

CAWD/PBCSD RECLAMATION
MANAGEMENT AGREEMENT

THIS AGREEMENT is made and entered into on February 22, 1991, by and between the CARMEL AREA WASTEWATER DISTRICT (hereinafter "CAWD") and the PEBBLE BEACH COMMUNITY SERVICES DISTRICT (hereinafter "PBCSD"), as follows:

Recitals

1. CAWD owns and operates, and PBCSD has a contractual right for one-third of the capacity of, a wastewater treatment plant, and the parties hereto, in conjunction with the MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ("WMD") and the PEBBLE BEACH COMPANY ("PBC"), are actively pursuing the implementation of a wastewater reclamation project capable of producing at least 800 acre feet per year of subpotable water.

2. It is the intent of the parties hereto that the reclamation facility will be located at the CAWD treatment plant and that CAWD and PBCSD will own and manage the construction and subsequent operation of the facility and the related distribution system (collectively, the "Project"), as provided hereinafter, with CAWD acting as the lead agency.

3. Effective on November 1, 1990, the four entities mentioned above - CAWD, PBCSD, WMD and PBC - entered into that certain "Wastewater Reclamation Project Construction and Operation Agreement" (hereinafter referred to as the "Four-Party Agreement"), a copy of which is attached hereto as Exhibit "A" and is incorporated in this Agreement by reference for the purpose of setting forth the agreement of the parties with respect to the construction and operation of the project.

4. The purpose and intent of this Agreement, therefore, is to specify as between CAWD and PBCSD certain provisions relating to the ownership, operation and management of the Project.

Terms and Conditions

In consideration of the mutual promises contained herein, CAWD and PBCSD agree to the following terms and conditions:

1. Project Ownership. The "Project" which includes both the reclamation "Facility" and the "Distribution System," as said terms are defined in Section 1.17 and 2.1 of the Four-Party Agreement, shall be owned by the parties hereto as follows:

a) CAWD shall own the Facility and the portion of the Distribution System Pipeline that runs from the facility to the southwestern edge of Lasuen Drive (in the unincorporated Carmel area), where it abuts the pipeline and access easement presently owned by CAWD; and

b) PBCSD shall own all of the remainder of the Distribution System Pipeline (from Lasuen Drive generally north to the PBCSD boundary line) and all of the Distribution System (pipelines and storage tank facilities) within the boundaries of PBCSD.

2. Other Facilities. All wastewater treatment and disposal facilities of CAWD which are not part of the Project will continue to be owned, operated and financed in accordance with the presently existing agreement between the parties hereto, dated March 27, 1969, and all amendments thereto or any successor agreements replacing same (the "1969 Agreement").

3. Management Committee. The parties hereto, jointly referred as to "CAWD/PBCSD" (as provided in Section 1.6 of the Four-Party Agreement), will jointly design, construct, operate and maintain the Project. CAWD and PBCSD shall carry out such design, construction, operation and maintenance through a Management Committee as provided in the Four-Party Agreement. As provided in Section 1.13 of the Four-Party Agreement, the Management Committee shall be composed of a) two representatives of CAWD, b) two representatives of PBCSD, and c) one representative of PBC, until such time as PBC ceases to be a member of such committee in the manner provided in Section 1.13 of the Four-Party Agreement. The role of the Management Committee, and its procedures, powers and duties, are set forth at length in the Four-Party Agreement.

4. Appointment of Committee Members. The Boards of Directors of each of CAWD and PBCSD may appoint or elect their representatives on the Management Committee, and may replace and change representatives, by such procedures as may be adopted by each Board.

5. Operation of the Management Committee. The Management Committee may adopt its own rules, procedures, or by-laws for its operations; provided, however, that the following provisions shall apply to the operation of the Management Committee:

a) A quorum of the Management Committee shall consist of one representative of CAWD, one representative of PBCSD and the representative of PBC on the Management Committee, and, except as provided to the contrary in the Four-Party Agreement, the approving votes of three of the members of the Management Committee shall be necessary for it to take any action;

b) All meetings of the Management Committee shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (Sections 54950 et seq. of the California Government Code and Section 6.1 of the Four-Party Agreement; and

c) The names of each of the initial members of the Management Committee, and the entity which has appointed him or her, are set forth on Exhibit "B" hereto. Each entity which may appoint a person as a member of the Management Committee may change the person it has appointed as such member at any time, and from time to time, upon giving each of the other entities written notice of such change.

6. Management Staff. The General Manager of the CAWD shall be responsible, subject to the direction and control of the Management Committee, for the day-to-day implementation of the responsibilities and duties of CAWD/PBCSD for the Project. In connection with performing such services, the General Manager shall receive such staff assistance as may be required, from time to time, from the staff members of the CAWD. Pursuant to, and subject to the limitations set forth in, Section 5.2(b) of the Four-Party Agreement, all reasonable administrative or overhead expenses of CAWD or PBCSD which relate to the Project shall be included in, and reimbursed as part of, the Operation and Maintenance Expenses, as defined in Section 1.16 of the Four-Party Agreement.

7. Lead Agency; Administrative Board. CAWD shall be the lead agency with regard to the operations of, and actions to be taken concerning, the Project by CAWD/PBCSD, and the Board of Directors of CAWD is hereby designated the Administrative Board for the Project and is hereby authorized to carry out, as a ministerial function, those actions approved by the Management Committee and, as necessary, the Board of Directors of each of CAWD and PBCSD.

8. Board Approval; Procedure. Any matter which the Management Committee, pursuant to Section 6.1(d) of the Four-Party Agreement, determines should be referred to and recommended for action by the CAWD and PBCSD Board of Directors shall be considered for approval by each Board. If both Boards approve the recommended matter, the Administrative Board will automatically take formal action, as a ministerial function, to implement such matter. If either Board disagrees with the recommended matter, it may call for a joint meeting of the two Boards to consider the matter. In that circumstance, the joint Boards will function as one ten-member Board, with eight members required as a quorum for the transaction of business and with decisions made by majority vote of the ten-members, and such vote, without further action, will bind the Administrative Board to act accordingly. Failure to obtain a majority vote of the joint Boards will result in the return of the matter to the Management Committee for further consideration and recommendations. In that circumstance, the Management Committee may either a) withdraw its earlier recommendation or b) modify its earlier recommendation, in which latter case the matter will then be automatically resubmitted to the ten-member Board. If the committee cannot resolve by either of these methods any impasse on the matter within ten (10) days of first reconsidering the matter, then the matter shall be resolved exclusively by arbitration in the manner set forth in the following paragraph.

9. Arbitration. Within ten (10) days after the Management Committee concludes there is an impasse on a recommended matter, it shall meet and act to prepare and transmit a written notice to both parties hereto of the referral of the matter to arbitration (the "Arbitration Notice"). Such arbitration, shall be conducted by one arbitrator, unless the parties cannot agree on an arbitrator within fifteen (15) days after the date of the Arbitration Notice, in which case it shall be conducted by a panel of three arbitrators. If a three-arbitrator panel is to be used, each party shall select a single arbitrator, and the two arbitrators so selected shall engage in all reasonable efforts to select the third arbitrator, within thirty (30) days after the date of the Arbitration Notice.

In the event the third arbitrator has not been selected within such thirty-day period, either of the parties may request the American Arbitration Association to select such arbitrator. If one of the parties has not selected an arbitrator, or notified the other party in writing of such selection within fifteen (15) days after the date of the Arbitration Notice, the arbitrator selected by the other party shall act as the sole arbitrator. No arbitrator may be affiliated, whether directly or indirectly, with either of the parties. Arbitration shall be conducted pursuant to the procedure described in this paragraph and the rules of the American Arbitration Association, and shall take place in Monterey County, California. Any decision of the arbitrator(s) (and if the arbitration is conducted by a panel of three arbitrators, the decision shall be made by a vote of at least two of the arbitrators) and shall be delivered in writing and shall contain a description in reasonable detail, of the reasons for the decision. The arbitrator(s) shall be required to use his(their) best efforts to a) hold the hearing with respect to the arbitration within thirty (30) days after the selection of the last of the arbitrators to be selected, and b) deliver the decision to each of the parties within ten (10) days of the completion of the hearing. A decision by the arbitrator(s) shall be final, binding and conclusive on the parties. A judgment based on the decision of the arbitrator(s) may be entered by any court of competent jurisdiction.

10. Amendment or Modification. This Agreement may be amended, altered or modified only by a writing, specifying such amendment, alteration or modification, executed by both of the parties hereto; provided, however, that so long as any of the bonds issued to finance the Project, as more fully described in the Fiscal Sponsorship Agreement between PBC and WMD, or any bonds or certificates of participation issued to refinance such bonds, are outstanding, CAWD and PBCSD shall make no amendments to this Agreement which could, at the time or in the future, impair the ability of CAWD/PBCSD to perform any of its obligations hereunder or under the Four-Party Agreement or adversely affect any of the rights of PBC or WMD under the Fiscal Sponsorship Agreement or the Four-Party Agreement.

11. Term. This Agreement shall become effective upon its execution and delivery to each party and shall continue until terminated by mutual agreement of both parties hereto, by operation of law or by judicial decree.

12. Indemnification. Each party shall defend, indemnify and hold harmless the other party from and against any and all damages, liabilities, losses and costs of expenses suffered or incurred by such other party, arising out of or resulting from any breach of its agreements set forth in this Agreement.

13. Further Assurances. Each of the parties agree to execute and deliver to the other such documents and instruments, and to take such actions, as may reasonably be required to effectuate the terms and conditions of this Agreement; provided, however, such covenant shall not have the effect of increasing the obligations of any party pursuant to this Agreement or require any representations and warranties by any party.

14. Relationship of the Parties. Nothing in this Agreement shall create a joint venture, partnership or principal-agent relationship between the parties.

15. Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party hereto, shall be in writing and shall, except as otherwise expressly provided in this Agreement, or by law, be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of such personal service, within five (5) days after being deposited in the United States mail, first-class, postage prepaid, addressed to the principal place of business of the party to whom they are directed.

16. Assignment. This Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assign of the parties. Neither party may assign any of its rights or obligations hereunder to any person or entity other than a successor agency.

17. Severability. Should any provision of this Agreement be declared invalid and unenforceable in any jurisdiction by a court of competent jurisdiction, then such portion or provision shall be deemed to be severable, to the extent invalid or unenforceable, from this Agreement as to such jurisdiction (but, to the extent permitted by law, not elsewhere) and shall not affect the remainder hereof. Notwithstanding the foregoing, a) such provision of this Agreement shall be interpreted by the parties and by any such court, to the extent possible, in such a manner that such provision shall be deemed to be valid and enforceable, and b) such court shall have the right to make such modifications to any provision of this Agreement as do not materially affect the rights or obligations under this Agreement of the parties hereto and as may be necessary in order for such provision to be valid and enforceable.

18. Waiver. No waiver of any right or obligation of any of the parties shall be effective unless in a writing, specifying such waiver, executed by the party against whom such waiver is sought to be enforced. A waiver by any of the parties of any of its rights under this Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

19. Headings and Titles. The designation of a title, or a caption of a heading, for each section of this Agreement is for the purpose of convenience only and shall not be used to limit or construe the contents of this Agreement.

20. Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same instrument.

21. Entire Agreement. This Agreement and the Four-Party Agreement constitute the entire agreement between the parties regarding the subject matter hereof, and supersede all prior or contemporaneous negotiations, understandings or agreements of the parties, whether written or oral, with respect to such subject matter.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of each of the parties on the date first shown above.

CARMEL AREA WASTEWATER DISTRICT

By: Charlotte F. Townsend
President

ATTEST:

R. Lopez
Secretary

PEBBLE BEACH COMMUNITY SERVICES DISTRICT

By: Joseph W. Murphy
President

ATTEST:

Rebecca Anderson
Secretary

1 RESOLUTION NO. 91-08

2 A RESOLUTION OF THE CARMEL AREA WASTEWATER DISTRICT
3 RE-APPROVING AND AUTHORIZING THE EXECUTION OF THE
4 CAWD/PBCSD RECLAMATION MANAGEMENT AGREEMENT

5 -oOo-

6 WHEREAS, the Carmel Area Wastewater District ("CAWD") and
7 the Pebble Beach Community Services District ("PBCSD"), along
8 with other parties, have been actively pursuing a proposed
9 Wastewater Reclamation project at the CAWD Treatment Facility
10 under the terms of various existing agreements and memoranda
11 of understanding between said agencies; and

12 WHEREAS, CAWD (formerly known as the Carmel Sanitary
13 District) and PBCSD adopted a Memorandum of Understanding
14 dated November 16, 1987, which, among other things, described
15 the proposed Reclamation Project, established a Management
16 Committee, authorized CAWD to be the Administrative Board, and
17 required that a final decision on joint ownership of project
18 facilities be made prior to the implementation of Pebble Beach
19 Company's commitment to finance the project; and

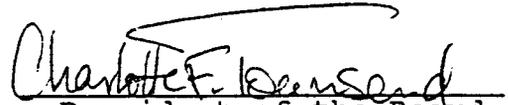
20 WHEREAS, a comprehensive Four-Party Construction and
21 Operation Agreement between all involved parties has now been
22 negotiated and executed, and a supplemental agreement between
23 CAWD and PBCSD, relative to their respective relationships for
24 the ownership and management of the Project, was previously
25 approved by this Board on April 19, 1990, and as revised has
26 now been presented to the Board this date.

27 NOW, THEREFORE, BE IT RESOLVED by the Board of Directors
28 of the Carmel Area Wastewater District that it does hereby re-
approve the attached Management Agreement with PBCSD regarding

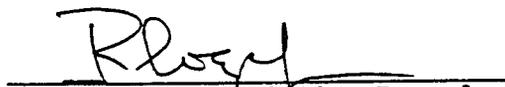
1 the relationships and responsibilities of CAWD/PBCSD relative
2 to implementing the CAWD/PBCSD Wastewater Reclamation Project,
3 and authorizes the President to execute and the Secretary of
4 the Board to attest to said Agreement on behalf of the CAWD.

5 PASSED AND ADOPTED by the Board of Directors of the
6 Carmel Area Wastewater District at a regular meeting duly held
7 on February 21, 1991, by the following vote:

8 AYES: BOARD MEMBERS: Beemer, Floyd, Haseltine, Stevens,
9 NOES: BOARD MEMBERS: None Townsend
10 ABSENT: BOARD MEMBERS: None

11 
12 Charlotte F. Townsend
13 President of the Board

14 ATTEST:

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16 Robert R. Wellington
17 Secretary of the Board

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1 RESOLUTION NO. 91- 63

2 A RESOLUTION OF THE PEBBLE BEACH COMMUNITY SERVICES
3 DISTRICT RE-APPROVING AND AUTHORIZING THE EXECUTION
4 OF THE PBCSD/CAWD RECLAMATION MANAGEMENT AGREEMENT

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5 WHEREAS, the Pebble Beach Community Services District
6 ("PBCSD") and the Carmel Area Wastewater District ("CAWD"),
7 along with other parties, have been actively pursuing a
8 proposed Wastewater Reclamation project at the CAWD Treatment
9 Facility under the terms of various existing agreements and
10 memoranda of understanding between said agencies; and

11 WHEREAS, PBCSD and CAWD (formerly known as the Carmel
12 Sanitary District) adopted a Memorandum of Understanding dated
13 November 16, 1987, which, among other things, described the
14 proposed Reclamation Project, established a Management
15 Committee, authorized CAWD to be the Administrative Board, and
16 required that a final decision on joint ownership of project
17 facilities be made prior to the implementation of Pebble Beach
18 Company's commitment to finance the project; and

19 WHEREAS, a comprehensive Four-Party Construction and
20 Operation Agreement between all involved parties has now been
21 negotiated and executed, and a supplemental agreement between
22 PBCSD and CAWD, relative to their respective relationships for
23 the ownership and management of the Project, was previously
24 approved by this Board on March 30, 1990, and as revised has
25 now been presented to the Board this date.

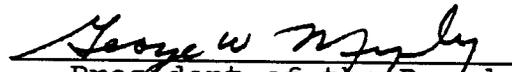
26 NOW, THEREFORE, BE IT RESOLVED by the Board of Directors
27 of the Pebble Beach Community Services District that it does
28 hereby re-approve the attached Management Agreement with CAWD

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regarding the relationships and responsibilities of PBCSD/CAWD relative to implementing the PBCSD/CAWD Wastewater Reclamation Project, and authorizes the President and the Secretary of the Board to execute said Agreement on behalf of the PBCSD.

PASSED AND ADOPTED by the Board of Directors of the Pebble Beach Community Services District at a regular meeting duly held on February 22, 1991, by the following vote:

AYES: BOARD MEMBERS: Hendrick, Murphy, O'Brien, Sprenger and Strong
NOES: BOARD MEMBERS: None
ABSENT: BOARD MEMBERS: None


President of the Board

ATTEST:


Secretary of the Board

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