DEPARTMENT: Administration

BY: Mary Hodson
PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:
Authorize the County Administrative Officer to sign the California State Association of Counties (CSAC) Excess Insurance Authority (EIA) Medical Malpractice Program Extended Participation Agreement.

Please see the attached renewal summary from CSAC EIA for Mariposa County for additional information.

Medical malpractice insurance premiums are charged to the Health Department budget and included the “Insurance” line item (#0410).

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has approved multiple year agreements if the conditions are in the best interest of the County.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Do not approve the extended participation agreement. Mariposa County may have to pay slightly higher medical malpractice insurance premiums.

Financial Impact? (X) Yes ( ) No
Current FY Cost: $3,101
Budgeted In Current FY? (X) Yes ( ) No ( ) Partially Funded
Amount in Budget: $3,101
Additional Funding Needed: $0-
Source: Internal Transfer
Unanticipated Revenue 4/5's vote
Transfer Between Funds 4/5's vote
Contingency 4/5's vote
( ) General ( ) Other

List Attachments, number pages consecutively
Renewal Summary
Extended Participation Agreement

(COUNTY ADMINISTRATIVE OFFICER:)
( ) Requested Action Recommended
( ) No Opinion
Comments:

Approved
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: ______________
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: ____________________________
Deputy

Revised Dec. 2002
The Medical Malpractice Program renewed on October 1, 2008 with Program enhancements featuring a renegotiated two-year deal with Lexington Insurance Company. Program limits will increase from $10M per occurrence/$25M annual aggregate excess of our Pool, to $20M per occurrence/$50M annual aggregate. Lexington will continue to provide limits of $10M per occurrence/$25M annual aggregate. A new excess layer provided by ACE USA will provide the additional $10M per occurrence/$25M annual aggregate above the Lexington layer. Members are being asked to provide an individual commitment to remain in the Program for the two-year period from October 1, 2008 to October 1, 2010, in exchange for a premium reduction. Details of the renewal are as follows:

Membership Commitments: The Medical Malpractice Committee and our reinsurance partner, Lexington, recognize that continued membership participation in the Program is important for ongoing stability of the Program. Therefore, they are asking the members to commit to remain in the Program through 10/1/10. As an incentive for making such a commitment by 12/1/08, those members who do so will receive a premium reduction. The Committee also indicated that future requests for extended commitments may be made if advantageous for the Program.

AIG Relationship: The Committee has been monitoring the financial situation with AIG very closely. Following detailed discussions, the Committee has determined to reaffirm the relationship with Lexington and move forward with an extension of the Program through 10/1/10 with the inclusion of a credit rating opt-out provision. This opt-out provision will allow us to cancel coverage with Lexington mid-term if there is a significant downgrade by rating agencies.

Renewal Premium: The Lexington premium will be reduced from $7.2M to $5.8M if the participation commitments mentioned above are made, at a minimum, by all members who paid at least $25k in premium in the 2007/08 year. If the minimum participation commitment is not met, we will let the current deal with Lexington run out, paying the higher annual premium of $7.2M, and market the Program for the 10/1/09 renewal.

Expansion of Coverage Limits: As a result of some known medical malpractice cases coming close to the current $10M limit (not in our Program, but in the industry in general), the Medical Malpractice Committee directed Alliant to seek quotes for
additional limits. The Committee authorized binding an insurance deal with ACE USA for an additional $10M per occurrence/$25M annual aggregate limit for a two-year period at an annual premium of $430,000. Although the ACE premium was not included in original budget estimates to the members, the savings from the Lexington premium reduction should be more than enough to cover the new ACE premium. However, if we don't receive enough participation commitments to earn the premium reduction from Lexington, the Medical Malpractice Committee has determined that the cost of the ACE premium will be borne by the Program this year.

Invoicing Issues: Since we won't know until as late as 12/1/08 whether the premium due to Lexington will be $5.8M (if we secure the minimum number of participation commitments) or the $7.2M (if we go into run-off), the Committee directed that the invoicing take place after we determine if the minimum commitment has been reached. Even if the minimum commitments are achieved, the higher premium based on the $7.2M deal will be charged for those that don't individually make the commitment.

As a result of the actions summarized above, the premiums for Mariposa County will be one of the following:

<table>
<thead>
<tr>
<th>Premium</th>
<th>08/09 Premium With Minimum Commitments and Your Entity's Commitment</th>
<th>08/09 Premium Without Minimum Commitment or Your Entity's Commitment</th>
<th>08/09 Premium With Minimum Commitment but Without Your Entity's Commitment</th>
<th>2007/08 Premium for Comparison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pool</td>
<td>$2,005</td>
<td>$2,005</td>
<td>$2,005</td>
<td>$1,984</td>
</tr>
<tr>
<td>Lexington</td>
<td>635</td>
<td>797</td>
<td>797</td>
<td>835</td>
</tr>
<tr>
<td>ACE</td>
<td>57</td>
<td>0</td>
<td>57</td>
<td>N/A</td>
</tr>
<tr>
<td>Admin Fees</td>
<td>404</td>
<td>407</td>
<td>407</td>
<td>341</td>
</tr>
<tr>
<td>Total</td>
<td>$3,101</td>
<td>$3,209</td>
<td>$3,266</td>
<td>$3,160</td>
</tr>
</tbody>
</table>

The EIA will keep you informed of any new developments. In the meantime, please contact Jessica Blushi at iblushi@csac-eia.org or (916) 631-7363.
This Extended Participation Agreement ("Agreement") is entered into by and between the CSAC-EIA ("EIA") and the participating members of the Medical Malpractice Program ("Program"), consisting of counties and other public entities ("Public Entity").

WHEREAS, on September 10, 2008 and September 24, 2008, the EIA's Medical Malpractice Committee ("Committee") approved an extended participation requirement for participating members covering the period from October 1, 2008 to October 1, 2010 (two-years); and

WHEREAS, the Program's excess carrier, Lexington Insurance, has agreed to extend their coverage commitment to October 1, 2010 and have agreed to provide a discount in their premium to the Program if a minimum number of participating members individually commit to not withdraw from the Program for two years; and

WHEREAS, the Committee has approved a plan in which participating members will be given the choice of executing this Agreement in exchange for a premium reduction. If a participating member fails to execute this Agreement the participating member will not receive this reduction.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein, the parties hereby agree as follows:

1. **Premium Discount.** Participating members who execute this Agreement shall receive a discount in premium as approved by the Committee, subject to paragraph 3.

2. **Term of Agreement.** The term of this Agreement is two years beginning October 1, 2008 until October 1, 2010 and each participating member hereby agrees not to withdraw from this Agreement prior to October 1, 2010.

3. **Minimum Participation.** In order for the Program to receive the agreed discount a certain minimum number of participating members has been agreed to by the Committee and Lexington Insurance. If an insufficient number of participating members fail to execute this Agreement as set forth in paragraph 4, the Program will not receive the agreed discount. If the minimum participation is not met, individual participating members that executed this Agreement will not receive the agreed discount and will be released from the terms of this Agreement.

4. **Time for Execution of Agreement.** Participating members shall have until December 1, 2008, to execute this Agreement.
5. **Future Commitments.** Participating members agree that the Committee may consider such two-year commitments in the future.

6. **Agreement and Amendment.** This Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations or agreements by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means.

10/1/2008  
Dated  
Michael O’Hara  
CSAC Excess Insurance Authority  
Chief Executive Officer/Secretary

10/29/08  
Dated  
Authorized Representative  
Of (Member Name): Mariposa County

Please Print Name: Richard J. Benson

[Signature]

APPROVED AS TO FORM