

## Resolution #5-21

### Municipal Excess Liability Joint Insurance Fund

(hereinafter the "Fund" or the "MEL")

#### ESTABLISHING THE 2021 PLAN OF RISK MANAGEMENT

BE IT RESOLVED by the Fund's Executive Committee the 2021 Plan of Risk Management shall be:

#### Definitions

Commissioners mean: The Board of Fund Commissioners or the Executive Committee thereof as appropriate.

Member means: A Joint Insurance Fund that is a member of the MEL.

#### Insurance Coverages

The following coverages are provided to the Fund's member joint insurance funds, effective January 1, 2021:

1. Excess Workers' Compensation
2. Excess Liability
3. Optional Excess Liability
4. Non-Owned Aircraft Liability
5. Crime including excess public employee coverage, excess public officials coverage and Statutory Positions coverage
6. Optional Excess Public Officials Liability / Employment Practices Liability
7. Annual Aggregate Stop Loss
8. Excess Property & Equipment Breakdown (effective December 31, 2020)
9. NJHMFA Excess Insurance
10. Cyber
11. Excess Cyber

#### Limits of Coverage

Unless otherwise stated, all limits shown apply less any local member JIFs' and local member units' SIRs/deductibles, or excess of 125% of the member JIFs' actuarial projected loss funds as respects Annual Aggregate Stop Loss. **Please note, other coverages, limits, sublimits deductibles, SIRs, terms or conditions may apply; please refer to the policy documents for full details.**

1. **Excess Workers' Compensation**
  - Workers' Compensation: Statutory
  - Employer's Liability: \$7,000,000
  - USL&H: Included in Workers' Compensation
  - Harbor Marine/Jones Act: Included in Employer's Liability
  - Incidental Foreign Workers Compensation: Included
  - Communicable Disease Coverage: Per Person
2. **Excess Liability** (*includes General, Automobile and Law Enforcement Liability*)
  - Excess Limit: \$5,000,000 annual aggregate per member entity
    - The annual aggregate does not apply to Business Automobile Liability
    - An occurrence involving multiple member entities: \$35,000,000; and
    - An occurrence involving multiple member entities for Certified Acts of Terrorism: \$10,000,000
  - Sublimits: The following sublimits are part of, and not in addition to, the Excess limit:
    - Fungus or Spores: \$1,000,000

- Disinfectants Release Hazard Coverage: \$1,000,000
- Dam and Reservoir: \$5,000,000
  - a. \$5,000,000 for any dam or reservoir owned, operated, maintained, constructed or controlled by any member entity;
  - b. Included for premises owned, occupied or controlled by the member entity on which a dam or reservoir is located, or from the operations conducted on such premises;
  - c. \$5,000,000 per occurrence for any member entity owned dams defined as Class III or IV in New Jersey Administrative Code, Title 7, Department of Environmental Protection, Chapter 20, 7:20-1.8;
  - d. \$2,000,000 per occurrence for any member entity owned dam defined as Class I or II in New Jersey Administrative Code, Title 7, Department of Environmental Protection, Chapter 20, 7:20-1.8; and
  - e. \$2,000,000 per occurrence for any Class III or IV member entity owned dam involved with a Class I or II member entity owned dam.
- Garagekeepers Liability: \$2,000,000 Per Occurrence.
- Sanitary/Storm Water System Sewerage Backup and/or Sanitary System Sewerage Backup, Escape or Release: \$3,000,000 Per Occurrence and \$4,000,000 Annual Aggregate for all member entities.
- Subsidence: \$3,000,000 Per Occurrence and \$4,000,000 Annual Aggregate for all member entities.
- Quasi Entities Coverage: \$5,000,000 Per Occurrence.
- Skateboard Facilities: \$5,000,000 Per Occurrence.
- Riot, Civil Commotion or Mob Action: \$5,000,000 Per Occurrence.
- Failure to Supply Utility: \$5,000,000 Per Occurrence.

### 3. **Optional Excess Liability Limit**

The MEL offers Optional Excess Liability Limits excess of the Excess Limit.

- No aggregate applies to Business Automobile Liability.
- The following limits are the Optional Excess Limits:
  - \$2,000,000 (equals \$7,000,000 total);
  - \$5,000,000 (equals \$10,000,000 total);
  - \$10,000,000 (equals \$15,000,000 total); and
  - \$15,000,000 (equals \$20,000,000 total).
- Terrorism Aggregate, Per Occurrence, All Entities: \$20,000,000
- Annual aggregate: \$50,000,000

The MEL also offers Optional JIF Shared Aggregate Excess Liability Limits excess of \$20,000,000.

- \$10,000,000 aggregate (equals \$30,000,000 total)

### 4. **Non-Owned Aircraft Liability**

- \$5,000,000; and
- Medical Expense for each passenger: \$5,000

### 5. **Crime**

- MEL Crime Excess:
  - \$1,000,000
  - Coverage includes employee dishonesty; forgery or alteration; theft, disappearance and destruction; robbery and safe burglary; and computer fraud with funds transfer
- MEL Crime Statutory Position:
  - The MEL provides primary employee dishonesty and faithful performance coverage for those employed positions which are required by law to be individually bonded and where they have applied and have been approved for coverage at a limit of \$1,000,000 per occurrence per position

- The MEL will provide MEL Crime Statutory Position limits, based on underwriting and via endorsement, above \$1,000,000, matching the member's auditor's recommendation, but no more than \$2,000,000.
  - MEL Crime Excess Public Officials:
    - The MEL provides excess employee dishonesty and faithful performance coverage for those employed positions which are required by law to be individually bonded and where they have not applied and have not been approved for coverage under the MELJIF Statutory Position Program at a limit of \$1,000,000
    - Each member local unit that has not applied for coverage under the Fund's Statutory Position Bond is required to continue to purchase via the commercial market individual bonds providing primary coverage up to "at least the minimum limit required by law" for those employed positions required by law to be individually bonded
- 6. Optional Excess Public Officials Liability / Employment Practices Liability**  
 The MEL offers Optional Excess Public Officials Liability / Employment Practices Liability limits excess of the local member units' primary \$2,000,000 Public Officials Liability / Employment Practices Liability policies with QBE Specialty Insurance Company.
- The following limits are the Optional Excess Limits:
    - \$1,000,000 (equals \$3,000,000 total);
    - \$2,000,000 (equals \$4,000,000 total);
    - \$3,000,000 (equals \$5,000,000 total);
    - \$4,000,000 (equals \$6,000,000 total); and
    - \$8,000,000 (equals \$10,000,000 total).
- 7. Annual Aggregate Stop Loss**
- Suburban Municipal JIF: \$1,000,000
  - First Responder Joint Insurance Fund: \$1,000,000
- 8. Excess Property**
- \$125,000,000, including certain sublimits, including, but not limited, to:
    - Aggregate, Earth Movement: \$100,000,000
    - Aggregate, Flood (includes Storm Surge): \$100,000,000
      - a. Per Location, Special Flood Hazard Area (SFHA): \$52,500,000
      - b. Per Occurrence, Pumping Stations: \$2,500,000
      - c. Per Occurrence, Property Located Outside Building or Structure, but Not Defined as Outdoor Property: \$1,000,000
    - Named Storm: Included
    - Miscellaneous Personal Property: \$10,000,000
    - Vehicles:
      - a. Physical Damage: \$15,000,000
      - b. Time Element: \$500,000
    - Terrorism: Included
    - Unmanned Aircraft Systems: Excluded
- 9. NJHMFA Excess Insurance**  
 The Municipal Excess Liability Joint Insurance Fund (MEL) provides excess insurance coverages with respect to those properties financed by the New Jersey Housing and Mortgage Finance Agency (NJHMFA) or are subject to requirements contained within a Financing, Deed Restriction and Regulatory Agreement with the NJHMFA and are insured by the New Jersey Public Housing Authority Joint Insurance Fund (NJPHA JIF) and/or the MEL so that all applicable insurance coverages with respect to such properties shall be in full compliance with all applicable NJHMFA Insurance Specifications / Minimum Requirements (NJHMFA Insurance Requirements), as may be amended from time to time, on a per property/per occurrence basis, except the NJPHA JIF does not provide primary flood insurance for properties in flood zones A, V and shaded X as defined by the Federal Emergency Management Agency (FEMA) (including all variations of A, V and shaded

X), if applicable. In such cases, it is the property owner's responsibility to obtain primary flood coverages through the National Flood Insurance Program (NFIP) to the maximum extent of coverages available under the NFIP. The MEL provides flood coverage in excess of the NFIP maximum coverage limits up to a per property sub-limit of \$2.5 million. The NJPHA JIF and the MEL are not responsible for determining whether or not a property is located in a flood zone or for procuring primary flood insurance for such property. Except with respect to the requirement for a property owner to obtain primary flood insurance through NFIP as noted herein, should any insurance coverages, including excess flood coverages, provided by the NJPHA JIF and/or the MEL not meet any of the applicable NJHMFA Insurance Requirements, the NJPHA JIF and/or the MEL will provide insurance coverages, excess insurance coverages and/or difference-in-conditions coverages (DIC) as applicable to meet all applicable NJHMFA Insurance Requirements to the sole satisfaction of the NJHMFA.

**10. Cyber**

- Please contact your Risk Manager or the MEL JIF.

**11. Excess Cyber**

- Please contact your Risk Manager or the MEL JIF.

**NOTICE: The above description is a general discussion of the coverage and limits provided by the FUND. However, the actual terms and conditions are defined in the policy documents and all issues shall be decided on the policy documents.**

**The Amount of Risk to be Retained by the Fund**

Unless otherwise stated, all limits shown apply less any local member JIFs' and local member units' SIRs/deductibles, or excess of 125% of the member JIFs' actuarial projected loss funds as respects Optional Annual Aggregate Stop Loss.

1. **Workers' Compensation:** \$2,000,000
2. **Excess Liability:** \$5,000,000
  - ~~Quota Share: 20% of \$3,000,000 excess of \$2,000,000~~
3. **Optional Excess Liability:** \$0
4. **Non-Owned Aircraft Liability:** \$0
5. **Crime:**
  - MEL Crime Excess: \$1,000,000
  - MEL Crime Excess Public Officials: \$1,000,000
    - Deductible: The greater of:
      1. the amount said persons are required by law to be individually bonded, whether or not such individual bond is in place; or
      2. the amount of the individual bond in place.
  - MEL Crime Statutory Position: \$1,000,000
    - Deductible: \$1,000
    - The MEL will provide MEL Crime Statutory Position limits, based on underwriting and via endorsement, above \$1,000,000, matching the member's auditor's recommendation, but no more than \$2,000,000.
6. **Optional Public Officials Liability / Employment Practices Liability:** \$0
  - Does not cover any of the coverages with sublimits in the primary policy, including Land Use Claims
  - ~~Quota Share: 20%~~
7. **Annual Aggregate Stop Loss:**
  - Suburban Municipal JIF: \$1,000,000
  - First Responder Joint Insurance Fund: \$1,000,000
8. **Excess Property:**
  - All Other: \$1,000,000
  - Equipment Breakdown: \$50,000

- Flood for Locations in a Special Flood Hazard Area: Excess of maximum NFIP limit available, but no less than:
    - All Other: \$500,000
    - Housing Authorities and Related Non-Profit Buildings: \$250,000
  - Named Storm for locations in Monmouth, Ocean, Atlantic and Burlington counties east of the Garden State Parkway and all locations in Cape May County: \$0
  - Unmanned Aircraft Systems: Excluded
  - Quota Share: 90%
9. **NJHMFA Excess Insurance:** Unlimited less all other valid and collectible insurance (including any bond or other mechanism for funding of loss)
  10. **Cyber:** Please contact your Risk Manager or the MEL JIF.
  11. **Excess Cyber:** \$0

## Commercial Insurance / Reinsurance Purchased

The insurance/reinsurance listed below may contain sublimits, retentions and deductibles in addition to such already stated.

1. **Excess Workers' Compensation:** The MEL purchases an excess workers' compensation policy from Safety National, as follows:
  - a. Workers' Compensation: Statutory;
  - b. Employer's Liability: \$5,000,000; and
  - c. Self-Insured Retention: \$2,000,000
2. **Non-Owned Aircraft Liability:** The MEL purchases a non-owned aircraft liability policy from Endurance with a limit of \$5,000,000
3. **Excess Property & Equipment Breakdown** (effective December 31, 2019): The MEL purchases an excess property policy from Zurich with a limit of 90% of \$125,000,000
4. **Excess Flood and Earth Movement** (effective December 31, 2019): The MEL purchases excess Flood/Earth Movement policies from numerous insurers with limits totaling \$50,000,000 excess of Zurich's respective sublimits
5. **Optional Excess Public Officials Liability / Employment Practices Liability:** up to \$8,000,000
  - a. Underlying Limit: \$2,000,000
  - b. Does not cover any sublimits in the primary policy, including Land Use Claims
  - ~~c. Quota Share: 20% of \$3,000,000 excess of \$2,000,000~~
6. **Optional Excess Liability:** The MEL has entered into a reinsurance treaty:
  - a. With Munich for up to \$15,000,000
  - b. With Chubb for the \$10,000,000 excess \$20,000,000 layer
7. **Excess Cyber:** Please contact your Risk Manager or the MEL JIF.

## The Amount of Unpaid Claims to be Established

1. The general reserving philosophy is to set reserves based upon the probable total cost of the claim at the time of conclusion. Historically, on claims aged eighteen (18) months, the Fund expects the claims servicing company to set reserves at 85% accuracy. The Fund also establishes reserves recommended by the Fund's actuary for claims that have been incurred but not yet reported so that the Fund has adequate reserves to pay all claims and allocated loss adjusted expense liability.
2. Claims reserves are subject to regular review by the Fund's Executive Director/Administrator, Attorney, Executive Committee and claims servicing company. Reserves on large or unusual claims are also subject to review by the claims departments of the commercial insurance companies or reinsurance companies providing primary or excess coverages to the Fund.

## The Method of Assessing Contributions to be Paid by Each Member of the Fund

1. The actuary computes the probable net cost for the upcoming Fund year by line of coverage and for each prior Fund year by November 15th of each year. The actuary includes all budget items in these computations. The annual assessment of each participating municipality is its pro rata share of the probable net cost of the upcoming Fund year for each line of coverage as computed by the actuary.

2. The calculation of pro rata shares is based on each municipality's experience modified manual premium for that line of coverage. The total amount of each member's annual assessment is certified by majority vote of the Fund's Executive Committee at least one (1) month prior to the beginning of the next fiscal year (usually at the MEL's budget hearing at the League of Municipalities Convention).
3. The treasurer deposits each member's assessment into the appropriate accounts, including the administrative account, and the claim or loss retention trust fund account by Fund year for each type of coverage in which the member participates.
4. A participant's assessments and supplement assessments are reduced in proportion to that part of the year which had elapsed if such local unit becomes a member of the Fund or elects to participate in a line of coverage after the start of the Fund year.
5. The Fund's Executive Committee may, by majority vote, levy upon the participating municipalities additional assessments wherever needed or so ordered by the Commissioner of Insurance to supplement the Fund's claim, loss retention or administrative accounts to assure the payment of the Fund's obligations. All supplemental assessments are charged to the participating municipalities by applicable Fund year, and shall be apportioned by the year's assessments for that line of coverage.
6. The Fund chairman, or in the event by his or her failure to do so the custodian of the Fund's assets, shall notify the Commissioner of Insurance and the Director of Community Affairs should any member fail or refuse to pay its assessments or supplemental assessments, or should the Fund fail to assess funds required to meet its obligations. Past due assessments shall bear interest at the rate established annually by the Fund's Executive Committee.
7. After the end of the year before the Fund has finalized its year end accounting, the Fund's Commissioners shall levy an additional supplementary assessment so that the Fund's statutory surplus for all fund years combined is no less than 12.5 percent of unpaid claims including IBNR.
8. At the discretion of the Commissioners, any supplemental assessments may be payable in equal annual installments for up to ten years. Deferred assessments shall become due and immediately payable if a member leaves the Fund.

### **Procedures Governing Loss Adjustment and Legal Expenses**

1. The Fund engages a claims service company to handle all claims. The performance of the claims adjusters is monitored and periodically audited by the Executive Director's office, the MEL attorney's office, and the claims department of the MEL's three major excess liability insurers/reinsurers (i.e. Genesis and Munich for liability and Safety National for workers' compensation). The MEL's internal auditors also conduct an audit every three years.
2. Each member local unit is provided with claims reporting procedures and appropriate forms.
3. To provide for quality defense and control costs, the Fund has established an approved defense attorney panel with firms specializing in Title 59 matters. The performance of the defense attorneys is overseen by the Fund attorney, as well as the various firms which audit the claims adjusters.
4. The Fund may establish a separate contract with a claims service company specializing in sexual abuse claims and may require members to also utilize this service company at the MEL's expense to administer sexual abuse claims that are within the member's retention. In this event, The Fund Attorney shall establish a committee of member fund attorneys, commissioners or MEL professionals to periodically review the performance to periodically review the performance of a special panel of defense attorneys appointed by the MEL for sexual abuse claims.

### **Procedures for the Closure of Fund Years, including the Maintenance of All Relevant Accounting Records**

1. The Fund utilizes the Municipal Excess Liability Residual Claims Fund (RCF) to facilitate the closure of Fund years.
2. The Fund adopts a resolution closing that year and transfers all remaining assets to the closed Fund year account upon the transfer of outstanding liabilities of a Fund year to the RCF. This amount is allocated by member local units using the same procedure as is used to calculate a dividend. Each month, interest is credited to the closed Fund year account by member.

- a. Each year, the Fund's Executive Committee will determine if a dividend is appropriate from the closed Fund year account, and will make application to the Department of Insurance as appropriate. Further, in the event an open Fund year incurs a deficit, the Fund's Executive Committee will consider an inter-year transfer from the closed Fund year account to offset the deficit. In either case, the dividend or inter-Fund year transfer will be calculated on a member by member basis.
- b. A member may apply to the Fund's Executive Committee for a return of that member's remaining share of the closed Fund year account when five (5) years have passed since the last Fund year in which the member participated has been closed. The Fund's Executive Committee will decide on the former member's request after evaluating the likelihood of any additional assessments from the RCF.
- c. All dividends from the RCF will be deposited in the closed Fund year account on a member by member basis.
- d. The Fund will retain all records in accordance with the Fund's record retention program.

**Assumptions and Methodology Used for the Calculation of Appropriate Reserve Requirements to be Established and Administered in Accordance with Sound Actuarial Principles**

1. The general approach in estimating the loss reserves of the Fund is to project ultimate losses for each Fund year using paid and incurred loss data. Two traditional actuarial methodologies are used: the paid loss development method and the incurred loss development method. From the two different indications resulting from these methods the Fund Actuary chooses a "select" estimate of ultimate losses. Subtraction of the paid losses from the select ultimate losses yields the loss reserve liability or funding requirement.
2. The following is an overview of the two actuarial methods used to project the ultimate losses.
3. Paid Loss Development Method - This method uses historical accident year paid loss patterns to project ultimate losses for each accident year. Because this method does not use case reserve data, estimates from it are not affected by changes in case reserving practices. However, the results of this method are sensitive to changes in the rate of which claims are settled and losses are paid, and may underestimate ultimate losses if provisions are not included for very large open claims.
4. Case Incurred Loss Development Method - This method is similar to the paid loss development method except it uses historical case incurred loss patterns (paid plus case outstanding reserves) to estimate ultimate losses. Because the data used includes case reserve estimates, the results from this method may be affected by changes in case reserve adequacy.
5. The following shall be the payment schedule for assessments:

Mail Bill	Due Date	Amount Due
December 15th	January 31 <sup>st</sup>	1st quarter
	April 30 <sup>th</sup>	2nd quarter
	July 31 <sup>st</sup>	3rd quarter
December 15th	January 31 <sup>st</sup>	4th quarter plus any adjustments
	Etc.	

**The Maximum Amount a Certifying and Approving Officer May Approve Pursuant to N.J.A.C. 11:15-2.22.**

1. With the advance approval of the Fund Attorney, the certifying and approving officer may also pay hospital bills if waiting until after the next regularly scheduled FUND meeting would result in the loss of a discount on such bills. When the certifying and approving officer utilizes this authority, a report shall be made to the Commissioners at their next meeting.
2. General Liability, Auto Liability, Workers' Compensation and Property: Any claim in excess of \$10,000 must be reviewed by the Fund's Executive Director/Administrator, and approved by the Board of Fund Commissioner/Executive Committee. The Board of Fund Commissioners has established a claims subcommittee comprised of at least three of its members to exercise this power. This subcommittee may meet telephonically when required.

3. Public Officials and Employment Practices Liability: Any claim in excess of \$10,000 must be approved by the Fund Attorney and Executive Director. All such approvals shall be reported to the claims sub-committee at their next meeting.
4. Property Claims from Super Storm Sandy: Authority to approve claims from Super Storm Sandy shall be exercised by a special claims committee comprised of one representative appointed by each of the following JIFs: Atlantic, Central, Monmouth, Mid Jersey, New Jersey Housing Authorities, Ocean and South Bergen. The Committee shall be chaired by the Fund Chairperson, or designee who shall only vote in case of a tie. The Special Committee shall have the following powers:
5. Appoint Counsel and other professional support as needed
  - a. Establish timelines for the filing of claims
  - b. Take appropriate actions to maximize the recovery for the members from all sources
  - c. Apportion the aggregate recovery in an equitable manner among eligible flood claims.
  - d. Hear appeals in accordance with the FUND's bylaws.
6. The Fund Attorney and the Executive Director are authorized to approve claim settlements in the event it is not possible to convene a meeting of the Claims Committee in a time fashion. A summary of all such emergency approvals shall be provided to the Claims Committee when practical.
7. Issues and claim appeals relating to COVID-19 commonly known as the Coronavirus wherever possible will be considered by a Special Committee comprised of five representatives appointed by the MEL Chair who shall be Commissioners of MEL affiliated Joint Insurance Funds. The Committee shall be chaired by the MEL Fund Chairperson or designee who will only vote in the event of a tie. The Committee shall have the following authority:
  - (a) Appoint counsel and other professional support as needed;
  - (b) Establish timelines for the filing of any claims or issues or direction, if necessary;
  - (c) Take appropriate action to maximize and protect members of the Fund;
  - (d) Hear appeals in accordance with the Fund's bylaws;
  - (e) Appoint a retired New Jersey Judge to act as arbitrator for all claim disputes not resolved by the Committee. The decisions of the arbitrator shall be binding except in liability and workers compensation cases.
  - (f) Take necessary action to effectuate the review, determination and processing of any policies, procedures, responses or claims.