

**DEPARTMENT:** Administration

**BY:** Rick Benson

**PHONE:** 966-3222

**RECOMMENDED ACTION AND JUSTIFICATION:**

Terminate the Joint Powers Agreement (JPA) with the Mariposa Public Utilities District (MPUD) effective January 1, 2011, that requires the County provide workers' compensation insurance for MPUD volunteer firefighters in return for MPUD providing emergency response services within a reasonable distance of MPUD boundaries to the County. With the upgrade in the County's Fire Apparatus and the aggressive County Volunteer Firefighter recruitment, staff believes that the potential liability now outweighs the benefits received from the JPA. To date there has been one significant workers' compensation claim that involved an MPUD Volunteer, which occurred while on a wildland training exercise (+ \$20,000).

Currently, County Fire Rescue 22 is housed in an MPUD Station and is staffed with MPUD volunteers for emergency use both in and outside MPUD boundaries. County Fire is amenable to leaving Rescue 22 available for MPUD use if desired. Additionally, the County pays for the dispatching services for County Fire, Mercy Ambulance, and MPUD. MPUD provides certain Self Contained Breathing Apparatus (SCBA) testing/maintenance for both County Fire and CalFIRE and if necessary, future agreements can address this issue.

There are existing mutual aid agreements/automatic aid agreements between Mariposa County, MPUD, and CalFIRE that provides that each organization will assist the other during emergencies, so the residents in the County will still receive the same level of response as currently exists unless these agreements are modified.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Do not terminate the JPA. The County will continue to provide workers' compensation coverage for MPUD volunteer firefighters in return for MPUD responding to County emergency calls within a reasonable distance of MPUD boundaries.

10-386

Financial Impact? ( ) Yes ( ) No Current FY Cost: \$  
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded

An. J Recurring Cost: \$

Amount in Budget: \$ \_\_\_\_\_

List Attachments, number pages consecutively

Additional Funding Needed: \$ \_\_\_\_\_

JPA

Source:

Letter from MPUP

Internal Transfer \_\_\_\_\_

Unanticipated Revenue \_\_\_\_\_ 4/5's vote

Transfer Between Funds \_\_\_\_\_ 4/5's vote

Contingency \_\_\_\_\_ 4/5's vote

( ) General ( ) Other

**CLERK'S USE ONLY:**

Res. No.: 10-386 Ord. No. \_\_\_\_\_

Vote - Ayes: 5 Noes: \_\_\_\_\_

Absent: \_\_\_\_\_

*WGA* 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

**COUNTY ADMINISTRATIVE OFFICER:**

Requested Action Recommended

\_\_\_\_\_ No Opinion

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CAO: *[Signature]*



# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR  
JIM ALLEN, VICE-CHAIR  
BRAD ABORN  
LYLE TURPIN  
JANET BIBBY

DISTRICT IV  
DISTRICT V  
DISTRICT I  
DISTRICT II  
DISTRICT III



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

TO: RICHARD J. BENSON, CAO  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: Terminate the Joint Powers Agreement (JPA) with the Mariposa Public Utilities District (MPUD) Effective January 1, 2011, that Requires the County Provide Workers' Compensation Insurance for MPUD Volunteer Firefighters in Return for MPUD Providing Emergency Response Services within a Reasonable Distance of MPUD Boundaries to the County

RES. 10-386

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on August 3, 2010

#### ACTION AND VOTE:

6 **10:09 a.m. Administration**  
Terminate the Joint Powers Agreement (JPA) with the Mariposa Public Utilities District (MPUD) Effective January 1, 2011, that Requires the County Provide Workers' Compensation Insurance for MPUD Volunteer Firefighters in Return for MPUD Providing Emergency Response Services within a Reasonable Distance of MPUD Boundaries to the County

**BOARD ACTION:** Rick Benson, County Administrative Officer, presented a staff report and advised that this is an open ended agreement that began in 1980, and lacks some of the fundamental cornerstones of a good agreement. He advised that the County has canceled activities and required insurance from other entities with far less exposure to risk than what we are voluntarily taking on. He explained that the County is at a high risk because of the high potential for claims and strongly recommended that the Board terminate this agreement effective January 1, 2011. Rick advised that we are currently providing what is essentially a blank check and commented that since this agreement was signed, workers' compensation insurance has changed drastically. He explained several points that went into his analysis to make this recommendation. He concluded that as their County Administrative Officer he has a responsibility to advise the Board and recommend what is best for the County and therefore strongly recommended that this agreement be terminated.

Rick Benson responded to questions from the Board relative to the workers' compensation claim, the County's cost of workers' compensation claims filed by the MPUD volunteer fire fighters, and advised that any time an MPUD volunteer fire fighter goes out on a call anywhere, that it is on Mariposa County workers' compensation. Supervisor Bibby inquired as to what a separate policy would cost and

the figures were not available. Discussion was held relative to the safety standards of the agreement and Supervisor Bibby requested to hear feedback from those participating in today's conversation, relative to control of the dispatch of volunteer fire fighters due to exposure to the County. Discussion was held relative to the responsibility when a strike team goes out, safety, and liability for the activities. Supervisor Allen spoke in favor of public safety and stated he does not agree with this item. He brought up a discussion relative to Squad 22, and a past discussion with Fire Chief Jim Wilson regarding this type of agreement in other counties. Further discussion was held.

Mark Rowney, General Manager, MPUD, responding to Rick's comments, provided an overview of the history of this agreement. He agreed that they do receive a tax increment, but it was not for fire protection or any specific service. He then explained that it is a generally funded program that is provided county-wide and the people in the district pay that same rate of taxes. A good way for them to benefit from the County program, is for the County to cover this insurance, as well as dispatch. The agreement clearly states that the operation of Squad 22 is strictly under the direction and control of the County Fire Warden, County Fire Chief now, as we did not have a Fire Chief in 1980. He explained it has always been his assumption that if you were an MPUD volunteer fire fighter you were also a County volunteer fire fighter. He feels that because it is a generally funded program that the County provides, it is appropriate for the County to provide the coverage for the insurance as well as the dispatch. He responded to Supervisor Bibby's question about the cost of MPUD obtaining Workers Compensation insurance stating a quick quote was \$1,500 - \$2,000. Further discussion was held relative to insurance coverage for MPUD fire fighters' while out of County, the MPUD fee break down and the budget, the Joint Powers Agreement being a legal agreement and the number of volunteer fire fighters.

Input from the public was provided by the following:

Bill Bondshu, MPUD Board of Directors, stated that he was the Fire Chief of MPUD when the agreement was put together. He briefly explained details of the agreement, the benefits to Mariposa County and the work efforts with Fire Chief Jim Wilson between MPUD and County fire strike teams, etc. Further discussion was held relative to additional clean up of the original 1980 agreement and the non-existence of strike-teams at the time the agreement was prepared.

Brian Muller, County Sheriff, also a member of the MPUD Board of Directors, feels this is an issue of public safety for the entire County and stated MPUD fire fighting services are saving the County money by providing public safety service, therefore the County should be willing to step up and provide workers compensation coverage.

Ruth Catalan asked about the cost of workers compensation insurance for the year and asked for clarification on Supervisor Turpin's comment about a catastrophic incident coming out of the General Fund, asking shouldn't this be covered under the Workers Compensation insurance.

Jim Dulcich, Chief of MPUD, provided history of the rescue unit at MPUD, their services and the agreements and how it all came about. He feels the agreement should be brought up to date. He advised that Rescue 22 is here today for display. Supervisor Allen commented that he asked that Rescue 22 be brought here so that the Board members and the public could see what the unit contains. Jim responded to Supervisor Bibby that every MPUD fire fighter is listed on the County roster. Further discussion was held.

Dennis Buck, MPUD Captain, serves on Mariposa County Fire, commented that the injury that occurred three years ago was him and explained what happened, and advised that through the training at MPUD they can limit their liabilities and the County's in regards to workers' compensation. He responded to Supervisor Turpin's question advising that they do participate on the strike teams. He stated that he doesn't want to see a strain in the relationship between MPUD and Mariposa County and requested that the Board re-evaluate, and not terminate the agreement.

Garry Parker expressed concern about the cost of the insurance to MPUD and the possibility of the cost being passed on to the public.

Supervisor Allen advised that MPUD has saved a lot of lives with the Jaws of Life and we appreciate all the work you do for us. He recommended not terminating the agreement and bringing the agreement up to date.

Supervisor Bibby suggested delaying this item and deal with the issues and revisit the agreement.

Supervisor Turpin thanked Rick Benson for bringing this to the attention of the Board and suggested a working group to address all of these issues. He encourages the agreement be reviewed and brought back to the Board. County Counsel advised that there is no termination date just a 30 day notice of intent to terminate. Discussion was held relative to reviewing all of the agreements between Mariposa County and MPUD and including reimbursement for mutual aid for strike teams. (M)Aborn, (S)Allen, Resolution 10-386 was adopted directing Mariposa County to continue to provide Workers Compensation to MPUD volunteer fire fighters, include language regarding reimbursement for mutual aid for strike teams and review all other agreements/Ayes: Unanimous.

Cc: Chris Ebie, Auditor  
Sandi Laird, Personnel  
Jim Wilson, Fire Chief  
Mark Rowney, MPUD  
File

DIRECTORS:  
WILLIAM H. BONDSHU  
DANA L. FINNEY  
ROBERT W. MCKNIGHT  
BRIAN MULLER  
DAVID RADANOVICH

# MARIPOSA PUBLIC UTILITY DISTRICT

P.O. Box 494

Mariposa, CA 95338

(209) 966-2515 FAX (209) 966-6615

mpud@sti.net

water

wastewater

fire protection

MARK L. ROWNEY, SEC.-MGR.

June 14, 2010

Mr. Kevin Cann, Chairman  
Mariposa County Board of Supervisors  
Box 784  
Mariposa, CA 95338

REF: WORKER'S COMPENSATION INSURANCE COVERAGE FOR  
MPUD FIRE DEPARTMENT

Dear Kevin:

Recently the Mariposa County CAO notified the Mariposa Public Utility District (MPUD) of his intention to propose that Mariposa County terminate worker's compensation coverage for MPUD paid call and volunteer fire department staff. The agreement between Mariposa County and MPUD addressing worker's compensation was adopted in November 1980. MPUD General Manager provided to the County CAO a partial list of the benefits Mariposa County receives from the MPUD Fire Department as well as other justifications for the County to continue coverage. The CAO was not convinced that providing worker's compensation to the MPUD Fire Department is in the best interest of Mariposa County.

In reviewing the worker's compensation agreement and the scope of the MPUD Fire Department services within the County, the MPUD Board of Directors wishes the Board of Supervisors review the following justifications for the current agreement:

- It is common opinion that if MPUD does not provide fire protection within the town, Mariposa County would be maintaining a fire station and a volunteer personnel to cover the town area in addition to the existing fire companies through-out the County.
- Some justification is found in the language of the agreement including, "The County derives a benefit from the emergency response services provided by the District through the Fire Department. The District agrees to provide, upon request, emergency response services to the County within a reasonable distance of District's boundaries by the MPUD Fire Department when necessary to assist other fire departments of County".
- Mariposa County Fire Department is supported by the general fund of the County. Property owners within MPUD pay the same rate of property taxes as property owners county wide. However, owners of developed property in the District pay monthly fire protection fees to fund the operation of the MPUD Fire Department. Property owners in the District derive less of a benefit from Mariposa County Fire Department than property owners outside of the District.

- MPUD provides Automatic Aid (first call response) to areas outside of the District including areas within ½ mile from highway corridors to Midpines, Bear Valley, Varain Road, and Mt Bullion Cutoff Road.
- The Mariposa County Fire Department Rescue 22 is operated out of the MPUD fire station on Highway 49 North.
- MPUD fire fighters are also Mariposa County volunteer fire fighters when responding to emergencies, performing maintenance or training on Rescue 22.
- With the current integration of the County Fire and MPUD Fire Departments, including the operation of Rescue 22 and many other activities under County Fire jurisdiction and /or direction, Mariposa County would still be responsible for providing workers compensation coverage to "MPUD fire fighters". Separating workers compensation liability between the two entities may be problematic when an actual injury occurs.
- MPUD operates a SCBA filling station to the benefit of Mariposa County, Cal-Fire and other departments.

At your convenience, the MPUD Board of Directors and staff are willing to meet with one or more Supervisors to discuss the CAO proposal. Thank you.

Sincerely,

*Robert McKnight*  
Robert McKnight, Chairman  
Board of Directors

MLR:gp

cc Jim Wilson  
Rick Benson

1 JOINT POWERS AGREEMENT

2  
3 THIS AGREEMENT is entered into this 12th day of  
4 November, 1980, by and between the County of Mariposa, here-  
5 after referred to as "COUNTY," and the Mariposa Public Utility  
6 District, hereinafter referred to as "DISTRICT," and shall become  
7 effective on November 12, 1980.

8 WHEREAS DISTRICT desires to provide for Worker's Com-  
9 pensation insurance coverage for members of the Mariposa Public  
10 Utility District Fire Department, hereinafter referred to as "FIRE  
11 DEPARTMENT," on a self-insured program; and

12 WHEREAS COUNTY, which has an existing self-insurance  
13 program, has determined through its Board of Supervisors that the  
14 COUNTY derives a benefit from the emergency response services  
15 provided by DISTRICT through the FIRE DEPARTMENT;

16 NOW THEREFORE it is agreed by and between the parties  
17 as follows:

18 1. The purpose of this Agreement is to provide Worker's  
19 Compensation insurance coverage and benefits to the members  
20 of the Mariposa Public Utility District Fire Department.

21 2. The parties mutually agree that COUNTY shall ad-  
22 minister the Worker's Compensation insurance and benefits  
23 program provided herein under authority of Government Code  
24 Section 6506 and other provisions of law.

25 3. COUNTY agrees to provide Worker's Compensation  
26 benefits to the members of the FIRE DEPARTMENT under its  
27 self-insurance program up to One Hundred Thousand Dollars  
28 (\$100,000.00) and to provide excess coverage by means of

copy/  
Co. Counsel  
MPUD



1 insurance above that amount to the same limits as provided  
2 by COUNTY to its own employees.

3 4. The parties mutually agree that any changes in the  
4 methods of providing benefits and coverage as set forth above  
5 herein may be effected by COUNTY, without notice or consent  
6 of DISTRICT, in the administration of this Agreement as part  
7 of changes in the program of benefits and coverage provided  
8 by COUNTY to its own employees, so long as such changes pro-  
9 vide the same benefits and coverage to members of FIRE DEPART-  
10 MENT as provided for COUNTY employees; COUNTY agrees to pro-  
11 vide thirty days written notice to DISTRICT of any changes  
12 affecting only DISTRICT and members of FIRE DEPARTMENT.

13 5. DISTRICT agrees to provide to COUNTY a current list  
14 of each and every member of FIRE DEPARTMENT to be covered  
15 under this Agreement and it is mutually agreed that benefits  
16 may be withheld and coverage denied at the option of COUNTY  
17 for any person or persons whose names do not appear on a  
18 current list provided to COUNTY by DISTRICT at the time of  
19 injury or illness.

20 6. DISTRICT agrees to cooperate fully with all safety  
21 programs, rules and directives promulgated by COUNTY respect-  
22 ing work safety and health.

23 7. The parties mutually agree that this Agreement and  
24 the benefits and coverage provided hereunder may be amended  
25 by COUNTY upon the consent of DISTRICT, and may be terminated  
26 by either party upon thirty days notice to the other party.

27 8. In consideration for the benefits and coverage pro-  
28 vided herein by COUNTY, DISTRICT agrees to provide, on request,

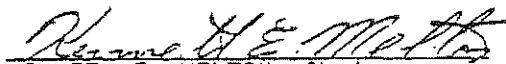
1           emergenc response services to COUNTY within a reasonable  
2           distance of DISTRICT'S boundaries by FIRE DEPARTMENT when  
3           necessary to assist other Fire Departments of COUNTY.

4           9. There shall be no separate agency or entity created  
5           and no separate officers or agents established by this Joint  
6           Powers Agreement.

7           10. DISTRICT agrees to indemnify and hold harmless  
8           COUNTY for any liability for the conduct, omissions or con-  
9           ditions created by DISTRICT or FIRE DEPARTMENT or the  
10          employees or volunteers thereof; the employees and volunteers  
11          of DISTRICT and FIRE DEPARTMENT are not made employees or  
12          agents of COUNTY for any purpose hereunder, nor shall this  
13          Agreement convey any right to COUNTY to control or direct  
14          the conduct of any employee or volunteer of DISTRICT or FIRE  
15          DEPARTMENT.

16          11. This Agreement and any amendments formally adopted  
17          hereto in writing shall constitute the full and complete Agree-  
18          ment of the parties and no other agreements or public enact-  
19          ments of either party shall become a part hereof unless  
20          formally executed by each party and incorporated herein.

21                 Executed this 4 day of November, 1980, at  
22          Mariposa, California for the Mariposa Public Utilities District  
23          by the following authorized agent:

24                   
25                 KENNETH E. MELTON, Chairman  
26                 Mariposa Public Utility District  
27                 Board of Directors

28                   
29                 MARK ROWNEY, Manager  
30                 Mariposa Public Utilities District


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Executed this 12th day of November, 1980, at

Mariposa, California for the County of Mariposa by the following

authorized agent:

  
ERIC J. ERICKSON, Chairman  
Board of Supervisors

ATTEST:

  
ELLEN BRONSON, County Clerk and  
Ex Officio Clerk of the Board

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
RICHARD K. DENHALTER  
County Counsel