

VECTOR CONTROL JOINT POWERS AGENCY

POOLED LIABILITY PROGRAM

MASTER PLAN DOCUMENT

Amended June 16, 2016

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**VECTOR CONTROL JOINT POWERS AGENCY
MASTER PLAN DOCUMENT
FOR THE
POOLED LIABILITY PROGRAM**

ARTICLE I

GENERAL

A. AUTHORITY

1. This **Master Plan Document (MPD)** is incorporated into the Bylaws of the Vector Control Joint Powers **Agency (Agency)**. As such, it shall be treated as one of the **Agency's** governing documents. The **MPD** shall have the same effect as the **Agreement**, the Bylaws, and Memoranda of Coverage, however, any conflict between the **MPD** and the **Agreement**, the Bylaws, or Memoranda of Coverage shall be determined in favor of the Bylaws or Memoranda of Coverage.
2. The **MPD** for the Pooled Liability Program (PLP) is intended to be the operational guide for the conduct of the **Agency's** PLP.

B. AUTHORITY AND STANDARDS

The **Agency's** PLP has been organized under authority granted by, and shall be conducted in accordance with, the laws of the State of California and the standards set forth by the California Association of Joint Powers Authorities (CAJPA) in its Accreditation Standards for Liability Programs.

C. GOALS AND OBJECTIVES

1. The PLP is designed to provide coverage for the legal liabilities arising out of **bodily injury, personal injury, property damage**, public officials errors and omissions, and employment practices liability imposed upon the **Member Districts** of the **Agency**. The coverage, limitations, exclusions, and conditions under the PLP shall be set forth in one or more Memoranda of Coverage, Declarations, and Endorsements adopted, and amended from time to time, pursuant to the **Agency** Bylaws. If there is any conflict between a provision of this **MPD** and a provision of any PLP Memorandum of Coverage, then the Memorandum of Coverage shall govern and prevail.
2. The PLP will provide and fund various levels of retentions for the **Member Districts**, provide a risk sharing pool for the amount of a **loss** above the individual **retained limit** up to the **self-insured retention (SIR) of the Agency's** pool, and obtain excess coverage for the amount of the **loss** which exceeds the retention level of the pool.

3. Through a contractual arrangement between the **Member Districts** of the **Agency**, authorized by the statutes of the State of California for Joint Powers Authorities, the **Member Districts** shall collectively pay on behalf of all pooled **Member Districts**, covered liabilities for those **losses** below the **SIR**. The PLP shall utilize the concept and techniques of pooled sharing of **losses** for the **Member Districts**. Additionally, the PLP shall provide for the sharing of operating costs and payment for the excess coverage by charging all **Member Districts** their fair share of such costs.
4. Although the PLP is provided to the **Member Districts** under those terms and conditions which prevail at the time of the **Member District's** initial participation in the PLP, the **Board of Directors** shall have the right to alter, from time to time, the terms and conditions of the excess coverage and the pooled underlying coverage in response to the needs and abilities of the PLP and the **Member Districts**, as well as in response to availability of coverage from outside sources.

D. WHO PARTICIPATES

1. All **Member Districts** of the **Agency** must participate in the PLP; however, the terms and conditions which may be imposed on an individual **Member District** may be different, depending upon factors such as the size of the **Member District** or unique exposures to **loss**.

E. RESPONSIBILITY AND AUTHORITY

1. The **Board of Directors** shall have the responsibility of establishing policies and remaining informed as to the financial strength and viability of the PLP. The **Board** has the authority, within the parameters of the **Agreement** and Bylaws of the **Agency** and this **MPD**, to act as needed to maintain and develop the financial strength of the PLP.
2. The Executive Committee shall have the authority as delegated to it by the **Board of Directors**. The Executive Committee shall report to the **Board of Directors**.
3. The **Agency's** Administrator shall manage the daily activities of the PLP and shall have the authority to implement the policies established by the **Member Districts**, the **Board of Directors**, and the Executive Committee. The Administrator shall report to the **Board of Directors**.
4. A Litigation Manager shall be appointed by the **Board of Directors** to monitor and supervise the **claims** administration of the PLP. The Litigation Manager shall report to the **Board of Directors**.

F. **PROGRAM YEARS**

1. A **program year** is defined by the term of the coverage period, generally a period of twelve (12) months. Historically, the PLP has had **program years** that begin at 12:01 a.m. on July 1, and end at 12:01 a.m. on the following July 1.
2. **ACTUARIALLY SOUND YEARS**
 - (a) The **Board of Directors** shall strive to maintain each Primary Pool **Program Year actuarially sound** and assure that the PLP is **actuarially sound** as a whole. A **deposit premium** based on the findings of an actuarial study shall be charged annually and allocated to the **Member Districts** in accordance with the individual **Member District's** exposure to **loss**.
 - (b) To maintain **actuarial soundness**, actuarial studies shall be performed every year, and action shall be immediately taken by the **Board of Directors** to make up the deficit funding, if the PLP as a whole should be found to be actuarially deficient.

G. **SELF-INSURED RETENTION (SIR)**

The PLP's **SIR** is defined as that amount of any incurred loss that is covered by the pooled portion of the PLP. The amount stated as the **SIR** is the attachment point for any covered **loss** where further payment on the **loss** is made by **excess insurance**, a pool offered by another joint powers authority, or by the **Member District** itself. The PLP's **SIR** shall be determined and may be amended from time to time pursuant to provisions of the Memoranda of Coverage.

H. **OPERATING & RESERVE FUNDS ESTABLISHED BY THE PLP**

1. The Primary Pool funds shall be collected, disbursed, and accounted by each **program year** through a separate set of accounting records. Such funds shall be referred to as the "Operating Funds" of the **program year**.
2. There shall be a "Mid-Layer Pool" which shall be utilized to provide coverage immediately above the primary pooling portion of the PLP and directly beneath the excess layer of the PLP. This Pool shall pay that portion of a **claim** that exceeds the primary pooling layer and is less than the **SIR** of the **Agency**. This is currently the layer from \$200,000 up to \$1,000,000 each **occurrence**.
3. There shall be an "Aggregate Pool" which shall be utilized to provide an aggregate limit of exposure for a **Member District** in a given **program year**.

I. FINANCING THE PROGRAM

1. PREMIUMS, ASSESSMENTS, AND RETROSPECTIVE ADJUSTMENTS

- (a) **Deposit premiums** shall be established and charged to the individual **Member Districts** such that, with the addition of funds raised from other sources, there shall be sufficient funds to meet expected **losses** and other expenses.
- (b) Bonds, funds previously collected, or other debt instruments may be used by the **Agency** to fund, in whole or in part, the expected **losses** and expenses for one or more **program years**.
- (c) The **deposit premiums** may be used to fund or pay premiums in connection with any coverage component of the PLP or may be applied as contributions of the **Member Districts** to pay principal of, premium on, and interest on one or more series of bonds issued by the **Agency** to fund, in whole or in part, any coverage component of the PLP, to pay administrative costs of the PLP, and to purchase governmental or commercial liability coverage. The application of any portion of the **deposit premiums** to pay debt service on bonds issued by the **Agency**, as provided in this paragraph (c), shall be approved by the representatives of the **Member Districts** upon not less than two-thirds (2/3) vote of those representatives present and voting at a regular or special membership meeting.
- (d) There shall be annual retrospective adjustments of the Primary Pool beginning with the fourth year after the end of the **program year**, and ending when all **claims** are closed and new **claims** are highly improbable.
- (e) Assessments of the Primary Pool shall be made when the PLP as a whole is found to be actuarially unsound. Assessments, at the discretion of the **Board of Directors**, may be made against actuarially unsound pools even though the PLP as a whole is **actuarially sound**. Assessments of the Mid-Layer and Aggregate Pools shall be made against either Pool that is actuarially unsound.

J. AMENDMENTS TO THIS DOCUMENT

The provisions of this document may be amended from time to time by a two-thirds (2/3rds) vote of the **Board of Directors** present and voting at a regular or special meeting, provided prior written notice has been given to all the **Member Districts**.

ARTICLE II

PREMIUMS, RATES, AND ASSESSMENTS

A. **DEPOSIT PREMIUMS**

1. The annual **deposit premium** for each **Member District** shall be calculated by the use of relative risk distribution, defined in Clause 32(a) below.
2. The premium shall be calculated by:
 - (a) distributing the **administrative expenses** among the **Member Districts** by determining the relative risk presented to the Pool by each **Member District**; and
 - (b) adding the **administrative expenses** to the actuarially determined expected **losses** for the Primary Pool, Mid-Layer Pool, and Aggregate Pool.

B. **PROGRAM ADMINISTRATIVE BUDGET**

1. Each **program year** shall have its own administrative budget that shall cover the costs of operating and maintaining that **program year** until it is finally closed. Items contained in this budget shall include, but not be limited to, the following:
 - (a) Financial auditing services;
 - (b) Program management services;
 - (c) Legal services;
 - (d) **Claims** adjusting services;
 - (e) **Claims** auditing services;
 - (f) Actuarial services;
 - (g) Travel costs of the **Board of Directors**;
 - (h) Cost of Administrative materials; and
 - (i) A provision for other minor, miscellaneous costs.

C. CREDITS AND DEBITS

1. EXPERIENCE MODIFICATION

- a. Each **Member District** shall be evaluated each year for an experience modification credit or debit based on five years of experience.
- b. The calculation of the credit or debit shall include the actual loss experience of the individual **Member District** as it relates to the average loss experience of the group as a whole. Such loss experience shall not consider loss years that are more than five years old. The criteria which shall be used is the relationship of actual average loss experience over the period being rated as it relates to the average **payroll** for the same period.

ARTICLE III

PRIMARY POOL

A. **PURPOSE**

The Primary Pool is an equity pool whereby the **Member Districts deposit premiums** to pay **claims** incurred within their **retained limits** as defined below and to pay their share of the **claims** incurred above the **Member Districts' retained limits** and below \$200,000 each **occurrence**. The Primary Pool shall be a separate, mandatory feature of the PLP. The income and expenses of each **program year** are maintained separately and distributed in accordance with the retrospective adjustment procedures defined below.

B. **RETAINED LIMITS**

1. **RETAINED LIMITS OFFERED** - The underlying coverage of the pooled portion of the PLP shall provide individual **retained limits** of \$1,000; \$2,500; \$5,000; \$10,000; \$25,000, \$50,000, and \$75,000 per **occurrence**. From time to time, the **Board of Directors** may alter the choices of **retained limits**, offer additional **retained limits**, or create other forms of retentions, as the financial strength of the PLP dictates.
2. **CHANGING RETAINED LIMITS** - A participating **Member District** may elect to change its **retained limit** after its first year in the program. Requests for change shall be made only for a complete **program year** and shall be received by the **Board of Directors** at their last scheduled meeting prior to the **program year** in which the change is to be effective. Without permission from the **Board of Directors**, a **Member District** may only increase its **retained limit** to the next higher **retained limit** from its current level **retained limit**.

The **Board of Directors** may require a **Member District** to increase its **retained limit** by providing written notice of such change to the District at least thirty (30) days prior to the increase.

3. **RETAINED LIMIT POOLING FEATURES** - The sharing of **losses** shall be segregated at the various **retained limit** levels. This document shall refer to these segregated units as pools or pool layers. Using the levels of retention described in Section A above, see the following chart which describes the composition of the pool layers and the **retained limits** of those **Member Districts** that participate in each layer of the pool:

<u>\$75.0K POOL</u>	<u>\$50.0K POOL</u>	<u>\$25.0K POOL</u>	<u>\$10.0K POOL</u>	<u>\$5.0K POOL</u>	<u>\$2.5.0K POOL</u>	<u>\$1.0K POOL</u>
RETAINED LIMITS	RETAINED LIMITS	RETAINED LIMITS	RETAINED LIMITS	RETAINED LIMITS	RETAINED LIMITS	RETAINED LIMITS
\$1.0K	\$1.0K	\$1.0K	\$1.0K	\$1.0K	\$1.0K	\$1.0K
\$2.5K	\$2.5K	\$2.5K	\$2.5K	\$2.5K	\$2.5K	
\$5.0K	\$5.0K	\$5.0K	\$5.0K	\$5.0K		
\$10.0K	\$10.0K	\$10.0K	\$10.0K			
\$25.0K	\$25.0K	\$25.0K				
\$50.0K	\$50.0K					
\$75.0K						

4. **PAYMENT OF THE RETAINED LIMIT** - The full amount of any **loss**, including expenses, incurred by the individual **Member District**, which is within its **retained limit** shall be paid by the **Agency** and charged to that **Member District's** account established from the **deposit premium** and other credits.

C. **DEPOSIT PREMIUMS**

A **deposit premium** shall be established for each **program year** by the **Board of Directors** based on the actuarially determined expected **losses** and distributed to the **Member Districts** based on the relative risk presented to the Pool by each **Member District**.

D. **ACTION REQUIRED WHEN A PROGRAM YEAR IS FOUND TO BE ACTUARIALLY UNSOUND**

1. **ACTIONS**

- (a) The Administrator shall determine the actuarial condition of each **program year**.
- (b) If the PLP, as a whole, is found not to be **actuarially sound**:
 - i. Each participating **Member District** in the unsound **program year(s)** shall be assessed its pro rata share of the total funding necessary to make the PLP, as a whole, **actuarially sound**.
 - ii. Each **Member District's** share shall be calculated as that percentage of the amount needed to make the **program year actuarially sound** which is equal to the **Member District's deposit premium** for the **program year** as it relates to the total **deposit premiums** for the **program year**.

iii. Each **Member District** shall have the amount of its assessment added to its **deposit premium** amount for the **program year** that is being augmented. Future retrospective adjustments to this **program year** shall use the combined contributions by the **Member Districts** affected as the amount of **deposit premium** from which such reconciliations are calculated.

(c) If the PLP, as a whole, is **actuarially sound**, the **Board of Directors** may assess any **program year** that is found to be actuarially unsound. If the **Board of Directors** does not assess an actuarially unsound **program year**, the Administrator shall determine the amount of interest that would have been earned on the funds of the other **program years** had the deficient **program year** been adequately funded. The difference between the amount of interest actually earned and the amount that could have been earned shall then be charged against the deficient **program year** and allocated to the other **program years**.

E. PRIMARY POOL RETROSPECTIVE ADJUSTMENT

1. TIMING

(a) Four years after the end of the **program year**, the first retrospective adjustment shall be performed. Each year thereafter, there shall be an additional retrospective adjustment made until such time that the **program year** is closed.

2. CALCULATION

(a) Account balances for each **Member District** for the **program year** are calculated as follows:

i. Each **Member District** is credited for the PLP **deposit premium** paid for that **program year**; assessments paid, if any, for that **program year**; and any previous retrospective adjustments paid by the **Member District** for that **program year**; plus the interest earned on the account balance during the period since the **deposit premium** was made. This amount constitutes the total amount credited to the **Member District's** account.

ii. The **Member District's losses** incurred within the **Member District's retained limit** and the **Member District's** portion of the **losses** shared with other **Member Districts** in the primary pooling portion of the PLP are then determined. The shared **losses** are

allocated to each participant in the same proportion as each **Member District's** relative risk distribution is to the total relative risk distribution of all the **Member Districts** participating in that layer. At the discretion of the **Board of Directors**, the relative risk distribution formula may be adjusted for experience.

- iii. Once the incurred **losses** for the **Member District** and the **Member District's** shared **losses** have been calculated for each of the pool layers, the total is subtracted from the **Member District's** account.
 - iv. Next, the **Member District's** share of the **administrative expenses**, including excess coverage and **claims** handling expenses, and the **deposit premiums** for the Mid-Layer and Aggregate Pools are subtracted from the account. The claims handling fees for each **program year** shall be distributed to the **Member Districts** on a pro rata basis allocated on the basis of deposit premium.
 - v. Finally, an allowance for Incurred But Not Reported (IBNR) Reserve is subtracted from the account based on the amount determined by the actuarial study.
- (b) Upon completion of the calculation described above, if there is a cumulative negative balance of \$25 or more in a **Member District's** individual account, the **Member District** shall be billed for that deficiency. Any cumulative positive balance of \$25 or more will be refunded to the **Member District** except as stated in Article VIII, Section D.3. and unless lesser amounts are specifically requested to be refunded by the **Member District**.

ARTICLE IV

MID-LAYER POOL

A. PURPOSE

The purpose of the Mid-Layer Pool is to reduce the effect of severe **claims** from impacting the Primary Pool of the PLP. The Mid-Layer Pool shall be a separate, mandatory feature of the PLP. The accountability for the funds of the Mid-Layer Pool shall be maintained separate from the funds for the Primary or the Aggregate Pools.

B. DESCRIPTION

1. The Mid-Layer Pool shall be a separate fund from which **claims** and related costs may be paid whenever the **claims** and related costs, including indemnity, legal fees, and **claims** adjusting fees, from any one **occurrence** exceeds \$200,000.
2. The Mid-layer Pool shall be a single fund which is financed by a **deposit premium** from each participating **Member District** annually, the use of debt, or from other sources approved by the **Agency's Board of Directors**. It is different from the Primary Pool in that it does not have separate **program years**. The monies contributed to the Mid-Layer Pool shall be commingled into a single entity that will pay **losses** of **Member Districts** that are to be paid by the Mid-Layer Pool without charging such **loss** against any one **program year**.

C. ATTACHMENT POINT

1. The Mid-Layer Pool shall pay liabilities of the PLP in excess of \$200,000 per **occurrence**. The amount of liability the Primary Pool must sustain prior to payment by this Mid-Layer Pool shall be called the Attachment Point.
2. Initially, the Attachment Point was \$250,000. The Attachment Point for the Mid-Layer Pool may be revised occasionally from year to year by resolution of the **Board of Directors**.

D. DEPOSIT PREMIUM

The Mid-Layer Pool may be pre-funded or a **deposit premium** may be established for each year by the **Board of Directors** based on the actuarially determined **losses**. Such **deposit premium** shall be distributed to the **Member Districts** based on the relative risk presented to the Pool by each **Member District**.

E. ASSESSMENTS

If the Mid-Layer Pool is found not to be **actuarially sound**:

1. Each participating **Member District** shall be assessed its pro rata share of the total funding necessary to make the Mid-Layer Pool **actuarially sound**.
2. Each **Member District's** pro rata share shall be calculated as that percentage of the amount needed to make the Mid-Layer Pool **actuarially sound** which is equal to the **Member District's payroll** for the most recent **program year** as it relates to the total **payroll** for that **program year**.

F. REFUNDS

At the discretion of the Board of Directors, refunds may be provided to the **Member Districts** that contributed to the Mid-Layer Pool:

1. Once the **Board of Directors** determines the total amount to be refunded from the Mid-Layer Pool, each participating **Member District** shall receive its pro rata share based on the actual amount contributed by the **Member District** to the Mid-Layer Pool as compared to the total contributed by all members. Refunds shall be subject to the provisions in Article II (G) below. **Member Districts** that have terminated participation in the **Agency** shall not be eligible to receive refunds from, or be reimbursed for, any monies contributed to the Mid-Layer Pool.

G. NEW OR RETURNING MEMBER DISTRICTS

As new or returning **Member Districts** become members of the **Agency**, they shall be required to participate in this Mid-Layer Pool. A new or returning member may elect either to:

1. Participate in the Mid-Layer Pool at no initial charge. If a new or returning member selects this option, they will receive all of the benefits of coverage that the Mid-Layer Pool provides, however, the **Member District** would not be eligible for refunds as described in Article II (F) above.; or
2. Contribute its pro rata share to the Mid-Layer Pool. If a new or returning member selects this option, they will pay an initial **deposit premium** for the Mid-Layer Pool equal to its projected annual **payroll** times a rate determined by dividing the funds, including any unpaid **deposit premiums**, in the Pool by the total **payroll** of the existing **Member Districts**. At the discretion of the new or returning **Member District**, this initial **deposit premium** may be paid in five equal installments plus interest at six percent per year on

the unpaid balance. **Member Districts** selecting this option would be eligible for refunds as described in Article II (F) above, but would not be eligible for reimbursement or refund of any monies contributed should they leave the **Agency**.

Upon being accepted as a member of the **Agency**, all new or returning **Member Districts** are required to participate in any assessment as described in Article IV (E) above. All amounts collected as part of an assessment are eligible for refund on a pro rata basis regardless of the option selected above.

ARTICLE V

AGGREGATE POOL

A. **PURPOSE**

The Aggregate Pool shall be provided to **Member Districts** to set a level beyond which no further **losses** of a **program year** may be charged to the **Member District's deposit premium**. The Aggregate Pool shall be a separate, mandatory feature of the PLP. The funds of the Aggregate Pool shall be maintained as a separate entity that is not part of the Primary Pool or the Mid-Layer Pool.

B. **DESCRIPTION**

1. The Aggregate Pool shall be a separate fund from which **claims** and related costs may be paid whenever the total payments made by a **Member District** reaches the attachment point for that **program year**. The attachment point that is applicable is determined by the **retained limit** that has been selected by the **Member District**. See Paragraph E below.
2. The Aggregate Pool shall be a single fund that shall be financed by debt, receipt of **deposit premiums** from each **Member District** annually, or by other sources approved by the **Agency's Board of Directors**. It is different from the Primary Pool in that it does not have separate **program years**. The monies contributed to the Aggregate Pool shall be commingled into a single entity that will pay **losses** of **Member Districts** that are to be paid by the Aggregate Pool without charging such **loss** against any one **program year**.

C. **ELIGIBILITY**

Because the Aggregate Pool is part of the PLP, all **Member Districts** shall be required to participate in the Aggregate Pool.

D. **OPERATION**

The Aggregate Pool shall pay all **claim** payments after the total of such **claims** paid on behalf of the **Member District** reaches a specified threshold level for the **program year**. This level thus becomes the attachment point for the Aggregate Pool that is applicable for that **Member District** for the **program year**.

E. ATTACHMENT POINTS

The specified attachment point shall be determined by the **retained limit** that is applicable for each **Member District**. The initial attachment points are as follows:

RETAINED LIMIT	ATTACHMENT POINT
\$1,000	\$ 2,000
2,500	5,000
5,000	10,000
10,000	20,000
25,000	50,000
50,000	100,000
75,000	150,000

F. SETTING OF ATTACHMENT POINTS

The setting of attachment points for the Aggregate Pool may be revised occasionally from year to year by resolution of the **Board of Directors**. However, any changes made are subject to ensuring that the fund remains **actuarially sound**.

G. DEPOSIT PREMIUM

The Aggregate Pool may be pre-funded or a **deposit premium** may be established for each year by the **Board of Directors** based on the actuarially determined **losses**. Such **deposit premium** shall be distributed to the **Member Districts** based on the relative risk presented to the Pool by each **Member District**.

H. ASSESSMENTS

If the Aggregate Pool is found not to be **actuarially sound**:

1. Each participating **Member District** shall be assessed its pro rata share of the total funding necessary to make the Aggregate Pool **actuarially sound**.
2. Each **Member District's** pro rata share shall be calculated as that percentage of the amount needed to make the Aggregate Pool **actuarially sound** which is equal to the **Member District's payroll** for the most recent **program year** as it relates to the total **payroll** for that **program year**.

I. REFUNDS

At the discretion of the Board of Directors, refunds may be provided to the **Member Districts** that contributed to the Aggregate Pool:

1. Once the **Board of Directors** determines the total amount to be refunded from the Aggregate Pool, each participating **Member District** shall receive its pro rata share based on the actual amount contributed by the **Member District** to the Aggregate Pool as compared to the total contributed by all members. Refunds shall be subject to the provisions in Article V (J) below. **Member Districts** that have terminated participation in the **Agency** shall not be eligible to receive refunds from, or be reimbursed for, any monies contributed to the Aggregate Pool.

J. **NEW OR RETURNING MEMBER DISTRICTS**

As new or returning **Member Districts** become members of the **Agency**, they shall be required to participate in this Aggregate Pool. A new or returning member may elect either to:

1. Participate in the Aggregate Pool at no initial charge. If a new or returning member selects this option, they will receive all of the benefits of coverage that the Aggregate Pool provides, however, the **Member District** would not be eligible for refunds as described in Article V (I) above; or
2. Contribute its pro rata share to the Aggregate Pool. If a new or returning member selects this option, they will pay an initial **deposit premium** for the Aggregate Pool equal to its projected annual **payroll** times a rate determined by dividing the funds, including any unpaid **deposit premiums**, in the Pool by the total **payroll** of the existing **Member Districts**. At the discretion of the new or returning **Member District**, this initial **deposit premium** may be paid in five equal installments plus interest at six percent per year on the unpaid balance. **Member Districts** selecting this option would be eligible for refunds as described in Article V (I) above, but would not be eligible for reimbursement or refund of any monies contributed should they leave the **Agency**.

Upon being accepted as a member of the **Agency**, all new or returning **Member Districts** are required to participate in any assessment as described in Article V (H) above. All amounts collected as part of an assessment are eligible for refund on a pro rata basis regardless of the option selected above.

ARTICLE VI

EXCESS COVERAGE

A. **GENERAL DESCRIPTION**

1. **COVERAGE PROVIDED**

- (a) The **Board of Directors** will use its best efforts to provide excess liability coverage for each **program year** for the **Member Districts**. It is the intent and purpose of the **Agency** to continue to provide such coverage to the **Member Districts**, to the extent such coverage can be obtained and the coverage is not unreasonably priced. This coverage may be obtained from an **insurance** company or by participating in another pool established under the Government Code as a joint powers authority. If the coverage is purchased from an **insurance** company, such **insurance** company will, to the extent feasible, have an A.M. Best Rating Classification of A- or better and an A.M. Best Financial Rating of VII or better, or their equivalents.
- (b) This **insurance** will indemnify the insured **Member District** for liability, in excess of the **SIR**, arising from **bodily injury, personal injury, or property damage**. Whenever possible, public officials errors and omissions and employment practices liability shall also be covered.

2. **LIMITS AND DEDUCTIBLES**

- (a) The **Agency**, through the PLP, shall provide, where economically practical, at least \$10,000,000 each **occurrence**. In addition to this overall limitation, the PLP may limit the maximum amount the PLP will pay for any one coverage or any one **occurrence** regardless of coverages involved.

3. **SELF-INSURED RETENTION (SIR)**

- (a) The **SIR** is the amount of liabilities from, and expenses associated with, any one **occurrence** that must be paid before coverage provided by the **excess insurance** is applicable.
- (b) The amounts within the **SIR** are paid, where applicable, by the Primary Pool, the Mid-Layer Pool, and the Aggregate Pool.

4. **POLICY TERM, RENEWAL, AND CANCELLATION**

The period of the excess coverage should concur with the **program years**. It should commence at 12:01 a.m. of the time zone of the insured. The coverage must provide

a sixty (60) day notice of intent not to renew. The same amount of time for cancellation should be obtained. However, thirty (30) days notice or, in the case of nonpayment of premiums, ten (10) days notice, shall be acceptable.

5. PREMIUMS

Premiums for excess coverage shall be paid by the PLP from the proceeds received as **deposit premiums** from the **Member Districts**.

B. AUTHORITY TO CONTRACT FOR EXCESS COVERAGE

The **Board of Directors** may, from time to time, alter the type or amount of coverage provided by this excess coverage based on **insurance** market conditions, available alternatives, costs, and other factors. The **Board of Directors** shall place this excess coverage with the two competing objectives of financial security for the **Member Districts** and minimizing costs to the PLP.

C. DISTRIBUTION

1. It is important for each **Member District** to understand the coverage provided under this excess coverage, as some aspects of the coverage provided by the excess carrier may vary from that of the **Agency's** coverage. For more detail involving exclusions to coverage, application of limits, etc., please read your copy of the policy, including endorsements.
2. A copy of the contract for excess coverage shall be provided to each **Member District** for inclusion in their Administrative Manual binder.
3. All endorsements or other changes to the excess coverage shall be distributed to the **Member Districts** as soon as practical after receipt by the **Agency**.

ARTICLE VII

ADMINISTRATION

A. RESPONSIBILITY AND AUTHORITY

1. RELATION TO AGENCY STRUCTURE

- (a) The Joint Exercise of Powers **Agreement**, Bylaws, and Memoranda of Coverage have precedence over this document, and anything in this document contrary to the **Agreement**, Bylaws, or Memoranda of Coverage is void and without effect.
- (b) The **Agency's** Administrator shall administer the PLP and report to the **Board of Directors**.

2. MEMBERSHIP

- (a) The **Agency's** membership retains unto itself the authority to:
 - i. Terminate the PLP;
 - ii. Approve alternative financing arrangements for the PLP whereby the **Agency** guarantees repayment of the financing; and
 - iii. Terminate any **Member District** from the PLP, pursuant to Article VIII, Section C.2.
- (b) The above mentioned authorities may be exercised by a two-thirds (2/3rds) vote of the **Member Districts'** individual representatives present and voting at an **Agency** regular or special membership meeting.

3. BOARD OF DIRECTORS

- (a) The **Agency's Board of Directors** shall have the responsibility and authority to carry out and perform all other functions and make all decisions affecting the PLP, provided that such functions and decisions are consistent with the powers of the **Agency**, not in conflict with the Joint Exercise of Powers **Agreement** or the Bylaws, and not reserved for the **Member Districts**.
- (b) The **Board of Directors** shall review, study, and take any action that the Board believes to be in the best interests of the PLP and the **Member Districts**, provided that such action is not prohibited by law or is not an action reserved unto the membership.

- (c) The **Board of Directors** may require proposals for outside service contracts or may delegate this responsibility to the Executive Committee or the Administrator. Proposals for services may include, but not be limited to, **claims** adjusting services, actuarial services, and financial and **claims** auditing services.
- (d) The **Board of Directors** may review applications from prospective **Member Districts** to participate in the PLP and determine their acceptability to the PLP.
- (e) The **Board of Directors** shall adopt a Liability Claims Procedures Manual that provides direction and forms to the **Member Districts** for reporting of **claims**.
- (f) The **Board of Directors** may amend or adopt the Memoranda of Coverage.
- (g) The **Board of Directors** may amend or adopt this **Master Plan Document**.

4. EXECUTIVE COMMITTEE

- (a) The **Agency's** Executive Committee shall have the responsibility and authority to carry out and perform all the functions, and make all decisions affecting the PLP, delegated to it by the **Board of Directors** provided that such functions and decisions are consistent with the powers of the **Agency** and are not in conflict with the Joint Exercise of Powers **Agreement** or the Bylaws.
- (b) The Executive Committee shall meet at least four times a year to review the developments and performance of this PLP. The Executive Committee shall review, study, advise, and make recommendations to the **Board of Directors** on subjects that the Committee believes to be in the best interests of the PLP.
- (c) The Executive Committee may review applications from prospective **Member Districts** to participate in the PLP and make recommendations to the **Board of Directors** as respects their acceptability to the PLP.

5. ADMINISTRATOR

- (a) The overall operation of the PLP shall be administered by the **Agency's** Administrator who shall report to the **Agency's Board of Directors**.
- (b) The Administrator shall provide the technical oversight of the PLP and maintenance of the PLP's documents.

- (c) The Administrator shall maintain **claim** and cost accountability for each **program year** separate and apart from every other **program year** in accordance with the generally accepted accounting principles, including principles promulgated by the Governmental Accounting Standards Board.
- (d) The Administrator shall cause an actuarial study to be performed at least once per year and annually present **deposit premiums** and retrospective adjustments based on these actuarial studies for adoption by the **Board of Directors**.
- (e) The Administrator shall assist the **Member Districts** in obtaining services to inspect and evaluate the premises and operations of the **Member Districts** as respects hazards which may cause a **claim** under this PLP and in developing and implementing **loss** control programs to reduce the chance of **claims** occurring under this PLP;
- (f) The Administrator shall ensure that sufficiently competent, qualified **claims** examiners and assistants are available at all times during normal working hours to receive, process, and adjust the **claims** submitted by the **Member Districts**. Such **claims** examiners and assistants may be employees of the **Agency** or personnel engaged by contract with the **Agency**.
- (g) The Administrator shall provide oversight for the handling of **claims** by the Litigation Manager and, at least every other year, have the proficiency of the handling of **claims** reviewed by an independent **claims** auditor.
- (h) The Administrator shall have the authority to engage outside legal counsel for the purpose of providing an opinion regarding the scope of coverage provided under this program.

6. LITIGATION MANAGER

- (a) The Litigation Manager shall supervise the daily operations of handling **claims** for the PLP and report to the Administrator on such operations. The Litigation Manager shall be directly responsible for the oversight of the person or persons engaged in handling **claims** on behalf of the **Member Districts**.
- (b) The Litigation Manager shall review all open **claims** and prepare quarterly **claims** reports to be distributed to the **Member Districts** within forty-five (45) days after the end of the quarter.

B. **CLAIMS ADMINISTRATION**

1. **CLAIMS PROCEDURES MANUAL**

- (a) A Liability **Claims** Procedures Manual, including reporting procedures, forms, and other vital information, shall be adopted by the **Board of Directors** and provided to all **Member Districts**.
- (b) The **Board of Directors** may adopt amendments to the Liability **Claims** Procedures Manual.
- (c) All **Member Districts** shall be held accountable for understanding and abiding by the procedures stated in this Manual, as well as any changes thereto.

2. **CLAIM SETTLEMENT AUTHORITY**

- (a) Individual **Member Districts** - Each participating **Member District** that has a **retained limit** of \$10,000 or more shall have settlement authority for all **claims**, including attorney fees and other costs, which do not exceed 75% of the **Member District's retained limit**. The Litigation Manager will review these **claims** from time to time and may offer his recommendation to the adjuster and the **Member District** regarding settlement.
- (b) Litigation Manager - The Litigation Manager shall have settlement authority for all **claims** for those **Member Districts** which have a **retained limit** of less than \$10,000 and for the **claims** of all other **Member Districts** that exceed 50% of the individual **Member District's retained limit**. The Litigation Manager will ensure that the **Member District** is kept informed regarding these **claims** and will take into consideration the **Member District's** desires in any settlement process; however, the Litigation Manager shall keep the best interests of the other pooling **Member Districts** paramount in any decision. Any **claims** settlement decision made by the Litigation Manager may be appealed to the Executive Committee. Decisions of the Executive Committee may be appealed within thirty (30) days after notice of the decision to the **Member District**. The appeal shall be made to the **Board of Directors** whose decision will be final.

ARTICLE VIII

PARTICIPATION

A. **ELIGIBILITY AND APPLICATION**

1. **ELIGIBILITY**

- (a) To participate in the PLP, the applicant **Member District** must be a member of the **Agency**. All **Member Districts** that are members of the **Agency** must participate in the PLP.
- (b) A new **Member District** must commit to at least five full **program years** of participation in this PLP, concurrent with the five-year commitment of membership in the **Agency**.
- (c) The applicant **Member District** must apply for participation by providing a completed and signed resolution form which should be accompanied by five years of General Liability, Automobile Liability, and Public Officials Errors and Omissions **loss** experience; a completed Risk Analysis Questionnaire; and the last four quarters of DE9 or Federal 941 **payroll** reports. The resolution form shall contractually bind the applicant **Member District** to five years of participation, if accepted, and consent to be governed by this **MPD** for matters of liability **claims** covered under this PLP, whether below or above the applicant **Member District's retained limit**. The resolution shall also state the **retained limit** desired by the applicant **Member District**.
- (d) The applicant **Member District** shall provide the resolution form and, if possible, the **claims** experience information, the Risk Analysis Questionnaire, and the DE9 or Federal 941 **payroll** reports at least thirty (30) days prior to the inception of coverage by the PLP.
- (e) It is recommended that a **Member District** only enter the PLP at the commencement of a new **program year**. If a **Member District** chooses to enter the PLP at any other time, the **deposit premium** for the remainder of the **program year** will be pro-rated. The new **Member District** will begin coverage on the date that is mutually acceptable to the **Member District** and the **Board of Directors**; however, the new **Member District** will be required to share **losses** with the other members of the PLP for the entire **program year**. The application for participation should be submitted at least sixty (60) days prior to the date the applicant **Member District** wishes coverage to begin to ensure that the **Board of Directors** may have adequate time to review and evaluate the acceptability of the applicant.

2. APPROVAL OF APPLICATION

- (a) The **Board of Directors** shall, from a review of the resolution form and other underwriting criteria, determine the acceptability of the exposures presented by the applicant **Member District**.
- (b) The **Board of Directors** shall advise, in writing, the applicant **Member District** of its decision to accept or reject the request within ten (10) days after the decision has been made.

3. PARTICIPATION BY THE AGENCY

At the discretion of the **Board of Directors**, the **Agency** itself, the Administrator, and employees of the Administrator while acting on behalf of, or for the benefit of, the **Agency** may participate in this PLP for Public Officials Errors and Omissions Coverage only.

B. PARTICIPANTS' DUTIES

1. PROVIDE UNDERWRITING CRITERIA

- (a) The **Member Districts** shall provide copies of the DE9 or Federal 941 **payroll** report quarterly within thirty (30) days after the end of the quarter. This is the date required by the State for submission.
- (b) The **Member Districts** shall at all times cooperate with the **Agency's** Administrator, Litigation Manager, and other **Agency** staff in the performance of **claims** management, **loss** control, and underwriting activities of the **Agency**.

2. INCORPORATION OF THE LIABILITY **CLAIMS** PROCEDURES MANUAL

The **Agency's** Liability **Claims** Procedures Manual is incorporated into and is part of this document. Each **Member District** shall adopt such procedures as defined in that Manual as it stands now or may be amended in the future.

3. PAYMENT OF PREMIUMS AND OTHER CHARGES

- (a) Each year, as part of the annual billing described in the Bylaws, the **Agency** shall bill the **Member Districts** for a PLP **deposit premium** for the next **program year**. This **deposit premium** shall be due and payable in accordance with due and payable dates for the annual billing.

- (b) A **Member District** may be billed an additional amount as a result of the Retrospective Adjustment of one or more **program years**. This billing is due and payable upon receipt and delinquent if not paid within thirty (30) days of receipt.
- (c) Assessment billings may be made to **Member Districts** participating in a **program year** found to be actuarially unsound. All assessment billings are due and payable upon receipt and delinquent if not paid within thirty (30) days of receipt.
- (d) **Member Districts** that have formerly participated in the PLP, but have withdrawn as a participant, shall be required to pay all applicable billings for the **program years** in which they participated. Delinquent billings shall be treated in the same manner as set forth above as if the **Member District** was still a participant.
- (e) Penalties and interest shall be charged against any amounts delinquent at the rates established in the Bylaws.
- (f) Failure to pay billings, penalties, or accrued interest shall be considered grounds for removal of the **Member District** from the PLP and may result in the expulsion of the **Member District** from the **Agency** in accordance with the Joint Exercise of Powers **Agreement**. The defaulting **Member District** shall be liable for the billings, penalties, accrued interest, and all costs incurred by the **Agency** in the enforcement of all the provisions set forth in this document.
- (g) Failure to pay billings, penalties, or accrued interest thereon shall constitute a breach of the agreement between the **Member District** that has formerly participated in the PLP and the **Agency**. The **Member District** that formerly participated in the PLP shall be liable for the billings, penalties, accrued interest, and all costs incurred by the **Agency** in the enforcement of all the provisions set forth in this document.

C. TERMINATION OF PARTICIPATION

1. VOLUNTARY TERMINATION

- (a) A **Member District** which has completed its mandatory five-year commitment to the PLP may terminate participation in the next **program year** by providing to the Agency, at least six months before the next

program year, a written request to terminate participation. Such termination from the PLP shall terminate the **Member District's** membership in the **Agency** pursuant to the **Agreement** and Bylaws.

- (b) A participating **Member District** that has not completed its mandatory five-year commitment to the PLP shall not be permitted, at its request, to withdraw from the PLP prior to the end of its commitment period.

2. INVOLUNTARY TERMINATION

- (a) The membership, in accordance with Article VII, Section B, may terminate future participation by a **Member District** for the following reasons:
 - i. Termination as a **Member District** of the **Agency**;
 - ii. Declination to cover the **Member District** by the facility providing excess coverage;
 - iii. Nonpayment of past premiums, assessments, retrospective adjustments, or other charges;
 - iv. Habitual late payment of premiums, assessments, retrospective adjustments, and/or other charges;
 - v. Failure to provide requested underwriting information;
 - vi. Development of an extraordinarily poor **loss** history;
 - vii. Substantial change in exposures which are not acceptable in this PLP; and/or
 - viii. Financial impairment that is likely to jeopardize this PLP's ability to collect amounts due in the future.
- (b) The President shall send a notice of termination to the **Member District** at least thirty (30) days prior to termination.

- 3. Termination of participation, whether voluntary or involuntary, does not relieve the terminated **Member District** of any benefits or obligations of those **program years** in which the terminated **Member District** participated. These obligations include payment of assessments, retrospective adjustments, or any other amounts due and payable. When termination of participation, whether voluntary or involuntary occurs, all positive account balances for that District, as determined through the retrospective adjustment process described in Article III, Section D, will be withheld from

redistribution and applied to future years with negative balances until such time as the District's account balances for all **Program Years** in which the Member District participated are positive. Once the positive balance exceeds \$25, the balance will be returned to the District. If all **Program Years** in which a District participated are positive, the District may request the return of a lesser cumulative positive balance. If there is a cumulative negative balance greater than \$25 in the District's account, the District shall be billed for that deficiency.

Upon the closure of all program years in which the District participated, any cumulative positive balance will be returned to the District and any cumulative negative balances will be billed to the District.

ARTICLE IX

DEFINITIONS

In addition to the definitions in the **Agency's** Bylaws and the Memoranda of Coverage, the following definitions apply to this **Master Plan Document** for this PLP:

- 1 Actuarially sound shall mean that the **program year** has sufficient funds to pay the expected cost of **claims**, as determined by a certified actuary, and the **administrative expenses** for the **program year**.
- 2 Administrative expenses means those expenses incurred by the PLP which are not incurred due to any specific **claim** and does not constitute a reserve for future expected changes in the size of existing **claims** or discovery of previously unknown **claims**.
- 3 Claim means, if not otherwise defined within the context, to be all demands for payments by all claimants for **damages** covered by the PLP and arising out of one **occurrence**.
- 4 Payroll means the amount of payroll as reported on the DE9 or Federal 941 series of forms.
- 5 Program year means the period of coverage provided by the Memoranda of Coverage, usually a 12-month period.