions, or unscheduled maintenance preventing business activities and harming a third party's reputation
3. Describe the financial impact of the proposal on the City (i.e., payroll, service and supply expenses, capital costs, revenue generation, etc.).
  - a. Capital Costs: ~\$85M
  - b. Operating expenses: ~\$4.3M (annually)
  - c. Revenue Generation: ~\$2.3M (annually)
4. Describe the steps that the City will take to minimize/eliminate the hazards or exposures created by the proposal (address implementation phase and ongoing management).
  - a. Implement a "Dig Once" protocol, which minimizes the number and scale of excavations during construction, reducing the frequency and severity of property damage and bodily injury to 3<sup>rd</sup> parties.
  - b. Contract with vendors with significant experience in fiber infrastructure and a low-loss history to minimize the potential occurrence of property damage and bodily injury to 3<sup>rd</sup> parties, specifically the general public.
  - c. Establish a procedure to be followed if the equipment is damaged, including but not limited to procurement of parts and spare parts, safe removal, and replacement of equipment to reduce the repair time of the property damaged.
  - d. Include Limitation of Liability in Service Agreement or Indemnification Clause; No Warranty Clause or any other contract language the ACCEL Board recommends.
5. Provide any additional information to assist the Underwriting Committee and/or Board with evaluating the proposal (e.g., immunities, legislation, jurisdictional issues, political issues, public benefit, etc.).
  - a. Risk Management is not aware of any immunities, legislation, jurisdictional or political issues. This service is anticipated to reduce community disruption in neighborhoods and capitalize on economies of scale.

Member	Is your Member Agency providing Broadband/Internet Services?	If so, is this for business and/or residents?	If so, please explain the number of customers and customer agreement regarding the failure to provide services. (i.e. is there a method to limit the claims of loss due to failure to provide service )	Does the city provide any other services that may be similar to a public utility like water, sewer, electricity or gas? E.g. broadband, cable tv, phone
City of Anaheim	NO	N/A	N/A	YES, electricity and water through Anaheim Public Utilities.
City of Bakersfield	No			
City of Burbank	a. Burbank provides and manages private and public Wi-Fi services. Guest WiFi is available in Downtown Burbank, a few public parks, and at all libraries.  b. ONE Burbank offers Burbank businesses reliable fiber networking services.	a. Guest WiFi is available for individuals at the locations mentioned above  b. ONE Burbank is available for businesses.	<ul style="list-style-type: none"> <li>• For Guest WiFi use, users will need to agree to the terms before using/accessing the guest wifi</li> <li>• ONE Burbank – I will confirm that we have a terms of agreement for customers to execute to limit claims of loss due to failure to provide service.</li> </ul>	a. Yes, Water & Electricity through our Burbank Water and Power Department. Sewer services through our Public Works Department.
City of Modesto	No	N/A	N/A	Water and Sewer only, as reported on annual renewal application.
City of Monterey	NO	N/A	N/A	Sewer through M1W
City of Mountain View	No	N/A	N/A	No
City of Palo Alto	Yes	Currently for business only; “Fiber to the Home” project initiative is in planning phase I through fy25	194 customer accounts; Palo Alto customer agreements require customers to maintain business interruption insurance	Yes, water, wastewater, electric, gas and water treatment plant
City of Salinas	We do not provide broadband/internet services.			The City provides sewer and stormwater services to residents

Member	Is your Member Agency providing Broadband/Internet Services?	If so, is this for business and/or residents?	If so, please explain the number of customers and customer agreement regarding the failure to provide services. (i.e. is there a method to limit the claims of loss due to failure to provide service )	Does the city provide any other services that may be similar to a public utility like water, sewer, electricity or gas? E.g. broadband, cable tv, phone
City of Santa Barbara	NO; Santa Barbara does NOT provide broadband/internet service for any third party.			NO
City of Santa Cruz	The City of Santa Cruz does not provide broadband/internet services or anything like that.			
City of Santa Monica	Yes, but we're not an ISP and are not registered with CPUC.	Both	<p>We have about 25 business customers and 90 residential customers (spread over 12 buildings own by an affordable housing provider.) We are required to respond to business customers with 4 hours and it's "best effort" with residential customers. Residential service is still technically a pilot program so there's really no liability. When we have had brief outages in the past, we did our best to restore service as soon as possible.</p> <p>In the customer agreements failure to provide service claims or credits are limited to the yearly cost of service. Business agreements range from \$15,000 to \$20,000 a year. So, if service is down for the \$20K customer for a day we would owe a \$54.80 credit. Residential customers a charged \$48 a month. The program is 21 years old, and we have not given any credits since the program began in 2002.</p>	We also provide (leased) fiber services to businesses only. There are 5 customers whole lease fiber from the City. This is beneficial to businesses with multiple locations within Santa Monica who can utilize our fiber to connect their different offices together.
City of Visalia	No	N/A	N/A	Only sewer, and solid waste pickup

ACCEL's Coverage Counsel, Byrne Conley's comments are below:

The failure to supply exclusion is from an ISO form and I think it is in all JPA Memos of Coverage. The theory is that the pooled liability coverage should not act as a type of warranty for municipal services or contractual type promise to uninterrupted supply.

Historically, I do recall that there was some litigation relating to public entities in South Lake Tahoe being unable to supply sufficient sewer treatment services so that there was a lottery on building permits, and property owners tried to sue claiming inverse condemnation because their property lost all value if they could not build. I believe the litigation was unsuccessful but it was a reason for pools adopting failure to supply exclusions right from the start (1986) and they likely were in commercial public entity forms before that.

The biggest claim more recently is one you are no doubt aware of, a member district of ACWA JPA was sued when some water pumps were out of service during construction work and a large fire broke out, destroying many homes, and the fire hydrants lacked water pressure. The trial court overruled a demurrer on the inverse condemnation claim, the District sought a writ to the Court of Appeal and Supreme Court, but these were denied. ACWA JPA was left with a huge liability claim and subsequent disputes with reinsurers. To me, the irony was that at common law public utility suppliers could not be held liable for such failure to supply claims, based on many cases over the years, and the notion that such a failure could be deemed a taking for public use was novel and, in my view, completely unwarranted.

I am not aware of any pool extending the failure to supply exclusion to broadband/internet/wireless communication services. Partly this might be because most such service is supplied by private companies.

If the Board is inclined to expand the exclusion, I would have it say:

J. To liability arising out of or contributed to by any complete or partial failure to supply water, electricity ~~or gas~~, or broadband/internet/wireless communication services.

Some pools have made an exception for sudden and accidental failures based upon physical injury, or even software failure. Some limit it to failure of capacity claims rather than all failures. Some extend the exclusion to sewer, drainage, gas/fuel etc. Some exclude surge claims, particularly where public electric power is provided by some members. Here are samples of what other pools do with the failure to supply exclusion:

\*\*\*

**CJPIA:**

H.  
Any **Claim**, liability, alleged liability, loss, cost, or expense directly or indirectly caused by any complete or partial failure, interruption or surge in the member's supply of water, electrical power, gas or fuel, unless such failure, interruption or surge results from sudden and accidental physical destruction of tangible property which is used in the generation or transmission of the supply.

\*\*\*

**PERMA:**

12. Claims arising out of the failure to supply or provide an adequate or specific supply of gas, water, electricity or sewage capacity. This exclusion shall not apply if such failure arises out of sudden and accidental physical damage to tangible property used in the generation or transmission of the supply, or sudden and accidental failure of computer software or programs used in the generation or transmission of supply, or a sudden interruption in the supply of electricity, gas

or water to the **Covered Party** by a third party utility supplier.

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**PLAN JPA:**

L. Claims arising out of the failure to supply or provide an adequate supply of gas, water, electricity, storm drainage or sewage capacity when such failure is a result of the inadequacy of the Entity's facilities to supply or produce sufficient gas, water, electricity, storm drainage or sewage capacity to meet the demand. This exclusion does not apply if the failure to supply results from direct and immediate accidental damage to tangible property owned or used by any **Covered Party** to procure, produce, process, or transmit the gas, water, electricity, storm drainage or sewage.

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**CSRMA:**

13. Arising out of failure or inability to supply or provide an adequate supply of electricity, gas or water. This exclusion, however, does not apply if: a) such failure arises out of sudden and accidental physical damage to tangible property used in the generation or transmission of the supply, or a sudden and accidental failure of computer software or programs used in the generation or transmission of the supply, and b) the combined capacity of your installed production facilities and contractual supply arrangements is equal to 110% of the electricity and/or gas demand or 100% of the water demand, whichever demand is applicable to your electric, gas or water system.

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**CARMA:**

12.

Claims arising out of the failure to supply or provide an adequate supply of gas, water, electricity, or sewage capacity when such failure is a result of the inadequacy of the *Covered Party's* facilities to supply or produce sufficient gas, water, electricity, or sewage capacity to meet the demand.

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#### **CJPRMA:**

##### 16) Failure to Supply

Claims arising out of the failure to supply or provide an adequate supply of gas, water, electricity, storm drainage or sewage capacity when such failure is a result of the inadequacy of the covered party's facilities to supply or produce sufficient gas, water, electricity, storm drainage or sewage capacity to meet the demand. This exclusion does not apply if the failure to supply results from direct and immediate accidental damage to tangible property owned or used by any covered party to procure, produce, process or transmit the gas, water, electricity, storm drainage or sewage.

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#### **PRISM:**

H. To liability arising out of the failure to provide an adequate supply of fuel, water or electricity; however, this exclusion applies only if such failure to provide results from any decision by the Member's governing body with respect to (1) obtaining such fuel, water or electricity, or (2) allocating such fuel, water or electricity among the users thereof;

\*\*\*

The first three pools listed above are primary pools for cities, CSRMA is for sanitary districts (some supply water as well) and the last three are excess pools. I worked on all of these except PRISM's, and as you can see, each pool takes a slightly different view on what is excluded and what is excepted from the exclusion. The CSRMA Exclusion is the one I would personally prefer, but it is really an underwriting decision of the pool and all of the samples are acceptable.

Keep in mind that exclusions for breach of contract or inverse condemnation could also come into play depending on the pleadings; but a failure to supply exclusion does not depend on whether the plaintiff is suing for breach of contract, breach of warranty, dangerous condition, or inverse condemnation. The contract and inverse exclusions might apply to some causes of action but not others.

As for adding internet/broadband, there is no standard language, but the terms are common ones so additional definitions should not be necessary.

I am enclosing a letter I sent to the Supreme Court in the Yorba Linda Water District (ACWA) case mentioned above. I include it because it collects case law on common law immunity for failure to supply; Plaintiffs in that case were able to evade the immunity by suing under inverse condemnation rather than a tort theory, a result I think was terrible public policy.

Also enclosed is treatise material on the ISO form for a failure to supply exclusion.



**Item No. C.1.b**  
**Underwriting Committee**  
**January 7, 2025**

### **ACCEL'S POLICIES & PROCEDURES REVIEW:**

- I. UNDERWRITING STANDARDS POLICY & PROCEDURE**
- II. NEW EXPOSURE QUESTIONNAIRE**
- III. APPLICANT FEE STRUCTURE**

**ISSUE:** The Underwriting Committee is tasked with periodically reviewing several policies and procedures. The goal of today's meeting is to review each item and propose changes, if needed:

1. Underwriting Standards Policy & Procedure
  - a. The CAJPA Accreditation Report requires these to be reviewed every 3 years. At the December 2017 Underwriting Committee Meeting, the Committee agreed to review these items every year.
  - b. The last review was at the September 25, 2023 Underwriting Committee Meeting.
  - c. The ACCEL Bylaws are included for reference since they contain underwriting information for new Members. The Bylaws were recently reviewed at the October 2024 Board Meeting and proposed changes are agendized for the January 2025 Board Meeting.
2. New Exposure Questionnaire
  - a. Same as above
3. Applicant Fee Structure
  - a. At the January 2019 Underwriting Committee Meeting, the Committee decided that they would review the Applicant Fee Structure every 5 years.
  - b. This was last reviewed at the January 2019 Underwriting Committee Meeting and the \$500 application fee was removed at the direction of the Board.

**RECOMMENDATION:** It is recommended that the Committee discuss this item to take action to give a recommendation to the Board or give direction.

### **Additional Consideration**

**In favor:** If the Committee recommends changes, the Program Administrator will provide a redline document for the Board's consideration at the upcoming Board Meeting.

**Against:** If the Committee is not recommending any proposed changes, the reviewed date will be marked as today's meeting date. The scheduled reviews will be complete.

**FISCAL IMPACT:** No financial impact is expected.

**BACKGROUND:** ACCEL did not have a Policy and Procedure that dictates when a new exposure should be brought to the attention of the Authority. Members have operated with the understanding that any new

# ACCEL

## Authority for California Cities Excess Liability

c/o Alliant Insurance Services  
 Corporation Insurance License No. 0C36861  
 560 Mission Street, 6th Floor, San Francisco, CA 94105



services or services that are provided outside the city limits, should be brought forward, but there is no defined policy outlining this understanding.

In 2012 the Underwriting Committee created a Policy & Procedure and at the April 2012 Board Meeting the Board took action to approve the Underwriting Standards Policy and Procedure to help Members understand when a new or changing exposure should be brought to the attention of the Authority.

ACCEL was one of the first JPA's to work with CAJPA on this requirement, and ACCEL's policy has been used as a model for other JPAs.

In an effort to improve the effectiveness, content, and the distribution of information to ACCEL's Underwriting Committee and Board, the New Exposure Questionnaire has been created with the idea that it may lead to providing a uniform approach to providing pertinent information about a new exposure. It should be completed by the Member Agency presenting a new exposure for consideration. This will streamline information gathering and decimation, making issues easier for all Board Members to more easily comprehend the information during a meeting.

In 2018 Deb Hossli volunteered revising the format of the questionnaire by grouping the questions together to make it more concise and easier to complete.

The Underwriting Standards Policy and Procedure refers to new exposures for current Members only while the ACCEL Bylaws refers to underwriting requirements for new Members. CAJPA Accreditation recommended that the Underwriting Standards Policy and Procedure reference the ACCEL Bylaws to recognize ACCEL's underwriting standards for new Members. The Board amended the Policy and Procedure in October 2019 to implement this recommended change.

At the January 2019 BOD meeting, a motion was made to remove the \$500 application fee requirement in the Applicant Fee Structure Policy and Procedure. Also, their January 2019 UC Meeting, the Committee agreed to review the Applicant Fee Structure Policy and Procedure every five years.

**ATTACHMENT(s):**

- (1) Underwriting Standards Policy & Procedure
- (2) New Exposure Questionnaire
- (3) Bylaws (included for reference only)
- (4) Applicant Fee Structure

## **ADMINISTRATIVE POLICY AND PROCEDURE**

### **SUBJECT: UNDERWRITING STANDARDS REGARDING NEW EXPOSURES**

**DATE: April 12, 2012**

**AMENDED DATE: October 17, 2019**

**REVIEWED DATE: ~~September 25, 2023~~ January 7, 2025**

### **POLICY STATEMENT**

The Authority for California Cities Excess Liability (ACCEL) Board of Directors acknowledges that some California cities are involved in (i) joint powers agreements and intergovernmental agreements with other government entities, and, in some cases, (ii) other agreements with non-government entities, under which a city is contractually agreeing to provide certain services to the other party (collectively herein, “Service Agreements” plural, “Service Agreement” singular). Members of ACCEL may also be considering new activities that will increase the risk shared with ACCEL.

Because of the increased exposure to ACCEL as a result of these new activities, ACCEL has outlined the following procedure to bring these exposures to it for review.

For service agreements and new exposures that take effect subsequent to the date of this Policy, this Policy provides requirements for when a Member Agency shall bring a Service Agreement to the attention of ACCEL.

ACCEL’s Bylaws at Article XIII provide underwriting guidelines for prospective new Member Agencies.

### **PROCEDURE**

Service Agreements and new exposures that must be brought to ACCEL for consideration by the Underwriting Committee and, as necessary, the Board of Directors, are those for any service, activity, or program that “significantly” increases a Member Agency’s exposure to loss. When submitting a new exposure to ACCEL for consideration, the New Exposure Questionnaire should be completed and submitted to the Program Administrators with all related proposed contracts.

It is the intent of the Board of Directors to define “significantly” by using the following criteria. New or proposed exposures that must be brought to ACCEL for consideration are those in which the new exposure is in any one or more of the following:

1. A service for another entity that the Member Agency does not currently provide or conduct for itself.
2. A new service within the Member Agency that would not be considered traditional for the majority of cities in California.
3. A high-risk recreational service.
4. An increase of 25% or more in the Member Agency's current payroll cost (excluding benefits) for providing or conducting such service within its own organization.
5. Services for a government entity that is not geographically adjacent to the Member Agency.
6. Services for an organization that is not a government entity.
7. A situation or arrangement in which the Member Agency shares management staff (by position, such as a battalion chief, not necessarily any named individuals) with another entity in (i) non-emergency situations or circumstances, or (ii) other circumstances which may give rise to employment practices liability exposures for the Member Agency (unless there exists in the Service Agreement at least adequate indemnification allocation language between the parties).
8. Any service agreement situation or arrangement that brings about an increased exposure to loss that is concerning, or reasonably should be concerning, to the risk management personnel/function of the Member Agency.

New Exposure Questionnaire

Amended Date: 10/17/19

Reviewed Date: ~~19/0725/253~~

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Member Agency:

Date:

New Exposure Proposal Name:

Expected Implementation Date:

Ongoing Program/Service: Yes or No

If time-limited, end date:

Does current MOC address exposure proposal: Yes or No

If yes, please insert applicable language:

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1. Provide a brief summary of your request (i.e., the Member Agency is proposing to implement/expand "x" program and wants the Board to amend the MOC to cover the new exposure – or – confirm that coverage is already available).
2. Describe the proposal under consideration (include information on the size/extent of the proposal; key factors driving the proposal; key hazards or exposures created by the proposal; proposal partners and their respective roles; etc.).
3. Describe the financial impact of the proposal on the City (i.e., payroll, service and supply expenses, capital costs, revenue generation, etc.).
4. Describe the steps that the City will take to minimize/eliminate the hazards or exposures created by the proposal (address implementation phase and ongoing management).
5. Provide any additional information to assist the Underwriting Committee and/or Board with evaluating the proposal (e.g., immunities, legislation, jurisdictional issues, political issues, public benefit, etc.).

**AUTHORITY FOR CALIFORNIA CITIES EXCESS LIABILITY**

**BYLAWS**

**Amended & Restated January 23, 2025**

**Amended & Restated January 18, 2024**

**Amended & Restated January 20, 2022**

**Amended & Restated April 6, 2017**

**~~Amended & Restated October 18, 2013~~**

**BYLAWS  
TABLE OF CONTENTS**

		<b><u>Page</u></b>
ARTICLE I	Definitions	2
ARTICLE II	Offices	2
ARTICLE III	Meetings	3
ARTICLE IV	Election of Officers & Appointment of Committee Members	3
ARTICLE V	Duties of Officers	3
ARTICLE VI	Composition and Duties of Committees	4
ARTICLE VII	Budget	6
ARTICLE VIII	Disbursement of Funds	6
ARTICLE IX	Investment of Funds	7
ARTICLE X	Financial Audit	7
ARTICLE XI	Settlement of Claims	7
ARTICLE XII	Liability Program	8
ARTICLE XIII	New Members	9
ARTICLE XIV	Amendments	11
ARTICLE XV	Optional Pooled Programs	11

**BYLAWS  
of the  
AUTHORITY FOR CALIFORNIA CITIES EXCESS LIABILITY**

For the regulation of the Authority for California Cities Excess Liability, except as otherwise provided by statute or Agreement creating the Authority for California Cities Excess Liability.

**ARTICLE I  
DEFINITIONS**

The terms in these Bylaws shall be defined in the Agreement creating the Authority for California Cities Excess Liability, unless otherwise specified herein.

- A. "Authority" shall mean the Authority for California Cities Excess Liability created by the JPA Agreement.
- B. "Board" or "Board of Directors" shall mean the governing body of the Authority composed of one representative of each Member Agency.
- C. "Full Board" shall consist of all directors, whether, or not present at a Board Meeting.

**ARTICLE II  
OFFICES**

The principal executive office for the transaction of business of the Authority is hereby fixed and located at:

Authority for California Cities Excess Liability  
c/o Alliant Insurance Services  
560 Mission Street, 6th Floor  
San Francisco, CA 94105

The Board shall have the authority to change the location of the principal executive office from time to time. Any such change shall be noted in the Bylaws by the Secretary, and this section shall be amended to state the new location. Official notice shall comply with Section 53051 of the California Government Code.

Other business offices may at any time be established by the Board at any place or places where the Authority is qualified to do business.

**ARTICLE III  
MEETINGS**

In addition to a required regular meeting as called for by the Joint Powers Authority agreement, the Board shall meet on an as-needed basis, as determined by the Board. Official minutes of the Board meetings shall be kept by the Authority at its principal executive office.

**ARTICLE IV  
ELECTION OF OFFICERS AND APPOINTMENT OF COMMITTEE  
MEMBERS**

The Board of Directors shall elect the officers from among the Board members. For each fiscal year, the officers shall be elected in the following manner:

- A. Each Board member may place another Board member in nomination for each office.
- B. Each Board member shall cast one vote for the candidate of their choice for each office.
- C. All terms of office shall be for one year. The officers shall begin serving terms upon the beginning of the fiscal year immediately following the election. The terms of office shall end on June 30 of each year.
- D. Elections shall be held whenever there is an office vacancy.
- E. Officers shall hold their positions as individuals and not as a representative of a specific public entity.

The Executive Committee will be comprised of the elected officers. The Executive Committee shall appoint members to the Underwriting, Claims and Finance Committees. Ad hoc committees may be appointed by the President.

**ARTICLE V  
DUTIES OF THE OFFICERS**

The duties of the officers shall be as follows:

A. President

The duties of the President shall be to:

- 1. Preside at all meetings of the Board of Directors.
- 2. Serve on the Underwriting Committee.
- 3. Appoint ad hoc committees.
- 4. Perform such other duties as the Board may specify.

B. Vice President

The duties of the Vice President shall be to:

1. Act as the President in the absence of the President.
2. Serve as chairperson of the Underwriting Committee.
3. Perform such other duties as the Board may specify.

#### C. Secretary

The duties of the Secretary shall be to:

1. Cause minutes to be kept as specified in the Agreement.
2. Perform such other duties as the Board may specify.

#### D. Treasurer

The duties of the Treasurer shall be those specified in Section 6505.5 or 6505.6 of the California Government Code, and to:

1. Maintain or cause to be maintained all accounting and other financial records of the Authority.
2. Serve as chairperson of the Finance Committee.
3. Provide written quarterly financial/profit and loss statements in accordance with Government Code Section S6505.5(e). These reports shall be submitted to the Board of Directors at the next regularly scheduled meeting following their completion.
4. Perform other duties as specified by the Board.

## **ARTICLE VI COMPOSITION AND DUTIES OF COMMITTEES**

The operation of the Authority shall be overseen by four standing committees: Executive, Underwriting, Finance, and Claims. ACCEL Member Alternates may be appointed to serve as members of the Underwriting, Finance and Claims Committees, but not as Chairperson. Committee membership shall not meet or exceed a quorum of the Board.

### **Executive Committee**

#### A. Composition

The Executive Committee shall be comprised of the President, Vice President, Secretary and Treasurer.

#### B. Duties

1. Oversee the day-to-day management of the Authority.
2. Make payments pursuant to previously authorized contracts within budget limits.
3. Authorize and reimburse expenses incurred for budgeted activities within budget limits.
4. Such other duties as may be specified for by the Board of Directors.

## **Underwriting Committee**

### **A. Composition**

The Underwriting Committee shall be comprised of the President, Vice President, and other Board members appointed by the Executive Committee. The Vice President shall serve as the chairperson.

### **B. Duties**

1. Review membership criteria and applications of prospective members.
2. Review retrospective adjustments for appropriateness.
3. Interpret and make recommendations on revisions to the Memorandum of Coverage.
4. Review and recommend any coverage or exposure issues brought to the Board.
5. Review and make recommendations to the Board on all underwriting related issues (non-specific claim related issues) on all Authority documents.
6. Perform other underwriting duties as may be necessary.

## **Finance Committee**

### **A. Composition**

The Finance Committee shall be composed of the Treasurer and other Board members as appointed by the Executive Committee. The Treasurer shall act as the chairperson.

### **B. Duties**

1. Recommend to the Board on how funds shall be invested.
2. Review deposit amounts for appropriateness.
3. Oversee administration of actuarial services.
4. Review the independent auditors' proposed audit scope and approach.
5. Review the performance of the independent auditor(s).
6. Recommend the appointment of the independent auditor(s) and review audit fees.
7. At the direction of the Board, review, with counsel, any legal matters that could have significant impact on the financial statements.
8. Review and make recommendations to the Board to maintain or change the Investment Policy in accordance with California Government Code.
9. Review and recommend Administrative Budget to the Board.

## **Claims Committee**

### **A. Composition**

The Claims Committee shall generally be made up of Board members appointed by the Executive Committee with one person being designated Claims Committee Chair by the appointed Board members on the Committee.

### **B. Duties**

1. Monitor proper claim reporting to ACCEL by all member cities.
2. Recommend to the Board appointment of the claims auditor and claims administrator.
3. Administer claims auditing and claims administration contracts.
4. Recommend and keep current claims administration policy and procedures.
5. Review and provide oversight regarding the handling and defense of all claims reported per the policy and procedures.
6. Keep Board of Directors completely informed on all claims matters.
7. Interpret coverage issues, as they relate to specific claims, and make recommendations to the Board.
8. Make case settlement recommendations to the Board.
9. Perform other duties as may be assigned by the Board.

## **ARTICLE VII BUDGET**

The annual budget process shall provide for and show the following reports and minimum considerations:

- A. The Administrative Budget shall include the general and administrative costs;
- B. The Member Account Summary shall include deposits, projected interest income and other income;
- C. The Retrospective Plan Calculation shall include audited estimated claims reserves and allocated claims adjustment costs.

## **ARTICLE VIII DISBURSEMENT OF FUNDS**

The disbursement of funds shall be in accordance with the following:

### **A. Issuance of Checks**

1. A register of all checks issued since the last Board meeting shall be provided at the subsequent Board meeting and approved by the Board.
2. The President, Vice President and Secretary have check signing authority and shall make payments pursuant to previously authorized contracts, which are within budget limits. This authority includes the power to authorize and reimburse expenses incurred for budgeted activities, which are within budget limits.

3. The disbursement of checks in any amount shall require at least two signatures.

**B. Unencumbered Operating Funds**

1. Unencumbered operating funds shall be allocated back to each member city at the end of each Fiscal Year. Any return shall be used as an offset on the following years fund deposit.
2. Any city leaving ACCEL may request and receive any unencumbered operating funds on an equal prorata basis at the end of the Fiscal Year in which they leave.

**ARTICLE IX  
INVESTMENT OF FUNDS**

The investment of funds shall be in accordance with the Investment Policy adopted by the Board of Directors. Such investment shall be overseen by the Finance Committee.

A member city's Finance Director or their designee may act as the investment manager of the Authority's funds. If so, there shall be a written agreement prepared. The agreement shall address such areas as service charges, claim payment or withdrawal procedures, authorized investment vehicles and maturities, allocation of pooled investment earnings, and interim financial reporting.

**ARTICLE X  
FINANCIAL AUDIT**

An annual financial audit shall be made by a Certified Public Accountant with respects to all receipts, disbursements, and other transactions. A report of such financial audit shall be filed as a public record with Member Agencies in accordance with the Government Code. All costs of such financial audit shall be paid by the Authority. The charge for such audit shall be charged against the Member Agencies in the same manner as all other administrative costs.

**ARTICLE XI  
SETTLEMENT OF CLAIMS**

All claims settlement recommendations shall be presented by the Claims Committee to the Board for its approval prior to final settlement.

## ARTICLE XII LIABILITY PROGRAM

The Liability Program shall be governed in accordance with the following:

### A. Coverage

The excess liability program shall provide pooled self-insurance protection limits and coverages as specified in the Memorandum of Coverage for each Program Year.

### B. Program Year

The program year shall begin on July 1 and shall end on the following June 30 for each Member Agency who enters the program effective on July 1.

### C. Terms and Conditions of Coverage for New Member

A member joining ACCEL will have coverage for losses under the terms and conditions of the Memorandum of Coverage in effect on the date of the loss.

### D. Claims Audit

1. An annual claims audit shall be made on the Authority and each Member Agency's claims prior to the annual retrospective calculations for retrospective adjustments, and a report of such claims audit shall be filed with each Member Agency.
2. Claims audit costs shall be paid by the Authority. The costs for such audit shall be allocated to the Member Agencies in the same manner as all other administrative costs.

### E. Deposit (and Audited) Premium Calculations

1. For the purposes of determining the deposit, payroll shall be based on the year's preceding DE6 (or equivalent) payroll (Subject Wages) for quarters ending ~~March 31~~, June 30, September 30, ~~and December 31 and March 31~~, submitted to the Treasurer no later than ~~May-February~~ 1. Members must also indicate, by including computerized payroll data, any payroll to be omitted from coverage, along with a verification letter from the city's Finance Officer.
2. For those members not providing such information by that date, ACCEL shall assign the task to an auditing firm and assess the cost of such work directly to the member agency.

## F. Rating Plan Adjustments

1. On or after July 1, 1989 any member joining ACCEL, other than at the beginning of the Program Year, shall have their loss experience and payroll included in their initial Program Year's retrospective adjustment calculations in accordance with the Program Year definition contained in Article XII B.
2. For purposes of performing any rating plan adjustments, as well as for performing underwriting functions, all loss data common to all members shall be collected in accordance with the policy and procedures developed for that purpose.

## G. Underwriting Standards

The Board of Directors shall develop underwriting requirements and guidelines that shall be met and reviewed in the membership underwriting process. These requirements and guidelines shall be those in Article XIII of these Bylaws and/or those adopted as policy and procedures.

### **ARTICLE XIII NEW MEMBERS**

Membership to ACCEL shall be in accordance with the following:

#### A. Application for Membership

The Underwriting Committee shall provide prospective members with application forms, and establish procedures for their completion and submission. The application form shall include, but not be limited to, a request for the following information:

1. Underwriting data for the current year;
2. Underwriting data for the prior ten years;
3. Incurred losses, paid and reserved, including all allocated losses and administrative expenses equal to or greater than \$25,000, including payments made by insurance companies above an SIR, for the prior ten years;
4. A copy of the most recent claims audit and actuarial reports, if any;  
and
5. A copy of the most recent audited financial statements.

#### B. Membership Approval

1. Membership shall be approved by a two-thirds vote of the Board.
2. Once a prospective member is accepted for membership, the invitation shall be good for 90 days after approval of the Board of Directors. If the prospective member joins ACCEL by governing body action, coverage may be, at the option of said prospective member, retroactive to the first of the month in which the member's governing body approved membership.

- Coverage shall become effective the first day of the month chosen by the prospective member within the approval period authorized by the Board of Directors. In no case shall coverage become effective during the middle of the month unless specifically approved by the Board of Directors. The new member shall have 30 days from date of governing body approval to make payment of fees and the deposit.
3. Administrative fees shall be prorated on a quarterly basis.
  4. Any prospective member joining ACCEL other than at the beginning of a Fiscal Year shall have contributions prorated to the end of the Fiscal Year in which they are covered.
  5. A new Board member shall submit a Conflict of Interest Form at time of the members acceptance to membership and annually thereafter in accordance with State of California.

C. Participation

1. All new members must participate in the ACCEL Liability Program for three (3) full Program Years regardless of when they join.

All new members are eligible to participate in other ACCEL Shared Risk Programs upon approval by a majority vote of the Board of Directors. Applications to participate in optional shared risk programs will be evaluated by the Underwriting Committee and then presented to the Board along with their recommendations.

Participation in the ACCEL Liability Program is required while participating in other ACCEL Shared Risk Programs.

Participation is required to a minimum limit of coverage determined by the Board of Directors at the June Board meeting preceding each Program Year.

## **ARTICLE XIV AMENDMENTS**

These Bylaws may be amended by a two-thirds vote of the Board provided that any amendment is compatible with the purposes of the Authority, is not in conflict with the Agreement and has been submitted to the Board at least 30 days in advance.

Any such amendment shall be effective immediately, unless otherwise designated.

## **ARTICLE XV OPTIONAL POOLED PROGRAMS**

From time-to-time, various members may join together to take advantage of the benefits of joint purchase of such programs as, but not limited to, all coverage lines, primary insurance, excess insurance, and other related professional services such as premium financing, claims auditing, and other related products and services. All brokerage fees for placement and servicing coverage, and costs for outside services, will be borne by the participants of the program(s). Decisions affecting the programs will be made by only those members participating in the program(s).

In addition to joint purchase insurance programs, members may participate in other shared risk programs created by the Authority, including but not limited to; underlying self-insured liability retention options, ~~Excess~~-Worker's Compensation coverage, Property coverage, and any other coverages approved by the Board-ete. Applications to these programs are evaluated by the Underwriting Committee and then presented to the Board along with their recommendation.

Once approved, participating members agree to:

1. Members joining any alternative Shared Risk Program agree to participation for no less than three (3) full Program Years from the date of participation; and
2. Ongoing participation in the ACCEL Liability Program while participating in other ACCEL shared risk programs.

## **ADMINISTRATIVE POLICY AND PROCEDURE**

### **SUBJECT: APPLICANT FEE STRUCTURE**

**DATE: November 22, 1991**

**AMENDED DATE: January 17, 2019**

**REVIEWED DATE: ~~August 21, 2018~~ January 7, 2025**

#### **POLICY:**

Any individual member of the Authority, Underwriting Committee or Program Administrator may, with the approval of the Board of Directors, provide background information to prospective new members. No fee shall be required for such general information.

If, however, more detailed information is requested by a prospective member, it is the policy of the Authority for California Cities Excess Liability to request a formal application at the time of, or prior to, its review by the Underwriting Committee. The application process is detailed, and may include the analysis of loss information, special exposure information, plan rating information, loss exposures, etc. The appropriate underwriting information will then be shared with the applicant.

#### **PROCEDURE:**

The application shall be valid for a period of one year from date of receipt by the Program Administrator. After this one-year period, the prospective member must reapply for admission. New underwriting data will be generated to reflect the changing loss information of the applicant and Authority membership.

If, however, in the sole opinion of the Authority, the application process is delayed through no fault of the prospective new member, the clock shall stop for the period of the delay even if new loss information must be analyzed. The clock, measuring the one-year time, shall begin again as soon as the issue causing the delay is removed from the process.

In case of disputes involving this process, the matter shall be resolved by a majority of the membership and its decision shall be final.