

AGREEMENT BETWEEN BIG BEAR AREA
REGIONAL WASTEWATER AGENCY, CITY OF BIG
BEAR LAKE, BIG BEAR CITY COMMUNITY SERVICES DISTRICT,
AND COUNTY OF SAN BERNARDINO ON BEHALF OF IMPROVEMENT
ZONE "B" OF SAN BERNARDINO COUNTY SERVICE AREA 53
SUPPLEMENTING OPERATING AGREEMENT NO. 1 AND
OPERATING AGREEMENT NO. 2

THIS AGREEMENT is entered into as of the 15th
day of October, 1984, 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"). (City,
BCCSD, and County are hereinafter collectively referred to
as "Collecting Agencies").

RECITALS

(A) On May 3, 1977 BBARWA, BCCSD, County and the
Big Bear Lake Sanitation District (the predecessor of City)
entered into an agreement entitled:

"OPERATING AGREEMENT NO. 1

AGREEMENT BETWEEN BIG BEAR AREA REGIONAL
WASTEWATER AGENCY, BIG BEAR LAKE SANITATION
DISTRICT, BIG BEAR CITY COMMUNITY SERVICES
DISTRICT AND COUNTY OF SAN BERNARDINO ON
BEHALF OF IMPROVEMENT ZONE 'B' OF SAN
BERNARDINO COUNTY SERVICE AREA 53 REGARDING
CAPACITY IN AND OPERATION AND MAINTENANCE
OF REGIONAL SEWERAGE SYSTEM FOR THE BIG
BEAR VALLEY AREA"

providing, among other things, for the construction, operation and maintenance of a regional sewerage and wastewater transmission, treatment and disposal system by BBARWA (the "Regional System"), the financing of the design and construction of said system through a combination of state and federal clean water grants and the issuance and sale by BBARWA of \$3,000,000 of sewer revenue bonds. (Said agreement is hereinafter referred to as "Operating Agreement No. 1").

(B) Said sewer revenue bonds were issued and sold by BBARWA in 1977 in the full amount of \$3,000,000 and are currently outstanding in the principal amount of \$2,630,000. Said sewer revenue bonds constitute a first lien on the revenues of BBARWA from the operation of the Regional System.

(C) On said date, said parties also entered into another agreement entitled:

"OPERATING AGREEMENT NO. 2

AGREEMENT BETWEEN BIG BEAR AREA REGIONAL WASTEWATER AGENCY ('AGENCY'), BIG BEAR LAKE SANITATION DISTRICT ('BBLSD'), BIG BEAR CITY COMMUNITY SERVICES DISTRICT ('BBCCSD') AND COUNTY OF SAN BERNARDINO ('COUNTY') ON BEHALF OF IMPROVEMENT ZONE 'B' OF SAN BERNARDINO COUNTY SERVICE AREA 53 REGARDING SALE AND TRANSFER OF FACILITIES BY BBLSD AND BBCCSD TO AGENCY, RIGHT OF AGENCY TO PURCHASE SURPLUS REAL PROPERTY OF BBLSD AND BBCCSD, OPERATION OF FACILITIES, AND CAPACITY AND CONNECTION RIGHTS OF BBLSD, BBCCSD AND COUNTY IN AND TO CERTAIN FACILITIES"

providing, among other things, for the purchase by BBARWA from BBCCSD and the Big Bear Lake Sanitation District of certain real property and sewage and wastewater treatment

plants and interceptor sewer lines which are now parts of the Regional System, and for the delivery by BBARWA to BBCCSD and the Big Bear Lake Sanitation District of BBARWA's notes representing the purchase prices for said real property and facilities and for the payment of said purchase prices in equal annual installments payable on April 10 and December 10 of each year over a period of fifteen years commencing on December 10, 1978. (Said agreement is hereinafter referred to as "Operating Agreement No. 2").

(D) City is the successor in interest of the Big Bear Lake Sanitation District. On July 19, 1982, the parties to this agreement entered into an agreement which, among other things, amended Operating Agreement No. 1 and Operating Agreement No. 2 to name City as a party thereto, and to bind City to perform said agreements on behalf of the Big Bear Lake Sanitation District.

(E) In recent years during times of peak weekend and holiday sewage and wastewater flows and during times of high infiltration and inflow to the sewage collection systems of the Collecting Agencies, the Regional System has been unable to adequately provide for the treatment and disposal of the full quantity of sewage and wastewater entering the Regional System from the said sewage collection systems. In order to enable BBARWA and the Regional System to adequately provide for the treatment and disposal of all such sewage and wastewater, it is necessary that certain improvements be made thereto consisting generally of the following: (i) the

addition of a clarifier and sludge dewatering system to the regional treatment plant; (ii) the addition of an effluent pumping station and an outfall pipeline to the disposal system, and; (iii) expansion of the disposal area and the addition of further irrigation equipment at the disposal area for the disposal of effluent. (Said improvements are hereinafter collectively referred to as the "Improvements").

(F) In order to provide for the acquisition, construction and installation of the Improvements, BBARWA proposes to enter into the following agreements: (i) a proposed Installment Sale Agreement (the "Installment Sale Agreement") by and between Independent Public Facilities Corporation, as seller, and BBARWA, as purchaser, relating to the installment purchase of the Improvements; (ii) a Proposed Trust Agreement (the "Trust Agreement") by and among BBARWA, said seller and Security Pacific National Bank, as trustee, whereby said trustee will prepare, execute and deliver on behalf of and at the direction of BBARWA installment purchase certificates (the "Certificates") representing ownership interests in the payments to be made by BBARWA pursuant to the Installment Sale Agreement; (iii) a proposed Agency Agreement the ("Agency Agreement") by and between BBARWA and said seller pursuant to which BBARWA will agree to be appointed as the agent of said seller for the purpose of causing the Improvements to be acquired and constructed.

(G) If BBARWA enters into said agreements, there will be included in its budget for each fiscal year thereafter until all installment payments are made pursuant to the Installment Sale Agreement an amount sufficient to insure that BBARWA will be able to make all such installment payments. The inclusion of such amounts in said budgets may necessitate an increase in the amount of BBARWA's User Charge per Equivalent Dwelling Unit for each of the Collecting Agencies for one or more of such fiscal years, and it will be necessary that the Collecting Agencies collect such increased User Charges as provided in Section 5 of Operating Agreement No. 1.

AGREEMENT

IN CONSIDERATION of the foregoing and the mutual covenants and promises hereinafter contained, the parties agree as follows:

1. Agreements. It is necessary that the Improvements be acquired, constructed and installed in order that the Regional System will be able to adequately provide for the treatment and disposal of all of the sewage and wastewater collected by and delivered from the sewage collection systems of the Collecting Agencies to the Regional System. In order to provide for the acquisition, construction and installation of the Improvements, BBARWA shall enter into the Installment Sale Agreement, the Trust Agreement and the Agency Agreement, and shall provide for the issuance and sale of the Certificates.

2. Installment Payments. In order to enable BBARWA to pay installment payments required under the Installment Sale Agreement for the purchase and acquisition of the Improvements, the Collecting Agencies shall, as provided in Section 4 of Operating Agreement No. 1, be responsible for and pay their respective proportionate shares of any increase in the budget of BBARWA for any fiscal year during the term of the Installment Sale Agreement which may be necessary to provide for the payment of such installment payments, and pursuant to Section 5 of Operating Agreement No. 1 shall levy and collect any increase in the User Charge per Equivalent Dwelling Unit determined by BBARWA's Governing Board to be necessary for any such fiscal year to pay said installment payments.

3. Subordination. BBCCSD and City agree that if in any fiscal year during the term of the Installment Sale Agreement BBARWA is, due to a lack of funds or for any other reason, unable to pay the total of (i) the amount of principal and interest on its sewer revenue bonds which will become due during the fiscal year, (ii) the amount of the operation and maintenance expenses budgeted for the fiscal year, (iii) the principal and interest due during the fiscal year on its notes to BBCCSD and City which were given pursuant to Operating Agreement No. 2, and (iv) the amount of the installment payments due during the fiscal year under the Installment Sale Agreement, the payments on BBARWA's said notes to BBCCSD and City shall be subordinated to and paid only after

the payment of the full amount of such other expenses, including such installment payments.

4. Third Party Beneficiaries. This agreement is entered into, in addition to any other purpose herein stated, with the understanding that the Certificates shall be issued and sold for the purpose of acquiring, constructing and installing the Improvements, and the provisions herein are for the protection and benefit of the holders of the Certificates, Security Pacific National Bank, the trustee under the Trust Agreement, and Independent Public Facilities Corporation, the seller under the Installment Sale Agreement, and the parties hereto agree, for the protection and benefit of the holders of the Certificates, said trustee and said seller, that they will carry out and perform all covenants, conditions and agreements contained in this agreement and in the proceedings authorizing the issuance and sale of the Certificates, and that the holders of the Certificates, said trustee and said seller are entitled to enforce the same or cause BBARWA and the Collecting Agencies to enforce the same on their behalf, as third party beneficiaries of this agreement.

5. Relationship of Agreements. This agreement supplements Operating Agreement No. 1 and Operating Agreement No. 2 and shall be construed so as to be complimentary thereto.

6. Entire Agreement. This agreement contains the entire agreement between the parties relating to the matters covered hereby. Any oral representations or modifi-

cations concerning this agreement shall be of no force or effect excepting a subsequent modification in writing, signed on behalf of all parties hereto.

7. Inurement. This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

8. Litigation. If any action, at law or in equity, including any action for declaratory relief, is brought to enforce or interpret 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.

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.

BIG BEAR AREA REGIONAL
WASTEWATER AGENCY

By:

James L. Wood
Chairman of the Governing
Board

ATTEST:

Robert E. Owen
Secretary of the Governing
Board

BIG BEAR CITY COMMUNITY
SERVICES DISTRICT

James L. Wood
President of the Board of
Directors

ATTEST:

Patricia Allan
Secretary of the Board
of Directors

CITY OF BIG BEAR LAKE

By:

J. H. Emery
Mayor

ATTEST:

By:

John Bohal
City Clerk

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

By:

Cal McElwain
CAL McELWAIN Chairman of the Board
of Supervisors

OCT 15 1984

ATTEST:

Clerk of said Board of
Supervisors

By:

Robert M. Mueser
Deputy

APPROVED:

ALAN K. MARKS
County Counsel

By: *Elizabeth A. Hanna*
DEPUTY

Date: *October 10, 1984*



COUNTY OF SAN BERNARDINO
CONTRACT TRANSMITTAL

County Department County Service Area 53-B				CONTRACT NUMBER 84-744	
County Department Contract Representative Ed Houston				<input checked="" type="checkbox"/> Renewable <input type="checkbox"/> Terminates Date:	
Budget Unit No.		Sub-Object No.	Fund No.	Job No.	Amount of Contract See Agreement
Check One: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue S.S.A. # _____ or Federal Employer ID # _____			If contract has more than one payment or receipt, complete the following. Number of payments: _____ Estimated amount of each: \$ _____		

Contractor: Big Bear Area Regional Wastewater Authority

Contractor's Representative: Michael Perry, General Manager

Address: BBARWA, Box 558, Big Bear City, CA 92314 Phone: _____

Nature of Contract: *(Briefly describe the general terms of the contract)*

Revision to Operating Agreement No. 1 and No. 2 providing financing for the design and construction of a clarifier and sludge dewatering system, effluent pumping station expansion of the disposal area and the addition of further irrigation equipment at the disposal area.

Includes a reiteration of Operating Agreement 1 Section 5 where member collecting agencies may necessitate increasing User Charges to meet BBARWA installment payments.

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to legal form
 ▶ Elizabeth J. Hanna
 County Counsel

Reviewed as to budget expenditure
 ▶ _____
 County Administrative Office