

JOINT EXERCISE OF POWERS AGREEMENT  
BETWEEN  
BIG BEAR CITY COMMUNITY SERVICES DISTRICT,  
BIG BEAR LAKE SANITATION DISTRICT,  
AND SAN BERNARDINO COUNTY  
CREATING THE  
BIG BEAR AREA REGIONAL WASTEWATER AGENCY

*Replaced by city of BBL  
in 4th amendment 7-19-1982*

THIS AGREEMENT, dated this 22 day of March, 1974, by and between BIG BEAR CITY COMMUNITY SERVICES DISTRICT (hereinafter referred to as "BCCSD"), BIG BEAR LAKE SANITATION DISTRICT (hereinafter referred to as "BBLSD"), and the COUNTY OF SAN BERNARDINO (hereinafter referred to as "County") on behalf of San Bernardino County Service Area 53.

W I T N E S S E T H:

WHEREAS, BCCSD is a Community Services District organized and existing under Division 3, Title 6, of the Government Code (Section 61000, et seq.), BBLSD is a County Sanitation District organized and existing under Chapter 3, Part 3, Division 5, of the Health and Safety Code (Section 4700, et seq.), and County is a County of the State of California, and each is empowered by law to contract with other public agencies for the joint exercise of common

powers under Article 1, Chapter 5, Division 7, Title 1, of the California Government Code, and

WHEREAS, on December 4, 1972, the parties entered into a Joint Exercise of Powers Agreement creating the Big Bear Valley Wastewater Planning Commission for the purpose of conducting a study to develop a plan for sewage treatment, disposal, and wastewater management for the entire Big Bear Valley area, and

WHEREAS, said purpose has been accomplished and a written Plan entitled "Big Bear Area Regional Wastewater Management Plan" has been adopted by said Commission, and

WHEREAS, said Plan calls for the construction and installation of a regional sewage and wastewater treatment and disposal system for the entire Big Bear Valley area, and

WHEREAS, the State Department of Public Health (now State Department of Health) conducted a study in the Big Bear Valley area and determined that the continued use of individual sewage disposal systems in the area constitutes a public health hazard, and

WHEREAS, the California Regional Water Quality Control Board -- Santa Ana Region, and the State Water Resources Control Board, recognizing the existence of this public health hazard and accompanying water quality problems, by amendment to Chapter VI to the Interim Water Quality Control Plan for the Santa Ana River Basin, adopted waste-discharge prohibitions which prohibit the installation of individual sewage disposal systems in the area after July 1, 1973, and the use of such systems after July 1, 1977, and

WHEREAS, it is necessary in order to alleviate an existing and potential public health hazard and to implement the Interim Water Quality Control Plan for the Santa Ana River Basin, and is also in the best interests of the residents of the Big Bear Valley area that the "Big Bear Area Regional Wastewater Management Plan" be implemented.

NOW, THEREFORE, the parties, in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. PURPOSE

This Agreement is made pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1, of the Government Code of the State of California, commencing with Section 6500 (sometimes hereinafter referred to as the "Act"), relating to the joint exercise of powers common to public agencies, in this case being BBCCSD, BBLSD, and County, each of which possesses the powers necessary to engage in the activities herein contemplated. The purpose of this Agreement is to create an agency which will acquire, construct, install, maintain, and operate a regional system for the treatment and disposal of sewage and wastewater for the entire Big Bear Valley area, which system may ultimately be modified to include facilities for the reclamation of wastewater, and otherwise implement the "Big Bear Area Regional Wastewater Management Plan."

SECTION 2. TERM

This Agreement shall become effective as of the date hereof and shall continue in full force and effect until such time as all revenue bonds that may be issued by the Agency and the interest thereon shall have been paid in full or other provision for such payment shall have been made as set forth in the proceedings for the issuance thereof or for a period of fifty (50) years, whichever shall first occur; provided, however, that this Agreement may be

extended by written agreement of the parties.

SECTION 3. AGENCY

A. Creation of Agency. Pursuant to Section 6506 of the Act, there is hereby created an agency to be known as the "Big Bear Area Regional Wastewater Agency" (hereinafter called the "Agency"). Said Agency shall for purposes hereof be a public entity separate from the parties hereto and shall be the agency to administer or execute this Agreement. Except as hereinafter provided, the debts, liabilities, and obligations of the Agency do not constitute debts, liabilities, or obligations of any party.

*this section amended  
by 4th amendment  
07-19-1982*

B. Governing Board. The Agency shall be administered by a governing board of five (5) members, each serving in his individual capacity as a member of the Board. The Board shall be called the "Governing Board of the Big Bear Area Regional Wastewater Agency" and shall be composed and appointed as follows:

(1) Two (2) members of the Governing Board shall be members of the Board of Directors of BBCCSD and shall be appointed by said Directors;

(2) Two (2) members of the Governing Board shall be members of the Advisory Commission of BBLSD and shall be appointed by County's Board of Supervisors; and

(3) One (1) member of the Governing Board shall be a member of the Advisory Board of Improvement Zone "B" of San Bernardino County Service Area 53 and shall be appointed by County's Board of Supervisors.

*This section changed with 3rd amendment 07/07/1980*

Members of the Governing Board shall be electors of the District or Area from which they are appointed.

Members of the Governing Board shall serve for a four-year (4-year) term; provided, however, the initial appointments shall be for a staggered period to assure continuity as follows: One of the initial members of the Governing Board from both BBCCSD and BBLSD, to be designated by the appointing boards, shall serve a two-year (2-year) term, and the other members from BBCCSD and BBLSD and the member from Improvement Zone "B" of San Bernardino County Service Area 53 shall serve four-year (4-year) terms; provided, further, that no member shall serve for more than two (2) consecutive terms. Members of the Governing Board shall serve at the pleasure of the appointing body and until their respective successors are appointed and qualified. The initial Governing Board shall be composed of the Commissioners of the Big Bear Valley Wastewater Planning Commission, who shall serve until their successors are appointed. All voting power shall reside in the Governing Board.

C. Meetings of the Governing Board.

(1) Regular Meetings. The Governing Board shall provide for its regular meetings; provided, however, it shall hold at least one (1) regular meeting during each quarter of each fiscal year. The dates, hour, and place of the holding of the regular meetings shall be fixed by resolution, and a copy of such resolution shall be furnished to each party hereto.

(2) Ralph M. Brown Act. All meetings of the Governing Board, including, without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code).

(3) Minutes. The Secretary of the Agency shall cause to be kept minutes of regular, adjourned regular, and special meetings of the Governing Board, and shall cause a copy of the minutes to be forwarded to each member of the Board and to each of the parties hereto.

(4) Quorum and Vote. A majority of the Governing Board shall constitute a quorum for the transaction of business; except that less than a quorum may adjourn from time to time. The affirmative vote of four (4) members of the Governing Board shall be required for the approval of any action involving:

- (a) Any expenditure totaling \$10,000.00 or more;
- (b) Any contract involving a total expenditure of \$10,000.00 or more;
- (c) A capital improvement in excess of \$10,000.00;
- (d) The hiring, retention, or designation of managerial, administrative, and supervisory personnel;
- (e) The adoption of a budget;
- (f) The hiring, retention, or designation of engineers, attorneys, or other professionals;
- (g) The adoption of rules and regulations;
- (h) The issuance of bonds or other securities;
- (i) Borrowing in excess of \$10,000.00;
- (j) The establishment of user charges or charges for treatment and disposal of sewage and wastewater.

All other action shall require only a majority vote for approval.

*(S) Form of Action added by second amendment 01-15-1979*



*This section  
presented by  
YTHP meeting  
07-19-1982*

D. Officers. The Governing Board shall elect its own officers, which shall include a Chairman, Vice-Chairman, and Secretary. The Chairman and Vice-Chairman shall be members of the Governing Board and the Secretary may, but need not, be a member of the Governing Board. The Treasurer of the Agency shall be County's Treasurer, to be the depository and have custody of all money of the Agency from whatever source. The Auditor of the Agency shall be County's Auditor, who shall draw all warrants to pay demands against the Agency approved by the Governing Board. The attorney for the Agency shall be either the County Counsel and/or the attorney for BBCCSD, as the Governing Board may deem appropriate in the circumstances, or the duly authorized deputy or deputies thereof, serving ex officio as the attorney for the Agency. The County Counsel and/or the BBCCSD attorney, or the designated deputy or deputies thereof, as the case may be, shall attend all meetings of the Governing Board, but the absence of such attorney or attorneys shall not affect the validity of any meeting. In the event of any conflict between County and/or BBCCSD and the Agency, the Governing Board may, with the prior consent of the County and/or BBCCSD, as the case may be, appoint an attorney other than the County Counsel and/or the attorney for BBCCSD. The public officer, officers, or persons who have charge of, handle, or have access to any property of the Agency shall file an official bond in an amount to be

fixed by the parties. The Agency shall have the power to appoint and employ such other officers, employees, consultants, advisors, and independent contractors as it may deem necessary.

E. Rules. The Governing Board may adopt from time to time such rules and regulations for the conduct of the Agency's affairs as may be required.

#### SECTION 4. METHOD OF ACCOMPLISHING PURPOSE

The Agency shall make application to the State Water Resources Control Board for grants under the Federal Water Pollution Control Act (33 U.S.C., Sec. 1251, et seq.), and the Clean Water Bond Law of 1970 (Chapter 13, Division 7, of the Water Code), and the Clean Water Bond Law of 1974 (Chapter 14, Division 7, of the Water Code) to plan, design, acquire, construct, and install the Regional Sewage and Wastewater Treatment and Disposal System. BBCCSD and BBLSD have already taken the necessary steps to have the Regional System included in the State Board's Project Priority List for the 1974-75 fiscal year and the Agency shall take all further action that may be necessary to obtain grants for the project. It is contemplated that the Agency will provide the local portion of the cost of the Regional System by the issuance and sale of revenue bonds or by contributions

from one or more of the parties; however, other methods may be employed to provide these funds. The "Time Schedule for Required Actions and Necessary Construction" contained in Section 13.05 of the "Big Bear Area Regional Wastewater Management Plan" shall be followed by the Agency as nearly as is possible. Funds necessary to operate and maintain the Regional System will be provided by revenues from the operation of the Regional System, over and above the revenues required to retire any revenue bonds that may be issued by the Agency and the interest on such bonds, and it is contemplated that such revenues will be provided by the parties to this Agreement and other agencies who may contract with the Agency for the treatment and disposal of sewage and wastewater by and through the Regional System.

SECTION 5. POWERS

The Agency shall have the following powers:

- (a) To conduct and direct studies to complement or supplement the "Big Bear Area Regional Wastewater Management Plan";
- (b) To make and enter contracts;
- (c) To employ agents and employees;
- (d) To acquire, hold, and dispose of property, both real and personal;

(e) To incur debts, liabilities, and obligations;

(f) To sue and be sued in its own name;

(g) To acquire, construct, install, operate, and maintain sewage and wastewater treatment, disposal, recycling, and reclamation facilities, including treatment plants, intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof;

(h) To employ personnel to operate, maintain, and repair such facilities;

(i) To be an applicant, make applications for, and receive grants from the Federal and State governments under the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251, et seq.), the Clean Water Bond Law of 1970 (Chapter 13, Division 7, of the Water Code), and the Clean Water Bond Law of 1974 (Chapter 14, Division 7, of the Water Code), and the Regulations of the Environmental Protection Agency and the Clean Water Grant Program Regulations of the State Water Resources Control Board;

(j) To prepare project reports and applications and to enter into grant contracts and to do all other things necessary to comply with the said State and Federal laws and regulations with respect to grants

and to qualify for grants;

(k) To retain and employ engineers, attorneys, and other consultants;

(l) To borrow or receive advances of funds from the parties to this Agreement or from such other sources as may be permitted by law;

(m) To contract with the parties to this Agreement and other parties who operate or will operate sewage and wastewater collection systems in the Big Bear Valley area or who otherwise collect sewage and/or wastewater in said area for the receipt, treatment, and disposal of sewage and wastewater by the Regional Sewage and Wastewater Treatment and Disposal System on such terms and conditions and for such consideration as the Governing Board may from time to time establish.

(n) To issue and sell revenue bonds under the Revenue Bond Law of 1941, Chapter 6, Division 2, Title 5, of the Government Code, commencing with Section 54300 (in this regard, it is intended that the Agency will be a "local agency" as provided in Government Code Section 54307.1);

(o) To exercise all other powers conferred on "local agencies" by the said Revenue Bond Law of 1941;

(p) To make applications for permits to appropriate water under Part 2, Division 2, of the Water Code, commencing with Section 1200, and the Regulations of the State Water Resources Control Board, and to do all things necessary to perfect and obtain permits and licenses to appropriate water;

(q) To acquire, hold, and dispose of such equipment as may be reasonably necessary to the proper operation and maintenance of regional sewage and wastewater treatment, disposal, and reclamation facilities.

(r) To file reports of waste discharge with and obtain waste-discharge requirements from the appropriate regional water quality control boards pursuant to Article 4, Division 7, of the Water Code, commencing with Section 13260, and the Regulations of the State Water Resources Control Board;

(s) To exercise all powers conferred upon joint-exercise-of-powers agencies by Chapter 5, Division 7, Title 1, of the California Government Code, Section 6500, et seq;

*2nd Amendment 1-15-79* (t) To exercise all other powers common to the parties to this Agreement not hereinabove specifically mentioned which may be necessary to carry out the purpose of this Agreement.

(t) (u) added by second amendment 1-19-79

*This paragraph  
was added in  
Security Amendment  
1-19-79*

The powers of the Agency are subject to the restrictions upon the manner of exercising the powers of County.

SECTION 6. FISCAL YEAR

For the purpose of this Agreement, the term "fiscal year" shall mean the twelve-month (12-month) period from July 1 to and including the following June 30.

SECTION 7. CONTRIBUTIONS

Forthwith upon its organization, the Governing Board shall prepare a budget setting forth the sums of money needed to operate the Agency for the portion of the fiscal year ended June 30 following the organizational meeting. The funds necessary to operate the Agency for the remaining portion of the initial fiscal year, not to exceed \$7,500.00, shall be provided by County through the budget of County Service Area 53. With respect to subsequent fiscal years, the parties may provide the amount needed to operate the Agency by any means or combination of means permitted by Government Code Section 6504, to wit:

- (a) Contributions from the treasuries of any or all of the parties may be made;

(b) Payments of public funds from any or all of the parties may be made to defray such costs; or

(c) Advances of public funds may be made by any or all of the parties.

Any advances by the parties, or any of them, to the Agency shall be repaid from the revenues of the Agency when and if such revenues are adequate, in such amounts and increments as the Governing Board shall determine and establish.

At such time as the Regional Sewage and Wastewater Treatment and Disposal System is operational and the Agency is receiving revenues from the operation of the System, the parties shall not be required to make any further contributions or advances to the Agency.

#### SECTION 8. SERVICE AREA

The boundaries of the area to be served by the Regional Sewage and Wastewater Treatment and Disposal System shall be conterminous with the boundaries of San Bernardino County Service Area 53, a map of which is attached hereto and incorporated herein as Exhibit "A."



SECTION 9. DISPOSITION OF ASSETS AND SURPLUS MONEY

At the end of the term or extended term hereof or upon the earlier termination of this Agreement, the assets of the Agency shall be distributed to the parties in proportion to their respective contributions, unrepaid advances, and payments to the Agency for sewage treatment and disposal throughout the term and any extended term of this Agreement, and each of the parties shall have an ownership interest in the Regional Sewage and Wastewater Treatment and Disposal System based on its proportionate share of the assets of the Agency determined as hereinabove provided. Any surplus money on hand after payment of all just debts of the Agency shall be first returned to the parties in proportion to and to the extent of their contributions and unrepaid advances to the Agency and any surplus money left after repayment of all such contributions and advances shall be distributed to the parties in the same proportionate shares as the assets of the Agency. Such enforceable contractual liabilities as may have been incurred by the Agency during the course of its existence shall be discharged at the end of the term or extended term hereof by the parties, and each of them shall be obligated to pay a portion of the contractual debts, liabilities, and obligations of the Agency based upon its proportionate ownership interest in the assets of the Agency. Provided, however, that the foregoing shall not preclude the parties from making, by unanimous written agreement, other

provisions for the discharge of the debts, liabilities, and obligations and the disposition of the assets and surplus money of the Agency.

SECTION 10. ACCOUNTS AND REPORTS

To the extent not covered by the duties assigned to any Trustee appointed under any Resolution of the Governing Board for the issuance of bonds of the Agency, the Auditor of the Agency shall establish and maintain such funds, procedures, and accounts as may be required by good accounting practice or by provision of any Resolution for the issuance of bonds of the Agency. Books and records of the Agency in the hands of any Trustee or the Auditor shall be open to inspection at all reasonable times by representatives of the parties to this Agreement. The Auditor of the Agency, within one hundred twenty (120) days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the parties to the extent such activities are not covered by the report of any Trustee. The Auditor of the Agency shall make an annual audit of the records and accounts of the Agency. The cost of such audits shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency. The Trustee appointed under any Resolution for the issuance of bonds of the Agency shall establish suitable funds,

furnish financial reports, and provide suitable accounting procedures to carry out the provisions of said Resolution. Said Trustee may be given such duties in said Resolution as may be desirable to carry out this Agreement. All such audits and written reports shall comply with the provisions of Section 6505 of the Government Code.

SECTION 11. FUNDS

The Treasurer of the Agency shall disburse Agency funds pursuant to the accounting procedures developed in accordance with the provisions of Section 10; provided that provisions of any resolution of the Governing Board authorizing the issuance of revenue bonds shall control regarding the custody and disbursement of proceeds of any revenue bonds issued pursuant thereto or any revenue pledged to the payment of such bonds.

Additionally, the Treasurer of the Agency shall assume the duties (to the extent not covered by the duties assigned to any Trustee) described in California Government Code Section 6505.5, to wit:

(a) Receive and receipt for all money of Agency and place it in the County Treasury to the credit of the Agency;

(b) Be responsible upon his official bond for safekeeping and disbursement of all Agency money

so held by him;

(c) Pay, when due, out of money of the Agency so held by him, all sums payable on outstanding bonds and coupons of the Agency;

(d) Pay any other sums due from the Agency, from Agency money, only upon warrants of the Auditor of the Agency;

(e) Verify and report in writing on the first (1st) day of July, October, January, and April of each year to the Agency and the parties to this Agreement the amount of money he holds for the Agency, the amount of receipts since his last report, and the amount paid out since his last report.

Subject to the applicable provisions of any indenture or financing agreement, which may provide for a Trustee to receive, have custody of, and disburse Agency funds, the Treasurer of the Agency shall have the custody of and disburse Agency funds pursuant to the accounting procedures developed in accordance with the provisions of Section 10 hereof and as nearly as possible in accordance with normal County procedures.

The public officers (namely, the Auditor and Treasurer of the Agency) herein designated as the persons responsible for any moneys of the Agency are hereby also designated as responsible for the property of the Agency,

and each of said officers shall file an official bond in an amount to be fixed by the parties.

The Auditor of the Agency shall draw warrants to pay demands against the Agency when the demands have been approved by the Governing Board.

The Board of Supervisors of the County shall determine charges to be made against the Agency for the services of the County officers serving as officers of the Agency.

SECTION 12. TERMINATION

*- deleted by first amendment - 04-28-75*

In the event that the Agency does not receive federal and state grants in sufficient amount to enable the Agency and the parties to proceed with the acquisition, construction, and installation of the Regional Sewage and Wastewater Treatment and Disposal Facilities, this Agreement may be terminated by any of the parties giving written notice to the other parties.

*12-24-28-75*  
SECTION 13. NOTICES

Notices hereunder shall be sufficient if addressed to the principal office of each of the parties hereto.

13-24-28-75  
SECTION 14. MISCELLANEOUS

The Section headings herein are for convenience only and are not to be construed as modifying or governing the language in the Section referred to.

This Agreement is made in the State of California, under the Constitution and laws of the State, and it is to be so construed.

To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that there will be operating memoranda executed and amended from time to time which will further define the rights and obligations of the parties.

This Agreement may be amended in any particular, from time to time, by unanimous action of the parties, provided, however, that no authority on which action has been taken by the Agency shall be limited or withdrawn.

14-24-28-75  
SECTION 15. PARTIAL INVALIDITY

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a Court of competent jurisdiction each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable

to the fullest extent permitted by law.

15-0428-75  
SECTION 16. SUCCESSORS

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties.

IN WITNESS WHEREOF, the parties hereto 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 CITY COMMUNITY  
SERVICES DISTRICT

By: Edward E. Abbott  
Edward E. Abbott,  
President

ATTEST:

Earl L. Black  
Earl L. Black, Secretary

BIG BEAR LAKE SANITATION  
DISTRICT and  
SAN BERNARDINO COUNTY  
on behalf of San Bernardino  
County Service Area 53

By: *Nancy E. Smith*  
Nancy E. Smith, Chairman,  
San Bernardino County  
Board of Supervisors,  
governing body of  
Big Bear Lake Sanitation  
District and San Bernardino  
County Service Area 53

ATTEST:

LEONA RAPOPORT,  
Clerk of said Board

By: *Leona Rapoport*  
Deputy Clerk

APPROVED as to form this 2nd day of March, 1974.

STANFORD D. HERLICK,  
County Counsel

By: *Stan D. Herlick*  
Deputy County Counsel



Approved as to form this 22 day of March, 1974.

BEST, BEST & KRIEGER

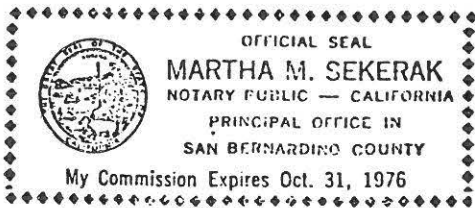
By: Richard T. Anderson  
Richard T. Anderson

Attorneys for Big Bear City  
Community Services District

ACKNOWLEDGMENT

STATE OF CALIFORNIA            )  
                                          ) ss.  
COUNTY OF SAN BERNARDINO )

On this 22nd day of March, 1974, before me, the undersigned, a Notary Public, personally appeared NANCY E. SMITH, known to me to be the Chairman of the Board of Supervisors of the County of San Bernardino the governing body of Big Bear Lake Sanitation District and known to me to be the person who executed the within instrument on behalf of said public corporation, agency, or political subdivision, and acknowledged to me that such Big Bear Lake Sanitation District executed the same.



*Martha M. Sekerak*  
\_\_\_\_\_  
Notary Public within and for  
said County and State

(SEAL)

ACKNOWLEDGMENT

STATE OF CALIFORNIA            )  
                                          ) ss..  
COUNTY OF SAN BERNARDINO )

On this 22nd day of March, 1974, before me, the undersigned, a Notary Public, personally appeared NANCY E. SMITH, known to me to be the Chairman of the Board of Supervisors of the County of San Bernardino, and known to me to be the person who executed the within instrument on behalf of said public corporation, agency, or political subdivision, and acknowledged to me that such County of San Bernardino executed the same.



*Martha M. Sekerak*  
Notary Public within and for  
said County and State

(SEAL)

ACKNOWLEDGMENT

STATE OF CALIFORNIA            )-  
                                          ) ss.  
COUNTY OF SAN BERNARDINO    )

On this 26th day of March, 1974, before me, the undersigned, a Notary Public, personally appeared EDWARD E. ABBOTT and EARL L. BLACK, known to me to be the President and Secretary, respectively, of the Board of Directors of Big Bear City Community Services District and known to me to be the persons who executed the within instrument on behalf of said public corporation, agency, or political subdivision, and acknowledged to me that such Big Bear City Community Services District executed the same.

*Richard T. Anderson*

\_\_\_\_\_  
Notary Public within and for  
said County and State

(SEAL)

