# LOWER COLORADO WATER SUPPLY PROJECT

**CONTRACT BETWEEN THE UNITED STATES AND CITY OF NEEDLES, CALIFORNIA FOR THE LOWER COLORADO WATER SUPPLY PROJECT REPAYMENT OF COSTS AND DELIVERY OF WATER**

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

LOWER COLORADO WATER SUPPLY PROJECT

CONTRACT BETWEEN THE UNITED STATES
AND
CITY OF NEEDLES, CALIFORNIA
FOR THE LOWER COLORADO WATER SUPPLY PROJECT
REPAYMENT OF COSTS AND DELIVERY OF WATER

1. PREAMBLE: THIS Contract, made this 10 day of September, 1992,
pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and Acts
amendatory thereof or supplementary thereto, and particularly pursuant to the
Lower Colorado Water Supply Act approved November 14, 1986 (100 Stat. 3665), and
the Boulder Canyon Project Act approved December 21, 1928 (45 Stat. 1057), all
of which are commonly known and referred to as the Federal Reclamation laws,
between the UNITED STATES OF AMERICA, hereinafter called the "United States,"
represented by the Secretary of the Interior, acting through the officer
executing this Contract, and THE CITY OF NEEDLES, a charter city duly organized
and existing under and by virtue of the laws of the State of California,
hereinafter called the "Contractor"; the United States and the Contractor each
being sometimes hereinafter individually called "Party," and both sometimes
hereinafter collectively called "Parties";
WITNESSETH That:

2. EXPLANATORY RECITALS:

2.1 WHEREAS, a planning document entitled "Lower Colorado Water Supply
Study Planning Report/Environmental Assessment" and a Finding of No Significant
Impact; FONSI No. LC-85-5, dated July 1986, were submitted to Congress;

2.2 WHEREAS, based upon the planning document, the Lower Colorado Water Supply Act approved November 14, 1986, hereinafter called "Act," authorized the United States to construct, operate, and maintain the Lower Colorado Water Supply Project, which is a well field and appurtenant works, hereinafter called "Project," with sufficient capacity to annually supply up to 10,000 acre-feet of water which will benefit persons or entities as defined in section 2(b) of the Act;

2.3 WHEREAS, the Act also authorized the Secretary to contract for the delivery of such water;

2.4 WHEREAS, the Act also authorized the Secretary to enter into a water exchange contract whereby an equivalent quantity of ground water withdrawn from the Project (which will be located in Imperial County, California) would be delivered into the All-American Canal in exchange for a portion of the Colorado River water presently taken by Imperial Irrigation District (IID) and Coachella Valley Water District (CVWD) pursuant to their respective Colorado River rights;

2.5 WHEREAS, IID conditioned its agreement to the Act and the water exchange agreement upon the understanding that IID would operate the Project;

2.6 WHEREAS, the Act also provided that the quality of the water to be withdrawn from the Project must be equivalent to the quality of the Colorado River water that IID and CVWD would have received were it not for the water exchange;

2.7 WHEREAS, in accordance with the Act, the Project cost allocation report and the water exchange contract among the United States, IID, and CVWD were submitted by the Secretary to the House Interior and Insular Affairs
Committee and the Senate Energy and Natural Resources Committee for a ninety-
(90-) day review period;

2.8 WHEREAS, on May 22, 1992, the United States, IID, and CVWD entered
into the water exchange agreement;

2.9 WHEREAS, the Supreme Court Decree in Arizona v. California, et al.
identified the Contractor as a holder of a Present Perfected Right entitlement
with a priority date of 1855 and right to an annual diversion of Colorado River
water of 1,500 acre-feet or an annual consumptive use of 950 acre-feet, whichever
is less;

2.10 WHEREAS, pursuant to the laws of the State of California, the
Contractor is authorized to contract with the United States for a supply of water
for domestic purposes;

2.11 WHEREAS, in accordance with the Act, the Contractor must advance to
the United States twenty (20) percent of costs to be allocated to the Contractor
for construction of the Project, and the United States is authorized to accept
said advancement of funds;

2.12 WHEREAS, the Parties desire to enter into a contract to provide for
construction of the first 5,000 acre-feet of capacity of the Project, for
repayment of the Project costs that are properly allocable to the Contractor and
the Other Project Beneficiaries, and for delivery of water to the Contractor and
the Other Project Beneficiaries;

2.13 WHEREAS, the Contractor desires and the United States is willing to
allow the Contractor to assume the administrative responsibility for other
Project water users within California who are also authorized to contract with
the United States pursuant to the Act, hereinafter called Other Project
Beneficiaries; and
WHEREAS, it is the desire of the Parties to enter into a contract to implement the provision of the Act which allows water pumped from the Colorado River and consumptively used for domestic, municipal, industrial, and recreational purposes by the Contractor and the Other Project Beneficiaries on California lands in San Bernardino County shown in Exhibit B to be exchanged for an equivalent quantity of replacement ground water to be pumped from the Project and delivered into the All-American Canal;

NOW, THEREFORE, in consideration of the mutual and dependent covenants contained herein, the Parties agree as follows:

3. **DEFINITIONS:** For the purposes of this Contract, the following definitions shall apply:

3.1 *Act* means the Lower Colorado Water Supply Act approved November 14, 1986, which authorized the United States to construct, operate, and maintain the Lower Colorado Water Supply Project.

3.2 The *Bureau of Reclamation* is the Bureau of Reclamation of the United States Department of the Interior.

3.3 *California lands* are those areas of land held by persons or entities as defined in section 2(b) of the Act and located in San Bernardino County, California, as shown in Exhibit B. These lands include the Contractor's Service Area and the service areas of the Other Project Beneficiaries which are eligible to receive Colorado River water pursuant to the terms and conditions of this Contract.

3.4 *CRB* means the Colorado River Board of California, or its successor, which represents the State of California on water and power issues related to the Colorado River in California.

3.5 The *Colorado River Compact* means the document signed November 24,
3.6 **Consumptive Use** means both diversions from the Colorado River, including diversions by underground pumping, less such return flow thereto as is available for consumptive use in the United States or in satisfaction of the Mexican Treaty obligation, and evaporative or other losses from the Colorado River resulting from actions taken subsequent to March 9, 1964 (the date of the Supreme Court Decree in *Arizona v. California, et al.*), by entities other than the Bureau of Reclamation which results in a net increase in the consumptive use of Mainstream Water. Determination of the consumptive use method shall be in accordance with Article 11 hereof entitled "Calculation of Consumptive Use of Mainstream Water."

3.7 The **Contracting Officer** is the Regional Director of the Lower Colorado Region, Bureau of Reclamation, or his or her duly authorized representative. Unless deemed otherwise, the Contracting Officer shall be the Secretary's authorized representative.

3.8 The **Contractor's Service Area** is the area in San Bernardino County to which the Contractor is authorized to provide for the delivery of water pursuant to authorizing legislation.

3.9 **Decree** means the Decree of the Supreme Court of the United States in the case of *Arizona v. California, et al.*, entered March 9, 1964, 376 U.S. 340, as now issued, including the Court's Supplemental Decree entered January 9, 1979 (439 U.S. 419), amended April 16, 1984 (466 U.S. 144), or as may be further modified.

3.10 **Domestic** means the use of water for household, stock, municipal,
mining, milling, industrial and other like purposes including recreation but
excludes the release of water solely for generation of hydroelectrical power.

3.11 Exhibit A is the Lower Colorado Water Supply Act approved November 14,
1986. Exhibit A is attached hereto and by this reference is made a part of this
Contract.

3.12 Exhibit B is the map captioned "California Lands Entitled to Receive
Mainstream Water Pursuant to this Contract." Exhibit B is attached hereto and
by this reference is made a part of this Contract.

3.13 Exhibit C is a chart showing the Other Project Beneficiaries who are
authorized to receive Colorado River water pursuant to this Contract, the
point(s) of diversion, the place of water use, the type of water use, and the
share of the Project use which is allocated to each. Exhibit C is attached
hereto and by this reference made a part of this Contract.

3.14 Exhibit D sets forth an example showing how a new Project user will
reimburse the Contractor for capacity charges paid pursuant to this Contract.
Exhibit D is attached hereto and by this reference made a part of this Contract.

3.15 First Stage means the construction of the first 5,000 acre-feet of
capacity of the Project.

3.16 Functional means having the operational capability to economically
provide Project water in compliance with both the water quantity and quality
provisions of the Act.

3.17 IDC means interest during construction. Reclamation Instructions in
effect at the time of execution of this Contract shall govern the calculation of
IDC.

3.18 Mainstream Water means water drawn or diverted from the main channel
of the Colorado River, exclusive of tributaries, downstream from Lee Ferry within
the United States (including the areas covered by reservoirs, wetlands, lakes, ponds, and backwaters) and from the permeable materials beneath or adjacent to the main channel and floodplain of the Colorado River that naturally are or can be induced by a pumping well to receive water from the main channel. This definition is not meant to either conflict with the Contractor's right to use tributary flow within the lower Colorado River system nor does this definition interpret what constitutes tributary flow.

3.19 Mexican Water Treaty incorporates Executive A, Seventy-eighth Congress, second session, a treaty between the United States of America and the United Mexican States, signed at Washington, D.C., on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande River from Fort Quitman, Texas, to the Gulf of Mexico; and Executive H, Seventy-eighth Congress, second session, a protocol signed at Washington, D.C., on November 14, 1944, supplementary to the treaty.

3.20 Notice of Completion shall mean the notice or notices which the Contracting Officer issues to the Contractor to announce the substantial completion of the Project, thereby initiating the payments therefor allocated to the Contractor.

3.21 Operating Agency shall mean the entity or entities authorized to assume the operation, maintenance, and replacement responsibility of the Project as approved for that purpose by the Contracting Officer.

3.22 Other Project Beneficiaries are those persons or entities in San Bernardino County who are entitled to receive the use of Mainstream Water in exchange for Project water pursuant to this Contract, as listed in Exhibit C.

3.23 Present Perfected Right(s) means a perfected right(s) defined by the Decree, existing as of June 25, 1929, the effective date of the Boulder Canyon
Project Act. All Present Perfected Rights are listed in the supplemental decrees entered January 9, 1979, and April 16, 1984, by the United States Supreme Court in Arizona v. California, et al., as amended or supplemented.

3.24 Project means a well field and appurtenant works with sufficient capacity to annually supply up to 10,000 acre-feet of water which will benefit persons or entities as defined in section 2(b) of the Act.

3.25 Regulations mean any regulations adopted by the Secretary for administering entitlements to the use of Mainstream Water or for administering the Colorado River in Arizona, California, and Nevada.

3.26 Return Flow is Mainstream Water that has been diverted or pumped pursuant to the terms and conditions of this Contract which flows or percolates back to the main channel of the Colorado River and to the permeable materials beneath or adjacent to the main channel and floodplain of the Colorado River and the underground from which it is pumped and is available for use in the United States or in satisfaction of the Mexican Treaty obligation in a manner approved by the Contracting Officer.

3.27 Secretary means the Secretary of the Interior or a duly authorized representative.

3.28 Uncontrollable Force is any cause beyond the control of the Party affected. Uncontrollable forces shall include, but are not necessarily limited to, inadequacy of Project water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority which by exercise of due diligence and foresight such Party could not reasonably have been expected to avoid.

3.29 Water Diverted By The Contractor and Water Delivered To The Contractor
means Mainstream Water diverted by the Contractor and the Other Project Beneficiaries.

4. **TERM OF THE CONTRACT:**

4.1 Subject to the terms, conditions, and provisions set forth herein, this Contract shall become effective on the date first written above and shall remain in effect until the earlier of the following occurs:

4.1.1 Expiration of a period of fifty (50) years beginning with the year the Contracting Officer issues a Notice of Completion of construction of the Project and ending on December 31 forty-nine (49) years later.

4.1.2 Issuance of notice that the Contracting Officer has determined that the Project is no longer Functional. Such notice shall be in writing and shall specify the termination date of this Contract. If possible, the Contracting Officer will attempt to provide the Contractor with an advance notice of a termination date.

4.2 The Contractor shall have the option to renew this Contract for an additional term of fifty (50) years upon written request to the Secretary on or before two (2) years prior to the expiration of this Contract.

5. **DELIVERY OF WATER BY THE UNITED STATES:**

5.1 Water will be pumped from the Project into the All-American Canal in amounts necessary to offset the Consumptive Use of Mainstream Water delivered pursuant to this Contract in amounts not to exceed those shown in Exhibit C.

5.2 The Contracting Officer may temporarily discontinue or reduce the amount of water to be pumped from the Project whenever such discontinuance or reduction is necessary to investigate, inspect, replace, maintain, or repair any works whatsoever which, in the opinion of the Contracting Officer, are necessary to insure that the Project will be in compliance with both the water quantity and
quality provisions of the Act.

5.3 During the period the Project is Functional, the United States will deliver from available storage the quantities of Mainstream Water the Contractor and the Other Project Beneficiaries are entitled to receive and order. Mainstream Water may be diverted by the Contractor or the Other Project Beneficiaries directly from the surface flow or withdrawn from underground pumping from wells.

5.4 The obligation of the United States to deliver Mainstream Water pursuant to this Contract is subject to the following conditions:

5.4.1 In accordance with the provisions of the Act, water from the Project shall be pumped into the All-American Canal in exchange for an equal amount of Mainstream Water consumptively used by the Project users as long as the Project water use is in accordance with the provisions of the Act.

5.4.2 The availability of Mainstream Water for use in California pursuant to the provisions of the Colorado River Compact, the Boulder Canyon Project Act, and the Decree as now issued or hereafter modified.

5.4.3 The availability of Mainstream Water available pursuant to the Mexican Water Treaty.

5.4.4 The availability of Mainstream Water available to IID and CVWD pursuant to water delivery contracts with the United States.

5.4.5 The express understanding and agreement by the Contractor for itself and on behalf of the Other Project Beneficiaries that this Contract is subject to the condition that Hoover Dam and Lake Mead will be used in the following manner: first, for river regulation, improvement of navigation, and flood control; second, for irrigation and Domestic uses and satisfaction of Present Perfected Rights pursuant to Article VIII of the Colorado River Compact.
approved by section 13(a) of the Boulder Canyon Project Act; and third, for
power. The Contractor, for itself and on behalf of the Other Project
Beneficiaries, further understands and agrees that this Contract is made upon the
express condition and with the express covenant that all rights hereunder will
be subject to and controlled by the Colorado River Compact and that the Parties
will observe and be subject to and controlled by the Colorado River Compact and
the Boulder Canyon Project Act in the construction, management, and operation of
Hoover Dam, Lake Mead, canals and other works, and the storage, diversion,
delivery, and use of water to be delivered to the Contractor pursuant to the
Contract.

5.4.6 The other terms, conditions, and provisions set forth in this
Contract.

5.5 The United States reserves the right to temporarily discontinue or
reduce the amount of Mainstream Water to be delivered hereunder whenever such
discontinuance or reduction is necessary to investigate, inspect, replace,
maintain, or repair any works whatsoever which affect, utilize or, in the opinion
of the Secretary, are necessary for the delivery of Mainstream Water pursuant to
this Contract. As far as feasible, the United States will give reasonable notice
in advance of such temporary discontinuance or reduction.

6. CHARGE FOR DELIVERY OF MAINSTREAM WATER: A charge of twenty-five cents
($0.25) per acre-foot, plus variable costs which are subject to an annual
determination by the Contracting Officer, shall be made for Mainstream Water
delivered pursuant to this Contract. The charge shall be payable in advance, and
a credit adjustment shall be made for overpayment in a subsequent year. If the
Contractor increases the water schedule pursuant to Article 8, the charge will
be payable with the submittal of the amended schedule.
7. USE OF MAINSTREAM WATER BY THE CONTRACTOR: The use of Mainstream Water within the Contractor's Service Area shall be accounted for in the following manner: first, the Contractor's Present Perfected Right entitlement, and second, Mainstream Water in an amount equal to the Project water the Contractor is entitled to order and exchange pursuant to this Contract. No water shall be made available pursuant to this Contract until a Present Perfected Right entitlement contract between the Parties is executed.

8. SCHEDULING AND REPORTING OF MAINSTREAM WATER DELIVERIES: All schedules and reports for Mainstream Water deliveries shall be on forms to be supplied or approved by the Contracting Officer.

8.1 The Contracting Officer will notify the Contractor in writing when Project construction is nearing completion. The Contractor shall then submit its first Project water schedule and the first year's payment based upon the amount of water the Contractor and the Other Project Beneficiaries order pursuant to this Contract and the amount of Project capacity for which the Contractor and the Other Project Beneficiaries are obligated to pay. Thereafter the annual payment and schedule shall be submitted in accordance with the remainder of this article.

8.2 The Contractor, on behalf of itself and the Other Project Beneficiaries, shall provide a written annual Mainstream Water schedule and monthly and annual reports in accordance with the following provisions.

8.2.1 The Contractor shall provide an annual written schedule for Mainstream Water that is to be delivered pursuant to the Contract. Said schedule shall include monthly schedules of the amounts of Mainstream Water that will be diverted at each point of diversion as listed in Exhibit C for the following year. The schedule shall also include the rate and frequency of each diversion if the Contracting Officer determines that it can be reasonably determined. The
schedule shall be provided on or before October 1 for the following year.

8.2.2 The Contractor shall promptly amend its annual water delivery schedule in writing and send the amendment to the Contracting Officer whenever the Contractor determines that the previously submitted schedule needs to be amended because a different quantity of water than that previously scheduled (or scheduled by amendment) could be put to beneficial use.

8.3 The Contractor, on behalf of itself and the Other Project Beneficiaries, shall maintain a monthly record of water diversions at each point of diversion. On or before the fifteenth (15th) day of the month, the Contractor shall file a full written report of the volume of water diverted at each point of diversion listed in Exhibit C for the preceding month.

8.4 The Contractor, on behalf of itself and the Other Project Beneficiaries, shall maintain a monthly record of Return Flow delivered at each point of return. On or before the fifteenth (15th) day of the month the Contractor shall file a full written report of the volume of Return Flow at each point of return for the preceding month.

8.5 On or before the twentieth (20th) day of January, the Contractor shall file a complete written report showing the volume of Mainstream Water diverted at each point of diversion and the volume of Return Flow delivered at each point of return during the previous year.

8.6 In the event that Mainstream Water is withdrawn from wells that are not metered and reported to the Contractor on a monthly basis by an Other Project Beneficiary, the Contractor shall use customary and standard engineering practices acceptable to the Contracting Officer to estimate the volume of water withdrawn from each unmetered well. The Contracting Officer shall give written approval of the Contractor's method to determine the estimated use.
8.7 The diversion of any Mainstream Water not previously scheduled and paid in advance by the Contractor in accordance with the provisions of this Contract or the diversion in any calendar year of any Mainstream Water in excess of the scheduled quantity of water available pursuant to this Contract may be deemed to constitute a material breach of this Contract as well as interference with the performance of the Secretary's functions and responsibilities pursuant to the Colorado River Compact, the Boulder Canyon Project Act, the Act of June 28, 1946 (60 Stat. 338), and the Decree, as well as the functions and obligations of the United States arising from the Mexican Water Treaty.

9. RECEIPT OF MAINSTREAM WATER:

9.1 The amounts of Mainstream Water diverted or pumped by the Contractor and the Other Project Beneficiaries shall be in accordance with the amounts shown in Exhibit C and shall be delivered at surface diversion point(s) in the Mainstream and/or wells as shown in Exhibit C.

9.2 The Contractor and the Other Project Beneficiaries shall receive the Mainstream Water to be delivered by the United States pursuant to this Contract at the diversion point(s) shown in Exhibit C and shall perform all acts required by law or custom in order to maintain control over such water and to secure and maintain the water's lawful and proper diversion from the Colorado River.

9.3 The Contractor, for itself and the Other Project Beneficiaries, understands and agrees that the interest of the United States in the wells which withdraw Mainstream Water by underground pumping is limited to the quantities and use of Mainstream Water pumped for water accounting purposes pursuant to the provisions of this Contract.

9.4 The Contractor and the Other Project Beneficiaries shall install and maintain in a manner satisfactory to the Contracting Officer all turnout, gates,
checks, pumps, pipelines, equipment, meters, and appurtenances of whatever nature necessary to divert, pump, and transport the Mainstream Water delivered by the United States from the point(s) of diversion to the places of use.

9.5 The diversion and conveyance of Mainstream Water by the Contractor and the Other Project Beneficiaries to the place of use shall be without any expense to or obligation of the United States.

10. MEASUREMENT OF MAINSTREAM WATER:

10.1 Unless exempted by the Contracting Officer, all Mainstream Water diverted and/or pumped by the Contractor and the Other Project Beneficiaries shall be measured at the diversion and/or well sites by measuring devices acceptable to the Contracting Officer.

10.2 An existing diversion of less than 1 acre-foot per year shall not be required to have a measuring device at the point of diversion until December 31, 1995, unless required earlier by State of California law. New diversion devices or facilities or refurbished diversion devices or facilities shall be metered. For reporting purposes, until December 31, 1995, diversions of less than 1 acre-foot will be estimated by the Contractor using appropriate engineering methods that are approved in advance by the Contracting Officer.

10.3 All measuring and controlling devices or automatic gages shall be furnished, installed, and maintained in a manner satisfactory to the Contracting Officer and without any expense to the United States.

10.4 If for any reason the measuring devices shall, in the opinion of the Contracting Officer, fail to operate satisfactorily, the Contracting Officer will determine from the best information available the amount of Mainstream Water received by the Contractor and the Other Project Beneficiaries pursuant to this Contract.
10.5 The Contracting Officer may inspect the measuring devices to determine the accuracy and the condition of the measuring devices. The expense of the inspection shall be paid by the Contractor within thirty (30) days following receipt of a bill of collection from the United States. If the measuring devices are found to be defective or inaccurate, the Contractor shall, upon notification by the Contracting Officer, promptly make any and all necessary repairs to or replacement of the measuring devices. If the Contractor neglects or fails to make the necessary repairs or replacement, the Contracting Officer may cause the repairs to be made and the cost thereof shall be paid by the Contractor within thirty (30) days following receipt of a bill of collection.

11. **CALCULATION OF CONSUMPTIVE USE OF MAINSTREAM WATER:** The method to calculate the Consumptive Use of Mainstream Water shall be determined by the Contracting Officer after consultation with the Contractor and representatives of IID, CVWD, and CRB, and shall be consistent with the Decree and based upon the amount of Water Diverted by the Contractor less Return Flow.

12. **NO GUARANTEE OF AVAILABILITY OF WATER:** Neither the United States nor the Operating Agency assumes responsibility with respect to the quantity of water the Project is able to produce or the quality of the Project water. The United States and the Operating Agency are under no obligation to construct or furnish water treatment facilities to maintain or better the quality of the Project water, unless legislation is enacted for said facilities.

13. **QUALITY OF MAINSTREAM WATER:** The United States does not warrant the quality of the Mainstream Water delivered to the Contractor and the Other Project Beneficiaries and is under no obligation to construct or furnish water treatment facilities to maintain or improve the quality of water. However, the quality of the water pumped from the Project shall be in accordance with the Act.
14. CONSTRUCTION OF THE PROJECT:

14.1 Subject to the terms and conditions of this Contract, the United States will construct the First Stage of the Project with a capacity of 5,000 acre-feet per year.

14.2 If the Contracting Officer determines changes in location, size, or capacity of the Project to be expedient, economical, necessary, or advisable during the progress of the work, the Contracting Officer may make such changes to the extent that such changes do not substantially change the basic character or service capability of the Project.

15. DECLARATION OF COMPLETION: Upon substantial completion of the Project (or such part thereof as the Federal funds and the Contractor's contributions will allow), or at such time as the benefits from the Project are substantially available to the Contractor and the Other Project Beneficiaries, whichever first occurs, all as determined by the Contracting Officer, the United States shall give the Contractor written Notice of Completion of the Project, including a statement of the total estimated or actual repayment obligation.

16. CHARGES FOR PROJECT FACILITIES: The Contractor shall pay or repay, as the case may be, all costs which are allocable to the Contractor for the construction, administration, operation, maintenance, and replacement of the Project. The Contractor's share of such costs shall be determined by the Contracting Officer after consultation with the Contractor.

16.1 The annual administrative charge for this Contract is as follows.

16.1.1 Upon execution of this Contract and annually thereafter, the Contractor shall pay to the United States the sum of five hundred dollars ($500) to cover the costs of the United States to administer this Contract. The Contracting Officer may increase this charge, but only after three (3) months'
written notice to give the Contractor opportunity to comment on any such proposed increase.

16.1.2 Payment of the annual administrative charge described herein shall become due annually on or before December 1 and shall cover the United States administrative costs for the next calendar year.

16.2 The total estimated cost to complete construction of the First Stage of the Project facilities with a capacity of 5,000 acre-feet per year is estimated to be nine hundred twenty-eight thousand dollars ($928,000) at 1991 price levels, plus IDC. This amount is based on estimated construction expenditures by the United States of seven hundred ninety-eight thousand eighty dollars ($798,080) and contributions by the Contractor of one hundred twenty-nine thousand nine hundred twenty dollars ($129,920). The United States will expend toward construction of the Project, exclusive of IDC, Federal funds not to exceed seven hundred ninety eight thousand eighty dollars ($798,080).

16.2.1 Prior to award by the United States of the first contract for construction of the Project, and upon receipt of a bill for collection from the United States, the Contractor shall pay one hundred twenty-nine thousand nine hundred twenty dollars ($129,920) to the United States as a contribution toward the Project costs. In the event that the final cost of the Project is less than nine hundred twenty-eight thousand dollars ($928,000), the Contractor's contribution shall be one hundred twenty-nine thousand nine hundred twenty dollars ($129,920), and funding by the United States shall be reduced to the extent that the final construction cost is less than nine thousand twenty-eight thousand dollars ($928,000).

16.2.2 The Federal cost of the Project shall include all expenditures by the United States of whatsoever kind in connection with, arising out of, or
11 resulting from the construction of the First Stage of the Project and the 
12 performance of said work, including but not limited to IDC as provided in this 
13 article; the cost of labor, material, equipment, engineering and legal work; 
14 settlement amounts associated with construction contractor's claims, if any; the 
15 cost of superintendence, administration and overhead, rights-of-way, property, 
16 and damage or repairs to damage of any kind during construction; all sums 
17 expended in surveys and investigations in connection with the Project, both prior 
18 to and after execution of this Contract; the cost of contract negotiations; and 
19 the cost of all soil investigations and other preliminary work. The 
20 determination of what costs are properly chargeable and the amount thereof shall 
21 be made by the Contracting Officer.

16.2.3 IDC shall be computed by the Contracting Officer on Federal 
13 expenditures from the date of the expenditure computed at a rate of 9.737 percent 
14 and shall be compounded monthly. Subject to the provision of this article, for 
15 the purpose of calculating the amount of IDC that is allocable to the Contractor 
16 and the Other Project Beneficiaries, approximately 65 percent of Federal costs 
17 shall be allocated to the Contractor and the Other Project Beneficiaries. The 
18 IDC allocated to the Contractor and the Other Project Beneficiaries shall be 
19 included as part of the Contractor's repayment obligation. The IDC associated 
20 with the remaining approximately 35 percent of the Federal expenditures shall be 
21 allocated to individuals or entities other than the Contractor and the Other 
22 Project Beneficiaries.

16.2.4 Upon completion of the First Stage of the Project, the 
23 Contracting Officer shall perform a final allocation of costs in order to provide 
24 the Contractor with its final repayment obligation. The Contractor acknowledges 
25 that such final allocation may impact the amount of costs allocable to the 

19
16.2.5 The Contractor's annual payments for repayment of the Project shall be equal to the amount required to amortize the amount of the Contractor's estimated or final repayment obligation over fifteen (15) years with interest at 9.737 percent. The amount of the payment shall be provided to the Contractor by written notice from the Contracting Officer. Until such time as the Contractor's revised or final repayment obligation has been determined by the Contracting Officer, the Contractor's estimated repayment obligation shall be five hundred nineteen thousand six hundred eighty dollars ($519,680) and the annual payment shall be sixty-seven thousand three hundred one dollars and seventy-seven cents ($67,301.77).

16.2.6 The Contractor's initial capital payment to the United States shall be due on June 1 of the year following the year of issuance of the Notice of Completion, and the remaining fourteen (14) payments shall be due on that date each year thereafter until the Contractor's repayment obligation has been retired. The Contractor's initial capital payment shall include interest on the unpaid obligation allocable to the Contractor from the date of the Notice of Completion through May 31 immediately preceding the initial payment date.

16.2.7 The Contractor may prepay, without penalty, all or a portion of the outstanding principal due the United States for the Contractor's share of the Project's construction costs.

16.3 Payment of the annual operation, maintenance, and replacement (OM&R)
costs shall become due annually on or before December 1 for the following year and will be based upon the Operating Agency's projected cost of operating the Project facilities during the following year. The Contractor shall make such payment to the United States or, at the direction of the Contracting Officer, to the Operating Agency, based on budgets developed by the Operating Agency.

16.3.1 Adjustments will be made in OM&R budgets by the Operating Agency or the Contracting Officer to reflect actual OM&R costs and actual deliveries of water in the preceding calendar year.

16.3.1.1 If the amount budgeted by the Operating Agency in any year is insufficient to provide for the OM&R of the Project, the Operating Agency will have the right to submit a revised budget in the same manner as the original budget. The Contractor agrees to pay its share of any additional OM&R costs within thirty (30) days of the date of bill for collection from the United States or the Operating Agency.

16.3.1.2 If the amount budgeted by the Operating Agency in any year leaves a surplus at the end of the year, the Contractor shall receive a credit for the next year's OM&R budget.

16.3.2 The OM&R budget will include a rate component which will be sufficient to replace the Project works every fifteen (15) years. The replacement cost component will be placed in an interest-bearing account. It is envisioned that IID will assume the responsibility for OM&R of the Project, including oversight of the replacement escrow account and actual replacement of the Project works. If IID does not assume this responsibility, the Contractor will establish such an irrevocable account under terms and conditions acceptable to the Contracting Officer. The Contractor agrees that the United States is not responsible for funding replacement of the Project works.
16.3.3 The variable component of the OM&R charge (the cost of power and operation labor) will be allocated among the Project users on the basis of the amount of water ordered by the Project users for the following year and reflect current estimated power and labor costs. Fixed OM&R costs (maintenance and replacement costs) will be distributed to the Project users on the basis of the amount of capacity contracted for by each Project user. Fixed OM&R charges are anticipated to be $10.62 per acre-foot of capacity and the variable OM&R cost component is anticipated to be $3.04 per acre-foot of water pumped.

16.4 Article 19 provides for Project capacity that is originally allocated to the Contractor and the Other Project Beneficiaries to be reallocated to other Project users. If a reallocation of capacity occurs during the repayment period, the Contractor shall be entitled to be compensated by the new entity for past capital payments associated with the transferred capacity that have been made to the United States, and the Contractor's outstanding repayment obligation and future payments will be adjusted by the United States to reflect the transfer of capacity to the new Project user. If the transfer of capacity occurs after the Project costs have been repaid, the Contractor shall also be entitled to be compensated by the new Project user for past capital payments to the United States. An example of how these types of transactions would be treated is shown in Exhibit D.

16.5 The Other Project Beneficiaries may be assessed an administrative fee by the Contractor to compensate the Contractor for the Contractor's administrative costs for fulfilling the Contractor's obligations pursuant to this Contract on behalf of the Other Project Beneficiaries.

16.6 The obligation of the Contractor and the Other Project Beneficiaries to repay the United States for their pro rata shares of the Project facilities
construction costs shall not be absolved if the Project is no longer functional in accordance with the limitations set forth in the Act.

16.7 The estimated costs shown herein shall be revised by the Contracting Officer as necessary, based on actual costs at the time of completion of construction. To assure repayment of the cost to construct the Project within a fifteen- (15-) year period and to assure that the Project operation, maintenance, repair, and replacement costs are paid by the Project beneficiaries, said costs shall be subject to further review and adjustment as determined necessary by the Contracting Officer. The Contractor agrees to pay such adjusted payments.

16.8 It is understood and agreed that the Contractor shall be obligated for the repayment of the total amount of contracted capacity as shown in Exhibit C, regardless of the delinquency or default in payment of any charges due the Contractor from any Other Project Beneficiary. The Contractor shall complete repayment of the Project construction costs within a fifteen- (15-) year period following the announcement by the Contracting Officer of substantial completion of the construction stage.

17. OM&R OF THE PROJECT: The Contracting Officer will contract with the Operating Agency for OM&R of the Project. The Operating Agency will submit an operating budget in advance of each calendar year for the OM&R costs of the Project. The budget will be subject to review and approval by the Contracting Officer.

18. ADMINISTRATIVE RESPONSIBILITIES OF THE CONTRACTOR:

18.1 The Parties agree that the Contractor shall assume the administrative responsibility for the Other Project Beneficiaries within San Bernardino County, California, except for federally administered and Indian lands. The Contractor
agrees that it shall submit in a timely manner, on behalf of itself and the Other
Project Beneficiaries, all required charges and fees, water schedules, water
reports, and other required information requested by the United States.

18.2 The United States acknowledges that the Contractor is entitled to
charge the Other Project Beneficiaries an annual administrative fee to cover the
Contractor's costs to represent the Other Project Beneficiaries pursuant to this
Contract.

18.2.1 Unless approval is otherwise granted by the United States, the
annual administrative fee assessed by the Contractor to each Other Project
Beneficiary shall not exceed the annual contract administration fee that would
have been charged by the United States had each Other Project Beneficiary entered
into a separate contract with the United States.

18.2.2 In order that the Contractor may meet its obligations pursuant
to this Contract to make in full all payments required on or before the date such
payments become due, the Contractor shall levy all necessary charges and fees and
shall use all of the authority and resources available to the Contractor to
collect the charges and fees from the Other Project Beneficiaries.

18.3 The Parties acknowledge that the United States has the right to
oversee and review changes in the relationship between the Contractor and the
Other Project Beneficiaries.

18.4 The United States shall review and approve the form of the agreement
the Contractor plans to offer to each eligible Other Project Beneficiary. The
Contractor shall obtain written approval of the form of the agreement by the
Contracting Officer before the agreement is offered to the Other Project
Beneficiaries for execution. The form of the agreement shall include the
following information for each Other Project Beneficiary: the legal description
of the place of use of the Mainstream Water; the point(s) of diversion of
Mainstream Water and the point(s) of Return Flow; the amount of Mainstream Water
the Other Project Beneficiary is entitled to withdraw and the metering thereof;
the intended purpose of the use of the Mainstream Water; and the obligation to
repay the pro rata share of the Project construction costs, even if Project
pumping is terminated before the Project costs are repaid; and shortages and
reductions. The Parties agree that the contracts with each Other Project
Beneficiary shall be bound by the provisions of this Contract which shall be, by
reference, made a part of the Contractor's agreement with the Other Project
Beneficiaries.

18.5 The provisions of this Contract shall be controlling in the event of
any inconsistency between this Contract and any agreement between the Contractor
and the Other Project Beneficiaries.

18.6 Any environmental documentation or review performed by the
United States that is required for the Contractor or an Other Project Beneficiary
to receive Mainstream Water pursuant to this Contract shall be at the cost of the
Contractor or the Other Project Beneficiary.

19. ADDITIONAL PROJECT USERS: Subject to the following criteria, the Contractor
agrees to permit additional applicants who are qualified to be Project users the
right to purchase a portion of the Contractor's unused Project capacity.

19.1 A prospective Project user shall obtain a recommendation from CRB.
The Contracting Officer shall notify the Contractor of the agency's
recommendation.

19.2 The Contracting Officer shall not unreasonably deny a qualified
applicant the right to participate in the Project if a determination could be
made that a portion of the Project's unused capacity could be utilized without
causing a detrimental effect on the Contractor. It shall be deemed unreasonable
for the Contracting Officer to withhold approval of Project applicants on the
basis that Mainstream Water might be better used in the Contractor's service area
at a later date.

19.3 If the Contractor recommends that a Project applicant should not
participate in the Project, the Contracting Officer, after consultation with the
Contractor and CRB, shall consider the Contractor’s recommendation. The
Contracting Officer will evaluate the impacts of permitting the Project applicant
to participate in the Project and will consult the Contractor before making a
decision. The Contracting Officer's determination shall be conclusive.

19.4 Exhibit C shall be revised accordingly by the Contracting Officer when
any of the information listed in Exhibit C requires modification.

19.5 Any First-Stage capacity withdrawn from the Contractor pursuant to
this Contract shall be reserved for the Contractor from the Project's second
stage on an acre-foot for acre-foot basis. At the time of second-stage
construction, the Contractor shall have the option to withdraw its automatic
capacity reservation so established.

20. USE OF THE PROJECT BY NON-PROJECT USERS: The Contractor, on behalf of
itself and the Other Project Beneficiaries, recognizes that the United States may
construct the Project at its full capacity in accordance with the Act, even
though the users of the Project may not be persons or entities as defined in the
Act. The United States approval of such construction and Project use would only
be granted under the following conditions.

20.1 The United States is satisfied that such use would not have negative
impact on the Project users.

20.2 No right to the recurrent use of Project water shall accrue to the
non-Project users by reason of the use thereof.

20.3 As users within the Project statutory service area have need for additional water up to the maximum amount authorized by the Act, capacity will be withdrawn from those users located outside the Project statutory service area and made available for use in accordance with the Additional Project Users article herein. If the withdrawn capacity has been constructed with funds provided by a non-Federal entity, the withdrawal shall be contingent on compensation of that entity for its investment to the satisfaction of the Contracting Officer.

21. RIGHTS-OF-WAY:

21.1 The Contractor on behalf of itself and the Other Project Beneficiaries hereby grants a right of access to the United States and its authorized employees, agents, subcontractors, successors, and assigns to enter any lands of the Contractor and the Other Project Beneficiaries for the purpose of inspecting and checking any diversion facilities, including any wells and associated facilities for pumping Mainstream Water from the underground pursuant to this Contract.

21.2 The Contractor and Other Project Beneficiaries will obtain all necessary rights-of-way required for diversion and conveyance of Mainstream Water provided pursuant to the terms and conditions of this Contract. Where rights-of-way across lands of the United States are required by the Contractor or Other Project Beneficiaries for diversion and conveyance, application thereof will be considered by the United States under terms and conditions deemed appropriate by the United States.

22. RELEASE AND INDEMNITY:

22.1 The Contractor, on behalf of itself and the Other Project
Beneficiaries, agrees to indemnify and hold IID, and CVWD, the United States, their employees, agents, subcontractors, successors, or assigns harmless from any loss or damage and from any liability on account of personal injury, death, or property damage or claims of loss or damage or claims for personal injury, death, or property damage of any nature whatsoever for the delivery of Mainstream Water pursuant to this Contract.

22.2 The Contractor, for itself and on behalf of the Other Project Beneficiaries and on behalf of all persons within the Contractor's Service Area who pump Mainstream Water, hereby releases and agrees that it will hold IID, CVWD, and the United States, their employees, agents, successors, or assigns harmless from any liability or responsibility whatsoever for the ground-water level associated with the diversion of Mainstream Water or the maintenance thereof.

22.3 IID, CVWD, and the United States, their employees, agents, subcontractors, successors, or assigns shall not be liable for damages when suspensions or reduction in delivery of Mainstream Water occur for any reason.

22.4 The Contractor, for itself and on behalf of the Other Project Beneficiaries, hereby releases and agrees that it will hold IID, CVWD, and the United States, their officers, employees, agents, and successors or assigns harmless from any liability or responsibility whatsoever for the reduction of the productive period of the Project, including decisions by the United States to allow for the pumping of unused Project capacity within the limits stated in the Act. The release and hold harmless provision of this subarticle 22.4 shall not apply to actions of IID or CVWD arising from actions taken in the capacity of Operating Agency.

23. INSPECTION OF WORKS BY THE UNITED STATES: The United States, its employees,
agents, subcontractors, successors, or assigns shall at all times have the right
to inspect all works utilized by the Contractor and the Other Project
Beneficiaries or by any water company or other person, firm, or corporation
representing the Contractor or the Other Project Beneficiaries in the diversion,
processing, storage, and distribution of Mainstream Water delivered pursuant to
this Contract.
24. GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT:
24.1 The obligation of the Contractor to pay the United States as provided
in this Contract is a general obligation of the Contractor; Notwithstanding the
manner in which the obligation may be distributed among the Other Project
Beneficiaries and further notwithstanding the default of individual Project water
users or Other Project Beneficiaries in their obligations to the Contractor. The
Contractor shall utilize all resources available to the Contractor to ensure that
the Contractor has sufficient revenues to meet its obligations pursuant to this
Contract and to make in full all payments to the United States on or before the
dates such payments become due.
24.2 The payment of charges becoming due hereunder is a condition precedent
to receiving benefits under this Contract; Provided, That the Contractor shall
be relieved of its payment obligation only to the extent of the amount paid by
the Other Project Beneficiaries. Upon notification by the Contractor,
Mainstream Water made available pursuant to this Contract shall not be furnished
to the Other Project Beneficiaries which are in arrears in the advance payment
of applicable charges due to be collected by the Contractor.
25. CHARGES FOR DELINQUENT PAYMENTS:
25.1 The Contractor shall be subject to interest, administrative, and
penalty charges on delinquent installments or payments. When a payment is not
received by the due date, the Contractor shall pay an interest charge for each
day the payment is delinquent beyond the due date. When a payment becomes sixty-(60-) days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

25.2 The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of one-half (0.5) percent per month prescribed by section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

25.3 When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

26. EFFECT OF WAIVER OF BREACH OF CONTRACT: All rights of action for breach of any of the provisions of this Contract are reserved to the United States as provided in section 3737 of the Revised Statutes of the United States. The waiver of a breach of any of the provisions of this Contract shall not be deemed to be a waiver of any provision hereof, or of any other subsequent breach of any provisions hereof.

27. WATER AND AIR POLLUTION CONTROL: The Contractor, in carrying out the provisions of this Contract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California and shall obtain all required permits or licenses from the appropriate Federal, state, or local authorities.

28. WATER CONSERVATION: At the determination of the Contracting Officer and prior to the delivery of Mainstream Water provided pursuant to this Contract, in addition to complying with the requirements of Title 43, Code of Federal Regulations, Part 417, the Contractor shall develop an effective water conservation program for Mainstream Water used in the Contractor's service area which is acceptable to the Contracting Officer. The water conservation program shall contain definite water conservation objectives, appropriate economically
feasible water conservation measures, and time schedules for meeting those objectives. At subsequent five- (5-) year intervals, the Contractor shall submit a report on the results of the program to the Contracting Officer for review. Based on the conclusions of the review, the Parties shall consult and agree to continue or to revise the existing water conservation program.

29. RULES, REGULATIONS, AND DETERMINATIONS:

29.1 The Parties agree that the delivery of Mainstream Water or the use of Federal facilities pursuant to this Contract is subject to Reclamation law, as amended and supplemented, and the rules and Regulations promulgated by the Secretary under Reclamation law.

29.2 The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the expressed and implied provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor.

30. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS: The expenditure or advance of any money or the performance of any obligation by the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor or the Other Project Beneficiaries from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

31. ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED: The provisions of this Contract shall apply to and bind the successors and assigns of the Parties, but no assignment or transfer of this Contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

32. NOTICES: Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of any Party, when mailed, postage prepaid, or delivered to the other Parties at the following addresses:

32.1 Regional Director
   Lower Colorado Region
   Bureau of Reclamation
   P.O. Box 61470
   Boulder City, Nevada 89006-1470

32.2 City Manager
   City of Needles
   1111 Bailey Avenue
   P.O. Box 887
   Needles, California 82363
The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

33. AUTHORIZED REPRESENTATIVES OF THE PARTIES: Each Party, by written notice to the other, shall designate the representatives who are authorized to act in its behalf with respect to those matters contained herein which are the functions and responsibilities of the authorized representatives. Either Party may change the designation of its authorized representative upon oral notice given to the other and confirmed promptly by written notice.

34. OFFICIALS NOT TO BENEFIT: No Member or Delegate to Congress, Resident Commissioner or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

35. UNCONTROLLABLE FORCES: No Party shall be considered to be in default in respect to any obligation hereunder, if prevented from fulfilling such obligation by reason of an Uncontrollable Force. Any Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise due diligence to remove such inability with all reasonable dispatch.

36. DEVELOPMENT AND COMPILATION OF RECORDS AND REPORTS:

36.1 The Contractor shall make full and complete annual written reports to the United States on forms to be designated, supplied, or otherwise approved by the Contracting Officer covering all water delivered pursuant to this Contract. The Contractor shall measure and keep complete records of the quantities of the Return Flow from drain and waste ditches or pipes. The measurement and records shall be in a manner and form satisfactory to the Contracting Officer.

36.2 The United States shall also have free access at all reasonable times to the books and records relating to the diversion, processing, storage, and distribution of water delivered hereunder, with the same right at any time during
office hours to make copies from the same. Except in an emergency, written notice shall be given in advance of such inspection.

37. **EQUAL OPPORTUNITY:** During the performance of this Contract, the Contractor for itself and on behalf of the Other Project Beneficiaries agrees as follows (for the remainder of this article, the term "Contractor" shall include the Contractor and the Other Project Beneficiaries):

37.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

37.2 The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

37.3 The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising said labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

37.4 The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

37.5 The Contractor will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

37.6 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended
Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said amended Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

37.7 The Contractor will include the provisions of paragraphs 37.1 through 37.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

38. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS: For the purposes of this article, the term "Contractor" shall include the Contractor and the Other Project Beneficiaries.

38.1 The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 14200d), section 504 of the Rehabilitation Act of 1975 (Public Law 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the Department of the Interior and/or Bureau of Reclamation.

38.2 These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

38.3 The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article, and that the United States reserves the right to seek judicial enforcement thereof.

39. REMEDIES UNDER CONTRACT NOT EXCLUSIVE: Nothing in this Contract shall be construed in any manner to abridge, limit, or deprive either Party of any means to enforce any remedy either at law or in equity for the breach of any of the
provisions hereof, or any other remedy which it would otherwise have.

40. **EXHIBITS MADE PART OF THIS CONTRACT:** Inasmuch as the Act, the location of
the California lands adjacent to the Colorado River which are eligible to receive
Mainstream Water pursuant to this Contract, and the entities to be served by the
Project, the points of diversion, the place of water use, the type of water use,
and the obligated share of Project well field capacity, and the example showing
compensation to the Contractor for past project capital payments by a new Project
user may change during the term of this Contract, they will be set forth on the
exhibits as formulated or modified from time to time. The initial Exhibits A,
B, C, and D are attached hereto, and each is incorporated into this Contract in
accordance with its respective provisions until superseded by a subsequent
exhibit. Subsequent revisions of Exhibits A, B, and D shall become effective
upon approval of the Contracting Officer.

41. **CONFIRMATION OF THIS CONTRACT:** The Contractor, after the execution of this
Contract, shall promptly seek to secure a decree of a court of competent
jurisdiction of the State of California confirming the execution of this
Contract. The Contractor shall furnish the United States a certified copy of the
final decree, the validation proceedings, and all pertinent supporting records
of the court approving and confirming this contract, and decreeing and adjudging
it to be lawful, valid, and binding on the Contractor.
IN WITNESS WHEREOF, the Parties have caused this Contract No. 2-07-30-W0280 to be executed the day and year first written above.

LEGAL REVIEW AND APPROVAL

By

Field Solicitor
Phoenix, Arizona

THE UNITED STATES OF AMERICA

By

Regional Director
Lower Colorado Region
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470

CITY OF NEEDLES

By

Title Mayor

1111 Bailey Avenue
P.O. Box 887
Needles, California 82363

ATTEST:

City Clerk
CERTIFICATE

I, Cheryl K. Sallis, certify that I am the City Clerk of the City of Needles; that Roy A. Mills, who signed Contract No. 2-07-30-W0280 on behalf of the City of Needles was then Mayor; and that said Contract was duly signed for and in behalf of the City of Needles by authority of its governing body and is within the scope of its corporate powers.

CITY OF NEEDLES

Cheryl K. Sallis, City Clerk

1111 Bailey Avenue
P.O. Box 887
Needles, CA. 92363

Date: September 9, 1992

(SEAL)
RESOLUTION NO. 9-8-92-5

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEEDLES, CALIFORNIA, APPROVING CONTRACT NO. 2-07-30-W0280 BETWEEN THE CITY OF NEEDLES AND UNITED STATES OF AMERICA FOR DELIVERY OF WATER

BE IT RESOLVED by the City Council of the City of Needles, California, that the Mayor and City Clerk of the City of Needles be and are hereby authorized to execute for and on behalf of the City of Needles, Contract No. 2-07-30-W0280 for delivery of water with the United States of America, which Contract was duly presented to the City Council of the City of Needles and which Contract is hereby approved.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California held on the 8th day of September, 1992, by the following roll call vote:

AYES: COUNCIL MEMBERS BUTLER, HILL, YEE AND CHRISTENSEN

NOES: NONE

ABSENT: NONE

Mayor

ATTEST: [Signature] (SEAL) [Name]

City Clerk

APPROVED AS TO FORM:

[Signature] [Name]

Deputy City Attorney
Exhibit A  
Contract No. 2-07-30-W0280  
City of Needles

LOWER COLORADO WATER SUPPLY ACT

1. This Exhibit A, made this _10_ day of _September_, 1992, to be effective under and as a part of Contract No. 2-07-30-W0280 dated _September 10, 1992_, hereinafter called "Contract," shall become effective on the date of its execution and shall remain in effect until superseded by another Exhibit A; Provided, That this Exhibit A or any superseding Exhibit A shall terminate by the expiration of the Contract.

2. The text of the Lower Colorado Water Supply Act approved November 14, 1986, is as follows:
PUBLIC LAW 99-535 [H.R. 5029]; November 14, 1986

LOWER COLORADO WATER SUPPLY ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. AUTHORIZATION.

(a) The Secretary of the Interior is authorized to construct, operate, and maintain the Lower Colorado Water Supply Project, California, in order to supply water for domestic, municipal, industrial, and recreational purposes only. Provided, That the Secretary is hereby authorized, in its discretion, to contract with non-Federal interests for the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe. Such project shall be constructed in stages as increases in demand warrant and substantially in accordance with the plans set forth in the document entitled "Lower Colorado Water Supply Study, California" (December 1958). Provided, That the Secretary is prohibited from constructing facilities with a total capacity in excess of ten thousand acre-feet per annum under authority of this Act.

(b) The Secretary is authorized to enter into exchange contracts and take such actions as the Secretary deems appropriate to facilitate a water exchange agreement between non-Federal interests and those interests designated in section 206 of this Act in which such non-Federal interests agree to exchange a portion of their rights to divert water from the Colorado River for an equivalent quantity and quality of groundwater to be withdrawn from a well field located in the Sand Hills area, Imperial County, California.

(c) The Secretary is prohibited from executing any contracts under the authority of subsection (b)(1) of this section until such contracts have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and ninety calendar days have elapsed.

SECTION 2. REPAYMENT OF COSTS.

(a) The Secretary is prohibited from obligating or expending any of the funds authorized to be appropriated by section 3 of this Act until—

(1) a study has been completed, and submitted to the appropriate committees of the Congress, allocating among the Federal and non-Federal beneficiaries the capital costs and the costs of operating, maintaining, and replacing the project authorized by section 1 of this Act.

(2) the Secretary has entered into a contract or contracts with non-Federal interests for repayment of the capital costs, plus interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding...
marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 per centum, allocated to non-Federal interests for domestic, municipal, industrial, and recreational purposes as identified in the cost allocation study prepared under subsection (a)(1). Provided, That the terms and provisions of such contracts and repayment shall be governed by the provisions of the Water Supply Act of 1986 which were in effect on January 1, 1986; (3) the Secretary has entered into a contract or contracts with non-Federal interests for payment of 100 per centum of the costs allocated to such non-Federal interests for the operation, maintenance, and replacement of the project on a current basis; and (4) the Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project.

(b) Any contracts executed by the Secretary to fulfill the requirements of subsections (a)(2) and (a)(3) of this section must be with persons, or Federal or non-Federal governmental entities whose lands or interests in lands are located adjacent to the Colorado River in the State of California who do not hold rights in Colorado River water or whose rights are insufficient to meet their present or anticipated future needs, as determined by the Secretary. Such persons, or Federal or non-Federal governmental entities shall include the city of Needles, the town of Winterhaven, and other domestic, municipal, industrial, and recreational water users along the Colorado River in the State of California.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the construction through September 30, 1993, of the Lower Colorado Water Supply Project the sum of $1,500,000 plus or minus such amount, if any, as may be justified by reason of ordinary cost index applicable to the types of construction involved therein; and in addition thereto such sums as may be required for operation, maintenance and replacement of such portion of the project used to supply domestic, municipal, industrial, or recreational water supplies for lands managed by the Federal Government. No funds are authorized to be appropriated for payment of the operation, maintenance, or replacement costs allocated to non-Federal beneficiaries as determined by the study undertaken under authority of section 2(a)(1).

SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

The Secretary is authorized to accept monetary contributions from the city of Needles and other incorporated cities for the construction of project features of the Lower Colorado Water Supply Project allocated to the provision of water supplies to the city of Needles and other incorporated cities; Provided, That such contributions shall be credited towards the reimbursable costs to be repaid by the city of Needles and other incorporated cities pursuant to the contracts entered into pursuant to section 2 of this Act. Such contributions by the city of Needles and other incorporated cities shall be contributed during the construction of the appropriate project features and shall constitute 20 percent of the costs of such project features allocated to the city of Needles and other incorporated cities for repayment.
LAWS OF 89th CONG.—2nd SESS.

SEC. 1. SAVINGS PROVISION.

Nothing contained in this Act shall be construed to alter, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994, 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 615a), or the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or streams or over any ground water resources, or

(b) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

Approved November 14, 1955.
IN WITNESS WHEREOF, the Parties have caused this Exhibit A to Contract No. 2-07-30-W0280 to be executed the date first written above.

THE UNITED STATES OF AMERICA

By

Regional Director
Lower Colorado Region
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470

CITY OF NEEDLES

By

Title

Mayor

1111 Bailey Avenue
P.O. Box 887
Needles, California 82363

ATTEST:

City Clerk

Title
CALIFORNIA LANDS ADJACENT TO THE COLORADO RIVER
WHICH ARE ENTITLED TO RECEIVE MAINSTREAM WATER
PURSUANT TO THE CONTRACT

1. This Exhibit B, made this 10 day of September, 1992, to be
effective under and as a part of Contract No. 2-07-30-W0280 dated
September 10, 1992, hereinafter called "Contract," shall become
effective on the date of its execution and shall remain in effect until
superseded by another Exhibit B; Provided, That this Exhibit B or any
superseding Exhibit B shall terminate by the expiration of the Contract.

2. The City of Needles service area is the County of San Bernardino.

3. The lands eligible to receive Project water under the administration of
the Contractor are lands within San Bernardino County which are adjacent
to the Colorado River. A map of this area is shown on the next page.
California Lands Adjacent to the Colorado River Which Are Entitled to Receive Mainstream Water Pursuant to the Contract

The shaded area of this map is intended to highlight the San Bernardino County boundary. It does not represent the actual area determined to be "adjacent to the Colorado River." Such area will be determined by the Contracting Officer after consultation with CRB.
IN WITNESS WHEREOF, the Parties have caused this Exhibit B to Contract No. 2-0-30-W0280 to be executed the date first written above.

THE UNITED STATES OF AMERICA

By

Regional Director
Lower Colorado Region
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470

CITY OF NEEDLES

By

Title

Mayor

1111 Bailey Avenue
P.O. Box 887
Needles, California 82363

ATTEST:

Cheryl K. Dallas
City Clerk

Page 3 of 3
ENTITIES TO BE SERVED, POINTS OF DIVERSION, PLACE OF WATER USE, TYPE OF WATER USE, AND THE OBLIGATED SHARE OF PROJECT WELL FIELD CAPACITY FOR THE CONTRACTOR AND EACH OTHER PROJECT BENEFICIARY

1. This Exhibit C, made this 10th day of September, 1992, to be effective under and as a part of Contract No. 2-07-30-W0280 dated September 10, 1992, hereinafter called "Contract," shall become effective on the date of its execution and shall remain in effect until superseded by another Exhibit C; Provided, That this Exhibit C or any superseding Exhibit C shall terminate by the expiration of the Contract.

2. The amount of Project water listed by entity and point of delivery to be diverted pursuant to the Contract shall be:
<table>
<thead>
<tr>
<th>Name and Address of Entity</th>
<th>Point(s) of Diversion</th>
<th>Place of Use</th>
<th>Types of Water Use</th>
<th>Amount of Mainstream Water diverted or pumped (acre-feet)</th>
<th>Consumptive Use Factor (determined by the Contracting Officer)</th>
<th>Project Water to be Exchanged (acre-feet)</th>
<th>Unused Contracted Capacity (acre-feet)</th>
<th>Obligated Project Repayment (acre-feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Needles P.O. Box 887 Needles CA 92363</td>
<td>wells Nos. 1, 2, 6, 7, 8, and 10 located near the center of sec. 30, T. 9 N., R. 23 E., SBM</td>
<td>service area</td>
<td>municipal and industrial</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3,500</td>
</tr>
</tbody>
</table>
IN WITNESS WHEREOF, the Parties have caused this Exhibit C to Contract No. 2-07-30-W0280 to be executed the date first written above.

THE UNITED STATES OF AMERICA

By ____________________________
Regional Director
Lower Colorado Region
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470

CITY OF NEEDLES

By ____________________________
Mayor
III Bailey Avenue
P.O. Box 887
Needles, California 82363

ATTEST: ____________________________
Cheryl R. Dallas
City Clerk

Title
Examples showing compensation to the contractor for past project capital payments by a new project user

1. This Exhibit D, made this 10th day of September, 1992, to be effective under and as a part of Contract No. 2-07-30-W0280 dated September 10, 1992, hereinafter called "Contract," shall become effective on the date of its execution and shall remain in effect until superseded by another Exhibit D; Provided, That this Exhibit D or any superseding Exhibit D shall terminate by the expiration of the Contract.

2. The examples in this Exhibit D do not cover reimbursement for the portion of the Contractor’s contribution associated with transferred capacity. Such reimbursement would be an item of negotiation between the contractor and the new Project user.

3. If the transfer of capacity occurs during the Project repayment period, the Contractor is entitled to be compensated by the new Project user for past capital payments to the United States. The following is an example of how this type of transaction would be administered.

3.1 This example is prepared with the following assumptions:

3.1.1 One hundred (100) acre-feet of Project capacity will be transferred from the Contractor to a new Project user immediately following the Contractor’s fifth payment;

3.1.2 The Contractor’s cost of money over the 5-year period is 7 percent;
3.1.3 The Contractor's original obligation is $519,680;
3.1.4 The Contractor's original capacity reservation is 3,500 acre-feet; and
3.1.5 Principal amount per acre-foot of capacity is $148.48 ($519,680 divided by 3,500 acre-feet).

3.2 The Contractor's Repayment Schedule Prior to Adjustment

<table>
<thead>
<tr>
<th>Year</th>
<th>Payment</th>
<th>Balance</th>
<th>Capital Payment on Transferred Capacity 1</th>
<th>Years of Compound Interest</th>
<th>Principal and Interest Paid on Transferred Capacity 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>$67,301.77</td>
<td>$519,680.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/31/94</td>
<td>67,301.77</td>
<td>502,979.47</td>
<td>$1,922.91</td>
<td>4</td>
<td>$2,520.54</td>
</tr>
<tr>
<td>12/31/95</td>
<td>67,301.77</td>
<td>484,652.81</td>
<td>1,922.91</td>
<td>3</td>
<td>2,355.65</td>
</tr>
<tr>
<td>12/31/96</td>
<td>67,301.77</td>
<td>464,541.68</td>
<td>1,922.91</td>
<td>2</td>
<td>2,201.54</td>
</tr>
<tr>
<td>12/31/97</td>
<td>67,301.77</td>
<td>442,472.33</td>
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<td>2,057.51</td>
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<tr>
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<td>1,922.91</td>
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<td>1,922.91</td>
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<td>TOTAL</td>
<td></td>
<td>$9,614.55</td>
<td></td>
<td></td>
<td>$11,058.15</td>
</tr>
</tbody>
</table>

1 Obtained by multiplying 100/3,500 times $67,301.77
2 Includes interest at 7 percent compounded annually
3.3 **Contractor's Adjusted Schedule**

<table>
<thead>
<tr>
<th>Year</th>
<th>Payment</th>
<th>Balance</th>
</tr>
</thead>
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<td>12/31/99</td>
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<tr>
<td>12/31/00</td>
<td>$65,378.88</td>
<td>352,156.18</td>
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<tr>
<td>12/31/01</td>
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<td>12/31/02</td>
<td>$65,378.88</td>
<td>286,950.14</td>
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<tr>
<td>12/31/03</td>
<td>$65,378.88</td>
<td>249,511.60</td>
</tr>
<tr>
<td>12/31/04</td>
<td>$65,378.88</td>
<td>208,427.66</td>
</tr>
<tr>
<td>12/31/05</td>
<td>$65,378.88</td>
<td>163,343.38</td>
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<tr>
<td>12/31/06</td>
<td>$65,378.88</td>
<td>113,869.24</td>
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<tr>
<td>12/31/07</td>
<td>$65,378.88</td>
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</tr>
<tr>
<td>12/31/08</td>
<td>$65,378.88</td>
<td>0</td>
</tr>
</tbody>
</table>

3.4 The new Project user would reimburse the Contractor for past payment with interest (a total of $11,057.88). The Contractor's future payments would be reduced from $67,301.77 to $65,378.88 to reflect the transfer of capacity. The new Project user would have a repayment obligation of $11,950 to be repaid over 10 years (see chart below).

---

3 At this point, the Contractor would have retired $28.98 of the $148.48 per acre-foot capital cost. Therefore, the Contractor's obligation is reduced by $119.50 times 100 acre-feet which equals $11,950.
**New Project User's Repayment Schedule**

<table>
<thead>
<tr>
<th>Year</th>
<th>Payment</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/31/98</td>
<td></td>
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<tr>
<td>12/31/99</td>
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<tr>
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<tr>
<td>12/31/08</td>
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</tr>
</tbody>
</table>
4. If the transfer of capacity occurs after the Project costs have been repaid, the Contractor is entitled to be compensated by the new Project user for past capital payments to the United States. The following is an example of how this type of transaction would be administered.

4.1 This example is prepared with the following assumptions:

4.1.1 One hundred (100) acre-feet of Project capacity will be transferred from the Contractor to a new Project user 5 years following repayment of the First Stage.

4.1.2 The Contractor's cost of money is 7 percent;

4.1.3 The Contractor's original obligation is $519,680;

4.1.4 The Contractor's original capacity reservation is 3,500 acre-feet; and

4.1.5 Principal amount per acre-foot of capacity is $148.48 ($519,680 divided by 3,500 acre-feet).
### Exhibit D
Contract No. 2-07-30-W0280
City of Needles

#### 4.2 The Contractor’s Repayment Schedule

<table>
<thead>
<tr>
<th>Date</th>
<th>Project Year</th>
<th>Payment</th>
<th>Balance</th>
<th>Capital Payment on Transferred Capacity</th>
<th>Years of Compound Interest</th>
<th>Principal and Interest Paid on Transferred Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
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<td>$519,680.00</td>
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<td>1,010.00</td>
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<td><strong>0</strong></td>
<td></td>
<td></td>
<td><strong>$23,719.99</strong></td>
</tr>
</tbody>
</table>

Therefore, under this example, the new Project user would have to pay the Contractor $23,719.99 to reimburse the Contractor for past capital payments plus interest.

Page 6 of 7
IN WITNESS WHEREOF, the Parties have caused this Exhibit D to Contract No. 2-07-30-W0280 to be executed the date first written above.

THE UNITED STATES OF AMERICA

By

Regional Director
Lower Colorado Region
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470

CITY OF NEEDLES

By

Title Mayor

III Bailey Avenue
P.O. Box 887
Needles, California 82363

ATTEST:

City Clerk

Page 7 of 7