

**Appendix G:
Proof of Water Service**

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G.1 - LAFCO Water Service Approval

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**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: NOVEMBER 9, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #6 LAFCO SC #401 – Consideration of Exemption from Government Code Section 56133 for LAFCO SC#401 – Agreement between City of Big Bear Lake Department of Water and Power and County Service Area 53 Zone C for Water Service

INITIATED BY:

City of Big Bear Lake Department of Water

RECOMMENDATION:

Determine that LAFCO SC#401 complies with the exemption criteria listed within Government Code Section 56133 Subsection (e) and, therefore, does not require Commission approval to proceed.

BACKGROUND:

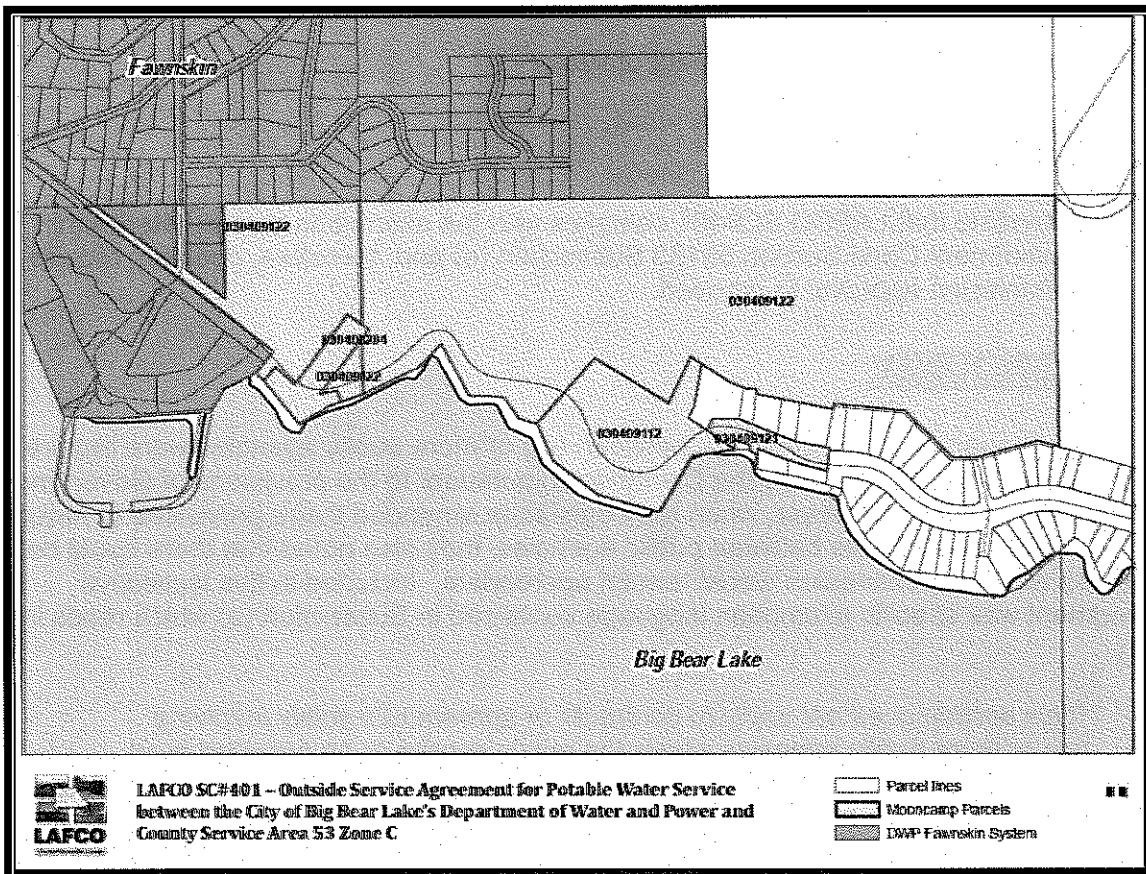
Beginning January 1, 2002, contracts between two or more public agencies were required to be reviewed and approved by the Commission pursuant to the provisions of Government Code Section 56133. However, when the Legislature amended these provisions to require LAFCO review of contracts between public agencies, they also noted that there could be instances where an exemption would remain appropriate. Included in this legislative amendment was specific exemption language contained in Subsection (e) which reads in part:

“This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be

provided is consistent with the level of service contemplated by the existing service provider...

On October 6, 2015, the City of Big Bear Lake Department of Water and Power (hereafter "DWP") submitted its request that the Commission determine that the proposed Water Services Agreement between DWP and County Service Area 53 Zone C (hereafter CSA 53 C or the "District") is exempt from the provisions of Government Code Section 56133 as authorized by Subsection (e). The proposed contract would allow the DWP to provide water service to the development commonly known as "Moon Camp" to the same extent that CSA 53C would contemplate to provide if its water functions were currently active. A copy of the exemption request letter (Attachment #1) and draft agreement (Attachment #2) are included as a part of this report.

The Moon Camp project proposes the development of 50 residential units and 7 lettered lots on 62 acres of land along the north shore of Big Bear Lake, a part of the larger Fawnskin community. Through the 2010 revision to the project's development plan all residential development will be north of SR-38. The graphic below depicts the parcel configuration of the area to be served by this contract and the area adjacent within the existing Fawnskin system of the DWP.



Over the last fourteen or so years, LAFCO staff has commented on the EIR and the several recirculated EIRs for the development application known as the Moon Camp project. In all of these environmental documents, the question of water service provision for the project has included a discussion of service delivery through the DWP. The Commission is well aware of the issues regarding the delivery of water service by the DWP following the condemnation of the former Golden State Water system by the City of Big Bear Lake. The service review completed in 2012 (Resolution No. 3141 included as Attachment #3) delineated the service area for the DWP outside the City's boundary and sphere of influence based upon existing service at the time of condemnation. The parcels included in the Moon Camp project, while adjacent, were not recognized as part of the DWP service boundary at that time. However, it has been acknowledged throughout the development process that the system to provide potable water would be under a contractual relationship between CSA 53C and the DWP, and sewer service would be provided by the existing sewer authority, CSA 53B.

The exemption determination is required to move forward with the completion of this agreement since the territory of the Moon Camp project is not within the sphere of influence of the City of Big Bear Lake. After reviewing the materials presented for SC#401, it is the staff's position that the findings identified in Subsection (e) of Section 56133 are applicable; therefore, the agreement between the DWP and CSA 53C should be exempted from further LAFCO review. The findings are as follows:

1. The Outside Service Agreement for Potable Water Services is between the City of Big Bear Lake DWP and CSA 53C, both of which are legally defined public agencies.
2. The public service to be provided is potable water service to the proposed Moon Camp development project, service authorized to be provided by CSA 53C but not actively provided. The services to be provided by DWP are in-lieu of CSA 53C developing the infrastructure to serve the tract, a cost prohibitive duplication of system improvements.
3. CSA 53C is contracting to authorize the delivery of potable water service by DWP and allowing it to require the payment of infrastructure development by the property owner to serve the 50 residential units proposed.
4. The level of service to be provided through this contract is consistent with the level of service contemplated by the formation of CSA 53C.

CONCLUSION:

On the basis of the findings outlined above, staff recommends that the Commission determine that pursuant to Government Code Section 56133 Subsection (e), the

Outside Service Agreement for Potable Water Services to be entered into by the City of Big Bear Lake Department of Water and Power and County Service Area 53C is exempt from further review and approval by the Commission. This determination is made with the understanding that contract finalization is ongoing between the two agencies with their expressed desire to achieve final approval by the County at its November 17 meeting. It is the staff's understanding that the outstanding issues related to language in the contract do not affect the determinations required of the Commission. .

/krm

Attachments:

1. Department of Water and Power Letter Requesting Exemption dated September 23, 2015 with Application and Excerpts from Revised and Recirculated EIR No. 2 for TT 16136 and Appendix B Water Feasibility Study
2. Proposed Outside Service Agreement for Potable Water Services
3. LAFCO Resolution No. 3141 for the Service Review for the City of Big Bear Lake

**Department of Water and Power Letter
Requesting Exemption dated
September 23, 2015 with
Application and Excerpts from
Revised and Recirculated EIR No. 2 for
TT 16136 and Appendix B Water
Feasibility Study**

Attachment 1

DEPARTMENT OF WATER



Service. Quality. Community

LAFCO SC # 401

RECEIVED
OCT 06 2015

LAFCO
San Bernardino County

September 23, 2015

Kathleen Rollings-McDonald
Executive Officer
Local Agency Formation Commission – San Bernardino
215 North D Street, Suite 204
San Bernardino, CA 92415-0490

Re: Agreement between the City of Big Bear Lake, Department of Water and Power and the County Service Area 53C

Dear Ms. Rollings-McDonald:

The San Bernardino County Service Area 53C (CSA 53C) has the authority to provide water services to the proposed Mooncamp development, located east of Fawnskin. CSA53C does not currently have potable water facilities in the Bear Valley and are not able to economically provide potable water services to the proposed development. City of Big Bear Lake, Department of Water and Power (DWP) currently provides potable water service to about 700 customers in the Fawnskin area and could economically provide potable water service to the proposed development. On September 22, 2015, DWP's Board of Commissioners approved an agreement (attached), pending County Board of Supervisors approval (scheduled for the October 20, 2015 meeting), which would allow DWP to provide potable water services to the proposed Mooncamp development. Since DWP will be providing service outside of their jurisdictional boundaries, DWP is respectfully requesting that the Local Agency Formation Commission consider an exemption from the provisions of Government Code Section 56133 as authorized by subsection (e) because the attached agreement for potable water services between CSA 53C and DWP is solely between two public agencies.

If you have any questions, please contact me at 909-866-5050, Ext. 201.

Sincerely,

A handwritten signature in black ink, appearing to read "Reginald A. Lamson".

Reginald A. Lamson PE LS
General Manager

Cc: Jeff Mathieu, City of Big Bear Lake
Jeff Rigney, San Bernardino County Special Districts

**SAN BERNARDINO LAFCO
APPLICATION FOR
EXTENSION OF SERVICE BY CONTRACT**

(A certified copy of the City Council/District Board of Directors resolution or a letter from the City Manager/General Manager requesting approval for an out-of-agency service agreement must be submitted together with this application form.)



AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Big Bear Lake, Department of Water & Power
CONTACT PERSON: Reggie Lamson
ADDRESS: P O Box 1929
Big Bear Lake, CA 92315
PHONE: 909-866-5050
EMAIL: rlamson@bbldwp.com

CONTRACTING PARTY:

NAME OF PROPERTY OWNER: County Special District - County Service Area 53C
CONTACT PERSON: Jeff Rigney
MAILING ADDRESS: 157 W. 5th Street
San Bernardino, CA 92415
PHONE: 909-387-5940
EMAIL: jrigney@sdd.sbcounty.gov
ADDRESS OF PROPERTY PROPOSED FOR CONTRACT: Attached as Exhibit "A"

CONTRACT NUMBER/IDENTIFICATION: Moon Camp Development
PARCEL NUMBER(S): Attached as Exhibit "A"
ACREAGE: 62.0



Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

The following questions are designed to obtain information related to the proposed agreement/contract to allow the Commission and staff to adequately assess the proposed service extension. You may include any additional information which you believe is pertinent. Please use additional sheets where necessary.

1. (a) List the type or types of service(s) to be provided by this agreement/contract.

Potable Water Services

- (b) Are any of the services identified above "new" services to be offered by the agency? YES NO. If yes, please provide explanation on how the agency is able to provide the service.

2. Is the property to be served within the agency's sphere of influence? YES NO

3. Please provide a description of the service agreement/contract.

The City of Big Bear Lake, Department of Water and Power will provide Potable Water Services to the proposed Moon Camp Development, in lieu of CSA 53C providing these services.

4. (a) Is annexation of the territory by your agency anticipated at some point in the future? YES NO. If yes, please provide a projected timeframe when it anticipates filing an application for annexation of territory that would include the area to be served. If no, please provide an explanation as to why a jurisdictional change is not possible at this time.

It is cost prohibitive for CSA 53C to construct and maintain potable water facilities for the proposed development.

- (b) Is the property to be served contiguous to the agency's boundary?
 YES NO. If yes, please provide explanation on why annexation to the agency is not being contemplated.

CSA 53C does not have potable water facilities near the proposed development.

It would be cost prohibitive for CSA 53C to provide potable water services to the proposed development.

5. Is the service agreement/contract outside the Agency's sphere of influence in response to a threat to the public health and safety of the existing residents as defined by Government Code Section 56133(c)?
 YES NO. If yes, please provide documentation regarding the circumstance (i.e. letter from Environmental Health Services or the Regional Water Quality Control Board).

6. (a) What is the existing use of the property?

Vacant land.

- (b) Is a change in use proposed for the property? YES NO. If yes, please provide a description of the land use change.

Fifty residential home sites.

7. If the service agreement/contract is for development purposes, please provide a complete description of the project to be served and its approval status.

The proposed development will develop 62 acres of native land into fifty residential home sites, including grading, road construction and all utilities. Once this Extension of Service Agreement is approved, the developer will submit the subdivision to the County Planning Commission for final approval.

8. Are there any land use entitlements/permits involved in the agreement/contract?
 YES NO. If yes, please provide documentation for this entitlement including the conditions of approval and environmental assessment that are being processed together with the project. Please check and attach copies of those documents that apply:

Tentative Tract Map / Parcel Map	<input type="checkbox"/>
Permit (Conditional Use Permit, General Plan Amendment, etc.)	<input type="checkbox"/>
Conditions of Approval	<input type="checkbox"/>
Negative Declaration (Initial Study)	<input type="checkbox"/>
Notice of Determination (NOD)/Notice of Exemption (NOE)	<input type="checkbox"/>
Department of Fish and Game (DFG) Receipt	<input type="checkbox"/>
Others (please identify below)	<input type="checkbox"/>

9. Has the agency proposing to extend service conducted any CEQA review for this contract? YES NO. If yes, please provide a copy of the agency's environmental assessment including a copy of the filed NOD/NOE and a copy of the DFG Receipt.

10. Plan for Service:

- (a) Please provide a detailed description of how services are to be extended to the property. The response should include, but not be limited to, a description of: 1) capacity of existing infrastructure, 2) type of infrastructure to be extended or added to serve the area, 3) location of existing infrastructure in relation to the area to be served, 4) distance of infrastructure to be extended to serve the area, and 5) other permits required to move forward with the service extension.

The DWP has recently constructed several water system improvements in the area of the proposed development and now has sufficient capacity to serve the existing Fawnskin area, including build out, and the proposed development. The developer will need to construct 3,700 linear feet of 12-inch pipeline from the existing Upper Fawnskin Pressure Zone System, to the proposed development's border. The Upper Fawnskin Pressure Zone System is located Northeast of the proposed development. The developer will also construct all on-site water system improvements, including 8-inch pipelines, hydrants and valves. The developer

will acquire all permits required to construct the water facilities.

- (b) Please provide a detailed description of the overall cost to serve the property. The response should include the costs to provide the service (i.e. fees, connection charges, etc.) and also the costs of all improvements necessary to serve the area (i.e. material/equipment costs, construction/installation costs, etc.).

<i>Description of Fees/Charges</i>	<i>Cost</i>	<i>Total</i>
6,000 LF 8-inch piping & facilities (on-site), Developer Paid	\$160.00/LF	\$ 960,000
3,700 LF 12-inch piping & facilities (off-site), Developer Paid	\$180.00/LF	\$ 666,000
Estimated annual operating costs (Homeowner paid through Bi-monthly water bill)		\$ 23,000
Estimated annual depreciation expense (Homeowner paid through Bi-monthly water bill)		\$ 32,000
Capacity Charges vary based on the number of fixture units constructed in each home using the same fee schedule that applies to all DWP residential customers. Currently the DWP charges \$8,928 per EDU. Homeowner Paid		
Meter / Service Fees vary based on the size of meter according to the same rate table that applies to all DWP residential customers. Currently the average installation fee is \$2,225 Homeowner Paid		
Bi-monthly water bill will vary based on usage according to the same rate table that applies to all DWP residential customers. Homeowner Paid		
Construction Costs Total		\$ 1,626,000
Annual Cost Total		\$ \$55,000
Total Costs		\$ 1,681,000

- (c) Please identify any unique costs related to the service agreement such as premium outside City/District rates or additional 3rd-party user fees and charges (i.e. fees/charges attributable to other agencies).

N/A

- (d) If financing is to occur, please provide any special financial arrangement between the agency and the property owner, including a discussion of any later repayment or reimbursement (If available, a copy of the agreement for repayment/reimbursement is to be provided).

N/A

- 11 Does the City/District have any policies related to extending service(s) outside its boundary? YES NO. If yes, has a copy been provided to LAFCO? If not, please include a copy of the policy or policies (i.e. resolution, municipal code section, etc.) as part of the application.

A copy of the agreement with CSA 53C is attached.

CERTIFICATION

As a part of this application, the City of Big Bear Lake, Department of Water and Power agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it.

This indemnification obligation shall include, but not be limited to, damages, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

The agency signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this evaluation of service extension to the best of my ability, and that the facts, statement and information presented herein are true and correct to the best of my knowledge and belief.

SIGNED Reginald A. Lamson
NAME: REGINALD A. LAMSON
POSITION TITLE: GM
DATE: 9-23-15

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract.
2. Map(s) showing the property to be served, existing agency boundary, the location of the existing infrastructure, and the proposed location of the infrastructure to be extended.
3. Certified Plan for Service (if submitted as a separate document) including financing arrangements for service.

Please forward the completed form and related information to:

Local Agency Formation Commission for San Bernardino County
215 North D Street, Suite 204
San Bernardino, CA 92415-0490
PHONE: (909) 388-0480 • FAX: (909) 885-8170

Rev: krm - 8/19/2015

Ptn. N.W.1/4, Sec.13, T.2N.,R.1W., S.B.B.&M.

0304-08

Bear Valley Unified School District
Tax Rate Area
57018, 57019

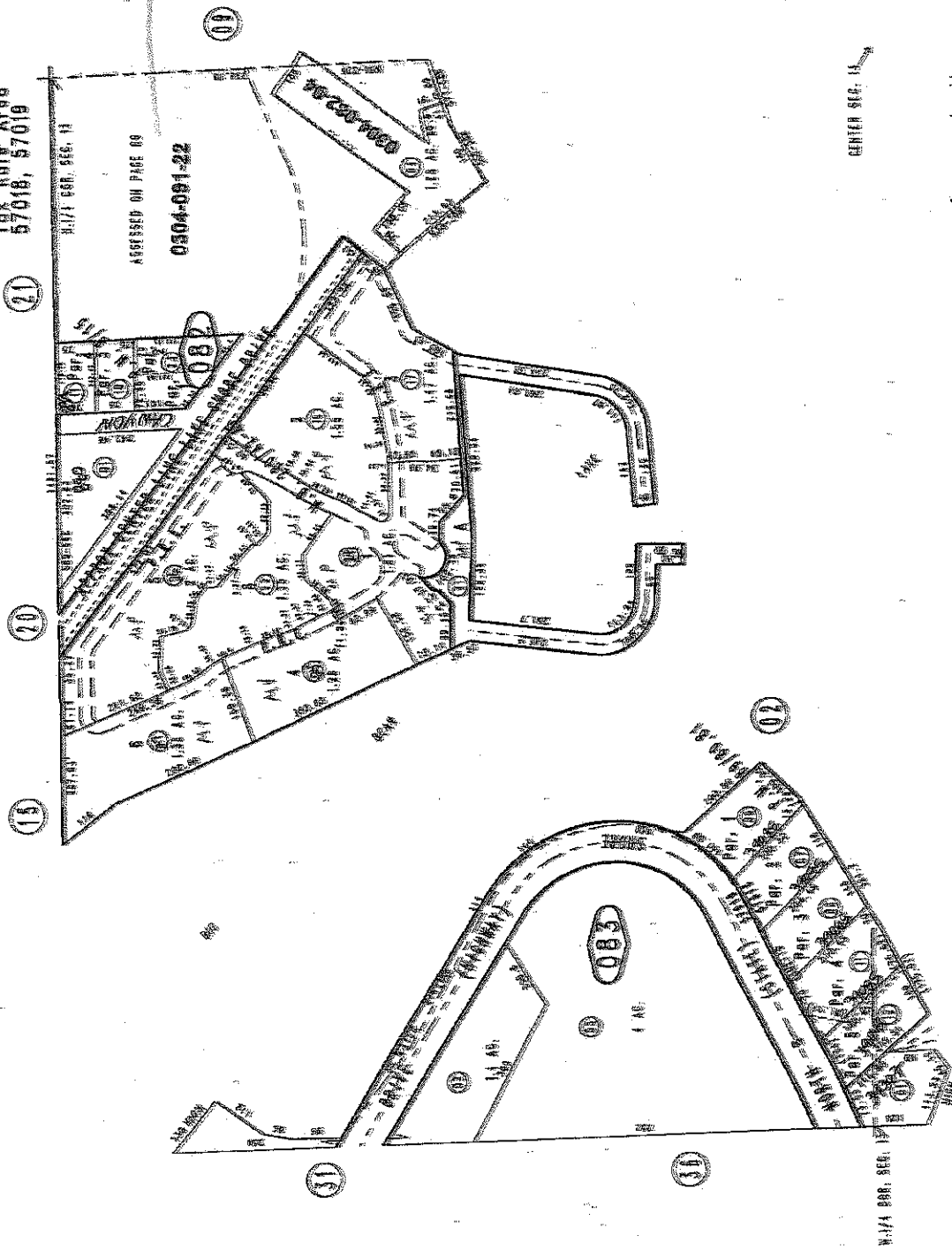
THIS MAP IS FOR THE PURPOSE
OF AN UNLAWFUL EXAMINATION ONLY.



EXHIBIT A

LAFCD SC # 401

REVISED
11/09/01 OR
7-2-05



CENTER SEC. 13

Assessor's Map
Book 0304, Page 08
San Bernardino County

Tract No. 12217, N.B. 280/42-47
Page 1 Map No. 7482, P.M. 88780-81
Page 1 Map No. 856, P.M. 8715

December 2002

Ptn. N.E. 1/4, Sec. 13, T.2N., R.1W., S.B.B. & M.

Best Valley Unified School District
Tax Rate Area
97018
0304-09

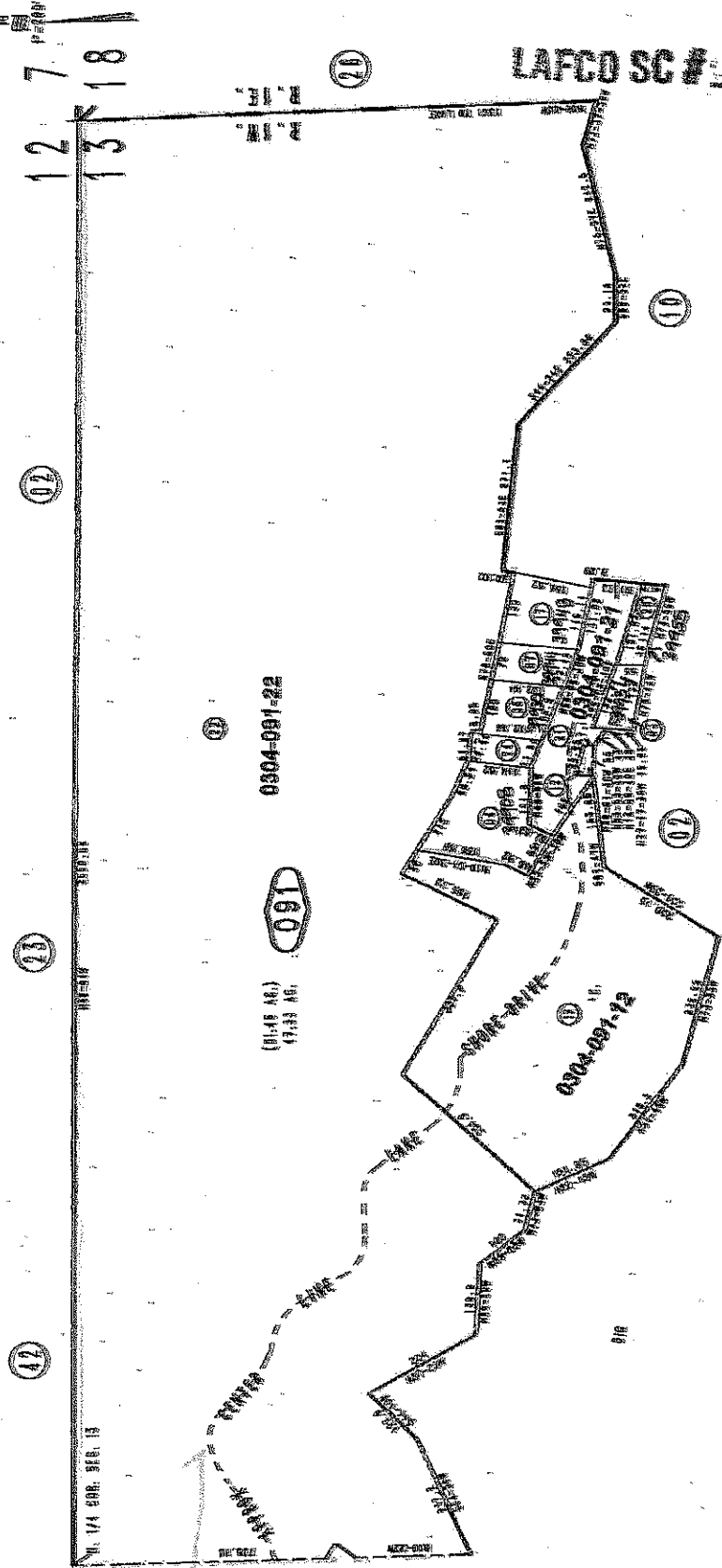
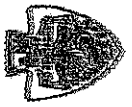
EXHIBIT A

LAFCD SC # 401

REVISION MAP
06/08/04 MAP
06/18/04 MAP

Assessor's Map
Book 0304 Page 09
San Bernardino County

THIS MAP IS FOR THE PURPOSE
OF AS VALUED TAXATION ONLY.



December 2003

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G.2 - Bear Lake Department of Water—Service Letter

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DEPARTMENT OF WATER



Service, Quality, Community

March 23, 2018

Tom Nieves, SB County
157 W. Fifth Street, 2nd Floor
San Bernardino, CA 92415-0430

Subject: Potable Water Service for Proposed Moon Camp Development

Dear Mr. Nieves,

On November 17, 2015, County Service Area 53, Zone C (Fawnskin Area) and the City of Big Bear Lake, Department of Water and Power entered into an "Outside Service Agreement for Potable Water Service" (attached). LAFCO approved this Outside Service Agreement during their November 9, 2015 Board meeting, see attached LAFCO staff report. BBLDWP has sufficient capacity within its existing Fawnskin water system to provide potable water service to the proposed Moon Camp Development. Please let me know if you require additional information.

Sincerely,

Reginald A. Lamson, PE LS
General Manager, BBLDWP

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE BOARD GOVERNED COUNTY SERVICE AREAS
AND RECORD OF ACTION**

November 17, 2015

**FROM: JEFFREY O. RIGNEY, Director
Special Districts Department**

**SUBJECT: OUTSIDE SERVICE AGREEMENT BETWEEN COUNTY SERVICE AREA 53,
ZONE C (FAWSKIN AREA) AND THE BIG BEAR LAKE DEPARTMENT OF
WATER AND POWER FOR POTABLE WATER SERVICES**

RECOMMENDATION(S)

Acting as the governing body of County Service Area 53, Zone C (CSA 53C) (Fawnskin Area), approve Outside Service Agreement No. 15-844 with the City of Big Bear Lake Department of Water and Power (BBDWP) for BBDWP to provide potable water services to the proposed Moon Camp development within CSA 53C boundaries beginning upon the effective date of LAFCo's approval of DWP's exemption request to provide services outside of their service area and continuing in perpetuity, unless terminated by CSA 53C.
(Presenter: Jeffrey O. Rigney, Director, 387-5967)

BOARD OF SUPERVISORS COUNTY GOALS AND OBJECTIVES

**Pursue County Goals and Objectives by Working with Other Agencies.
Provide for the Safety, Health and Social Service Needs of County Residents.**

FINANCIAL IMPACT

This item will not result in the use of Discretionary General Funding (Net County Cost). The Moon Camp developer, Timothy Wood, in partnership with RCK Properties, Inc., is responsible for construction of all potable water facilities to serve the proposed development. Each Moon Camp residential property owner will be responsible for compensating BBDWP for said potable water services in compliance with applicable BBDWP rate schedules and as such, there is no financial impact to CSA 53C resulting from approval of this agreement.

BACKGROUND INFORMATION

CSA 53C was formed with the primary purpose of providing potable water services in the region outside of the BBDWP service area. The proposed Moon Camp developer owns four parcels within the CSA 53C water service area which will be subdivided into 50 lots for residential development. CSA 53C has the jurisdictional authority to provide potable water services within the Moon Camp Development but lacks existing water infrastructure to serve the site. It would not be economically feasible for CSA 53C to provide potable water services to the proposed Moon Camp development as CSA 53C does not currently have the necessary water support infrastructure.

Page 1 of 2

cc: SDD - Rigney w/Agree
; Reception w/Agree
Contractor c/o SDD w/Agree
ATC - Acct. Pay. Mgr. w/Agree
EBIX-BPO c/o Risk Mgmt.
CAO - Magee
File - w/Agree
ss 11/18/15

Record of Action of the Board of Supervisors

**DEFERRED/APPROVED
COUNTY OF SAN BERNARDINO
Board Governed County Service Areas**

MOTION	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	MOVE	ABSENT	AYE	AYE	SECOND
			3	4	5

LAURA H. WELCH, CLERK OF THE BOARD

BY _____

DATED: November 17, 2015

**OUTSIDE SERVICE AGREEMENT BETWEEN COUNTY
SERVICE AREA 53, ZONE C (FAWSKIN AREA) AND THE
BIG BEAR LAKE DEPARTMENT OF WATER AND POWER
FOR POTABLE WATER SERVICES
NOVEMBER 17, 2015
PAGE 2 OF 2**

The BBDWP 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 BBDWP with the power and duty to supply water to residents within their boundary, and to hold in the name of the City, any and all property within and out of the City, that may be necessary or convenient for such purpose. The BBDWP operates potable water facilities located outside the city limits of the City of Big Bear Lake, including facilities located within the Fawnskin area. BBDWP's potable water facilities are readily adjacent to the proposed Moon Camp Development. As CSA 53C has the jurisdictional authority to provide potable water services, an exemption request was also filed with the Local Agency Formation Commission (LAFCo) to allow BBDWP to provide potable water services to that portion of CSA 53C which is in the Moon Camp Development.

The recommended agreement will allow the BBDWP to provide potable water services to the Moon Camp development located within the CSA 53C boundaries. BBDWP agrees to provide potable water services for the development in the same manner and to the same extent that such services are currently being provided for BBDWP's customers within their Fawnskin service area.

The term of this Agreement shall commence upon the effective date of LAFCo's approval of BBDWP's exemption request to provide potable water services outside of their service area, and shall continue in effect unless terminated by CSA 53C, contingent on approval by the governing body of CSA 53C. The BBDWP Board approved the agreement on October 27, 2015. Written notice will be sent to affected customers and property owners in the event of any change in service provider.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Dawn Messer, Deputy County Counsel, 387-5455) on October 8, 2015; Finance (Bobby Magee, Administrative Analyst, 387-5005) on October 28, 2015; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5410) on November 2, 2015.



**COUNTY SERVICE
AREA 70 53C
(FAWNSKIN AREA)**

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	FAS Vendor Code CITYOFB975A	Dept. SC	105	A	Contract Number 15-844	
ePro Vendor Number 00005742				ePro Contract Number		
County Department Special Districts Department		Dept. SKV	Orgn. 200	Contractor's License No.		
County Department Contract Representative Jeffrey O. Rigney, Director			Telephone (909) 387-5967	Total Contract Amount \$0.00		
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input checked="" type="checkbox"/> Other: Non-Financial						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date 11/17/2015	Contract End Date 11/17/2035	Original Amount 0	Amendment Amount	
Fund SKV	Dept. 105	Organization 200	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Project Name Non-Financial Service Agreement For Potable Water Services CSA 70 53C (Fawnskin Area)			Estimated Payment Total by Fiscal Year			
			FY	Amount	I/D	I/D

CONTRACTOR City of Big Bear Lake Department of Water and Power

Federal ID No. or Social Security No. On File

Contractor's Representative Reggie Lamson, General Manager

Address 41972 Garstin Drive, Big Bear Lake, CA 92315 Phone (909) 866 - 5050

Nature of Contract: *(Briefly describe the general terms of the contract)* Service Agreement for the provision of potable water services between the County Service Area 53 C (Fawnskin) and the City of Big Bear Lake, Department of Water and Power.

THIS IS NOT A CONTRACT
THIS IS A COVER
TRANSMITTAL ONLY

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to Legal Form (sign in blue ink) County Counsel - Dawn Messer Date <u>10/14/15</u>	Reviewed as to Contract Compliance Date _____	Presented to BOS for Signature Department Head - Jeffrey O. Rigney Date <u>10/13/15</u>
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Auditor-Controller/Treasurer/Tax Collector Use Only	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

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 11th day of November, 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.

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: NOV 17 2015

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: 10-27-15

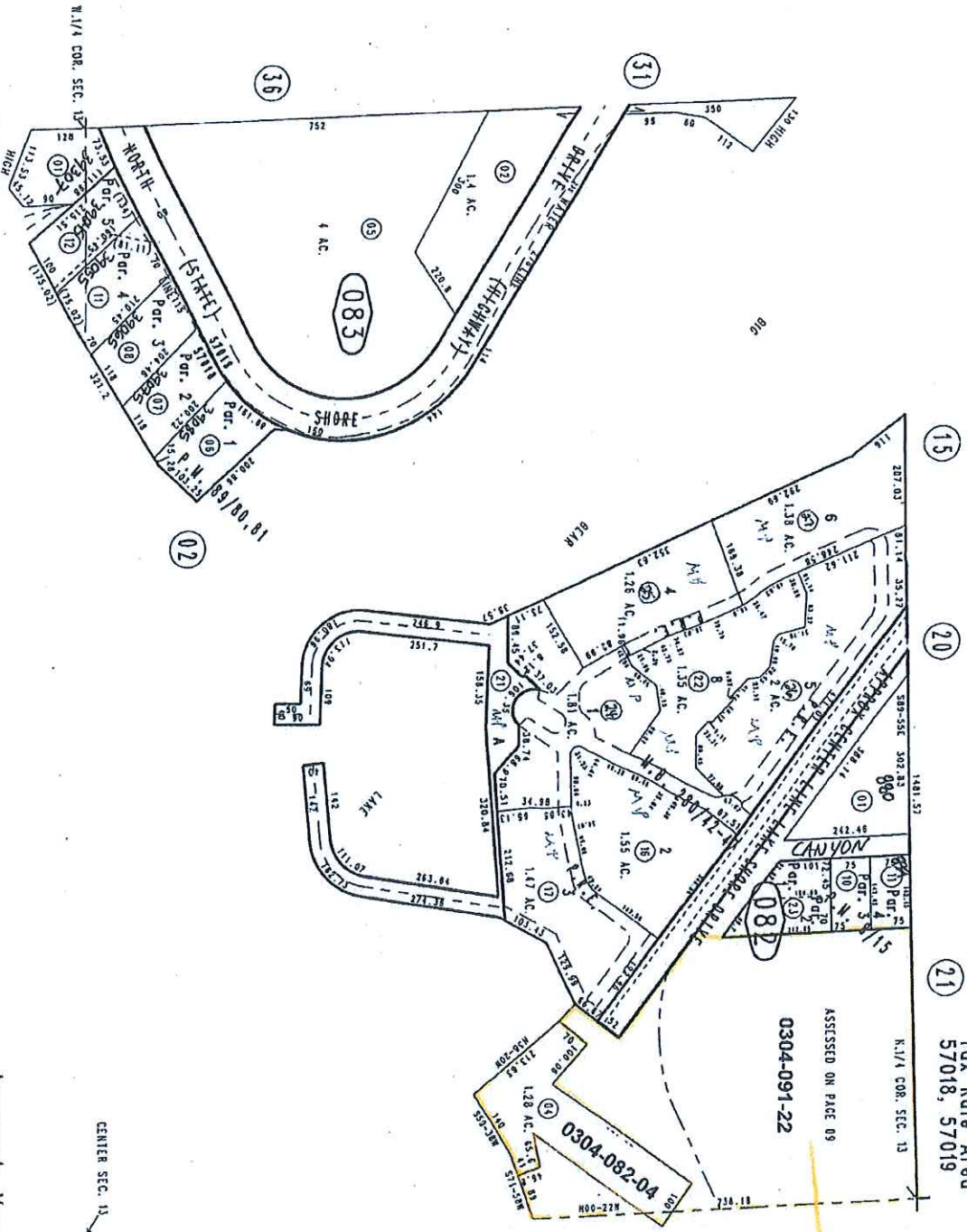
THIS MAP IS FOR THE PURPOSE OF AD VALOREM TAXATION ONLY.



Ptn. N.W.1/4, Sec.15, T.2N.,R.1W., S.B.B.&M.

Bear Valley Unified School District
Tax Rate Area
57018, 57019

0304-08



Tract No. 12217, M.B. 280/47-47
Parcel Map No. 7492, P.W. 88/80-81
Parcel Map No. 855, P.W. 87/15

Assessor's Map
Book 0304 Page 08
San Bernardino County

REVISED
11/09/04 BK
7-3-15

EXHIBIT A

December 2003

**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: NOVEMBER 9, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #6 LAFCO SC #401 – Consideration of Exemption from Government Code Section 56133 for LAFCO SC#401 – Agreement between City of Big Bear Lake Department of Water and Power and County Service Area 53 Zone C for Water Service

INITIATED BY:

City of Big Bear Lake Department of Water

RECOMMENDATION:

Determine that LAFCO SC#401 complies with the exemption criteria listed within Government Code Section 56133 Subsection (e) and, therefore, does not require Commission approval to proceed.

BACKGROUND:

Beginning January 1, 2002, contracts between two or more public agencies were required to be reviewed and approved by the Commission pursuant to the provisions of Government Code Section 56133. However, when the Legislature amended these provisions to require LAFCO review of contracts between public agencies, they also noted that there could be instances where an exemption would remain appropriate. Included in this legislative amendment was specific exemption language contained in Subsection (e) which reads in part:

"This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be

Over the last fourteen or so years, LAFCO staff has commented on the EIR and the several recirculated EIRs for the development application known as the Moon Camp project. In all of these environmental documents, the question of water service provision for the project has included a discussion of service delivery through the DWP. The Commission is well aware of the issues regarding the delivery of water service by the DWP following the condemnation of the former Golden State Water system by the City of Big Bear Lake. The service review completed in 2012 (Resolution No. 3141 included as Attachment #3) delineated the service area for the DWP outside the City's boundary and sphere of influence based upon existing service at the time of condemnation. The parcels included in the Moon Camp project, while adjacent, were not recognized as part of the DWP service boundary at that time. However, it has been acknowledged throughout the development process that the system to provide potable water would be under a contractual relationship between CSA 53C and the DWP, and sewer service would be provided by the existing sewer authority, CSA 53B.

The exemption determination is required to move forward with the completion of this agreement since the territory of the Moon Camp project is not within the sphere of influence of the City of Big Bear Lake. After reviewing the materials presented for SC#401, it is the staff's position that the findings identified in Subsection (e) of Section 56133 are applicable; therefore, the agreement between the DWP and CSA 53C should be exempted from further LAFCO review. The findings are as follows:

1. The Outside Service Agreement for Potable Water Services is between the City of Big Bear Lake DWP and CSA 53C, both of which are legally defined public agencies.
2. The public service to be provided is potable water service to the proposed Moon Camp development project, service authorized to be provided by CSA 53C but not actively provided. The services to be provided by DWP are in-lieu of CSA 53C developing the infrastructure to serve the tract, a cost prohibitive duplication of system improvements.
3. CSA 53C is contracting to authorize the delivery of potable water service by DWP and allowing it to require the payment of infrastructure development by the property owner to serve the 50 residential units proposed.
4. The level of service to be provided through this contract is consistent with the level of service contemplated by the formation of CSA 53C.

CONCLUSION:

On the basis of the findings outlined above, staff recommends that the Commission determine that pursuant to Government Code Section 56133 Subsection (e), the

Outside Service Agreement for Potable Water Services to be entered into by the City of Big Bear Lake Department of Water and Power and County Service Area 53C is exempt from further review and approval by the Commission. This determination is made with the understanding that contract finalization is ongoing between the two agencies with their expressed desire to achieve final approval by the County at its November 17 meeting. It is the staff's understanding that the outstanding issues related to language in the contract do not affect the determinations required of the Commission.

/krm

Attachments:

1. Department of Water and Power Letter Requesting Exemption dated September 23, 2015 with Application and Excerpts from Revised and Recirculated EIR No. 2 for TT 16136 and Appendix B Water Feasibility Study
2. Proposed Outside Service Agreement for Potable Water Services
3. LAFCO Resolution No. 3141 for the Service Review for the City of Big Bear Lake

**Department of Water and Power Letter
Requesting Exemption dated
September 23, 2015 with
Application and Excerpts from
Revised and Recirculated EIR No. 2 for
TT 16136 and Appendix B Water
Feasibility Study**

Attachment 1

DEPARTMENT OF WATER



Service. Quality. Community

LAFCO SC # 401

RECEIVED
OCT 06 2015

LAFCO
San Bernardino County

September 23, 2015

Kathleen Rollings-McDonald
Executive Officer
Local Agency Formation Commission -- San Bernardino
215 North D Street, Suite 204
San Bernardino, CA 92415-0490

Re: Agreement between the City of Big Bear Lake, Department of Water and Power and the County Service Area 53C

Dear Ms. Rollings-McDonald:

The San Bernardino County Service Area 53C (CSA 53C) has the authority to provide water services to the proposed Mooncamp development, located east of Fawnskin. CSA 53C does not currently have potable water facilities in the Bear Valley and are not able to economically provide potable water services to the proposed development. City of Big Bear Lake, Department of Water and Power (DWP) currently provides potable water service to about 700 customers in the Fawnskin area and could economically provide potable water service to the proposed development. On September 22, 2015, DWP's Board of Commissioners approved an agreement (attached), pending County Board of Supervisors approval (scheduled for the October 20, 2015 meeting), which would allow DWP to provide potable water services to the proposed Mooncamp development. Since DWP will be providing service outside of their jurisdictional boundaries, DWP is respectfully requesting that the Local Agency Formation Commission consider an exemption from the provisions of Government Code Section 56133 as authorized by subsection (e) because the attached agreement for potable water services between CSA 53C and DWP is solely between two public agencies.

If you have any questions, please contact me at 909-866-5050, Ext. 201.

Sincerely,

Reginald A. Lamson PE LS
General Manager

Cc: Jeff Mathieu, City of Big Bear Lake
Jeff Rigney, San Bernardino County Special Districts

**SAN BERNARDINO LAFCO
APPLICATION FOR
EXTENSION OF SERVICE BY CONTRACT**

(A certified copy of the City Council/District Board of Directors resolution or a letter from the City Manager/General Manager requesting approval for an out-of-agency service agreement must be submitted together with this application form.)



AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Big Bear Lake, Department of Water & Power
CONTACT PERSON: Reggie Lamson
ADDRESS: P O Box 1929
Big Bear Lake, CA 92315
PHONE: 909-866-5050
EMAIL: rlamson@bbldwp.com

CONTRACTING PARTY:

NAME OF PROPERTY OWNER: County Special District - County Service Area 53C
CONTACT PERSON: Jeff Rigney
MAILING ADDRESS: 157 W. 5th Street
San Bernardino, CA 92415
PHONE: 909-387-5940
EMAIL: jrigney@sdd.sbcounty.gov
ADDRESS OF PROPERTY PROPOSED FOR CONTRACT: Attached as Exhibit "A"

CONTRACT NUMBER/IDENTIFICATION: Moon Camp Development
PARCEL NUMBER(S): Attached as Exhibit "A"
ACREAGE: 62.0



*Extension of Service by Contract
Application Form*

(FOR LAFCO USE ONLY)

The following questions are designed to obtain information related to the proposed agreement/contract to allow the Commission and staff to adequately assess the proposed service extension. You may include any additional information which you believe is pertinent. Please use additional sheets where necessary.

1. (a) List the type or types of service(s) to be provided by this agreement/contract.

Potable Water Services

- (b) Are any of the services identified above "new" services to be offered by the agency? YES NO. If yes, please provide explanation on how the agency is able to provide the service.

2. Is the property to be served within the agency's sphere of influence? YES NO

3. Please provide a description of the service agreement/contract.

The City of Big Bear Lake, Department of Water and Power will provide Potable Water Services to the proposed Moon Camp Development, in lieu of CSA 53C providing these services.

4. (a) Is annexation of the territory by your agency anticipated at some point in the future? YES NO. If yes, please provide a projected timeframe when it anticipates filing an application for annexation of territory that would include the area to be served. If no, please provide an explanation as to why a jurisdictional change is not possible at this time.

It is cost prohibitive for CSA 53C to construct and maintain potable water facilities for the proposed development.

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

- (b) Is the property to be served contiguous to the agency's boundary?
 YES NO. If yes, please provide explanation on why annexation to the agency is not being contemplated.

CSA 53C does not have potable water facilities near the proposed development.

It would be cost prohibitive for CSA 53C to provide potable water services to the proposed development.

5. Is the service agreement/contract outside the Agency's sphere of influence in response to a threat to the public health and safety of the existing residents as defined by Government Code Section 56133(c)?
 YES NO. If yes, please provide documentation regarding the circumstance (i.e. letter from Environmental Health Services or the Regional Water Quality Control Board).

6. (a) What is the existing use of the property?

Vacant land.

- (b) Is a change in use proposed for the property? YES NO. If yes, please provide a description of the land use change.

Fifty residential home sites.

7. If the service agreement/contract is for development purposes, please provide a complete description of the project to be served and its approval status.

The proposed development will develop 62 acres of native land into fifty residential home sites, including grading, road construction and all utilities. Once this Extension of Service Agreement is approved, the developer will submit the subdivision to the County Planning Commission for final approval.

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

8. Are there any land use entitlements/permits involved in the agreement/contract?
 YES NO. If yes, please provide documentation for this entitlement including the conditions of approval and environmental assessment that are being processed together with the project. Please check and attach copies of those documents that apply:

Tentative Tract Map / Parcel Map	<input type="checkbox"/>
Permit (Conditional Use Permit, General Plan Amendment, etc.)	<input type="checkbox"/>
Conditions of Approval	<input type="checkbox"/>
Negative Declaration (Initial Study)	<input type="checkbox"/>
Notice of Determination (NOD)/Notice of Exemption (NOE)	<input type="checkbox"/>
Department of Fish and Game (DFG) Receipt	<input type="checkbox"/>
Others (please identify below)	<input type="checkbox"/>

9. Has the agency proposing to extend service conducted any CEQA review for this contract? YES NO. If yes, please provide a copy of the agency's environmental assessment including a copy of the filed NOD/NOE and a copy of the DFG Receipt.

10. Plan for Service:

- (a) Please provide a detailed description of how services are to be extended to the property. The response should include, but not be limited to, a description of: 1) capacity of existing infrastructure, 2) type of infrastructure to be extended or added to serve the area, 3) location of existing infrastructure in relation to the area to be served, 4) distance of infrastructure to be extended to serve the area, and 5) other permits required to move forward with the service extension.

The DWP has recently constructed several water system improvements in the area of the proposed development and now has sufficient capacity to serve the existing Fawnskin area, including build out, and the proposed development. The developer will need to construct 3,700 linear feet of 12-inch pipeline from the existing Upper Fawnskin Pressure Zone System, to the proposed development's border. The Upper Fawnskin Pressure Zone System is located Northeast of the proposed development. The developer will also construct all on-site water system improvements, including 8-inch pipelines, hydrants and valves. The developer

will acquire all permits required to construct the water facilities.

- (b) Please provide a detailed description of the overall cost to serve the property. The response should include the costs to provide the service (i.e. fees, connection charges, etc.) and also the costs of all improvements necessary to serve the area (i.e. material/equipment costs, construction/installation costs, etc.).

<i>Description of Fees/Charges</i>	<i>Cost</i>	<i>Total</i>
6,000 LF 8-inch pling & facilities (on-site), Developer Paid	\$160.00/LF	\$ 960,000
3,700 LF 12-inch pling & facilities (off-site), Developer Paid	\$180.00/LF	\$ 666,000
Estimated annual operating costs (Homeowner paid through Bi-monthly water bill)		\$ 23,000
Estimated annual depreciation expense (Homeowner paid through Bi-monthly water bill)		\$ 32,000
Capacity Charges vary based on the number of fixture units constructed in each home using the same fee schedule that applies to all DWP residential customers. Currently the DWP charges \$8,928 per EDU. Homeowner Paid		
Meter / Service Fees vary based on the size of meter according to the same rate table that applies to all DWP residential customers. Currently the average installation fee is \$2,225 Homeowner Paid		
Bi-monthly water bill will vary based on usage according to the same rate table that applies to all DWP residential customers. Homeowner Paid		
Construction Costs Total		\$ 1,626,000
Annual Cost Total		\$ \$55,000
Total Costs		\$ 1,681,000

- (c) Please identify any unique costs related to the service agreement such as premium outside City/District rates or additional 3rd-party user fees and charges (i.e. fees/charges attributable to other agencies).

N/A

- (d) If financing is to occur, please provide any special financial arrangement between the agency and the property owner, including a discussion of any later repayment or reimbursement (If available, a copy of the agreement for repayment/reimbursement is to be provided).

N/A

11

Does the City/District have any policies related to extending service(s) outside its boundary? YES NO. If yes, has a copy been provided to LAFCO? If not, please include a copy of the policy or policies (i.e. resolution, municipal code section, etc.) as part of the application.

A copy of the agreement with CSA 53C is attached.

CERTIFICATION

As a part of this application, the City of Big Bear Lake, Department of Water and Power agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it.

This indemnification obligation shall include, but not be limited to, damages, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

The agency signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this evaluation of service extension to the best of my ability, and that the facts, statement and information presented herein are true and correct to the best of my knowledge and belief.

SIGNED

Reginald A. Larson

NAME:

REGINALD A. LARSON

POSITION TITLE:

GM

DATE:

9-23-15

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract.
2. Map(s) showing the property to be served, existing agency boundary, the location of the existing infrastructure, and the proposed location of the infrastructure to be extended.
3. Certified Plan for Service (if submitted as a separate document) including financing arrangements for service.

Please forward the completed form and related information to:

Local Agency Formation Commission for San Bernardino County
215 North D Street, Suite 204
San Bernardino, CA 92415-0490
PHONE: (909) 388-0480 • FAX: (909) 885-8170

Rev: krm - 8/19/2015

P1n. N.W.1/4, Sec.15, T.2N.,R.1W., S.B.B.&M.

0304-08

Boof Valley
Unified School District
TAX RATE AREA
57018, 57019

THIS MAP IS FOR THE PURPOSE
OF AN UNIFORM TAXATION ONLY.

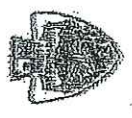
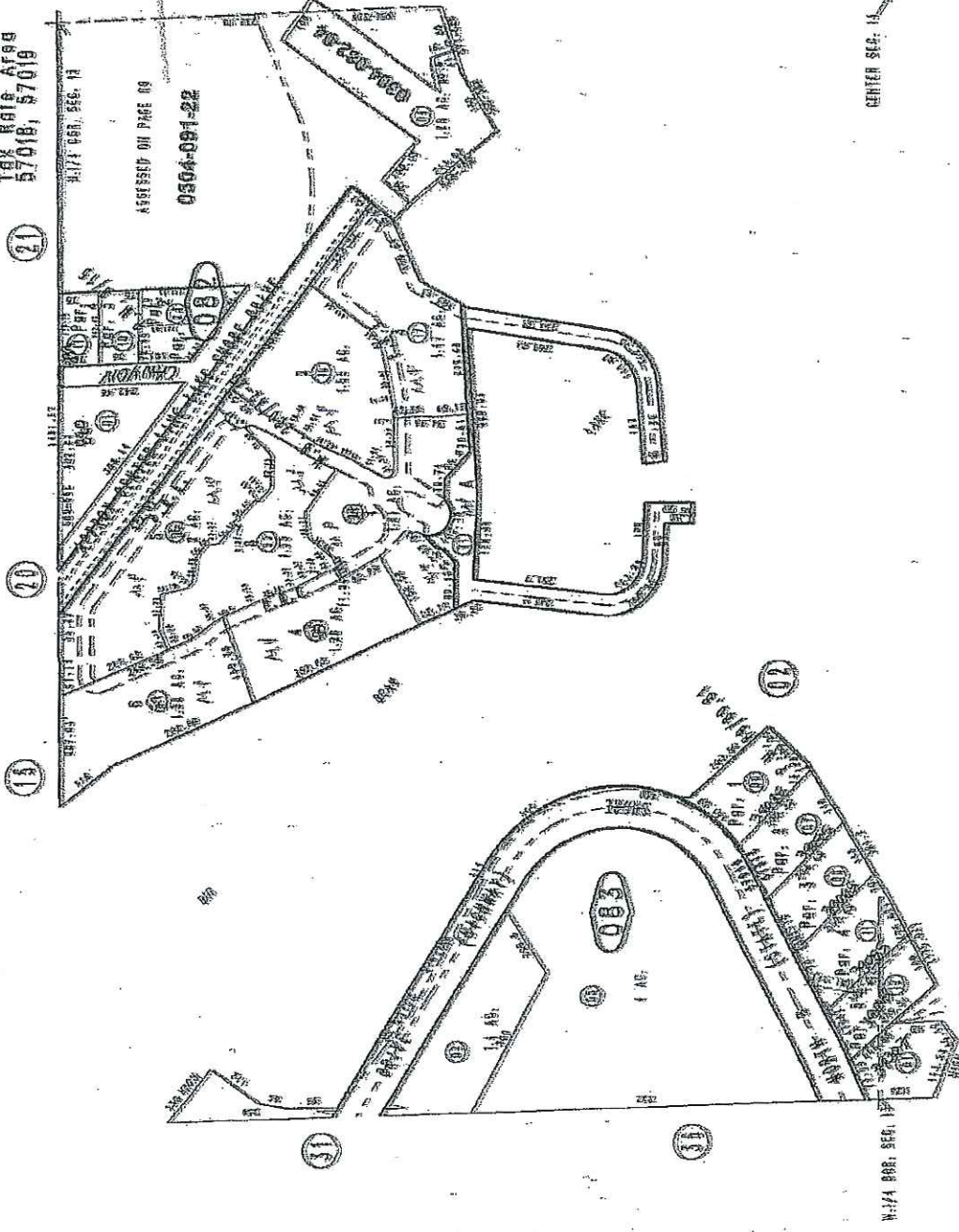


EXHIBIT A

LAFCD SC # 401

REVISED
11/09/01
BY: JTB

Assessor's Map
Book 0304, Page 08
San Bernardino County



CENTER SEC. 15

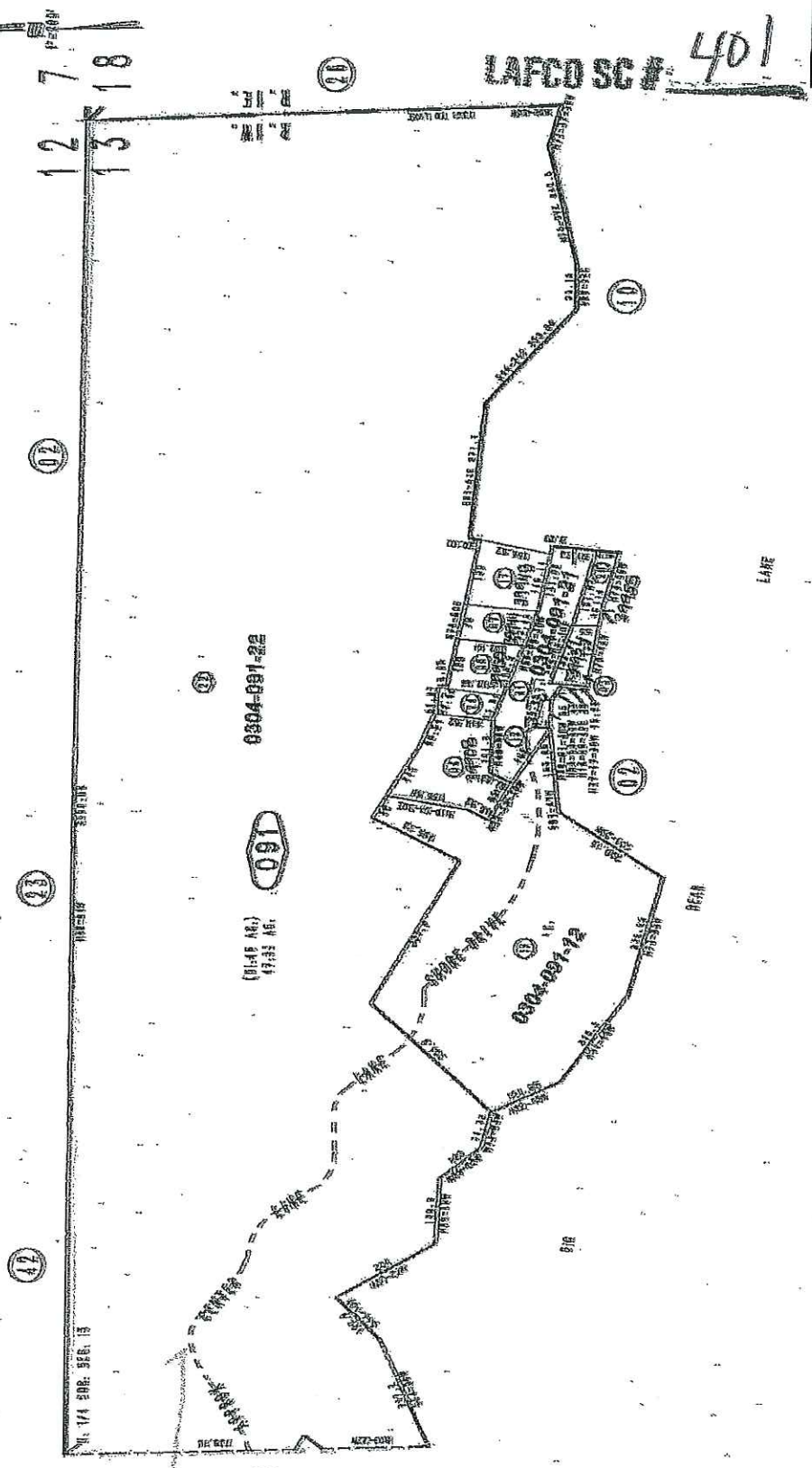
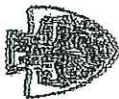
Tract No. 12217, N.B. 280742-47
Parcel Map No. 7482, P.H. 83780-01
Parcel Map No. 858, P.H. 8719

December 2002

Ptn. N.E. 1/4, Sec. 13, T.2N., R.1W., S.B.B. & M.

Deep Valley
Unified School District
Tax Rate Area
87018

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



REVISION
08/28/14 RHP
08/19/14 RHP

Assessor's Map
BOOK 0304 PAGES 09
SAN BERNARDINE COUNTY

December 2003

