

AGREEMENT BETWEEN
THE BIG BEAR AREA REGIONAL WASTEWATER AGENCY
AND
THE BIG BEAR CITY COMMUNITY SERVICES DISTRICT
REGARDING THE TERMINATION OF
OPERATING AGREEMENT NO. 3

This Agreement is made and entered into this 26th day of June 1996 by and between the Big Bear Area Regional Wastewater Agency ("BBARWA") and the Big Bear City Community Services District ("the CSD").

RECITALS

1. BBARWA is a joint powers agency created in part for the purpose of financing, constructing and operating a regional sewerage system for the Big Bear Valley area.

2. By joint powers agreement dated March 22, 1974, the CSD, Big Bear Lake Sanitation District (predecessor in interest to the City of Big Bear Lake) and the County of San Bernardino created BBARWA as a separate public agency to provide for the above-referenced services.

3. On May 3, 1977, BBARWA, the Big Bear Lake Sanitation District, the CSD, and the County of San Bernardino entered into that certain agreement entitled "Agreement Between Big Bear Area Regional Wastewater Agency, Big Bear Lake Sanitation District, Big Bear City Community Services District, and the County of San Bernardino on Behalf of Improvement Zone "B" of San Bernardino County Service Area 53 Regarding Management and Operation of Regional Sewerage Facilities and Administration of Related Programs" ("Operating Agreement No. 3").

4. Among other things, Operating Agreement No. 3 provided that the CSD would operate the regional wastewater treatment plant owned by BBARWA and provide administrative services to BBARWA.

5. On March 19, 1996 BBARWA gave notice pursuant to Section 9.01 of Operating Agreement No. 3 of its decision to terminate that Agreement as of June 30, 1996.

6. The CSD and BBARWA desire to supplement and clarify the terms of Operating Agreement No. 3 regarding the termination of the CSD's services in operating the regional wastewater treatment plant and the termination of the CSD's administrative services to BBARWA and to provide for the CSD to provide additional services on a temporary basis while the BBARWA prepares to take on direct responsibility for operating the plant.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, BBARWA and the CSD hereby agree as follows:

1. Termination of Operating Agreement No. 3. The CSD and BBARWA hereby agree that Operating Agreement No. 3 has been terminated pursuant to Paragraph 9.01 of that Agreement, effective at 11:59 p.m. on June 30, 1996.

2. Provision of Contract Workforce. Notwithstanding paragraph 1 of this Agreement, the CSD shall continue to provide a contract workforce to operate the regional wastewater treatment plant until forty-five calendar days (45) after BBARWA provides written notice that it no longer requires those services. The provision of a contract workforce by the CSD shall be governed by provisions of Operating Agreement No. 3 which applied to the provision of those services by the CSD prior to the termination of Operating Agreement No. 3.

3. Provision of Payroll Services. The CSD hereby agrees to provide payroll processing services to BBARWA for the sum of \$500 per month through the first payroll period which ends at least forty-five calendar days (45) after BBARWA provides written notice that it no longer requires those services.

4. Payment for Contract Workforce. BBARWA agrees to compensate the CSD for the provision of a contract workforce under the terms set forth in Operating Agreement No. 3, except as follows:

a. Payment for the services of the Contract Finance Officer shall be made pursuant to that separate agreement identified in paragraph 12 below, and no additional charges for those services above the amount specified in that agreement shall be made under Operating Agreement No. 3.

b. No additional charges under Operating Agreement No. 3 shall be made for any cost incurred by the CSD to provide the payroll processing services described in paragraph 3 of this Agreement.

5. Merger of PERS Contract. The CSD and BBARWA agree to cooperate with one another to facilitate the establishment of a contract between BBARWA and the Public Employees' Retirement System (PERS) pursuant to the authority of Government Code 20508 and other applicable provisions of law that provide for the merger of the relevant portions of the CSD's contract with PERS into BBARWA's contract with PERS.

6. Contingent Liabilities. The CSD and BBARWA acknowledge as follows: (a) Section 9.02 of Operating Agreement No. 3 provides that upon termination of that Agreement, BBARWA shall compensate the CSD for all services performed up to and including the date of termination and for all other costs incurred by it up to and through said termination. (b) Certain

workers compensation claims and other liabilities may accrue against the CSD after June 30, 1996 by virtue of the provision of services to BBARWA by the CSD during the term of Operating Agreement No. 3. (c) The costs incurred by the CSD with respect to these claims and other liabilities cannot be conveniently determined at this time. Therefore, to the extent that payment for such claims and liabilities is required under Section 9.02 of Operating Agreement No. 3, the CSD and BBARWA agree that when the cost of each such claim or other liabilities is known, the CSD shall issue a bill to BBARWA for the cost of that claim or liability and BBARWA shall pay that cost to the CSD not later than 60 days after the date of the bill.

7. Disputes. Any controversy or claim arising out of or relating to a bill issued pursuant to paragraph 6 of this Agreement, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof.

8. Vehicles and Tools. The CSD and BBARWA acknowledge that although Section 3.06 of Operating Agreement No. 3 contemplated that the CSD might use its own vehicles and tools to operate the regional wastewater treatment plant, in fact all vehicles and tools used at the plant were purchased by BBARWA with BBARWA's funds and constitute BBARWA's property. Accordingly, upon termination of the CSD's services under paragraph 2 of this Agreement, BBARWA will retain possession of the vehicles and tools used to operate the plant. The CSD and BBARWA further acknowledge that title to one vehicle used at the plant is held in the name of the CSD. This appears to be an error resulting from incomplete records and the CSD hereby waives any claim it might have to that vehicle and agrees to take such steps as are necessary to transfer that vehicle's title to BBARWA.

9. Insurance Coverages. BBARWA hereby warrants to the CSD that it has and will maintain liability and workers compensation insurance in the amounts set forth in Section 8 of Operating Agreement No. 3.

10. Term. The term of this Agreement shall be from June 30, 1996 until June 30, 1997 unless extended or sooner terminated by written agreement of the parties. Notwithstanding the termination of this Agreement, the provisions of paragraphs 5, 6, 7, and 9 hereof shall remain in force.

11. Mutual Indemnities. It is understood and agreed that neither BBARWA nor any its officers, agents or employees is responsible for any damage or liability occurring by reason of anything done or omitted to be done by the CSD or its officers, agents, or employees under or in connection with any work, authority or jurisdiction delegated to the CSD under this

Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, the CSD shall fully defend, indemnify and hold harmless BBARWA and its officers, agents and employees from and against any and all claims, suits or actions of every nature, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by the CSD, its officers, agents, and employees under or in connection with any work, authority, or jurisdiction delegated to the CSD under this Agreement.

It is understood and agreed that neither the CSD nor any its officers, agents or employees is responsible for any damage or liability occurring by reason of anything done or omitted to be done by BBARWA or its officers, agents, or employees under or in connection with any work, authority or jurisdiction performed or exercised by BBARWA under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, BBARWA shall fully defend, indemnify and hold harmless the CSD and its officers, agents and employees from and against any and all claims, suits or actions of every nature, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by BBARWA, its officers, agents or employees under or in connection with any work, authority, or jurisdiction performed or exercised by BBARWA under this Agreement.

12. Integration. This Agreement constitutes a single, integrated contract expressing the entire agreement of the parties hereto relative to the subject matter hereof. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any party hereto, except as specifically set forth in this Agreement. All prior discussions and negotiations have been and are merged and integrated into, and are superseded by, this Agreement. This Agreement may be amended only in writing, signed by the CSD and BBARWA or their successors-in-interest. Nothing herein, however, shall affect the continuing vitality of the Agreement Between the Big Bear Area Regional Wastewater Agency and the Big Bear City Community Services District Regarding the Provision of Contract Finance Officer approved by the CSD Board on June 11, 1996.

13. Successors, Assigns and Beneficiaries. This Agreement shall inure to the benefit of and shall bind the successors, assigns, representatives, beneficiaries and attorneys of the parties, and each of them.

14. Waiver of Civil Code Section 1654. This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other

statutes, legal decisions, or common law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that has drafted it, is of no application and is hereby expressly waived.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by each of their respective and duly authorized representatives on the date set forth below.

DATED: June 26, 1996

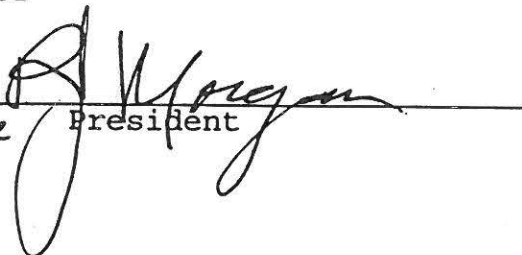
BIG BEAR AREA REGIONAL WASTEWATER AGENCY

By: 
Chairman

ATTEST:


Secretary

BIG BEAR CITY COMMUNITY SERVICES DISTRICT

By: 
Vice President

ATTEST:


Secretary

OPERATING AGREEMENT NO. 3 (AS AMENDED)

AGREEMENT BETWEEN BIG BEAR AREA REGIONAL WASTEWATER AGENCY, THE CITY OF BIG BEAR LAKE, BIG BEAR CITY COMMUNITY SERVICES DISTRICT AND THE COUNTY OF SAN BERNARDINO ON BEHALF OF IMPROVEMENT ZONE "B" OF SAN BERNARDINO COUNTY SERVICE AREA 53 REGARDING MANAGEMENT AND OPERATION OF REGIONAL SEWERAGE FACILITIES AND ADMINISTRATION OF RELATED PROGRAMS

THIS AGREEMENT is entered into as of the 1st day of July, 1987, by and between the Big Bear Area Regional Wastewater Agency (hereinafter referred to as "BBARWA"), the City of Big Bear Lake (hereinafter referred to as "City"), the Big Bear City Community Services District (hereinafter referred to as "BCCSD"), and the County of San Bernardino (hereinafter referred to as "County") on behalf of Improvement Zone "B" of San Bernardino County Service Area 53 (hereinafter referred to as "CSA 53-B").

RECITALS

(1) Status of Parties. BBARWA is a joint exercise of powers agency operating under Chapter 5, Division 7, Title 1 of the Government Code (§6500, et seq.), and was created by agreement dated March 22, 1974, between the other parties to this Agreement. City is a municipal corporation. County is a county of the State of California. BCCSD is a community services district organized and existing under Division 3, Title 6 of the Government Code (§61000, et seq.).

(2) BBARWA's Purpose. BBARWA was created for the purpose of constructing a regional sewerage system for the Big Bear Valley area, obtaining state and federal grants for such construction, financing the local portion of the cost of such construction and operating such regional sewerage system ("Regional System").

(3) Operating Agreements Nos. 1 & 2. The parties to this Agreement have entered into two other agreements designated Operating Agreement No. 1 and Operating Agreement No. 2. Operating Agreement No. 2 provides, inter alia, that BCCSD and City shall continue to operate their

respective sewage and wastewater treatment plants until July 1, 1978, and that thereafter BBARWA shall assume complete control and operation of said treatment plants and the other facilities which will comprise the Regional System.

(4) Operating Agreement No. 3. The parties to this Agreement entered into a third agreement designated Operating Agreement No. 3 dated as of the 3rd day of May, 1977, which provides generally for the operation of the Regional System, as defined therein, by BBCCSD and the Interceptor System, as defined therein, by the City, and which pursuant to Section 2 thereof continues in effect until July 1, 1987.

(5) Purpose. The Parties desire to make certain amendments to the terms of Operating Agreement No. 3 and to extend its effect until July 1, 1993.

AGREEMENT

In consideration of the foregoing and the mutual covenants and promises hereinafter contained, the parties agree as follows:

Section 1. DEFINITIONS.

The following words where used in this Agreement shall have the meaning hereafter ascribed to them:

1.1 Regional System. "Regional System means: (1) the Regional Treatment Plant, (2) the outfall pipeline from the Regional Treatment Plant to the disposal site in Lucerne Valley, (3) the regional lift station to be located adjacent to the Regional Treatment Plant for delivering effluent from said treatment plant to said outfall pipeline, (4) the hydroelectric generating facilities, if any, located along said outfall pipeline, (5) the interceptor sewer line from the CSA 53-B sewage collection system to the existing BBCCSD interceptor at Division Drive and Aeroplane Boulevard (the North Shore Interceptor), and all lift stations located along said interceptor sewer, (6) the BBCCSD Interceptor, (7) the interceptor sewer line from City's sewage collection system to the Regional Treatment Plant (the Lake Interceptor), (8) the lift station for delivering sewage and wastewater from the City sewage collection system to said interceptor, (9) the disposal facilities, including irrigation facilities, in Lucerne Valley.

1.2 BCCSD Interceptor. "BCCSD Interceptor" means the interceptor sewer line extending from a manhole (No. 75) in Division Drive at Aeroplane Boulevard to the Regional Treatment Plant.

1.3 Lake Interceptor. "Lake Interceptor" means the interceptor sewer line extending from City's sewage collection system to the headworks of the Regional Treatment Plant.

1.4 North Shore Interceptor. "North Shore Interceptor" means the interceptor sewer line extending from the CSA 53-B sewage collection system to the commencement of the BCCSD Interceptor at Manhole No. 75 in Division Drive at Aeroplane Boulevard.

1.5 Regional Treatment Plant. "Regional Treatment Plant" means the regional sewage and wastewater treatment plant which is located at the site of the treatment plant formerly owned and operated by BCCSD, including said treatment plant and all modifications of existing facilities thereof and construction of new facilities at the site of said treatment plant specified in the plans and specifications for the Regional System.

1.6 Former City Treatment Plant. "Former City Treatment Plant" means the sewage and wastewater treatment plant formerly owned and operated by City and located near the shore of Big Bear Lake in Section 21, Township 2 North, Range 1 East, San Bernardino County.

1.7 Interceptor System. "Interceptor System" means (1) the Lake Interceptor, (2) the lift station for delivering sewage and wastewater from City's sewage collection system to said interceptor, (3) the Former City Treatment Plant, (4) the North Shore Interceptor, and all lift stations located along said interceptor.

1.8 Treatment and Disposal System. "Treatment and Disposal System" means (1) the Regional Treatment Plant, (2) the outfall pipeline from the Regional Treatment Plant to the disposal site in Lucerne Valley, (3) the regional lift station to be located adjacent to the Regional Treatment Plant for delivering effluent from said treatment plant to said outfall pipeline, (4) the hydroelectric generating facilities, if any, located along said outfall pipeline, (5) the disposal facilities, including irrigation facilities, in Lucerne Valley, and (6) the BCCSD Interceptor.

1.9 Operating Agreement No. 2. "Operating Agreement No. 2" means the agreement between the parties to this Agreement, regarding the sale and transfer of facilities by City and BBCCSD to BBARWA, the right of BBARWA to purchase surplus real property of City and BBCCSD, the operation of certain facilities, and capacity and connection rights of City, BBCCSD and County in and to certain facilities.

Section 2. TERM.

2.1 This Agreement, unless sooner terminated as hereinafter provided, shall continue in effect until July 1, 1993, and may be extended thereafter by agreement of the parties.

Section 3. FACILITIES TO BE OPERATED AND SERVICES TO BE PROVIDED BY BBCCSD.

3.1 Treatment and Disposal System -- Administrative Services. BBCCSD shall be and is hereby designated and employed to provide all services relating to the management and operation of the Treatment and Disposal System, and shall manage, operate, maintain and repair all components of said system. BBCCSD shall also provide general administrative, secretarial, bookkeeping and clerical services for BBARWA and shall administer and conduct all general operations, programs and services of BBARWA.

3.2 Administrative Manager -- General Manager. BBCCSD's General Manager shall be the Administrative Manager of all BBARWA's general operations, programs and services and shall also be the General Manager of the Treatment and Disposal System. With respect to such duties, BBCCSD's General Manager shall be responsible to and shall report directly to BBARWA's Governing Board. BBCCSD shall make its said General Manager available to BBARWA to the extent necessary to provide adequate management and supervision of the Treatment and Disposal System as well as administration of BBARWA's general operations, programs and services. In such capacities, BBCCSD's General Manager shall provide all services normally provided by general managers of similar facilities and who administer comparable programs, operations and services, including but not limited to the following:

3.2.1 Provide overall supervision and management of the Treatment and Disposal System and all of its components;

3.2.2 Provide management and supervision of all employees of BCCSD who perform services on behalf of BBARWA pursuant to this Agreement;

3.2.3 Supervise the administration of Operating Agreements Nos. 1 and 2 on behalf of BBARWA;

3.2.4 Be responsible for and handle public relations on behalf of BBARWA including responding to inquiries and complaints regarding BBARWA's facilities, operations, programs and services;

3.2.5 Receive all mail to BBARWA and respond to all such mail concerning routine business;

3.2.6 Collect, receive and receipt for all BBARWA funds and deposit same to BBARWA's accounts;

3.2.7 Arrange for the payment of all routine demands against BBARWA within the monetary authority delegated by BBARWA's Governing Board;

3.2.8 Arrange for the payment of principal and interest on BBARWA's revenue bonds, and administer all covenants contained in resolutions of BBARWA's Governing Board with respect to such bonds;

3.2.9 Purchase or arrange for the purchase of all necessary equipment, materials and supplies;

3.2.10 Maintain an accurate running inventory of all BBARWA equipment, material and supplies in such detail as may be required by the BBARWA Governing Board;

3.2.11 Prepare BBARWA's annual budgets and submit the same to the BBARWA Governing Board;

3.2.12 Make all necessary arrangements for the regular, special and adjourned regular meetings of BBARWA's Governing Board, including preparation of agendas for all such meetings;

3.2.13 Arrange for the taking and recording of the minutes of all such meetings of said Governing Board;

3.2.14 File, index, properly record and retain all BBARWA records;

3.2.15 Prepare and render reports to the BBARWA Governing Board, at such intervals as said Governing Board may designate regarding BBARWA's operations, programs

and services and all receipts and expenditures during the period covered by said reports;

3.2.16 Communicate as necessary with the Chairman and other members of the BBARWA's Governing Board between the Governing Board's regular meetings;

3.2.17 Conduct or have conducted all monitoring and sampling and make all necessary reports to the Regional Water Quality Control Boards called for under the National Pollution Discharge Elimination System Permit or the Waste Discharge Requirements for the Regional System and as required by the Monitoring Program prepared by BBARWA's design engineers;

3.2.18 See that the Treatment and Disposal System and all its components are at all times in proper working order and in a good state of repair, and that said system is at all times operated in accordance with the Operating Manual therefor and such other requirements as the BBARWA Governing Board may from time to time adopt;

3.2.19 See that all facilities and landscaping are maintained so as to present a neat and attractive appearance;

3.2.20 See that all applicable safety rules and regulations are complied with at all times by all treatment plant and field employees;

3.2.21 Provide and perform such other services as may be designated from time to time by BBARWA's Governing Board.

3.3 Treatment Plant Operators. BBCCSD shall employ and provide such number of qualified treatment plant operators as may be designated by BBARWA's Governing Board to supervise and operate the Regional Treatment Plant. Said treatment plant operators shall work under the direct supervision of BBCCSD's General Manager and shall be employees of BBCCSD. One of said operators shall have the qualifications necessary for and shall be the Treatment Plant Superintendent of the Regional Treatment Plant.

3.4 Other Employees. BBCCSD shall also employ such secretarial, bookkeeping, clerical and other employees as may be necessary for the proper operation of the Treatment and Disposal System, and the proper administration of BBARWA's operations, programs and services. All such employees shall work under the direct supervision of BBCCSD's General Manager and shall be employees of BBCCSD.

Such employees may divide their time between the performance of services related to this Agreement and services solely for the benefit of BBCCSD.

3.5 Compensation of Employees and Governing Board Members. BBCCSD shall be responsible for and shall promptly pay the salaries and wages of its General Manager, the treatment plant operators, and all other employees who are employed in providing services on behalf of BBARWA pursuant to this Agreement. BBCCSD shall also be responsible for and shall provide appropriate employee benefits for all such employees, including health and accident insurance and a pension plan under the California Public Employees Retirement System or equivalent. The salaries and wages of all such employees shall be comparable to compensation generally paid for the performance of duties and services similar to those performed by such employees. BBCCSD shall also be responsible for and pay to the members of BBARWA's Governing Board such per diem compensation for attending meetings of the Governing Board and its committees as is specified by the Governing Board.

3.6 Vehicles and Equipment. All vehicles, equipment and tools used solely in the operation, maintenance and repair of the Treatment and Disposal System shall be purchased with BBARWA funds and shall be BBARWA's property.

3.7 Construction Coordinator. BBCCSD shall during the design and construction of the Treatment and Disposal System and future expansions thereto, be BBARWA's representative in all dealings with the design and construction engineers and with the contractors who perform work on the Treatment and Disposal System or any components thereof. BBCCSD, as such representative, shall make its General Manager available to BBARWA to the extent necessary to provide the services hereinafter enumerated. In performing such services, said General Manager shall be responsible to and shall report directly to BBARWA's Governing Board. In such capacity, said General Manager shall:

3.7.1 Act as BBARWA's representative under the agreement with the design and construction engineers entitled "Amended Agreement for Professional Services Regarding Wastewater Interceptors, Treatment and Disposal Facilities for the Big Bear Area Regional Wastewater Agency" and dated October 14, 1976, and administer said agreement on behalf of BBARWA insofar as it relates to the Treatment and Disposal System;

3.7.2 Coordinate and consult with the design and construction engineers and the responsible resident engineers designated by said engineers to supervise and inspect the construction of the Treatment and Disposal System;

3.7.3 Conduct, in the company of such resident engineers, periodic review of all sites where construction is in progress, and report to the BBARWA Governing Board with respect thereto;

3.7.4 Review and approve on behalf of BBARWA all change orders to contract documents that do not alter contract amounts by more than \$1,000; provided, however, that at such time as said General Manager has approved change orders which cumulatively alter contract amounts by \$10,000, all future change orders, regardless of amount, shall be approved by the BBARWA Governing Board;

3.7.5 Attend all BBARWA Governing Board meetings during the period of construction and report to the Board regarding the progress of construction and related pertinent matters;

3.7.6 Review with the said resident engineers and approve all requests for payment by contractors;

3.7.7 Call when necessary and attend all construction conferences as the representative of BBARWA;

3.7.8 Be responsible for community relations with respect to the construction of the Treatment and Disposal System, and receive and respond to all complaints and inquiries from members of the public with respect to such construction;

3.7.9 Promptly report to the BBARWA Governing Board and to the resident engineers any misperformance or nonperformance on the part of the contractors which may be observed by or brought to the attention of BBCCSD's General Manager;

3.7.10 Provide such other related services as may be specified, from time to time, by the BBARWA Governing Board.

Neither BBCCSD nor its General Manager shall have or assume any responsibility for the supervision and inspection of the work of the contractor or contractors, for

the interpretation or application of contract documents or for any other services to be performed by the design and construction engineers under the agreement referred to in Subpart 3.7.1.

3.8 Office and Meeting Space -- Office Equipment -- Telephone -- Sign. BBARWA's administrative office shall be the BBCCSD office, and BBCCSD shall provide adequate space at its office for BBARWA's operations and records, and shall provide a counter where members of the public may come to obtain information regarding BBARWA's operations, facilities, services and charges. BBARWA's records shall at all times be kept separate from those of BBCCSD. BBCCSD shall also provide all office machines and equipment necessary to properly conduct BBARWA's business and operations. BBCCSD shall arrange for and provide a separate telephone listed under BBARWA's name, and shall provide an employee or employees to answer said telephone at all times during regular business hours. BBARWA shall pay or reimburse BBCCSD the monthly charges for said telephone. BBCCSD shall make available to BBARWA's Governing Board BBCCSD's Board Room for all meetings of said Governing Board. If BBARWA's Governing Board so desires, BBCCSD shall obtain and display in a prominent location outside BBCCSD's office a sign indicating that said office is also the office of BBARWA.

3.9 Payment for Services, Facilities and Equipment. BBCCSD shall be paid or reimbursed by BBARWA for all services to be rendered by BBCCSD hereunder and for providing facilities, equipment and supplies hereunder as follows:

3.9.1 BBARWA shall pay BBCCSD for providing office space, business equipment and machines and for utilization of BBCCSD's Board room a monthly rental to be agreed upon by the parties prior to the commencement of each fiscal year (July 1-June 30).

3.9.2 BBARWA shall reimburse BBCCSD for a proportionate share of the salary and employee benefits of BBCCSD's General Manager, based upon the proportionate amount of time which such General Manager spends in the performance of his duties and responsibilities. Said General Manager's salary, including the portion thereof related to the performance of services hereunder, and employee benefits shall be determined by BBCCSD's Board of Directors; however, said Board of Directors shall obtain the approval of BBARWA's Governing Board of the portion of said General Manager's salary which is attributable to said General Manager's performance of services hereunder.

3.9.3 BBARWA shall reimburse BBCCSD for the entire amount of the salaries or wages and employee benefits of the Treatment Plant Superintendent and such other treatment plant operators who are employed full time in the operation of the Regional Treatment Plant.

3.9.4 BBARWA shall pay or reimburse BBCCSD for a proportionate amount of the salaries or wages and employee benefits of all secretarial, bookkeeping, clerical, administrative and field employees and part-time treatment plant operators who perform services on behalf of BBARWA under this Agreement based on the time such employees spend in the performance of such services as determined from time records to be submitted by BBCCSD to BBARWA for all such employees.

3.9.5 BBARWA shall, as provided in Part 3.10, pay directly the costs of all equipment chemical, materials, and supplies utilized in the operation and maintenance of and Treatment and Disposal System. BBARWA shall also pay directly the costs of all utilities supplied for and used in the operation and maintenance of the Treatment and Disposal System including electricity, water, gas and telephone.

BBCCSD shall bill BBARWA for the rent, costs, wages and employee benefits and other amounts specified in Subparts 3.9.1 through 3.9.5 on a monthly basis on or before the 15th day of the month succeeding the month of incurrence, and BBARWA shall pay each such billing on or before the 1st day of the next succeeding month.

3.10 Costs of Operating Treatment and Disposal System. From and after July 1, 1978, all costs directly associated with the operation of the Treatment and Disposal System and in particular the Regional Treatment Plant, including costs of utilities, lab fees, chemicals, supplies, and materials, and costs associated with the maintenance, repair and upkeep of buildings, machinery, equipment and facilities shall be paid directly by BBARWA.

3.11 Fidelity Bond. BBCCSD shall obtain at BBARWA's expense and furnish to BBARWA a fidelity bond in the amount of \$50,000 conditioned upon the faithful performance of the duties and responsibilities of BBCCSD's General Manager and all other employees who will have responsibility with respect to BBARWA's funds.

3.12 Replacement of Employees for Cause. Should the BBARWA Governing Board determine that any person employed by BBCCSD to perform duties or services on behalf of BBARWA under this Agreement, including its General Manager, is not performing such duties or services in a proper manner, BBCCSD shall, upon being requested in writing to do so by the BBARWA Governing Board, replace such person, insofar as the performance of duties and services on behalf of BBARWA is concerned, with a person who has the qualifications and ability to perform such duties or services. In the event the BBARWA Governing Board requests that BBCCSD's General Manager be replaced as the General Manager of the Treatment and Disposal System and as BBARWA's Administrative Manager, the provisions of Section 10 shall apply; however, the person appointed by BBCCSD to replace its General Manager in such capacities need not also be BBCCSD's General Manager.

3.13 Commencement of Performance of Services. BBCCSD shall commence managing and operating the Treatment and Disposal System on July 1, 1978. However, BBCCSD shall commence the performance of all other duties and services hereunder, to the extent they are required, immediately upon the effective date of this Agreement.

Section 4. FACILITIES TO BE OPERATED AND SERVICES TO BE PROVIDED BY CITY.

4.1 Interceptor System. City shall be and is hereby designated and employed to provide all services relating to the management and operation of the Interceptor System, and shall manage, operate, maintain and repair all components of said system.

4.2 General Manager. City's Public Works Director shall be the General Manager of the Interceptor System. With respect to such duties, City's Public Works Director shall be responsible to any shall report directly to BBARWA's Governing Board. City shall make its said Public Works Director available to BBARWA to the extent necessary to provide adequate management and supervision of the Interceptor System. In such capacity, City's Public Works Director shall provide all services normally provided by general managers of similar facilities, including but not limited to the following:

4.2.1 Provide overall supervision and management of the Interceptor System and all of its components;

4.2.2 Provide management and supervision of all employees of City who perform services on behalf of BBARWA pursuant to this Agreement;

4.2.3 Be responsible for and handle public relations concerning the Interceptor System including responding to inquiries and complaints regarding same;

4.2.4 Purchase or arrange for the purchase of all equipment, materials and supplies necessary to the operation, maintenance and repair of the Interceptor System;

4.2.5 See that the Interceptor System and all its components are at all times in proper working order and in a good state of repair, and that said system is at all times operated in accordance with the Operating Manual therefor and such other requirements as the BBARWA Governing Board may from time to time adopt;

4.2.6 See that all facilities and landscaping are maintained so as to present a neat and attractive appearance;

4.2.7 See that all applicable safety rules and regulations are complied with at all times by all employees;

4.2.8 Maintain an accurate running inventory of all BBARWA equipment, materials and supplies utilized or to be utilized in the operation, maintenance and repair of the Interceptor System in such detail as may be required by the BBARWA Governing Board;

4.2.9 Provide and perform such other services as may be designated from time to time by the BBARWA Governing Board.

4.3 Other Employees. City shall also employ such other employees as may be necessary for the proper operation of the Interceptor System. All such employees shall work under the direct supervision of City's Public Works Director and shall be employees of City. Such employees may divide their time between the performance of services related to this Agreement and services solely for the benefit of City. The BBARWA Governing Board may designate the number of employees to be employed by City in the performance of services hereunder and may from time to time revise such number, and City shall employ the number of employees so designated by said Governing Board.

4.4 Compensation of Employees. City shall be responsible for and shall promptly pay the salaries and

wages of City's Public Works Director and all other employees who are employed in providing services on behalf of BBARWA pursuant to this Agreement. City shall also be responsible for and shall provide appropriate employee benefits for all such employees, including health and accident insurance and a pension plan under the California Public Employees Retirement System or equivalent. The salaries and wages of all such employees shall be comparable to compensation generally paid for the performance of duties and services similar to those performed by such employees.

4.5 Vehicles and Equipment. City shall arrange for and provide all motor vehicles, equipment and tools necessary to the proper operation, maintenance and repair of the Interceptor System. All such vehicles shall be owned by City and shall be rented by City to BBARWA at a fair rental to be agreed upon by and between BBARWA and City as hereinafter provided in Subpart 4.7.1. City may elect to use one or more of said vehicles in connection with City operations, in which event the rental to be paid by BBARWA shall be determined based upon the proportionate amount of time said vehicles are actually used in the performance of services under this Agreement. All equipment and tools used solely in the operation, maintenance and repair of the Interceptor System shall be purchased with BBARWA funds and shall be BBARWA's property. Small tools and equipment which will not be used solely in the operation, maintenance and repair of the Interceptor System shall be furnished by City without cost to BBARWA.

4.6 Construction Coordinator. City shall during the design and construction of the Interceptor System and any future expansion thereto, be BBARWA's representative in all dealings with the design and construction engineers and with the contractors who perform work on the Interceptor System or any components thereof. City as such representative, shall make its Public Works Director available to BBARWA to the extent necessary to provide the services hereinafter enumerated. In performing such services, said Public Works Director shall be responsible to and shall report directly to BBARWA's Governing Board. In such capacity said Public Works Director shall:

4.6.1 Act as BBARWA's representative under the agreement with the design and construction engineers entitled "Amended Agreement for Professional Services Regarding Wastewater Interceptors, Treatment and Disposal Facilities for the Big Bear Area Regional Wastewater Agency" and dated October 14, 1976, and administer said agreement on behalf of BBARWA insofar as it relates to the Interceptor System;

4.6.2 Coordinate and consult with the design and construction engineers and the responsible resident engineers designated by said engineers to supervise and inspect the construction of the Interceptor System;

4.6.3 Conduct, in the company of such resident engineers, periodic review of all sites where construction is in progress, and report to the BBARWA Governing Board with respect thereto;

4.6.4 Review and approve on behalf of BBARWA all change orders to contract documents that do not alter contract amounts by more than \$1,000; provided, however, that at such time as said Public Works Director has approved change orders which cumulatively alter contract amounts by \$10,000, all future change orders, regardless of amount, shall be approved by the BBARWA Governing Board;

4.6.5 Attend all BBARWA Governing Board meetings during the period of construction and report to the Board regarding the progress of construction and related pertinent matters;

4.6.6 Review with the said resident engineers and approve all requests for payment by contractors;

4.6.7 Call when necessary and attend all construction conferences as the representative of BBARWA;

4.6.8 Be responsible for community relations with respect to the construction of the Interceptor System, and receive and respond to all complaints and inquiries from members of the public with respect to such construction;

4.6.9 Promptly report to the BBARWA Governing Board and to the resident engineers any misperformance or nonmisperformance on the part of the contractors which may be observed by or brought to the attention of said Public Works Director;

4.6.10 Provide such other related services as may be specified, from time to time, by the BBARWA Governing Board.

Neither City nor its Public Works Director shall have or assume any responsibility for the supervision and inspection of the work of the contractor or contractors, for the interpretation or application of contract documents or for any other services to be performed by the design and construction engineers under the agreement referred to in Subpart 4.6.1

4.7 Payment for Services, Facilities and Equipment. City shall be paid or reimbursed by BBARWA for all services to be rendered by City hereunder and for providing facilities, equipment and supplies hereunder as follows:

4.7.1 BBARWA shall pay to City a monthly rental for vehicles which are utilized by City in the performance of services hereunder. The amount of such monthly rental and the method of determining same shall be agreed upon by BBARWA and City at the time each such vehicle is placed into service. For vehicles which are utilized only part-time in the performance of services hereunder, the said monthly rental shall be based upon the mileage which said vehicles are used in the performance of services hereunder.

4.7.2 BBARWA shall reimburse City for a proportionate share of the salary and employee benefits of City's Public Works Director, based upon the performance amount of time which such Public Works Director spends in the performance of his duties and responsibilities hereunder, as well as the nature and complexity of such duties and responsibilities. Said proportionate amount of time shall be agreed upon by BBARWA and City at the commencement of each fiscal year. Said Public Works Director's salary, including the portion thereof related to the performance of services hereunder, and employee benefits shall be determined by the City Council of City; however, said City Council shall obtain the approval of BBARWA's Governing Board of the portion of said Public Works Director's salary which is attributable to said Public Works Director's performance of services hereunder.

4.7.3 BBARWA shall pay or reimburse City for a proportionate amount of the salaries or wages and employee benefits of all employees who perform services on behalf of BBARWA under this Agreement based on the time such employees spend in the performance of such services as determined from time records to be submitted by City to BBARWA for all such employees.

4.7.4 BBARWA shall, as provided in Part 4.8, pay directly the costs of all equipment, materials and supplies purchased by City in connection with the operation, maintenance and repair of the Interceptor System. BBARWA shall also pay directly the costs of all utilities supplied for and used in the operation and maintenance of the Interceptor System, including electricity, water, gas and telephone.

City shall bill BBARWA for the rent, costs, wages and employee benefits and other amounts specified in Subparts 4.7.1 through 4.7.3 on a monthly basis on or before the 15th day of the month succeeding the month of incurrence, and BBARWA shall pay each such billing on or before the 1st day of the next succeeding month.

4.8 Costs of Operating Interceptor System. From and after July 1, 1978, all costs directly associated with the operation of the Interceptor System, including costs of utilities, supplies and materials, and costs associated with the maintenance, repair and upkeep of buildings, machinery, equipment and facilities shall be paid directly by BBARWA.

4.9 Replacement of Employees for Cause. Should the BBARWA Governing Board determine that any person employed by City to perform duties or services on behalf of BBARWA under this Agreement, including its Public Works Director, is not performing such duties or services in a proper manner, City shall, upon being requested in writing to do so by the BBARWA Governing Board, replace such person, insofar as the performance of duties and services on behalf of BBARWA is concerned, with a person who has the qualifications and ability to perform such duties or services. In the event the BBARWA Governing Board requests that City's Public Works Director be replaced as the General Manager of the Interceptor System, the provisions of Section 10 shall apply; however, the person appointed by City to replace its Public Works Director in such capacity need not also be City's Public Works Director.

4.10 Commencement of Performance of Services. City shall commence managing and operating the Interceptor System on July 1, 1978. However, City shall commence the performance of all other duties and services hereunder, to the extent they are required, immediately upon the effective date of this Agreement.

Section 5. COORDINATION BETWEEN MANAGERS.

5.1 BCCSD's General Manager and City's Public Works Director shall coordinate with and assist each other in the performance of their respective duties and responsibilities under this Agreement, and to insure that the Interceptor System and the Treatment and Disposal System are operated in a compatible and efficient manner. Said Manager and Public Works Director shall also provide each other with all information and data necessary to the proper performance of their said respective duties and responsibilities. Disputes, if any, between said Manager and Public Works Director with regard to the performance of

their said respective duties and responsibilities shall be brought to and decided by the BBARWA Governing Board.

Section 6. INDEPENDENT CONTRACTORS.

6.1 BBCCSD and City in the performance of services hereunder are independent contractors, and all employees of BBCCSD and City are solely the employees of BBCCSD and City, respectively, and are not the agents or employees of BBARWA.

Section 7. INDEMNIFICATION.

7.1 BBCCSD and City shall indemnify and hold harmless BBARWA from any and all liability or damage as a result of the actions or inactions of their respective employees in connection with the performance of services hereunder.

Section 8. INSURANCE.

8.1 General. BBCCSD and City shall furnish and maintain throughout the term of this Agreement, comprehensive general liability insurance coverage and automobile liability insurance coverage having limits as to injury, sickness or death in the amount of \$500,000 for injury, sickness or death to a single person and \$1,000,000 for injury, sickness or death to two or more persons arising out of a single occurrence, and property damage limits of \$500,000. BBARWA, its officers and agents shall be additional named insureds under the policy or policies for such insurance and BBCCSD and City shall furnish BBARWA with certificates of insurance evidencing such insurance coverage.

8.2 Worker's Compensation. BBCCSD and City shall furnish and maintain throughout the term of this Agreement, worker's compensation insurance for their respective employees who will perform services under this Agreement, with coverage and limits as provided by the applicable provisions of the Labor Code. BBCCSD and City shall furnish BBARWA with certificates of insurance evidencing such insurance coverage.

Section 9. TERMINATION.

9.1 For Cause. This Agreement may be terminated as of June 30 of any year by BBARWA's Governing Board as to either BBCCSD or City if in the opinion of said Governing Board either of said agencies has failed to properly perform services hereunder or it is not in the best interest of BBARWA to have either of said agencies continue to perform

such services. This Agreement may also be terminated as of any such date by either BBCCSD or City, as to its part of the Agreement, if it determines that it is not in its best interest to continue to perform services hereunder. Any party wishing to terminate this Agreement as in this Part provided shall give the other parties written notice on or before March 31 of its intent to terminate the Agreement effective on June 30 following the date of such notice.

9.2 Payment for Services--Assumption of Obligations. Upon termination of this Agreement as provided in Part 9.1 as to either BBCCSD or City, BBARWA shall compensate BBCCSD or City, as the case may be, for services performed up to and including the date of termination and for all other costs incurred by it up to and through said termination. Upon such termination of this Agreement, all vehicles and equipment purchased by BBCCSD or City to provide services hereunder shall be and remain the property of BBCCSD or City. If either BBCCSD or City has entered into any long-term lease of equipment that is utilized solely in connection with the performance of services hereunder, upon the termination of this Agreement as to either of said parties, BBARWA shall take possession of such equipment and assume and be responsible for such leases.

9.3 By Agreement. This Agreement may also be terminated by written agreement executed by all parties hereto.

Section 10. SELECTION OF REPLACEMENT MANAGER.

In the event that either BBCCSD's General Manager or City's Public Works Director is to be replaced for any reason, BBCCSD or City (said agencies are hereinafter referred to as "Selecting Agency") shall consult with BBARWA's Governing Board regarding the qualifications and experience of the person to fill said position and shall not select a person for said position who does not have the requisite qualifications and experience. BBARWA's Governing Board shall also be permitted to interview the candidates for said position and the Selecting Agency shall consider the recommendations of BBARWA's Governing Board in selecting the person to fill said position; however, the final decision shall rest with the Board of Directors or City Council of the Selecting Agency.

Section 11. BONDHOLDERS AS THIRD PARTY BENEFICIARIES.

11.1 It is understood and agreed by the parties hereto that BBARWA has conducted an election and has otherwise taken proceedings for the authorization, issuance and

sale of \$3,000,000 of revenue bonds under and pursuant to the Revenue Bond Law of 1941 (Government Code §54300 et seq.) and intends to issue said revenue bonds so authorized at the special election of March 2, 1976, to pay the local portion of the cost of the design and construction of the Regional System, which was described in the election proceedings as "the acquisition, construction, improving and financing of an enterprise, to wit, a revenue producing improvement, building, system, plant, works, facilities and undertaking used for and useful for the collection, treatment and disposal of sewage and wastewater," and certain legally permissible associated incidental expenses. This Agreement is entered into, in addition to any other purpose herein stated, with the understanding that said bonds shall be issued and sold for such purpose, and the provisions herein are for the protection and benefit of the holders of said bonds, and the parties hereto agree, for the protection and benefit of the holders of said bonds, that they will carry out and perform all covenants, conditions and agreements contained in this Agreement and in the proceedings authorizing said revenue bonds, and that said bondholders are entitled to enforce the same, or to cause BBARWA to enforce the same on their behalf, as third party beneficiaries of this Agreement.

Section 12. GENERAL PROVISIONS.

12.1 Effect of this Agreement. This Agreement is intended to amend, supplement and extend Operating Agreement No. 3 in the form that it was entered into as of May 3, 1977, and shall govern for all purposes with respect to the matters herein provided.

12.2 Notices. Any notice to be given hereunder by any party to another party may be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of mailing. Mailed notices shall be addressed to the parties at their respective principal offices. Each party may change its address by written notice in accordance with this Part.

12.3 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the matters covered hereby. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent modification in writing, signed on behalf of all parties hereto.

12.4 Captions. The captions of sections and parts of this Agreement are for reference only and are not to be construed in any way as a part of this Agreement.

12.5 Partial Invalidity. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

12.6 Successors. This Agreement shall be binding upon and inure to the benefit of the successors in interest of the parties.

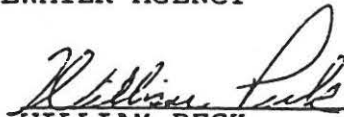
12.7 Attorney's Fees. If any action, at law or in equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to a reasonable attorney's fee in addition to any other relief to which it may be entitled.

12.8 Counterparts. This Agreement shall be executed in four original counterparts.


IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

DATE OF EXECUTION: _____

BIG BEAR AREA REGIONAL WASTEWATER AGENCY

By: 
WILLIAM PECK,
Chairman of the Governing Board of the Big Bear Area Regional Wastewater Agency

ATTEST:

By: 
NORMAN W. REINIK, Secretary of the Governing Board of the Big Bear Area Regional Wastewater Agency

DATE OF EXECUTION: June 8, 1988

CITY OF BIG BEAR LAKE

By: *[Signature]*
NORMAN W. REINIK, JR. Mayor
of the City of Big Bear Lake

ATTEST:

By: *Shirley A. Dege*
SHIRLEY A. DEGE, Deputy City Clerk
of the City of Big Bear Lake

BIG BEAR CITY COMMUNITY SERVICES DISTRICT

By: *[Signature]*
CLAUDE PROCK, President
of the Board of Directors
of Big Bear City Community
Services District

ATTEST:

By: *Patricia Allan*
PATRICIA ALLAN, Secretary of the
Board of Directors of Big Bear
City Community Services District

DATE OF EXECUTION: May 24, 1988

COUNTY OF SAN BERNARDINO on
behalf of Improvement Zone "B"
of San Bernardino County Service
Area 53

By: *John Joyner*
JOHN JOYNER, Chairman of
San Bernardino County Board
of Supervisors, Governing
Board of Improvement
Zone "B" of San Bernardino
County Service Area 53

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD.
[Signature]
Deputy
By: *[Signature]*
DEPARTMENT OF COUNTY CLERK

JUL 25 1988

ATTEST:

MARTHA SCUDDER,
Clerk of said Board

By:

Deputy Clerk

APPROVED AS TO FORM this 20th day of July, 1988.

ALAN MARKS, County Counsel

By:

L. Thomas Kachelski
Deputy County Counsel