

INTERMUNICIPAL AGREEMENT

BETWEEN

CITY OF BAYFIELD

AND

PIKES BAY SANITARY DISTRICT

FOR CREATION AND OPERATION OF

THE GREATER BAYFIELD WASTEWATER TREATMENT PLANT

THIS AGREEMENT is made and executed between the City of Bayfield ("the City"), a city created pursuant to Ch. 62, Wis. Stats., with its principal offices located at 125 S. First Street, Bayfield, Wisconsin 54814, and Pikes Bay Sanitary District ("Pikes Bay"), a sanitary district within the Town of Bayfield created pursuant to Ch. 60.71, Wis. Stats., with its contact address P.O. Box 689, Bayfield, Wisconsin, 54814.

WITNESSETH:

WHEREAS, both the City and Pikes Bay ("the parties") have an interest in providing an orderly, efficient, and sanitary means of collecting, treating, and disposing of the wastewater for their residents; and

WHEREAS, the geographic boundaries of Pikes Bay, and the City are adjacent to each other and the City does not intend to annex any lands within the geographic boundaries of Pikes Bay; and

WHEREAS, the parties have determined that it will be mutually beneficial for them to jointly construct and operate a new wastewater treatment plant ("the Plant") for the treatment of wastewater from both the City and Pikes Bay; and

WHEREAS, in anticipation of such an undertaking the parties have entered into a land contract for the purchase from L.R. Reinstra, Trustee of the L.R. Reinstra Self-Employed Retirement Trust, a parcel of land located in Government Lot 1, Section 22-50-4, in the Town of Bayfield, Bayfield County, Wisconsin, as a site for the Plant; and

WHEREAS, Section 66.0301 Wis. Stats. provides that municipalities, including cities and sanitary districts, may contract for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law and may establish a commission to implement and administer the provisions of such a contract;

NOW THEREFORE, pursuant to Section 66.0301 Wis. Stats. the parties agree as follows:

1. **Construction of Plant and Force Main.** The parties shall jointly construct the Plant on the parcel being purchased from L.R. Reinstra, Trustee, together with a force main from the City's current wastewater treatment plant via Highway 13 to the Plant. The force main shall be considered a part of the Plant, though the pumping station therefor, to be located at the site of the City's current sewage treatment plant, shall not be considered a part of the Plant and shall be owned by the City.
2. **Engineering Services.** Promptly upon the signing of this Agreement the parties shall jointly contract with the engineering firm of Strand & Associates for required engineering services related to the construction and startup of the Plant, including plans and specifications, assistance in construction bidding, development of a user charge system, preparation of operational manuals, and other startup services. The costs of such services shall be allocated as shown on Exhibit E attached hereto.
3. **Service Areas.**
 - a. The Pikes Bay service area eligible for the treatment of wastewater shall include, but be limited to, all lands lying within the legal boundaries of the Pikes Bay Sanitary District, as shown on the map set forth as Exhibit A to this Agreement. It may be expanded with the approval of the Commission created pursuant to Section 6 of this agreement ("the Commission") and the Town Board of the Town of Bayfield.
 - b. The City service area eligible for treatment of wastewater shall include, but be limited to, all lands lying within the legal boundaries of the City of Bayfield, as shown on the map set forth as Exhibit B to this Agreement. It may be expanded with the approval of the Commission and the City's Common Council.
4. **Connection to Plant.** Upon completion of the Plant the City and Pikes Bay shall connect their respective sewerage systems to the Plant, which shall treat all wastewater from the City's sewerage system and all wastewater from Pikes Bay's sewerage system. The City shall provide Pikes Bay with at least 60 days advance notice of the date upon which the City's connection to the Plant will be made, and Pikes Bay shall make its connection to the Plant no later than 60 days after the City has done so. The parties shall endeavor to make such connections as close to the same date as practicable.

5. **Ownership and Operation of Current Sewerage Systems.** Except as otherwise specifically provided by this Agreement, each party
- a. Shall continue to own, operate, maintain and control its current sewerage system at its own cost and expense.
 - b. Shall retain ownership of all real estate (including easements) and improvements thereto which it currently owns and upon which any of its current sewerage system or sewage treatment system is located (provided that Pikes Bay shall provide the Commission with an easement for an outfall pipe and dry run from the Plant across the real estate upon which Pikes Bay's sewage treatment ponds are currently located).
 - c. Continue to bill its customers for sewage disposal services; determine hookup fees and charges for such services and the frequency of billing therefor; collect its own customer accounts; and enact and enforce its own ordinances governing its sewerage system, provided that each party's ordinances governing sewer use and user charges therefor shall be consistent with the requirements of Sec. NR 162.08 Wis. Adm. Code, and if a party's current ordinances do not meet this requirement, the party shall promptly adopt a new ordinance or amend its existing ordinances in order to meet such requirement.
 - d. Shall, upon determination by the Commission established under Section 6 that sewage from the party's sewerage system contains a substance harmful to the operation of the Plant, promptly take all steps necessary to eliminate the substance from its sewerage system.
6. **Establishment of Commission; Ownership and Operation of the Plant.**
- a. **Commission.** The parties shall each appoint three persons to a six-member commission to be known as the Greater Bayfield Wastewater Treatment Plant Commission ("the Commission"), which shall oversee the construction of the Plant, and upon its completion, own and operate it for the treatment of wastewater from the parties' sewerage systems and hauled-in wastewater from elsewhere in the service areas or as permitted by the Commission. The Commission shall be governed by the bylaws attached hereto as Exhibit C as well as any other applicable provisions of this Agreement and shall have such powers and duties as are described therein or are subsequently given to it by further agreement of the parties. Each party shall make its appointments within thirty (30) days following the signing of this Agreement, and the Commission shall hold its initial meeting within thirty (30) days after such appointments have been made.

b. Ownership of Plant. Legal title to the plant shall be held by the Commission. The parties shall convey and assign their respective interests in the Reinstra property and other real estate (including easements) upon which the plant is located, and their interests in the improvements and equipment constituting the plant, to the Commission as soon as that can be accomplished without jeopardizing any of the financing for construction of the plant, provided, however, that if such property ever becomes subject to liquidation or division, it shall be apportioned between the parties based upon each party's total capital contributions for acquisition of the real estate, construction of the Plant, and improvements or expansion of the Plant, if any, (irrespective of whether such contributions were made from grants, loans, or other sources of funding).

c. Commission's Role During Plant Construction. During the construction process the Commission shall serve as agent for the City and Pikes Bay for purposes of receiving construction funds, approval and payment of construction related bills, and handling other construction related matters. Subject to paragraph e below the Commission shall contract with the City for the staffing (by City employees) needed for such purpose.

d. Operation of Plant.

i. Initial Operation. Subject to paragraph e below the Commission shall contract with the City for the administrative, operational, and maintenance services required for the first five years of the Plant's operation, and the City shall provide such services through its City employees.

ii. Subsequent Operation. After termination of the initial contract with the City, the Commission shall obtain the services needed for the operation of the Plant in such manner as it determines to be most effective and efficient, whether by continuing to contract with the City for such services, contracting with another service provider, hiring its own employees, or a combination thereof.

e. Contract Termination; Reasonableness of Charges. The contracts referred to in paragraph c and subparagraph d.i above may be terminated by the Commission by mutual agreement with the City or for good cause. If three or more Commissioners are dissatisfied with any aspect of any service being provided by the City or its employees and the issue cannot be resolved through negotiation, it shall be resolved by arbitration. The powers of the arbitrator would include, but not be limited to, termination of any of the contracts referred to in paragraphs c and d.

7. **Charges; Budget; Audit.**

a. **Basis.** The Commission shall charge each party bimonthly for the Plant's treatment of wastewater from the party's sewerage system for such period. Such charges shall be determined using a formula which takes into account the flows and loads of the sewage treated from each party's system for the period billed for, said formula being attached hereto as Exhibit D and incorporated herein by reference. The charges shall not exceed an amount reasonably necessary to cover the cost of operating the Plant and to establish and maintain a reasonable reserve for repair and replacement of equipment (in accordance with NR 162.08) and emergency expenditures.

b. **Budget.** Prior to December 1st of each year the Commission shall prepare and provide to the City and Pikes Bay a budget detailing its anticipated expenses and revenues for the coming year, including estimated charges to the City and Pikes Bay.

c. **Audit.** The Commission shall have its records and operations audited by a certified public accountant annually and shall provide copies of such audit to the City and Pikes Bay.

8. **Hauled-In Wastewater.**

a. **Acceptance.** The Commission shall adopt and implement such policies and procedures as it determines to be appropriate regarding whether and under what circumstances it will accept septage, motor home waste, and other private waste for treatment.

b. **Charges.** The Commission shall establish appropriate charges for the treatment of hauled-in waste. For each of the first five years of the Plant's operation, Pikes Bay shall be credited with such charges for the treatment of holding tank waste until they reach \$20,000, and charges in excess of \$20,000 shall be applied to the cost of operating the Plant. After the first five years of the Plant's operation, the \$20,000 amount shall be reduced by \$4,000 each year until the credit is eliminated. Pikes Bay shall be charged for the treatment of any hauled-in holding tank waste for which it receives a credit under this provision in accordance with the formula attached as Exhibit D.

9. **Expansion.**

a. **New Hookups to Sewerage Systems.**

i. Until the Plant has reached 80% of its capacity, each party may add up to six residences or the equivalent thereof to its sewerage system in each

calendar year without Commission approval, provided that the Commission shall be given thirty (30) days advance notice of each such hookup. Hookups in excess of said annual limit shall require advance Commission approval.

ii. When the Plant has reached 80% of its capacity, the Commission shall determine what hookups shall require its advance approval, and the parties shall abide by its determinations.

b. Expansion of Plant. The Plant itself may be expanded with and only with the mutual consent of the City and Pikes Bay upon terms and conditions mutually agreeable to them.

c. Pikes Bay Connections to City's Sewerage System.

i. The parties acknowledge that Pikes Bay intends to expand its sewerage system by adding sewer lines south of the City along the lakeshore, north of the City, and west of the City; and that such connections are vital to the Plant's fully achieving its intended purpose and that the most practical means of connecting such lines to the Plant will likely be via the City's sewerage system; that the City will permit Pikes Bay to connect such lines to its sewerage system for such purpose provided that such connections are made in a manner which avoids any substantial adverse effects on the City's sewerage system and unjustifiable expense to the city. Because the engineering requirements for such connections, the costs thereof, and their impacts on the City's sewerage system are currently unknown, the parties are unable at this time to formulate an agreement for achieving such connections. However, the parties do agree at this time to use their best efforts to achieve agreements for such connections when Pikes Bay seeks to make them, and to negotiate diligently and in good faith in doing so. In the event that they are unable to reach agreement, the matter shall be resolved by arbitration. When the City plans to replace, or is considering replacing, a sewer line which Pikes Bay may be interested in connecting to in the future, the City will provide Pikes Bay with the pertinent details and consult with Pikes Bay to see if the parties can coordinate their projects, with each party paying their fair and equitable share. In the event Pikes Bay's connection to the City's sewerage system reasonably requires an upgrade or modification of the City's existing line, Pikes Bay will pay the construction costs associated with such upgrade or modification, with the City only paying its fair and equitable share for any benefit the City receives from the same. When the City and Pikes Bay negotiate regarding any construction project which affects both of them, each side will fairly and reasonably take into account and consider any benefit that party receives as a result of such construction.

ii. The connections shall be undertaken sequentially. In each case, Pikes Bay shall, following completion or deferral of any previously undertaken connection, give the City at least one year's advance written notice of the connection it proposes to undertake.

iii. In undertaking a proposed connection, the parties shall jointly hire an engineering consultant to assist in the determining the feasibility of the proposal; how best to implement it if feasible; and the estimated costs thereof, including the estimated cost of any upgrading of the City's sewerage system required for the connection to be made. With respect to the connection south of the City along the lakeshore, the costs of the engineering consultant shall be prorated between the parties based on the lengths of Pikes Bay's proposed sewer line and the City's sewer line from the proposed connection point to the City's existing sewage treatment plant. With respect to the connections on the north and west sides of the City, the parties shall share the cost of the consultant in a fair and equitable manner as agreed to by the parties or as determined by the consultant.

iv. In the undertaking of a proposed connection, each party shall apply for grants for which it is eligible to help pay for the connection if such grants and other available funding acceptable to both parties would be sufficient to pay for the connection.

10. **Clear Water Infiltration Abatement.** Each party shall comply with all state laws and regulations regarding the abatement of clear water infiltration into its sewerage system.
11. **Biosolids/Sludge.** Sludge is an end result of the waste treatment process requiring landfilling. The Commission shall be responsible for determining when and how such sludge is to be disposed of.
12. **Financing; Contingency; Division of Excess Costs.**
 - a. The costs associated with the construction of the plant are as shown on Exhibit E attached hereto. The City shall pay those costs listed under the heading "Bayfield (PS/FM)" plus 82% of the costs under the heading "WWTP", and Pikes Bay shall pay those costs listed under the heading "PBSD (PS/FM, Lagoons)" and 18% of the costs under the heading "WWTP". Subject to paragraph c below, if actual costs exceed estimated costs, each party shall also pay the increase in cost for any cost item allocated to it as described above.
 - b. The parties shall each pay one-half of the purchase price for the Reinstra property. Additionally, Pikes Bay shall acquire at its expense and convey to the Commission an easement for an access road and the force main from

Highway 13 to the Reinstra property and an easement for a discharge pipe and outfall from the Reinstra property to Lake Superior.

c. If after all grant applications have been acted upon and bids for construction of the Plant have been received, it appears that financing the construction would require additional borrowing by a party in excess of 20% of its total loan amount stated on Exhibit E, the party may void this Agreement by written notice to the other party, provided that such notice shall be given within 30 days following receipt of written notice of the amount of additional borrowing required.

d. If this Agreement is voided under paragraph c,

i. The parties shall each be responsible for paying one-half of the balance due on their land contract for purchase of the Reinstra property and shall acquire such property as tenants in common, each owning an undivided one-half interest, provided that the non-voiding party shall have the option of acquiring sole ownership of the Reinstra property and the easements described in paragraph b above by paying the entire balance due on the land contract and reimbursing the voiding party for the amount it has contributed to the down payment and the cost of acquiring the easements.

ii. Costs incurred which are listed on Exhibit E shall be paid in accordance therewith and paragraph a above.

iii. The City shall be responsible for 82% and Pikes Bay for 18% of any other costs or obligations incurred prior to the voiding of the Agreement.

13. **Arbitration.**

a. **Commission Deadlocked.** If the Commission is deadlocked over an issue (with three members in favor of a proposal and three members against it), then upon the request of at least three members of the Commission, the matter shall be resolved by arbitration. The arbitrator shall be selected by a majority of Commission members, or if a majority cannot agree upon an arbitrator, by a court pursuant to Chapter 788 of the Wisconsin Statutes.

b. **Charges by Commission.** If either the City or Pikes Bay objects to charges or estimated charges of the Commission and the matter cannot be resolved between the objecting party and the Commission after reasonable efforts have been made to do so, the matter shall be resolved by arbitration upon the request of the objecting party or the Commission. The arbitrator shall be selected by the objecting party and the Commission, or they are

unable to agree upon an arbitrator, by a court pursuant to Chapter 788 of the Wisconsin Statutes.

c. **Cost of Arbitration.** The cost of arbitration under this section or pursuant to any other provision of this Agreement providing for arbitration shall be shared equally by the City and Pikes Bay.

14. **Term.** This agreement shall become effective when signed on behalf of both parties, and unless voided under paragraph 11, shall remain in effect for an initial term of 50 years, and shall remain in effect thereafter until terminated by either party upon five (5) years' prior written notice to the other party.
15. **Indemnification.** Each party shall protect, defend, indemnify, and hold harmless the other party from any and all claims, actions, and causes of action from any injury, death, damages, losses, costs, expenses, fees, charges or liability related to, arising from, or associated with any negligent or willful act or omission of the party or its governing body, officers, employees, agents, or representatives.
16. **Severability.** If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.
17. **Agreement Construction.** As this Agreement was fully negotiated between the parties, in the event of a disagreement as to any term or terms contained in this Agreement, the interpretation of such ambiguities shall not be made in favor of either party.
18. **Parties Bound; Restrictions on Assignment.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, or such other public boards, committees, commissions, or entities as shall succeed substantially to the rights, powers, and duties of the respective parties. Neither party shall assign its rights, duties, responsibilities, obligations or liabilities under this Agreement to another without the prior written consent of the other party.
19. **Governing Law.** This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of Wisconsin. Any legal action or proceeding relating to this Agreement shall be venued in the Circuit Court of Bayfield County, Wisconsin.
20. **Representations and Warranties.** Both parties represent that they are legally constituted and validly existing under Wisconsin law.

21. **Force Majeure.** In the event either party is delayed at any time in its performance hereunder by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipated, unavoidable casualties or any causes beyond its control, or by other causes which may justify delay, the time for performance hereunder shall be extended accordingly.
22. **Waiver.** The failure of either party to enforce, at any time or for any period of time, any provisions of this Agreement shall not be construed as a waiver of such provision or of the right of such party thereafter to enforce such provision.
23. **Notices.** Any notice required under this Agreement shall be addressed as follows:

To CITY OF BAYFIELD: Director of Public Works City of Bayfield
 125 S. First Street
 P.O. Box 1170
 Bayfield, WI 54814

To Pikes Bay: President
 Pikes Bay Sanitary District
 P.O. Box 689
 Bayfield, WI 54814

All notices, demands or other communications by either party to the other shall be in writing and shall be effective upon personal delivery, or if sent by mail, 96 hours after deposited in the United States mail, certified postage prepaid and all such notices given by mail shall be sent to the address of either party set forth above.

24. **Entire Agreement.** The parties hereto acknowledge that this Agreement sets forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and shall not be subject to any change or modification except by the execution of a written instrument which refers to this Agreement specifically and which is subscribed to by the parties hereto.
25. **Specific Performance.** The undersigned agree it is impossible to measure in money the damages which may accrue to a party hereto by reason of a failure to perform any of the obligations under the terms of this Agreement. If either party hereto institutes any action or proceeding to enforce any term or provision of this Agreement, the other party hereby waives any claim or defense that the complaining party has adequate remedy at law. The parties

agree that injunctive and other equitable relief is available to enforce the terms and provisions of this Agreement.

26. **No Third Party Beneficiary.** This Agreement is between the City and Pikes Bay. No other entity is a party to this Agreement. No user, customer or other entity or party shall have any rights or claims arising from, related to, or based upon this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of the City of Bayfield pursuant to a motion adopted by its Common Council, and on behalf of Pikes Bay pursuant to a motion adopted by the Pikes Bay Sanitary District Commission.

CITY OF BAYFIELD

Dated 3-26-04

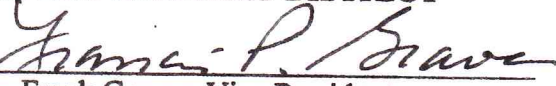
By: 
Larry J. MacDonald, Mayor

Dated 3-26-04

Attest 
Billie L. Hoopman, Clerk

PIKES BAY SANITARY DISTRICT

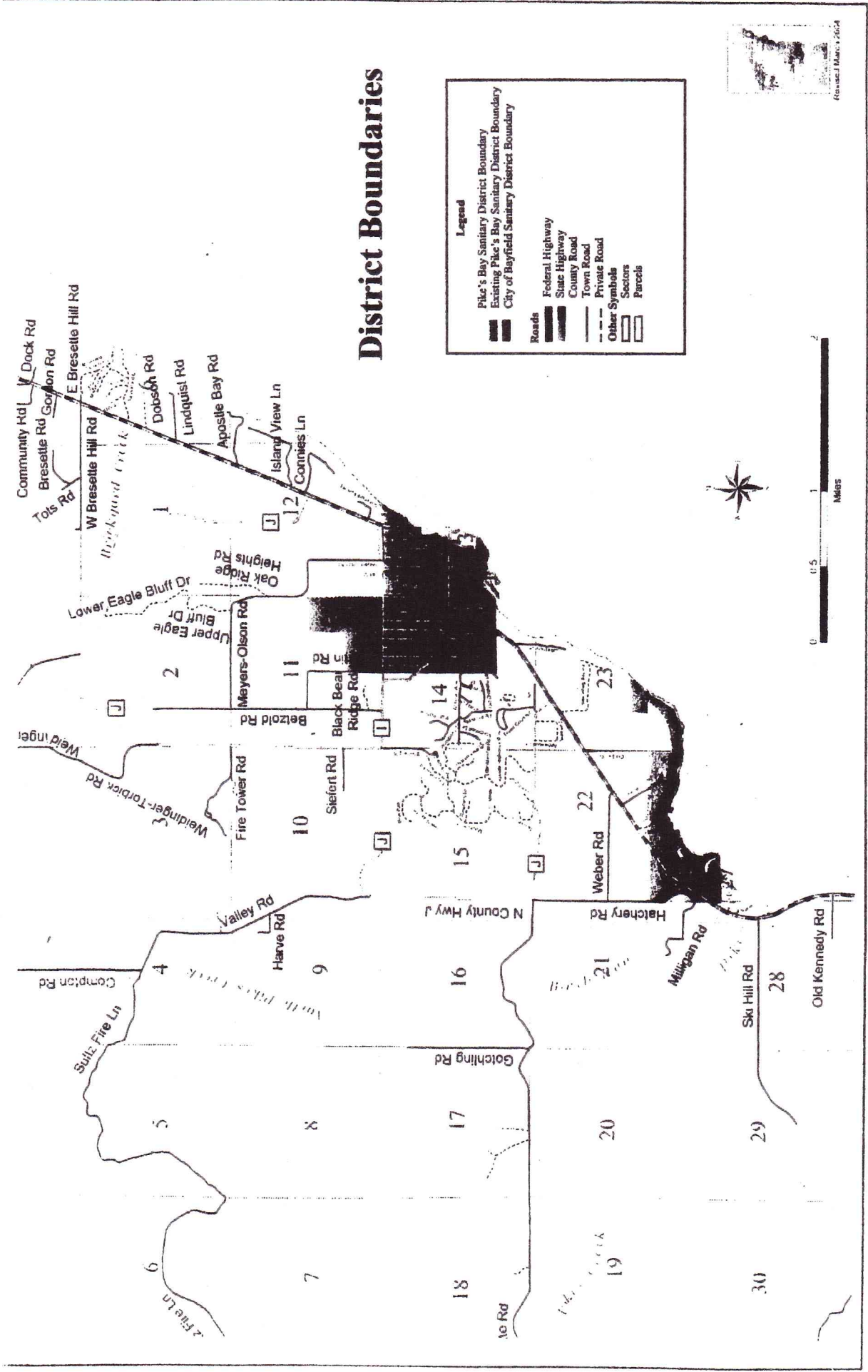
Dated: 3-26-04

By 
Frank Graves, Vice President
FRANK GR.

Dated: 3-26-04

Attest 
George Hansen, Secretary/Treasurer

Exhibit A & B



Revised March 2004

Exhibit C

BYLAWS OF GREATER BAYFIELD WASTEWATER TREATMENT PLANT COMMISSION

ARTICLE 1 CREATION, NAME, AND PURPOSE

1.01 Creation. The Commission subject to these bylaws has been created by the City of Bayfield, a city incorporated under the laws of the State of Wisconsin, and Pikes Bay Sanitary District, a town sanitary district established by the Town of Bayfield, Bayfield County, Wisconsin, pursuant to Section 66.0301 by Intermunicipal Agreement dated _____, 2004 ("the Intermunicipal Agreement").

1.02 Name. The Commission shall be known as the Greater Bayfield Wastewater Treatment Plant Commission.

1.03 Purpose; Authority. The purpose of the Commission shall be to own, operate, maintain and manage the Greater Bayfield Wastewater Treatment Plant for the treatment of wastewater from the City and the Sanitary District including the sewage treatment facility to be located on an 11-acre parcel in Government Lot 1, Section 22, Township 50 North, Range 4 West, Town of Bayfield, Bayfield County, Wisconsin, a force main from the City to said facility, and associated easements and equipment (but not including the pumping station for the force main, which shall be owned by the City).

ARTICLE 2 COMMISSION MEMBERSHIP

2.01 Number and Terms. The Commission shall have six (6) members, three appointed by the City's mayor and confirmed by its common council and three appointed by the Sanitary District's commission. For the initial appointments, the appointing authority shall appoint one member to a term ending on the date of the second annual meeting, one to a term ending on the date of the third annual meeting, and one to a term ending on the date of the fourth annual meeting. Subsequent terms shall be for three years, provided however that each commissioner shall serve until his or her successor has been appointed.

2.02 Residency and Employment Limitations. At least two of the City members of the Commission shall be full time residents of the City's service area and at least two of the Sanitary District's members of the Commission shall be full time residents of its service area. No more than one of the City members shall be a City employee, and no more than one of the Sanitary District's members shall be a Sanitary District employee.

2.03 Compensation. Members shall be reimbursed for actual expenses incurred, including mileage for attending meetings and other days spent in the service of the Commission. Per diem compensation for attending meetings and other days spent in the service of the Commission shall be established annually by the City of Bayfield Common Council and Pikes Bay Sanitary District Commission, as mutually agreed upon by said bodies.

2.03 Vacancies and Removal. A vacancy on the Commission shall be filled by the appointing authority which appointed by the member creating the vacancy as soon as practicable after the vacancy occurs.

ARTICLE 3 OFFICERS

3.01 Positions. The officers of the corporation shall be a president, vice-president, secretary and treasurer. The position of secretary and treasurer may be combined at the discretion of the Commission. All officers shall be Commission members and shall be elected by the Commission annually.

3.02 Terms. The initial officers shall be elected at the first meeting of the Commission and shall serve until the first annual meeting of the Commission. Subsequent terms shall be from annual meeting to annual meeting, provided that each officer shall serve until his or her successor has been elected.

3.03 Powers and Duties. The powers and duties of the officers shall be as follows:

a. The president shall serve as the chief executive officer of the Commission, preside at all meetings of the Commission, sign or endorse checks, drafts, and notes when necessary, sign all contracts and other instruments authorized by the Board and as required by the State of Wisconsin and the federal government, and perform such other functions as the Commission may from time to time determine.

b. The vice-president shall perform the functions of the president when the president is unavailable to do so, and shall perform such other functions as may be determined by the Commission from time to time.

c. The secretary shall assure that proper notices are given of all meetings of the Commission, assure that accurate minutes are kept of all meetings of the Commission, maintain a file of the official documents and records of the Commission as directed by the Commission, submit reports, in conjunction with the treasurer, to satisfy requirements of the federal government, State of Wisconsin, and other government agencies which may, by law, require such reports, and perform such other functions as may be determined by the Commission from time to time.

d. The treasurer shall monitor the collection and receipt of all monies due the Commission, act as custodian of such monies and deposit them and keep them in the bank account(s) designated by the Commission for such purpose, disburse funds of the Commission in accordance with its budget or upon order of the Commission, sign or endorse checks, drafts, and notes when necessary, maintain financial records as directed by the Commission, prepare and present financial statements as requested by the Commission, submit reports, in conjunction with the secretary, to satisfy requirements of the federal government, State of Wisconsin, and other government agencies which may, by law, required such reports, and perform such other functions as may be determined by the Commission from time to time.

ARTICLE 4 MEETINGS

4.01 **Annual Meeting.** The Commission shall hold an annual meeting in January of each year to elect officers for the year ahead.

4.02 **Regular and Special Meetings.** The Commission shall meet regularly throughout the year, at least quarterly, as determined by the Commission. Special meetings of the Commission may be called by the president, or by three (3) or more members of the Commission by written request accompanied by an agenda stating the purpose(s) for such a meeting filed with the president or the secretary. Such a meeting shall be held within ten (10) days of receipt of the request.

4.03 **Notice of Meetings.** Notice of regular and special meetings of the Commission shall be given by written notice delivered personally or mailed to each member; by telephone call (including voice mail), email or facsimile sent to each member, in each case not less than seven (7) days prior to the meeting.

4.04 **Quorum; Governing Rules.** A majority of the Commission shall constitute a quorum for the transaction of any business at a meeting of the Commission. Roberts Rule of Order shall govern the conduct of Commission meetings, provided that the officer presiding over a Commission meeting may vote on all matters voted upon by the Commission at such meeting.

ARTICLE 5 POWERS AND DUTIES

5.01 **Powers and Duties Generally.** Except as otherwise provided herein the Commission shall have the power and duty to perform all such acts as are necessary to accomplish its purpose.

5.02 Powers and Duties Under Intermunicipal Agreement. The Commission shall have those powers and duties expressly described in the Intermunicipal Agreement subject to any limitations expressly stated therein.

5.03 State Permit; Compliance. The Commission shall have the power and duty to hold the state-issued permit for operation of the Plant and, subject to the limitations set forth in Section 5.04 hereof, shall have the power and duty to take all such actions as are necessary to achieve and maintain compliance with all terms and conditions of the permit.

5.04 Limitations. The Commission shall not have the power to borrow money, or to make expenditures for capital improvements or for the acquisition of real estate without the written authorization of both the City and the Sanitary District.

ARTICLE 6 MISCELLANEOUS

6.01 Corporate Acts. All checks, drafts, notes, bonds, bills of exchange and orders for the payment of money of the Commission; all deeds, mortgages, and other written contracts and agreements to which the Commission shall be a party, and all assignments to which the Commission shall be a party shall be signed by the president, treasurer, or another person authorized by the Commission. Any such document involving a dollar amount greater than One Thousand Dollars (\$1,000) shall required two authorized signatures.

ARTICLE 7 AMENDMENTS

7.01 These bylaws may be amended only by approval of both the City of Bayfield Common Council and the Pikes Bay Sanitary District Board of Commissioners.

Exhibit D

The purpose of this exhibit is to show how Operation and Maintenance (O&M) and Replacement (R or Repl) costs will be split between the City of Bayfield (City) and the Pikes Bay Sanitary District (PBSD). Together these costs are referred to as OM&R. The OM&R Cost split will be determined by the proportion of Flow Volume (million gallons) and Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), and TP (Total Phosphorus), in pounds (lb). The OM&R Costs to the City and PBSD will be determined by the following equations.

$$\begin{aligned} \text{SOM\&R}_{\text{City}} = & \text{\$OM\&R} \times [\% \text{\$OM\&R}_{\text{Flow}} \times \% \text{Flow}_{\text{City}} \\ & + \% \text{\$OM\&R}_{\text{BOD}} \times \% \text{BOD}_{\text{City}} \\ & + \% \text{\$OM\&R}_{\text{TSS}} \times \% \text{TSS}_{\text{City}} \\ & + \% \text{\$OM\&R}_{\text{TP}} \times \% \text{TP}_{\text{City}}] \end{aligned}$$

$$\begin{aligned} \text{SOM\&R}_{\text{PBSD}} = & \text{\$OM\&R} \times [\% \text{\$OM\&R}_{\text{Flow}} \times \% \text{Flow}_{\text{PBSD}} \\ & + \% \text{\$OM\&R}_{\text{BOD}} \times \% \text{BOD}_{\text{PBSD}} \\ & + \% \text{\$OM\&R}_{\text{TSS}} \times \% \text{TSS}_{\text{PBSD}} \\ & + \% \text{\$OM\&R}_{\text{TP}} \times \% \text{TP}_{\text{PBSD}}] \end{aligned}$$

Where:

SOM&R = Total OM&R Costs to be paid to Commission by City and PBSD
= $\text{SOM\&R}_{\text{City}} + \text{SOM\&R}_{\text{PBSD}}$
= Total O&M Costs and Replacement Costs to be paid to Commission
= $\text{SO\&M} + \text{SRepl}$

$\text{SOM\&R}_{\text{City}}$ = Total OM&R Costs to be paid by City
 $\text{SOM\&R}_{\text{PBSD}}$ = Total OM&R Costs to be paid by PBSD

SO&M = Total WWTP O&M Costs to be paid
SRepl = Total WWTP Replacement Costs to be paid

Flow and Load Cost Split Parameters

$\% \text{\$OM\&R}_{\text{Flow}}$ = Percent of OM&R Split Determined by Flow Volume (27.1%)
 $\% \text{\$OM\&R}_{\text{BOD}}$ = Percent of OM&R Split Determined by BOD Load (33.7%)
 $\% \text{\$OM\&R}_{\text{TSS}}$ = Percent of OM&R Split Determined by TSS Load (25.0%)
 $\% \text{\$OM\&R}_{\text{Phos}}$ = Percent of OM&R Split Determined by TP Load (14.2%)
(TOTAL = 100%)

Flow and Load Split Between City and PBSB

$\%Flow_{City}$ = Percent of Flow Volume from City
 $\%Flow_{PBSB}$ = Percent of Flow Volume from PBSB
(TOTAL = 100%)

$\%BOD_{City}$ = Percent of BOD Load from City
 $\%BOD_{PBSB}$ = Percent of BOD Load from PBSB
(TOTAL = 100%)

$\%TSS_{City}$ = Percent of TSS Load from City
 $\%TSS_{PBSB}$ = Percent of TSS Load from PBSB
(TOTAL = 100%)

$\%TP_{City}$ = Percent of TP Load from City
 $\%TP_{PBSB}$ = Percent of TP Load from PBSB
(TOTAL = 100%)

Exhibit E

Greater Bayfield Wastewater Treatment Plant, Pumping Stations, Force Main Project

Opinion of Probable Cost (Pre-Bid)

	Total Costs	WWTP	Bayfield (PS/FM)	PBSD (PS/FM, Lagoons)
Force Account Work				
Interim Financing				
Net Interest Expense	\$4,200		\$4,200	
Legal/Bond Counsel/Underwriter Financial Advisor				
Facility Plan Preparation	\$34,500	\$34,500		
Plans/Specs Preparation	\$352,300	\$267,800	\$78,000	\$6,500
Land or Easement Acquisition				
Purchase Price	\$285,000	\$260,000	\$25,000	
Legal/Appraisal Costs	\$25,000	\$25,000		
Engineering Assistance	\$5,000		\$5,000	
Engineering/Construction Management (Step3)				
Furnishing Plans and Specifications	\$10,000	\$7,900	\$1,600	\$400
Bidding and GO	\$271,000	\$215,000	\$44,000	\$12,000
Field Observation	\$365,300	\$297,800	\$51,300	\$16,100
Startup and O&M	\$64,000	\$50,800	\$10,300	\$2,900
SCADA System Graphics	\$15,000	\$15,000		
User Charge Systems (2)	<u>\$5,000</u>	<u>\$5,000</u>	<u>\$0</u>	<u>\$0</u>
Total Step 3	\$730,300	\$591,500	\$107,200	\$31,400
Construction/Equipment				
+General Conditions (8%)	<u>\$483,100</u>	<u>\$383,300</u>	<u>\$78,500</u>	<u>\$21,300</u>
=Subtotal Construction	\$6,522,100	\$5,174,700	\$1,059,600	\$287,800
+Contingencies (10%)	<u>\$652,200</u>	<u>\$517,500</u>	<u>\$106,000</u>	<u>\$28,800</u>
=Total Construction	\$7,174,300	\$5,692,200	\$1,165,600	\$316,600
Miscellaneous Costs				
Administrative Expenses	\$10,000	\$10,000		
Archaeological Survey	\$4,000	\$3,500	\$500	
Geotechnical	\$14,500	\$7,500	\$7,000	
Funding assist. (incl. ACE cost)	\$85,000	\$15,000	\$35,000	\$35,000
Permits (Land Use, Structural)	\$3,000	\$3,000		
Planned SSES study	\$122,000		\$122,000	
Funding Closing Costs				
Legal/Bond Counsel	\$7,500	\$5,000		\$2,500
Financial Advisor	\$7,500	\$5,000		\$2,500
Total Project Costs	\$8,860,000	\$6,920,000	\$1,550,000	\$390,000

These cost opinions are considered +/- 10%

Greater Bayfield WWTP Project - Community Costs and Funding

City Choice @
82/18

Splitting WWTP
only

Project Costs to Communities

Cost Summary	
WWTP Cost	\$6,920,000
Bayfield Only Cost	\$1,550,000
PBSD Only Cost	<u>\$390,000</u>
TOTAL	<u>\$8,860,000</u>

WWTP Cost Split - Used for Funding Estimation

City of Bayfield	82.0%
PBSD/Town	18.0%

Values used as example. Final values to be determined by agreement

Costs to Communities

Bayfield	\$7,224,400
PBSD/Town	\$1,635,600

Grants to City and PBSD/Town

Great Lakes Protection Fund	
Facility Planning Grant	\$20,000
Demonstration Plant	
TOTAL	<u>\$500,000</u> \$520,000

City of Bayfield

Eligible Bayfield Costs (98% of cost up to \$7.25)	\$7,079,912
Amount Requested	\$6,521,300
CWF 70% Max (Based on requested)	\$4,564,910
CWF Grant Required for 2% MHI (approx)	\$5,255,943
Less Other Grant Amount	<u>\$728,700</u>
Allowable grant	\$4,527,200

Grants

GLPF (share)	\$426,400
Army Corps of Engineers	\$302,300
Clean Water Fund (CWF)	
TOTAL GRANTS	<u>\$4,527,200</u>
	\$5,255,900

Loans

CWF no interest loan (20 year)	\$1,968,500
CWF market rate loan (20 year, 5%)	\$0
Other market rate loan (5%)	<u>\$0</u>
TOTAL LOANS	<u>\$1,968,500</u>
TOTAL for Bayfield	<u>\$7,224,400</u>

Pikes Bay Sanitary District

Grants

GLPF (share)	\$93,600
Army Corps of Engineers	
TOTAL GRANTS	<u>\$1,125,000</u>
	\$1,218,600

Loans

Rural Development (40 year, 4%)	\$0
CWF Small Loan or Other (20 year, 3%-4%)	<u>\$417,000</u>
TOTAL LOANS	<u>\$417,000</u>
Property Sale (preliminary)	\$417,000

TOTAL for PBSD	<u>\$1,635,600</u>
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