



REVISED
ACTION ITEM
 November 16, 2016

TO: Board of Directors

FROM: **Administration & Finance Committee**
 (Directors Thomas, Barbre, Finnegan)

Robert J. Hunter, General Manager

Staff Contacts: Cathleen Harris, Administrative Services Manager

SUBJECT: ADOPT RESOLUTION APPROVING AMENDMENT NO. 1 TO THE DISTRICT'S MONEY PURCHASE PENSION PLAN

STAFF RECOMMENDATION

It is recommended that the Board of Directors Adopt Resolution approving Amendment No. 1 to the District's Money Purchase Pension Plan, as presented.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

At the October 19th Board Meeting, the MWDOC Board authorized a 4% salary increase to be paid in the form of deferred compensation to the extent possible under our programs and; the contribution be made by the District on behalf of the General Manager based on his performance.

Staff coordinated with Legal Counsel to develop the appropriate language to reflect the Board's action at the October Board Meeting. In addition, after reviewing Section 6.1 and 6.3 of the Pension Plan, it was determined that additional amendments would be

Budgeted (Y/N): NA	Budgeted amount: NA	Core X	Choice __
Action item amount: NA	Line item:		
Fiscal Impact (explain if unbudgeted):			

appropriate to allow for future contributions at the Board's discretion and to reflect current practice consistent with PERS, as follows:

- Revision to Section 6.1(a), amend the language to allow for flexibility in calculating the appropriate Employer Contribution amount made by the District on behalf of the General Manager under the California Public Employees' Pension Reform Act of 2013.
- Addition of Section 6.1(b), in accordance with the Board's action to make the contribution on behalf of the General Manager in an amount of 4%.
- Addition of Section 6.1 (c), to allow for future contributions by the Board on behalf of the General Manager. Proposed language is included in the amendment to allow the Board to authorize discretionary contributions, subject to limitations in accordance with the Plan and applicable laws.
- Revision to Section 6.3 (b), to reflect that the General Manager's Contribution (Employee Contribution) to CalPERS is consistent with the CalPERS required contribution amount and in accordance with the applicable statutes.

RESOLUTION NO. _____

RESOLUTION APPROVING AMENDMENT NO. 1 TO THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY MONEY PURCHASE PENSION PLAN

WHEREAS, the Municipal Water District of Orange County (“District”) previously established a qualified retirement plan known as the Municipal Water District of Orange County Money Purchase Pension Plan (the “Pension Plan”) for the benefit of certain employees, and subsequently amended and restated the Pension Plan effective January 1, 2016; and

WHEREAS, it is necessary at this time to amend the Pension Plan for the purpose of providing for additional employer contributions to be made for Employer’s General Manager in accordance with his employment agreement; and

WHEREAS, it is further necessary to amend the Pension Plan to provide for flexibility in calculating the appropriate contribution ~~rate~~ under the California Public Employees’ Pension Reform Act of 2013; and

WHEREAS, Best, Best & Krieger LLP (“BBK”) has prepared an am Amendment No. 1 to the Pension Plan, effective October 19, 2016, for review by the Board of Directors.

NOW, THEREFORE, be it resolved, determined and ordered by the Board of Directors of the Municipal Water District of Orange County as follows:

Section 1. That the above recitals are true and correct.

Section 2. That the Board of Directors hereby approves Amendment No. 1 to the Pension Plan heretofore considered and discussed.

Section 3. That the District hereby authorizes General Manager, or his or her designee, to duly execute Amendment No. 1 on behalf of the District.

APPROVED, SIGNED AND ADOPTED on this _____ day of _____, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Maribeth Goldsby, District Secretary
Municipal Water District of Orange County

**MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
MONEY PURCHASE PENSION PLAN**

AMENDMENT NO. 1

RECITALS

A. Municipal Water District of Orange County (“Employer”), maintains the MUNICIPAL WATER DISTRICT OF ORANGE COUNTY MONEY PURCHASE PENSION PLAN (the “Plan”), amended and restated effective January 1, 2016, for the benefit of certain Employees and their Beneficiaries.

B. The Employer desires to amend the Plan for the purpose of providing for additional employer contributions to be made for Employer’s General Manager in accordance with his employment agreement.

C. Section 12.1 of the Plan provides that the Employer reserves the right to amend the Plan at any time.

AMENDMENT

NOW, THEREFORE, effective October 19, 2016, Employer hereby amends the Plan, as follows:

1. Section 6.1 is amended in its entirety to read as follows:

“6.1 Employer Contributions.

(a) Effective January 1, 2014, the Employer shall annually pay into the Trust, on behalf of the General Manager in accordance with the terms of a separate employment agreement between the General Manager and Employer, an amount equal to the amount that would otherwise be contributed by the Employer on behalf of the General Manager to ~~the~~ CalPERS but for the limit on pensionable compensation set forth in California Government Code Section 7522.10(c) and subject to any regulations or opinions issued by the CalPERS Board of Administration and/or California Attorney General’s Office.

(b) Effective October 19, 2016, the Employer shall make an additional -contribution ~~in the amount of a 4% salary increase~~ on behalf of the General Manager in accordance with the terms of a separate employment agreement between the General Manager and Employer, in an amount equal to a percentage of Compensation below the pensionable compensation limit established by California Government Code Section 7522.10(c), but not to exceed ~~\$10,160.~~ an amount equivalent to a 4% increase in the General Manager’s salary as set forth in said employment agreement.

(c) The Employer may make additional discretionary contributions on behalf of the General Manager, subject to the limitations set forth in the Plan and under applicable law.”

2. Paragraph (b) of Section 6.3 is amended in its entirety as follows:

“(b) Employee Pick-Up Contributions. The General Manager may irrevocably elect to make annual contributions to the Plan in an amount equivalent to what would be the General Manager’s required contribution to CalPERS but for the limit on pensionable compensation set forth in California Government Code Section 7522.10(c). Such contribution shall be treated as an Employer Contribution for purposes of Code Section 414(h)(2). Once the preceding election has been made, the General Manager shall not be permitted to revoke such election.”

IN WITNESS WHEREOF, the Employer has caused this amendment to be executed on _____, 2016.

EMPLOYER:

By: _____

APPROVED AS TO FORM AND CONTENT:
BEST BEST & KRIEGER LLP

By: _____
Attorneys for Employer