

**Proposed Outside Service Agreement for
Potable Water Services**

Attachment 2

OUTSIDE SERVICE AGREEMENT FOR POTABLE WATER SERVICES

This Outside Service Agreement to provide potable water service to the development known as Moon Camp, east of the community of Fawnskin ("Agreement") is executed this ___ day of _____, 2015, by and between the San Bernardino County Service Area 53 Zone C ("CSA 53C") and City of Big Bear Lake, Department of Water and Power ("DWP"), as follows:

RECITALS

A. The DWP is a department of the City of Big Bear Lake, a municipality of the State of California governed by its own charter. The charter for the City of Big Bear Lake provides the DWP with the power and duty to operate and maintain works and property for the purpose of supplying its inhabitants with water, and to hold in the name of the City any and all property within and without the City that may be necessary or convenient for such purpose.

B. CSA 53C is a county service area formed by the County of San Bernardino, California, for the purpose of providing potable water within portions of the County, including the Fawnskin area therein.

C. The proposed Moon Camp development owns four parcels within CSA 53C, as identified in Exhibit A attached hereto. The proposed development will subdivide the four parcels into fifty (50) lots for residential development and will require potable water services.

D. The DWP operates potable water facilities located outside the City limits of the City of Big Bear Lake, including facilities located within the Fawnskin area and CSA 53C. DWP's potable water facilities are adjacent to the proposed Moon Camp Development.

E. CSA 53C has the jurisdictional authority to provide potable water services. CSA 53C currently does not have potable water facilities and it would not be economical for CSA 53C to provide potable water service to the proposed Moon Camp development. The DWP has filed an exemption request with the Local Agency Formation Commission for San Bernardino County ("LAFCO") to provide potable water services to a portion of CSA 53C, identified on Exhibit A. CSA 53C wishes for the DWP to provide potable water services to these four parcels located within its boundaries. DWP has agreed to provide such services for the compensation and pursuant to the terms hereinafter set forth.

TERMS

1. Potable Water Services. DWP agrees to provide potable water services for the above four parcels in the same manner and to the same extent that such services are currently being provided for DWP's Fawnskin Service Area, for the term of this Agreement.

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San Bernardino County

2. Compensation. DWP will be compensated for said potable water services in compliance with its Residential Rate Schedule and Fire Service Rate Schedule where applicable. The Moon Camp developer will be responsible for construction the on-site and off-site potable water facilities required to serve the proposed development. CSA 53C has no obligation to provide infrastructure or funds for infrastructure for the purpose of providing water service to the Moon Camp Development

3. Payment. Each future Moon Camp residential property owner will be responsible to pay DWP the required stand-by fees, capacity fees, meter installation fees and water service fees. CSA 53C has no obligation to DWP for payment of water service in connection with the Moon Camp Development.

4. Term. The term of this Agreement shall commence upon the effective date of LAFCO's approval of DWP's exemption request to provide potable water service outside of their service area, and shall continue in perpetuity unless terminated by CSA 53C, contingent on approval by the governing body of CSA 53C. Any change in service provider would require full disclosure to effected customers and property owners.

5. Disputes. Should a dispute arise regarding the interpretation, application or enforcement of this Agreement, the parties hereto agree to meet and utilize good faith efforts to resolve the dispute amicably, through negotiated settlement. In the event that such efforts are unsuccessful and legal action on this Agreement is initiated by either party against the other, each party, regardless of whether a party is the prevailing party in such action, shall bear its own costs and reasonable attorneys' fees.

6. CSA 53C agrees to indemnify, defend (with counsel reasonably approved by DWP) and hold harmless DWP and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including CSA 53C's acts, errors or omissions of any person and for any costs or expenses incurred by DWP on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CSA 53C's indemnification obligation applies to DWP's "active" as well as "passive" negligence but does not apply to DWP's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

DWP agrees to indemnify, defend (with counsel reasonably approved by CSA 53C) and hold harmless CSA 53C and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including DWP's acts, errors or omissions of any person and for any costs or expenses incurred by CSA 53C on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. DWP's indemnification obligation applies to CSA 53C's "active" as well as "passive" negligence but does not apply to CSA 53C's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

In the event the both parties are found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the parties shall indemnify the other to the extent of its comparative fault. In the event of litigation arising from this Agreement, each party to the Agreement shall bear its own costs, including attorney fees.

7. CSA 53C and DWP are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the date set forth above.

BOARD GOVERNED COUNTY SERVICE AREA 53C



James Ramos, Board Chairman

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD
Laura H. Welch, Clerk of the Board

By _____
Deputy

**CITY OF BIG BEAR LAKE
DEPARTMENT OF WATER AND POWER**

By _____
Reginald A. Lamson, General Manager

Dated: _____