

# MINUTES

## SPECIAL MEETING OF CALIFORNIA FAIR SERVICES AUTHORITY BOARD OF DIRECTORS

August 22, 2007

1776 Tribute Road, Suite 200, Sacramento, CA 95815

Lonny Wunder, Board Member  
Yolo County Fair (40<sup>th</sup> DAA)  
Kelley Ferreira, Board Member  
San Benito County Fair (33<sup>rd</sup> DAA)  
Ed Scofield, Board Member  
Nevada County Fair (17<sup>th</sup> DAA)  
John Root, Board Member  
Public Member  
Bruce Lim, Board Member  
Division of Fairs & Expositions  
Donna Horner, Secretary/Treasurer  
California Fair Services Authority  
Rick Wood, Controller  
California Fair Services Authority

Donna Bardaro, Executive Director  
California Fair Services Authority  
Charlie Mitchell,  
California Fair Services Authority  
Tom Allen,  
California Fair Services Authority  
Sue Leavitt,  
California Fair Services Authority  
Melissa Thurber,  
California Fair Services Authority  
Tom Amberson,  
California Fair Services Authority  
Rosalyn Johnson,  
California Fair Services Authority  
Trish Strawn,  
Alternate Public Member  
John McClure  
Madison Investment Advisors, Inc.

### I. CALL TO ORDER

A special meeting of the California Fair Services Authority (“CFSA”) Board of Directors was convened, pursuant to the meeting notice at 2 p.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Wednesday, August 22, 2007. Vice Chair Wunder presided in the absence of Chairman Pickering.

### II. APPROVAL OF MINUTES

Moved by Director Scofield and seconded by Director Wunder to adopt **Resolution Number 07–16** approving the minutes of the special meeting of May 10, 2007, as presented to the Board of Directors. Motion passed unanimously.

### **III. AMENDMENT TO CALPERS CONTRACT**

At the May Board meeting, a resolution of intention was adopted by the Board to approve an amendment to CFSA's contract with the California Public Employees' Retirement System ("CalPERS") proposing one-year final compensation (Section 20042) for local miscellaneous members with an effective date of September 2, 2007. CalPERS requires a resolution be adopted by affirmative vote of a majority of the members of the governing body now that the Resolution of Intention has been adopted.

Moved by Director Root and seconded by Director Lim to adopt **Resolution Number 07-17** authorizing an amendment to the CalPERS contract.

**WHEREAS**, the Board of Administration of the California Public Employees' Retirement System and the Board of Directors of the California Fair Services Authority entered into a contract effective on February 14, 1988, providing for the participation of said public agency in the California Public Employees' Retirement System; and

**WHEREAS**, it is now desirable to take advantage of certain benefits provided under said Retirement System and not included in said contract;

**NOW, THEREFORE BE IT RESOLVED**, that said governing body authorized, and it does hereby authorize, an amendment to said contract, a copy of said amendment attached hereto and by such reference made a part hereof as though herein set out in full; and

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the presiding officer of said governing body is hereby authorized, empowered and directed to execute said amendment for and on behalf of said public agency. Motion passed unanimously.

### **IV. TERMINATION OF CALIFORNIA PUBLIC ENTITY INSURANCE AUTHORITY JPA**

CFSA became a participating member in the California Public Entity Insurance Authority ("CPEIA") in July, 2003 in order to participate in their Excess Workers' Compensation Program. As a participating member, CFSA's Executive Director signed the CPEIA agreement creating the CSAC Excess Insurance Authority ("CSAC EIA") JPA so that non-county public entity members, such as CFSA, could participate in their self-insured risk programs. The CSAC EIA Board of Directors has recently approved an amendment to their JPA agreement which allows public entity members to join directly, eliminating the need for CPEIA. All CPEIA members are now being asked to take action to terminate the CPEIA JPA. Staff recommends that the Board adopt the proposed resolution terminating the Agreement.

Moved by Director Scofield and seconded by Director Ferreira to adopt **Resolution Number 07–18** terminating the California Public Entity Insurance Authority Joint Powers Agreement.

**WHEREAS**, the CSAC Excess Insurance Authority (“EIA”) and the California Public Entity Insurance Authority (“CPEIA”) have merged into one organization, the EIA, and there is no need for the CPEIA to continue to exist; and

**WHEREAS**, CPEIA members are able to join the EIA as public entity members; and

**WHEREAS**, pursuant to Article 22 of the CPEIA Joint Powers Agreement (“Agreement”) the affirmative vote of the governing bodies of three–fourths of the members are required to terminate the Agreement; and

**WHEREAS**, there are no assets or other property to distribute under Article 22 of the Agreement;

**NOW THEREFORE BE IT RESOLVED BY THE CALIFORNIA FAIR SERVICES AUTHORITY**, that pursuant to the provisions of Article 22 of the Agreement it elects to terminate the CPEIA, said termination shall be come effective upon the affirmative vote of the governing bodies of three–fourths of the members. Motion passed unanimously.

## **V. CFSA’S 2008 BUDGET COMMITTEE**

Donna Bardaro, CFSA’s Executive Director, reviewed with the Board past practices in the selection and appointment of the Budget Committee. She also explained the role of the Budget Committee, consisting of three (3) members and one alternate member, is to work with CFSA staff on internal budget issues and future program direction, including review and comment on a draft budget package prior to presentation to the full Board for approval.

Moved by Director Ferreira and seconded by Director Root to adopt **Resolution Number 07–19** appointing Directors Pickering, Scofield, and Root to serve on CFSA’s 2008 Budget Committee and Director Lim to serve as the alternate member of the Budget Committee. Motion passed unanimously.

## VI. INFORMATIONAL ITEMS

### 1. Report on CFSA's Investments

Rick Wood, Assistant Director Finance, updated the Board of the recent decision to change the custodian of the Agency's non-LAIF investments and the consolidation of the investment advisors into Madison Investment Advisors, Inc. The new custodian, Schwab Institutional, will manage all non-LAIF investments and the Agency will recognize immediate savings in charges for investment fees. Staff also consolidated the Agency's accounts with Madison Investment Advisors, Inc., to save additional management fees resulting in further reductions. Rick then introduced John F. McClure, Managing Director, Madison Investment Advisors, Inc., who briefly discussed why and how bond market returns change with interest rates and how this impacts the Agency's investment return.

### 2. Report on Modification to Fair Inspection Program

Tom Allen, CFSA's Safety Manager, updated the Board on the success of the Safety Program changes implemented this year. The Safety Department has conducted 45 "Pre-Fair Walkthrough & Risk Reviews" and 44 "Fairtime Risk and Safety Consultations." The safety team has spent a record amount of time with the Agency's largest members. Much of this year's effort has been spent in reviewing existing programs, educating and developing effective programs that work for individual fair members. The modifications to the Fair Inspection Program have allowed the safety team to work with 69 of the Agency's member fairs through July of this year and all have enjoyed the extra guidance and support the safety team has provided.

### 3. Staff Reports

**Administrative Services** —Because of all the new and invasive internet "SPAM," staff has been working diligently with our anti-virus software to provide better security on our servers. In addition, staff has also contributed two recent FYI articles on "phishing" and computer system maintenance, helping to educate our members.

**Video Production** Final videotaping on CFSA's third video, "Think Safety. Work Safely," was completed mid-July. Graphic elements are being added and final editing is in progress.

**Annual Report** The 2006 annual report: “Our Story: Past, Present & Future, 20 Years of Serving California’s Fairs” was mailed to all member fairs and fair directors, and to CFSA’s directors at the end of July.

**Finance** — CFSA’s financial statements and quarterly investment portfolio required by Government Code Section 53646 were submitted to the Board and are in compliance with CFSA’s investment policy. The financials exhibit the pools’ ability to meet the expenditure requirements for the next six (6) months. Staff also included a schedule of the monthly investment transactions, in accordance with Government Code Section 53607.

**Unemployment Insurance** On behalf of the Division of Fairs and Expositions (F&E), CFSA administers the Unemployment Insurance Reimbursement Fund for California fairs. F&E funds the Program in the amount of \$950,000 per fiscal year and fairs are reimbursed a percentage of their unemployment insurance costs based on the fair’s classification. For the fiscal year July 1, 2006 to June 30, 2007, fairs in classes I and II are projected to receive 100% reimbursement, classes III and IV will receive a 70% reimbursement, and classes V through VII will receive a 40% reimbursement of their unemployment insurance costs. The reimbursement rates have yet to be determined for 2008–2009.

**PST Program** CFSA acts as the pass through for the Part Time, Seasonal and Temporary Employee (PST) Program administered by the Department of Personnel Administration (DPA). For the calendar year 2007 the PST Program has saved the fairs \$344,489.94. Had the PST Program not been in place, the fairs would have paid Social Security taxes of \$384,517.69 compared to the administration fees of \$40,027.75 paid to DPA and CFSA. Of this administration fee, DPA collected \$22,037.75 and CFSA retained \$17,990 for administration of the program.

**Risk Management** — Staff has completed the renewal of excess coverages that expired on July 1, 2007. Coverages include excess coverage for Workers’ Compensation and Pooled Property Protection Programs. The renewal premium for Workers’ Compensation was \$317,312 which included a premium credit of \$6,048 for CAJPA accreditation and a broker fee of \$20,000. The renewal of the Pooled Property Protection was completed at an annual cost of \$584,725 including the broker fee. The Property Program currently covers property with total values of \$1,167,205,349.

Staff has completed the process of renewing insurance coverages for the Hazardous Special Events Program which includes rodeos and motorized racing events for 2007. Twelve members have covered a total of 38 rodeo and/or horse show events and 19 member fairs were covered for 28 motorized racing events.

**Contract Review** Our Risk Analyst continues to process contracts received from DAAs as well as from other CFSA member fairs. For DAAs, all non-hazardous contracts over \$15,000 and up to \$75,000 for which liability insurance is required and all hazardous contracts up to \$75,000 are sent directly to CFSA for insurance certificate review and approval. For all other member fairs, all fair contracts involving hazardous activities or all contracts over \$15,000 involving non-hazardous activities are submitted to CFSA for an insurance certificate review. As of the end of March, staff had reviewed 1,562 contracts in 2007 as compared with 1,344 contracts in 2006. This is an increase of 218 contracts.

CFSA management and staff are very concerned with the lack of compliance by some member fairs with regard to the insurance certificate review requirement. In an ongoing effort to make sure member fairs submit their contracts for certificate review and approval, staff has made numerous fair visits to train personnel and perform certificate compliance audits. These visits will continue at least through the end of the year.

**Property Protection Program** The Pooled Property Protection Program has had a total of 39 reported claims, six (6) of which remain open. The open claims consist of three (3) losses in 2006 and three (3) losses in 2007. It is estimated that the Pool could incur up to \$470,400 on the open claims. Staff is continuing to work with individual fairs and the California Construction Authority to resolve the open claims.

**Special Events** Revenues for the Special Events Program through the end of June, 2007 totaled \$357,227 which was 48% of the budgeted 2007 revenue of \$740,000. For the first six months in 2007, the revenue was \$359,441 representing less than one percent decrease in revenues. A review of Special Events rates will be completed within the next three months and any rate changes would be effective January 1, 2008.

Claims activity in the Special Events Program included five (5) open claims with total reserves of \$551,657 as of July 31, 2007 as compared with eight (8) open claims and \$477,204 in reserves as of March 31, 2007. There is one (1) claim with reserves in excess of \$250,000. So far in 2007, four (4) new/reopened claims were received, and four (4) claim was closed. There are currently four (4) litigated claims. For comparison, for all of 2006 there were nine (9) new claims received, and eight (8) claims were closed.

**General Liability** Claims activity includes 41 open claims with reserves of \$1,223,799 as of July 31, 2007. There is one (1) claim with over \$500,000 in reserves. Twelve of these open claims are being litigated. For comparison, as of March 31, 2007, CFSA had 44 open claims with reserves of \$2,035,245. The change in reserves is primarily due to reserve increases in one (1) case with the payment of a settlement. So far in 2007, CFSA received 28 new/reopened claims while 37 have been closed. Through the end of July 2007, CFSA received 92 new loss reports, of which 69 were information only reports. Staff is currently tracking 18 claims that have been tendered to other insurance companies.

**Safety** — June through August 2007, has resulted in staff involvement in various projects, including member training and 43 pre-fair and/or fairtime inspections conducted at fair facilities for member fairs. Safety services includes: 1) safety programs review and development planning meetings with fair CEOs and staff; 2) pre-fair walkthroughs and risk reviews; 3) consultations including fairtime safety and risk control consultations; 4) special staff training for boom-lift, forklift and operator certification, and CPR/First Aid training; 5) assistance with fair staff in IIPP development and staff training; and 6) emergency planning training.

**Automated External Defibrillator (“AED”)** In mid-June Rick Pickering e-mailed staff with a discussion on the installation and use of AED devices at California’s fairs. Rick pointed out that many fairs are already looking into installing these devices at their facilities and wondered if CFSA might be able to offer some assistance through group purchases or staff training. The Safety Department has three (3) AED instructors, certified by the American Red Cross. Safety staff has offered the additional AED module as a part of the regular CPR classes for a number of years. One of the biggest drawbacks in past has been the requirement of a physician’s approval of the program.

The Safety staff believe these devices are an invaluable tool in providing life saving care, for any individual who's condition requires defibrillation in a cardiac emergency. These devices are **simple to use with proper training** and can make the difference of a victim's survival from a cardiac arrest, prior to the arrival of advanced medical personnel. There are many airports, shopping malls, schools, Police departments, sports complexes, public buildings, etc. who now have AED's available to staff who are trained as first responders.

**California Civil Code 1714.21(a)** says that anyone who uses an AED must be properly trained and currently certified in **CPR and the use of an AED**. A facility or organization must have a written program, approved by a licenced physician, along with training and inspection records required by the AED manufacturer. The California Civil Code grants civil immunity to a person or organization, provided the above mentioned requirements are met, and a responder acts in good faith, using reasonable care within the scope of their training, and does not try to receive compensation for their services.

**Workers' Compensation** — As of July 31, 2007, total open claims reserves were \$5,194,193 (including pre-94 Cal Expo outstanding reserves of \$631,846.) There were 220 open claims, of which 145 were indemnity claims and 74 medical only (this includes one Information Only claim open for administrative purposes).

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**Member Awareness** Donna Horner reported that in an effort to education member fairs and emphasize the role they play in keeping claims costs to a minimum, we plan to provide them with information through bulletins, articles and memorandums. In addition, staff will be contributing articles to FYI throughout the remainder of this year to reinforce the notion that member fairs can make a difference when it pertains to: 1) safety and loss prevention; 2) initial claims investigation and reporting; 3) medical control/provider selection and management; and, 4) return to work/transitional duty programs.

#### 4. **Executive Director's Report**

Donna Bardaro, reported briefly on current CFSA issues which included:

1. **Workers' Compensation Legislation** — Donna reported that several opposition letters have been sent by the Agency regarding pending legislation that would have a negative impact on the workers'

compensation costs for member fairs. Staff will keep the Board informed as these bills move through the Legislature. Letters of opposition were sent on the following legislation:

AB 338 (Coto) proposes to extend the payment of Temporary Disability ("TD") to 156 weeks payable in five years and obligates the employer to pay TD during disputes and/or treatment delays. This bill would also eliminate the one year cap for this benefit.

AB 1212 (Nunez) Requires the administrative director to increase the payment disability schedule by January 1, 2009.

SB 942 (Migden) Requires all employers to return their employees back to their pre-injury jobs within five days of release by the treating doctor, regardless of any dispute. A \$100 per day civil penalty plus wages and benefits will be imposed on all employers in violation.

SB 936 (Perata) Revises the formula for computing permanent disability to increase benefit ratings by 2010.

2. **Pooled Property Protection Program**— Staff is waiting to hear from the Division of Fairs and Expositions ("F&E") relative to continuation of the Property Program beyond this fiscal year. The Property Program has sustained higher than expected losses along with historically high excess insurance costs. Staff projects, assuming no new losses occur, that the pool will have a balance of approximately \$69,564 after F&E's 2007/08 contribution of \$750,000 and after paying existing claims of \$525,400. The 2007/08 excess insurance cost will be \$532,225.

Fairs and Expositions has expressed a desire to continue this Program and they are attempting to identify a funding source. Staff will continue to offer assistance to restructure the Program to fit F&E's needs once those needs have been identified.

3. **California Construction Authority**— Donna brought the CNN article on "California to build the world's largest solar farm" to the Board's attention for two reasons: 1) to congratulate CCA for their proposed partnership with Cleantech America LLC, in building their solar

project; and 2) to alert the Board to the fact that once CCA begins work for non-governmental entities, the Agency will no longer be able to provide insurance coverage for them through the pooled programs. Staff will communicate concerns to CCA as they seek alternative funding sources and offer assistance in securing commercial insurance coverage once CCA begins providing services to non-governmental entities.

**5. Next Regular Board Meeting**

The next Board meeting is scheduled for November, 2007.

**VII. EXECUTIVE SESSION**

The Board adjourned from regular session at 3:08 p.m. and went into executive session to discuss liability claims involving Jorge Villareal; Angela Malso, Maliyah Martin & Cody Robinson; County of Sacramento; Maurice Bedard, Agricola Valdovinos, & Paul Zwierski, and, workers' compensation claims involving Richard Miller and Filbert Salinas.

**VIII. REGULAR SESSION**

The Board adjourned from executive session at 3:25 p.m. and regular session was reconvened. The Board took no reportable action on the liability or workers' compensation claims.

**IX. ADJOURNMENT**

Moved by Director Ferreira and seconded by Director Scofield to adjourn. The meeting was adjourned at 3:26 p.m.

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**VICE CHAIR**

**ATTEST:**

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**SECRETARY**