

AGENDA

LEGEND:

A – Action may be taken
I – Information

1 – Included

2 – Handout

3 – Separate

4 – Verbal

Member Cities

Capitola
Del Rey Oaks
Gonzales
Greenfield
Hollister
King City
Marina
Sand City
Scotts Valley
Soledad

JPA: MBASIA Board of Directors Meetings

DATES/TIMES: Monday, February 11, 2013 at 9:30 AM

LOCATION: City of Sand City
1 Sylvan Way
Sand City, CA 93955
Room: Council Chambers

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, in each of the member agencies involved.

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, MBASIA 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.

PAGE A. CALL TO ORDER

B. CONSENT CALENDAR

1-13 1) Approval of Minutes – November 1 & 2 Long Range Planning Meeting & Board of Directors Meeting

Members will review these minutes and may take action to approve or amend.

14-15 2) Service Calendar & Status of Deliverables

16-21 3) Bills and Correspondence

a) Ratification of Disbursements

i. Month Ending October 31, 2012

ii. Month Ending November 30, 2012

iii. Month Ending December 31, 2012

C. ORAL COMMUNICATIONS & PUBLIC COMMENTS

The public is invited at this point to address the Board on issues of interest to them.

D. BOARD OF DIRECTORS

22-23 1) UNFINISHED BUSINESS

a) ERMA Membership and Late Reporting Penalty

Members will receive an update on the current request to amend the penalty structure of ERMA and may take action or give direction.

2) COMMITTEE REPORT

4 a) Executive and Finance Committee

The Executive and Finance Committee may give a verbal report in addition to discussing the following items:

THE FOLLOWING ITEM IS A TIME CERTAIN FOR 10:00 AM

24 1. July 1, 2011 Financial Audit

Members will receive a Draft copy of the Financial Audit and may take action or give direction.

25-39 2. Review of Bylaws and JPA Agreement

The Executive Committee will report on the governing documents with respects to Membership to the Authority. Action may be taken.

Member Cities

Capitola
Del Rey Oaks
Gonzales
Greenfield
Hollister
King City
Marina
Sand City
Scotts Valley
Soledad

- | | | | |
|-------|----|---|-----|
| | 1 | b) Safety Committee | (A) |
| | | <i>The Safety Committee may give a verbal report in addition to discussing the following items:</i> | |
| 40-41 | | 1. Revision to Policy and Procedure for Grant Funds | |
| | | <i>The Board will receive an update on available funds through the Grand Fund program.</i> | |
| | 4 | c) Coverage and Claims Committee | (I) |
| | | <i>The Coverage and Claims Committee may give a verbal report in addition to discussing the following items:</i> | |
| | | 1. None | |
| | 1 | d) Ad Hoc Budget Committee | |
| | | <i>The Ad Hoc Budget Committee may give a verbal report in addition to discussing the following items:</i> | |
| 42-43 | | 1. Liability Budget – Revised Allocation | (A) |
| | | <i>Members will receive a copy of the new Liability Budget Methodology developed by the Ad Hoc Committee and may take action or give direction.</i> | |
| 44 | | 2. Liability Budget – July 1, 2013 and beyond | |
| | | <i>Members will receive a report on budget considerations for the future term.</i> | (I) |
| | 3) | NEW BUSINESS | |
| 45 | 1 | a) Election of Officers | (A) |
| | | <i>Members will discuss the election of officers and will take action.</i> | |
| 46 | 1 | b) PEPiP Insurance Renewal | (I) |
| | | <i>Members will receive a report on the status of the PEPiP renewal.</i> | |
| 47 | 1 | c) 2013-14 Program Year Calendar of Meetings | (A) |
| | | <i>Members will review the draft calendar of meetings and may take action or give direction.</i> | |
| | 4) | LOSS REPORT | (A) |
| | | CLOSED SESSION – Pursuant to Gov’t Code 54956.95 | |
| | | <i>Members will review the following Items:</i> | |
| | 1 | a) Workers’ Compensation Administrator’s Report | |
| | | <i>Tabatha Bettencourt from JT2, MBASIA’s Workers Compensation TPA, will provide a report on current claims status.</i> | |
| | 1 | b) Liability Third Party Administrator’s Report | |
| | | <i>Ken Maiolini will provide a verbal report on the status of current claims. Members will review the following Closed Session Items:</i> | |
| | | 1. Capitola Drain Pipe | |
| | | 2. Craig v. City of King | |
| | | RECONVENE – DISPOSITION OF CLOSED SESSION ITEMS | |
| | | E. PROGRAM ADMINISTRATORS REPORT | |
| | 1) | Alliant Connect Integration | (I) |
| | | <i>The Program Administrators will show a new web technology that may be integrated into the MBASIA website in the future.</i> | |
| | | F. CORRESPONDENCE / INFORMATION | (I) |
| 48 | 1) | Next Board Meeting & ERMA Training Schedule | |
| | 4 | G. GENERAL RISK MANAGEMENT ISSUES | (I) |
| | | <i>Subjects that are of interest to members: please bring 15 copies of any materials.</i> | |
| | | ADJOURNMENT | |

**MINUTES OF THE
MBASIA LONG RANGE PLANNING MEETING &
BOARD OF DIRECTORS MEETING
Thursday, November 1, 2012 at 9:30 A.M.
Friday, November 2, 2012 at 9:00 A.M.
Monterey, CA**

MEMBERS PRESENT

Lisa Murphy, City of Capitola
Jaime Goldstein, City of Capitola
Daniel Dawson, City of Del Rey Oaks
Rene Mendez, City of Gonzales
Brent Slama, City of Greenfield
Susan Stanton, City of Greenfield
Robert Galvan, City of Hollister
Michael Grzan, City of Hollister
Doug Yount, City of Marina
Steve Matarazzo, City of Sand City
Steve Ando, City of Scotts Valley
Adela Gonzales, City of Soledad

MEMBERS ABSENT

Michael Powers, City of King City

GUESTS AND CONSULTANTS

Conor Boughey, Alliant Insurance Services
Monica Sandbergen-Izo, Alliant Insurance Services
Michael Simmons, Alliant Insurance Services
Travis Clemmer, CSAC EIA
Tabatha Bettencourt, JT2 Integrated Services
Theresa Fernandez, JT2 Integrated Services
Melissa Gillihan, JT2 Integrated Services

A. CALL TO ORDER

President Rene Mendez called meeting to order at 9:40 a.m.

B. ORAL COMMUNICATIONS & PUBLIC COMMENTS

C. LONG RANGE PLANNING

C1. INTRODUCTIONS/EXPECTATIONS

Members gave a brief introduction to themselves and their roles at their respective city and their expectations of the meeting.

C2. Reports

C2A. Financial Update – Five Year Financial Trends

Steve Ando provided a brief report on the financials as of June 30, 2012. He advised that the net assets for Workers Compensation dropped by \$150,000, but that the numbers for this program are going in the right direction. Cash stayed relatively the same as last year. Mr. Ando reported that Claims Payable increased by \$300,000 from last year and that cash remained the same as last year.

Mr. Ando stated that with respects to MBASIA's Liability Program, the numbers for this program are starting to go the wrong way. Net assets dropped by approximately \$1,000,000 due to an increase in Claims Payable by \$800,000. Cash only dropped by \$150,000 or so.

C2B. Workers Compensation – Large Claim Trends

Theresa Fernandez from JT2 Integrated Services provided the Board with an analysis of MBASIA's Workers' Compensation claims. Ms. Fernandez reported on program accomplishments for FY 11-12. She advised that 4850 payments have decreased a total of \$325,000 this year. She also stated that they closed 57% of the new claims submitted during this period and decreased medical review costs by approximately \$1,000,000 through JT2's bill review process. It was further reported that the total amount paid on new claims compared to June, 2011 was reduced by 62%, or \$740,552 and that total paid benefits decreased by \$583,000. Ms. Fernandez also stated that they recovered \$96,338 from excess insurance carriers. Ms. Fernandez stated that there was a reduction in the number of claims reported by 5. Indemnity claims were reduced from 86 claims to 62 claims. Police claims increased slightly, but fire and maintenance claims have decreased.

JT2 advised that they need to work with each of the individual cities for more aggressive return to work programs and transitional programs, especially for police and public official officers. The number of litigated cases needs to be reduced. Utilization review needs to be used more to try to reduce the treatment costs. Ratio of indemnity claims to medical only claims is improving. Theresa advised that they would like to see a 40/60 ratio. This can be achieved by having good return to work programs. Theresa also stated that they are making a recommendation to expand MBASIA's legal panel. Currently, MBASIA has only one attorney, Mark Hannah. JT2's recommendation is to have two legal firms on staff. Theresa advised that JT2 can recommend specific attorneys. Theresa advised that they are also recommending that they settle more cases with compromise and releases versus stipulation. Compromise and releases cost more money today, but in the long run this is a better long term financial decision. MBASIA has a lot of future medical claims, and these employees may no longer be employees of city down the road. Theresa advised that a claim should be compromised and released only when the employee no longer works for the city.

Tabatha Bettencourt discussed the new SB863 law which has been passed and will be enacted on January 1, 2013.

C4C. Liability Program Overview – Handling Liability Claims

Ken Maiolini with Risk Management Services provided the Board with an analysis of MBASIA's Liability claims. Mr. Maiolini advised that there has been a big spike in the number of employment practices claims and that this is somewhat related to the economy and layoffs. Ken also reported that he has seen a small spike in civil rights and law enforcement claims. The large # of claims reported for 2012 includes the potential resolution of the Capitola Drain Pipe claims reserved at \$1,000,000.

Mr. Maiolini reiterated that if a member is in receipt of a claim, the claim needs to be reported to RMS right away even if the member decides to handle the claim internally. RMS needs a copy of the settlement and release for claims handled internally by the member so that RMS can put it in the member file. Mr. Maiolini also advised that if a claims file is open with RMS, RMS will request an investigation. Mr. Maiolini advised that some of the cities have been slow in their response to RMS's request for information during their investigation. Mr. Maiolini advised that they will be copying each of the city managers in on the emails from RMS requesting additional information to help with their investigation.

With respects to statutory actions on claims, Mr. Maiolini advised that RMS needs a copy of the action taken by city council and letter sent out by city attorney as soon as possible so that RMS can track the statute of limitation.

Mr. Maiolini reported that CARMA had an issue with being kept up to date on statuses of claims. Ken advised that RMS is now sending CARMA and ERMA a loss run of claims reported to them and also a brief status on claims and that this will now be normal operating procedure at RMS. This is a way of making sure CARMA and ERMA are aware of what's occurring on a monthly basis.

C5D. Exposure Discussion – Mike Simmons

Mike Simmons with Alliant Insurance Services reviewed the Liability, Excess Liability, Workers Compensation, Employment Practices, and Property Insurance program structures with the members. The members requested a chart be put together outlining the various insurance programs.

Mr. Simmons also gave a presentation on emerging risks. He discussed ways that we learned from the Japan Earthquake and Tsunami and identified various emerging risks, such as the pharma-water disaster, Social Media, Typhoons and other weather related risks, protests, the obesity epidemic, pensions, and auto risks.

It was requested that the Emerging Risk PowerPoint be posted on MBASIA's website.

C6E. Equity Report – Conor Boughey

Conor Boughey presented a report to the Board on Financial Equity Ratios. Conor reported that the last time the report was presented was two years ago at the Long Range Planning. Conor reported on the definitions of certain terms that are used to evaluate the ratios; such as Net Contributions, Confidence Level and other terms. Conor then walked through the results of the Equity study.

C7F. CSAC-EIA – Travis Clemmer

Travis Clemmer from CSAC EIA provided a presentation of the services available through CSAC EIA. He advised that CSAC EIA'S goal is to empower the member to make the most out of their loss prevention efforts. Travis advised that CSAC EIA has 4 loss prevention specialists and the members can contact any one of them at any time.

CSAC EIA's website has a lot of resources available for members under the loss prevention section. CSAC EIA spends a lot of time is spent on developing various Best Practices in various areas of health and safety.

Travis advised that they have Exposure Management training courses available via webinar through CSAC EIA. He also advised that almost any training class that CSAC EIA does in-person can be done via webinar.

Lisa Murphy asked if there is a notification system sent out of upcoming webinars offered. Travis advised that CSAC EIA has Essential Link emails that are sent out to that are in a newsletter format that lists loss prevention trainings. Alliant confirmed that they receive the Essential Link emails and maybe should work on sending out reminders to the members of upcoming webinars. Travis also confirmed that all of the webinars are posted on CSAC EIA's website.

CSAC EIA has partnered with Target Solutions to provide their Prevention Link platform to the members. A lot of members use it for training. Members can also use the platform to develop custom activities where members can develop their own content and send it out to their employees. Capitola, Hollister, Marina and Soledad are using Target Solutions. There is a cost to use Target Solutions. CSAC EIA tracks the members usage on a per active user basis. Someone becomes an active user by completing one course and then they have access to the entire library for the rest of the year. MBASIA receives one invoice and is subject to a \$1,000 minimum. For the online training portion, CSAC EIA fixes the cost at \$17 per user. If the total cost of all users is less than \$1,000, MBASIA gets charged the \$1,000 minimum.

Mike Simmons reminded the members that MBASIA receives \$1,000 in subsidy funds which are designed to be used to offset loss prevention related costs. MBASIA has \$2,000 in subsidy funds on account. Members must split the \$2,000 amongst themselves because MBASIA is one member of CSAC EIA.

Travis advised that all of the trainings provided by CSAC EIA are available at no cost to the members, except for CPR and First Aid classes, and Food Safety Management classes.

Another service that CSAC EIA partners with an outside organization for is the Drug and Alcohol Monitoring Consortium. CSAC EIA doesn't charge for this service, other than the testing fees.

Mr. Clemmer reminded the members that CSAC EIA has an expansive video lending library – training videos – available at no cost to members. The videos can be requested online and CSAC EIA will ship it out to the member. The only cost is cost to ship video back to CSAC EIA. Mr. Clemmer advised that if a member is interested in the video lending library, they should contact him directly and he will put them in contact with CSAC EIA IT Dept. to grant them access to the video library.

C3. STRATEGIC PLANNING

C3A. Loss Prevention Services – Planning the Year Ahead

This agenda item was combined with item C3B.

C3B. Loss Prevention Checklist – Now What?

Conor Boughey advised that it was decided that everyone assess themselves for now, before a carrot or stick would be applied. It was further decided that Alliant would check in with the members on their Deficiency Checklists before each Board meeting to see what areas have been completed and what areas haven't been completed. Conor reported that 9 out of 10 members have provided a status update on when the items will be completed by.

Adela Gonzales with the City of Soledad advised that due to the reduction in their staff, they don't have the time now to really focus on everything on their scorecard. Mike Simmons advised that the items listed on the scorecard are the high-risk areas identified in the Safety Inspection reports and in order to reduce losses, these items need to be addressed. Ms. Gonzales further expressed her concern over the lengthy scorecards and still feels like there are too many items to address with the reduced staff at her city. Doug Yount from the City of Marina asked if the scorecards can be looked at again and have the most critical items chosen from the scorecards to address. Travis Clemmer suggested that each member look at their losses and try to correlate those losses to the areas identified on the Deficiency Scorecard and address those areas first. Travis Clemmer and Theresa Fernandez advised that they can provide a loss analysis/trending report for each of the members. In addition, Theresa advised that the member cities should spend time developing a stronger return to work program.

Mike Simmons suggested taking one item on the list and focus on that item for a few months until all items on the list have been addressed.

C3C. Workers Compensation – Current Retention & Financial State

Conor Boughey stated that in July, 2010, MBASIA decided to leave LAWCX to join CSAC EIA because CSAC EIA offered a \$250,000 retention. LAWCX's lowest retention level was \$500,000. Conor advised that included in the agenda packet is a chart of total incurred costs for

the last 10 years. Conor advised that since 2010, there has been an increase in MBASIA's WC premium due to Workers' Compensation costs and MBASIA's loss history.

Conor advised that MBASIA could save approximately \$195,000 by going to a \$500k SIR. Conor advised that the premium for 2012-2013 is approximately going to be \$505,000.

Mike Simmons advised that if MBASIA increases their retention, CSAC EIA will not allow the retention to be decreased in the future.

After further discussion, it was decided that MBASIA will remain with CSAC EIA at the \$250,000 SIR until the premium increases to \$600,000 or more.

C3D. Liability Budget Allocation – Capping and Other factors

Conor reported on the methodology behind the Liability budget allocation. Conor reported on the previous changes to the exposure and experience factors to the formula, and reported on items that remained unchanged. The 25% cap increase this year was causing a problem with the allocation because it limits the small members from absorbing any meaningful premium. A 25% increase adversely affected Hollister, because it's the largest member. Hollister absorbs all the premium caps.

After some discussion on proposed changes to the methodology, the Ad Hoc Committee agreed to review the methodology and report back to the Board at the next Board Meeting.

C3E. Pool Partnerships – What is Working Well and What Isn't

CSAC EIA: Tabatha Bettencourt advised that MBASIA had a claim that required settlement authority from CSAC EIA and that CSAC EIA was timely in responding and was very timely in their reimbursement. Robert Galvan advised that he had a bad experience with Target Safety in regards to a lack of follow through on their availability of services online.

Daniel Dawson advised that he is on CSAC EIA's Finance Committee and stated that they are well funded, have \$500M in assets and a 2% Administrative cost.

Mike Simmons advised that Alliant will improve communication of the training opportunities through CSAC EIA.

CARMA: Jaime Goldstein of the City of Capitola advised that CARMA has been difficult in respects to their efforts to trying everything they can to not pay out claims. Claims service adverse to members.

Mike Simmons stated that CARMA is not a well funded pool and only offers a \$1M attachment point. They also do not offer Employment Practices Liability coverage, which is why MBASIA joined ERMA.

ERMA: Mike Simmons advised that ERMA has had so many late reported claims that they implemented a penalty process of 25%. MBASIA's potential penalty for a late reported claim could be \$125,000. ERMA will be discussing this next week and Alliant believes that the penalty should be around a max of \$75,000. Mike stated that if ERMA does not reduce its penalty, MBASIA's could drop its SIR to \$250,000, thus reducing its penalty to \$62,500. The second option would be to withdraw from ERMA and purchase stand-alone EPL coverage (not recommended) or join another pool (CSAC EIA). Ken Maiolini stated that ERMA's reporting requirements are very strict.

Mike Simmons advised that if ERMA does not change its penalty, MBASIA should withdraw. In order for MBASIA to join CSAC EIA for EPL coverage, it would need to leave ERMA and CARMA and purchase Excess Liability and EPL through CSAC EIA. MBASIA can't purchase just EPL coverage through CSAC EIA.

C4. CONTRACTOR REVIEW

C4A1. Liability Third Party Administrator (RMS)

Rene Mendez advised that Ken Maiolini at RMS has been exceptional. Jaime Goldstein advised that Ken is a great tool to have during mediation and has been a huge resource.

C4A2. Workers Compensation Administrator (JT2 Integrated Resources)

Daniel Dawson and Rene Mendez stated that JT2 has been very responsive. Robert advised that he had a bad experience with a former claims adjuster at JT2 due to responsiveness and availability.

C4A3. Actuary (Bay Actuarial)

The members had no adverse comments to report about Bay Actuarial Services.

C4A4. Program Administrators and Broker (Alliant)

Alliant was excused from the discussion.

C4A5. Legal Services

Mark Hannah provides MBASIA's Workers' Compensation legal services. Rene Mendez advised that MBASIA as a pool should have a panel of attorneys that JT2 recommends that members can choose from. Mike advised that MBASIA should have at least 3 qualified attorneys on the panel that JT2 recommends.

Vince Hurley – Ken Maiolini advised that Vince Hurley does a great job and is very timely with his reports and that the City of Marina police chief spoke very highly of him. Rene Mendez suggested having a backup attorney to Vince should he be hit by a bus. Ken Maiolini advised that Vince's 3 associates are being filled in on the claims. ERMA thought highly enough of Vince to put him on their panel.

C5. RESOURCES

Nothing to report.

D. BOARD OF DIRECTORS

Rene Mendez called the meeting to order at 9:00 AM.

D1a. Approval of Minutes of Meeting on June 11, 2012

A motion was made to approve the meeting minutes.

MOTION: Daniel Dawson **SECOND:** Steve Matarazzo **MOTION CARRIED**

D1b. Status of Deliverables

Conor Boughey ran through the current action item list that was created from the June 11th Board meeting with the members and gave a status report on each item.

D2. Bills and Correspondence

D2a. Ratification of Disbursements

A report of disbursements was presented and no discussion was necessary.

A motion was made to ratify the disbursements for the months ending July 31, 2012, August 31, 2012 and September 30, 2012.

MOTION: Jaime Goldstein **SECOND:** Lisa Murphy **MOTION CARRIED**

D3. Unfinished Business

D3a. MBASIA Safety Funds

Conor Boughey advised that \$75,000 was allocated to the Safety Fund budget and allows for each member to request up to \$7,500. A report was included in the agenda packet on which members have requested their apportioned funds and for what purposes. Mr. Boughey advised that Alliant would like to get this program utilized with more members. If a member does not use their \$7,500, it gets rolled into MBASIA's general fund. Mr. Boughey reminded the members that Policy & Procedure written for the Safety Funds was written on a "use it or lose it" basis.

Robert Galvan suggested that if an agency hasn't used its money, maybe it should be divided amongst the remaining members. Rene Mendez concurred with this recommendation

Conor asked the Members if they would like to see a revised policy and procedure that outlines a deadline to request funds by with wording included that states if the funds are not requested by a certain date, the funds will be available for distribution among the other members.

A motion was made for Alliant to draft a revised Safety Fund Policy & Procedure.

MOTION: Daniel Dawson **SECOND:** Robert Galvan **MOTION CARRIED**

D3b. Renewal Requests for Information

Conor Boughey advised that it's time for Alliant to start requesting renewal information for renewals and in the past, it's been difficult receiving renewal information. Conor stated that when Alliant requests the information, it's pertinent that each member makes it a priority to send us the requested information as soon as possible to avoid receiving any late penalties.

D3c. CARMA Action on Redevelopment Agency Successor Agency

Conor Boughey advised that at the June Board meeting, MBASIA took action to extend coverage to the Successor Agencies of the Redevelopment Agencies and appointee to the Oversight Board, but postponed a coverage decision on the Oversight Boards until CARMA took a coverage opinion.

CARMA decided to extend coverage to the Success Agencies and to the appointees of the Oversight Board, but not the Oversight Board itself.

Conor reported that MBASIA still needs to take action as a Board and make a coverage opinion regarding the actual Oversight Board.

A motion was made to affirm that MBASIA will not extend coverage to the Oversight Boards.

MOTION: Brent Slama **SECOND:** Robert Galvan **MOTION CARRIED**

D4. COMMITTEE REPORTS

D4a. Executive and Finance Committee

Conor Boughey advised that ERMA as of July 01, 2012, ERMA imposed a penalty system for late reporting. Alliant sent correspondence to ERMA on July 10, 2012 asking to revise penalty system. Jake O'Malley, ERMA's President, responded that they will review their penalty system methodology at their upcoming meeting on November 19th. Alliant feels that it's an unfair penalty for MBASIA because of its retention level.

Mike Simmons recommended giving notice of termination to ERMA by December 31, 2012 if they do not revise their penalty system and also carefully evaluate the benefits of staying with ERMA at a lower retention level.

Rene is the primary representative of MBASIA to ERMA and Daniel Dawson is the alternate.

Alliant will be attending the next ERMA Board Meeting – if Dan and Rene could join, that would be great.

After further discussion, a motion was made that if the ERMA's late reporting penalty is not reduced to a maximum of \$50,000, authority will be given to MBASIA's President to sign a letter giving notice of intent to withdraw and also informing ERMA of joining at a lower retention.

MOTION: Daniel Dawson **SECOND:** Jaime Goldstein **MOTION CARRIED**

D4a1. ERMA Claim Reporting

D4b. Safety Committee

No report.

D4c. Coverage and Claims Committee

Conor Boughey advised that each city's Summary of Insurance was included in the agenda as a reference guide for the city. These summaries can also be given to each city's financial auditor. It was noted that the summaries did not include the member's EPL policy with ERMA. Conor advised that the summaries will be revised with ERMA's policy information added and emailed to the members after the Board meeting.

D4c1. Summary of Insurance

D5. NEW BUSINESS

D5a. Review of Items Discussed at Long Range Planning

D5a1. Loss Prevention Services

Mike Simmons reminded the members that it was discussed at yesterday's Long Range Planning Meeting that staff consultants will meet on December 15, 2012 and cross reference the losses with the checklists and present the members with the priorities. By the February Board meeting, the members will commit to address one item within a 60 day timeline.

A motion was made with regards to the above.

MOTION: Brent Slama **SECOND:** Jaime Goldstein **MOTION CARRIED**

Mike Simmons reminded the members that it was discussed at yesterday's Long Range Planning Meeting that staff consultants will meet on December 15, 2012 and cross reference the losses with the checklists and present the members with the priorities. By the February Board meeting, the members will commit to address one item within a 60 day timeline.

A motion was made with regards to the above.

MOTION: Brent Slama **SECOND:** Jaime Goldstein **MOTION CARRIED**

D5a2. Loss Prevention Checklist

Mike Simmons advised that per yesterday's Planning Meeting, MBASIA will stay at the \$250K SIR unless the premium increases significantly. If the premium increases beyond \$600K, Alliant will come back to the Board with a deadline to change the SIR.

MOTION: Doug Yount **SECOND:** Daniel Dawson **MOTION CARRIED**

D5a3. Workers Compensation Program

Mike Simmons advised that per yesterday's Planning Meeting, MBASIA will stay at the \$250K SIR unless the premium increases significantly. If the premium increases beyond \$600K, Alliant will come back to the Board with a deadline to change the SIR.

MOTION: Steve Ando **SECOND:** Steve Matarazzo **MOTION CARRIED**

D5a4. Liability Budget Allocation

Alliant will come back with a plan of tearing the loss sensitivity down from 50% over multiple years and simultaneously increasing the caps over multiple years so that no one member sees a significant jump in their premium. The Ad Hoc Budget Committee will meet by January 15, 2013 to review Alliant's work. The Ad Hoc Committee will discuss and make changes if needed and will meet with the Executive Committee for approval by February 15, 2013. The Executive Committee recommendation on the formula and numbers will be emailed out to the Board members by March 1, 2013 so that members have an indication for their own budget planning purposes. At the April Board meeting, action will be taken on the budget.

A motion was made in regards to the above.

MOTION: Daniel Dawson **SECOND:** Doug Yount **MOTION CARRIED**

D5a5. Pool Partnerships

The Board Members expressed that they are very happy with the services provided by JT2 Integrated Services but that they are trying to adjust to the staff changes.

They also expressed that they are also very pleased with the services provided by Risk Management Services and also advised that they appreciate RMS's responsiveness.

The Board is very pleased with the services provided Alliant Insurance Services. Rene Mendez asked that the Board be kept informed of potential conflict of interests since Alliant is MBASIA's pool administrator and broker. Mike Simmons advised that Alliant will have a power point presentation at the next Board meeting of Alliant's various relationships.

D5b. MBASIA Accounting Services

Conor Boughey advised that the City of Scotts Valley has been providing the Authority's accounting services since 2008 and is looking to assign this task to another member/agency or accounting firm. Conor also advised that MBASIA has the option of using Alliant's resource, Tami Giovanni who performs similar accounting services for three other pools that Alliant administers. Conor stated that an outside accounting firm would charge approximately \$30,000 for these services. MBASIA currently pays the City of Scotts Valley \$50 per hour, which is roughly \$3900 annually. Conor advised that Tami could provide accounting services to MBASIA for roughly \$75/hour or \$4,000 - \$6,000 annually.

A motion was made to hire Tami Giovanni as MBASIA's accountant.

MOTION: Steve Matarazzo **SECOND:** Daniel Dawson **MOTION CARRIED**

Mike Simmons advised that Alliant will authorize Steve Ando or the President to sign the agreement and a date of hire for Tami Giovanni will then be determined.

Conor Boughey advised that Alliant will try and bring Tami to a Budget Meeting or Board meeting.

D5c. CARMA Certificate Requests

Conor Boughey reminded the members that CARMA has a strict Policy & Procedure that requires a fully executed contract be sent to them before they issue any Certificates with a \$2,000,000 limit and Additional Insured wording. CARMA will not issue any Certificates until a fully written agreement has been provided to them. Conor stated that a Certificate will be issued within 48 hours once CARMA has received the full contract.

D6. LOSS REPORT

D6a. Workers' Compensation Administrator's Report - The MBASIA Board of Directors entered into Closed Session pursuant to Government Section Code 54956.95.

A motion was made to enter into closed session at 9:51 AM pursuant to Government Section Code 54956.95.

MOTION: Rene Mendez **SECOND:** Steve Matarazzo **MOTION CARRIED**

D6b. Liability Third Party Administrator's Report

A motion was made to enter into closed session at 10:23 AM pursuant to Government Section Code 54956.95.

MOTION: Rene Mendez **SECOND:** Daniel Dawson **MOTION CARRIED**

D7. PROGRAM ADMINISTRATORS REPORT

D7a. Best Practices – Reporting Pollution Claims

Mike Simmons advised that the PEPiP Property Program has 6,000 public entity members across the country and the program was created to have broad coverage. Cyber Liability coverage was the first liability coverage to be “bolted” on to the PEPiP policy. Pollution Liability coverage was also added to the PEPiP policy to provide first and third party liability coverage for pollution exposures. Mike stated that there are now 3 different reporting requirements on the PEPiP policy.

Mike stated that if a member of PEPiP has a pollution spill, they need to call him or Conor Boughey right away because there is emergency response coverage if a member has a pollution spill. If a member decides to start cleaning up the spill and does not report its remediation plan to the carrier within 7 days, the carrier will not cover the clean-up costs. For third party pollution liability, the reporting timeline is 30 days.

D7b. Emerging Risks Presentation

Nothing to report.

D8. CORRESPONDENCE/INFORMATION

D8a. Risk Report – September 2012

D8b. PARMA Conference Information

Conor Boughey reported that the PARMA conference will be held in Palm Springs in February, 2013 and stated that members should book their hotel rooms as soon as possible. Conor reminded that the members that the cost to attend the conference or any trainings is paid for out of MBASIA’s Travel & Training fund. He further stated that if any members would like to attend PARMA, they should register through the PARMA website, pay any registration costs up front, and then submit any receipts to us after attending the conference for reimbursement.

D9. GENERAL RISK MANAGEMENT ISSUES

Nothing to report.

ADJOURNMENT

President Rene Mendez adjourned the meeting at 10:36 a.m.

Item No. B.2
Board of Directors
February 11, 2013

STATUS OF DELIVERABLES

ISSUE: The (old) “Transition Milestone” Report has now been updated to be used as a rolling *Service Calendar*, and status of deliverables from the previous Board of Directors Meeting. This ongoing document will be presented on the Consent Calendar at each Board meeting.

RECOMMENDATION: This is an information item on the consent calendar and therefore the report should be received and filed.

FISCAL IMPACT: No financial impact is expected from today’s meeting.

BACKGROUND: Previously, at each Board Meeting Alliant has presented a transition milestone Report that states the current status of transition of responsibilities and documents from Kent Rice and Associates and Alliant Insurance Services. At the June Board Meeting the Board discussed this item and gave direction to change the document into a rolling calendar and status report of action items.

ATTACHMENT: Service Calendar and Status of Deliverables as of January 31, 2013

**AGENDA ITEM B.2
BOARD OF DIRECTORS
FEBRUARY 11, 2013**

SERVICE CALENDAR AND STATUS OF DELIVERABLES

PREVIOUS ITEMS:

ITEM	STATUS
1. Meet with Ad Hoc Budget Committee to Create new Methodology	Completed
2. Finalize July 1, 2011 Financial Audit	In Progress
3. Meet with ERMA to discuss penalty system	Completed
4. Attend CARMA LRP	Completed
5. Board Meeting to Approve Settlement of Craig v. City of King	Completed
6. Executive Committee Meeting on January 29, 2013	Completed
7. Special Executive Committee Meeting on February 4, 2013	Completed

CURRENT ACTIVITIES:

ITEM	STATUS
1. Attend ERMA LRP to amend Penalty System	In Progress
2. Finalize July 1, 2011 & 2012 Financial Audit	In Progress
3. Liability renewal with CARMA	In Progress
4. Workers Compensation renewal and retention evaluation with CSAC-EIA	In Progress
5. Work with Membership to monitor claims trends	In Progress
6. Ad Hoc Budget Committee – Prepare budgets for April BOD Meeting	In Progress

**Item No. B.3
Board of Directors
February 11, 2013**

January 31, 2013

To: MBASIA Board of Directors

From: Steve Ando, Treasurer

RE: Approval of Check Register

I hereby certify that the attached check registers for the months of October, November and December, 2012.

1. are for correct and just services or materials received,
2. that payment has not been previously made, and
3. that funds are available to cover these payments.

First Signature

Steve Ando, Treasurer

(Please Print Name)

Date

Second Signature

(Please Print Name)

Member Cities

Capitola
Del Rey Oaks
Gonzales
Greenfield
Hollister
King City
Marina
Sand City
Scotts Valley
Soledad

Monterey Bay Area Self Insurance Authority
Check Detail
October 2012

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>
	10/31/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-16,000.00
TOTAL				-16,000.00
	10/31/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-24,000.00
TOTAL				-24,000.00
	10/31/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-25,000.00
TOTAL				-25,000.00
	10/31/2012	Transfer	1140 · Savings - S.C.C.B.	
			1150 · Transfer - to/from	-71,000.00
TOTAL				-71,000.00
	10/31/2012	JT2	1110 · Checking - S.C.C. Bank - JT2	
			6150 · Workers Comp Claims Expense	-141,422.60
TOTAL				-141,422.60
1293	10/19/2012	JT2 Claims	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-1,485.00
TOTAL				-1,485.00
1294	10/19/2012	JT2 Claims - In...	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-120.00
TOTAL				-120.00
1295	10/19/2012	JT2	1130 · Checking - S.C.C.B.- General	
			6111 · JT2-Bill Review Fees	-3,687.19
TOTAL				-3,687.19
1296	10/19/2012	Lexipol	1130 · Checking - S.C.C.B.- General	
			6160 · Misc Contingency	-13,800.00
TOTAL				-13,800.00
1297	10/19/2012	City of Scotts V...	1130 · Checking - S.C.C.B.- General	
			6590 · Safety Services	-277.11
TOTAL				-277.11
1298	10/19/2012	Risk Managem...	1130 · Checking - S.C.C.B.- General	
			6105 · RMS - Claims Administration	-8,132.90
TOTAL				-8,132.90

Monterey Bay Area Self Insurance Authority
Check Detail
November 2012

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>
	11/13/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-30,000.00
TOTAL				-30,000.00
	11/13/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-120,000.00
TOTAL				-120,000.00
	11/13/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-1,000,000.00
TOTAL				-1,000,000.00
	11/30/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-155,000.00
TOTAL				-155,000.00
	11/30/2012	Transfer	1140 · Savings - S.C.C.B.	
			1150 · Transfer - to/from	-100,000.00
TOTAL				-100,000.00
	11/30/2012	JT2	1110 · Checking - S.C.C. Bank - JT2	
			6150 · Workers Comp Claims Expense	-221,782.98
TOTAL				-221,782.98
	11/30/2012	Santa Cruz Co...	1110 · Checking - S.C.C. Bank - JT2	
			6120 · Bank Charges, fees & supplies	-675.00
TOTAL				-675.00
1299	11/5/2012	Concern	1130 · Checking - S.C.C.B.- General	
			6135 · E.A.P. Insurance Expense	-2,274.84
TOTAL				-2,274.84
1300	11/5/2012	Crowe Horwath	1130 · Checking - S.C.C.B.- General	
			6190 · Audit / Accounting	-2,500.00
			6190 · Audit / Accounting	-2,500.00
TOTAL				-5,000.00
1301	11/5/2012	JT2 Claims - In...	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-120.00
TOTAL				-120.00
1302	11/5/2012	JT2 Claims	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-1,573.00
TOTAL				-1,573.00

Monterey Bay Area Self Insurance Authority

Check Detail

November 2012

Num	Date	Name	Account	Paid Amount
1303	11/5/2012	JT2	1130 · Checking - S.C.C.B.- General	
			6110 · JT2 Fees	-17,855.61
			6110 · JT2 Fees	-100.00
			6111 · JT2-Bill Review Fees	-16,649.57
TOTAL				-34,605.18
1304	11/5/2012	CARMA	1130 · Checking - S.C.C.B.- General	
			6130 · Excess Insurance	-19,976.00
TOTAL				-19,976.00
1305	11/5/2012	ERMA	1130 · Checking - S.C.C.B.- General	
			6131 · Other Insurance	-9,594.00
TOTAL				-9,594.00
1306	11/5/2012	WorkSite Inter...	1130 · Checking - S.C.C.B.- General	
			6590 · Safety Services	-2,500.00
TOTAL				-2,500.00
1307	11/7/2012	Michael Simmo...	1130 · Checking - S.C.C.B.- General	
			6195 · Training/Conferences	-285.57
			6195 · Training/Conferences	-285.57
TOTAL				-571.14
1308	11/20/2012	Concern	1130 · Checking - S.C.C.B.- General	
			6135 · E.A.P. Insurance Expense	-2,274.84
TOTAL				-2,274.84
1309	11/20/2012	Del Rey Oaks	1130 · Checking - S.C.C.B.- General	
			6590 · Safety Services	-7,500.00
TOTAL				-7,500.00
1310	11/20/2012	Hotel Pacific	1130 · Checking - S.C.C.B.- General	
			6195 · Training/Conferences	-1,459.81
			6195 · Training/Conferences	-1,459.81
TOTAL				-2,919.62
1311	11/20/2012	JT2	1130 · Checking - S.C.C.B.- General	
			6111 · JT2-Bill Review Fees	-3,585.55
TOTAL				-3,585.55
1312	11/20/2012	Meyers nave	1130 · Checking - S.C.C.B.- General	
			6580 · Legal - Other	-411.25
			6580 · Legal - Other	-411.25
TOTAL				-822.50

9:47 AM

01/31/13

Monterey Bay Area Self Insurance Authority
Check Detail
November 2012

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>
1313	11/20/2012	Risk Managem...	1130 · Checking - S.C.C.B.- General	
			6105 · RMS - Claims Administration	-6,372.78
TOTAL				-6,372.78
1314	11/30/2012	JT2 Claims - In...	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-90.00
TOTAL				-90.00
1315	11/30/2012	JT2	1130 · Checking - S.C.C.B.- General	
			6110 · JT2 Fees	-17,855.61
			6111 · JT2-Bill Review Fees	-12,634.48
TOTAL				-30,490.09
1316	11/30/2012	JT2 Claims	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-638.00
TOTAL				-638.00

Monterey Bay Area Self Insurance Authority
Check Detail
December 2012

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>
	12/7/2012	Transfer	1130 · Checking - S.C.C.B.- General	
			1150 · Transfer - to/from	-47,000.00
TOTAL				-47,000.00
	12/31/2012	Transfer	1140 · Savings - S.C.C.B.	
			1150 · Transfer - to/from	-136,000.00
TOTAL				-136,000.00
	12/31/2012	JT2	1110 · Checking - S.C.C. Bank - JT2	
			6150 · Workers Comp Claims Expense	-246,665.78
TOTAL				-246,665.78
1317	12/21/2012	Concern	1130 · Checking - S.C.C.B.- General	
			6135 · E.A.P. Insurance Expense	-2,274.84
TOTAL				-2,274.84
1318	12/21/2012	JT2 Claims	1130 · Checking - S.C.C.B.- General	
			6150 · Workers Comp Claims Expense	-1,100.00
TOTAL				-1,100.00
1319	12/21/2012	JT2	1130 · Checking - S.C.C.B.- General	
			6111 · JT2-Bill Review Fees	-7,007.11
TOTAL				-7,007.11

Item No. D.1.a
Board of Directors
February 11, 2013

ERMA MEMBERSHIP AND LATE REPORTING PENALTY

ISSUE: At MBASIA's November Board meeting, direction was given to staff to send notice of intent to withdraw to ERMA if they do not reduce the Late Reporting Penalty to \$50,000 or less at ERMA's November Board Meeting. At the ERMA Board Meeting, no action was taken, so MBASIA gave Notice of Intent to Withdraw. Since that time, ERMA's staff and Board President met with MBASIA's staff and proposed a penalty structure that would result in a penalty to MBASIA of \$50,000, which was the threshold of MBASIA's desire to send Notice of Intent to Withdraw. As a result, MBASIA rescinded the Notice of Intent, and we will discuss this item at the February 14, 2013 ERMA Board Meeting.

RECOMMENDATION: Due to the timing of meetings, no action is necessary at this time.

FISCAL IMPACT: The Penalty for late reporting is a minimum of a 25% increase to MBASIA's retained limit. If MBASIA late reports a claim our retention goes from \$500,000 to \$625,000, which is a \$125,000 penalty.

BACKGROUND: MBASIA (and its Members as individual entities) are members of ERMA (Employment Risk Management Authority) for Employment Practices coverage. MBASIA has a \$500,000 retention with ERMA. ERMA recently developed a penalty system for late reporting which Alliant believes to unfairly penalize MBASIA compared to the other Members due to our high retention level.

On June 28, 2012 MBASIA received a memo from ERMA stating that a late reporting penalty system would apply to coverage starting July 1, 2012. If a claim is reported 30 days late, the penalty of \$125,000 would apply. As a result, the Program Administrators wrote a letter to the Board President on July 10, 2012 asking them to revisit their methodology. ERMA reviewed MBASIA's response to the new penalty system and will be discussed at the November 19th Board Meeting. It was discussed, but ERMA staff had prepared little to explain or support a direction; the Board therefore asked for that information and postponed any decision until the Long Range Planning Meeting in February, 2013.

Since no decision was reached at that meeting, so MBASIA gave notice of intent to withdraw. Since that time, staff met with the administrator of ERMA and the Board President. At that meeting a proposed penalty system was brought forward from ERMA's staff that satisfies MBASIA's request to reduce the penalty to \$50,000. As a result, MBASIA rescinded the notice of intent to withdraw. If a penalty were to be charged the late reporting would likely be at the City level. The Board must discuss how they will combine this Late Reporting Penalty with any penalties that we currently have within the MBASIA layer. **This is an important discussion – as of July 1, 2012 this ERMA penalty is in effect and any late reported claims that are currently UNKNOWN will be impacted by the charge.**

ATTACHMENT: Proposed Penalty Structure

ERMA ~ Penalty Analysis

JPA's that Pool EPL coverage						
JPA	SIR	Member Average Premium	Member Premium Range	25% Penalty	20% Penalty	15% Penalty
MBASIA	\$500,000	\$7,127	\$1,469 - \$15,350	\$125,000	\$100,000	\$75,000
VCJPA	\$25,000	\$9,968	\$320 - \$46,019	\$6,250	\$5,000	\$3,750

Entities whose individual members attach directly to ERMA						
JPA or Member	SIR	Member Average Premium	Member Premium Range	25% Penalty	20% Penalty	15% Penalty
BCJPIA						
2 members	\$25,000	\$20,031	\$7,600 - \$32,462	\$6,250	\$5,000	\$3,750
9 members	50,000	33,022	9,706 - 67,279	12,500	10,000	7,500
3 members	75,000	89,516	61,978 - 128,329	18,750	15,000	11,250
2 members	100,000	30,049	11,376 - 48,722	25,000	20,000	15,000
3 members	250,000	35,557	10,660 - 62,342	62,500	50,000	37,500
CSJVRMA						
24 members	\$25,000	\$41,430	\$4,541 - \$152,557	\$6,250	\$5,000	\$3,750
6 members	50,000	32,230	12,920 - 64,082	12,500	10,000	7,500
	75,000					
2 members	100,000	174,999	136,193 - 213,805	25,000	20,000	15,000
	250,000					
MPA						
	\$25,000					
18 members	50,000	\$61,918	\$8,655 - \$141,642	12,500	10,000	7,500
	75,000					
1 member	100,000	40,080	N/A	25,000	20,000	15,000
	250,000					
PARSAC						
26 members	\$25,000	\$20,480	\$157 - \$207,491	\$6,250	\$5,000	\$3,750
4 members	50,000	53,403	14,263 - 143,978	12,500	10,000	7,500
	75,000					
3 members	100,000	39,845	18,863 - 59,891	25,000	20,000	15,000
2 members	250,000	88,566	56,746 - 120,385	62,500	50,000	37,500
PERMA						
14 members	\$25,000	\$56,074	\$1,944 - \$164,348	\$6,250	\$5,000	\$3,750
1 member	50,000	73,379	N/A	12,500	10,000	7,500
	75,000					
	100,000					
2 members	250,000	55,408	10,442 - 100,373	62,500	50,000	37,500
SCORE						
All 10 members	\$25,000	\$7,140	\$666 - \$15,815	\$6,250	\$5,000	\$3,750
Oakland HA						
	\$50,000	\$159,152	N/A	\$12,500	\$10,000	\$7,500
Contra Costa HA						
	\$50,000	\$38,576	N/A	\$12,500	\$10,000	\$7,500

Suggested Change in Penalty Structure		
SIR	Penalty	Percentage of Penalty to SIR
\$25,000	\$6,250	25.0%
50,000	12,500	25.0%
75,000	18,750	25.0%
100,000	25,000	25.0%
250,000	37,500	15.0%
500,000	50,000	10.0%

Item No. D.2.a.1
Board of Directors
February 11, 2013

TIME CERTAIN FOR 10:00 AM

JULY 1, 2011 FINANCIAL AUDIT

ISSUE: MBASIA's new financial auditor Elizabeth Sav, from Crowe Horwath, will present the July 1, 2011 Financial Audit.

RECOMMENDATION: It is recommended that the Board review the financial audit, and take action to approve or give direction.

FISCAL IMPACT: No financial impact is expected from today's meeting.

BACKGROUND: MBASIA issued an RFP for the July 1, 2011 Financial Audit in August of 2011. As a result of that process, the Board selected Crowe Horwath to perform the Financial Audit. Prior to that, Hayashi Wayland was MBASIA's auditor for no less than 10 years.

HANDOUT: Draft July 1, 2011 Financial Audit

**Item No. D.2.a.2
Board of Directors
February 11, 2013**

REVIEW OF BYLAWS AND JPA AGREEMENT

ISSUE: The Executive and Finance Committee met on January 29, 2013 to discuss the Membership Requirements in the JPA Agreement and Bylaws. Rene Mendez will give a verbal report of that meeting.

RECOMMENDATION: No recommendation is provided, this is an information item.

FISCAL IMPACT: No financial impact is expected from today's meeting.

BACKGROUND: At the January 1, 2013 Board of Directors Meeting, the Board instructed the Executive and Finance Committee to review the governing documents to see what terms are stated regarding the Membership to the Authority, Withdrawal and Termination.

ATTACHMENT: MBASIA's JPA Agreement

**AMENDED AND RESTATED JOINT POWERS AGREEMENT
RELATING TO THE
MONTEREY BAY AREA SELF-INSURANCE AUTHORITY**

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT (the "Agreement") is made and entered into by and among the public agencies (the "Members") organized and existing under the laws of the State of California, which are signatories to this Agreement.

RECITALS

WHEREAS, California Government Code Section 6500 *et seq.* (the "Act") provides that two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, purchase insurance through a surplus line broker, or any combination of these; and

WHEREAS, California Government Code Section 990.8 provides that two or more local entities may, by a joint powers agreement, provide insurance for any purpose by any one or more of the methods specified in Government Code Section 990.4; and

WHEREAS, the parties to this Agreement desire to join together for the purposes set forth in Article 2 hereof, including establishing pools for self-insured losses and purchasing Excess or Re-Insurance and administrative services in connection with joint protection programs (the "Programs") for Members of the Monterey Bay Area Self-Insurance Authority, formerly known as the Monterey Bay Area Self-Insurance Fund ("Authority"); and

WHEREAS, the Members have previously executed that certain Joint Powers Agreement establishing the Monterey Bay Area Self-Insurance Fund, which the Members desire to amend and restate by this Agreement; provided that such amendment and restatement shall not affect the existence of the Authority; and

WHEREAS, the City of Seaside, one of the member public entities of the Joint Powers Agreement establishing the Monterey Bay Area Self-Insurance Fund has complied with all previous terms and provisions of the then existing agreement and has withdrawn its membership in that Joint Powers Agreement;

NOW, THEREFORE, the cities of Capitola, Gonzales, Greenfield, Hollister, King City, Marina, Scotts Valley, Soledad, Sand City, and Del Rey Oaks, each of them in consideration of the mutual promises and agreements hereinafter stated and the performance thereof, do hereby agree as follows:

Article 1. Definitions. The following definitions shall apply to the provisions of this agreement:

"Act" means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code, as amended or supplemented.

"Assessment" means an amount in addition to the Member's or Former Member's Contribution which the Board of Directors determines in accordance herewith and/or that a Member or Former Member owes on account of its participation in, or the financing of, a Program for a given Program year.

"Authority" shall mean the Monterey Bay Area Self-Insurance Authority initially created by the original Joint Powers Agreement Relating to the Monterey Bay Area Self-Insurance Fund.

"Board of Directors" or "Board" shall mean the governing body of the Authority.

"Bonds" shall mean bonds, notes or other obligations issued or incurred by the Authority in order to finance or refinance any Program or Claims.

"Bylaws" means the Bylaws of the Authority adopted by the Board of Directors, as they may be amended from time to time.

"Chief Executive Officer" shall mean that employee or officer of the Authority or of a Member who is so appointed by the Board of Directors.

"Claim" shall mean a demand made by or against a Member or Former Member which is or may be covered by one of the Programs approved by the Board of Directors.

"Contribution" means the amount determined by the Board of Directors to be the appropriate sum which a Member should pay at the commencement of or during the Program Year in exchange for the benefits provided by the Program, including all amounts necessary to pay claims, debt service on Bonds and all other costs or expenses of a Program.

"Coverage Documents" shall mean the Declarations, Memorandum of Coverages, Coverage Agreements, Endorsements, Policies of Insurance or any other documents that provide the terms, conditions, limits and exclusions of coverage afforded by a Program.

"Director" shall mean the city manager or chief executive officer of a member, or an alternate appointed by a city manager or chief executive officer.

"Duly Constituted Board Meeting" shall mean any Board of Directors meeting noticed and held in the required manner and at which a quorum was determined in accordance with the Bylaws to be present at the beginning of the meeting.

"Estimated Contribution" means the amount which the Board of Directors estimates will be the appropriate contribution for a Member's participation in a Program for a Program Year.

"Excess Insurance or Re-Insurance" shall mean that insurance which may be purchased on behalf of the Authority and/or the Members to protect the funds of the Members or Former Members against catastrophic losses or an unusual frequency of losses during a single year in excess of the self-insurance retention maintained by the Authority.

"Fiscal Year" shall mean that period of twelve months which is established as the fiscal year of the Authority.

"Former Member" shall mean a city or other public entity which was a signatory to the Agreement but which has withdrawn from or been involuntarily terminated from participating in the Authority.

"Joint Protection Program" means a Program offered by the Authority, separate and distinct from other Programs, wherein Members will jointly pool their losses and claims, jointly purchase Excess or Re-Insurance and administrative and other services, including claims adjusting, data processing, risk management consulting, loss prevention, legal and related services.

"Member" shall mean a signatory to this Agreement, which is qualified as a Member under the provisions of this Agreement and the Bylaws.

"Program" or "Programs" means the specific type of protection plan as set forth in the terms, conditions and exclusions of the Coverage Documents for self-insured losses, and the purchasing of Excess or Re-Insurance and administrative services.

"Retained Earnings", as used herein, shall mean an equity account reflecting the accumulated earnings of a Joint Protection Program.

Article 2. Purposes. This Agreement is entered into by the Members pursuant to the provisions of California Government Code Section 990, 990.4, 990.8 and 6500 *et seq.* in order to provide, subject to the provisions of the Coverage Documents, economical public liability and workers' compensation coverage, or coverage for other risks which the Board of Directors may determine.

Additional purposes are to reduce the amount and frequency of losses, and to decrease the cost incurred by Members in the handling and litigation of claims. These purposes shall be accomplished through the exercise of the powers of such Members jointly in the creation of a separate entity, namely the Monterey Bay Area Self-Insurance Authority (the "Authority"), to establish and administer Programs as set forth herein and in the Bylaws.

It is also the purpose of this Agreement to provide, to the extent permitted by law, for the inclusion at a subsequent date, and subject to approval by the Board of Directors, of such additional Members organized and existing under the laws of the State of California as may desire to become parties to the Agreement and Members of the Authority.

Article 3. Parties to Agreement. Each party to this Agreement certifies that it intends to, and does contract with all other parties who are signatories to this Agreement and, in addition, with such other parties as may later be added as parties to and signatories of this Agreement pursuant to Article 18. Each party to this Agreement also certifies that the withdrawal from or cancellation of membership by any Member, pursuant to Articles 19, 20 and 21, or otherwise, shall not affect this Agreement nor such party's intent, as described above, to contract with the other remaining parties to the Agreement.

Article 4. Term of Agreement. This Agreement shall become effective as to existing Members of the Authority as set forth in Article 34 hereof. This Agreement shall continue thereafter until terminated as hereinafter provided. This Agreement shall become effective as to each new Member upon: (i) approval of its membership by the Board of Directors, (ii) the execution of this Agreement by the Member, and (iii) upon payment by the Member of its initial

Contribution for a Program. Any subsequent amendments to the Agreement shall be in accordance with Article 28 of this Agreement.

Article 5. Creation of Authority. Pursuant to the Act, there is hereby created a public entity separate and apart from the parties hereto, to be known as the Monterey Bay Area Self-Insurance Authority. Pursuant to Section 6508.1 of the Act, the debts, liabilities and obligations of the Authority, including but not limited to, debts, liabilities and obligations of any of the Programs shall not constitute debts, liabilities or obligations of any party to this Agreement or to any Member or Former Member.

The Authority is not an insurer, and the coverage programs offered by the Authority do not provide insurance, but instead provide for pooled joint protection programs among the members of the Authority. The Joint Protection Programs offered by the Authority constitute negotiated agreements among the Members which are to be interpreted according to the principles of contract law, giving full effect to the intent of the Members, acting through the Board of Directors in establishing the Programs.

Article 6. Powers of Authority.

(a) The Authority shall have all of the powers common to Members and is hereby authorized to do all acts necessary for the exercise of said common powers, including, but not limited to, any or all of the following:

(1) to make and enter into contracts, including the power to accept the assignment of contracts or other obligations which relate to the purposes of the Authority, or which were entered into by a Member or Former Member prior to joining the Authority, and to make claims, acquire assets and incur liabilities;

(2) to incur debts, liabilities, or other obligations, including those which are not debts, liabilities or obligations of the Members or Former Members, or any of them;

(3) to charge and collect Contributions and Assessments from Members or Former Members for participation in Programs;

(4) to receive grants and donations of property, funds, services and other forms of assistance from persons, firms, corporations and governmental entities;

(5) to acquire, hold, lease or dispose of property, contributions and donations of property and other forms of assistance from persons, firms, corporations and governmental entities;

(6) to acquire, hold or dispose of funds, services, donations and other forms of assistance from persons, firms, corporations and governmental entities;

(7) to employ agents and employees, and/or to contract for such services;

(8) to incur long term debt, including the issuance of Bonds, notes and liabilities or other obligations to finance the Programs if seventy-five percent (75%) of the Members voting agree, and enter into agreements with respect thereto and to exercise any other powers available to the Authority under Article 2 or Article 4 of the Act;

(9) to enter into agreements for the creation of separate public entities and agencies pursuant to the Act;

(10) to sue and be sued in its own name;

(11) to exercise all powers and perform all acts as otherwise provided for in the Bylaws.

(b) Said powers shall be exercised pursuant to the terms hereof, in the manner provided by law and in accordance with Section 6509 of the Act. The foregoing powers shall be subject to the restrictions upon the manner of exercising such powers pertaining to the Member or Former Member designated in the Bylaws.

Article 7. Board of Directors. Subject to the limitations of this Agreement and the laws of the State of California, the powers of this Authority shall be vested in and exercised by, and its property controlled and its affairs conducted by, the Board of the Authority, which is hereby established and designated as the agency to administer this Agreement pursuant to Section 6506 of the Act. The powers of the Authority shall be exercised through the Board of Directors, who may, from time to time, adopt and modify Bylaws and other rules and regulations for that purpose and for the conduct of its meetings as it may deem proper. The officers of the Board shall be set forth in the Bylaws.

The Board of Directors shall be composed of a Director from each Member that has executed the Agreement and is participating in a Joint Protection Program. Each director on the Board shall have one vote. Each director on the Board shall serve as set forth in the Bylaws.

Article 8. Compliance with the Brown Act. All meetings of the Board, including, without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, California Government Code Section 54950 *et seq.*

Article 9. Powers of the Board of Directors. The Board of Directors shall have such powers and functions as provided for pursuant to this Agreement and the Bylaws and such additional powers as necessary or appropriate to fulfill the purposes of this Agreement and the Bylaws, including, but not limited to, the following:

(a) to exercise all powers to conduct all business of the Authority;

(b) to determine details of and select the Program or Programs to be offered, from time to time, by the Authority;

(c) to determine and select all insurance, including Excess or Re-Insurance, necessary to carry out the programs of the Authority;

(d) to contract for, develop or provide through its own employees various services for the Authority;

(e) to prepare or cause to be prepared the operating budget of the Authority for each fiscal year;

(f) to receive and act upon reports of committees and from the Chief Executive

Officer;

(g) to appoint staff, including a Chief Executive Officer, and employ such persons as the Board of Directors deems necessary for the administration of this Authority;

(h) to direct, subject to the terms and conditions of the Coverage Documents, the payment, adjustment, and defense of all claims involving a Member during their period of membership in and coverage under a Program;

(i) to fix and collect from time to time Contributions and Assessments for participation in the Programs;

(j) to expend funds of the Authority for the purpose of carrying out the provisions of the Agreement and the Bylaws as they now exist or may be hereafter amended;

(k) to purchase excess insurance, liability insurance, stop loss insurance, officers and directors liability insurance, and such other insurance as the Authority may deem necessary or proper to protect the Program, employees of the Authority and employees of the Members;

(l) to defend, pay, compromise, adjust and settle all claims as provided for in the Coverage Documents;

(m) to obtain a fidelity bond in such amount as the Board of Directors may determine for any person or persons who have charge of or the authority to expend funds for the Authority;

(n) to establish policies and procedures for the operation of the Authority and the Programs;

(o) to engage, retain, and discharge agents, representatives, firms, or other organizations as the Board of Directors deems necessary for the administration of the Authority;

(p) to enter into any and all contracts or agreements necessary or appropriate to carry out the purposes and actions of the Authority;

(q) to acquire, hold, lease, manage and dispose of, as provided by law, any and all property necessary or appropriate to carry out the purposes and functions of the Authority;

(r) to transact any other business which is within the powers of the Board of Directors;

(s) to invest funds on hand in a manner authorized by law, the Agreement and the Bylaws;

(t) to incur indebtedness for the Authority or provide for the issuance of Bonds, and to establish the terms and conditions of such indebtedness;

(u) to provide financial administration, claims management services, legal representations, safety engineering, annual audits, actuarial services, and other services necessary or proper to carry out the purposes of the Authority either through its own employees or contracts with one or more third parties;

(v) to exercise general supervisory and policy control over the Chief Executive Officer;

(w) to establish committees and sub-committees as it deems necessary to best serve the interests of the Authority;

(x) to take such actions as may be necessary to enforce this Agreement against any Member; and

(y) to have such other powers and functions as are provided for pursuant to the Act, this Agreement or necessary or appropriate to fulfill the purpose of this Agreement and the Bylaws.

Article 10. Committees of the Board. Committees established by the Board shall be standing or special. Each committee shall exercise such power and carry out such functions as are designated by this Agreement or the Bylaws or as delegated to it by the Board or an Executive Committee. Except as otherwise provided by the Board, or these Bylaws, such committees shall be advisory only and subject to the control of the Board or an Executive Committee, whichever appoints them. Except as may otherwise be provided by the Board or by these Bylaws, any expenditure of funds by a committee shall require prior approval by the Board.

Article 11. Officers of the Authority. The officers of the Authority shall be as set forth in the Bylaws. The Board may elect or authorize the appointment of such other officers than those described in the Bylaws as the business of the Authority may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in this Agreement, or as the Board, from time to time, may authorize or determine.

Any officer may be removed, either with or without cause, by a majority of the Directors of the Board at any regular or special meeting of the Board. Should a vacancy occur in any office as a result of death, resignation, removal, disqualification or any other case, the Board may delegate the powers and duties of such office to any officers or to any Members of the Board until such time as a successor for said office has been appointed.

Article 12. Extension of Agreement. The provisions of this agreement may be extended to incorporate "pooling" of other forms of insurance, including fire insurance and liability insurance, under such conditions as are stated in an appropriate addendum to this agreement, provided each agency participating herein consents in writing to such increased or additional purpose and power.

Article 13. Provision for Bylaws. The Board shall promulgate Bylaws to govern the day-to-day operations of the Authority. The Board may amend the Bylaws from time to time as it deems necessary, and as provided in the Bylaws. Each Member shall receive a copy of any Bylaws and agrees to be bound by and to comply with all of the terms and conditions of the Bylaws as they exist or as they may be modified. The Bylaws shall be consistent with the terms of this agreement. In the event any provision of the Bylaws conflicts with a provision of this Agreement, the provision contained in this Agreement shall control.

Article 14. Coverage Programs.

(a) The Authority shall maintain such types and levels of coverage for

Programs as determined by the Board of Directors. Such coverage may provide for binding arbitration before an independent arbitration panel of any disputes concerning coverage between the Authority and a Member.

(b) The coverage afforded under one or more Programs may include protection for general liability, auto liability, property, boiler and machinery, public officials errors and omissions, employment practices, employee benefits liability coverage, employee dishonesty coverage, public officials personal liability coverage and workers' compensation, as well as coverage for other risks which the Board of Directors may determine to be advisable. More than one type of coverage may be afforded under a single Program.

(c) The Board of Directors may arrange for group policies to be issued for Members, their board members and employees interested in obtaining additional coverage, at an appropriate additional cost to those participating Members.

(d) The Board of Directors may arrange for the purchase of Excess or Re-Insurance. The Authority shall not be liable to any Member or to any other person or organization if such excess or re-insurance policies are terminated, canceled or non-renewed without prior notice to one or more Members, or if there is a reduction in the type of coverage afforded under a program by reason of any change in coverage in a succeeding excess or re-insurance policy, even if such reduction occurs without prior notice to one or more Members.

Article 15. Accounts and Records.

(a) **Annual Budget.** The Authority shall, pursuant to the Bylaws, annually adopt an operating budget, including budgets for each Joint Protection Program.

(b) **Funds and Accounts.** The Authority shall establish and maintain such funds and accounts as determined by the Board of Directors to be necessary or advisable and as may be required by generally accepted accounting principles, including separate funds and accounts for each Program, including Joint Protection Programs. Books and records of the Authority shall be open to any inspection at all reasonable times by authorized representatives of Members, or as otherwise required by law.

(c) **Investments.** Subject to the applicable provisions of any indenture, trust agreement, or resolution relating to the issuance of Bonds and providing for the investment of monies held thereunder, the Authority shall have the power to invest any money in the treasury that is not required for the immediate necessities of the Authority, as the Board determines is advisable, in the same manner as local agencies pursuant to California Government Code Sections 53601 *et seq.* (as such provisions may be amended or supplemented).

(d) **No Commingling.** The various funds, reserves and accounts of each Program shall not be commingled and shall be accounted for separately; provided, however, that administration and overhead expenses of the Authority not related to a specific Program or Programs may be fairly and equitably allocated among Programs as determined by the Board of Directors. Investments and cash accounts may be combined for administrative convenience, but a separate accounting shall be made for balances of individual funds and Program revenues and expenses.

(e) **Annual Audit.** The Board shall provide for a certified, annual audit of the accounts and records of the Authority.

Article 16. Services Provided by the Authority. The Authority may provide, at the sole discretion of the Board of Directors, the following services in connection with this Agreement:

- (a) to provide or procure coverage, including but not limited to self-insurance funds and commercial insurance, as well as excess coverage, re-insurance and umbrella insurance, by negotiation or bid, and purchase;
- (b) to assist Members in obtaining insurance coverage for risks not included within the coverage of the Authority;
- (c) to assist risk managers with the implementation of risk management functions as it relates to risks covered by the Programs in which the Member participates;
- (d) to provide loss prevention and safety consulting services to Members;
- (e) to provide claims adjusting and subrogation services for Claims covered by the Programs;
- (f) to provide loss analysis and control by the use of statistical analysis, data process, and record and file keeping services, in order to identify high-exposure operations and to evaluate proper levels of self-retention and deductibles;
- (g) to review Member contracts to determine sufficiency of indemnity and insurance provisions when requested;
- (h) to conduct risk management audits relating to the participation of Members in the Programs; and
- (i) to provide such other services as deemed appropriate by the Board of Directors.

Article 17. Responsibilities of Members. Members or Former Members shall have the following responsibilities, which shall survive the withdrawal from, or involuntary termination of participation in, this Agreement:

- (a) Each Member shall designate a person to be responsible for the risk management function within that Member and to serve as a liaison between the Member and the Authority as to risk management.
- (b) Each Member shall maintain an active safety officer and/or committee, and shall consider all recommendations of the Authority concerning unsafe practices and/or hazard mitigation.
- (c) Each Member shall maintain its own set of records, including a loss log, in all categories of risk covered by each Program in which it participates to insure accuracy of the Authority's loss reporting system, unless it is no longer deemed necessary by the Board of Directors.
- (d) Each Member shall pay its Contribution, and any adjustments thereto, and

any Assessments within the specified period set forth in the invoice, or as otherwise may be set forth herein or in the Bylaws. After withdrawal or termination, each Former Member or its successor shall pay promptly to the Authority its share of any additional Contribution, adjustments or Assessments, if any, as required of it by the Board of Directors under Article 22 or 23 of this Agreement or the Bylaws.

(e) Each Member or Former Member shall provide the Authority with such other information or assistance as may be necessary for the Authority to carry out the Programs under this Agreement in which the Member or Former Member participates or has participated.

(f) Each Member or Former Member shall in any and all ways cooperate with and assist the Authority and any insurer of the Authority, in all matters relating to this Agreement and covered claims.

(g) Each Member or Former Member will comply with all Bylaws, rules and regulations adopted by the Board of Directors.

Article 18. New Members. The Authority shall allow entry into its Programs of new Members only upon approval of the Board, with any conditions or limitations as the Board deems appropriate.

Article 19. Voluntary Withdrawal of a Member.

Subject to Article 20, any member may voluntarily withdraw from the Authority if that Member has participated in the Authority for a minimum of three full Program years, and the Member's governing board gives notice to the Board of Directors of the Authority no later than March 1st of the preceding fiscal year of the Member's intent to withdraw from the Authority.

If withdrawal is permitted as set forth above, the Member's participation in the Authority shall terminate at the end of the fiscal year in which notice was given, provided, however, that any Member desiring to leave the Authority shall remain liable for all expenses in excess of Contribution until Claims of the withdrawing Member are settled and obligations to claimants met, the Member formally withdraws from the Authority, and the Member acknowledges that it has no interest in any of the assets of the Authority.

If additional funds are required to settle Claims or obligations of the terminating Member the Board may declare and collect the Assessments or Contributions necessary from the Member. After all Claims and obligations of the terminating Member are met the Board shall determine if any refund of Assessment or Contribution is due and refund such amount.

Article 20. Worker's Compensation Program Financing Requirements

Each Member acknowledges that the Authority intends to issue, during calendar year 2004, Bonds in order to fund reserves that the Authority has determined are currently inadequate for the Claims to be paid by the Authority with respect to its worker's compensation program incurred prior to June 30, 2003, and that the debt service on such Bonds will be payable primarily from a portion of the annual worker's compensation Contributions paid by each Member for the Claims incurred prior to June 30, 2003. Accordingly, each Member agrees and acknowledges that, so long as any such Bonds are outstanding or any other amounts remain owing with respect thereto, (i) that it will not withdraw from the Authority (and any attempted withdrawal will be null and void), (ii) that it will obtain its worker's compensation

insurance coverage solely through the Authority or in connection with the Authority (except for any self-funded retention and any excess worker's compensation coverage), (iii) that a portion of the worker's compensation Assessments and Contributions charged to the Member will be used to pay debt service on such Bonds, or to provide for costs, expenses, reserves or debt service coverage with respect to such Bonds in an amount as may be required by the documents pursuant to which such Bonds are issued, (iv) that the amount of Assessments and Contributions which may be due include all amounts necessary to pay debt service and related costs with respect to any Bonds, as set forth in clause (iii) above, including additional amounts which may become due from time to time as the result of a default by another Member of Former Member, (v) that it will pay, as required by the bond or note documentation, all of the Assessments and Contributions due to the Authority, (vi) that the Assessments and Contributions will be payable from any source of available funds of the Member, including amounts on deposit in the general fund of the Member, and (vii) that each Member will take such action as may be necessary to include all Assessments and Contributions due in each of its approved budgets, and to amend such budget if necessary to include any Assessment and Contribution amount not included in its original budget, for so long as it remains a Member of the Authority and to make the necessary appropriations for all such Assessments and Contributions. Notwithstanding the foregoing, if the documentation relating to the Bonds allows for the early retirement of the Bonds, a Member may withdraw from the Authority and have no liability with respect to any future Assessments or Contributions if it prepaies its obligations with respect to such Bonds, as such obligations are set forth in the applicable Bond documentation.

Article 21. Involuntary Termination

(a) Notwithstanding the provisions of Article 20 and 21, the Authority shall have the right to involuntarily terminate any Member's participation in any Program, or terminate membership in the Authority if a Member breaches any duty imposed on Members to this Agreement.

(b) Notwithstanding any other provisions of this Agreement, the participation of any Member of the Authority, including participation in any of the Authority's Programs, may be involuntarily terminated at the discretion of the Board of Directors whenever such Member is dissolved, consolidated, merged or annexed. A reasonable time shall be afforded, in the discretion of the Board of Directors, to place coverage elsewhere. Any such involuntary termination shall not relieve the Member or Former Member of its responsibilities as provided for in Articles 19, 20 and 23.

(c) Any involuntary termination occurring during any period that Bonds, are outstanding shall be subject to the requirement that the obligations of the Member being terminated with respect to such Bonds, are prepaid, either by such Member or by the Authority.

Article 22. Effect of Withdrawal or Involuntary Termination. The withdrawal from or involuntary termination of any Member from this Agreement shall not terminate this Agreement, and such Member, by withdrawing or being involuntarily terminated, shall not be entitled to payment, return or refund of any Contribution, Assessment, consideration, or other property paid, or donated by the Member to the Authority, or to any return of any loss reserve contribution, or to any distribution of assets (except payment of any Retained Earnings, as set forth in the following paragraph).

The withdrawal from or involuntary termination of any Member after the effective date of any Program shall not terminate its responsibility to pay its unpaid Contribution adjustments,

or Assessments to such Program. The Board of Directors shall determine the final amount due from the Member or Former Member or credits to the Member or Former Member for the period of its participation. Such determination shall not be made until all Claims, or other unpaid liabilities, have been finally resolved. In connection with this determination, the Board of Directors may exercise similar powers to those provided for in Article 23(b) of this Agreement. Upon such withdrawal from or cancellation of participation in any Program by any Member, said Member shall be entitled to receive its pro rata share of any Retained Earnings applicable to the time of its participation even though such Retained Earnings are declared by the Board of Directors after the date of said Member withdraws or is involuntarily terminated.

Article 23. Termination and Distribution; Assignment.

(a) If no Bonds remain outstanding, this Agreement may be terminated any time with the written consent of two-thirds of the voting Members; provided, however, that this Agreement and the Authority shall continue to exist for the purpose of disposing of all Claims, distribution of net assets and all other functions necessary to wind up the affairs of the Authority.

(b) The Board of Directors is vested with all powers of the Authority for the purpose of winding up and dissolving the business affairs of the Authority. These powers shall include the power to require Members or Former Members, including those which were signatory hereto at the time the subject Claims arose or was/were incurred, to pay any Assessment or Contribution in accordance with loss allocation formulas for final disposition of all Claims and losses covered by this Agreement or the Bylaws. A Member or Former Member's Assessment or Contribution shall be determined as set forth by the Board or the applicable Coverage Documents.

(c) Upon termination of a Program, all net assets of such Program shall be distributed only among the Members that are participating in such Program at the time of termination, in accordance with the proportionate to their cash payments (including Contributions, adjustments, Assessments and other property at market value when received) made during the term of this Agreement for such Program. The Board of Directors shall determine such distribution within six (6) months after disposal of the last pending Claim or loss covered by such Program.

(d) Upon termination of this Agreement all net assets of the Authority shall be distributed only among the Members in good standing at the time of such termination in accordance with and proportionate to their cash contributions and property at market value when received. The Board of Directors shall determine such distribution within six (6) months after disposal of the last pending Claim or loss covered by this Agreement.

(e) In lieu of terminating this Agreement, the Board, with the written consent of two-thirds of the voting Members, may elect to assign and transfer all of the Authority's rights, assets, liabilities and obligations to a successor joint powers authority created under the Act.

Article 24. Enforcement. The Authority is hereby granted authority to enforce this Agreement. In the event action is instituted to enforce the terms of this Agreement, the Bylaws and/or any policies and/or procedures of the Board of Directors and the non-defaulting party(s) should employ attorneys or incur other expenses for the collection of monies or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party(s) herein contained, the defaulting party agrees that it will on demand therefore pay to the non-defaulting party(s) the reasonable fees of such attorneys and such other expenses so

incurred by the non-defaulting party(s).

Article 25. Non-liability of Directors, Officers and Employees. The Board of Directors, and the officers and employees of the Authority, including former directors, officers and employees, shall not be liable to the Authority, to any Member or Former Member, or to any other person, for actual or alleged breach of duty, mistake of judgment, neglect, error, misstatement, misleading statement, or any other act or omission in the performance of their duties hereunder, for any action taken or omitted by any employee or independent contractor, for loss incurred through the investment or failure to invest funds; or for loss attributable to any failure or omission to procure or maintain insurance; except in the event of fraud, gross negligence, or intentional misconduct of such director, officer or employee. No director, officer or employee, including former directors, officers and employees, shall be liable for any action taken or omitted by any other director, officer or employee. The Authority shall defend and shall indemnify and hold harmless its directors, officers and employees, from any and all claims, demands, causes of action, and damages arising out of their performance of their duties as such directors, officers or employees of the Authority except in the event of fraud, gross negligence, corruption, malice or intentional misconduct, and the funds of the Authority shall be used for such purpose. The Authority may purchase conventional insurance to protect the Authority, and its participating Members or Former Members, against any such acts or omissions by its directors, officers and employees, including former directors, officers and employees.

Article 26. Indemnification and Release. Each Member shall and hereby agrees to indemnify and save the Authority and all other Members harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of any breach or default on the part of such Member in the performance of any of its obligations under this Agreement, or any act or negligence of such Member or any of its agents, contractors, servants, employees or licensees with respect to the coverage provided such Member. No indemnification is made under this section or elsewhere in this Agreement by the Authority or its officers, agents, employee successors or assigns.

Article 27. Notices. Notices to Members or Former Members hereunder shall be sufficient if delivered to the principal office of the respective Member or Former Member.

Article 28. Amendment. This Agreement may be amended at any time by a two-thirds vote of the Members. The Bylaws may be amended as provided therein. Upon the effective date of any validly approved amendment to this Agreement, such amendment shall be binding on all Members.

Article 29. Prohibition Against Assignment. No person or organization shall be entitled to assert the rights, either direct or derivative, of any Member or Former Member under any coverage agreement or memorandum. No Member or Former Member may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or third party beneficiary of any Member or Former Member shall have any right, claim or title or any part, share, interest, fund, contribution or asset of the Authority.

Article 30. Agreement Complete. The foregoing constitutes the full and executed Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein. This Agreement supersedes and replaces all previous agreements..

Article 31. Counterparts. This Agreement may be executed in one or more

counterparts and shall be as fully effective as though executed in one document.


Article 32. California Law. This Agreement shall be governed by the laws of the State of California.

Article 33. Severability. Should any part, term or provision of this Agreement be determined by any court of competent jurisdiction to be illegal or in conflict with any law of the State of California or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

Article 34. Effective Date. This Agreement shall become effective as to existing Members of the Authority on the date on which at least two-thirds of such Members have executed this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by authorized officials on the date indicated below:

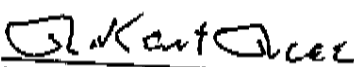
Acknowledgment:



Name, Chair - Board of Directors
MONTEREY BAY AREA SELF-INSURANCE AUTHORITY

Date: 10-12-04

I hereby certify this Amended and Restated Joint Powers Agreement has also received the required approval of not less than two-thirds of the Member entities then parties to the Joint Powers Agreement.



Name, Chief Executive Officer
MONTEREY BAY AREA SELF-INSURANCE AUTHORITY

Date: 10-12-04

Item No. D.2.b.1
Board of Directors
February 11, 2013

REVISION TO POLICY AND PROCEDURE FOR GRANT FUNDS

ISSUE: At the November Board Meeting, the Board directed staff to propose an amendment to the Grant Fund Policy and Procedure that would allow any member to request unused funds at a certain point in the policy period. If a Member does not request their safety funds, currently those funds are rolled into the general budget. This change would allow other members to request the funds for safety programs. The proposed changes are shown on the attached policy and procedure.

RECOMMENDATION: It is recommended that Members review the proposed amendment to the policy and take action or give direction.

FINANCIAL IMPACT: The funds for the program were allocated as part of the FY 2012-13 budget. If the funds are not used, they will roll into the general fund. It is likely that funds rolled into the general fund would be reduced due to increased member utilization.

BACKGROUND: During the 2010 Long Range Planning Session the Board discussed possible options to use the \$100,000 of Safety Funds. The Safety Committee was given the responsibility of creating a recommendation to the Board to use the Safety Funds. At the Safety Committee Meeting, the Committee discussed several options and concluded that the best use of these funds would be to create a Grant Program in which Members could expense certain expenditures for reimbursement to the Safety Committee.

At the June 2012 Board Meeting, MBASIA adopted an annual budget for the Grant Program that is used by Member for allocating available Safety Funds. This Policy & Procedure is standing, but it requires an annual adoption of the funds to be allocated to the actual Grant Program. The board approved a \$75,000 allocation to the grant program, so each member can withdraw up to \$7,500 for city programs or projects.

- Within the Safety Services budget a line item will contain the total amount of funds available for Grants
- The Authority will annually adopt amount of funds for this budgeted line item
- Each Member will have access to an equal share of the funds on a “use it or lose it” basis approved during the Program Year
- Members must send a written request for the use of their funds to the Safety Committee
- The request will include a statement which will justify how the funds will help the Member reduce the frequency or severity of claims or will mitigate liability risks at the Member Agency

ATTACHMENT: Draft Amended Grant Program Policy and Procedure

ADMINISTRATIVE POLICY AND PROCEDURE

SUBJECT: GRANT PROGRAM FOR SAFETY SERVICES

AMENDED: February 11, 2013

Policy Statement:

Each Year MBASIA may allocate funds for individual Members' use for Safety Services. Within the Safety Services budget a line item will contain the total amount of funds available for Grants. The Authority will annually adopt amount of funds for this budgeted line item, and then each Member will have access to an equal share of the funds on a "use it or lose it" basis approved during the Program Year (unused funds will be rolled into the general account).

Members must send a written request for the use of their funds to the Safety Committee. The request will include a statement which will justify how the funds will help the Member reduce the frequency or severity of claims or will mitigate liability risks at the Member Agency. These funds can be used for equipment, materials, programs or services that will lead to these results. The Committee will either deny or approve the request; a three quarters ($\frac{3}{4}$) majority is required for approval. Members may apply for funds on a reimbursement basis.

On May 1st of a Program Year, all Members will have access to the unrequested funds, regardless of the Member's previous use of their allocated share of the budget. Requests may not exceed 1/5 of the Grant Program Budget, and will be processed in the order they are received (and approved) until the Budget has been exhausted.

Procedure:

A Member Agency may apply for Grant Funds by following the following procedure:

1. A Member will write a request to the Program Administrators requesting the use of grant funds for city expenditure. The request will include a justification of the funds and how they will lead to the reduction of frequency or severity or will mitigate liability risks at the Member Agency.
2. The Program Administrators will forward the request to the Safety Committee who will review the request and vote to approve or deny the request. A three quarters majority is required to approve a request.
3. If approved, the Member Agency will purchase the service or item they requested and submit a receipt for reimbursement to the Program Administrator.
4. The Program Administrator will submit the reimbursement request and appropriate documentation to MBASIA's bookkeeper.
5. MBASIA's bookkeeper will reimburse the Member up to the maximum allowable amount and apply the reimbursement expense to the Grant Program Budget within the Safety Budget.
 - a. If a request exceeds the budgeted funds available to a member, only the amount available for reimbursement will be paid.

Item No. D.2.d.1
Board of Directors
February 11, 2013

LIABILITY BUDGET – REVISED ALLOCATION

ISSUE: The Ad Hoc Budget Committee met on January 29, 2013 to review the current liability budget, and proposed new methodologies. As a result of that meeting, the Committee is recommending the attached methodology.

MBASIA's current Liability methodology is weighted **50% on exposure** (payroll) and **50% on experience** (5 years of paid losses capped at \$1,000,000 per claim). The results of this calculation are **capped at a 25%** increase over the prior period.

The proposed methodology is weighted **70% on exposure** (payroll) and **30% on experience** (5 years of paid losses capped at \$1,000,000 per claim), with a **cap of 50%**.

RECOMMENDATION: It is recommended that the Board review the Ad Hoc Committee's recommended budget methodology and take action to approve for the July 1, 2013 budget.

FISCAL IMPACT: The proposed action does not affect the total budget, but it will effect each members share of the total budget. The results of these changes cannot be determined at this time.

BACKGROUND: The Liability Budget is prepared annually starting in January and continuing into June. The Budget factors were amended for the July 1, 2011 budget to include 5 years of paid losses, and utilize payroll as the exposure basis. The 25% cap and 50% weighted allocated remained the same. Since that time, it became apparent that the 25% cap was too restrictive, and as a result, large members of the pool were continually paying a large surcharge because smaller members could not absorb the premium charge allocated to them under the 25% cap.

The proposed methodology will allocate 70% of the budget to exposure, meaning that a larger portion of the calculation will take into account the size of your entity. This should also lead to a more stable budget, because exposure base is much more consistent than experience. A 30% will still allow for a members claims experience to impact their pricing, without leading to dramatic swings. A 50% cap in year over year change will allow the results of the allocation formula to move to the appropriate Member Agencies without stacking on large members.

ATTACHMENT: Results of 2012-13 Budget Allocation and Proposed Budget Allocation

**MBASIA - Budget Committee
Review of Liability Budget Allocation
Based on 2012-13 Budget**

Member	Current Allocation (50% Exposure, Experience; 25% cap in increases)		Current Allocation (remove cap)			Increase Exposure Base to 70%, Experience to 30% 50% Cap		
	Premium	Percent	Premium	Percent of Total	Percent Change	Premium	Percent of Total	Percent Change
Capitola	\$ 81,672	8%	\$ 117,079	11%	43%	\$ 98,006	9%	20%
Del Rey Oaks	\$ 32,113	3%	\$ 54,452	5%	70%	\$ 38,535	4%	20%
Gonzales	\$ 26,412	2%	\$ 95,276	9%	261%	\$ 31,694	3%	20%
Greenfield	\$ 44,486	4%	\$ 104,957	10%	136%	\$ 53,383	5%	20%
Hollister	\$ 402,364	38%	\$ 274,297	26%	-32%	\$ 318,671	30%	-21%
King City	\$ 68,648	6%	\$ 47,944	5%	-30%	\$ 68,270	6%	-1%
Marina	\$ 111,687	11%	\$ 124,035	12%	11%	\$ 134,024	13%	20%
Sand City	\$ 63,264	6%	\$ 45,493	4%	-28%	\$ 65,586	6%	4%
Scotts Valley	\$ 61,728	6%	\$ 57,846	5%	-6%	\$ 74,074	7%	20%
Soledad	\$ 168,240	16%	\$ 139,233	13%	-17%	\$ 178,369	17%	6%
TOTAL	\$ 1,060,613	100%	\$ 1,060,613	100%		\$ 1,060,613	100%	

Item No. D.2.d.2
Board of Directors
February 11, 2013

LIABILITY BUDGET – JULY 1, 2013 AND BEYOND

ISSUE: MBASIA has continued to discount the Liability Budget with a ‘Credit from Surplus’ since the 2010-11 program year. Because MBASIA no longer has a surplus in the liability program, MBASIA needs to increase funding. Because of this change, along with the change in budget allocation, all Members should budget a 50% increase in Liability pricing.

RECOMMENDATION: This is an information item, no action necessary.

FISCAL IMPACT: All Members should budget a 50% increase.

BACKGROUND: While we do not yet have the 2013 actuarial study, the 2012 study recommends the Board fund \$957,813 towards losses at the central estimate (50% confidence). The short term liability is stated at \$943,000, and was expected to be paid within 12 months. The liability budget only allocated \$661,000 towards claims payments, and collected \$883,996 (the difference paying for insurance and administrative line items).

ATTACHMENT: None

Item No. D.3.a
Board of Directors
February 11, 2013

ELECTION OF OFFICERS

ISSUE: The MBASIA Bylaws require that elections be held at the first meeting of every odd numbered calendar year, and that the officers will serve a two year term. The Board elects a Chairperson, Vice-Chairperson, Treasurer and Secretary. MBASIA has not elected a Secretary in the past, as Alliant performs the task under contract.

The current Executive and Finance Committee Members are:

Chairperson:	Rene Mendez
Vice Chairperson:	Daniel Dawson
Secretary:	<i>Vacant, served by Treasurer</i>
Treasurer:	Steve Ando
Past-Chair:	Robert Galvan

RECOMMENDATION: Staff recommends the Board discuss the Current Officers and any desired changed. Action may be taken to elect MBASIA's Officers for the two year term starting July 1, 2013.

FISCAL IMPACT: No financial impact is expected from today's meeting.

BACKGROUND: MBASIA's Bylaws govern the election process, stating that elections should take place during the first meeting over every odd calendar year, and that the Officers shall serve a two year term.

ATTACHMENT: None

Item No. D.3.b
Board of Directors
February 11, 2013

PEPIP INSURANCE RENEWAL

ISSUE: MBASIA is a member of the Public Entity Property Insurance Program (PEPIP). PEPIP will be renewing at July 1, 2013 and renewal packets were sent to Members on January 14th, with a due date of January 31, 2013. The Program Administrators will discuss the value of this program, and budget considerations for the renewal.

RECOMMENDATION: No recommendation is given, this is an information item.

FINANCIAL IMPACT: The renewal premium is not yet known. Premiums are expected to increase between 10and 15%; however member losses can increase or decrease this estimate.

BACKGROUND: MBASIA has been a member of PEPIP as a single entity since 2004. 7 out of 10 of the members participate in PEPIP, while Hollister, Soledad and King City are not members.

For the July 1, 2011 renewal, the PEPIP program rate increased just over 1% even though the market started firming due to worldwide natural catastrophes in the second quarter of 2011. Some members did experience higher rate increases primarily due to greater than average losses. We have experienced firm markets in 2012, which is expected to continue into 2013 due to adverse loss experience for many carriers and the tough economic environment.

As always, the insurance market will be actively canvassed in order to deliver the most favorable alternatives possible. As of this writing, we are confident that we will be able to offer conditions of coverage and pricing that are better than the general commercial insurance marketplace, and we will keep our clients updated as property market conditions continue to evolve.

ATTACHMENT: None

**Item No. D.3.c
Board of Directors
February 11, 2013**

2013-14 PROGRAM YEAR CALENDAR OF MEETINGS

ISSUE: MBASIA does not have a set schedule of Board Meetings for FY 13/14. The following is our proposed Board of Directors Meeting schedule:

- **Thursday, October 31, 2013 – Long Range Planning Meeting**
- **Friday, November 1, 2013 – Board of Directors Meeting**
- **Monday, February 24, 2014 – Board of Directors Meeting**
- **Monday, April 14, 2014 – Board of Directors Meeting**
- **Monday, June 16, 2014 – Board of Directors Meeting**

In addition to the Board Meeting schedule outlined above, the Committees will meet as needed throughout the year.

RECOMMENDATION: The Program Administrators recommend the Board of Directors review the proposed meeting schedule and take action to approve the proposed schedule or give direction to amend.

FISCAL IMPACT: No financial impact is expected from the recommended action.

BACKGROUND: The proposed meeting schedule follows a quarterly Board of Directors Meeting format. We have strategically planned the timing of these meetings to accomplish several goals relating to renewals, audits, and the Board and Program Administrators availability.

Additionally, the following FY 12/13 dates are also scheduled:

- **Monday, April 15, 2013 – Board of Directors Meeting**
- **Monday, June 10, 2013 – Board of Directors Meeting**

ATTACHMENT: None

**Item No. F.1
Board of Directors
February 11, 2013**

NEXT BOARD MEETING & ERMA TRAINING SCHEDULE

MBASIA's next two board Meetings are:

- Monday, April 15, 2013 – Board of Directors Meeting – Sand City, CA
- Monday, June 10, 2013 – Board of Directors Meeting – Sand City, CA

ERMA's Schedule of training opportunities are:

- Wednesday, February 20, 2013 – City of Capitola – Front Line Defense
- Friday, April 5, 2013 – Sacramento (PARSAC Office) – AB 1825