

NOTE: If you wish to address the MWD Board of Directors during discussion of an agenda item, or during the PUBLIC FORUM, please complete a Speaker Request card (blue in color) and give it to the Board Secretary. Unless a detailed presentation of an agenda item is required by the Board of Directors, it is requested that each speaker limit comments to FIVE MINUTES. All testimony given before the Board of Directors is tape recorded.

A G E N D A
BIG BEAR MUNICIPAL WATER DISTRICT

BOARD OF DIRECTORS
Regular Meeting
October 15, 2009

PLACE: Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA 92315

Next Resolution Number: 2009- 11

OPEN SESSION: 1:00 P.M.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. DISCUSSION AND ACTION ON CLOSED SESSION ITEMS**
- 4. REPORTS**
 - A. General Manager
 - B. Lake Manager
 - C. Legal
 - D. Committee
 - E. Other
- 5. CONSENT CALENDAR**
 - A. Minutes of a Regular Meeting of October 1, 2009
 - B. Warrant List Dated October 8, 2009 for \$57,376.89
 - C. Consider approval of a Resolution of the Board of Directors of Big Bear Municipal Water District amending the District's Deferred Compensation Plan
- 6. BUSINESS**
 - A. Consider approval of no change to the lease payment CPI agreement with Big Bear Marina
 - B. Consider approval of a Resolution of the Board of Directors of Big Bear Municipal Water District approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the seller's Proposition 1A receivable from the State; and directing and authorizing certain other actions in connection therewith

7. PUBLIC FORUM

(The Board will receive comments from the public on items not on the agenda; no action is permitted on these items. Time set aside not to exceed 30 minutes total by all participants)

8. ANNOUNCEMENTS

9. DIRECTOR COMMENTS

10. ADJOURNMENT

NEXT MEETING: Open Session at 1:00 P.M.
Thursday, November 5, 2009
Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA

**Big Bear Municipal Water District
 Computer & Manual Check Register
 Current and History Files, After 09/28/09
 Account 10010-00-001, Sessions 000000 to 001702**

Check	Payment / Vendor Information	Ck Date	Prity	Invoice	Session	Reference	Amount
Checking Account: 10010-00-001							
147500	SHEPJO / Joel Shepherd	10/07/09	2	4026	001698	PATBOATEXT	15945.00
SHEPJO Subtotal :							15945.00
147501	ALLVAL / ALL VALLEY ENVIRONMENTAL	10/10/09	2	22502	001702	PETROWASTE	850.00
ALLVAL Subtotal :							850.00
147502	ATT785 / AT&T	10/10/09	2	09242009	001702	PHONE-LD	37.31
147502		10/10/09	2	09282009	001702	PHONE-LD	29.77
ATT785 Subtotal :							67.08
147503	BAUMGA / Richard A. Baumgartner, M.D.	10/10/09	2	093009	001702	MEDIOSHA	55.00
BAUMGA Subtotal :							55.00
147504	BBDSPL / Big Bear Disposal	10/10/09	2	215100	001702	UTIL-MAIN	289.20
BBDSPL Subtotal :							289.20
147505		10/10/09	2	214885	001702	UTIL-RAMPS	178.02
BBDSPL Subtotal :							178.02
147506	BMARIN / Big Bear Marina	10/10/09	2	1011306	001702	PETRO-BOAT	626.70
BMARIN Subtotal :							626.70
147507	BTSEAT / BTS Office Seating	10/10/09	2	20094	001702	EQUIPMAINT	158.05
BTSEAT Subtotal :							158.05
147508	BUTCHR / Butcher's Block & Building Materi	10/10/09	2	269284-A	001702		0.40
147508		10/10/09	2	271791	001702	EASTMAINT	2.20
147508		10/10/09	2	272060	001702	EASTMAINT	16.89
147508		10/10/09	2	272469	001702	DAMMAINT	7.23
147508		10/10/09	2	272515	001702	EASTMAINT	11.06
147508		10/10/09	2	272548	001702	SMTOOLS30	14.75
147508		10/10/09	2	272623	001702	SMTOOLS30	5.54
147508		10/10/09	2	273052	001702	EASTMAINT	27.71
147508		10/10/09	2	273742	001702	DAM MAINT	13.05
147508		10/10/09	2	274214	001702	PATROLMAIN	15.91
147508		10/10/09	2	275453	001702	EASTMAINT	11.07
BUTCHR Subtotal :							125.81
147509	BVELEC / Bear Valley Electric	10/10/09	2	09222009	001702	UTIL-RAMPS	266.80
147509		10/10/09	2	09232009A	001702	UTIL-AERAT	1071.80
147509		10/10/09	2	09232009B	001702	UTIL-DAM	8.08
147509		10/10/09	2	09232009C	001702	UTIL-DAM	110.78
147509		10/10/09	2	09232009D	001702	UTIL-MAIN	8.08

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						BVELEC Subtotal :	1465.54
147510	BVPRIN / Bear Valley Printing	10/10/09	2	79053	001702	PUBINFOPRI	108.75
						BVPRIN Subtotal :	108.75
147511	BYRDIN / Byrd Industrial Electronics	10/10/09	2	808-09	001702	DAMMAINT	984.92
						BYRDIN Subtotal :	984.92
147512	CCONNE / CONNELLY PUMPING SERVICES	10/10/09	2	8641	001702	SSRELIEFS	510.67
147512		10/10/09	2	8648	001702	SSRELIEFS	440.00
147512		10/10/09	2	8650	001702	SSRELIEFS	145.14
147512		10/10/09	2	8651	001702	SSRELIEFS	580.55
147512		10/10/09	2	8655	001702	SSRELIEFS	580.55
						CCONNE Subtotal :	2256.91
147513	CNKLIN / Conklin Paints	10/10/09	2	80142	001702	EASTMAINT	414.98
						CNKLIN Subtotal :	414.98
147514	COMPVI / Computer Village	10/10/09	2	115489	001702	COMPMAINT	1857.61
147514		10/10/09	2	115595	001702	COMPCONSUL	550.00
147514		10/10/09	2	115596	001702	COMPMAINT	125.00
						COMPVI Subtotal :	2532.61
147515	COMSER / ComSerCo	10/10/09	2	MA50218902	001702	RADSVCCONT	255.00
						COMSER Subtotal :	255.00
147516	DIRCTV / DIRECTV	10/10/09	2	1098397076	001702	UTIL-RV	137.89
						DIRCTV Subtotal :	137.89
147517	DIRECT / DirectSIGNS	10/10/09	2	9842	001702	QUAGGAPRIN	96.79
						DIRECT Subtotal :	96.79
147518	DWP / Department of Water and Power	10/10/09	2	09292009A	001702	UTIL-MAIN	22.63
147518		10/10/09	2	09292009B	001702	UTIL-RAMPS	225.15
147518		10/10/09	2	09292009C	001702	UTIL-RAMPS	30.18
147518		10/10/09	2	09292009D	001702	UTIL-MAIN	117.26
147518		10/10/09	2	09292009E	001702	UTIL-MAIN	145.20
						DWP Subtotal :	540.42
147519	FISHGM / Department of Fish and Game	10/10/09	2	PO13929	001702	MAINTAGREE	2400.00
						FISHGM Subtotal :	2400.00
147520	GEI / GEI Consultants, Inc	10/10/09	2	501939	001702	WATRSHDMGM	10205.69
						GEI Subtotal :	10205.69

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147521	HALKYA / KARI HALKYARD	10/10/09	2	HALK09-10D	001702	BOATSTORAG	50.00
						HALKYA Subtotal :	50.00
147522	HEULE / Scott Heule	10/10/09	2	10202009	001702	REIMBURSE	139.20
						HEULE Subtotal :	139.20
147523	HOLLOW / Holloway's Marina & RV Park	10/10/09	2	16361	001702	BOATMAINT	524.57
						HOLLOW Subtotal :	524.57
147524	HOOPER / JIM HOOPER	10/10/09	2	1286	001702	RVREFUND	40.00
						HOOPER Subtotal :	40.00
147525	IDEARC / Idearc Media Corp.	10/10/09	2	0014840349	001702	PHONE-MAIN	62.75
						IDEARC Subtotal :	62.75
147526	KENDAL / Kendall/Adams Group, Inc.	10/10/09	2	K2943	001702	CONTAMPROJ	4530.00
						KENDAL Subtotal :	4530.00
147527	LEMIEU / Lemieux & O'neill A Professional	10/10/09	2	20999M-122	001702	RETAINER	3500.00
						LEMIEU Subtotal :	3500.00
147528	MASTER / FIRST BANKCARD CENTER	10/10/09	2	0930092328	001702	MASTER320	2200.51
147528		10/10/09	2	0930098541	001702	MASTER102	1749.13
						MASTER Subtotal :	3949.64
147529		10/10/09	2	0930096888	001702	MASTER506	99.00
						MASTER Subtotal :	99.00
147530		10/10/09	2	0930097379	001702	MASTER507	99.00
						MASTER Subtotal :	99.00
147531	MCOYBR / Mountain Water Company	10/10/09	2	16935	001702	UTILITIES	163.50
147531		10/10/09	2	16997	001702	UTIL-RAMPS	262.50
						MCOYBR Subtotal :	426.00
147532	NAPA / McConnell Motor Parts Inc.	10/10/09	2	854213	001702	ONRDMANT	48.07
147532		10/10/09	2	854373	001702	SMTTOOLS30	36.84
147532		10/10/09	2	855164	001702	PATROLMAN	60.22
						NAPA Subtotal :	145.13
147533	ROTARY / Rotary Club of Big Bear Lake	10/10/09	2	09302009	001702	MEMBERSHIP	111.00
						ROTARY Subtotal :	111.00

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147534	STICKI / Stickies Office Supplies	10/10/09	2	902276	001702	OFFICSUPPL	625.26
147534		10/10/09	2	902277	001702	PRINTING10	382.79
147534		10/10/09	2	902278	001702	EASTMAINT	195.74
147534		10/10/09	2	902279	001702	OFFICSUPPL	144.62
147534		10/10/09	2	902280	001702	OFFSUPPLIE	416.48
STICKI Subtotal :							1764.89
147535	TERMIN / TERMINIX INTERNATIONAL	10/10/09	2	289464963	001702	FACILMAINT	39.00
147535		10/10/09	2	289822766	001702	FACILMAINT	47.00
TERMIN Subtotal :							86.00
147536	TOMDOD / Tom Dodson & Associates	10/10/09	2	BB-142-2	001702	PROFSVCS	650.00
147536		10/10/09	2	BB-143-2	001702	PROFSVCS	200.00
TOMDOD Subtotal :							850.00
147537	UPS / UPS	10/10/09	2	F33Y11399	001702	SHIP-WATER	414.14
147537		10/10/09	2	F33Y11409	001702	SHIP-WATER	15.00
UPS Subtotal :							429.14
147538	USARC / USARC	10/10/09	2	2009EVENT	001702	SPEVENTDEP	500.00
USARC Subtotal :							500.00
147539	VILAGE / Village Printing	10/10/09	2	24244	001702	PRINTING10	75.04
VILAGE Subtotal :							75.04
147540	WAXIE / WAXIE	10/10/09	2	71529450	001702	RAMPSMAINT	301.17
WAXIE Subtotal :							301.17
Total For Check Account: 10010-00-001							57376.89
Check Register Total :							57376.89

***MINUTES OF A REGULAR MEETING OF
BIG BEAR MUNICIPAL WATER DISTRICT
HELD ON THURSDAY, OCTOBER 1, 2009***

CALL TO ORDER

President Murphy called the Open Session to order at 1:00 PM. Those in attendance included Director Eminger, Director Suhay, Director Smith, Director Fashempour, General Manager Scott Heule, Lake Manager Mike Stephenson, and Board Secretary Vicki Sheppard.

REPORTS

General Manager, Scott Heule reported that he attended the CSDA (California Special Districts Association) Conference last week commenting that it was a valuable educational experience. He explained that the programs and presentations were more educationally related to various District management and operations than an ACWA (Association of California Water Agencies) Conference. He highlighted some of the topics covered at the conference:

1. A presentation by Brent Ives on good governance and emphasis on five "Tools" used to create an agency that is efficient and effective. He stated that copies of the PowerPoint presentation was placed in the Directors boxes for review. He commented that Mr. Ives concluded his presentation with a quote "If you do what you've always done you will get what you always got."
2. Special District board members made a presentation that emphasized the value of annual General Manger evaluations and provided examples for Boards to use. Mr. Heule stated that a copy of presentation materials was given to President Murphy.
3. An address by Jeff Noel of the Disney Institute regarding when and why an organization should change and the role of the leader in shaping a positive sustainable change. All organizations are either desperate, cruising or coasting along, or at the top of their form. He suggested that "if you are coasting you are going downhill."
4. Address by gubernatorial candidate Tom Campbell describing the smoke and mirrors used by Sacramento to balance the budget. He suggested that agencies spend their money on capital items/projects so the State cannot come after their cash
5. Presentation by California Communities regarding Prop. 1A Securitization reporting that the interest the State will pay is 2%.
6. CSDA Board voted to support a new coalition that would work to provide iron clad protections for local government revenues from the state taking.

Mr. Heule commented on an e-mail that he received from Walter Yep advising that the House and Senate Conference Committee funding for the ACOE Big Bear Lake Restoration Project was cut from \$800,000 to \$577,000. He reported that we were not the only agency that got cut but it appears this will be the final number for us. Mr. Heule reported that he spoke with our Project Manager, Eldon Kraft, who suggested that we plan on another face to face probably in November adding that ACOE is hoping to get a signature from the President in a couple weeks. He reported that the District has made arrangements with Walgreens to provide walk in flu shots for District Employees adding that most year-round employees have gotten the seasonal flu vaccine. He commented on a thank you letter from Joel Dickson at the DWP for letting them use the Board room for their Town Hall meeting. He reported on a letter received from LAFCO advising that, based on their FY 2008-09 expenses, a refund is due to all agencies. He explained that for the \$10,000 we paid to LAFCO, we will be receiving a refund of \$75.18.

Lake Manager, Mike Stephenson reported on lake water quality commenting that the algae bloom this year is relatively small and water quality is good. He stated that the District spent approximately \$180,000 on Eurasian Milfoil treatment last year and that treatment contributed to the favorable conditions we are experiencing this year. He explained that other lakes had major problems with numerous trout dying and Big Bear Lake did not. He commented that we did have a small number of newly planted trout die, but no problems with larger or native trout. Mr. Stephenson reported that we had a good bass spawn this season. Director Suhay asked if we could capture baby bass and raise them in our cages. Mr. Stephenson stated that since the bass are doing well on their own he hasn't considered raising them in the cages. Mr. Stephenson reported that blue gill still seem to be a problem commenting that over 100,000 were planted in the last few years and they just don't seem to be doing well. He advised that he will continue to look at the blue gill program. He reported that due to our carp program, carp numbers are way down. Mr. Stephenson reported on the upcoming TroutfesT commenting that many trout were planted from Mount Lassen Trout Farm as well as released from the MWD growing cages. He explained that TroutfesT is sold out and that all the arrangements are in place such as parking, restrooms, and hand sinks. He commented that District staff is prepared to sell numerous boat permits and to do many decontaminations and tagging/banding of boats. Director Fashempour asked if the decontaminations and banding are going to be done at the District office. Mr. Stephenson stated that they are set up to do that. Mr. Stephenson complimented Alan Sharp, Big Bear Marina, for the great job he did in coordinating the Coastal Cleanup program. He reported that over 800 pounds of trash was collected. Director Suhay discussed the recent debate regarding record fish sizes. He questioned that if the District were to purchase a record size trout, plant it, and it was caught the next day, should it be recognized as the largest fish or should we make a rule that this is not okay. Mr. Stephenson stated that he is all for making a rule that it should not be counted but he explained that the CA Department of Fish & Game recognized a "record largest fish" in another California lake that was caught 2 days after it was planted. Mr. Heule stated that he is uncertain what makes a fish a native fish versus a newly planted fish (how long does it have to be in the lake to make it a native fish?) Director Smith agreed but added that just the fact that a record size fish was caught in Big Bear Lake would be very good publicity for the area. Director Smith inquired that if the dissolved oxygen numbers were so good why did we run the aerator systems. Mr. Stephenson responded explaining that other local lakes lost many fish because of lack of oxygen so we turned on both aerator systems for a three week period preventing fish kills. Director Fashempour asked if it is possible to have too much oxygen. Mr. Stephenson responded no explaining that it is virtually impossible to get too much dissolved oxygen in the water because the excess will convert back to gas and bubble out of the water. Mr. Stephenson commented that he had received several calls from fishermen complaining that they weren't catching many fish. He explained that he had spoken to Fish & Game regarding the stocking of trout and they reported that stocking is governed by the number of fishing licenses that are sold (fewer licenses purchased, fewer fish stocked). Director Eminger asked when the seasonal employees would be laid off. Mr. Stephenson explained that several of them are already off for the season and after TroutfesT several more will be let go. Director Smith asked if Directors were needed to help during TroutfesT. Mr. Stephenson responded that Directors should come to the awards ceremony to be honored.

APPROVAL OF CONSENT CALENDAR

Upon a motion by Director Suhay, seconded by Director Fashempour, the following consent items were unanimously approved:

- Minutes of a Regular Meeting of September 17, 2009

- Warrant List Dated September 28, 2009 for \$97,096.09

CONSIDER APPROVAL OF A PROPOSAL FROM TOM DODSON & ASSOCIATES TO PROVIDE ON-CALL CEQA/NEPA CONSULTING

Mr. Heule reported that the District has received several requests for information about dredge and shoreline alteration projects over the past several weeks. He added that proponents of some of the projects are serious enough to have prepared engineering drawings and environmental documents. He stated that the District must be the lead agency on any project impacting the lake and as such must pass judgment on the adequacy of any CEQA documents used for these projects. Mr. Heule explained that this also means the District must defend the documents if they are challenged therefore staff has asked Tom Dodson and Associates (TDA's) to provide a proposal to review and advise the District concerning CEQA documents prepared for private party projects. He added that the District could rely on TDA's years of experience and expertise in evaluation and preparation of CEQA documents to be assured that the appropriate environmental document has been prepared and that it supports the proposed project. Mr. Heule explained that each CEQA review and comment letter to the District would be billed to the District but paid for by the project proponent and all work under this proposal would be funded by project proponents and not the District. He added that the Watershed/Lake Improvement Committee recommends that the District authorize Tom Dodson and Associates to provide CEQA advisory consulting services on a reimbursable basis and not to exceed \$5,000 over the life of the agreement. Director Suhay asked that when an applicant comes to the counter with a project inquiry how would staff give them a price for the project they propose to complete? Mr. Heule explained that the cost would be project specific and would depend on which environmental documents would be required. He explained that this process would require the applicant to do his homework, but after he has determined the specifics of his project it would be just a matter of a day or so to get him a cost for the environmental documents for his project. Director Smith asked what would be the end date (life of the agreement). Mr. Heule explained that the life of the agreement would be our fiscal year ending June 30, 2010.

Director Fashempour moved approval of a proposal from Tom Dodson & Associates to provide on-call CEQA/NEPA consulting for a cost not to exceed \$5,000. Director Suhay seconded the motion and it was unanimously approved.

PROP 1A SECURITIZATION PROGRAM – DISCUSSION ONLY NO ACTION

Mr. Heule reported that from their website, the California Statewide Communities Development Authority (CSCDA or California Communities®) is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. He added that the California Communities® mission is to provide local governments and private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California. He commented that the Proposition 1A Securitization Program was instituted by California Communities to enable Local Agencies to sell their respective Proposition 1A Receivables to California Communities. Mr. Heule added that California Communities will in turn issue "Prop. 1A Bonds" at 2% tax free. Mr. Heule quoted a paragraph from the Purchase and Sale Agreement of the program: "The Purchaser acknowledges that the Proposition 1A Receivable is not a debt or liability of the Seller, and that the Proposition 1A Receivable is payable solely by the State from the funds of the State provided therefore. Consequently, neither the taxing power of the Seller, nor the full faith and credit thereof is pledged to the payment of the Proposition 1A Receivable. No representation is made by the

Seller concerning the obligation or ability of the State to make any payment of the Proposition 1A Receivable pursuant to Section 100.06 of the Revenue and Taxation Code and Section 25.5 of Article XIII of the California Constitution, nor is any representation made with respect to the ability of the State to enact any change in the law applicable to the Transaction Documents (including without limitation Section 100.06 of the Revenue and Taxation Code or Section 6588.6 of the Government Code). The Purchaser acknowledges that the Seller has no obligation with respect to any offering document or disclosure related to the Bonds.” Mr. Heule explained that the District receives 100% of the money the State borrows in two payments and is fully relieved of any obligation adding that the Board will consider taking action at the October 15 Board meeting. Director Suhay stated that he can’t see any way the District could lose. President Murphy and Director Smith agreed. Director Suhay asked if District Counsel Wayne Lemieux has been consulted regarding this. Mr. Heule explained that Mr. Lemieux is reviewing it. Director Suhay asked about the group CSDA. Mr. Heule explained that the agency is California Statewide Communities Development Authority and gave an explanation regarding their purpose.

Mr. Heule reported that on October 15th (right after the Board of Directors meeting) there would be a workshop to discuss the use of District Lake Permits for commercial purposes and conducting marina business activities at a location other than a commercial marina. He commented that the Big Bear Grizzly has been conducting some public opinion surveys regarding this issue. Mr. Heule reported that he, President Murphy, and Director Fashempour would be attending the California Water Solutions Workshop and tour in Lake Elsinore next week, Thursday and Friday.

PUBLIC FORUM

No comments were made

ANNOUNCEMENTS

No announcements were made

DIRECTOR COMMENTS

No comments were made

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:53 P.M.

NEXT MEETING

Open Session at 1:00 P.M.
Thursday, October 15, 2009
Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA

Vicki Sheppard
Secretary to the Board
Big Bear Municipal Water District

(SEAL)

**BIG BEAR MUNICIPAL WATER DISTRICT
REPORT TO BOARD OF DIRECTORS**

MEETING DATE: *October 15, 2009*

AGENDA ITEM: *5C*

SUBJECT:

CONSIDER APPROVAL OF A RESOLUTION OF THE BOARD OF DIRECTORS OF BIG BEAR MUNICIPAL WATER DISTRICT AMENDING THE DISTRICT'S DEFERRED COMPENSATION PLAN

RECOMMENDATION:

The General Manager and the Budget & Finance Committee (Directors Murphy & Smith) recommend approval of changes to the District's Deferred Compensation plan.

DISCUSSION/FINDINGS:

Lincoln 457 Tax Paperwork - Changes in Federal tax law requires the Board to approve a Resolution acknowledging the changes. District counsel has prepared the appropriate resolution to accomplish this (see attached).

OTHER AGENCY INVOLVEMENT: Lincoln Financial Group

FINANCING: None

Submitted by: Scott Heule, General Manager



August 18, 2009

BIG BEAR MUNICIPAL WATER DISTRICT
SCOTT HEULE
PO BOX 2863
BIG BEAR LAKE CA 92315-

Remitter #: GP 46710
Plan Name: BIG BEAR MUNICIPAL WATER DISTRICT 457(B) GOVERNMENTAL DEFERRED
COMPENSATION PLAN

RE: Pension Protection Act of 2006 (PPA) Amendment and other legislative and regulatory changes

Dear Plan Sponsor:

Our records indicate that Lincoln Financial Group provides document services for your 457(b) governmental retirement plan. Periodically, laws change and new regulatory guidance affect the operation of your plan and make it necessary to update your plan document. This mailing addresses these changes.

Previously you received a Pension Protection Act of 2006 (PPA) Operating Statement. Enclosed is the PPA Amendment which formalizes the prior operating statement(s). The Amendment also covers the plan provisions affected by the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), Emergency Economic Stabilization Act of 2008 (EESA), and the Worker, Retiree and Employer Recovery Act of 2008 (WRERA).

By completing the enclosed Amendment during the required time period and operating in accordance with the plan document, you will be in compliance with the applicable laws and regulations. Please review the following carefully and complete any necessary action steps as provided below.

Enclosed Document	Action Required
Pension Protection Act (PPA) Amendment inclusive of HEART, EESA, and WRERA	<input type="checkbox"/> Review the Amendment with any additional service provider, legal counsel, and/or tax advisor.
	<input type="checkbox"/> Adopt your Amendment. Proper authorization is required and may take the form of a board resolution, an officer directive, or any other format you decide is appropriate for your type of business.
	<input type="checkbox"/> Sign, date, and return a copy of the Amendment within 30 days, but <u>no later</u> than October 15, 2009.
	<input type="checkbox"/> File the Amendment with your plan document.
	<input type="checkbox"/> Operate your plan in accordance with the new laws based on the effective dates as reflected in the Amendment.

Please return the Amendment to:

Lincoln Financial Group
Attn: STACEY KRANTZ-- 5H-04
P.O. Box 2340
Fort Wayne, IN 46801-2340
or Stacey.Krantz@lfg.com

Lincoln Financial is committed to providing you the highest quality retirement plan services. Your prompt attention to this material enhances our ability to service your plan. If you have any questions regarding the information presented, please contact STACEY KRANTZ at 800 454-6265, *4974 or via email at Stacey.Krantz@lfg.com.

Sincerely,



Brenda K. Gibson
Manager of Plan Document & Installation
Defined Contribution Customer Experience
Insurance and Retirement Solutions

Enclosure

cc: MICHAEL LOCKWOOD

**THE PENSION PROTECTION ACT OF 2006,
THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008
THE PROVISION IN THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008 KNOWN
AS THE HEARTLAND DISASTER TAX RELIEF ACT OF 2008 AND
THE WORKER, RETIREE AND EMPLOYER RECOVERY ACT OF 2008**

Plan Name: BIG BEAR MUNICIPAL WATER DISTRICT 457(B) GOVERNMENTAL DEFERRED COMPENSATION PLAN
EIN: 95-6436347 REMITTER/PLAN: GP 46710

WHEREAS, the *employer* desires to amend the *plan* as provided herein in accordance with Section 8.02 of the *plan document* to reflect the applicable provisions of the Pension Protection Act of 2006 (PPA), the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), the provision of the Emergency Economic Stabilization Act of 2008 (EESA) known as the Heartland Disaster Tax Relief Act of 2008, and the Worker, Retiree and Employer Recovery Act of 2008 (WRERA). Except as otherwise provided, this amendment (*amendment*) is intended to provide good faith compliance with the requirements of those provisions, and shall supersede any inconsistent provisions of the *plan*. All terms in this *amendment* in italics are defined terms and will have the same meaning as provided in the *plan document* unless provided otherwise herein;

WHEREAS, the *employer* has authorized its officers, and any one of them, to execute this *amendment* and to complete such other matters, if any, such officer or officers believe necessary to effectuate this *amendment*;

NOW THEREFORE, the Lincoln Financial Group 457(b) Governmental Deferred Compensation Plan (hereinafter together or separately the "*plan document*") shall be amended as follows, and is adopted by BIG BEAR MUNICIPAL WATER DISTRICT (*employer*) as of the date provided next to the *employer's* signature hereto.

Lincoln Financial Group 457(b) Governmental Deferred Compensation Plan Document is hereby amended as follows:

1. Section 2.04 entitled "*Compensation*" is hereby amended by the addition of the following paragraph to read as follows:

"Effective for *plan years* beginning after December 31, 2008, *compensation* includes differential pay received by *employees* who are called to active duty in the uniformed services. Differential pay is *compensation* paid by the *employer* equal to the difference between the *employee's compensation* paid by the *employer* and the *employee's* military compensation. This paragraph shall only apply if all *employees* are receiving differential pay on a reasonably equivalent basis, are eligible to participate in the *employer's plan*, and may make contributions based on the payments on reasonably equivalent terms."

2. Effective for *plan years* beginning after December 31, 2006, Section 5.01 entitled "Commencement of Benefit" is amended by the addition of the following paragraph to read as follows:

"Effective for distributions made after December 31, 2006, a special tax notice must be given to participants requesting a distribution no less than 30 days and no more than 180 days before the date of the distribution."

3. Section 5.05 entitled "Required Minimum Distributions" is amended by the addition of the following paragraph to read as follows:

"In accordance with the provisions of the Worker, Retiree and Employer Recovery Act of 2008, the *plan* hereby suspends the required minimum distributions for *plan participants* or their *beneficiaries* for the 2009 calendar year. However, on an individual basis, *participants* or *beneficiaries* shall have the right to continue their required minimum distribution payments upon notice to the *plan administrator*. Any required minimum distribution received for the 2009 calendar year may be rolled over to an individual retirement plan or annuity or other eligible retirement plan within the time period permitted by law. The *plan* is not required to apply the direct rollover rules, nor to provide the written notice and explanation of the direct rollover rights, nor apply the mandatory 20% withholding which applies to an eligible rollover distribution. An indirect rollover contribution of the distribution amount still may be made pursuant to the sixty (60) day rollover rule.

If a *participant* has died prior to the distribution of his benefit beginning in accordance with the required minimum distribution rules, then distribution of the *participant's* account must be completed within five (5) years after the death of the *participant*. Special rules apply for the spouse of a deceased *participant* and an election may be made to distribute the benefits over the lifetime or life expectancy of the designated *beneficiary*. In applying the five (5) year rule, the relief allows the 2009 calendar year to be ignored. For *beneficiaries* of deceased *participants*, 2009 will not be counted as part of the five (5) year period during which they must take a distribution."

4. Section 5.06 entitled "Unforeseeable Emergency" is amended by the addition of the following paragraphs to read as follows:

"(a) Notwithstanding any other provision herein, in the event of an unforeseeable emergency as defined in Section 2.15, a participant may make a request to the *plan administrator* for payment of all or a portion of the total amount deferred to the date of payment. If the application for payment is approved by the *plan administrator*, payment will be made within 60 days following such approval. Payment shall be limited strictly to that amount reasonably necessary to meet the situation constituting the unforeseeable emergency, including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from such distribution. Furthermore, payments may not be made to the extent that a hardship is or may be relieved through reimbursement or compensation by insurance or otherwise, by liquidation of the *participant's* assets (to the extent such liquidation does not itself cause severe financial hardship), or by cessation of deferrals under the plan. Any remaining amounts shall be paid in accordance with Articles V and VI of the *plan*.

(b) Notwithstanding the foregoing provisions of this Section 5.06, unforeseeable emergency withdrawals shall be permitted to *participants* that meet the definition of a 'Qualified Disaster Recovery Assistance Distribution.' A Qualified Disaster Recovery Assistance Distribution is a distribution made from the *plan* on or after the Applicable Disaster Date and before January 1, 2010 to a Qualified Storm Damage Individual. Such distribution cannot exceed \$100,000 per individual and is exempt from the 10% federal income tax on early distributions and the mandatory 20% federal tax withholding. Any distribution made will be included in the *participant's* gross income ratably over a three (3) taxable year period, beginning with the year in which the distribution occurred, unless the *participant* elects otherwise. A distribution made during the applicable time period may qualify as a Qualified Disaster Recovery Assistance Distribution even if it is not made as a result of the disaster, and different types of distributions (i.e., periodic payments, plan loan offsets, hardship withdrawals, in-service withdrawals or required minimum distributions) may be considered Qualified Disaster Recovery Assistance Distributions.

(1) The Applicable Disaster Date means the date on which severe storms, tornadoes and flooding occurred in the designated counties in the Midwestern areas as declared by the President of the United States of America on or after May 20, 2008 and before August 1, 2008 which entitled individuals to public assistance from the federal government under the Emergency Economic Stabilization Act of 2008 (EESA) and its provision entitled the Heartland Disaster Tax Relief Act of 2008 with respect to damages caused by such disasters.

(2) A Qualified Storm Damage Individual is a *participant* whose principal residence on the Applicable Disaster Date was located in the Midwestern Disaster Area and who incurred an economic loss as the result of severe storms, flooding or tornadoes. A *participant's* principal residence is defined as the main home where such *participant* lives most of the time. A temporary absence due to special circumstances such as illness, education, business, military services, evacuation or vacation, will not change the definition of a *participant's* principal residence. A complete list of affected counties in the Midwestern Disaster Area can be found in IRS Publication 4492-B.

(3) If permitted, the distribution may be repaid within three (3) years to an IRA, a qualified plan, a governmental Code Section 457(b) plan or a Code Section 403(b) plan in which the individual is a *participant* provided such plan accepts a rollover contribution. Repayment does not have to be made to the same plan from which the distribution was made. *Participants* who took a hardship distribution from a 457(b) plan to purchase a home in the Midwestern Disaster Area that was made six (6) months before the Applicable Disaster Date and where the home was not purchased due to the disaster, may have re-contributed such distribution to the *plan* and received favorable treatment provided such amounts were re-contributed before March 4, 2009."

5. Section 5.09 entitled "Service Credit" is deleted and replaced in its entirety as follows:

"A *participant* may direct the transfer of the account balance to a governmental defined benefit plan for the purchase of permissive service credits in accordance with Section 457(e)(17) of the *Code*. Amounts from a 457(b) governmental plan may be transferred to a state or local defined benefit plan for the specific purpose of purchasing service credits. It is the responsibility of the state or local defined benefit plan to determine whether it will limit the purchase of service credit to "qualified service credit" as described in 415(n)(3)(A) or expand to include "non-qualified service credit" as described in 415(n)(3)(C)."

6. Article V is amended to add a new Section 5.11 entitled "Payment for Certain Insurance" to read as follows:

"For distributions after December 31, 2006, a governmental plan may permit eligible retired public safety officers to make an election to have direct payments for premiums made from an eligible retirement plan to an insurer for qualified health insurance premiums. Up to \$3,000 of a distribution that meets the criteria is not included in the retiree's gross income each tax year.

An eligible retired public safety officer is described as a retired or disabled public safety officer, including law enforcement officers, firefighters, or rescue squad or ambulance crew.

A qualified health insurance premium means premiums for coverage for an eligible retired public safety officer, a spouse and dependents by an accident or health insurance plan or qualified long-term care insurance contract."

7. Article V is amended to add a new Section 5.12 entitled "Periods of Qualified Active Military Service Treated as Severance from Employment" to read as follows:

"*Employees* performing military service while on active duty for more than thirty (30) days will be considered to have a severance from employment during any period the *employee* is performing service in the uniformed services described in Code Section 3401(h)(2)(A)."

8. Section 6.02 entitled "Direct rollovers" is amended by the addition of the following paragraphs to read as follows:

"Effective for distributions made after December 31, 2006, in the case of an eligible rollover distribution to a non-spouse *beneficiary*, an eligible retirement plan is an individual retirement or individual retirement annuity as defined in Code Sections 408(a) and 408(b). A direct rollover of a distribution by a non-spouse *beneficiary* is a rollover of an eligible rollover distribution for purposes of Code Section 402(c) only. If an amount is distributed from a *plan* and is received by a non-spouse *beneficiary*, the distribution is not eligible for rollover treatment.

For distributions made after December 31, 2007, an eligible retirement plan shall include a Roth IRA as described in Code Section 408A; however, for taxable years beginning prior to January 1, 2010, the income restrictions that apply to a rollover from a traditional IRA into a Roth IRA will continue to apply."

9. Article XVII entitled "Protection under the Uniformed Services Employment and Reemployment Rights Act of 1994" is deleted and replaced in its entirety as follows:

"Article XVII Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

17.01 Notwithstanding any provision of this *plan* to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the *Code*. Also, if the written loan policy described in Section 19.01 so provides, loan repayments to be made by such individuals may be suspended under this plan by the *plan administrator* as permitted under Section 414(u)(4) of the *Code*.

17.02 For benefit accrual purposes, the *employer* may elect to treat an *employee* who dies or becomes disabled (as defined under the terms of the *plan*) while performing qualified military service with respect to the *employer* maintaining the *plan* as an *employee* who had resumed employment in accordance with the individual's reemployment rights under USERRA on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability. In the case of any such treatment, and subject to the following paragraphs, any full or partial compliance by such *plan* with respect to the benefit accrual requirements with respect to such *employee* shall be treated as if such compliance were required under USERRA.

(a) With respect to the *employer* maintaining the retirement plan, all *employees* performing qualified military service who died or become disabled as a result of performing qualified military service, prior to reemployment by the *employer*, are to be credited with service and benefits on reasonably equivalent terms.

(b) The amount of deferred *compensation* of an *employee* treated as reemployed on the day before death or Disability shall be determined on the basis of the individual's average actual employee contributions or *employee elective deferrals* for the lesser of (1) the twelve (12) month period of Service with the *employer* immediately prior to qualified military service, or (2) if Service with the *employer* is less than such twelve (12) month period, the actual length of continuous Service with the Employer."

17.03 *Employees* performing military service while on active duty for more than thirty (30) days will be considered to have a severance from employment during any period the *employee* is performing service in the uniformed services described in Code Section 3401(h)(2)(A). If an *employee* who is a *plan participant* elects to receive a distribution of *elective deferrals* under this provision, the *participant* may not make an *employee elective deferral* or *employee* contribution during the six (6) month period beginning on the date of the distribution.

17.04 An *employee* who receives a qualified reservist distribution may repay to an individual retirement plan (in one or more contributions) the amount of the distribution at any time during the two (2) year period beginning after the end of the active duty period. The dollar limitations that would otherwise apply to IRA contributions will not apply to repayment contributions during such two (2) year period and no deduction is allowed for any contribution made under this provision."

10. Article XIX entitled "Participant Loans" is amended by adding the following new subparagraph (c) to Section 19.01 to read as follows:

"(c) A Qualified Storm Damage Individual [as defined at subparagraph 5.06(b)(2) herein] may take a loan from the *plan* that exceeds the maximum loan amount as referenced above at section 19.01(a). The maximum loan amount available to such individual cannot exceed the lesser of \$100,000 or 100% of the *participant's* vested account balance when taken or added to any outstanding loan balance during the applicable period. The applicable period is defined as the period beginning on October 3, 2008 and ending on December 31, 2009. Additionally, any Qualified Storm Damage Individual who had outstanding loan repayments due on or after the Applicable Disaster Date [as defined in subparagraph 5.06(b)(2)] and before January 1, 2010, may suspend repayments for one (1) year upon notifying the *plan administrator*. Any such suspension will not cause the loan to become a deemed distribution."

NOW THEREFORE, this *amendment* is hereby adopted as of date provided below.

BIG BEAR MUNICIPAL WATER DISTRICT
Employer

Date: _____

Signature of Officer

Typed or Printed Name & Title of Officer

RESOLUTION NO. 2009-12

A RESOLUTION OF THE BOARD OF DIRECTORS OF BIG BEAR MUNICIPAL WATER DISTRICT AMENDING THE DISTRICT'S DEFERRED COMPENSATION PLAN

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BIG BEAR MUNICIPAL WATER DISTRICT that the District's Deferred Compensation Plan with Lincoln Financial Group 457(b) is amended as follows:

1. Section 2.04 entitled "Compensation" is hereby amended by the addition of the following paragraph to read as follows:

"Effective for plan years beginning after December 31, 2008, compensation includes differential pay received by employees who are called to active duty in the uniformed services. Differential pay is compensation paid by the employer equal to the difference between the employee's compensation paid by the employer and the employee's military compensation. This paragraph shall only apply if all employees are receiving differential pay on a reasonably equivalent basis, are eligible to participate in the employer's plan, and may make contributions based on the payments on reasonably equivalent terms."

2. Effective for plan years beginning after December 31, 2006, Section 5.01 entitled "Commencement of Benefit" is amended by the addition of the following paragraph to read as follows:

"Effective for distributions made after December 31, 2006, a special tax notice must be given to participants requesting a distribution no less than thirty days and no more than one hundred eighty days before the date of the distribution."

3. Section 5.05 entitled "Required Minimum Distributions" is amended by the addition of the following paragraph to read as follows:

"In accordance with the provisions of the Worker, Retiree and Employer Recovery Act of 2008, the plan hereby suspends the required minimum distributions for plan participants or their beneficiaries for the 2009 calendar year. However, on an individual basis, participants or beneficiaries shall have the right to continue their required minimum distribution payments upon notice of the plan administrator. Any required minimum distribution received for the 2009 calendar year may be rolled over to an individual retirement plan or annuity or other eligible retirement plan within the time period permitted by law. The plan is not required to apply the direct rollover rules, nor to provide the written notice and explanation of the direct rollover rights, nor apply the mandatory 20% withholding which applies to an eligible rollover distribution. An indirect rollover contribution of the distribution amount still may be made pursuant to the sixty-day rollover rule.

If a participant has died prior to the distribution of his benefit, beginning in accordance with the required minimum distribution rules, then distribution of the participant's account must be completed within five years after the death of the participant. Special rules apply for the spouse of a deceased participant and an election may be made to distribute the benefits over the lifetime or life expectancy of the designated beneficiary. In applying the five-year rule, the relief

allows the 2009 calendar year to be ignored. For beneficiaries of deceased participants, 2009 will not be counted as part of the five-year period during which they must take a distribution."

4. Section 5.06 entitled "Unforeseeable Emergency" is amended by the addition of the following paragraphs to read as follows:

"(a) Notwithstanding any other provision herein, in the event of an unforeseeable emergency as defined in Section 2.15, a participant may make a request to the plan administrator for payment of all or a portion of the total amount deferred to the date of payment. If the application for payment is approved by the plan administrator, payment will be made within sixty days following such approval. Payment shall be limited strictly to that amount reasonably necessary to meet the situation constituting the unforeseeable emergency, including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from such distribution. Furthermore, payments may not be made to the extent that a hardship is or may be relieved through reimbursement or compensation by insurance or otherwise, by liquidation of the participant's assets (to the extent such liquidation does not itself cause severe financial hardship), or by cessation of deferrals under the plan. Any remaining amounts shall be paid in accordance with Articles V and VI of the plan.

(b) Notwithstanding the foregoing provisions of this Section 5.06, unforeseeable emergency withdrawals shall be permitted to participants that meet the definition of a 'Qualified Disaster Recovery Assistance Distribution.' A Qualified Disaster Recovery Assistance Distribution is a distribution made from the plan on or after the applicable Disaster Date and before January 1, 2010, to a Qualified Storm Damage individual. Such distribution cannot exceed \$100,000 per individual and is exempt from the 10% federal income tax on early distributions and the mandatory 20% federal tax withholding. Any distribution made will be included in the participant's gross income ratably over a three taxable year period, beginning with the year in which the distribution occurred, unless the participant elects otherwise. A distribution made during the applicable time period may qualify as a Qualified Disaster Recover Assistance Distribution even if it is not made as a result of the disaster, and different types of distributions (i.e., periodic payments, plan loan offsets, hardship withdrawals, in-service withdrawals, or required minimum distributions) may be considered Qualified Disaster Recovery Assistance Distributions.

(1) The Applicable Disaster Date means the date on which severe storms, tornadoes and flooding occurred in the designated counties in the Midwestern areas as declared by the President of the United States of America on or after May 20, 2008, and before August 1, 2008, which entitled individuals to public assistance from the federal government under the Emergency Economic Stabilization Act of 2008 ("EESA") and its provision entitled the 'Heartland Disaster Tax Relief Act of 2008' with respect to damages caused by such disasters.

(2) A Qualified Storm Damage individual is a participant whose principal residence on the Applicable Disaster Date was located in the Midwestern Disaster Area and who incurred an economic loss as the result of sever storms, flooding or tornadoes. A participant's principal residence is defined as the main home where such participant lives most of the time. A temporary absence due to special circumstances such as illness, education, business, military services, evacuation or vacation, will not change the definition of a participant's principal residence. A complete list of affected counties in the Midwestern Disaster Area can be found in IRS Publication 4492-B.

(3) If permitted, the distribution may be repaid within three years to an IRA, a qualified plan, a governmental Code Section 457(b) plan, or a Code Section 403(b) plan in which the individual is a participant provided such plan accepts a rollover contribution. Repayment does not have to be made to the same plan from which the distribution was made. Participants who took a hardship distribution from a 457(b) plan to purchase a home in the Midwestern Disaster Area that was made six months before the applicable Disaster Date and where the home was not purchased due to the disaster, may have re-contributed such distribution to the plan and received favorable treatment, provided such amounts were re-contributed before March 4, 2009."

5. Section 5.09 entitled "Service Credit" is deleted and replaced in its entirety as follows:

"A participant may direct the transfer of the account balance to a governmental defined benefit plan for the purchase of permissive service credits in accordance with Section 457(e)(17) of the Code. Amounts from a 457(b) governmental plan may be transferred to a state or local defined benefit plan for the specific purpose of purchasing service credits. It is the responsibility of the state or local defined benefit plan to determine whether it will limit the purchase of service credit to 'qualified service credit' as described in 415(n)(3)(A) or expand to include 'non-qualified service credit' as described in 415(n)(3)(C)."

6. Article V is amended to add a new Section 5.11 entitled "Payment for Certain Insurance" to read as follows:

"For distributions after December 31, 2006, a governmental plan may permit eligible, retired, public safety officers to make an election to have direct payments for premiums made from an eligible retirement plan to an insurer for qualified health insurance premiums. Up to \$3,000 of a distribution that meets the criteria is not included in the retiree's gross income each tax year.

An eligible retired public safety officer is described as a retired or disable public safety officer, including law enforcement officers, firefighters, or rescue squad or ambulance crew.

A qualified health insurance premium means premiums for coverage for an eligible, retired, public safety officer, a spouse and dependents by an accident or health insurance plan or qualified long-term care insurance contract."

7. Article V is amended to add a new Section 5.12 entitled "Periods of Qualified Active Military Service Treated as Severance from Employment" to read as follows:

"Employees performing military service while on active duty for more than thirty days will be considered to have a severance from employment during any period the employee is performing service in the uniformed services described in Code Section 3401(h)(2)(A)."

8. Section 6.02 entitled "Direct Rollovers" is amended by the addition of the following paragraph to read as follows:

"Effective for distributions made after December 31, 2006, in the case of an eligible, rollover distribution to a non-spouse beneficiary, an eligible retirement plan is an individual

retirement, or individual retirement annuity, as defined in Code Sections 408(a) and 408(b). A direct rollover of a distribution by a non-spouse beneficiary is a rollover of an eligible rollover distribution for purposes of Code Section 402(c) only. If an amount is distributed from a plan and is received by a non-spouse beneficiary, the distribution is not eligible for rollover treatment.

For distributions made after December 31, 2007, an eligible retirement plan shall include a Roth IRA as described in Code Section 408A; however, for taxable years beginning prior to January 1, 2010, the income restrictions that apply to a rollover from a traditional IRA into a Roth IRA will continue to apply."

9. Article XVII entitled "Protection Under the Uniformed Services Employment and Reemployment Rights Act of 1994" is deleted and replaced in its entirety as follows:

"Article XVII Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

17.01 Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. Also, if the written loan policy described in Section 19.01 so provides, loan repayments to be made by such individuals may be suspended under this plan by the plan administrator as permitted under Section 414(u)(4) of the Code.

17.02 For benefit accrual purposes, the employer may elect to treat an employee who dies or becomes disabled (as defined under the terms of the plan) while performing qualified military service with respect to the employer maintaining the plan as an employee who had resumed employment in accordance with the individual's reemployment rights under USERRA on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability. In the case of any such treatment, and subject to the following paragraphs, any full or partial compliance by such plan with respect to the benefit accrual requirements with respect to such employee shall be treated as if such compliance were required under USERRA.

(a) With respect to the employer maintaining the retirement plan, all employees performing qualified military service who died or become disabled as a result of performing qualified military service, prior to reemployment by the employer, are to be credited with service and benefits on reasonably equivalent terms.

(b) The amount of deferred compensation of an employee treated as reemployed on the day before death or disability shall be determined on the basis of the individual's average actual employee contributions or employee elective deferrals for the lesser of (1) the twelve-month period of service with the employer immediately prior to qualified military service, or (2) if service with the employer is less than such twelve-month period, the actual length of continuous service with the employer.

17.03 Employees performing military service while on active duty for more than thirty days will be considered to have a severance from employment during any period the employee is performing service in the uniformed services described in Code Section 3401(h)(2)(A). If an employee who is a plan participant elects to receive a distribution of elective deferrals under this

provision, the participant may not make an employee elective deferral or employee contribution during the six-month period beginning on the date of the distribution.

17.04 An employee who receives a qualified reservist distribution may repay to an individual retirement plan (in one or more contributions) the amount of the distribution at any time during the two-year period beginning after the end of the active duty period. The dollar limitations that would otherwise apply to IRA contributions will not apply to repayment contributions during such two-year period and no deduction is allowed for any contribution made under this provision."

10. Article XIX entitled "Participant Loans" is amended by adding the following new subparagraph (c) to Section 19.01 to read as follows:

"(c) A Qualified Storm Damage individual [(as defined at subparagraph 5.06(b)(2) herein)] may take a loan from the plan that exceeds the maximum loan amount as referenced above as Section 19.01(a). The maximum loan amount available to such individual cannot exceed the lesser of \$100,000 or 100% of the participant's vested account balance when taken or added to any outstanding loan balance during the applicable period. The applicable period is defined as the period beginning on October 3, 2008, and ending on December 31, 2009. Additionally, any Qualified Storm Damage individual who had outstanding loan repayments due on or after the Applicable Disaster Date [as defined in subparagraph 5.06(b)(2)] and before January 1, 2010, may suspend repayment for one year upon notifying the plan administrator. Any such suspension will not cause the loan to become a deemed distribution."

PASSED, APPROVED AND ADOPTED this 15 day of October, 2009.

Todd Murphy, President

ATTEST:

Vicki Sheppard, Secretary to the Board

[SEAL]

**BIG BEAR MUNICIPAL WATER DISTRICT
REPORT TO BOARD OF DIRECTORS**

MEETING DATE: *October 15, 2009*

AGENDA ITEM: *6A*

SUBJECT:

CONSIDER APPROVAL OF NO CHANGE TO THE LEASE PAYMENT CPI AGREEMENT WITH BIG BEAR MARINA

RECOMMENDATION:

The General Manager and the Budget & Finance Committee (Directors Murphy & Smith) recommend that the Board approve no change to the Big Bear Marina Lease at this time.

DISCUSSION/FINDINGS:

The lease payment Big Bear Marina has with the District is scheduled for consumer price index (CPI) increases at regular intervals during the life of the lease. The most recent amendment to the lease, April 2007, provides for a lease payment adjustment effective April 5, 2009 in an amount equal to the "average monthly CPI for the calendar year prior to the adjustment. Each CPI shall not exceed 10%." Additionally, the lease payment cannot be reduced based on a negative CPI. The Budget & Finance Committee reviewed the CPI figures for Los Angeles-Riverside-Orange County California, for the 12 months prior to April 2009. The CPI registered a value of -1.3%. Based on these results, the lease payment for the marina will remain at \$3,750 per month until the next CPI adjustment scheduled for April 5, 2014.

OTHER AGENCY INVOLVEMENT: None

FINANCING: No increase in lease payment at this time.

Submitted by: Scott Heule, General Manager

**BIG BEAR MUNICIPAL WATER DISTRICT
REPORT TO BOARD OF DIRECTORS**

MEETING DATE: *October 15, 2009*

AGENDA ITEM: *6B*

SUBJECT: CONSIDER APPROVAL OF A RESOLUTION OF THE BOARD OF DIRECTORS OF BIG BEAR MUNICIPAL WATER DISTRICT APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

RECOMMENDATION:

The General Manager and the Budget & Finance Committee (Directors Murphy & Smith) recommend approval of this Resolution

DISCUSSION/FINDINGS:

Proposition 1A Suspension: Proposition 1A was passed by California voters in 2004 to ensure local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services. Provisions can only be suspended if the Governor declares a fiscal necessity and two-thirds of the Legislature concur.

The emergency suspension of Proposition 1A was passed by the Legislature and signed by the Governor as ABX4 14 and ABX4 15 as part of the 2009-10 budget package on July 28, 2009. Under the provision, the State will borrow 8% of the amount of property tax revenue apportioned to cities, counties and special districts. The state will be required to repay those obligations plus interest by June 30, 2013.

The legislature is currently reviewing a clean-up bill, SB67 which would provide for a few critical changes to the enacted legislation, including but not limited to providing for: financing to occur in November; county auditor certification of amount of Prop 1A receivable; tax-exempt structure; California Communities as the only issuer; more flexibility on bond structure (interest payments, state payment date and redemption features); sales among local agencies; and revision to the hardship mechanism. [While SB 67 has not yet been passed and signed into law, California Communities expects that to occur prior to funding the Program. If for any reason SB 67 is not enacted and the bonds cannot be sold by December 31, 2009, all approved documents placed in escrow with Transaction counsel will be of no force and effect and will be destroyed.]

Proposition 1A Securitization Program: Authorized under ABX4 14 and ABX4 15, the Proposition 1A Securitization Program was instituted by California Communities to enable Local Agencies to sell their respective Proposition 1A Receivables to California Communities. Currently, SB67 is being considered to clarify specific aspects of ABX4 14 and ABX4 15. Under the Securitization Program, California Communities will simultaneously purchase the Proposition 1A Receivables, issue bonds ("Prop 1A Bonds") and provide each local agency with

the cash proceeds in two equal installments, on January 15, 2010 and May 3, 2010 (to coincide with the dates that the State will be shifting property tax from local agencies). The purchase price paid to the local agencies will equal 100% of the amount of the property tax reduction. All transaction costs of issuance and interest will be paid by the State of California. Participating local agencies will have no obligation on the bonds and no credit exposure to the State.

If the District sells its Proposition 1A Receivable under the Proposition 1A Securitization Program, California Communities will pledge the District's Proposition 1A Receivable to secure the repayment of a corresponding amount of the Prop 1A Bonds. The District's sale of its Proposition 1A Receivable will be irrevocable. Bondholders will have no recourse to the District if the State does not make the Proposition 1A Repayment.

Proposition 1A Program Sponsor: California Statewide Communities Development Authority ("California Communities") is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. The member agencies of California Communities include approximately 230 cities and 54 counties throughout California.

Note: The District does not need to be a member of California Communities to participate.

Benefits of Participation in the Proposition 1A Securitization Program:

The benefits to the District of participation in the Proposition 1A Securitization Program include:

- Immediate cash relief – the sale of the District's Proposition 1A Receivable will provide the District with 100% of its Proposition 1A Receivable in two equal installments, on January 15, 2010 and May 3, 2010.
- Mitigates impact of 8% property tax withholding in January and May – Per ABX4 14 and ABX4 15 and the proposed clean-up legislation SB 67, the State will withhold 8% of property tax receivables due to Cities, Counties, and Special Districts under Proposition 1A. The financing outlines bond proceeds to be distributed to coincide with the dates that the State will be shifting property tax from local agencies.
- All costs of financing borne by the State of California. The District will not have to pay any interest cost or costs of issuance in connection with its participation.
- No obligation on Bonds. The District has no obligation with respect to the payment of the bonds, nor any reporting, disclosure or other compliance obligations associated with the bonds.

Proceeds of the Sale of the District's Proposition 1A Receivable:

Upon delivery of the Proposition 1A Bonds, California Communities will make available to the District its fixed purchase price, which will equal 100% of the local agency's Proposition 1A Receivable. These funds may be used for any lawful purpose of the District and are not restricted by the program.

Proposed Proposition 1A Receivables Sale Resolution:

The proposed Proposition 1A Receivables Sale Resolution:

- (1) Authorizes the sale of the District's Proposition 1A Receivable to California Communities for 100% of its receivable;
- (2) Approves the form, and directs the execution and delivery, of the Purchase and Sale Agreement with California Communities and related documents;
- (3) Authorizes and directs any Authorized Officer to send, or to cause to be sent, an irrevocable written instruction required by statute to the State Controller notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement of the Proposition 1A Receivable to the Proposition 1A Bond Trustee;
- (4) Appoints certain District officers and officials as Authorized Officers for purposes of signing documents; and
- (5) Authorizes miscellaneous related actions and makes certain ratifications, findings and determinations required by law.

Proposed Purchase and Sale Agreement

The proposed Purchase and Sale Agreement:

- (1) Provides for the sale of the Proposition 1A Receivable to California Communities;
- (2) Contains representations and warranties of the District to assure California Communities that the Proposition 1A Receivable has not been previously sold, is not encumbered, that no litigation or other actions is pending or threatened to disrupt the transaction and that this is an arm's length "true sale" of the Proposition 1A Receivable.
- (3) Provides mechanics for payment of the Purchase Price
- (4) Contains other miscellaneous provisions.

Proposed Purchase and Sale Agreement Exhibits:

The proposed Proposition 1A Purchase and Sale Agreement Exhibits:

- (B1) Opinion of Counsel: This is an opinion of the counsel to the local agency (which may be an in-house counsel or an outside counsel) covering basic approval of the documents, litigation, and enforceability of the document against the Seller. It will be dated as of the Pricing date of the bonds (currently expected to be November 10, 2009).
- (B2) Bringdown Opinion: This simply "brings down" the opinions to the closing date (currently expected to be November 19, 2009).
- (C1) Certificate of the Clerk of the Local Agency: A certificate of the Clerk confirming that the resolution was duly adopted and is in full force and effect.

- (C2) Seller Certificate: A certification of the Seller dated as of the Pricing Date confirming that the representations and warranties of the Seller are true as of the Pricing Date, confirming authority to sign, confirming due approval of the resolution and providing payment instructions.
- (C3) Bill of Sale and Bringdown Certificate: Certificate that brings the certifications of C2 down to the Closing Date and confirms the sale of the Proposition 1A Receivable as of the Closing Date.
- (D) Irrevocable Instructions to the Controller: Required in order to let the State Controller know that the Proposition 1A Receivable has been sold and directing the State to make payment of the receivable to the Trustee on behalf of the Purchaser.
- (E) Escrow Instruction Letter: Instructs Transaction Counsel (Orrick) to hold all documents in escrow until closing, and if closing does not occur by December 31, 2009 for any reason, to destroy all documents.

OTHER AGENCY INVOLVEMENT: California Communities

FINANCING: None

Submitted by: Scott Heule, General Manager

RESOLUTION NO. 2009-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF BIG BEAR MUNICIPAL WATER DISTRICT APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to Section 25.5 of Article XIII of the California Constitution and Chapter 14XXXX of the California Statutes of 2009 (Assembly Bill No. 15), as amended (the "Act"), certain local agencies within the State of California (the "State") are entitled to receive certain payments to be made by the State on or before June 30, 2013, as reimbursement for reductions in the percentage of the total amount of ad valorem property tax revenues allocated to such local agencies during the State's 2009-10 fiscal year (the "Reimbursement Payments"), which reductions have been authorized pursuant to Sections 100.05 and 100.06 of the California Revenue and Taxation Code; and

WHEREAS, the Big Bear Municipal Water District, a local agency within the meaning of Section 6585(f) of the California Government Code (the "Seller"), is entitled to and has determined to sell all right, title and interest of the Seller in and to its "Proposition 1A receivable", as defined in Section 6585(g) of the California Government Code (the "Proposition 1A Receivable"), namely, the right to payment of moneys due or to become due to the Seller pursuant to Section 25.5(a)(1)(B)(iii) of Article XIII of the California Constitution and Section 100.06 of the California Revenue and Taxation Code, in order to obtain money to fund public capital improvements or working capital; and

WHEREAS, the Seller is authorized to sell or otherwise dispose of its property as the interests of its residents require; and

WHEREAS, the California Statewide Communities Development Authority, a joint exercise of powers authority organized and existing under the laws of the State (the "Purchaser"), has been authorized pursuant to Section 6588(x) of the California Government Code to purchase the Proposition 1A Receivable; and

WHEREAS, the Purchaser desires to purchase the Proposition 1A Receivable and the Seller desires to sell the Proposition 1A Receivable pursuant to a purchase and sale agreement by and between the Seller and the Purchaser in the form presented to this Board of Directors (the "Sale Agreement") for the purposes set forth herein; and

WHEREAS, in order to finance the purchase price of the Proposition 1A Receivable from the Seller and the purchase price of other Proposition 1A Receivables from other local agencies, the Purchaser will issue its bonds (the "Bonds") pursuant to Section 6590 of the California Government Code and an Indenture (the "Indenture"), by and between the Purchaser and Wells Fargo Bank, National Association, as trustee (the "Trustee"), which Bonds will be payable solely; and

WHEREAS, the Seller acknowledges that (i) any transfer of its Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement shall be treated as an absolute sale and transfer of the property so transferred and not as a pledge or grant of a security interest by Big Bear Municipal Water District to secure a borrowing, (ii) any such sale of its Proposition 1A Receivable to the Purchaser shall automatically be perfected without the need for physical delivery, recordation, filing or further act, (iii)

the provisions of Division 9 (commencing with Section 9101) of the California Commercial Code and Sections 954.5 to 955.1 of the California Civil Code, inclusive, shall not apply to the sale of its Proposition 1A Receivable, and (iv) after such transfer, the Seller shall have no right, title, or interest in or to the Proposition 1A Receivable sold to the Purchaser and the Proposition 1A Receivable will thereafter be owned, received, held and disbursed only by the Purchaser or a trustee or agent appointed by the Purchaser; and

WHEREAS, the Seller acknowledges that the Purchaser will grant a security interest in the Proposition 1A Receivable to the Trustee and any credit enhancer to secure payment of the Bonds; and

WHEREAS, a portion of the proceeds of the Bonds will be used by the Purchaser to, among other things, pay the purchase price of the Proposition 1A Receivable; and

WHEREAS, the Seller will use the proceeds received from the sale of the Proposition 1A Receivable for any lawful purpose as permitted under the applicable laws of the State; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BIG BEAR MUNICIPAL WATER DISTRICT AS FOLLOWS:

Section 1. All of the recitals set forth above are true and correct, and this Board of Directors hereby so finds and determines.

Section 2. The Seller hereby authorizes the sale of the Proposition 1A Receivable to the Purchaser for a price equal to the amount certified as the Initial Amount (as defined in the Sale Agreement) by the County auditor pursuant to the Act. The form of Sale Agreement presented to the Board of Directors is hereby approved. An Authorized Officer (as set forth in Appendix A of this Resolution, attached hereto and by this reference incorporated herein) is hereby authorized and directed to execute and deliver the Sale Agreement on behalf of the Seller, which shall be in the form presented at this meeting.

Section 3. Any Authorized Officer is hereby authorized and directed to send, or to cause to be sent, an irrevocable written instruction to the State Controller (the "Irrevocable Written Instruction") notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement pursuant to Section 6588.6(c) of California Government Code of the Proposition 1A Receivable to the Trustee, on behalf of the Purchaser, which Irrevocable Written Instruction shall be in the form presented at this meeting.

Section 4. The Authorized Officers and such other Seller officers, as appropriate, are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents, including but not limited to, if required, appropriate escrow instructions relating to the delivery into escrow of executed documents prior to the closing of the Bonds, and such other documents mentioned in the Sale Agreement or the Indenture, which any of them may deem necessary or desirable in order to implement the Sale Agreement and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the sale of the Proposition 1A Receivable or the issuance of the Bonds, including without limitation any of the

foregoing that may be necessary or desirable in connection with any default under or amendment of such documents, may be given or taken by an Authorized Officer without further authorization by this Board of Directors, and each Authorized Officer is hereby authorized and directed to give any such consent, approval, notice, order or request, to execute any necessary or appropriate documents or amendments, and to take any such action that such Authorized Officer may deem necessary or desirable to further the purposes of this Resolution.

Section 6. The Board of Directors acknowledges that, upon execution and delivery of the Sale Agreement, the Seller is contractually obligated to sell the Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement and the Seller shall not have any option to revoke its approval of the Sale Agreement or to determine not to perform its obligations thereunder.

PASSED, APPROVED AND ADOPTED on October 15, 2009.

Todd Murphy, President

ATTEST:

Vicki Sheppard, Secretary to the Board

[SEAL]