

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

**1. Parties and Date.**

This Fifth Amendment to the Joint Exercise of Powers Agreement (“Fifth Amendment”) is made and entered into this 10 day of January, 2012, by and between the Big Bear City Community Services District (“BBCCSD”), the City of Big Bear Lake (“City”), and the County of San Bernardino (“County”) on behalf of San Bernardino County Service Area 53. BBCCSD, the City, and the County are sometimes referred to herein individually as “Party” or collectively as the “Parties.”

**2. Recitals.**

2.1 WHEREAS, on March 22, 1974, BBCCSD, the Big Bear Lake Sanitation District and the County entered into a joint exercise of powers agreement (the “Agreement”) creating the Big Bear Area Regional Wastewater Agency (“Agency”); and

2.2 WHEREAS, the Parties entered into a First Amendment to the Agreement dated April 28, 1975, for the purpose of deleting Section 12 of the Agreement; and

2.3 WHEREAS, the Parties entered into a Second Amendment to the Agreement dated January 15, 1979 (a) to clarify the manner in which the Agency’s Governing Board may take action, (b) to empower to Agency to borrow money and issue notes or grant anticipation notes as evidence of the indebtedness created thereby, and (c) provide that the powers of the

Agency shall be subject to the restrictions on the manner of exercising the powers of BBCCSD;  
and

2.4 WHEREAS, the Parties entered into a Third Amendment to the Agreement dated July 7, 1980, for the purpose of changing the limitation on the number of consecutive terms of the members of the Governing Board of the Agency; and

2.5 WHEREAS, the Parties entered into a Fourth Amendment to the Agreement dated July 19, 1982, for the purpose of substituting the City as a party to the Agreement in place of the Big Bear Lake Sanitation District as it was dissolved on December 1, 1980 upon the incorporation of the City, to provide for the appointment by the City of members to the Agency's Governing Board, and to empower the Agency's Governing Board to appoint one of its officers or employees to either or both of the position of Treasurer and Auditor; and

2.6 WHEREAS, the Parties now desire to amend the Agreement in order to clarify the appointment procedures and terms of the members of the Governing Board.

**NOW, THEREFORE, the Parties agree as follows:**

**3. Terms and Conditions.**

3.1 Amendment of Section 3. Subsection B of Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

“B. Governing Board. The Agency shall be administered by a Governing Board of five (5) members. 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 appointed by the Board of Directors of BBCCSD and each such appointee shall be a member of said Board of Directors or a person determined by said Board of Directors to have experience or expertise qualifying that person to serve as a member of the

Governing Board; provided, however, that both members appointed by the Board of Directors of BBCCSD shall be electors of the BBCCSD;

(2) Two (2) members of the Governing Board shall be appointed by the City Council of City and each such appointee shall be a member of said City Council or a person determined by said City Council to have experience or expertise qualifying that person to serve as a member of the Governing Board;

(3) One (1) member of the Governing Board shall be the County Supervisor for the community of Fawnskin or a designee determined by said County Supervisor for the community of Fawnskin to have experience or expertise qualifying that person to serve as a member of the Governing Board; provided, however, that said designee's appointment is confirmed by a majority vote of the County Board of Supervisors. In the same manner, the County Supervisor for the community of Fawnskin may appoint an alternate member to the Governing Board, also to be confirmed by a majority vote of the County Board of Supervisors, that may participate in and vote at meetings of the Governing Board in place of the member when the member is unable to attend.

Members of the Governing Board shall serve a four (4)-year term, and may be reappointed to successive four (4)-year terms. Members of the Governing Board shall serve at the pleasure of their appointing council or board. All voting power shall reside in the Governing Board.”

3.2 Counterparts. This Fifth Amendment may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

3.3 Effect Upon Agreement. Except as expressly amended by this Fifth Amendment, all terms, conditions, definitions and provisions of the Agreement amended by the First, Second, Third, and Fourth Amendments, shall remain in full force and effect and shall govern the conduct of the Parties.

3.4 Authority to Enter into Agreement. BBCCSD, City, and County warrant that they have all requisite power and authority to execute this Fifth Amendment. Each person executing


this Fifth Amendment on behalf of their Party warrants that he or she has the legal power, right, and authority to make this Fifth Amendment and bind his or her respective Party.

**[Signatures on following page]**

**SIGNATURE PAGE  
TO THE FIFTH AMENDMENT TO THE JOINT  
EXERCISE OF POWERS AGREEMENT**

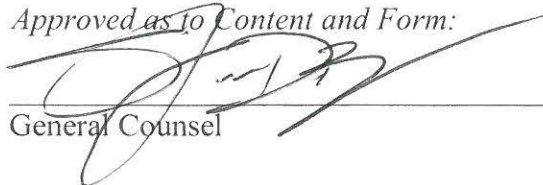
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized as of the date first written above.

BIG BEAR CITY COMMUNITY SERVICES DISTRICT

  
\_\_\_\_\_  
Jeff Newsome John Green  
Vice-President of the Board of Directors

ATTEST:

  
\_\_\_\_\_  
Mary T. Rewes  
Secretary of the Board

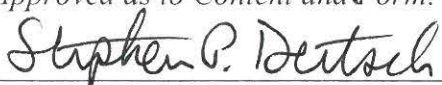
*Approved as to Content and Form:*  
  
\_\_\_\_\_  
General Counsel

CITY OF BIG BEAR LAKE

  
\_\_\_\_\_  
Bill Jahn, Mayor  
City of Big Bear Lake

ATTEST:

  
\_\_\_\_\_  
Jill Masten  
City Clerk

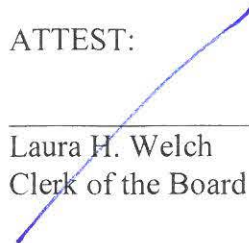
*Approved as to Content and Form:*  
  
\_\_\_\_\_  
Stephen P. Deutsch  
City Attorney

COUNTY OF SAN BERNARDINO on behalf of San Bernardino County Service Area 53

  
\_\_\_\_\_  
Josie Gonzales  
Chair of San Bernardino County Board of Supervisors



ATTEST:

  
\_\_\_\_\_  
Laura H. Welch  
Clerk of the Board

*Approved as to Content and Form:*  
  
\_\_\_\_\_  
County Counsel



**BEST BEST & KRIEGER**  
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**Ward H. Simmons**  
(951) 826-8366  
ward.simmons@bbklaw.com  
File No. 01552.00000

January 30, 2012

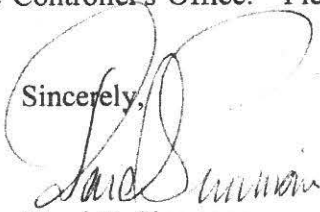
John Chiang  
California State Controller  
California State Controller's Office  
P. O. Box 942850  
Sacramento, CA 94250-5872

Re: Filing Required Pursuant to California Government Code Section 6503.6

Dear Mr. Chiang:

Best Best & Krieger LLP serves as General Counsel to the Big Bear Area Regional Wastewater Agency ("BBARWA"). Pursuant to California Government Code section 6503.6, whenever an agency files a notice of amendment of a joint powers agreement with the office of the Secretary of State pursuant to Section 6503.5, the agency shall file a copy of the full text of the original joint powers agreement, and any amendments to the agreement, with the Controller. Concurrently with this letter, BBARWA is filing a notice of amendment of a joint powers agreement with the office of the Secretary of State. Accordingly, with this letter BBARWA is filing a copy of the full text of the original joint powers agreement and all five (5) amendments to the agreement with the California State Controller's Office. Please contact me if you have any questions regarding this filing.

Sincerely,

  
Ward H. Simmons  
for BEST BEST & KRIEGER LLP

WHS:lcp

Enclosures

cc: Kim Booth, BBARWA (w/o encs.)



State of California
Secretary of State

FILE NO. 1924

FILED
in the office of the Secretary of State
of the State of California

FEB - 1 2012

(Office Use Only)

AMENDMENT OF A JOINT POWERS AGREEMENT

(Government Code section 6503.5)

Instructions:

- 1. Complete and mail to: Secretary of State, P.O. Box 942877, Sacramento, CA 94277-0001.
2. Include filing fee of \$1.00.
3. Do not include attachments.
4. A copy of the full text of the joint powers agreement and amendments, if any, must be submitted to the State Controller's office. For address information, contact the State Controller's office at www.sco.ca.gov.

Date of filing initial notice with the Secretary of State: April 25, 1974

File number of initial notice: 294

Name of the agency or entity created under the agreement and responsible for the administration of the agreement:

BIG BEAR AREA REGIONAL WASTEWATER AGENCY

Agency's or Entity's Mailing Address: P. O. Box 517, Big Bear City, California, 92314

Title of the agreement: Fifth Amendment to the Joint Exercise of Powers Agreement Between Big Bear City Community Services District, City of Big Bear Lake, and San Bernardino County Creating the Big Bear Area Regional Wastewater Agency

Complete one or more boxes below. The agreement has been amended to:

- [ ] Change the parties to the agreement as follows:
[ ] Change the name of the administering agency or entity as follows:
[ ] Change the purpose of the agreement or the powers to be exercised as follows:
[ ] Change the short title of the agreement as follows:
[ X ] Make other changes to the agreement as follows: Clarifies appointment procedures and terms of the members of the Governing Board.

RETURN ACKNOWLEDGMENT TO: (Type or Print)

NAME: Steven C. DeBaun, General Counsel to BBARWA
ADDRESS: Best Best & Krieger LLP, P.O. Box 1028
CITY/STATE/ZIP: Riverside, CA 92502-1028

Date

1/30/2012

Signature

Steve DeBaun
General Counsel to BBARWA

Typed Name and Title



FOR OFFICIAL USE ONLY

<input checked="" type="checkbox"/>	New	Vendor Code	SC	Dept.	A	Contract Number <b>74-120 A-5</b>			
<input type="checkbox"/>	Change								
<input type="checkbox"/>	Cancel								
County Service Area 53B					Dept.	Orgn.	Contractor's License No.		
Contract Representative Jeffrey O. Rigney				Telephone (909) 387 - 5967		Total Contract Amount \$			
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:									
If not encumbered or revenue contract type, provide reason:									
Commodity Code		Contract Start Date		Contract End Date		Original Amount	Amendment 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	\$		
							\$		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	\$		
							\$		
Project Name				Estimated Payment Total by Fiscal Year					
				FY	Amount	I/D	FY	Amount	I/D
					\$			\$	
					\$			\$	
					\$			\$	

County Service Area 53B  
FAS  
CONTRACT TRANSMITTAL

CONTRACTOR Big Bear Area Regional Wastewater Agency  
 Federal ID No. or Social Security No. \_\_\_\_\_  
 Contractor's Representative Steve Schindler  
 Address P.O. Box 517, Big Bear City, CA 92314-0517 Phone (909) 584 - 4018

Nature of Contract: *(Briefly describe the general terms of the contract)*

Approve the Fifth Amendment to the Joint Powers Agreement for the Big Bear Area Regional Wastewater Agency (BBARWA) which designates the County Supervisor of the community of Fawnskin or designee as a member of the BBARWA Board.

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

Approved as to Legal Form (sign in blue ink) <u>[Signature]</u> Counsel Date <u>12/15/11</u>	Reviewed as to Contract Compliance <u>[Signature]</u> Date _____	Presented to Board for Signature <u>[Signature]</u> Date <u>12/19/11</u>
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THIS IS NOT A CONTRACT  
THIS IS A COVER  
TRANSMITTAL ONLY

**Auditor/Controller-Recorder Use Only**

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By