



SUBMITTAL TO THE BOARD OF DIRECTORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



427

FROM: Regional Park & Open-Space District

SUBMITTAL DATE: 4/17/09

SUBJECT: Agreement between Eastern Municipal Water District and Riverside County Regional Park and Open-Space District for Sewer System Maintenance at Lake Skinner Recreation Area - District III

RECOMMENDED MOTION: That the Board:

- 1) Approves the attached Interagency Agreement between Eastern Municipal Water District (EMWD) and the Riverside County Regional Park and Open-Space District (Park District);
2) Authorizes the Chairperson to executive three (3) copies of the Agreement;
3) Authorizes the General Manager of the Park District to perform all duties necessary to administer the Agreement; and
4) Directs the Clerk of the Board to return two (2) copies of the agreement to the Park District for distribution.

BACKGROUND: The Park District requests that your honorable Board approve an interagency agreement with the Eastern Municipal Water District for the operation and maintenance of on-site sewer system facilities located within the Lake Skinner Recreation Area, as well as any future on-site sewer facilities constructed by the Park District. The term of this agreement is for 25 years, effective upon execution of the attached agreement. This initial term may be extended upon such terms and conditions as are mutually acceptable to the parties at the time of each extension. The Office of County Counsel has reviewed and approved the Agreement as to legal form.

706 - Skinner Agreement EMWD
CQ/mg

[Signature]

Scott Bangle, General Manager

Table with 2 columns: Financial Data and Budget Information. Includes rows for Current F.Y. Total Cost, Net County Cost, and Annual Net County Cost, along with In Current Year Budget and Budget Adjustment.

Table for SOURCE OF FUNDS with columns for Positions To Be Deleted Per A-30 and Requires 4/5 Vote.

C.E.O. RECOMMENDATION:

APPROVE

BY: [Signature] Alex Gann

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL BY: LARISA R-MCKENNA DATE: 4/20/09

Dept's Recomm.: [ ] Consent [ ] Policy [ ]
Per Exec. Ofc.: [ ] Consent [ ] Policy [ ]

Prev. Agn. Ref.: District: III Agenda Number:

13.2

Subject: Lake Skinner Sewer O&M Agreement  
Parties: Riverside County Regional Park and Open Space District and Eastern Municipal Water District  
Date: April 16, 2009

LAKE SKINNER RECREATION AREA  
SEWER SYSTEM OPERATION AND MAINTENANCE  
INTERAGENCY AGREEMENT

This Agreement is made and entered into this \_\_ day of \_\_\_\_\_, 2009, by and between the RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT ("Park District") and EASTERN MUNICIPAL WATER DISTRICT ("Eastern").

RECITALS

WHEREAS, Park District has developed Lake Skinner Recreation Area, a recreational facility which occupies the Metropolitan Water District of Southern California's Lake Skinner properties, as generally shown on **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, Park District is responsible for water and sewer systems at Lake Skinner, and has utilized the services of Eastern to operate and maintain said systems as established in an Agreement dated May 13, 1975 and amended through Supplemental Agreements dated January 27, 1976 and November 29, 1994, which term has since expired; and

WHEREAS, Park District has elected, hereinafter, to operate and maintain the water system facilities, which services were previously provided by Eastern under the above referenced Agreements, as amended; and

WHEREAS, both Park District and Eastern are desirous of establishing the terms, conditions, and responsibilities for Eastern to continue to operate and maintain the Lake Skinner Recreation Area sewer system.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, the parties agree as follows:

1. Term. The term of this Agreement shall be for twenty-five (25) years, effective upon execution of this Agreement, which initial term may be extended upon such terms and conditions as are mutually acceptable to the parties at the time of each extension.

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2. Ownership, Maintenance and Operation Responsibilities. The on-site sewer system facilities located within the Lake Skinner Recreation Area, as well as any future on-site sewer facilities constructed by Park District (collectively referred to as the "On-site Facilities") shall be the sole property of Park District. Park District shall provide Eastern with copies of as-built drawings for any and all previously constructed sewer system facilities and/or any future facilities constructed by Park District upon its completion and acceptance.

Park District hereby contracts with Eastern to operate, maintain and repair said On-site Facilities and provide scheduled preventative maintenance services for each lift station and sewer system facility in accord with the Maintenance and Improvement Plan as **Exhibit B**, which is attached hereto and incorporated herein by this reference. The provision of these services (hereinafter "On-site O&M Services") will be contingent upon Park District approval of the budgetary estimate provided by Eastern to Park District prior to each succeeding fiscal year in accord with Paragraph 5, herein below.

Eastern agrees to provide the approved On-site O&M Services under the following terms and conditions:

- (a) Park District shall grant authorized Eastern personnel complete and unrestricted access, at all times, to sewer system facilities located throughout the recreational area.
- (b) Park District shall be solely responsible for the operation, maintenance, and repair of all water system facilities within the Lake Skinner Recreation Area.
- (c) Park District shall be responsible to operate, maintain, and repair Wastewater Lagoon facilities and appurtenances thereto, including but not limited to any retention berms and flow channels, located at Lake Skinner Recreation Area as shown on **Exhibit C**, which is attached hereto and incorporated herein by this reference

Eastern shall retain responsibility for maintenance and repair of the aerator mixers and appurtenances thereto located at the Wastewater Lagoon.

- (d) Eastern will be responsible for repairing damage to landscape, sidewalks, irrigation fixtures, and other Park District structures or vegetation resulting from work

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performed by District personnel under this contract, in a timely manner. Park District agrees to reimburse Eastern for these expenses unless the damage to property was due solely to Eastern's negligence.

- (e) Park District shall reimburse Eastern for its expenses incurred in the operation, maintenance and repair of the On-site Facilities in accord with Paragraph 6, herein below.
- (f) In the event Eastern provides Park District with written notification that additional sewer system facilities are required to meet the service needs of the recreational area and/or system replacement/upgrades are necessary to comply with requirements imposed by a regulatory agency, Park District shall:
  - (1) Curtail use of the non-compliant portion(s) of the system; or
  - (2) Agree, in a manner satisfactory to Eastern, to finance such required additional facilities and/or system replacement/upgrades; or
  - (3) Finance and construct such required additional facilities and/or system replacement/upgrades.
- (g) Eastern shall, under no circumstances, be required to operate any facility in violation of requirements imposed by a regulatory agency or which, in the opinion of Eastern, is a health or safety concern. In this regard, Park District shall, in concert with Eastern, take immediate action as necessary to alleviate the reason for such violation within 24 hours following such notification by Eastern or regulatory agency. In the event Park District does not take immediate actions which result in meeting the necessary requirements within said 24 hour period, Eastern may, at its option, terminate all On-site O&M Services provided by Eastern without further notice to Park District. Eastern will responsibly cooperate with Park District in seeking a mutually acceptable resolution of the problem.
- (h) In the event Eastern is cited for violation of regulatory agency requirements due to the need for additional facilities for which Eastern has presented to Park District in accordance with Paragraph 5, herein, Park District shall in concert with Eastern, take

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immediate action, as necessary, to alleviate the reason for such violation, within 24 hours following written notification from Eastern. In addition, Park District shall pay any and all fines or penalties assessed against Eastern as a result of such citation.

3. Construction of Additional Sewer Facilities by Park District. All future construction of additional sewer facilities within the Lake Skinner Recreation Area recreational area will be coordinated with Eastern to ensure the system design and construction is in accord with Eastern standards and specifications. In this regard, Park District shall consult with Eastern in the design, plan and preparation of the sewer system and shall submit the construction plans and specifications to Eastern for review and comment prior to bid advertising.

Park District shall be responsible, at its sole expense, for the preparation of any and all requirements for Environmental Assessments, Permits, or Statements required for construction of additional sewer facilities by Park District to be operated and maintained by Eastern pursuant to this Agreement.

4. Eastern's Appointment as Park District Agent. Park District hereby appoints Eastern as its agent to supervise and inspect the furnishing and installation of any additional sewer facilities which are to, upon their completion, be operated and maintained by Eastern pursuant to this Agreement. It is specifically understood that as Park District agent, Eastern's inspection personnel shall have the authority to enforce the approved plans and specifications for such facilities and to approve change orders. Such authority shall include, but not be limited to, the right to require that any and all unacceptable materials, workmanship and/or installation are replaced, repaired or corrected by Park District's contractor.
5. Budget. On or before May 1 each year, Eastern will prepare and submit to Park District a budget covering anticipated operational, maintenance, and repair expenses, as well as any additional facilities as may be required, for each succeeding fiscal year (July 1 through June 30).
6. Service Payment. Quarterly billings will be prepared by Eastern for the On-Site O&M Services provided. Park District shall reimburse Eastern quarterly for its actual expenses incurred in the operation, maintenance, and repair of the subject sewer system facilities and the provision of service there through. Labor and material costs for the On-Site O&M

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Services provided by Eastern shall include a 15% administrative overhead charge.

Eastern will provide supportive documentation including but not limited to description of labor hours per pay-period and supplies used in performing services at Lake Skinner Recreation Area.

Failure of Park District to make timely payment responsive to Eastern's quarterly billing shall constitute sufficient grounds for the cessation of On-site O&M Services by Eastern until payment in full has been received.

7. Indemnification. Eastern and Park District each hereby agree to indemnify, defend, save and hold harmless the other party and their respective officers, agents and employees, of and from any liabilities, claims, demands, suits, action and cause of action arising out of or in any manner connected with any act or omission of such indemnifying party, performed in connection with such party's duties and obligations.
8. Termination of Services. Park District may terminate the On-site O&M Services provided by Eastern by giving written notice to Eastern at least three months prior to the effective date of such termination.

Eastern may terminate the On-site O&M Services it provides Park District by giving written notice of intent to terminate to Park District at least three months prior to the effective date of such termination.

9. Relief of Obligations. In the event either Party is prevented from carrying out its responsibilities contemplated herein by reason of an act of God or other reasons beyond its control, then that Party, at its option, shall be relieved of its obligations, in which event the other Party shall also be relieved of its obligations and responsibilities hereunder.
10. Assignment. This Agreement shall not be assigned by Eastern, either in whole or in part, without prior written consent of Park District. Any assignment or purported assignment of this Agreement by Eastern without the prior written consent of Park District will be deemed void and of no force or effect.

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11. Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
12. Compliance. Eastern warrants and certifies that, in the performance of this Agreement, it shall comply with all applicable laws, rules, regulations and orders of the United States, the State of California, and the County of Riverside, including the laws and regulations pertaining to labor, wages, hours and other conditions of employment. Eastern further warrants and certifies that it shall comply with new, amended, or revised laws, regulations and/or procedures that apply to the performance of this Agreement.
13. Jurisdiction, Venue, Attorney's Fees. This Agreement is to be construed under the laws of the State of California. The parties agree to the jurisdiction and venue of the appropriate courts in the County of Riverside, State of California. Should action be brought to enforce or to interpret the provisions of the Agreement, the prevailing party shall be entitled to attorney's fees in addition to whatever other relief are granted.

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and all prior or contemporaneous agreements of any kind or nature relating to the same shall deem to be merged herein. Any modification to the terms of this Agreement shall be in writing and incorporated herein and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

14. Notices. Any notice required by this Agreement to be given or delivered to any Party shall be deemed to have been received when personally delivered or mailed in the United States mail addressed as follows:

Eastern:           General Manager  
                      Eastern Municipal Water District  
                      Post Office Box 8300  
                      Perris, CA 92572-8300

Park District:   General Manager  
                      Riverside County Regional Park and Open-Space District  
                      4600 Crestmore Rd.  
                      Riverside, CA 92509-6858

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

RIVERSIDE COUNTY REGIONAL  
PARK AND OPEN-SPACE DISTRICT

EASTERN MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
Chair, Board of Directors

By: \_\_\_\_\_  
Anthony J. Pack, General Manager

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy

ATTEST:

Dated: \_\_\_\_\_

Dh/lakeskinner