

AGENDA

SOUTHERN NEVADA WATER AUTHORITY BOARD OF DIRECTORS

REGULAR MEETING
9:00 A.M. – JUNE 21, 2012

BOARD CHAMBERS, SOUTHERN NEVADA WATER AUTHORITY
100 CITY PARKWAY, SEVENTH FLOOR, LAS VEGAS, NEVADA
(702) 258-3100

Board of Directors

Shari Buck, Chair
Mary Beth Scow, Vice Chair
Sam Bateman
Bob Coffin
Tom Collins
Duncan McCoy
Steve Sisolak

Patricia Mulroy,
General Manager



SOUTHERN NEVADA
WATER AUTHORITY

A sign language interpreter or TDD may be made available with 48-hour advance request; phone (702) 258-3939, TDD (702) 385-7486, or Relay Nevada toll-free (800) 326-6868 TT/TDD.

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED IN THE FOLLOWING LOCATIONS:

City of Boulder City, City Hall
401 California Street
Boulder City, Nevada

City of Henderson, City Hall
240 Water Street
Henderson, Nevada

City of North Las Vegas, City Hall
2250 Las Vegas Boulevard North
North Las Vegas, Nevada

City of Las Vegas, City Hall
495 South Main Street
Las Vegas, Nevada

Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada

Clark County Water Reclamation District
5857 E. Flamingo Road
Las Vegas, Nevada

Southern Nevada Water Authority
100 City Parkway, Suite 700
Las Vegas, Nevada

Las Vegas Valley Water District
1001 S. Valley View Boulevard
Las Vegas, Nevada

All items on the agenda are for action by the Board of Directors, unless otherwise indicated. Items may be taken out of order. The board may combine two or more agenda items for consideration, and the board may remove an item from the agenda or delay discussions relating to an agenda item at any time.

CALL TO ORDER

COMMENTS BY THE GENERAL PUBLIC

NO ACTION MAY BE TAKEN: This is a period devoted to comments by the general public pertaining to items on this agenda. If you wish to speak to the Board about items within its jurisdiction, but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Please limit your comments to three minutes or less. No action may be taken upon a matter not listed on the posted agenda.

ITEM NO.

1. *For Possible Action:* Approve agenda with the inclusion of tabled and/or reconsidered items, emergency items and/or deletion of items, and approve the minutes of the regular meeting of May 17, 2012.

CONSENT AGENDA Items 2 - 7 are routine and can be taken in one motion unless a Director requests that an item be taken separately.

2. *For Possible Action:* Approve an amendment to the existing agreement between Katz & Associates, Inc., and the Authority to continue providing support services for the SNWA Major Construction and Capital Plan and the Las Vegas Wash Capital Improvement Program, which provides the option to extend the agreement for two additional one-year periods.
3. *For Possible Action:* Approve a subgrant agreement between the Nevada Division of Environmental Protection and the Authority to accept grant funding for regional water quality activities and related public outreach initiatives.
4. *For Possible Action:* Approve and authorize the General Manager to enter into an assistance agreement between the Bureau of Reclamation and the Authority, in substantially the same form, to accept a grant to support the Authority's Water Smart Landscape Rebate Program, and authorize the General Manager to approve future modifications only if the future modifications do not fiscally impact the Authority.

5. *For Possible Action:* Approve an interlocal agreement among the City of Henderson, the City of Las Vegas, the City of North Las Vegas, Clark County, the Clark County Regional Flood Control District, the Clark County Water Reclamation District, and the Authority to establish funding allocations and the budget for Las Vegas Wash activities in fiscal year 2012/2013.
6. *For Possible Action:* Approve a grant and cooperative agreement between the United States Geological Survey and the Authority to accept funding for aerial imagery acquisition of the Las Vegas Valley in support of the Water Smart Landscape Program, and authorize the General Manager to approve future modifications to the agreement only if future modifications do not fiscally impact the Authority.
7. *For Possible Action:* Approve Amendment No. 3 to the existing agreement between Spring Valley Associates, LLC, and the Authority, and authorize the General Manager to approve future modifications to the agreement only if future modifications do not fiscally impact the Authority.

BUSINESS AGENDA

8. *For Possible Action:* Approve a takeover agreement between Safeco Insurance Company of America and the Authority providing for Safeco's acceptance of contractual obligations remaining to be performed, and accept all construction work required to be performed under Contract No. 340A 04 C1, Coyote Spring Valley Well and Moapa Transmission System – Moapa Treatment Facility.
9. *For Possible Action:* Approve the 2012 Amended Facilities and Operations Agreement, in substantially the same form, among the City of Boulder City, the City of Henderson, the Las Vegas Valley Water District, the City of North Las Vegas, and the Authority.
10. *For Possible Action:* Approve the Second Power Exchange Agreement between the Authority and Nevada Power Company, doing business as NV Energy, to exchange power, enabling the Authority to manage its power costs effectively and with more reliable delivery.
11. *For Information Only:* Receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, the results of the implementation of the Authority's Water Resource and Conservation Plans, activities on the Colorado River, and on the development of in-state water resources.

COMMENTS BY THE GENERAL PUBLIC

NO ACTION MAY BE TAKEN: At this time, the Board of Directors will hear general comments from the public on matters under the jurisdiction of the Southern Nevada Water Authority. Please limit your comments to three minutes or less. No action may be taken upon a matter not listed on the posted agenda.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
REGULAR MEETING
MAY 17, 2012
MINUTES**

CALL TO ORDER 9:03 a.m., SNWA Board Chambers, Southern Nevada Water Authority
100 City Parkway, Seventh Floor, Las Vegas, Nevada

BOARD MEMBERS PRESENT Shari Buck, Chair
Mary Beth Scow, Vice Chair
Sam Bateman
Bob Coffin
Tom Collins
Duncan McCoy
Steve Sisolak

BOARD MEMBERS ABSENT None

STAFF PRESENT Pat Mulroy, John Entsminger, Greg Walch, Rick Holmes, Brian Chally,
Marc Jensen, Catherine Muir

OTHERS PRESENT Members of the SNWA's Youth Advisory Council

Unless otherwise indicated, all members present voted in the affirmative.

COMMENTS BY THE GENERAL PUBLIC

Ed Uehling noted that he sent board members letters regarding items on the agenda. He spoke in opposition to agenda item No. 5 and dissatisfaction with the committee selection process associated with agenda item No. 8.

1. Approval of Agenda & Minutes

FINAL ACTION: A motion was made by Director Sisolak to approve the agenda for this meeting and the minutes of the regular meeting of April 15, 2012, and the special meetings of March 15, 2012, and April 15, 2012. The motion was approved.

2. Receive a presentation from the SNWA Youth Advisory Council and direct staff accordingly.

Members of the Youth Advisory Council presented about their annual activities, which included coordinating an environmental summit for high school students and participating in World Water Day at the Springs Preserve.

NO ACTION REQUIRED

The board formally recessed the meeting at 9:20 a.m. to take pictures with the Youth Advisory Council. The meeting reconvened at 9:23 a.m.

3. Conduct a Public Hearing on the Tentative Budget for the Southern Nevada Water Authority and subsequently adopt a Final Budget for fiscal year 2012/2013.

Chairman Buck opened the public hearing. Ed Uehling suggested the Authority secure additional Colorado River supplies from California farmers, and made remarks related to the Authority's Fiscal Year 2012/2014 budget. Chairman Buck closed the public hearing.

FINAL ACTION: A motion was made by Director Collins to follow staff's recommendation. The motion was approved.

4. Adopt the 2012 Revenue Refunding Bond Resolution, authorizing the issuance of the SNWA Revenue Refunding Bonds, Series 2012, and delegating to the Treasurer of the Authority the ability to fix certain terms and conditions of the sale.

FINAL ACTION: A motion was made by Vice Chair Scow to follow staff's recommendation. The motion was approved.

5. **Approve a two-year lease agreement between Faiss Foley Warren and the Authority for 3,000 square feet of office space in the Molasky Corporate Center in the amount of \$6,000 per month, with an option to extend the lease for additional two-year terms.**

Pat Mulroy reviewed the available space within the Authority's floors of the Molasky building and reminded the board of their recommendation to consider opportunities to rent available space. This lease agreement represents approximately 10 percent of the Authority's vacant office space. Director Sisolak asked if staff performed a cost comparison of comparable office space in the valley. Brian Chally reported that staff conducted an analysis and found the Authority's lease fees comparable to similar office space. Vice Chair Scow asked if the option to extend the lease would be at the existing rate. Mr. Chally responded, noting the rate, if the lease was extended, would be mutually-agreed upon and allows some flexibility should market conditions change.

FINAL ACTION: A motion was made by Director Coffin to follow staff's recommendation. The motion was approved.

6. **Approve Change Order No. 7 to Contract No. 070F 02 C2, Intake No. 3 – Connector Tunnel, for the amount of \$4,988,214, and extend the final completion date by 219 calendar days.**

Marc Jensen reported that the change order takes into account the additional grouting days and associated costs needed to complete the project. He also noted that the other construction bids received for this project included these types of change orders due to the project's challenging scope and size.

Director Sisolak asked if there is any type of measure for reasonable costs associated with the change orders. Mr. Jensen noted that the Authority uses comparisons among similar types of projects, and reported that the Authority utilizes the expertise of an independent consultant to evaluate the reasonableness of construction costs and change orders. Director Coffin noted the unpredictability associated with the project.

FINAL ACTION: A motion was made by Director Coffin to follow staff's recommendation. The motion was approved.

7. **Approve and authorize the General Manager to sign a Programmatic Agreement, in substantially the same form, among the Department of the Interior, Bureau of Land Management, the Nevada State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Authority regarding National Historic Preservation Act Section 106 Compliance for the Groundwater Development Project in Clark, Lincoln, and White Pine Counties, Nevada.**

FINAL ACTION: A motion was made by Director Collins to follow staff's recommendation. The motion was approved.

8. **Make appointments to the Citizens Advisory Committee for integrated resource planning in Southern Nevada.**

Ms. Mulroy reported that to date, the board has appointed the following individuals: Phil Ralston, David Scherer, Virginia Valentine, Tom Burns, John Restrepo, Bob Kasner, Otto Merida, Danny Thompson, Warren Hardy, Jennifer Lewis, Katherine Jacobi, Dwight Jones, Garry Goett, Mike Forman, Kirk Clausen, Bobbi Miracle, Scot Rutledge, Bob Ferraro, Carol Jefferies and Thalia Dondero. Ms. Mulroy noted that a board member was awaiting a call back to make one final appointment to fill the Labor category.

Director Coffin suggested appointing alternates to the committee. Ms. Mulroy explained the challenges with alternates, in that the committee meetings build upon the next; therefore, alternates would have to attend meetings regularly to be able to understand the issues and make educated recommendations. If a committee member is unable to attend, they are typically provided verbatim of the meeting and meets with the facilitator to review the information.

Director Sisolak noted the significant commitment being asked of the committee members and wanted to punctuate the importance of establishing meeting dates ahead of time.

FINAL ACTION: A motion was made by Director Collins to appoint 21 individuals to the Citizens Advisory Committee for integrated resource planning. The motion was approved.

9. **Approve and authorize the General Manager to sign an agreement, in substantially the same form, between CDM Smith, Inc., and the Authority for facilitation services in an amount not to exceed \$125,000.**

Director Sisolak noted his preference of hiring locally.

FINAL ACTION: A motion was made by Director Collins to follow staff's recommendation. The motion was approved.

10. **Receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, the results of the implementation of the Authority's Water Resource and Conservation Plans, activities on the Colorado River, and on the development of in-state water resources.**

John Entsminger, Senior Deputy General Manager, provided the Board with an update. A copy of his presentation is included with these minutes.

NO ACTION REQUIRED

Public Comment

None

Adjournment

There being no further business to come before the board, the meeting adjourned at 10:08 a.m.

APPROVED:

Shari Buck, Chair

Patricia Mulroy, General Manager

Copies of all original agenda items and minutes, including all attachments, are on file in the General Manager's office at the Las Vegas Valley Water District, 1001 South Valley View Boulevard, Las Vegas, Nevada.

WebMaster@snwa.com

05/15/2012 11:37 AM

Please respond to
ross.steven@lv.sysco.com

To contactsnwa@snwa.com

cc

Subj SNWA.com - Contact Us Form
ect

First Name: Steven
Last Name: Ross
Address Line 1: 6201 East Centennial Parkway
Address Line 2:
City: Las Vegas
State: NV
ZIP code: 89115
Phone: (702) 812 - 1099
Email: ross.steven@lv.sysco.com

Message: I cannot attend the meeting on Thursday but I would like to put in a formal complaint regarding the infrastructure surcharge. To have such a high charge on our fire/life safety meters is a crime. We have 5 meters at our facility. 2 of them are 8 inch life /safety which are only used for an emergency. Slight usage for testing. These have the highest surcharge! That should be a crime! These are for emergency use! This needs to go public.

May 16, 2012

Board of Directors
Southern Nevada Water Authority
Las Vegas, Nevada

Re: Agenda Item #8 of the May 17, 2012 Board Meeting—"Citizens' Committee"

Dear Director:

Full disclosure: I made a public request (demand?) at the May 1 LVVWD meeting to serve the next in SNWA's series of Orwellian "Citizens'" Committees, because I was (and am still) convinced that they are handpicked by Pat Mulroy for the purpose of rubber stamping her plans for empire building and because I regarded (and still regard) a diversity of opinion as being not only useful but necessary for such policy bodies. John Entsminger told me that he would inform each of the directors that I was interested in serving. I appreciated that.

Shortly after I was told by one of my "targets" that my appointment to the Committee would be impossible, because "Pat Mulroy would never agree to it", thus confirming my previous impression of how SNWA committees are organized. Next I tried to determine the criteria and procedure by which you Directors would make appointments and was told by 2 administration officials, one of whom is the Director of Misinformation, that the names would be brought by the Directors to the May 17 meeting and the Committee appointed. Both said further that that had been the procedure designed at the April meeting of the Board and that they knew nothing further.

I then was told by a very reliable source that each Director was assigned three categories and had to fit their appointments within the categories to produce the total of 21 people on the Committee. I was then told that the Directors had to submit their three names to Ms. Mulroy and assumed (probably correctly) that this would be the way she, and not the directors, would control the membership. To verify this I called Karen (?) Wilcox, who informed me that I was misinformed and who educated me about true level of built-in chaos that would allow Ms. Mulroy to completely control the names of the people who would be submitted for (rubber stamp--my words) approval at tomorrow's Board meeting. She told me:

1. That clear categories were NOT assigned each Board member.
2. That members could submit more than three names for more than 3 categories.
3. That she would then discuss duplicated categories with the respective Board members who had submitted duplicated appointments until arriving at the elimination of duplicates.
4. That she could not tell me how many names had been submitted, how many appointees were received for any of the categories (with the exception of 2 golf industry candidates for one position) or how many of the Board members had already submitted their names.

5. That she would give me her (Pat Mulroy's) list at or before 9 AM, Thursday (which I regard to be a better bet than the promise of the Director of Misinformation who promised Monday to inform me of the procedure for compiling the list, but who has not called as of 3pm Wednesday. BTW, I requested that he send me a copy of the notice sent to each Director about my interest in serving.

While even I am not so naive as to believe that any or all of the Directors have more than a whimper of a voice in the operations of SNWA, I request that this item be held until a **clear** (i.e., non-chaotic) and **fair** (i.e., not preselected, as in the past, by Ms. Mulroy) process for the selection of the Committee can be articulated by the Board and in a motion, so, at least, I can talk with the actual decision-maker and not waste the time of those who of you who have nothing to do with the appointments of the "two Clark County Residents" and "one senior citizen".

Thank you in advance for considering my request.

Ed Uehling

808-6000

evu2@cox.net

"Liars are basically cowards", Ed Uehling, 2012

May 16, 2012

Board of Directors
Southern Nevada Water Authority
Las Vegas

Re: Agenda of May 17, 2012; general comments

Dear Director:

Based on my unhappy experience of trying to get accurate information from SNWA and LVVWD, I decided to go directly to the 7th floor office on Monday May 14, 2012 to directly request information about Items 3, 4, 5, 8 and 10. A very gracious lady from the office of Pat Mulroy met me in the lobby and immediately referred me to Randall Buie for my questions about the budget and then proclaimed complete ignorance about either of the next two Items on my list (5 and 8), referring me to the "Information Officer".

Ms. Mulroy will undoubtedly be happy to learn that her assistant's proclamations of ignorance and referrals to an office so misnamed that I suspect that it has been taken straight out of Orwell's "1984" caused me to drop my inquiries about Items 4 and 10. While I will discuss Item #4 and my treatment by the budget office at the May 17, meeting, I am submitting separate letters for the two items I have a number of questions about, #5 and #8.

My original concern in even looking at the agenda was that the membership of the so-called "Citizens Committee" would be chosen, as past SNWA "Citizen" Committees, by their propensity to rubber stamp the aspirations and already determined plans, the SNWA administration. My specific questions observations are contained in the separate letter regarding Item #8 as indicated above.

As per the instructions of the very gracious lady, I posed my questions to the "Information" Officer who promised to get the answers. Needless to say I have not even received a phone call, email or message from him. Obviously he is a fine asset to this Orwellian agency and well worth the \$176,000 he received last year and 12% raise in base pay in just 2 years (from 2009 to 2011)—while we in the private sector have watched our salaries and assets DECLINE by more than his percentage INCREASE during the same period! Oh, excuse me, facts like these don't even register on the radar of kleptocracies and kleptocrats.

Ed Uehling

808-6000
evu2@cox.net

May 16, 2012

Board of Directors
Southern Nevada Water Authority
Las Vegas

Re: Agenda item #5, "Lease" of space to Faiss Foley and Warren

Dear Director

When speakers at the February 29 meeting, myself included, suggested that the SNWA lease its vacant space in order to reduce the need for water rate increases, none of us dreamed that our idea would be cynically turned into a gift to some favored private party.

This "lease" puts in black and white the incompetence with which SNWA is run and the incestuous relationships between the supporters of its water and money grabs. Helen Foley, a partner in the "lessee" is a rock solid supporter of every scheme ever imagined. Without talking to them I would suspect that even poverty-line PLAN would be willing to pay \$6000 per month for rent with free electricity, free water, free property taxes, free inclusion in the landlord's insurance policy, free maintenance, free equipment, a free option to lease more space at the lessee's request and without competitive bids, free options to extend for 2 year periods (without defining the number of options), in a building where existing rents have to be much higher and where the market value of the FREE parking alone extrapolates to a value of \$14,000 per month.

The agenda item points out that this same law firm receives payments for contracts with SNWA. That alone should subject this item to very piercing questions and investigations. But in the corrupt world of Patricia Mulroy, who has got to know about this corrupt give-away and dissemblance of public input, and her paid parrots who appear at public hearing without announcing they are on the payroll of SNWA, this is par for the course. At no time have I heard Helen Foley in her public testimony in favor of the water grab disclose that she or her company is paid by the SNWA. The snakes don't just live out on the desert where they will be duly "protected" by the pipeline builders.

I asked the following questions, which I believe pertinent in any lease, much more a complete transfer of public trusts assets to private parties, particularly one that packs more juice than Tropicana, acts so unethically and presents the possibility (likelihood) of personal relationships that could easily be translated into personal financial relationships, with SNWA executive staff.

1. How was the price per square foot determined? What is its relationship to market values? To cap rates related to the cost of purchasing the property?
2. Who else was given a chance to bid on this lease?
3. Can I see the notice published in the newspaper?
4. How else was the lease publicized?

Southern Nevada Water Authority

2012/2013 Fiscal Year Budget Hearing

May 17, 2012

1

Fiscal Year 2012/2013 Budget Process

Key Dates

- April 16 – Tentative Fiscal Year 2012/2013 budget submitted to State
- April 19 – Budget Workshop
- May 17 – Public Hearing
- June 1 – Deadline to file approved Fiscal Year 2012/2013 budget with State

2

Budget Challenges

Southern Nevada's current economic situation continues to trail national conditions.

Source: The Center for Business and Economic Research, UNLV

3

Budget Challenges

Water sales are projected to be below 2001 levels.

Fiscal Year	Water Sales (Acre-feet)
2000	403,639
2001	430,375
2002	429,434
2003	423,326
2004	401,932
2005	444,877
2006	467,802
2007	445,819
2008	430,598
2009	408,807
2010	410,976
2011	296,045
2012/2013 (Budget)	402,084

4

Budget Challenges

Regional connection charges are expected to stay at approximately \$12 million.

5

Fiscal Year 2012/2013 Budget

The Fiscal Year 2012/2013 Budget reflects three key programmatic objectives:

- Maintain a \$10 million funding level for rebates for the Water Smart Landscapes Program
- Continue progress on construction of Intake No. 3
- Complete the Environmental Impact Statement for the Clark, Lincoln and White Pine Counties Groundwater Development Project

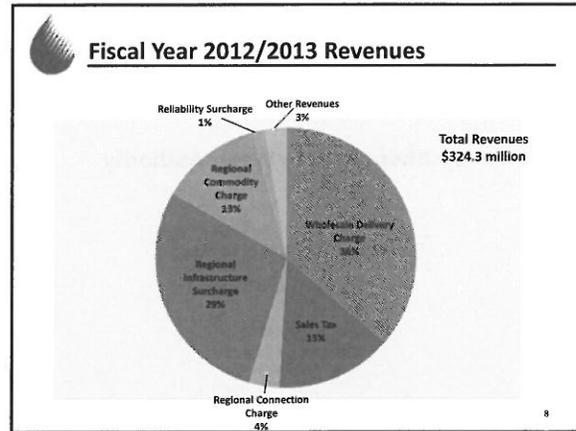
In addition, the organization will continue to pursue process improvements and efficiencies, and reduce and defer costs where possible.

6

Fiscal Year 2012/2013 Revenues

Revenues (in million \$)

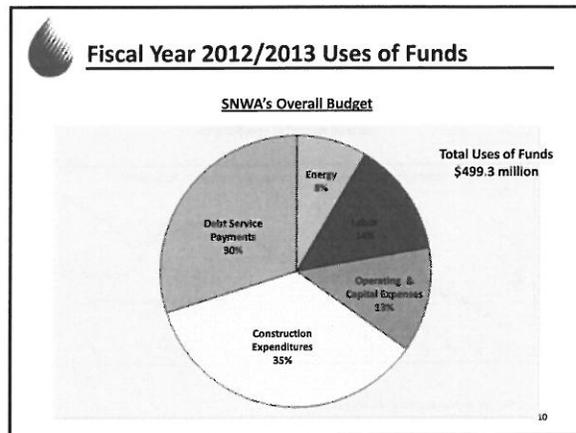
	FY 2012 Budget	FY 2013 Budget	Difference (Under)/Over	% (Under)/Over
Wholesale Delivery Charge	\$123.9	\$117.5	(\$6.4)	-5.2%
Sales Tax	\$43.9	\$47.5	\$3.6	8.3%
Regional Connection Charge	\$7.1	\$12.0	\$4.9	69.2%
Regional Infrastructure Surcharge	-	\$92.9	\$92.9	NA
Regional Commodity Charge	\$41.4	\$40.8	(\$0.6)	-1.5%
Reliability Surcharge	\$4.5	\$4.7	\$0.2	4.3%
All Other Revenues	\$15.7	\$8.8	(\$6.9)	-43.7%
TOTAL REVENUES	\$236.5	\$324.3	\$87.8	37.1%



Fiscal Year 2012/2013 Uses of Funds

Uses of Funds (in million \$)

	FY 2012 Budget	FY 2013 Budget	Difference (Under)/Over	% (Under)/Over
Energy	\$48.2	\$42.5	(\$5.7)	-11.9%
Personnel	\$69.1	\$68.6	(\$0.5)	-0.7%
Operating Expenses	\$63.4	\$62.4	(\$1.0)	-1.6%
Construction Expenditures	\$163.3	\$176.5	\$13.2	8.1%
Debt Service	\$144.2	\$149.3	\$5.1	3.5%
Recharge	\$3.6	-	(\$3.6)	-100.0%
TOTAL USES	\$491.8	\$499.3	\$7.5	1.5%



Wholesale Delivery Charge

- In May 2011, the SNWA Board approved a Wholesale Delivery Charge of \$10.
- The factors driving a three-year increase of \$10 per year have changed.
 - Lower than expected debt costs for the Silverhawk Generating Station
 - Refunding of SNWS debt softened the spike in FY 2013/2014.
- The recommendation by member agency staff is to forgo a FY 2012/2013 increase (the rate will remain at \$293 per acre-foot).

Wholesale Delivery Charge

Beginning Balance (July 1, 2012)	\$ 20.6
Sources of Funds	
Wholesale Delivery Charge	\$ 117.5
Interest Income	0.1
LV Wash Program Fees	(0.3)
Other Revenues	0.3
Total Sources of Funds	\$ 117.6
Uses of Funds	
Energy	\$ 39.3
Payroll	35.6
Operating Capital and Expenses	24.7
Debt Service	13.5
Total Uses of Funds	\$ 113.2
Fiscal Year Net Change	\$ 4.4
Ending Balance (June 30, 2013)	\$ 25.0

Amounts may be slightly off due to rounding.

New Expansion Debt Service and MCCP

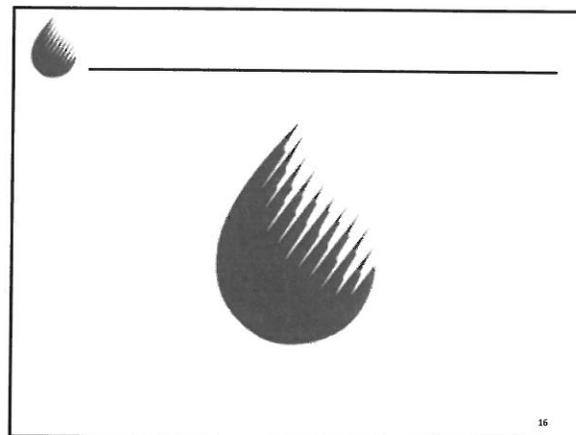
	Major Construction and Capital Costs	Net Expansion Debt Service
Beginning Balance (July 1, 2011)	\$ 203.4	\$ 203.4
Total Proceeds	201.0	-
Expenditure of Capital and Loan	(28.4)	(28.2)
Balance after Transactions	224.4	288.0
Sources of Funds:		
Interest Income	\$ 0.0	\$ 0.0
Infrastructure Charge	91.9	91.9
State Tax	42.2	42.2
Regional Commission Charge	48.0	48.0
Regional Commission Charge	12.0	12.0
California surcharge	4.4	4.4
Other Revenues	4.3	4.3
Interfund Loans	-	(3.2)
Total Sources of Funds	\$ 202.8	\$ 288.0
Uses of Funds:		
Cap. Cost Expenditures	\$ 148.7	\$ -
Operating Capital and Expenses	27.5	4.6
Payroll	9.8	11.9
Repair	2.2	-
Debt Service	-	124.8
Total Uses of Funds	\$ 188.2	\$ 147.3
Fiscal Year Net Change	\$ 36.2	\$ 140.7
Ending Balance (June 30, 2012)	\$ 240.6	\$ 429.1

Groundwater Management Program and Las Vegas Wash

	Las Vegas Valley Groundwater Management Program	Las Vegas Wash
Beginning Balance (July 1, 2012)	\$ 1.1	\$ 0.8
Sources of Funds:		
Groundwater Program Fees	\$ 0.9	\$ -
Interfund Loans	-	5.1
Sales Tax	-	3.1
Other Revenues	-	1.1
LV Wash Program Fees	-	0.8
Total Sources of Funds	\$ 0.9	\$ 10.1
Uses of Funds:		
Operating Capital and Expenses	\$ 0.6	\$ 1.5
Payroll	0.4	1.6
Cap. Cost Expenditures	-	-
Total Uses of Funds	\$ 1.0	\$ 3.1
Fiscal Year Net Change	\$ (0.1)	\$ 7.0
Ending Balance (June 30, 2012)	\$ 1.0	\$ 7.8

Fiscal Year 2012/2013 Summary

	2012		2013		2012/2013	%
	Actual	Budget	Actual	Budget		
Beginning Balance (July 1, 2012)	\$ 240.6	\$ 240.6	\$ 240.6	\$ 240.6		
Total Proceeds	-	-	288.0	-	288.0	120.0%
Expenditure of Capital and Loan	(28.4)	(28.4)	(28.2)	(28.2)	(28.2)	(11.7%)
Balance after Transactions	224.4	224.4	289.8	212.4	66.4	29.6%
Sources of Funds:						
Interest Income	0.0	0.0	0.0	0.0	0.0	0.0%
Infrastructure Charge	91.9	91.9	91.9	91.9	0.0	0.0%
State Tax	42.2	42.2	42.2	42.2	0.0	0.0%
Regional Commission Charge	48.0	48.0	48.0	48.0	0.0	0.0%
Regional Commission Charge	12.0	12.0	12.0	12.0	0.0	0.0%
California surcharge	4.4	4.4	4.4	4.4	0.0	0.0%
Other Revenues	4.3	4.3	4.3	4.3	0.0	0.0%
Interfund Loans	-	-	(3.2)	-	(3.2)	(7.4%)
Total Sources of Funds	202.8	202.8	288.0	212.4	85.2	42.0%
Uses of Funds:						
Cap. Cost Expenditures	148.7	148.7	148.7	148.7	0.0	0.0%
Operating Capital and Expenses	27.5	27.5	27.5	27.5	0.0	0.0%
Payroll	9.8	9.8	11.9	11.9	2.1	21.4%
Repair	2.2	2.2	-	-	(2.2)	(100.0%)
Debt Service	-	-	124.8	-	124.8	>100.0%
Total Uses of Funds	188.2	188.2	289.8	188.2	101.6	53.9%
Fiscal Year Net Change	36.2	36.2	99.0	24.2	74.8	207.2%
Ending Balance (June 30, 2013)	240.6	240.6	348.8	236.6	108.2	45.0%



- ### Organizational Response
- The SNWA has deferred and cut costs to reduce customer impacts.
 - Operational Costs** – Reductions have totaled more than **\$56 million**. Since 2009, the SNWA has reduced workforce expenditures by \$26 million (25 percent) and reduced staff by 226 employees.
 - Capital Costs** – Deferred more than **\$395 million** in capital projects.
 - Water Smart Landscapes Program** – Financing strategies will defer approximately **\$57 million**.
 - Arizona Water Banking** – Modification to the payment schedule will provide approximately **\$125 million** in cash relief through 2014.
 - Virgin and Muddy River Leases** – Extended expiring lease agreements at a lower cost, saving approximately **\$4.73 million**.
 - Debt Refinancing** – Refinancing activity is providing approximately **\$103 million** in cash-flow relief through the 2011/2012 fiscal year. An additional **\$191 million** in cash-flow relief will be realized in future years.

SOUTHERN NEVADA WATER AUTHORITY

Update on Drought Conditions and Water Use

May 17, 2012

Seasonal Drought Outlook

(Valid May – July 2012)

KEY:

- Drought to persist or intensify
- ▒ Drought ending, some improvement
- ░ Drought likely to improve, much less severe
- Drought development likely

No Drought Potential

Source: National Oceanic Atmospheric Administration and the U.S. Department of Commerce

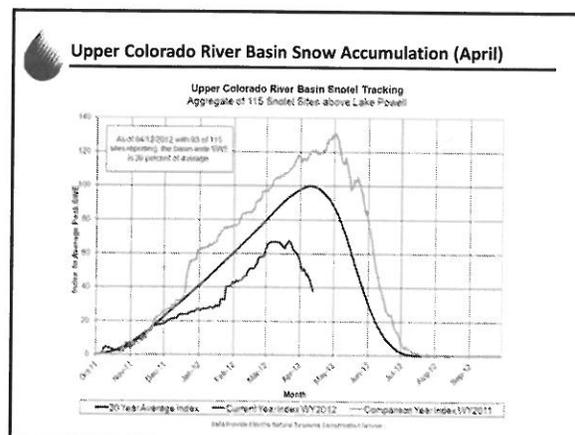
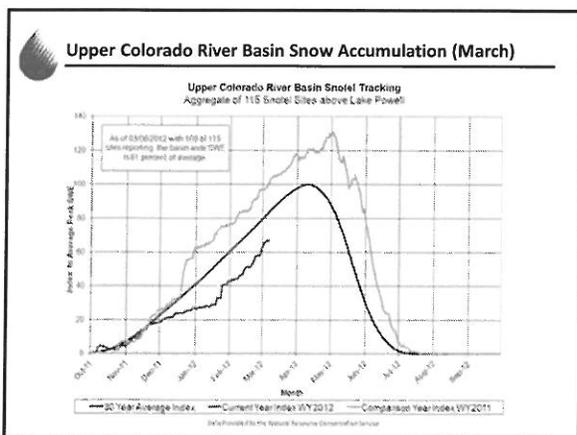
Colorado River Basin Conditions

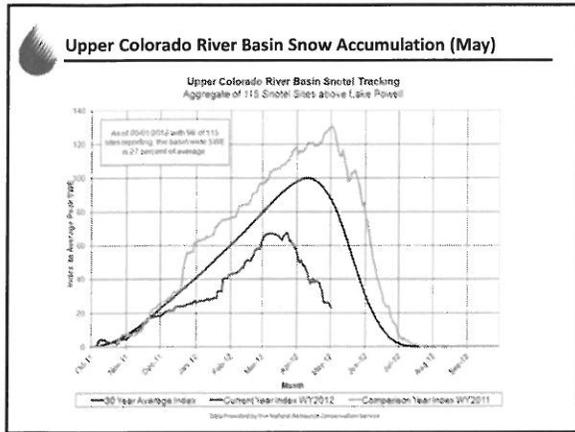
- April inflow to Lake Powell: 72% of average
- Snow pack: 16% of average
- Water Year 2012 Precipitation: 74% of average
- Forecasted Water Year 2012 Inflow to Lake Powell: 51% of average

Seasonal Precipitation, October 2011 - April 2012
Average Percent of Average

National Oceanic and Atmospheric Administration (NOAA)

- April 2012 was the third warmest on record
- April snow cover was the third smallest on record
- January – April 2012 was the warmest such period on record
- May 2011 – April 2012 was
 - the second hottest summer;
 - the fourth warmest winter;
 - the warmest March; and
 - the warmest consecutive 12-month period for the contiguous United States in recorded history

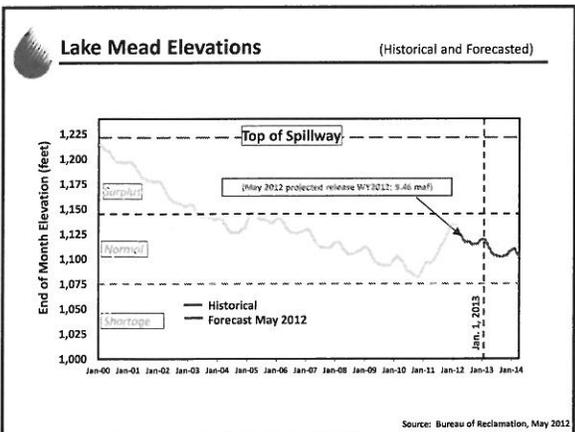
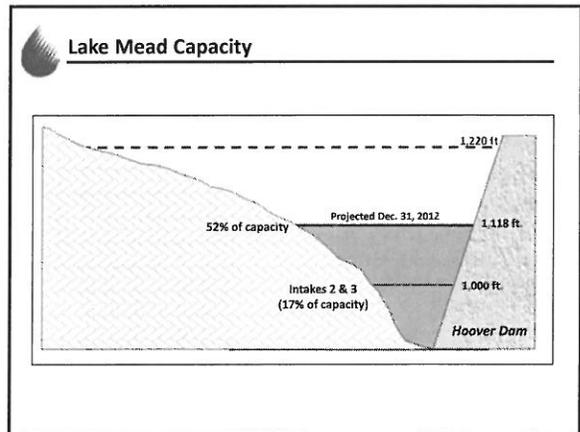
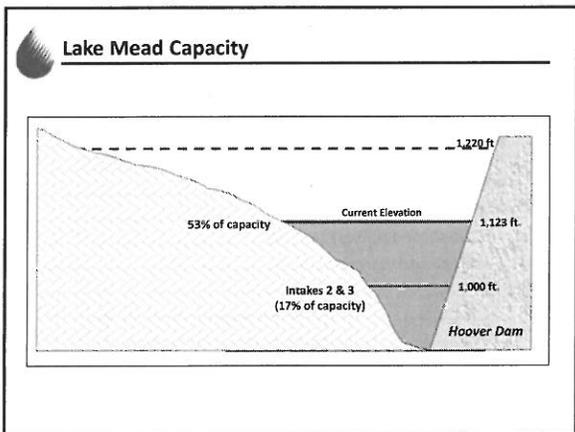




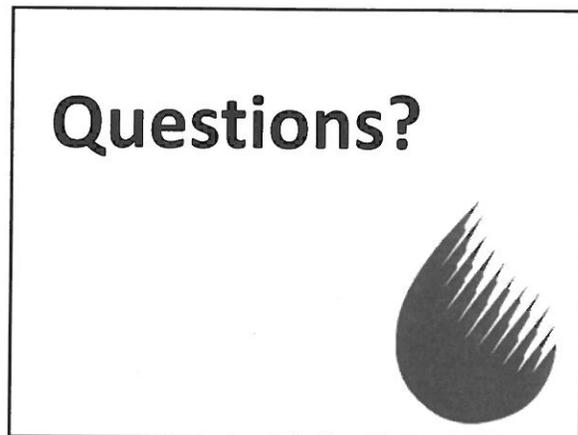
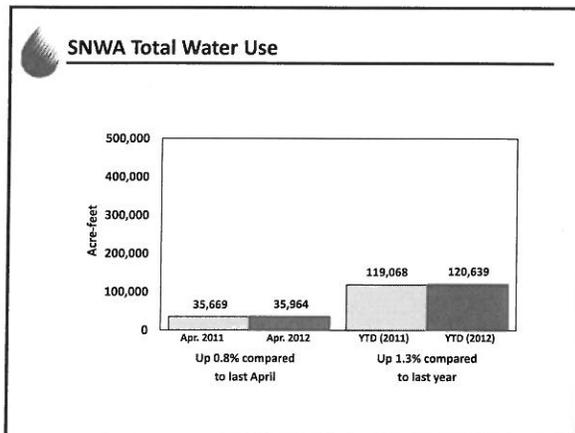
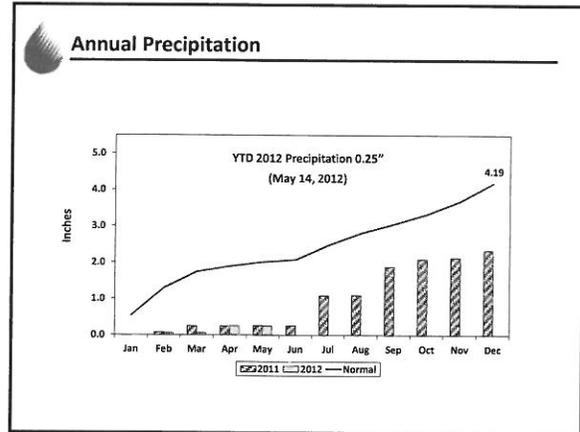
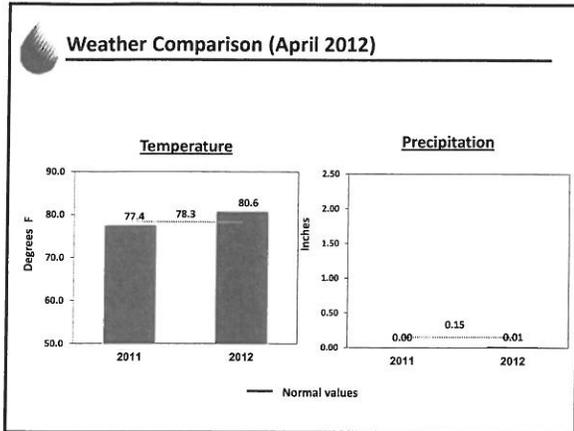
Precipitation and Inflow Forecast – Lake Powell

Month	2011 Water Year		2012 Water Year	
	Actual Precipitation	Inflows Forecast	Actual Precipitation	Inflows Forecast
Jan	140%	110%	75%	79%
Feb	127%	105%	84%	78%
Mar	119%	105%	86%	80%
Apr	118%	111%	78%	63%
May	125%	128%	74%	51%
Jun	126%	138%		
Jul	128%	139%		
Aug	125%	142%		
Sept	123%	140%		
Actual	120%	139%		

Source: Bureau of Reclamation, Lower Colorado Water Supply Reports



SNWA Water Use



**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Amendment	Director's Backup
Petitioner: Philip D. Speight, Deputy General Manager Administration	
Recommendations: That the Board of Directors approve an amendment to the existing agreement between Katz & Associates, Inc., and the Authority to continue providing support services for the SNWA Major Construction and Capital Plan and the Las Vegas Wash Capital Improvement Program, which reduces the contract not-to-exceed amount to \$254,400 and provides the option to extend the agreement for two additional one-year periods.	

Fiscal Impact:

If the above recommendation is approved, the \$254,400 will be added to the construction fund commitments. Additional money for the construction fund will be provided as needed according to the Authority's Capital Funding Plan.

Background:

Katz & Associates, Inc. (K&A), has extensive experience in developing strategic outreach and services related to major construction and engineering programs. The Board of Directors has previously approved a program support services agreement with K&A for the Treatment and Transmission Facility (TTF) project. The TTF evolved into the SNWA Capital Improvements Program and, in 2010, merged with the SNWA Major Construction and Capital Plan. If approved, K&A will continue support of the Authority's capital program and its water supply and quality issues. The requested amendment will permit work by K&A to proceed for a 12-month period through approximately June 30, 2013, with an option for two one-year renewal periods. The amendment also reduces the not-to-exceed amount, previously \$662,550, by more than 60 percent to \$254,400. Due to the Authority's reduction in major construction activities, K&A has reduced its Authority-dedicated staff.

Among the activities that will be funded during this period are the construction relations for all projects under the Authority, coordination of public involvement efforts required for obtaining use permits, rights of way and zoning activities, related interactions with residents and the impacted public, media relations, general community relations support, and as-needed overall support to the SNWA public information efforts.

This amendment is being entered into pursuant to NRS 332.115(b) and Section 6 of the 1995 Amended Cooperative Agreement. The office of General Counsel has reviewed and approved this amendment.

Respectfully submitted:


 Patricia Mulroy, General Manager
 PM:PDS:JAW:SH:JD:BLM
 Attachments

AGENDA ITEM #	2
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DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
Business Designation Group						
<input type="checkbox"/> MBE	<input checked="" type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/>	<input type="checkbox"/>	
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise			
Corporate/Business Entity Name:		Katz & Associates, Inc.				
(Include d.b.a., if applicable)						
Street Address:		4250 Executive Square #670		Website: katzandassociates.com		
City, State and Zip Code:		San Diego, CA 92037		POC Name and Email: robin.rockey@snwa.com		
Telephone No:		858-452-0031		Fax No: 858-552-8437		
Local Street Address:		100 City Parkway #700		Website:		
City, State and Zip Code:		Las Vegas, NV 89106		Local Fax No: 702-822-3399		
Local Telephone No:		702-862-3405		Local POC Name Email: robin.rockey@snwa.com		
Number of Clark County, Nevada Residents Employed: 1						

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the LVVWD Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Sara M. Katz	Owner and President	100 PERCENT

This section is not required for publicly-traded corporations.

1. Are any individual members, partners, owners or principals, involved in the business entity, an LVVWD full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please note that LVVWD employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)

2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an LVVWD full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the LVVWD will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

Robin Rockey
Signature
Senior Director
Title

Robin Rockey
Print Name
6/6/12
Date

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF LVVWD EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO LVVWD EMPLOYEE OR OFFICIAL	LVVWD EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A			

“Consanguinity” is a relationship by blood. “Affinity” is a relationship by marriage.

“To the second degree of consanguinity” applies to the candidate’s first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For LVVWD Use Only:

If any Disclosure of Relationship is noted above, please complete the following:

- Yes No Is the LVVWD employee(s) noted above involved in the contracting/selection process for this particular agenda item?
- Yes No Is the LVVWD employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

Signature

Print Name
Authorized Department Representative

AMENDMENT OF AGREEMENT/WORK AUTHORIZATION			
AMENDMENT/CHANGE NO.		AGREEMENT OR WORK AUTHORIZATION NO.	
A006		SNWA94-C-0004	
Amendment : Change 9		EFFECTIVE DATE: July 1, 2012	
Name and Address of Contractor: Katz and Associates, Inc. 100 City Parkway Suite 700 Las Vegas, NV 89106		ISSUED BY: Southern Nevada Water Authority 1001 South Valley View Boulevard Las Vegas, NV 89153	
CONTRACTOR IS : IS NOT REQUIRED TO SIGN AND RETURN TO ISSUING OFFICE.			
DESCRIPTION OF AMENDMENT/CHANGE: Changes are as stated on attached Description of Amendment/Change. Except as provided herein, all terms and conditions of the document referenced above, as heretofore changed, remains unchanged and in full force and effect.			
AMOUNT OF AMENDMENT/CHANGE Not to Exceed \$254,400.00		IF REVISED, COMPLETION DATE N/A	
APPROPRIATION DATA:			
Charles K. Hauser, Legal Counsel		Date	
NAME & TITLE OF SIGNER (Type or Print)		NAME & TITLE OF AUTHORITY OFFICIAL (Type or Print)	
SIGNATURE OF PERSON AUTHORIZED TO SIGN		AUTHORITY OFFICIAL	
DATE		DATE	

EXHIBIT A
WITH KATZ & ASSOCIATES, INC.
FOR PUBLIC INFORMATION SERVICES
DESCRIPTION OF AMENDMENT/CHANGE

A. **DESCRIPTION OF THE CHANGE** -- Funds are being added to the Agreement to support activities through approximately June 30, 2013, with two one-year contract renewal options.

B. **PROGRAM SUPPORT SERVICES SCOPE OF WORK** -- Attached to the Agreement, shall be replaced in its entirety by Exhibit B which is attached hereto and replaces the general scope of work for the Agreement.

C. **WORK AUTHORIZATION AND FISCAL APPLICATIONS** -- Attached to the Agreement, is changed as follows:

a. **Section 2, Fiscal Applications**

(A) **Labor Costs** is changed as follows:

-Total Labor costs for July 2012 through June 2013 will be in an amount not to exceed \$249,600 (Exhibit C).

(B) **Other Direct Costs** not to exceed \$4,800, attached to the Agreement, shall be replaced in its entirety by Exhibit C, which is attached hereto and replaces the Other Reimbursable Direct Costs for the Agreement.

EXHIBIT B

Scope of Work
July 1, 2012 – June 30, 2013

1) The following activities and description of services will be applied as needed to the projects and efforts of the SNWA Major Construction and Capital Plan and the Las Vegas Wash Capital Improvements Plan, including the Lake Mead Intake No. 3 project. Scope activities will also be applied as needed to any design and construction efforts for the Groundwater Development Project.

Program Management Support

Participate in on-going management and team planning meetings to provide information, lend strategy and support; provide community relations guidance for active projects; attend management and strategy meetings as appropriate, provide public information element and editing support to program management and construction management teams. Provide direct flow of information and daily project reports to management and peripheral project team.

Community Relations

Coordinate community presentations and informational meetings; respond to and resolve community phone calls and concerns; serve as liaison to public regarding all planning, investigation and construction activities; serve as liaison to the National Park Service to provide information to visitors and resolve public and/or park issues relating to Intake No. 3.

Agency Relations/Public Affairs

Assist with the maintenance of positive and open relationships with member agencies; seek opportunities for positive community relations equally among all member agencies; as project liaison, evaluate and accommodate all requests for project information, site visits and tours; act as project liaison with the National Park Service, Bureau of Reclamation and other agencies to alert about construction issues, permitting issues, tours and site visits, construction material and equipment deliveries and all other project related issues.

Media Relations

Accommodate and seek opportunities in high-profile engineering/design trade media for positive coverage of projects and efforts. Coordinate site visits and media tours with the contractor and construction management staff; serve as liaison with the media in tandem with member agency efforts; respond to media inquiries; write and release information to the media; coordinate media interviews and conduct follow-up; properly brief spokespeople prior to interview; coordinate, manage and communicate to all team members a media and crisis communication strategy for on-site construction activities; evaluate frequent media inquiries for value and present to management and contractor as necessary.

Construction Relations

Serve as liaison to the community; produce materials and presentations to explain project purpose and schedule; coordinate all necessary and required public noticing; provide direct interface with the public and affected citizens and business owners; communicate frequently and participate weekly with construction team and contractor to stay apprised of activities and informed about potential public impact; guide and strategize with construction team to

minimize public impact; participate in pre-bid and pre-construction meetings to promote and maintain strong public information role in project success; immediately resolve public complaints; participate in partnering sessions with project team; coordinate special events such as groundbreakings, media tours, VIP site visits, ribbon cuttings, open houses, etc.

Recognition, Appreciation, Milestone Acknowledgement

Further team goals and contractor partnering objectives by coordinating occasional recognition and appreciation events; support project pride by recognizing safety achievements and other milestone activities; seek opportunities for trade organization awards for safety, engineering, design, overall project success; recognize significant project safety and production milestones. Apply for and secure industry awards for project excellence.

Video, Photography and Graphics

Continue to act as direct liaison with film production vendor for Lake Mead Intake No. 3 documentary, providing access and coordinating shoots, script and production assistance on behalf of SNWA; photograph all construction projects frequently and provide all photos on shared network drives for use by all SNWA; provide graphics for posters, invitations, announcements, postcards, fact sheets, educational materials, project signs, etc.; prepare Powerpoint presentations, presentation boards and other graphics as needed for presentations, site visits and events.

2) SNWA General Support

As directed by the Client, the following services will be provided on issues/subjects including water quality, education, event support, brochures and pamphlets, videos, media relations, etc.

SNWA Operations Liaison

Provide support and community outreach to SNWA Operations (Southern Nevada Water System) for shutdowns, seasonal planning meetings and general project liaison opportunities.

Strategic Planning

Participate in on-going management and planning meetings to stay apprised of SNWA program developments; provide public affairs/community relations/media relations guidance for program development; attend project/committee meetings.

Community Relations

Coordinate community presentations and workshops on topics identified by the Client; assist with development and support of community education, school and speakers' bureau programs; support development of public education opportunities and public services and programs; develop support material as needed; write and produce brochures, fact sheets and pamphlets as needed to support outreach activities and program goals.

Media Relations

Identify opportunities for stories and article placement in national, trade and industry publications on issues identified by Client; shooting, editing, scripting video news releases and other media-related video materials.

Videos and Other Production

Write, shoot, edit and produce videos as assigned; provide reporting, site logistics, question list and other coordination support as needed for Water Ways production.

As Needed SNWA Support Services

Coordinate with Client to provide as-needed agency support services such as construction relations, conservation effort support, meeting services, materials review and development, events management and support, water resource centers, and school and joint venture programs.

EXHIBIT C
Katz & Associates, Inc.

Labor Costs and Rates

Hourly Rates

Principal	\$ 190
Professional	\$ 140
Account Assistant	\$ 90
Clerical	\$ 40

Total Labor Not-to-Exceed (June 1, 2012 to May 31, 2013) **\$249,600**

Other Direct Costs

Incidental project costs related to photography, events, telephone, supplies and postage.

Estimate \$400/month

Total Direct Costs Not-To-Exceed (June 1, 2012 – May 31, 2013) **\$4,800.00**

Total Overall Contract Cost: \$254,400

SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM

June 21, 2012

Subject: Agreement	Director's Backup
Petitioner: Richard B. Holmes, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve a subgrant agreement between the Nevada Division of Environmental Protection and the Authority to accept grant funding in the amount of \$105,265 for regional water quality activities and related public outreach initiatives.	

Fiscal Impact:

The Authority will be reimbursed \$105,265 by the Nevada Division of Environmental Protection toward costs associated with the implementation of these projects.

Background:

In November 2011, the Nevada Division of Environmental Protection approved the Authority's request for \$105,265 in Clean Water Act funding to support ongoing water quality and non-point source pollution reduction initiatives in southern Nevada. If approved, this agreement will fully or partially fund major water-quality endeavors, such as the Fall 2012 and Spring 2013 "Green-Up" events at the Las Vegas Wash, and costs associated with management of the Lower Colorado River Water Quality Database.

This subgrant application was submitted in partnership with the Clark County Regional Flood Control District (Regional Flood) and the Conservation District of Southern Nevada (Conservation District) to also support those agencies' related public outreach initiatives. Total funds in the amount of \$23,765 will be distributed to Regional Flood and the Conservation District (\$10,000 and \$13,765, respectively) for approved project components.

This agreement is being entered into pursuant to NRS 277.180. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:



Patricia Mulroy, General Manager
PM:RH:JAW:AMB:DB:kf
Attachment

AGENDA ITEM #

3

SUBGRANT AGREEMENT

A Subgrant awarded by:

Department of Conservation and Natural Resources, Division of Environmental Protection
901 S. Stewart Street, Carson City, NV 89701-5249
Phone: (775) 687-4670 Fax: (775) 687-5856

and awarded to Subgrantee:

Southern Nevada Water Authority (SNWA)
hereinafter the "Subgrantee"
1001 South Valley View Boulevard
Las Vegas, NV 89153
702-258-3173

WHEREAS, 40 CFR Part 31.37, NRS 445A.265 and NRS 445A.450 authorize the Division of Environmental Protection to award subgrants of federal financial assistance to local governments for the purposes set forth in authorizing statutes; and

WHEREAS, it is deemed that the project purposes hereinafter set forth are consistent with the federal grant agreement that provides support of the subgrant;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Subgrant shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. SUBGRANT TERM. This Subgrant shall be effective from Nevada Division of Environmental Protection Administrator's approval to December 31, 2013, unless sooner terminated by either party as set forth in this Subgrant.
4. TERMINATION. This Subgrant may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Subgrant may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Subgrant shall be terminated immediately if for any reason State and/or federal funding ability to satisfy this Subgrant is withdrawn, limited, or impaired.
5. NOTICE. All notices or other communications required or permitted to be given under this Subgrant shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Subgrant incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK (consisting of 13 pages)

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS (consisting of 3 pages)

ATTACHMENT C: THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS (consisting of 1 page)

7. CONSIDERATION. Subgrantee agrees to provide the services set forth in paragraph (6) at a cost of \$N/A per N/A with the total Subgrant or installments payable: Quarterly not exceeding \$105,265.00. In addition, the State does not agree to reimburse Subgrantee for expenses unless otherwise specified in the incorporated documents. Any intervening end to an annual or biennial appropriation period shall be deemed an automatic renewal (not changing the overall Subgrant term) or a termination as the results of legislative appropriation may require.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Subgrant are also specifically a part of this Subgrant and are limited only by their respective order of precedence and any limitations expressly provided.

9. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the other party, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with any applicable regulations and statutes.

b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the other party, the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. Period of Retention. All books, records, reports, and statements relevant to this Subgrant must be retained by each party for a minimum of three years from the date of final payment by the State to the Subgrantee, and all other pending matters are closed. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Subgrant shall be deemed a breach. Except as otherwise provided for by law or this Subgrant, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages. If the court awards reasonable attorney's fees to the prevailing party, reasonable shall be deemed \$125 per hour.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Subgrant liability of both parties shall not be subject to punitive damages. To the extent applicable, actual Subgrant damages for any breach shall be limited by NRS 353.260 and NRS 354.626.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Subgrant if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Subgrant after the intervening cause ceases.

13. INDEMNIFICATION. Neither party waives any right or defense to indemnification that may exist in law or equity.

14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Subgrant, and in respect to performance of services pursuant to this Subgrant, each party is and shall be a Subgrantee separate and distinct from the other party and, subject only to the terms of this Subgrant, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Subgrant. Nothing contained in this Subgrant shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Subgrant or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach

16. SEVERABILITY. If any provision contained in this Subgrant is held to be unenforceable by a court of law or equity, this Subgrant shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Subgrant unenforceable.
17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Subgrant without the prior written consent of the other party.
18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law or this Subgrant, any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Subgrant), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Subgrant shall be the joint property of both parties.
19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Subgrant.
21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Subgrant on behalf of each party has full power and authority to enter into this Subgrant and that the parties are authorized by law to perform the services set forth in paragraph (6).
22. GOVERNING LAW; JURISDICTION. This Subgrant and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Subgrant.
23. ENTIRE AGREEMENT AND MODIFICATION. This Subgrant and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Subgrant specifically displays a mutual intent to amend a particular part of this Subgrant, general conflicts in language between any such attachment and this Subgrant shall be construed consistent with the terms of this Subgrant. Unless otherwise expressly authorized by the terms of this Subgrant, no modification or amendment to this Subgrant shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Subgrant to be signed and intend to be legally bound thereby.

SUBGRANTEE

By: _____
Signature – Southern Nevada Water Authority

Name: Patricia Mulroy

Title: General Manager **Date:** _____

DIVISION

By: _____
Signature

Name: Colleen Cripps, Ph.D.

Title: Administrator **Date:** _____

BUREAU

By: _____
Signature

Name: Sondra L. Neudauer

Title: Contract Manager **Date:** _____

Subgrant Control Number: DEP-S 12-020
Grant Number: I97933611, Division Number: 02, Grant Expiration Date: 06/30/15
Grant Number: C9-97908112, Division Number: 98, Grant Expiration Date: 09/30/16
CFDA Number: 66.419, CFDA Number: 66.460

ATTACHMENT "A"
Scope of Work and Budget
Initiatives to Reduce NPS Pollution in Southern Nevada, 2012

SUBGRANTEE ORGANIZATION: Southern Nevada Water Authority (SNWA)
DUNS#: 135965650

PROJECT BUDGET PROJECTION:

319(h) funds awarded	\$55,265.00
106 funds awarded	\$50,000.00
Total amount of non-federal match funds	<u>\$106,545.00</u>
Total Project Cost	\$211,810.00

SUBGRANTEE CONTACT PERSONS: Kathy Flanagan,
Assistant Management Analyst

MAILING ADDRESS: Southern Nevada Water Authority
1001 South Valley View Boulevard
Las Vegas, NV 89153
PHONE NUMBER: 702-258-3173
E-MAIL: kathy.flanagan@snwa.com

NDEP CONTACT PERSONS:

CONTRACT COORDINATOR: Jon Paul Kiel
Environmental Scientist
PHONE NUMBER: (775) 687-9558
E-MAIL: jpkiel@ndep.nv.gov

NDEP CONTRACT MANAGER: Sondra Neudauer
Management Analyst
PHONE NUMBER: (775) 687-9452
E-MAIL: sneudauer@ndep.nv.gov

NDEP MAILING ADDRESS: Nevada Division of Environmental Protection
Bureau of Water Quality Planning
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

Project Location: USGS Hydrographic Region: Colorado River/Las Vegas Wash
Clark County
8-Digit USGS HUCs: 15010005 Lake Mead
15010010 Lower Virgin
15010012 Muddy
15010015 Las Vegas Wash

Subgrant Term: NDEP Subgrant Approval – December 31, 2013

Project Summary

Project funding will be used to implement objectives of the Las Vegas Wash Comprehensive Adaptive Management Plan (CAMP) and Lake Mead Water Quality Forum. These objectives include revegetation, erosion control, water quality improvement, and public education and outreach efforts. Specific tasks identified for funding include (1) water quality data management program; (2) implementation of two Wash “Green-Up” events; (3) run a variety of stormwater public service announcements all with the shared theme of non-point source pollution prevention; (4) Mabel Hoggard Math and Science Magnet School field trips for elementary students; and (5) implementation of a stormwater pollution poster contest.

Project Partners

The Southern Nevada Water Authority (SNWA) is the lead agency on this project and will coordinate with the Lake Mead Water Quality Forum and the Las Vegas Wash Coordination Committee. Elements of this project will be performed by the Clark County Regional Flood Control District and the Conservation District of Southern Nevada.

The Lake Mead Water Quality Forum members include: Colorado River Commission, Nevada Division of Environmental Protection, Nevada State Health Division, Nevada Department of Wildlife, University of Nevada System, Clark County Department of Comprehensive Planning, Clark County Department of Parks & Recreation, Clark County Health District, Clark County Regional Flood Control District, Clark County Water Reclamation District, City of Henderson, City of Las Vegas, City of North Las Vegas, Southern Nevada Water Authority, U.S. EPA, U.S. Fish & Wildlife Service, U.S. Geological Survey, National Park Service, U.S. Natural Resources Conservation Service, U.S. Bureau of Reclamation, and Clean Water Coalition.

Partners of the Las Vegas Wash Coordination Committee include: Clark County, Clark County Regional Flood Control District, City of Henderson, City of Las Vegas, City of North Las Vegas, Clark County Water Reclamation District, Clark County Department of Comprehensive Planning, CC Department of Parks and Recreation, Southern Nevada Health District, Lake Las Vegas Resort, Las Vegas Boat Harbor, Water Quality Citizens

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

Advisory Committee (3), Desert Wetlands Conservancy, University of Nevada – Las Vegas, Nevada Department of Wildlife, Nevada State Health Division, Conservation District of Southern Nevada, Colorado River Commission, National Park Service, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, U.S. Environmental Protection Agency, U.S. Fish & Wildlife Service, U.S. Geological Survey, Natural Resource Conservation Service, the Clean Water Coalition, Basic Management Inc.

I. Introduction

In 1997, the SNWA convened the Water Quality Citizens Advisory Committee to address water quality issues affecting Lake Mead. After several months of discussion, the Advisory Committee recommended the development of a management plan for the Las Vegas Wash (Wash) and the formation of an inter-agency management entity to oversee these activities. Based on these recommendations, the Las Vegas Wash Coordination Committee was established in 1998.

The Coordination Committee is comprised of representatives from 30 different federal, state and local agencies, as well as representatives from local businesses and environmental groups. A primary objective in forming this group was to ensure that all relevant and interested stakeholders have a voice in the long-term management and restoration of the Wash. The Coordination Committee completed the CAMP in January 2000 and identified 44 recommendations for restoring the health and water quality of the Wash. Objectives of the CAMP include the construction of erosion control structures and revegetation of wetlands habitat, while involving the public via education/outreach programs, in order to improve water quality in Lake Mead, the primary source of drinking water for Southern Nevada.

The plan was certified by the U.S. Environmental Protection Agency (USEPA) as meeting the nine required elements of a watershed plan. The Wash has also been identified by the USEPA as a Category I Priority Watershed under the 1998 Unified Watershed Assessment and is included on the Nevada 2004 303(d) List for iron. All tasks included in this project proposal implement or support components of the CAMP.

Over the past decade, significant progress has been made in stabilizing the Wash. Implementing CAMP recommendations have helped to reduce erosion, while increasing sedimentation and wetlands habitat, improving downstream water quality. Public education and other outreach efforts have contributed by increasing awareness and fostering a sense of community in the effort to reduce non-point source pollution and restore the Wash.

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

Also in 1997, in response to growing concerns over water quality issues in Lake Mead and the Las Vegas Wash, the Nevada Division of Environmental Protection created the Lake Mead Water Quality Forum to support the protection of human health and the environment, and to preserve and improve the water quality of the Las Vegas Wash, Las Vegas Bay and Lake Mead.

Objectives of the Lake Mead Water Quality Forum include identifying issues regarding the water quality of the Las Vegas Wash, Las Vegas Bay, and the Nevada portions of Lake Mead and the public water supply from Lake Mead. The purpose of the forum is to build consensus and share information between the signatories, coordinate study efforts, provide technical updates and disseminate information to the public.

The Water Quality Data Management Program supports the objectives of the CAMP and the Lake Mead Water Quality Forum by allowing users to record and retrieve regional water quality data; potential customers such as the Metropolitan Water District of Southern California and the Colorado River Regional Sewer Coalition have expressed interest in joining the Lake Mead Water Quality Forum and making their respective data sets available through the data management program. The Water Quality Data Management Program, which this proposal seeks to fund, is critical to the success of these regional water quality initiatives. Among a number of tasks, the program maintains and manages regional water quality data, assists in acquiring and uploading new data, conducts quality assurance checks on the data management program to prevent errors and improve data quality, and generates color Surfer graphs to show long-term trends in water quality at weekly sampling stations in Boulder Basin. This program also works with partner agencies to identify data on paper records that has not been updated to digital, and transition those records to a digital format to further enhance customers' access to water quality data in the region.

Other elements of this proposal further regional water quality and non-point source pollution reduction initiatives by stabilizing the Wash through the restoration of wetland habitat at "Wash Green-up" events; airing two public service announcements to be implemented by the Clark County Regional Flood Control District; continue to implement and expand work with the Mabel Hoggard Math and Science Magnet School bringing elementary students to the Wash to learn about water quality, wetlands, the complexity of biological communities, and the importance of resource stewardship; and conducting a stormwater pollution poster contest in cooperation with the Conservation District of Southern Nevada.

Attachment "A"

Subgrant Control Number: DEP S 12-020

BWQP UPI: CO-WQ-S-12-020-LO

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II. Scope of Work

Goal #1. Improve water quality in the Las Vegas Wash and Las Vegas Bay of Lake Mead to meet water quality standards for the support of beneficial uses.

Objective 1.a. Stabilize the Las Vegas Wash channel to reduce sediment loads to Lake Mead.

Task 1. Involve the community in habitat restoration activities by implementing two “Wash Green-Up” events that will result in the revegetation of 20-30 acres at two locations in the Wash. Revegetation efforts include the introduction of a variety of native-stock emergents, as well as trees and shrubs such as willows, creosote, mesquite and cottonwoods. This work will be implemented according to methods outlined in the CAMP and the Las Vegas Wash Revegetation Management Plan (see Project Location Map—specific sites to be determined).

Objective 2.a. Implement the Water Quality Data Management Program.

Task 1. Upload and manage profile data from water quality instruments on Lake Mead, and upload laboratory data from High Sierra, Weck, and MWH laboratories for water quality programs on the Las Vegas Wash and Lake Mead. The work will also include assisting other agencies with formatting and uploading data, encouraging other agencies to participate in providing data as a regional water quality resource, performing quality assurance checks on the data sets, and providing customer assistance for problems in using the data management program.

Goal #2. Address non-point source pollution through public education and outreach.

Objective 3.a. Perform outreach activities to inform and educate the community and encourage local stewardship.

Task 1. Implement two “Wash Green-Up” events to allow the community an opportunity to volunteer in the revegetation and restoration of the Las Vegas Wash. Green-Up events consist of more than 1,000 volunteers planting native trees and shrubs each year in areas recently cleared of invasive plant species. (See Objective 1.a., Task 1 above and Project Location Map below).

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

Task 2. Run a variety of stormwater Public Service Announcements (PSAs) with the shared theme of non-point source pollution prevention. These PSAs will be implemented by the Clark County Regional Flood Control District and broadcast on the major network stations during the spring and fall of 2012.

Task 3. The Las Vegas Wash Coordination Committee has partnered with the Mabel Hoggard Math and Science Magnet School for more than 10 years to introduce elementary students to the Las Vegas Wash. NDEP grants have previously funded each student with a "reconnaissance backpack" filled with a set of binoculars, a Global Positioning System (GPS) unit to use during the field trip as well as a custom notebook for students to record field data and to keep for their reference. The current field trip itinerary allows for each fifth grade class to spend a full day at the Las Vegas Wash receiving a tour of the Alford Merritt Smith Water Treatment Facility and another full day on Lake Mead aboard the Forever Earth Environmental Education and Research houseboat operated by the UNLV Public Lands Institute¹ where they participate in several water quality activities. The proposed new funds would be used to cover costs associated with these field trips (vehicle and Forever Earth field costs and other materials) and replace broken or worn out field trip equipment (i.e. backpacks, GPS units and binoculars).

¹If not available, a similar high quality opportunity to tour Lake Mead on the water or from shore will be provided.

Task 4. Conduct education campaign, including a "Stormwater Pollution Poster Contest" implemented by the Conservation District of Southern Nevada.

III. Monitoring and Measures of Success

Achievement of the long-term goals and overall success of the program will be measured by (1) improved water quality in the Wash and Lake Mead, including reduced total suspended solids concentrations; (2) increased native habitat; and (3) a more informed and environmentally aware public.

Short-term benefits from public education efforts with the goal of changing attitude and behavior are also not easily measured. While the true indicator of success is ultimately dependent upon changes in behavior (such as decreased use of turf fertilizers and proper disposal of household chemicals), a number of other indicators will be used to identify short-term program effectiveness.

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

A comprehensive monitoring program will be implemented to meet the following objectives: (1) establish baseline conditions for a wide variety of parameters; (2) document water quality trends; (3) document results of revegetation and habitat enhancement efforts; and (4) document public response to education programs.

The following tasks will be implemented to meet the above stated objectives²:

²These tasks are not directly supported by 319(h) or 106 grant funds.

Task 5. Conduct water quality, biological, vegetation and wildlife monitoring on a regular basis to evaluate the effectiveness of the program.

Task 5.a. Conduct water quality monitoring for parameters including pH, salinity, suspended solids, metals and selenium on a regular basis to evaluate the effectiveness of the project for improving water quality and reducing non-point source pollutants such as iron, TSS and selenium. Monitoring will be conducted according to quality assurance/quality control procedures established by the SNWA.

Task 5.a.i: A Project Final Report to be prepared by the Subgrantee shall include Green-Up Event parameters to enable SNWA and/or NDEP to estimate total expected pollutant load reductions. Parameters may include, but are not limited to acres revegetated, location of revegetation areas, and method of revegetation employed. Quantities for sediment, nitrogen, and phosphorus as a result of project implementation are to be derived by NDEP in consultation with SNWA. Should SNWA estimate load reductions, loading reduction for sediment shall be reported in tons; Reductions in nitrogen and phosphorus shall be reported in pounds. If estimated by SNWA, the method of load reduction calculation (by direct measurement, indirect measurement, or employment of a model) shall be described in the report.

Task 5.b. Conduct biological monitoring to assess bioaccumulation of selenium or other potential contaminants in resident bird eggs and fish.

Task 5.c. Conduct vegetation monitoring according to the Vegetation Monitoring Plan developed by the Project Team. The main goal of the monitoring plan is to ensure a minimum 80% survival rate for at least two consecutive years. Data will be collected on species composition, percent cover, survival rates, and encroachment of non-native species. This information will ensure that what is learned in terms of success and/or failure from active planting activities will be adaptively applied to future planting. In addition, photo documentation at permanently established photo points (confirmed via GPS) will assist in tracking changes in vegetation communities. Subsequently, SNWA will use the data gathered from implementing these techniques to compile a list of specific planting methods that have been successful in the Wash and are therefore recommended specifically for the Wash.

Task 5.d. Conduct monitoring of wildlife that currently inhabits the Wash.

Task 6. Evaluate public response to education and outreach programs.

Task 6.a. Track Wash project related inquiries.

Task 6.b. Track turnout at volunteer events and other programs.

Task 6.c. Track success of PSA through PR Trak, a system which quantifies audience reach for various time slots of the PSA.

Task 6.d. Track success of airing PSAs by performing annual survey of residents on behavior changes.

Task 6.e. Track success of poster contest by comparing the number of workbooks sent to schools with the number of poster contest entries received, as well as the number of entries received from the current versus previous years' contests.

IV. Maintenance

Project outcomes are anticipated to have little to no operation and maintenance expenses, aside from the monitoring activities described above. The goal of the vegetation monitoring plan is to help ensure a minimum 80% success rate for at least two consecutive years, through either active plantings or passive re-establishment of native vegetation at each restoration site. To measure this goal, the Monitoring Plan describes specific vegetation monitoring techniques that are implemented at all planting sites in the Wash.

V. Contingency Plan

There is a great deal of flexibility built into this project. Activities can be reconfigured or relocated to reflect a variety of priorities, such as taking advantage of funding opportunities or shifting restoration to different locations. Similarly, shortfalls in funding can be accommodated by scaling back or modifying activities.

VI. Acknowledgements

When issuing statements, press releases, printed materials or other items describing any aspect of activities supported in whole or in part with funds provided under this contract, SNWA will ensure that the Nevada Division of Environmental Protection and the USEPA are acknowledged.

VII. Deliverables

1. Implementation of the Water Quality Data Management Program.
2. Two Wash Green-Up events, resulting in the revegetation of approximately 20-30 acres of habitat in the Las Vegas Wash and increased community awareness and understanding
3. Implementation of Mabel Hoggard Field Trip Program.
4. Run a variety of Public Service Announcements (PSAs) all with the shared theme of non-point source pollution prevention.
5. Implementation of the "Stormwater Pollution Poster Contest" for area fourth and fifth grade students.
6. Quarterly and annual reports³ summarizing project accomplishments and activities.
7. Documentation supporting project expenditures and match amounts.
8. Final report detailing all activities and summary of activities, including evaluation of monitoring results and public outreach evaluation.
9. Other updates as requested by NDEP.

³ To facilitate NDEP annual grant program reporting to and required by the US EPA, an Annual Project Report will be submitted to NDEP on or before July 15th in electronic format (MS WORD and/or MS Excel as appropriate). The Annual Report shall describe project activity during the previous 4 quarters (July through June) and shall include the following information:

1. A Summary of Progress made towards completion of the project; including:
 - a. Project budget, scheduling status and forecasts (Under or over budget? Behind or ahead of schedule?).

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

- b. A description of any problems encountered during project implementation, and whether technical assistance is requested of NDEP, or if any contract amendments are anticipated to facilitate completion of the project.
- c. A description of how pollutant load reductions will be calculated.
- d. Pollutant load reductions thus far to include pounds of nitrogen and phosphorus, and tons of sediment captured.
- e. An updated estimate of Pollutant Load Reduction expected upon completion of the project, or upon completion of project tasks at the end of the calendar year for those projects with recurring, ongoing installations of Best Management Practices.
- f. A description of project successes, including photographs of project activities if appropriate.
- g. An assessment as to whether match requirements are being met in a timely fashion.

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

VIII. Project Timeline

Green-Up volunteer planting event

Fall 2012 Green-Up Event 1
Spring 2013 Green-Up Event 2

Water Quality Data Management Program

7/1/12 – 6/30/13 Weekly graphs (temperature, pH, conductivity, and dissolved oxygen for each day during the period)

Public Service Announcements

Fall 2012 and/or Spring 2013 Commercials air

Mabel Hoggard Math and Science Magnet School

Fall 2012 Field trip equipment replaced
December 2012 Field trips will have been conducted

Stormwater Pollution Poster Contest

January – March 2013 Distribution of workbooks and contest information, and event judging

Monitoring

Ongoing through 6/30/13 Conduct water quality, biological, vegetation and wildlife monitoring
Report results with analysis and evaluation of effectiveness of the program

Public Outreach Evaluation

Ongoing through 6/30/13 Assess response of public to outreach efforts
Report results with analysis and evaluation of effectiveness of the program

Initiatives to Reduce Non-Point Source Pollution in Southern Nevada 2012

IX. Detailed Project Budget

Detailed Project Budget: Initiatives to Reduce Non-Point Source Pollution in Southern Nevada	
Division #s:	98 02
Subgrant Control #	DEP S 12-020
SubGrantee:	Southern Nevada Water Authority
SubGrantee Contact:	Brooks, Jeremy
NDEP Contract Monitor:	Kiel, Jon Paul

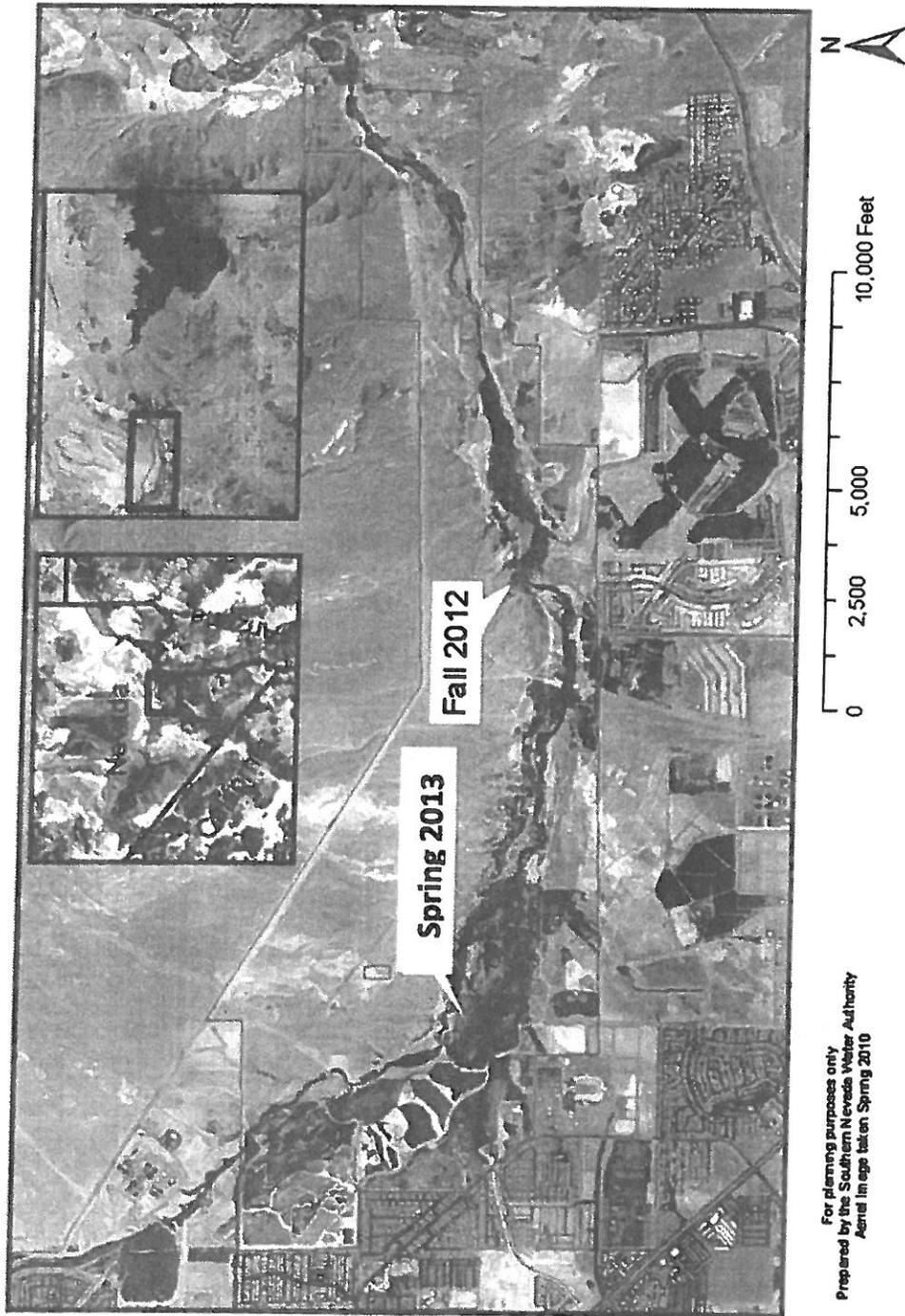
Contract Award: \$105,265.00

REIMBURSIBLE EXPENDITURE BREAK-OUT - \$105,265.00 FUNDS

Task	106	219001	Match - Cash	Match - In-kind	Project Totals
Salaries, WQ Data Mgt	\$50,000.00				\$50,000.00
Salaries, WQ Data Mgt			\$28,500.00		\$28,500.00
Green-Up Event Supplies		\$17,500.00			\$17,500.00
Green-Up Event Volunteer Lunch		\$11,000.00			\$11,000.00
Green-Up Event Volunteer Labor		\$0.00		\$66,720.00	\$66,720.00
PSA Airtime		\$10,000.00	\$10,000.00		\$20,000.00
Mabel Hoggard Equipment Costs		\$500.00			\$500.00
Mabel Hoggard Field Trip Costs		\$2,500.00			\$2,500.00
Salaries, Stormwater Poster/Website		\$10,075.00	\$3,325.00		\$13,400.00
Supplies, Stormwater Poster		\$2,690.00			\$2,690.00
Field Trip, Stormwater Poster		\$750.00			\$750.00
Field Trip Lunch, Stormwater Poster		\$250.00			\$250.00
Sub-Totals	\$60,000.00	\$65,265.00	\$38,825.00	\$66,720.00	\$211,810.00

X. Project Location Map, Green-Up Areas

Proposed Fall 2012 and Spring 2013 Green-Up Areas - Approximately 15-20 acres



**ATTACHMENT B:
ADDITIONAL AGENCY TERMS & CONDITIONS
SUBGRANT #DEP-S 12-020,
Southern Nevada Water Authority (SNWA)**

1. The Nevada Division of Environmental Protection shall pay no more compensation than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits) for individual consultants retained by the Subgrantee or by the Subgrantee's contractors or subcontractors. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. The current Level 4 rate is **\$74.50** per hour.
2. ***NDEP shall only reimburse the Subgrantee for actual cash disbursed.*** Original invoices (facsimiles are not acceptable) must be received by NDEP no later than forty (40) calendar days after the end of a month or quarter except at the end of the fiscal year of the State of Nevada (June 30th), at the expiration date of the grant, or the effective date of the revocation of the Subgrant, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Subgrantee to submit billings according to the prescribed timeframes authorizes NDEP, in its sole discretion, to collect or withhold a penalty of ten percent (10%) of the amount being requested for each week or portion of a week that the billing is late. The Subgrantee shall provide with each invoice a detailed fiscal summary that includes the approved Subgrant budget, expenditures for the current period, cumulative expenditures to date, and balance remaining for each budget category. If match is required pursuant to paragraph 3 below, a similar fiscal summary of match expenditures must accompany each invoice. The Subgrantee shall obtain prior approval to transfer funds between budget categories if the funds to be transferred are greater than ten percent (10%) cumulative of the total Subgrant amount.
3. The Subgrantee shall, as part of its approved scope of work and budget under this Subgrant, provide third party match funds of not less than: **\$106,545.00**. If match funds are required, the Subgrantee shall comply with additional record-keeping requirements as specified in 40 CFR 31.24 and Attachment **C** (Third Party Match Record-Keeping Requirements) which is attached hereto and by this reference is incorporated herein and made part of this Subgrant.
4. Unless otherwise provided in Attachment A (Scope of Work), the Subgrantee shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.
5. All payments under this Subgrant are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Subgrant, from either the Nevada Legislature or an agency of the United States. NDEP shall determine if it has received the specific funding necessary for this Subgrant. If funds are not received from either source for the specific purposes of this Subgrant, NDEP is under no obligation to supply funding for this Subgrant. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Subgrant. Nothing in this Subgrant shall be construed to provide the Subgrantee with a right of payment over any other entity. If any payments that are otherwise due to the Subgrantee under this Subgrant are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Subgrantee if sufficient funds later become available.
6. Notwithstanding the terms of paragraph 5, at the sole discretion of NDEP, payments will not be made by NDEP unless all required reports or deliverables have been submitted to and approved by NDEP within the schedule stated in Attachment A.
7. Any funds obligated by NDEP under this Subgrant that are not expended by the Subgrantee shall automatically revert back to NDEP upon the completion, termination or cancellation of this Subgrant. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Subgrantee. The Subgrantee shall have no claim of any sort to such unexpended funds.
8. The Subgrantee shall ensure, to the fullest extent possible, that at least the "fair share" percentages as stated below for prime contracts for construction, services, supplies or equipment are made available to organizations owned or controlled by socially and economically disadvantaged individuals (Minority Business Enterprise (MBE) or Small Business Enterprise (SBE)), women (Women Business Enterprise (WBE)) and historically black colleges and universities.

	MBE/SBE	WBE
Construction	12%	10%
Services	07%	25%
Supplies	13%	28%
Equipment	11%	23%

The Subgrantee agrees and is required to utilize the following seven affirmative steps:

- a. Include in its bid documents applicable "fair share" percentages as stated above and require all of its prime contractors to include in their bid documents for subcontracts the "fair share" percentages;
- b. Include qualified Small Business Enterprises (SBEs) Minority Business Enterprises (MBEs), and Women Business Enterprises (WBEs) on solicitation lists;
- c. Assure that SBEs, MBEs, and WBEs are solicited whenever they are potential sources;
- d. Divide total requirements, when economically feasible, into small tasks or quantities to e. permit maximum participation of SBEs, MBEs, and WBEs;
- e. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by SBEs, MBEs, and WBEs;
- f. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency, U.S. Department of commerce as appropriate; and
- g. If a subcontractor awards contracts/procurements, require the subcontractor to take the affirmative steps in subparagraphs a. through e. of this condition.

9. The Subgrantee shall complete and submit to NDEP a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within fifteen (15) calendar days after the end of each federal fiscal year (September 30th) for each year this Subgrant is in effect and within fifteen (15) calendar days after the termination date of this Subgrant.

10. The books, records, documents and accounting procedures and practices of the Subgrantee or any subcontractor relevant to this Subgrant shall be subject to inspection, examination and audit by the State of Nevada, the Division of Environmental Protection, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States or any authorized representative of those entities.

11. All books, reports, studies, photographs, negatives, annual reports or other documents, data, materials or drawings prepared by or supplied to the Subgrantee in the performance of its obligations under this Subgrant shall be the joint property of both parties. Such items must be retained by the Subgrantee for a minimum of three years from the date of final payment by NDEP to the Subgrantee, and all other pending matters are closed. If requested by NDEP at any time within the retention period, any such materials shall be remitted and delivered by the Subgrantee, at the Subgrantee's expense, to NDEP. NDEP does not warrant or assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, report or product of any kind that the Subgrantee may disclose or use for purposes other than the performance of the Subgrantee's obligations under this Subgrant. For any work outside the obligations of this Subgrant, the Subgrantee must include a disclaimer that the information, report or products are the views and opinions of the Subgrantee and do not necessarily state or reflect those of NDEP nor bind NDEP.

12. Unless otherwise provided in Attachment A, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Subgrant, the Subgrantee shall clearly state that funding for the project or program was provided by the Nevada Division of Environmental Protection and, if applicable, the U.S. Environmental Protection Agency. The Subgrantee will insure that NDEP is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

13. Unless otherwise provided in Attachment A, all property purchased with funds provided pursuant to this Subgrant is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Subgrant or after the conclusion of the use of the property for the purposes of this Subgrant during its term, be returned to NDEP at the Subgrantee's expense.

Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Subgrantee shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Subgrant purposes unless otherwise agreed to in writing by NDEP.

For any unauthorized use of such property by the Subgrantee, NDEP may elect to terminate the Subgrant and to have the property immediately returned to NDEP by the Subgrantee at the Subgrantee's expense. To the extent authorized by law, the Subgrantee shall indemnify and save and hold the State of Nevada and NDEP harmless from any and all claims, causes of action or liability arising from any use or custody of the property by the Subgrantee or the Subgrantee's agents or employees or any subcontractor or their agents or employees.

14. The Subgrantee shall use recycled paper for all reports that are prepared as part of this Subgrant and delivered to NDEP. This requirement does not apply to standard forms.

15. The Subgrantee, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Subgrant by the Subgrantee or the Subgrantee's agents or employees or any subcontractor or their agents or employees. NDEP, to the extent provided by Nevada law, shall indemnify and save and hold the Subgrantee, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Subgrant by NDEP or NDEP's agents or employees.

16. The Subgrantee and its subcontractors shall obtain any necessary permission needed, before entering private or public property, to conduct activities related to the work plan (Attachment A). The property owner will be informed of the program, the type of data to be gathered, and the reason for the requested access to the property.

17. This Subgrant shall be construed and interpreted according to the laws of the State of Nevada and conditions established in OMB Circular A-102. Nothing in this Subgrant shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this Subgrant shall be brought in the First Judicial District Court of the State of Nevada. The Subgrantee and any of its subcontractors shall comply with all applicable local, state and federal laws in carrying out the obligations of this Subgrant, including all federal and state accounting procedures and requirements established in OMB Circular A-87 and A-133. The Subgrantee and any of its subcontractors shall also comply with the following:

- a. 40 CFR Part 7 - Nondiscrimination In Programs Receiving Federal Assistance From EPA
- b. 40 CFR Part 29 - Intergovernmental Review Of EPA Programs And Activities.
- c. 40 CFR Part 31 - Uniform Administrative Requirements For Grants And Cooperative Agreements To State and Local Governments;
- d. 40 CFR Part 32 - Governmentwide Debarment And Suspension (Nonprocurement) And Governmentwide Requirements For Drug-Free Workplace (Grants);
- e. 40 CFR Part 34 - Lobbying Activities;
- f. 40 CFR Part 35, Subpart O - Cooperative Agreements And Superfund State Contracts For Superfund Response Actions (Superfund Only); and
- g. The Hotel And Motel Fire Safety Act of 1990.

18. The Subgrantee shall neither assign, transfer nor delegate any rights, obligations or duties under this Subgrant without the prior written consent of NDEP.

ATTACHMENT C
To the Subgrant between
Nevada Division of Environmental Protection
and
DEP-S 12-020, Southern Nevada Water Authority

THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS

- A. If not included in the budget submitted in Attachment A of the contract, the Subgrantee shall provide to the Nevada Division of Environmental Protection (NDEP) a detailed match budget clearly distinguishing between cash and non-cash (in-kind) contributions, prior to submittal of the first invoice.
- B. With each invoice, the Subgrantee shall submit a detailed match schedule that includes: (1) the total match budget; (2) match expenditures for the current period; (3) cumulative match expenditures; and (4) balance remaining. Cash and in-kind expenditures must be identified separately
- C. The Subgrantee shall establish a file dedicated to this contract that includes the following:
1. For any declared in-kind contributions:
 - (a) An itemized listing of each employee's hourly rate, including the justification for the rate such as the current "Prevailing Wage Rates for Nevada Counties", NRCS cost-share rates, etc. .
 - (b) A Fringe Benefit detail and explanation.
 - (c) A copy of an approved Overhead/Indirect Cost Allocation Plan.
 - (d) An itemization of per diem rates, equipment rental/usage rates, etc.
 - (e) Copies (or originals) of timesheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
 - (f) Copies (or originals) of logs/schedules for equipment usage.
 - (g) Signed statements noting fair market value for in-kind donations of materials or supplies.
 2. For any declared cash contributions,
 - (a) An itemization of each employee's hourly rate including fringe benefits, overhead, and indirect cost.
 - (b) An itemization of per diem rates, equipment rental/usage rates, etc.
 - (c) Copies (or originals) of timesheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
 - (d) Copies (or originals) of logs/schedules for equipment usage.
 - (e) Copies (or originals) of invoices for materials, supplies, equipment, etc.
- D. The Subgrantee agrees and acknowledges that:
1. Neither the costs nor the values of third party match contributions being used to satisfy the match requirements of the attached contract have been or will be used to satisfy a cost share or match requirement of another federal grant agreement, federal procurement contract, or any other award of federal funds.
 2. Third-party match contributions or expenditures must be made within the effective dates of: October 1, 2011 through December 31, 2013.
 3. All financial records, including match documentation, relevant to this project shall be retained by the Subgrantee for three years from the date of final payment by NDEP to the Subgrantee, and all other pending matters are closed.
 4. Reported match contributions deemed inappropriate or unreasonable during the invoice review process may be disallowed.
 5. NDEP may, at any time, audit the Subgrantees contract files to ensure compliance with the Third Party Match Record-Keeping Requirements. Reported match contributions deemed inappropriate or unreasonable during an audit may be disallowed.
 6. NDEP may require the Subgrantee to repay any funds provided to the Subgrantee under the attached contract that the Subgrantee is unable to match or provide adequate documentation for the reported match.

SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM

June 21, 2012

Subject: Agreement	Director's Backup
Petitioner: Richard B. Holmes, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve and authorize the General Manager to enter into an assistance agreement between the Bureau of Reclamation and the Authority, in substantially the same form, to accept a grant for an amount not to exceed \$100,000 to support the Authority's Water Smart Landscape Rebate Program, and authorize the General Manager to approve future modifications only if the future modifications do not fiscally impact the Authority.	

Fiscal Impact:

The Bureau of Reclamation will reimburse the Authority up to \$100,000 in grant funding. The grant is contingent on the Authority expending \$1,000,000 toward the issuance of landscape conversion rebates, which is included in the Authority's 2012/2013 fiscal year Operating Budget. Following reimbursement of grant funding the Authority's total outlays will be \$900,000.

Background:

In 1996, the Bureau of Reclamation (Reclamation) established the Water Conservation Field Services Program to encourage and implement water conservation measures and the administration of water conservation plans, through technical and financial assistance, to federal and non-federal entities. As part of this program, Reclamation provides funding to projects that encourage and promote implementation of water efficiency measures.

In June 2011, Reclamation notified the Authority of its approval of a grant for an amount not to exceed \$100,000 to support funding for the Authority's Water Smart Landscape Rebate Program (Program). The Program provides a financial incentive to encourage property owners to convert turf to drought-tolerant plants by providing funds to offset a portion of the conservation costs.

At this time, the Board of Directors is being asked to approve the agreement, which includes the provisions necessary for the Authority to obtain federal funding.

This agreement is being entered into through the authority granted in accordance with NRS 277.180 and the federal authorities cited in the attached assistance agreement. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:



Patricia Mulroy, General Manager
PM:RH:ZLM:JAW:AMB:DB:jb
Attachment

AGENDA ITEM #

4

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
ASSISTANCE AGREEMENT**

1A. AGREEMENT NUMBER R12AP30011		1B. MOD NUMBER N/A		2. TYPE OF AGREEMENT <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT		3. CLASS OF RECIPIENT Special District Government			
4. ISSUING OFFICE Bureau of Reclamation Lower Colorado Region P.O. Box 61470 Boulder City, NV 89006-1460				5. RECIPIENT Southern Nevada Water Authority 100 City Parkway, Suite 700 Las Vegas, NV 89106					
								EIN #:	
				DUNS #:		135965650		Congress. Dist: 01	
6. ADMINISTRATIVE POINT OF CONTACT Shawna Thompson, LC-10300 Bureau of Reclamation P.O. Box 61470 Boulder City, NV 89006-1470 Phone: 702-293-8570, Email: smthompson@usbr.gov				7. RECIPIENT PROJECT MANAGER Kathy Flanagan Management Aide Southern Nevada Water Authority 1001 South Valley View Boulevard Las Vegas, NV 89153 Phone: 702-258-3173, Email: kathy.flanagan@snwa.com					
8. GRANTS OFFICER TECHNICAL REPRESENTATIVE Tina Mullis, LC-2731 Bureau of Reclamation Resource Management Office P.O. Box 61470 Boulder City, NV 89006-1470 Phone: 702-293-8139, Email: tmullis@usbr.gov				9A. INITIAL AGREEMENT EFFECTIVE DATE: See Block 17a		9B. MODIFICATION EFFECTIVE DATE: N/A			
				10. COMPLETION DATE June 30, 2013					
11A. PROGRAM STATUTORY AUTHORITY P.L. 111-11 Omnibus Public Lands Management Act of 2009, Sec. 9504 (a) – (h)						11B. CFDA Number 15.530			
12. FUNDING INFORMATION		<u>RECIPIENT/OTHER</u>		<u>RECLAMATION</u>		13. REQUISITION NUMBER 12300270028			
Total Estimated Amount of Agreement		\$900,000.00		\$100,000.00		14A. ACCOUNTING AND APPROPRIATION DATA Cost Authority: A10-1971-6300-100-00-0 Cost Center: 3002700 Object Code: 411G			
This Obligation		\$900,000.00		\$100,000.00					
Previous Obligation		\$0.00		\$0.00					
Total Obligation		\$900,000.00		\$100,000.00					
Cost-Share %		90%		10%		14B. TREASURY ACCOUNT FUNDING SYMBOL 14x0680			
15. PROJECT TITLE AND BRIEF SUMMARY OF PURPOSE AND OBJECTIVES OF PROJECT PROJECT TITLE: Water Smart Landscape Rebate Program 2012 PURPOSE: This Agreement will provide funds to allow the Southern Nevada Water Authority (SNWA) to continue its successful WaterSmart Landscapes Program, which provides rebates to encourage homeowners throughout Southern Nevada to convert turf to desert tolerant landscaping.									
16a. Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient BY: _____ DATE: _____				17a. Award of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the United States of America, Department of the Interior, Bureau of Reclamation BY: _____ DATE: _____					
16b. NAME, TITLE, AND TELEPHONE NUMBER OF SIGNER Patricia Mulroy General Manager 702-258-3100 <input type="checkbox"/> Additional signatures are attached				17b. NAME OF GRANTS OFFICER Shawna M. Thompson Grants Officer 702-293-8570					

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**Grant Agreement
Between
Bureau of Reclamation
And
Southern Nevada Water Authority
For
Water Smart Landscape (WSL) Rebate Program 2012**

I. OVERVIEW AND SCHEDULE

1. AUTHORITY

This Grant Agreement (Agreement) is entered into between the United States of America, acting through the Department of the Interior, Bureau of Reclamation, hereinafter referred to as "Reclamation," and the Southern Nevada Water Authority, hereinafter referred to as the "SNWA," "Recipient" or "Grantee," pursuant to Public Law 111-11 (42 USC 10364). The following section, provided in full text, authorizes Reclamation to award this financial assistance agreement:

SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

(a) Authorization of Grants and Cooperative Agreements –

(1) **AUTHORITY OF SECRETARY** – The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement - -

(A) to conserve water;

(B) to increase water use efficiency;

(C) to facilitate water markets;

(D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;

(E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;

(F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);

(G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or

- (H) to carry out any other activity
 - (i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or
 - (ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area and;

2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION

The WSL Program is an on-going rebate program and a key component in the Southern Nevada Water Authority's (SNWA) 2009-2013 Water Conservation Plan (Plan). In Southern Nevada, nearly all water used indoors is recovered, treated and returned to the Colorado River System for return-flow credits. As a result, the SNWA's conservation efforts emphasize reducing outdoor water use, which cannot be recovered through return-flow credits. The 2012/2013 WSL Program is expected to convert more than seven million square-feet of lawn, resulting in a recurring water savings of 1,199 acre-feet per year (AFY). The portion of the WSL Program funded by this Agreement represents the conversion of approximately 793,651 square-feet of lawn and will result in a recurring water savings of 136 AFY.

This Agreement is funded under the Water Conservation Field Services Program (WCFSP) and will actively encourage water conservation and the efficient use of water supplies directly associated with a Reclamation water project, in accordance with WTR 01-02 *Administering the WCFSP*, Section 3. The primary purposes of the WCFSP are to:

- A. Assist in developing effective water management and conservation plans;
- B. Promote and support water education and training;
- C. Demonstrate conservation technologies; and
- D. Encourage and promote implementation of water efficiency measures.

The SNWA's Plan describes the current conservation goal of 199 gallons per capita per day by 2035, and details strategies and tactics for continued water savings. This Rebate Program is a key tactic under the "incentives" strategy. This Agreement also meets the objectives of Reclamation's WCFSP and helps meet the Secretary's High Priority Water Conservation Goal.

3. BACKGROUND AND OBJECTIVES

The SNWA was formed in 1991 by a cooperative agreement among seven water and wastewater agencies in Southern Nevada. These agencies include Big Bend Water District, City of Boulder City, City of Henderson, City of Las Vegas, City of North Las Vegas, Clark County Water Reclamation District and the Las Vegas Valley Water District. Together, these agencies provide water and wastewater service to approximately 2 million residents in the cities of Boulder City, Henderson, Las Vegas and North Las Vegas, and areas of unincorporated Clark County. As a wholesale water provider, the SNWA is responsible for water treatment and delivery, as well as acquiring and managing short and long-term water resources for Southern Nevada.

The SNWA and its member agencies depend on the Colorado River for approximately 90 percent of the community's water resource needs. Severe and sustained drought in the Colorado River Basin is threatening water supplies and critical water delivery facilities. While conservation has long been part of the SNWA's overall water management efforts, aggressive conservation is more essential than ever to ensure the delivery of safe and reliable water. A central component of the SNWA's conservation effort is the Water Smart Landscapes Rebate Program (WSL), which provides a financial incentive for property owners to replace lawn with water-efficient landscaping. Since 1999, the WSL Program has supported the removal of more than 156 million square feet of turfgrass, resulting in a cumulative water savings of 153,863 acre-feet (AF) and a recurring savings of 26,745 AFY. However, the SNWA is unable to sustain historic program funding levels due to a substantial decline in connection fees and other revenue streams resulting from weakened economic conditions. The WCFSP funding will provide an important contribution to continuing the impact and capacity of this WSL Program.

The Recipient's Application Package and Proposal were submitted under Funding Opportunity Announcement (FOA), Requests for Proposals (RFP) Number R12SF30005 for Reclamation's Financial Assistance Program for Fiscal Year 2012 under the WCFSP for the Lower Colorado Region, Resources Management Office, Planning and Program Management Group. It was evaluated according to the FOA. After review and rating by a Technical Proposal Evaluation Committee, the Program Manager recommended it for award as it meets the program criteria and Reclamation's mission to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American Public.

4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY

This Agreement becomes effective on the date shown in Block 17a of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The Agreement shall remain in effect until the date shown in Block 10 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The period of performance for this Agreement may only be modified through written modification of the Agreement by a Reclamation Grants Officer (GO).

No legal liability on the part of the Government for any payment may arise until funds are made available, in writing, to the Recipient by the Grants Officer. The total estimated amount of federal funding for this agreement is \$100,000.00, of which the initial amount of federal funds available is limited to \$100,000.00 as indicated by "this obligation" within Block 12 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. Subject to the availability of Congressional appropriations, subsequent funds will be made available for payment through written modifications to this agreement by a Reclamation Grants Officer.

5. SCOPE OF WORK AND MILESTONES

This Agreement will be utilized by the SNWA to offer rebates and encourage property owners to convert turf to drought-tolerant landscaping. The WSL Program encourages property owners to convert lawn by providing a rebate to offset a portion of associated conversion costs. The program rebates customers \$1.50 per square-foot for the first 5,000 square-feet of lawn converted per property, per year, and \$1 per square-foot for each additional square-foot removed. No property may obtain more than \$300,000 of approved rebates per SNWA fiscal year (July 1 through June 30). Groundwater well users' rebates are limited to 2,500 square feet per fiscal year. Based upon a joint Reclamation/SNWA research project conducted from 1995 to 2000, every square-foot of grass replaced with desert landscaping saves an average of 55.8 gallons of water per year. Rebate amounts are set by SNWA's Board based on the number of square feet converted. Average rebate issuance is about \$1.26 per square foot converted.

The following details the general process that applicants to the WSL Program follow to qualify for and receive landscape conversion rebates:

1. **Application** – Single-family property owners must submit an application to the WSL Program via mail or internet. Commercial and institutional properties contact a Programs Coordinator directly.
2. **Pre-conversion site inspection** – All properties must meet eligibility requirements. At the pre-conversion site inspection, SNWA staff document the existing landscape, determine participation eligibility and explain the program requirements to the property owner or agent.
3. **Six-month performance period** – After SNWA deems a property eligible for participation, the property owner is given six months to complete the conversion. Subject to SNWA approval, participants may be granted up to six additional months.
4. **Post-conversion site inspection** – Upon notice from the applicant that the conversion is complete, SNWA will inspect the landscape to ensure it meets minimum requirements and to determine the square-footage eligible for rebate. If program requirements are not met, the applicant is given an additional 60 days or the remainder of the six-month time period to take corrective action.
5. **Rebate issuance** – Following a successful post-conversion site inspection, the customer is notified of the rebate amount. The customer acknowledges the amount by signing a form and returning it. A rebate check is then processed and mailed.

On average, the entire process takes approximately 3-4 months from initial customer request.

As a customer rebate program, the WSL Program is dependent upon customer demand. Historically, rebate issuance has remained relatively steady through the fiscal year. By quarter, expenditures for this funding request are anticipated to track the following estimated forecast:

Schedule and Milestones:

Fiscal Year 2012/2013	Percent	Landscape Converted	Rebate Issuance
July 1 – September 30	25%	198,413 square-feet	\$250,000
October 1 – December 31	25%	198,413 square-feet	\$250,000
January 1 – March 31	25%	198,413 square-feet	\$250,000
April 1 – June 30	25%	198,412 square-feet	\$250,000
Total	100%	793,651 square-feet	\$1,000,000

The portion of the WSL Program funded by this Agreement represents the conversion of approximately 793,651 square-feet of turf to drought-tolerant landscape and will result in a recurring water savings of 136 AFY. Over the life of the improvement, the project will yield water savings of approximately 6,550 AF.

6. RESPONSIBILITY OF THE PARTIES

6.1 Recipient Responsibilities

6.1.1 The Recipient shall carry out the Scope of Work in accordance with the terms and conditions stated herein. The Recipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. If the Scope of Work contains construction activities, the Recipient is responsible for construction inspection, oversight, and acceptance. If applicable, the Recipient shall also coordinate and obtain approvals from site owners and operators.

6.2 Reclamation Responsibilities

6.2.1 Reclamation will monitor and provide federal oversight of activities performed under this Agreement. Monitoring and oversight includes review and approval of financial status and performance reports, payment requests, and any other deliverables identified as part of the Scope of Work. Additional monitoring activities may include site visits, conference calls, and other on-site and off-site monitoring activities. At the Recipient's request, Reclamation may also provide technical assistance to the Recipient in support of the Scope of Work and objectives of this Agreement.

7. BUDGET

7.1 Budget Estimate. The following is the estimated budget for this Agreement. As federal financial assistance agreements are cost-reimbursable, the budget provided is for estimation purposes only. Final costs incurred under the budget categories listed may be either higher or lower than the estimated costs. All costs incurred by the Recipient under this agreement must be in accordance with any pre-award clarifications conducted between the Recipient and Reclamation, as well as with the terms and conditions of this agreement. Final determination of the allowability, allocability, or reasonableness of costs incurred under this agreement is the

responsibility of the Grants Officer. Recipients are encouraged to direct any questions regarding allowability, allocability or reasonableness of costs to the Grants Officer for review prior to incurrence of the costs in question.

Budget Detail:

BUDGET ITEM DESCRIPTION	COMPUTATION		RECIPIENT FUNDING	RECLAMATION FUNDING	TOTAL COST
	Price/Unit	Quantity			
OTHER					
Customer Rebates (Rebate amounts are set by SNWA's Board based on the number of square feet converted.)	\$1.26/sq ft	793,651	\$900,000.00	\$100,000.00	\$1,000,000.00
TOTAL DIRECT COSTS--			\$900,000.00	\$100,000.00	\$1,000,000.00
INDIRECT COSTS - 0%					
TOTAL PROJECT / ACTIVITY COSTS			\$900,000.00	\$100,000.00	\$1,000,000.00

7.2 Cost Sharing Requirement

At least 90% non-federal cost-share is required for costs incurred under this Agreement. If pre-award costs are authorized, reimbursement of these costs is limited to federal cost share percentage identified in this agreement.

7.3 Pre-Award Incurrence of Costs

The Recipient is not authorized to incur costs prior to the award of this Agreement. Costs incurred prior to the award of this agreement are not allowable.

7.4 Allowable Costs (2 CFR Part §225)

Costs incurred for the performance of this Agreement must be allowable, allocable to the project, and reasonable. The following Office of Management and Budget (OMB) Circular, codified within the Code of Federal Regulations (CFR), governs the allowability of costs for Federal financial assistance:

2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State, Local, and Indian Tribal Governments"

Expenditures for the performance of this Agreement must conform to the requirements within this Circular. The Recipient must maintain sufficient documentation to support these expenditures. Questions on the allowability of costs should be directed to the GO responsible for this Agreement.

The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs

which are authorized for a period of up to 90 days following the project performance period are those strictly associated with closeout activities for preparation of the final report.

7.5 Changes (43 CFR §12.70).

(a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) *Relation to cost principles.* The applicable cost principles (see 43 §12.62) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) *Budget changes.*

(1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) *Combined construction and nonconstruction projects.* When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from nonconstruction to construction or vice versa.

(d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award, *unless included in the initial funding proposal*. This approval requirement is in addition to the approval requirements of 43 §12.76 but does not apply to the procurement of equipment, supplies, and general support services.

(e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) *Requesting prior approval.*

(1) A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see §12.62) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

7.6 Modifications

Any changes to this Agreement shall be made by means of a written modification. Reclamation may make changes to the Agreement by means of a unilateral modification to address administrative matters, such as changes in address, no-cost time extensions, or the addition of previously agreed upon funding. Additionally, a unilateral modification may be utilized by Reclamation if it should become necessary to suspend or terminate the Agreement in accordance with 43 CFR 12.83.

All other changes shall be made by means of a bilateral modification to the Agreement. No oral statement made by any person, or written statement by any person other than the GO, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

All requests for modification of the Agreement shall be made in writing, provide a full description of the reason for the request, and be sent to the attention of the GO. Any request for project extension shall be made at least 45 days prior to the expiration date of the Agreement or

the expiration date of any extension period that may have been previously granted. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of Reclamation.

8. KEY PERSONNEL

8.1 Recipient's Key Personnel

The Recipient's Project Manager for this Agreement shall be:

Kathy Flanagan
Management Aide
Southern Nevada Water Authority
1001 South Valley View Boulevard
Las Vegas, NV 89153
Phone: 702-258-3173
Email: kathy.flanagan@snwa.com

Changes to Key Personnel require compliance with 43 CFR 12.925(c)(2).

8.2 Reclamation's Key Personnel

8.2.1 Grants Officer (GO):

Bureau of Reclamation
Attn: Shawna Thompson, LC-10300
Address: P.O. Box 61470
Boulder City, NV 89006
Phone: 702-293-8570
Email: smthompson@usbr.gov

- (a) The GO is the only official with legal delegated authority to represent Reclamation. The GO's responsibilities include, but are not limited to, the following:
- (1) Formally obligate Reclamation to expend funds or change the funding level of the Agreement;
 - (2) Approve through formal modification changes in the scope of work and/or budget;
 - (3) Approve through formal modification any increase or decrease in the period of performance of the Agreement;
 - (4) Approve through formal modification changes in any of the expressed terms, conditions, or specifications of the Agreement;

- (5) Be responsible for the overall administration, management, and other non-programmatic aspects of the Agreement including, but not limited to, interpretation of financial assistance statutes, regulations, circulars, policies, and terms of the Agreement;
- (6) Where applicable, ensures that Reclamation complies with the administrative requirements required by statutes, regulations, circulars, policies, and terms of the Agreement.

8.2.2 Grants Officer Technical Representative (GOTR):

Bureau of Reclamation

Attn: Tina Mullis, LC-2731

Address: P.O. Box 61470
Boulder City, NV 89006

Phone: 702-293-8139

E-mail: tmullis@usbr.gov

(a) The GOTR's authority is limited to technical and programmatic aspects of the Agreement. The GOTR's responsibilities include, but are not limited to, the following:

- (1) Assist the Recipient, as necessary, in interpreting and carrying out the scope of work in the Agreement;
- (2) Review, and where required, approve Recipient reports and submittals as required by the Agreement;
- (3) Where applicable, monitor the Recipient to ensure compliance with the technical requirements of the Agreement;
- (4) Where applicable, ensure that Reclamation complies with the technical requirements of the Agreement;

(b) The GOTR does not have the authority to and may not issue any technical assistance which:

- (1) Constitutes an assignment of additional work outside the scope of work of the Agreement;
- (2) In any manner causes an increase or decrease in the total estimated cost or the time required for performance; or
- (3) Changes any of the expressed terms, conditions, or specifications of the Agreement.

9. REPORTING REQUIREMENTS AND DISTRIBUTION

9.1 Noncompliance. Failure to comply with the reporting requirements contained in this Agreement may be considered a material non-compliance with the terms and conditions of the award. Non compliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the Agreement, recovery of funds paid under the Agreement, withholding of future awards, or other legal remedies in accordance with 43 CFR §12.83.

9.2 Financial Reports. Financial Status Reports shall be submitted by means of the SF-425 and shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization.

9.3 Monitoring and reporting program performance (43 CFR §12.80)

(a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) *Nonconstruction performance reports.* The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency, this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) *Construction performance reports.* For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) *Waivers, extensions.*

(1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

9.4 Report Frequency and Distribution. The following table sets forth the reporting requirements for this Agreement. Please note the first report due date listed for each type of report.

REQUIRED REPORTS	Interim Reports	Final Report
Performance Report		
Format	No specific format required. See content requirements within Section 9.3 (43 CFR 12.951) above.	N/A Summary of activities completed during the entire period of performance is required. See content requirements within Section 9.3 (43 CFR 12.951) above.
Reporting Frequency	Semi-Annual	Final Report due upon completion of Agreement's period of performance.
Reporting Period	For Semi-Annual Reporting: October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date*	Within 30 days after the end of the Reporting Period	Within 90 days after the completion date of the Agreement
First Report Due Date	The first performance report is due for reporting period ending September 30, 2012.	N/A
Submit to:	GO at LCFA@usbr.gov	GO at LCFA@usbr.gov
Financial Status Report		
Format	SF-425 (all sections must be completed)	SF-425 (all sections must be completed)
Reporting Frequency	Semi-Annual	Final Report due upon completion of Agreement's period of performance.
Reporting Period	For Semi-Annual Reporting: October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date*	Within 30 days after the end of the Reporting Period	Within 90 days after the completion date of the Agreement
First Report Due Date	The first Federal financial report is due for reporting period ending September 30, 2012.	N/A
Submit to:	GO at LCFA@usbr.gov	GO at LCFA@usbr.gov

* If the completion date is prior to the end of the next reporting period, then no interim report is due for that period. Instead, the Recipient is required only to submit the final financial and

performance reports, which will cover the entire period of performance including the last abbreviated reporting period.

10. REGULATORY COMPLIANCE

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable State, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office.

If during the course of any activities associated with the execution of this Agreement, **the Grantee becomes aware of the discovery** of any historic architectural and/or archaeological districts, sites, buildings, structures, or objects 50 years or older, the Grantee shall, **within the limits of its legal authority, request that activities immediately cease and consultation be conducted with the State Historic Preservation Office pursuant to 36 CFR Part 800.6.**

Certain environmental and other associated compliance are Federal responsibilities, and will occur as appropriate. Reclamation will identify the need for and will complete any appropriate environmental compliance requirements, as identified above, pertinent to Reclamation pursuant to activities specific to this assisted activity. Environmental and other associated compliance shall be completed prior to the start of this project. As such, notwithstanding any other provision of this Agreement, Reclamation shall not provide any funds to the Recipient for Agreement purposes, and the Recipient shall not begin implementation of the assisted activity described in this Agreement, until Reclamation provides written notice to the Recipient that all applicable environmental and regulatory compliance analyses and clearances have been completed and that the Recipient may begin implementation of the assisted activity. If the Recipient begins project activities that require environmental and other regulatory compliance approval, such as construction activities, prior to receipt of written notice from Reclamation that all such clearances have been obtained, then Reclamation reserves the right to unilaterally terminate this agreement for cause.

11. TITLE TO IMPROVEMENTS [Public Law 111-11, Section 9504(a)(3)(D)]

If the activities funded under this Agreement result in an infrastructure improvement to a federally owned facility, the Federal Government shall continue to hold title to the facility and improvements to the facility.

12. OPERATION AND MAINTENANCE COSTS [Public Law 111-11, Section 9504(a)(3)(E)(iv.)]

The non-Federal share of the cost of operating and maintaining any infrastructure improvement funded through this Agreement shall be 100 percent.

13. LIABILITY [Public Law 111-11, Section 9504(a)(3)(F)]

- (a) **IN GENERAL.**—Except as provided under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this Agreement, the title of which is not held by the United States.
- (b) **TORT CLAIMS ACT.**—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

II. RECLAMATION STANDARD TERMS AND CONDITIONS - STATES, LOCAL GOVERNMENTS, AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS

1. REGULATIONS

The regulations at 43 CFR, Part 12, Subparts A, C, E, and F, are hereby incorporated by reference as though set forth in full text. The following Office of Management and Budget (OMB) Circulars, as applicable, and as implemented by 43 CFR Part 12, are also incorporated by reference and made a part of this Agreement. Failure of a Recipient to comply with any applicable regulation or circular may be the basis for withholding payments for proper charges made by the Recipient and/or for termination of support.

1.1 Colleges and Universities that are Recipients or sub-recipients shall use the following:

2 CFR Parts 215 and 220 (Circular A 21), "Cost Principles for Educational Institutions"

Circular A 110, as amended September 30, 1999, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (Codification by Department of Interior, 43 CFR 12, Subpart F)

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

1.2 State, Local and Tribal Governments that are Recipients or sub-recipients shall use the following:

2 CFR Part 225 (Circular A 87), "Cost Principles for State, Local, and Indian Tribal Governments"

Circular A 102, as amended August 29, 1997, "Grants and Cooperative Agreements with State and Local Governments" (Grants Management Common Rule, Codification by Department of Interior, 43 CFR 12, Subpart C)

Circular A-133, revised June 27, 2003, Audits of States, Local Governments, and Non-Profit Organizations"

1.3 Nonprofit Organizations that are Recipients or sub-recipients shall use the following:

2 CFR Part 230 (Circular A 122), "Cost Principles for Non-Profit Organizations"

Circular A 110, as amended September 30, 1999, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (Codification by Department of Interior, 43 CFR 12, Subpart F)

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

1.4 Organizations other than those indicated above that are Recipients or sub-recipients shall use the basic principles of OMB Circular A-110 (Codification by Department of Interior, 43 CFR 12, Subpart F), and cost principles shall be in accordance with 48 CFR Subpart 31.2.

1.5 43 CFR 12.77 sets forth further regulations that govern the award and administration of subawards by State governments.

2. PAYMENT

2.1 Payment Standards. (43 CFR §12.61)

(a) *Scope.* This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) *Basic standard.* Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(c) *Advances.* Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) *Reimbursement.* Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) *Working capital advances.* If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of

payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.

(f) *Effect of program income, refunds, and audit recoveries on payment.*

- (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) *Withholding payments.*

- (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless—
 - (i) The grantee or subgrantee has failed to comply with grant award conditions, or
 - (ii) The grantee or subgrantee is indebted to the United States.
- (2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with §12.83(c).
- (3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) *Cash depositories.*

- (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.
- (2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State Agreement.
 - (i) *Interest earned on advances.* Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at

least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

2.2 Payment Method

Requesting Payments -- Requests for advance or reimbursement may be made by the following methods:

(1) SF-270, Request for Advance or Reimbursement - Recipients may submit an original and properly certified SF-270 form to the GO. Requests for reimbursement may be submitted on a monthly basis or more frequently if authorized by the (GO). Recipients may not request advance payments for anticipated expenses that are greater than one month in advance of the request.

(2) SF-271, Outlay Report and Request for Reimbursement for Construction Programs - The SF-271 shall be used for construction Agreements paid by the reimbursement method, letter of credit, electronic funds transfer, or Treasury check advance, except where the advance is based on periodic requests from the Recipient, in which case the SF-270 shall be used. This request may be submitted on a quarterly basis, but no less frequently than on an annual basis. Recipients may submit an original, properly certified SF-271 form to the GO.

(3) Automated Standard Application for Payments (ASAP) - Recipients may utilize the Department of Treasury ASAP payment system to request advances or reimbursements. ASAP is a Recipient-initiated payment and information system designed to provide a single point of contact for the request and delivery of Federal funds. Recipient procedures must minimize the time elapsing between the drawdown of federal funds and the disbursement for agreement purposes.

Recipients interested in enrolling in the ASAP system, please contact Dee Devillier at 303-445-3461 or Sheri Oren at 303-445-3448.

3. PROCUREMENT STANDARDS (43 CFR §12.76)

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards.*

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.*

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §12.76. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
 - (ii) Requiring unnecessary experience and excessive bonding,
 - (iii) Noncompetitive pricing practices between firms or between affiliated companies,
 - (iv) Noncompetitive awards to consultants that are on retainer contracts,
 - (v) Organizational conflicts of interest,
 - (vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
 - (vii) Any arbitrary action in the procurement process.
- (2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
 - (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough

qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed*—(1) *Procurement by small purchase procedures*. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$150,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §12.76(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) *Contract cost and price.*

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §12.62). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) *Awarding agency review.*

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

- (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)
- (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
- (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- (7) Notice of awarding agency requirements and regulations pertaining to reporting.
- (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

4. EQUIPMENT (43 CFR §12.72)

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *States.* A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) *Use.*

(1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §12.65(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property,

the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) *Disposition.* When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) *Federal equipment.* In the event a grantee or subgrantee is provided Federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) *Right to transfer title.* The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

- (1) The property shall be identified in the grant or otherwise made known to the grantee in writing.
- (2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow 12.72(e).
- (3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

5. SUPPLIES (43 CFR §12.73)

- (a) *Title.* Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.
- (b) *Disposition.* If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other Federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

6. INSPECTION

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-Recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

7. AUDIT (31 U.S.C. 7501-7507)

Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133. Federal awards are defined as Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. They do not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in A-133, § __.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

8. ENFORCEMENT (43 CFR §12.83)

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
- (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
- (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to Debarment and Suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 ((2 CFR 29.5.12 and 2 CFR 1400, Subpart C).

9. TERMINATION FOR CONVENIENCE (43 CFR §12.84)

Except as provided in 43 CFR §12.83 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §12.83 or paragraph (a) of this section.

10. DEBARMENT AND SUSPENSION (2 CFR §1400)

The Department of the Interior regulations at 2 CFR 1400—Governmentwide Debarment and Suspension (Nonprocurement), which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are hereby incorporated by reference and made a part of this Agreement. By entering into this grant or cooperative Agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 1400, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at <http://www.gpoaccess.gov/ecfr/>.

11. DRUG-FREE WORKPLACE (2 CFR §182 and §1401)

The Department of the Interior regulations at 2 CFR 1401—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 182.

12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE

The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific

statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

Such Assurances also include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards; Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

13. COVENANT AGAINST CONTINGENT FEES

The Recipient warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the Recipient for the purpose of securing Agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee

14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR §175.15)

Trafficking in persons.

(a) *Provisions applicable to a recipient that is a private entity.*

(1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not

- (i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- (ii) Procure a commercial sex act during the period of time that the award is in effect; or
- (iii) Use forced labor in the performance of the award or subawards under the award.

(2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

- (i) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either

(A) Associated with performance under this award; or

(B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1400.

(b) *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

(1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

(2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either

(i) Associated with performance under this award; or

(ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1400.

(c) *Provisions applicable to any recipient .*

(1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

(2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

(i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

(ii) Is in addition to all other remedies for noncompliance that are available to us under this award.

(3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

(d) *Definitions* . For purposes of this award term:

(1) "Employee" means either:

(i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

(ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(2) "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) "Private entity":

(i) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(ii) Includes:

(A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(B) A for-profit organization.

(4) "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

15. NEW RESTRICTIONS ON LOBBYING (43 CFR §18)

The Recipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, including the following certification:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

(c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC § 4601 *et seq.*)

(a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. § 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any "displaced persons," as defined under the URA.

(b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. § 4651.

(c) Exemptions to the URA and 49 CFR Part 24

(1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as "voluntary transactions." Such "voluntary transactions" are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR § 24.101(b)(1)(i)-(iv).

- (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
- (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
 - (ii) inform the owner in writing of what it believes to be the market value of the property

(d) Review of Land Acquisition Appraisals. Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR § 24.104. Such reviews may be conducted by the Department of Interior's Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

17. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A)

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

2. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. *Subaward*:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, *see* Sec. 11.210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
 - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. *Subrecipient* means an entity that:
 - a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.

18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING

Executive Order 13513, *Federal Leadership On Reducing Text Messaging While Driving*, was signed by President Barack Obama on October 1, 2009 (ref: <http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf>). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Agreement	Director's Backup
Petitioner: Richard B. Holmes, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve an interlocal agreement among the City of Henderson, the City of Las Vegas, the City of North Las Vegas, Clark County, the Clark County Regional Flood Control District, the Clark County Water Reclamation District, and the Authority to establish funding allocations and the budget for Las Vegas Wash activities in fiscal year 2012/2013.	

Fiscal Impact:

The required \$264,937 is available in the Authority's Operating Budget.

Background:

On June 16, 2011, the Board of Directors approved an interlocal agreement that established funding allocations and the budget covering fiscal year 2011/2012 for the Las Vegas Wash (Wash) activities.

To continue the stabilization and enhancement of the Wash, the Authority has completed a budget for capital construction and operation activities for fiscal year 2012/2013. Approval of this agreement will allocate the monetary resources necessary for the Wash operating expenses among the signatories to the agreement. Funding for Wash capital projects will come from monies generated from 4 percent of gross revenue from the ¼-cent sales tax, federal partners, and other available sources.

The total fiscal year 2012/2013 Wash operating budget is \$1,658,095. It is anticipated that there will be grant funding available in the amount of \$995,750; the remaining local share of the Wash operating budget is \$662,345. According to the attached agreement, 40 percent of the local share (\$264,937) will be paid by the Authority out of the Authority's Operating Budget using revenues derived from the water wholesale delivery charges paid to the Authority by the Las Vegas Valley Water District, the City of Henderson, and the City of North Las Vegas. The remaining \$397,408 of the Wash operating budget will be paid as follows: City of Henderson, \$31,528; Clark County Water Reclamation District, \$137,768; City of Las Vegas, \$67,559; City of North Las Vegas, \$28,083; Clark County, \$66,235; and Clark County Regional Flood Control District, \$66,235.

This agreement is authorized by NRS Chapter 277. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:



Patricia Mulroy, General Manager
PM:RBH:ZLM:KKC:SAS:pe:nh
Attachment

AGENDA
ITEM #

5

INTERLOCAL AGREEMENT AMONG THE CITY OF HENDERSON, CITY OF LAS VEGAS, CITY OF NORTH LAS VEGAS, CLARK COUNTY, CLARK COUNTY REGIONAL FLOOD CONTROL DISTRICT, CLARK COUNTY WATER RECLAMATION DISTRICT, AND THE SOUTHERN NEVADA WATER AUTHORITY TO ESTABLISH FUNDING ALLOCATIONS AND THE BUDGET FOR LAS VEGAS WASH ACTIVITIES IN FISCAL YEAR 2012/2013

This Interlocal Agreement is entered into by the City of Henderson; the City of Las Vegas; the City of North Las Vegas; Clark County; the Clark County Regional Flood Control District; the Clark County Water Reclamation District; and, the Southern Nevada Water Authority ("Authority") comprised of Authority "Purveyor Members" (City of Henderson, City of North Las Vegas and the Las Vegas Valley Water District), and the Authority "Wastewater Discharge Members" (City of Henderson, City of Las Vegas, City of North Las Vegas and the Clark County Water Reclamation District) this _____ day of _____, 2012.

WHEREAS, Lake Mead and the Colorado River are the primary source of water for over 1.8 million residents of the metropolitan Las Vegas Valley and Laughlin, Nevada; and

WHEREAS, Lake Mead and the Colorado River are a significant source of water for millions of other residents in the Lower Colorado River Basin, including citizens of Arizona, California, and Mexico as well as members of several Native American Tribes; and

WHEREAS, the Las Vegas Wash is comprised of highly treated wastewater flows, urban runoff, shallow ground water, storm water flows, and other flows, all of which run through the single tributary from the urban Las Vegas Valley into Lake Mead; and

WHEREAS, concerns over erosion, water quality, the loss of wetlands, and other issues have made managing the Las Vegas Wash one of the highest environmental priorities for Southern Nevada; and

WHEREAS, the undersigned parties – along with other local, state, and federal entities – embarked on a water quality process in 1997 that included participation in the Lake Mead Water Quality Forum and the formation of a citizens advisory committee which studied various issues related to water quality in the Las Vegas Wash, Las Vegas Bay, and Lake Mead; and

WHEREAS, the citizens advisory committee developed a series of recommendations for protecting and improving water quality, one of which was to develop a comprehensive adaptive management plan for the Las Vegas Wash; and

WHEREAS, following the presentation of the citizen recommendations to the Lake Mead Water Quality Forum and their acceptance by the Authority Board of Directors in 1998, the undersigned parties participated in the Las Vegas Wash Coordination Committee ("LVWCC"), a committee comprised of 29 local, state, federal, environmental, and public representatives; and

WHEREAS, the LVWCC, over a 10-month period and with the support of over 100 staff from participating agencies, developed 44 recommended actions in nine study areas related to the Las Vegas Wash; and

WHEREAS, the LVWCC compiled these recommended actions into the Las Vegas Wash Comprehensive Adaptive Management Plan ("LVWCAMP"), a document that was subsequently approved by the LVWCC in December 1999 and by the Authority Board of Directors in January 2000; and

WHEREAS, in July of 2000, a Sales Tax Allocation Cooperative Agreement was entered into by the Authority and the Wastewater Discharge Agencies represented by the City of Henderson, the City of Las Vegas and the Clark County Water Reclamation District; and

WHEREAS, that Sales Tax Allocation Cooperative Agreement provided that four percent (4%) of the gross revenue from the ¼ cent sales tax provided for by NRS Chapter 377B would be allocated to capital improvements and infrastructure needs in the Las Vegas Wash, and

WHEREAS, in June of 2002, the parties to this agreement entered into a Cooperative Agreement which recognized the Las Vegas Wash Comprehensive Adaptive Management Plan and established a basic understanding of the parties concerning implementation of the plan and their respective roles in that implementation through the Management Advisory Committee (MAC); and

WHEREAS, in November 2007, the parties to this agreement, along with the Clean Water Coalition, entered into an agreement that established the Las Vegas Valley Watershed Advisory Committee (LVVWAC). The LVVWAC assumed the responsibilities of the MAC and provided that the LVVWAC would continue implementation of the Las Vegas Wash Comprehensive Adaptive Management Plan, along with establishing a cohesive direction and integrated approach to addressing water quality issues in the Las Vegas Valley and Lake Mead; and

WHEREAS, the Authority has been designated as the lead agency to implement the LVWCAMP and has established a staff team to coordinate this effort; and

WHEREAS, a Workplan and estimated budget for the Las Vegas Wash construction and operation has been established by the Authority for fiscal year 2012/2013; and

WHEREAS, Authority Purveyor members will pay 40% of the total operating budget (or \$264,937) to be paid from the revenues derived from the water wholesale delivery charge; and

WHEREAS, it is the desire of all parties to this agreement to allocate the monetary responsibility for contribution to said capital and infrastructure budget as well as the parties' respective monetary contributions to the estimated Las Vegas Wash operating budget.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Southern Nevada Water Authority, City of Henderson, Clark County Water Reclamation

District, City of Las Vegas, City of North Las Vegas, Clark County, and the Clark County Regional Flood Control District agree as follows:

Section 1: Capital Improvements Budget

It is agreed that the budget for capital improvements and associated activities for 2012/2013 are included in the 2012/2013 Project Work Plan of the Amended Las Vegas Wash Capital Improvements Plan. The 2012/2013 Project Work Plan shows a total funding of \$52,232,842 for calendar years 2012 and 2013. The 2012/2013 Project Work Plan includes funding for design activities at six channel stabilization dam sites, construction activities for five channel stabilization dams, revegetation of six disturbed construction sites, plant nursery stock development, biological surveys, emergency action planning, debris removal, construction equipment rental, and construction materials transportation.

Funding for capital projects will come from monies generated from 4% of gross revenue from the ¼ cent sales tax, federal partners, and other available sources.

The Authority will require its contractors to indemnify, defend and hold harmless the Parties to this Agreement against any and all claims, causes of action, judgments, and/or fees arising out of the contractor's acts and/or omissions related to its performance of any contract for the Authority.

The Authority will also require its contractors to name each party to this Agreement as an additional insured on the contractor's insurance policy.

Section 2: Operating Budget

It is agreed by the parties hereto that the total operating budget for the Authority's Las Vegas Wash activities for fiscal year 2012/2013 is estimated to be \$1,658,095. It is anticipated that there will be federal funding from the Bureau of Reclamation available to augment the parties' contributions. Said federal funding is estimated to be approximately \$720,500. Other grants are anticipated to augment the operating budget in the amount of \$275,250. This will leave \$662,345 of the total operating budget to be provided locally (referred to herein as the "local share"). Additionally, it is anticipated that the Authority's purveyor members will contribute \$264,937 or 40% of the local share; however, the purveyor members' contribution is not governed by this agreement. The parties hereto agree, therefore, that \$397,408 or 60% of the local share of the total operating budget must be paid by the parties hereto. Contained in Attachment A is an Operating Budget Narrative outlining the anticipated administration costs as well as programs and study costs included in the 2012/2013 operating budget.

a) Funding of Local Share:

It is hereby agreed by the parties that the following allocation ratios and funding sources are established as binding for the purpose of funding the local share or

\$662,345 of the total operating budget for the Las Vegas Wash for fiscal year 2012/2013:

i) Authority Purveyor Members acknowledge that the Authority shall pay 40% (\$264,937) of the local share using revenues derived from the water wholesale delivery charges paid to the Authority by the Authority Purveyor Members.

ii) Authority "Wastewater Discharge Members" shall pay 40% (\$264,938) of the local share as follows:

The City of Henderson, as a discharger, will be responsible for payment of 11.9% of the \$264,938 or \$31,528;

The Clark County Water Reclamation District will be responsible for 52% of the \$264,938, or \$137,768;

The City of Las Vegas will be responsible for 25.5% of the \$264,938, or \$67,559.

The City of North Las Vegas will be responsible for 10.6% of the \$264,938, or \$28,083.

iii) Clark County will pay 10% of the local share (\$66,235).

iv) Clark County Regional Flood Control District will pay 10% of the local share (\$66,235).

Section 3: Payments

Payments will be made by the respective parties hereto as specified in Section 2 into a fund established specifically for the operations of the Las Vegas Wash projects for fiscal year 2012/2013.

Section 4: Effective Date

This agreement becomes effective when the duplicate originals are executed and dated by all parties, realizing that each entity, by necessity, must approve and execute the subject document at different places and on different dates.

Section 5: Severability

Should any part of this agreement be rendered void, invalid, or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable under any other part of this agreement.

Section 6: Governing Law

The laws of the State of Nevada will govern as to the interpretation, validity and effect of this agreement.

Section 7: Third Party Beneficiaries

This agreement is intended only to benefit the parties hereto and does not create any rights, benefits or causes of action for any other person, entity or member of the general public.

Section 8: One Time Agreement

It is specifically recognized and agreed by all parties hereto, that this agreement is not to be interpreted or constructed as establishing a precedent for any further agreement, covenant or commitment on the part of any party hereto and should be considered a stand alone document without establishing any future obligations, other than as described herein, on the part of any party hereto.

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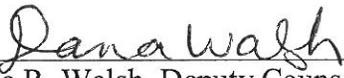
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INTERLOCAL AGREEMENT AMONG THE CITY OF HENDERSON, CITY OF LAS VEGAS, CITY OF NORTH LAS VEGAS, CLARK COUNTY, CLARK COUNTY REGIONAL FLOOD CONTROL DISTRICT, CLARK COUNTY WATER RECLAMATION DISTRICT, AND THE SOUTHERN NEVADA WATER AUTHORITY TO ESTABLISH FUNDING ALLOCATIONS AND THE BUDGET FOR LAS VEGAS WASH ACTIVITIES IN FISCAL YEAR 2012/2013

SOUTHERN NEVADA WATER AUTHORITY

Shari L. Buck, Chair

Approved as to form:



Dana R. Walsh, Deputy Counsel

Approved on _____, by the Board of Directors for the Southern Nevada Water Authority.

Attest:

CITY OF LAS VEGAS

Beverly K. Bridges, MMC, City Clerk

Carolyn G. Goodman, Mayor

Approved As to Form:

Approved on _____, by the City Council for the City of Las Vegas.

John S. Ridilla, Deputy City Attorney

INTERLOCAL AGREEMENT AMONG THE CITY OF HENDERSON, CITY OF LAS VEGAS, CITY OF NORTH LAS VEGAS, CLARK COUNTY, CLARK COUNTY REGIONAL FLOOD CONTROL DISTRICT, CLARK COUNTY WATER RECLAMATION DISTRICT, AND THE SOUTHERN NEVADA WATER AUTHORITY TO ESTABLISH FUNDING ALLOCATIONS AND THE BUDGET FOR LAS VEGAS WASH ACTIVITIES IN FISCAL YEAR 2012/2013

Attest:

CITY OF HENDERSON

Sabrina Mercadante, CMC
City Clerk

Andy Hafen, Mayor

Approved As To Form:

Approved on _____, by the City Council
for the City of Henderson.

Josh M. Reid, City Attorney

Attest:

CITY OF NORTH LAS VEGAS

Karen L. Storms, CMC, City Clerk

Shari L. Buck, Mayor

Approved As to Form:

Approved on _____, by the City Council for the
City of North Las Vegas.

Jeffrey F. Barr, City Attorney

INTERLOCAL AGREEMENT AMONG THE CITY OF HENDERSON, CITY OF LAS VEGAS, CITY OF NORTH LAS VEGAS, CLARK COUNTY, CLARK COUNTY REGIONAL FLOOD CONTROL DISTRICT, CLARK COUNTY WATER RECLAMATION DISTRICT, AND THE SOUTHERN NEVADA WATER AUTHORITY TO ESTABLISH FUNDING ALLOCATIONS AND THE BUDGET FOR LAS VEGAS WASH ACTIVITIES IN FISCAL YEAR 2012/2013

CLARK COUNTY WATER RECLAMATION DISTRICT

Richard Mendes, General Manager

Approved As To Form:

Approved on _____, by the Board of Trustees for the Clark County Water Reclamation District.

Carolyn Campbell, Deputy District Attorney

Attest:

CLARK COUNTY

Diana Alba, County Clerk

Susan Brager, Chair

Approved As To Form:

Approved on _____, by the Board of County Commissioners for Clark County (Parks & Recreation)

Mary Ann Peterson, Deputy District Attorney

INTERLOCAL AGREEMENT AMONG THE CITY OF HENDERSON, CITY OF LAS VEGAS, CITY OF NORTH LAS VEGAS, CLARK COUNTY, CLARK COUNTY REGIONAL FLOOD CONTROL DISTRICT, CLARK COUNTY WATER RECLAMATION DISTRICT, AND THE SOUTHERN NEVADA WATER AUTHORITY TO ESTABLISH FUNDING ALLOCATIONS AND THE BUDGET FOR LAS VEGAS WASH ACTIVITIES IN FISCAL YEAR 2012/2013

Attest:

**CLARK COUNTY REGIONAL FLOOD
CONTROL DISTRICT**

Carolyn M. Frazier, Board Secretary

Lawrence L. Brown, III, Chairman

Approved As To Form:

Approved on _____, by the Board of Directors for the
Clark County Regional Flood Control District.

Christopher Figgins, Clark County
Chief Deputy District Attorney

Attachment A
Operating Budget Narrative
FY 2012/2013

MATERIALS, SUPPLIES, EQUIPMENT – TOTAL \$52,370

Funding in the amount of \$52,370 is requested for general office support items including office supplies, printing, safety supplies, dues for professional organizations, and subscriptions/publications.

OFFICE LEASE – TOTAL \$54,740

Funding in the amount of \$54,740 is requested for the office space located at 100 City Parkway.

SALARIES AND BENEFITS – TOTAL \$545,235

Funding in the amount of \$545,235 is requested for salaries and benefits to support Las Vegas Wash Project Coordination Team staff.

RESEARCH AND STUDIES PROJECTS – TOTAL \$1,005,750 (LOCAL CONTRIBUTION \$10,000)

The total research and studies budget is \$1,005,750. Of this, the local contribution is \$10,000, with the remaining budget anticipated to come from federal and local grants. These projects include a variety of activities and studies to meet the tasks identified in the LVWCAMP and to meet state and federal environmental compliance requirements.

Budgeted Items	Amount
Materials, Supplies, Equipment	\$52,370
Office Lease	\$54,740
Salaries and Benefits	\$545,235
Research and Studies Projects	\$1,005,750
TOTAL FY 12/13 BUDGET	\$1,658,095
BUREAU OF RECLAMATION CONTRIBUTION	\$720,500
OTHER CONTRIBUTION/GRANTS	\$275,250
LOCAL CONTRIBUTION	\$662,345

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM
June 21, 2012**

Subject: Agreement	Director's Backup
Petitioner: Richard B. Holmes, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve a grant and cooperative agreement between the United States Geological Survey and the Authority to accept funding for aerial imagery acquisition of the Las Vegas Valley in support of the Water Smart Landscape Program, and authorize the General Manager to approve future modifications to the agreement only if future modifications do not fiscally impact the Authority.	

Fiscal Impact:

The United States Geological Survey will provide up to \$55,000 to the Authority for aerial imagery acquisition of the Las Vegas Valley. The grant is contingent on the Authority expending matching funds up to an amount not to exceed \$60,000. The matching funds are available in the Authority's Operating Budget.

Background:

High resolution aerial imagery has been used as an integral part of the Authority's Water Smart Landscape Program for much of the past decade. In recent years, the Authority has partnered with other local and federal agencies in obtaining high resolution aerial imagery.

In 2011, the United States Geological Survey (USGS) expressed interest in assisting the Authority with acquiring aerial imagery of the Las Vegas Valley and surrounding areas in Clark County, and notified the Authority of its intent to provide financial assistance. To start the process of finding a qualified company to acquire the digital aerial imagery, a Request for Proposal (RFP) was released by the Authority in December 2011. Based on their response to the RFP, Sanborn Map Company, Inc. (Sanborn), was selected to provide the required services by a team comprised from representatives of the City of Henderson, the City of Las Vegas, the USGS, and the Authority. On March 12, 2012, Sanborn and the Authority entered into an agreement for an amount not to exceed \$70,000 for digital aerial imagery services. In March 2012, the Authority received USGS notification of its approval of the grant request in an amount not to exceed \$55,000 to be used for costs incurred for up to a 12-month period.

At this time, the Board of Directors is being asked to approve the attached Grant and Cooperative Agreement, which includes the provisions necessary for the Authority to obtain this federal funding.

This agreement is being entered into pursuant to NRS 277.180. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:


 Patricia Mulroy, General Manager
 PM:RBH:KAA:GAF:CH:kv
 Attachment

AGENDA ITEM # 6

Grant and Cooperative Agreement

CHOOSE ONE:

- COOPERATIVE AGREEMENT
 GRANT

CHOOSE ONE: EDUCATION FACILITIES RESEARCH SDCR TRAINING

1. GRANT/COOPERATIVE AGREEMENT NUMBER G12AC20089	2. SUPPLEMENT NUMBER	3. EFFECTIVE DATE 03/23/2012	4. COMPLETION DATE 03/31/2013
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5. ISSUED TO
NAME/ADDRESS OF RECIPIENT (No., Street, City/County, State, Zip)
SOUTHERN NEVADA WATER AUTHORITY
Attn: ATTN GOVERNMENT POC
1001 S VALLEY VIEW BLVD
LAS VEGAS NV 89153-0001

6. ISSUED BY USGS OAG SACRAMENTO ACQUISITION BR.
Mailing Address: MODOC HALL, CSUS
3020 STATE UNIVERSITY DRIVE EAST
SACRAMENTO CA 95819-6027

7. TAXPAYER IDENTIFICATION NO. (TIN)

9. PRINCIPAL INVESTIGATOR/ORGANIZATION'S PROJECT OR PROGRAM MGR. (Name & Phone)

Craig Hale
702-862-3730

8. COMMERCIAL & GOVERNMENT ENTITY (CAGE) NO.

10. RESEARCH, PROJECT OR PROGRAM TITLE

Spring 2012 Digital Orthomimagery over the Las Vegas Urban Area and Surrounding Parts of Clark County, dated 4/19/2012

11. PURPOSE

Research and Data Collection

12. PERIOD OF PERFORMANCE (Approximately)

03/23/2012 through 03/31/2013

13A.	AWARD HISTORY	13B.	FUNDING HISTORY
PREVIOUS	\$0.00	PREVIOUS	\$0.00
THIS ACTION	\$55,000.00	THIS ACTION	\$55,000.00
CASH SHARE	\$55,000.00	TOTAL	\$55,000.00
NON-CASH SHARE	\$0.00		
RECIPIENT SHARE	\$60,000.00		
TOTAL	\$55,000.00		

14. ACCOUNTING AND APPROPRIATION DATA

01

PURCHASE REQUEST NO.	JOB ORDER NO.	AMOUNT	STATUS
0020006538			

15. POINTS OF CONTACT

	NAME	MAIL STOP	TELEPHONE	E-MAIL ADDRESS
TECHNICAL OFFICER	Carol Ostergren		916-278-9510	costergren@usgs.gov
NEGOTIATOR				
ADMINISTRATOR	Verita Friesner		916-278-9328	vfriesner@usgs.gov
PAYMENTS				

16. THIS AWARD IS MADE UNDER THE AUTHORITY OF :

43 USC 31, 43 USC 36c and 36d

17. APPLICABLE STATEMENT(S), IF CHECKED:

- NO CHANGE IS MADE TO EXISTING PROVISIONS
 FDP TERMS AND CONDITIONS AND THE AGENCY-SPECIFIC REQUIREMENTS APPLY TO THIS GRANT

18. APPLICABLE ENCLOSURE(S), IF CHECKED:

- PROVISIONS SPECIAL CONDITIONS
 REQUIRED PUBLICATIONS AND REPORTS

UNITED STATES OF AMERICA

COOPERATIVE AGREEMENT RECIPIENT

CONTRACTING/GRANT OFFICER

Verita Friesner

DATE

AUTHORIZED REPRESENTATIVE

Patricia Mulroy

DATE

Southern Nevada Water Authority

Approved as to form:

By Dana Walsh Date 5-29-12

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
00010	<p>CFDA Number: 15.808 DUNS Number: 135965650+0000 Delivery Location Code: 0006366928 USGS NGTOC MS 510 Denver CO 80225 US</p> <p>Account Assignment: K G/L Account: 6100.411C0 Business Area: G000 Commitment Item: 411C00 Cost Center: GGHIEF0000 Functional Area: GE0300000.460000 Fund: 122G0804AR Fund Center: GGHIEF0000 Project/WBS: GR.12.EF00.NGA73.00 PR Acct Assign Line: 01 Period of Performance: 03/23/2012 to 03/31/2013</p> <p>Cooperative Agreement for Spring 2012 Las Vegas Clark County imagery over the Las Vegas Urban Area and surrounding parts of Clark County. Obligated Amount: \$55,000.00</p> <p>Direct inquiries to Verita Friesner at (916) 278-9328 or vfriesner@usgs.gov.</p> <p>The total amount of award: \$55,000.00. The obligation for this award is \$55,000.00.</p>				55,000.00

A Cooperative Agreement (number G12AC20089) between

**The U.S. Geological Survey
National Geospatial Program**

and

Southern Nevada Water Authority (SNWA)

ARTICLE I: STATEMENT OF JOINT OBJECTIVES

The USGS and the Recipient are mutually interested and desire to cooperate in a project for acquiring spring 2012 digital orthoimagery over the Las Vegas Urban Area and surrounding parts of Clark County.

ARTICLE II: PROJECT DESCRIPTION

See Attached Project Description, 8 pages

Key Personnel

The personnel named below are hereby identified as key personnel and are considered essential to the work being performed hereunder.

Name	Title	Estimated Level of Effort
Craig Hale	Principal Investigator	10%

ARTICLE III: FINANCIAL SUPPORT

Financial support for research efforts conducted under this Agreement is hereby obligated by the USGS in the amount of \$55,000.00 in accordance with (IAW) the Recipient's Application for Federal Assistance (SF 424) and the Recipient's Budget Information – Non-Construction Programs (SF 424A), dated 4/19/2012. The Government's obligation to make payment to the Recipient is limited to only those funds obligated by this Agreement or by written modification to this Agreement; nothing in this Agreement authorizes the Recipient to incur costs in excess of the agreed upon costs as set forth herein.

Pre-Agreement Costs

In accordance with 2 CFR 225 App. B section 31, the Recipient shall be entitled to reimbursement of costs incurred prior to the effective date of this Agreement which are

directly pursuant to the negotiation and in anticipation of the Agreement to the extent that such costs are necessary to comply with the proposed delivery schedule or period of performance and which, if incurred after this Agreement had been entered into, would have been reimbursable under the cost principles applicable to the Recipient as outlined in Article VIII. Notwithstanding these 'pre-agreement' costs, the USGS' total obligation shall not exceed the amount obligated by this Agreement.

Revision of Budget or Project Description (Changes)

Any proposed change which requires the prior written approval of the USGS shall be submitted in writing to the Contracting Officer thirty (30) days prior to the requested effective date of the proposed change.

The following changes require prior written approval by the Contracting Officer:

- 1) Any revision which would result in the need for additional funding.
- 2) Any revision to the scope or objective(s) of this Agreement, regardless of whether there is an associated budget revision.
- 3) Any change to "key personnel" specified in Article II.
- 4) Unless described in the application and approved by the execution of this Agreement, the subaward, subcontracting, or transfer of any portion of this Agreement, except for the purchase of material, supplies, equipment, or general support services.
- 5) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.
- 6) If the total value of this Agreement exceeds \$100,000.00, cumulative transfers among direct cost categories or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten (10) percent of the total value of this Agreement.
- 7) For institutions of higher education, hospitals, or other non profits; or organizations for profit, individuals, or "other" organizations or entities not otherwise classified, the inclusion of costs that require prior approval in accordance with the cost principles applicable to the Recipient as outlined in Article VIII.
- 8) For institutions of higher education, hospitals, or other non profits; or organizations for profit, individuals, or "other" organizations or entities not otherwise classified, the absence for more than three (3) months, or a twenty-five (25) percent reduction in the time devoted to this Agreement, by the approved project director or principal investigator.

9) For state, local, or Indian tribal governments, the need to extend the period of availability of funds.

The Contracting Officer will respond to the change request within thirty (30) days of receipt.

ARTICLE IV: PAYMENT AND FINANCIAL REPORTING

A. PAYMENT

Payments under financial assistance awards must be made using the Department of the Treasury Automated Standard Application for Payments (ASAP) system www.asap.gov.

- a. The Recipient agrees that it has established or will establish an account with ASAP. USGS will initiate enrollment in ASAP. If the Recipient does not currently have an ASAP account, they must designate an individual (name, title, address, phone and e-mail) who will serve as the Point of Contact (POC).
- b. With the award of each grant/cooperative agreement, a sub-account will be set up from which the Recipient can draw down funds. After recipients complete enrollment in ASAP and link their banking information to the USGS ALC (14080001), it may take up to 10 days for sub-accounts to be activated and for funds to be authorized for drawdown in ASAP.
- c. Inquiries regarding payment should be directed to:

Regional Finance Center	Time Zone	Phone Number	Business Hours	Mailing Address
Philadelphia	Eastern	(215) 516-8021	7:30 a.m - 4:00 p.m.	P.O. Box 51317 Philadelphia, PA 19115-6317
Kansas City	Central	(816) 414-2100	7:30 a.m - 4:00 p.m.	P.O. Box 12599-0599 Kansas City, MO 64116-0599
San Francisco	Mountain or Pacific	(510) 594-7182	7:30 a.m - 4:00 p.m.	P.O. Box 24700 Oakland, CA 94623-1700

- d. Payments may be drawn in advance only as needed to meet immediate cash disbursement needs.

B. Cash Management and Financial Reporting Requirements

1. Annual Financial Reports.

The recipient will submit annual STANDARD FORM 425, FEDERAL FINANCIAL REPORT(S) for each individual USGS award. The SF 425 is available at -

http://www.whitehouse.gov/omb/grants_forms. The SF 425 will be due ninety (90) calendar days after the grant year (i.e., 12 months after the approved effective date of the grant agreement and every 12 months thereafter until the expiration date of the grant agreement). USGS acknowledges that this annual reporting schedule may not always correspond with a specific budget period. The SF 425 must be submitted electronically through the FedConnect Message Center (www.fedconnect.net). If after 90 days, recipient has not submitted a report, the recipient's account in ASAP will be placed in a manual review status until the report is submitted.

2. Final Financial Report.

a. The recipient will liquidate all obligations incurred under the award and submit a final STANDARD FORM 425, FEDERAL FINANCIAL REPORT through FedConnect (www.fedconnect.net) no later than 90 calendar days after the grant/cooperative agreement completion date. The SF 425 is available at - http://www.whitehouse.gov/omb/grants_forms. Recipient will promptly return any unexpended federal cash advances or will complete a final draw from ASAP to obtain any remaining amounts due. Once 120 days has passed since the grant/agreement completion date, the ASAP subaccount for this award may be closed by USGS at any time.

b. Subsequent revision to the final SF 425 will be considered only as follows –

- (i) When the revision results in a balance due to the Government, the recipient must submit a revised final Federal Financial Report (SF 425) and refund the excess payment whenever the overcharge is discovered, no matter how long the lapse of time since the original due date of the report.
- (ii) When the revision represents additional reimbursable costs claimed by the recipient, a revised final SF 425 may be submitted to the Contracting Officer with an explanation. If approved, the USGS will either request and pay a final invoice or reestablish the ASAP subaccount to permit the recipient to make a revised final draw. Any revised final report representing additional reimbursable amounts must be submitted no later than 1 year from the due date of the original report, i.e., 15 months following the agreement completion date. USGS will not accept any revised SF 425 covering additional expenditures after that date and will return any late request for additional payment to the recipient.

ARTICLE V: TERM OF THE AGREEMENT

This Agreement shall become effective upon the date of signature by the USGS Contracting Officer and shall remain in effect 03/31/2013 unless sooner terminated in accordance with those provisions applicable to the Recipient as outlined in Article VIII.

This Agreement may be modified or extended at any time by mutual written consent of the parties. In no event shall the total term of this Agreement exceed five (5) years.

ARTICLE VI: PROJECT INFORMATION SYSTEMS

Records and reports shall be maintained by the Recipient in accordance with those provisions applicable to the Recipient as outlined in Article VIII. The Recipient shall permit the USGS, the Inspector General of the Department of the Interior, the Comptroller General of the United States, or any of their authorized representatives, the right to examine all records, books, papers or documents relating to this Agreement.

Publications – Acknowledgement

The Recipient shall place an acknowledgment of USGS support on any publication written or published with such support and, if feasible, on any publication reporting the results of, or describing, a supported activity. An acknowledgment shall be to the effect that:

The project described in this publication was supported by Grant/Cooperative Agreement Number G12AC20089 from the United States Geological Survey.

Publications – Library Deposit

Ten (10) copies of any publication produced under this Agreement shall be provided to the Program Officer for deposit in the U.S. Department of the Interior Natural Resources and USGS libraries. This requirement does not apply to journal articles.

Performance Reports

The Recipient shall submit annual performance reports to the designated office yearly, notwithstanding that this Agreement may provide for payment on a more frequent basis. This report is due no later than 90 days after the close of the period covered by the report. In the event that the term of this Agreement is less than one (1) year in duration, a single annual report (final report) shall be required no later than 90 days after completion of this Agreement.

The annual reports shall include the following information:

A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

Reasons why established goals were not met, if appropriate.

Other pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit costs.

Between the required performance reporting dates, events may occur which have significant impact upon the project or program. In such cases, the Recipient shall inform the USGS as soon as the following types of conditions become known:

Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any Federal assistance needed to resolve the situation.

Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

ARTICLE VII: PROPERTY MANAGEMENT AND DISPOSITION

Any property provided by the USGS or acquired by the Recipient with funds from this Agreement shall be managed and disposed in accordance with those provisions applicable to the Recipient as outlined in Article VIII. No property shall be disposed of without written consent by the USGS Contracting Officer.

None

ARTICLE VIII: GENERAL PROVISIONS

General Regulations and Requirements

The Recipient shall comply with the following:

A. Educational Institutions

- OMB Circular A-21, Cost Principles for Educational Institutions, as implemented in 2 CFR 220
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, hospitals, and Other Non-profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

B. State, Local, and Indian Tribal Governments

- OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, as implemented in 2 CFR 225
- OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments, as implemented in 43 CFR Part 12, Subpart C

- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

C. Non-Profit Organizations

- OMB Circular A-122, Cost Principles for Non-Profit Organizations, as implemented in 2 CFR 230, except recipients listed in Appendix C to 2 CFR 230 are subject to Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations (Contract Cost Principles and Procedures)
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

D. Organizations for Profit, Individuals, and Others Not Covered Above

- Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations (Contract Cost Principles and Procedures)
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- FAR Subpart 42.1, Contract Audit Services; FAR Subpart 42.7, Indirect Cost Rates; FAR Subpart 42.8, Disallowance of Costs

Additionally, this Agreement is subject to the following Government-wide regulations:

- 2 CFR 180, Government Debarment and Suspension (Nonprocurement)

And the following regulations of the U.S. Department of the Interior:

- 2 CFR 1400: Nonprocurement Debarment and Suspension
- 43 CFR Part 12, Subpart E: Buy American Requirements for Assistance Programs
- 43 CFR Part 17, Subpart A: Nondiscrimination on the Basis of Race, Color, or National Origin
- 43 CFR Part 17, Subpart B: Nondiscrimination on the Basis of Handicap
- 43 CFR Part 17, Subpart C: Nondiscrimination on the Basis of Age
- 43 CFR Part 17, Subpart E: Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of the Interior
- 43 CFR Part 18, New Restrictions on Lobbying

- 43 CFR Part 41, Nondiscrimination on the basis of sex in education programs or activities receiving Federal financial assistance (*applies if this Agreement provides assistance to an education program or activity, whether or not the recipient is an educational institution*)
- 43 CFR Part 43, Governmentwide Requirements for Drug Free Workplace

Buy American Act

The Recipient is subject to the requirements of 43 CFR Part 12, Subpart E entitled “Buy American Requirements for Assistance Programs.” Additionally, in accordance with Title III, sections 307(b) and 307(d) of H.R. 3423, incorporated by cross-reference in the conference report to H.R. 3194, enacted as the FY 2000 Consolidated Appropriations Bill, Public Law 106-113, the following provision is included:

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in FY 2000 and thereafter, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

Metric System of Measurement

In accordance with 43 CFR §12.915 and Executive Order 12770, entitled “Metric Usage in Federal Government Programs,” the following provision is included:

All progress and final reports, other reports, or publications produced under this Agreement shall employ the metric system of measurements to the maximum extent practicable. Both metric and inch-pound units (dual units) may be used if necessary during any transition period(s). However, the Recipient may use non-metric measurements to the extent the Recipient has supporting documentation that the use of metric measurements is impracticable or is likely to cause significant inefficiencies or loss of markets to the Recipient, such as when foreign competitors are producing competing products in non-metric units.

Anti-Lobbying

The Recipient is subject to the requirements of 43 CFR Part 18, entitled “New Restrictions on Lobbying.” Additionally, in accordance with Division A, Title IV, section 402 of H.R. 2996, enacted as the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, Public Law 111-88, the following provision is included:

No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which

Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. §1913.

Use of Government-Owned Vehicles

(a) When it is in the interests of the parties, and with the concurrence of the USGS Contracting Officer, the USGS Program Officer may authorize the Recipient to use a Government-owned vehicle (GOV) to perform work within the scope of this Agreement. The specific GOV provided and the periods of use by the Recipient are subject to availability and the mutual agreement of the parties.

(b) GOVs may only be used by bona fide employees of the Recipient for performance of work within the scope of this Agreement. Recipient employees shall not use any GOV for commuting to and from home and shall not store any GOV other than at the worksite except as required to perform fieldwork under the scope of this Agreement and with written authorization of the USGS Program Officer.

(c) Before any Recipient employee drives a GOV, the employee's supervisor must assure that the employee is at least 18 years of age, has a valid license to drive the type of vehicle to be used and a clean driving record, and understands all applicable state, local and federal (including USGS) laws and regulations.

(d) Before the first use of a GOV under this Agreement, the Recipient shall provide the USGS Contracting Officer with proof of liability insurance or self insurance for at least the following coverage: \$200,000.00 per person and \$500,000.00 per occurrence for bodily injury; and \$20,000.00 per occurrence for property damage. Subject to the limitations and conditions of any state or local laws limiting tort claims, the Recipient agrees to accept responsibility for all tort claims resulting from accidents occurring while the GOV is under the control of Recipient employees. In the event of an accident while the GOV is in use by a Recipient employee, the Recipient shall immediately submit a report using Standard Form 91, Operator's Report of Motor Vehicle Accident, and 91A, Investigative Report of Motor Vehicle Accident, or equivalent forms to the USGS Contracting Officer.

(e) Reimbursement of reasonable costs for fuel and/or emergency supplies required to safely operate the GOV and necessary to perform work within the scope of this Agreement are allowable in accordance with the cost principles applicable to the Recipient as outlined in Article VIII. The USGS will provide the GOV's preventive maintenance and related supplies unless otherwise agreed to.

(f) Use of a GOV is subject to OMB Circular A-110, part 33, regarding the use of Government-owned controlled property, 41 CFR 101-39.2 and 39.3, 41 CFR 102-34, US Geological Survey Manual Chapters 409.1 and 451.1, and all applicable state and local laws and regulations.

Seat Belt Use

In accordance with 43 CFR §12.2 and Executive Order 13043, entitled "Increasing Seat Belt Use in the United States," the following provision is included:

Recipients of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

Use of U.S. Flag Air Carriers

Any air transportation to, from, between or within a country other than the U.S. of persons or property, the expense of which will be paid in whole or in part by U.S. Government funding, must be performed by, or under a code-sharing arrangement with, a U.S. flag air carrier if service provided by such a carrier is "available" (49 U.S.C. §40118, commonly referred to as the Fly America Act). Tickets (or documentation for electronic tickets) must identify the U.S. flag air carrier's designator code and flight number. See the Federal Travel Regulation §301-10.131 - §301-10.143 for definitions, exceptions, and documentation requirements. (See also Comp. Gen. Decision B-240956, dated September 25, 1991.)

Activities on Private and Other Non-Federal Lands

Paragraph (a) applies only if this Agreement is funded in whole or in part by funds appropriated by Congress for "biological research activity." Paragraph (b) applies to all Agreements.

(a) Funds provided for the biological research activity in USGS appropriations may not be used to conduct surveys on private property, unless specifically authorized in writing by the property owner.

(1) Accordingly, the Recipient shall not enter non-Federal real property for the purpose of collecting information regarding the property, unless the owner of the property has –

- consented in writing to the entry;
- been provided notice of that entry; and
- been notified that any raw data collected from the property must be made available at no costs, if requested by the land owner.

(2) In this provision, the term "Recipient" includes any person that is an officer, employee, or agent of the Recipient, including a person acting pursuant to a contract or sub-agreement.

(b) The Recipient shall comply with applicable State, local, and Tribal government laws, including laws relating to private property rights.

No Endorsement

Paragraph (b) applies to all Agreements. The remainder of this section applies only if:

- (1) the principal purpose of this Agreement is a partnership where the Recipient contributes resources to promote USGS programs or publicize USGS activities, assists in fundraising, or provides assistance to the USGS; and*
- (2) this Agreement authorizes joint dissemination of information and promotion of activities being supported; and*
- (3) the Recipient is not a State government, a local government, or a Federally-recognized Indian tribal government.*

(a) Recipient shall not publicize or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a product, service, or position which the recipient represents. No release of information relating to this award may state or imply that the Government approves of the recipient's work products, or considers the recipient's work product to be superior to other products or services.

(b) All information submitted for publication or other public releases of information regarding this project shall carry the following disclaimer:

The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.

(c) Recipient must obtain prior Government approval for any public information releases concerning this award which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.

(d) A recipient further agrees to include this provision in a subaward to any subrecipient, except for a subaward to a State government, a local government, or to a Federally-recognized Indian tribal government.

Access to Research Data

(a) By regulation (43 CFR 12.936), recipients that are institutions of higher education, hospitals, or non-profit organizations are required to release research data first produced in a project supported in whole or in part with Federal funds that are cited publicly and officially by a Federal agency in support of an action that has the force and effect of law (e.g., regulations and administrative orders). "Research data" is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate

research findings. It does not include preliminary analyses; drafts of scientific papers; plans for future research; peer reviews; communications with colleagues; physical objects (e.g., laboratory samples, audio or video tapes); trade secrets; commercial information; materials necessary to be held confidential by a researcher until publication in a peer-reviewed journal; information that is protected under the law (e.g., intellectual property); personnel and medical files and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy; or information that could be used to identify a particular person in a research study.

(b) These requirements do not apply to commercial organizations or to research data produced by State or local governments. However, if a State or local governmental grantee contracts with an educational institution, hospital, or non-profit organization, and the contract results in covered research data, those data are subject to these disclosure requirements.

(c) Requests for the release of research data subject to this policy are required to be made to USGS, which will handle them as FOIA requests under 43 CFR 2.25. If the data are publicly available, the requestor will be directed to the public source. Otherwise, the USGS Contracting Officer/Grants Officer, in consultation with the affected recipient and the PI, will handle the request. This policy also provides for assessment of a reasonable fee to cover recipient costs as well as (separately) the USGS costs of responding.

Research Integrity

The Recipient shall adhere to the Federal Policy on Research Misconduct, Office of Science and Technology Policy, December 6, 2001, 65 Federal Register (FR) 76260, http://www.ostp.gov/html/001207_3.html. The Federal Policy on Research Misconduct outlines requirements for addressing allegations of research misconduct, including the investigation, adjudication, and appeal of allegations of research misconduct and the implementation of appropriate administrative actions.

The Recipient shall promptly notify the USGS Project Office, with courtesy copy to the Contracting Officer, when research misconduct that warrants an investigation pursuant to the Federal Policy on Research Misconduct is alleged.

Fiscal Integrity

The Recipient shall notify the USGS Contracting Officer of any significant problems relating to the administrative or financial aspects of this Agreement, such as misappropriation of Federal funds.

Program Income

(a) The Recipient will have no obligation to the Federal Government for program income earned from license fees and royalties for copyrighted material, in accordance with 43 CFR 12.924(h) or 43 CFR 12.65(e).

(b) If the Recipient is an educational institution or nonprofit research organization, any other program income will be added to funds committed to the project by the Federal awarding agency and Recipient and be used to further eligible project or program objectives, as described in 43 CFR 12.924(b)(1).

(c) For all other types of recipients, any other program income will be deducted from total allowable costs to determine the net allowable costs before calculating the Government's share of reimbursable costs, as provided in 43 CFR 12.65(g)(1) or 43 CFR 12.924(b)(3).

Trafficking in Persons

In accordance with 22 U.S.C. §7104(g), the following provision is included:

(a) Provisions applicable to a Recipient that is a private entity.

1. The Recipient, its employees, Subrecipients under this Agreement, and Subrecipients' employees may not--

i. Engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect;

ii. Procure a commercial sex act during the period of time that this Agreement is in effect; or

iii. Use forced labor in the performance of this Agreement or subawards under this Agreement.

2. The USGS may unilaterally terminate this Agreement, without penalty, if the Recipient or a Subrecipient that is a private entity --

i. Is determined to have violated a prohibition in paragraph (a)(1) of this provision; or

ii. Has an employee who is determined by the Contracting Officer to have violated a prohibition in paragraph (a)(1) of this provision through conduct that is either--

A. Associated with performance under this Agreement; or

B. Imputed to the Recipient or the Subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented at 2 CFR 1400.

(b) Provision applicable to a Recipient other than a private entity. The USGS may unilaterally terminate this Agreement, without penalty, if a Subrecipient that is a private entity--

1. Is determined to have violated an applicable prohibition in paragraph (a)(1) of this provision; or

2. Has an employee who is determined by the Contracting Officer to have violated an applicable prohibition in paragraph (a)(1) of this provision through conduct that is either--

i. Associated with performance under this Agreement; or

ii. Imputed to the Subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented at 2 CFR 1400.

(c) Provisions applicable to any Recipient.

1. The Recipient must inform the Contracting Officer immediately of any information received from any source alleging a violation of a prohibition in paragraph (a)(1) of this provision.

2. The USGS' right to unilaterally terminate this Agreement, described in paragraphs (a)(2) and (b) of this provision:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. §7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to the USGS under this Agreement.

3. The Recipient must include the requirements of paragraph (a)(1) of this provision in any subaward made to a private entity.

(d) Definitions. For the purposes of this provision:

1. "Employee" means either:

i. An individual employed by the Recipient or a Subrecipient who is engaged in the performance of the project or program described in this Agreement; or

ii. Another person engaged in the performance of the project or program described in this Agreement and not compensated by the Recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. §7102).

Alternate Dispute Resolution (ADR)

(a) The parties agree to use alternate dispute resolution (ADR) procedures to resolve disagreements or claims that may arise under this Agreement to the maximum extent practicable. ADR procedures may be used any time the USGS Contracting Officer has authority to resolve the issue in controversy. If either party refuses an offer of ADR, that party must provide a written explanation of the reasons for rejecting the offer.

(b) When appropriate, a neutral person (third party) may be used to facilitate resolution of the issue in controversy, using procedures chosen by the parties.

(c) The confidentiality of ADR proceedings will be protected consistent with 5 U.S.C. 574.

Encouraging Recipient Policies to Ban Text Messaging While Driving

(a) Definitions. As used in this clause--

"Driving"—

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

"Text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are

programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving, dated October 1, 2009.

(c) The Recipient is encouraged to—

(1) Adopt and enforce policies that ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) Subawards. The Recipient shall insert the substance of this clause, including this paragraph (d), in all subawards that exceed the micro-purchase threshold.

ARTICLE IX: ORDER OF PRECEDENCE

In the event of any inconsistency within this Agreement, the following order of precedence shall be followed:

1. The cover page.
2. Articles I through IX of this Agreement.
3. Other documents incorporated by reference, if any.

DOCUMENTS INCORPORATED BY REFERENCE

Recipient's proposed budget, Standard Form 424 "Application for Federal Assistance", Standard Form 424A "Budget Information for Non-Construction Programs"; and Standard Form 424B "Assurances – Non-construction Programs" dated 4/19/2012 are hereby incorporated by reference.



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Cooperative Agreement
between the
U.S. Geological Survey
and the
Southern Nevada Water Authority
for the
Spring 2012 Acquisition of Digital Orthoimagery
over the
Las Vegas Urban Area and surrounding parts of Clark County

Project Description

1. Background

New high resolution orthoimagery for the Southern Nevada Water Authority (SNWA) is obtained through the cooperative efforts of the Southern Nevada Water Authority and its local and Federal partners. Data collections have previously been obtained by this consortium and have provided the partnership opportunity for USGS and National Geospatial-Intelligence agency. The Supervisor for the Data Resources Division of the SNWA Groundwater Resources manages the project, provides technical oversight, and handles financial agreements with project partners.

SNWA operates by collecting contributions from municipalities and regional entities within the county. The funds are used to collect a six-inch resolution orthoimage over urban areas and surrounding areas where partnership funds are identified. USGS has participated in SNWA partnerships previously by contributing funding and technical support.

OMB Circular A-16 "Coordination of Geographic Information and Related Spatial Data Activities" provides for improvements in coordination and use of spatial data. Spatial data refers to information about places or geography, and has traditionally been shown on maps. This Circular describes the effective and economical use and management of spatial data assets in the digital environment for the benefit of the government and the nation.

This imagery purchase will meet multiple needs for all levels of government: 1) it will provide the local community with much-needed high-resolution imagery for various planning activities; 2) it will provide high-resolution image collection to users of *The National Map* and



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be available via download over the Internet; and 3) it fulfills a critical need by Homeland Security Agencies to obtain public-domain imagery in partnership with USGS and local GIS communities.

2. Performance Period

The performance period of this agreement will be one year, estimated to be March 23, 2012 to March 31, 2013.

3. Federal Involvement

The USGS intends to work closely with SNWA to ensure that orthoimage data prepared under this cooperative agreement meets technical requirements. USGS involvement will include technical assistance, participation in product review, and metadata development. This role will continue through the performance period of the agreement. The USGS will also provide program resources to adequately inform other potential stakeholders from federal, state and local government about the project.

4. Responsibilities

4.1 SNWA will:

Provide all necessary personnel, equipment, and facilities to award, administer, and monitor the orthoimage production program.

Deliver data that meets the specification and conditions described to USGS National Geospatial Technical Operations Center in Denver, CO, as specified in Section 7 of this document.

4.2 USGS will:

Provide technical assistance and consultation as needed to ensure that specifications and requirements for deliverables are met.

Conduct quality assurance and verification of data delivery provided to USGS National Geospatial Technical Operations Center. Quality Control will be performed to ensure that all processes and procedures used, and metadata



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produced by the contractor were adequate to meet all specifications cited as deliverables.

Visual inspection of the data will be performed looking for the following:

- Completeness of data to cover the specified geographic extent, with no omissions or corrupt data.
- Tonal balancing problems across the block.
- Ground Sample Distance to ensure that it meets the specified resolution.
- Mis-joins between linear features greater than 3 pixels
- Cloud cover, smoke/haze, corrupt data, and void areas.
- Extreme tonal or color variation across seamlines.
- Excessive horizontal displacement along seamlines in images (more than ± 3 pixels along transportation features, unless project specifications specifically state otherwise).
- Excessive tilt in bridges, buildings, and other raised features.
- Transportation features that are obstructed by buildings or shadows.
- Tall buildings in urban areas that obscure features in the interior of a city block.
- Clipping of features (e.g. radio towers, water tanks, buildings) at image file boundaries.
- Building/structure, bridge, or road warp that may indicate bad elevation data.
- Smearing.
- Evidence of oversaturation or undersaturation as a result of image processing or histogram manipulation.
- Evidence of image compression.

Perform Horizontal Accuracy Test: Testing is performed if suitable test-point control is furnished as part of the deliverables. Test-point control must be completely independent of control used during aerotriangulation and data production.

Verify Metadata Adequacy: Verify that accompanying metadata is complete and compliant with CSDGM metadata standards



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Provide public access to all derived public domain data as defined herein through national and state data clearinghouses and appropriate imagery services.

5. Schedule

It is anticipated that imagery acquisition will begin in March, 2012 and that delivery of digital orthoimagery to the USGS will be completed by Dec. 31, 2012. Data deliveries will be made to the appropriate USGS Point of Contact as shown below.

6. Points of contact

6.1 USGS (technical issues):

Carol Ostergren
US Geological Survey National Geospatial Program
3020 State University Drive East, Suite 3005
Sacramento, CA 95819
916-278-9510
costergren@usgs.gov

6.2 USGS (contracting and/or administrative issues)

Leigh Ann Davison
U.S. Geological Survey
Geospatial Information Office, Western Region
345 Middlefield Road, MS-955
Menlo Park, CA 94025
(650) 329-4268
(650) 329-5546 fax
ldavison@usgs.gov

6.3 USGS (delivery of the digital orthoimagery)

Dale Benson
U.S. Geological Survey, Denver Federal Center



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West 6th Ave & Kipling Pkwy
Building 810, MS 510
Lakewood, CO 80225
(303) 202-4394
dpbenson@usgs.gov

6.4 Southern Nevada Water Authority:

Craig Hale
Supervisor, Data Resources Division
Southern Nevada Water Authority
Groundwater Resources Department
Address: Molasky Corporate Center
100 City Parkway, Suite 700
Las Vegas, NV 89106
(702) 862-3730
craig.hale@snwa.com

7. Specifications

7.1 Digital photography files will be projected and delivered in State Plane NAD83 Nevada East FIPS 2701 in US Survey feet. The vertical datum for the supporting elevation data used to create the high-resolution digital imagery shall be North American Vertical Datum of 1988 (NAVD88).

7.2 Digital Orthorectified Images will be four-band (natural and near-infrared) color.

7.3 Ground Resolution (pixel size) shall be 6 inches. The natural color source photography needs to be of sufficient quality and resolution to support production of digital orthorectified images to this specification.

7.4 Horizontal positional accuracy over the urban area for the orthorectified product shall be 1" = 200' (1:2,400 scale). The horizontal positional accuracy error over the urban area is not to exceed +/- 5 feet.



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7.5 Digital Orthorectified Images will be submitted in uncompressed, Arc/Info readable, TIFF or GeoTIFF computer file format with companion *.tfw spatial reference (or world) files, and no internal tiling or overviews. Data shall not be compressed during any phase of the production process. Presence of compression artifacts will be cause for rejection of data. GeoTIFF files shall include the following GeoTIFF tags and keys:

- o ModelTiepointTag
- o ModelPixelScaleTag
- o GTModelTypeGeoKey
- o GTRasterTypeGeoKey
- o ProjectedCSTypeGeoKey
- o PCSCitationGeoKey
- o ProjLinearUnitsGeoKey

7.6 Digital orthorectified images shall be provided as image tiles. An index of the tiles must be provided in ESRI shapefile format that includes a projection file (*.prj) defining the projection system of the index. The shapefile database will include the tile names and other information to include the date of photography for each image.

7.7 Digital orthophoto characteristics - The maximum misalignment between transportation features on adjacent image chips/tiles is three times the pixel size, or 1.5 feet. Orthophotos shall be tonally balanced to produce a uniform contrast and tone across the image tiles of the entire project. Changes in color balance across the project, if they exist, shall be gradual. Abrupt tonal variations between tiles are not acceptable. Building tilt shall be corrected to the extent that transportation features are not obscured. Ground features appearing in the orthophoto imagery, such as building roof-tops, water towers, and radio towers, shall not be clipped at seamlines or between individual tiles. Image artifacts introduced during the scanning process and appearing in the final orthophotos are unacceptable, except for very minimal artifacts falling in non-critical coverage areas, such as a small piece of lint appearing in an open area. The images should be free from clouds and cloud shadows.

7.8 Coverage Area: Ortho tiles shall provide complete coverage to the extent of the project area, as shown in Section 9 of this project description. Coverage includes all of the area collected by SNWA, to include Hoover Dam and Nellis AFB.

7.9 Use and Distribution Rights: All deliverable data and documentation will be free from restrictions regarding use and distribution. Data and documentation provided under this task order shall be freely distributable by government agencies.



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8. Deliverables

8.1 Digital Orthophotos:

Digital orthorectified images shall be submitted on USB II or Firewire 400 compatible portable hard-drives. Tiles shall be accompanied by an index in ESRI shapefile format as described in Section 7.6, above, and digital terrain model used in the orthorectification process.

8.2 Metadata:

SNWA or its contractors will provide project-level FGDC-compliant metadata in XML format to USGS as required for data archiving, documenting, and distribution. This will include but is not limited to production process, accuracy assessment, and source related information.

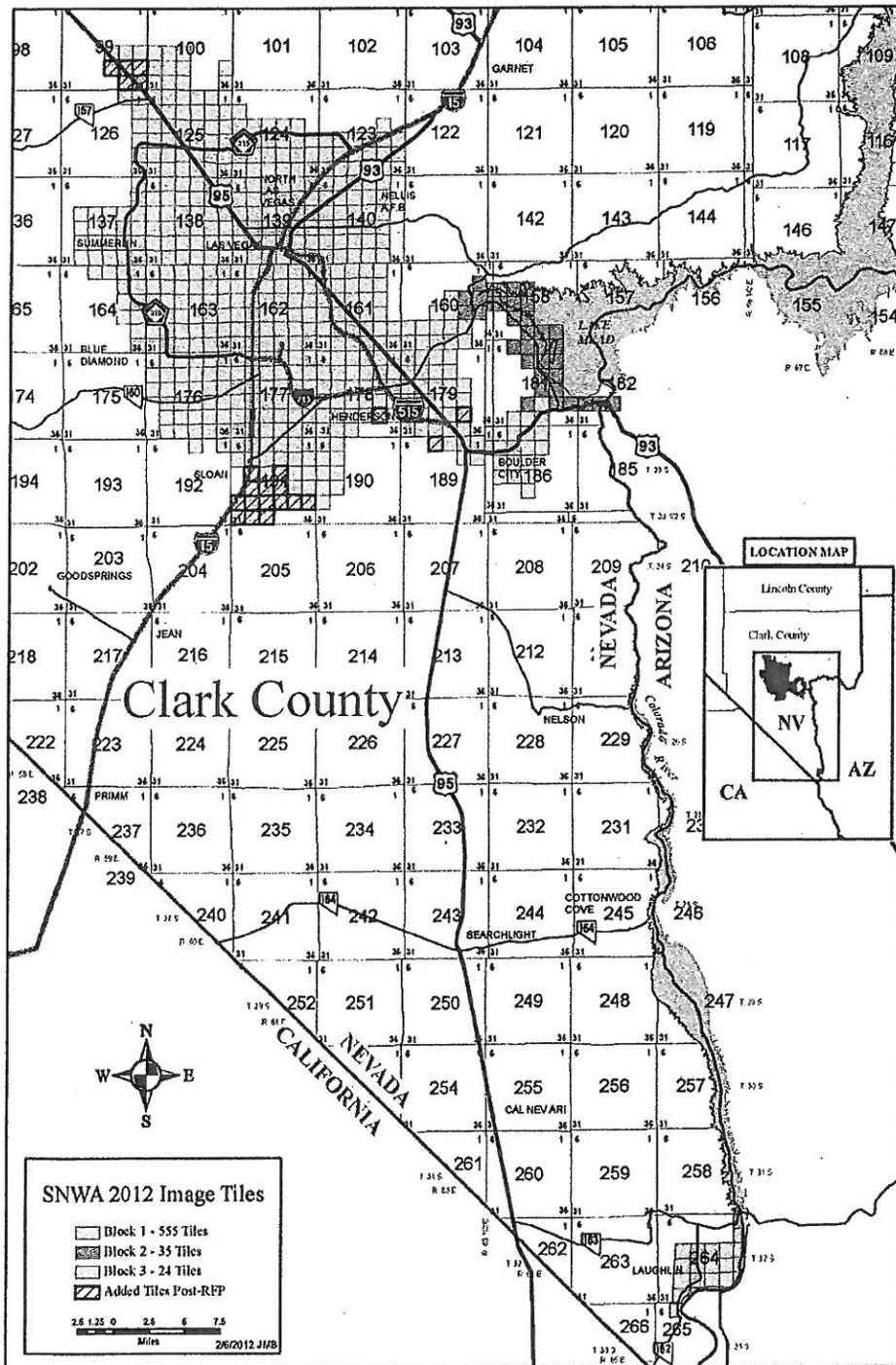


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U.S. GEOLOGICAL SURVEY

9. Project Area

The project area covers all of the Las Vegas Urban Area and parts of surrounding Clark County, the Hoover Dam Area, and Laughlin.



**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Amendment	Director's Backup
Petitioner: Richard B. Holmes, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve Amendment No. 3 to the existing agreement between Spring Valley Associates, LLC, and the Authority, increasing the annual not-to-exceed amount to \$850,000, and authorize the General Manager to approve future modifications to the agreement only if future modifications do not fiscally impact the Authority.	

Fiscal Impact:

Funds for the \$200,000 increase for the annual not-to-exceed amount are available in the Authority's Operating Budget. Revenue from expanded agricultural and livestock operations is projected to offset increased operating expenses.

Background:

On April 12, 2007, the Authority entered into an agreement with Spring Valley Associates, LLC (Ranch Administrator), for the operation and maintenance of the Authority's Northern Resources properties and grazing allotments located in White Pine and Lincoln Counties for a not-to-exceed amount of \$500,000 per year. Under the agreement, the Ranch Administrator is required to provide maintenance for ranch facilities, equipment and other real property, and to supply the necessary labor to manage and sustain certain livestock and agricultural resources.

In December 2008, the Board of Directors approved Amendment No. 1 increasing the total not-to-exceed amount to \$750,000 for the 2009 contract year due to added costs required to rehabilitate the Northern Resources properties, which required significant repairs to irrigation systems, wells, fencing, and facilities. Compensation for future years was set at a not-to-exceed amount of \$650,000 per contract year. In December 2009, the Board approved Amendment No. 2 changing the contract year to a calendar year basis.

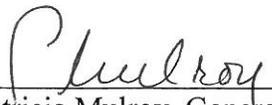
Since 2008, several changes have occurred on the Northern Resources properties. Recently, alfalfa and harvestable hay acreage were expanded by 62 percent, and cattle and sheep numbers were increased by 119 percent and 39 percent respectively. Additionally, in November 2011, the Authority assumed direct operational control of the Robison Ranch and associated grazing allotments, which represents an additional 90,000 acres previously managed by a ranching contractor.

The attached Amendment No. 3 requests increasing the annual not-to-exceed amount from \$650,000 to \$850,000 in order to fund additional labor-related costs associated with the expansion of agricultural and asset management programs. If approved, this Amendment will also improve the Authority's ability to manage the Northern Resources properties and livestock to meet organizational objectives.

Amendment
June 21, 2012
Page Two

This amendment is being entered into pursuant to 1947 Nev. Stat. Chapter 167, Section 1(13) and NRS 277.110(1). The office of the General Counsel has reviewed and approved the amendment.

Respectfully submitted:



Patricia Mulroy, General Manager
PM:RBH:ZLM:BP:nsh
Attachment

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
Business Designation Group						
<input type="checkbox"/> MBE	<input checked="" type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise			
Corporate/Business Entity Name:		Spring Valley Associates, LLC				
(Include d.b.a., if applicable)						
Street Address:			PO Box 150083		Website:	
City, State and Zip Code:			Elko NV 89315		POC Name and Email: kwright_sva@yanoc.com	
Telephone No:			435-855-2122		Fax No: 435-855-2122	
Local Street Address:					Website:	
City, State and Zip Code:					Local Fax No:	
Local Telephone No:					Local POC Name Email:	
Number of Clark County, Nevada Residents Employed: 0						

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the SNWA Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Kerri Wright	Manager	100%

This section is not required for publicly-traded corporations.

- Are any individual members, partners, owners or principals, involved in the business entity, an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please note that SNWA employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the SNWA will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

Kerri Wright	Kerri Wright
Signature	Print Name
Manager	5/30/12
Title	Date

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF SNWA EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO SNWA EMPLOYEE OR OFFICIAL	SNWA EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A			

“Consanguinity” is a relationship by blood. “Affinity” is a relationship by marriage.

“To the second degree of consanguinity” applies to the candidate’s first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

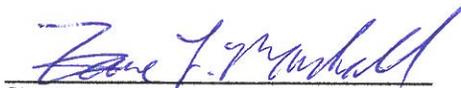
For SNWA Use Only:

If any Disclosure of Relationship is noted above, please complete the following:

Yes No Is the SNWA employee(s) noted above involved in the contracting/selection process for this particular agenda item?

Yes No Is the SNWA employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:


Signature

ZANE L. MARSHALL
Print Name
Authorized Department Representative

**AMENDMENT NO. 3
TO THE AGREEMENT
BETWEEN THE
SOUTHERN NEVADA WATER AUTHORITY
AND
SPRING VALLEY ASSOCIATES, LLC**

The April 12, 2007, Ranch Administration Agreement (“Agreement”), made and entered into by and between SPRING VALLEY ASSOCIATES, LLC (“RANCH ADMINISTRATOR”), and the SOUTHERN NEVADA WATER AUTHORITY, a political subdivision of the State of Nevada (“AUTHORITY”), is hereby amended as set forth below:

WITNESSETH:

A. REPLACE Paragraph 2 of the Agreement (as amended) with the following Paragraph 2.

2. TERM

The initial term of this Agreement was for one year, commencing on the date of execution of the Agreement (April 12, 2007), and the Agreement has been renewed annually since then. Pursuant to Amendment No. 2 (December 17, 2009), the Agreement was changed to run from January 1 through December 31 of each year the Agreement is in effect. Pursuant to this Amendment No. 3, the Agreement will renew upon the same terms automatically for three (3) additional one-year terms, and will thus expire on December 31, 2015.

B. REPLACE Paragraph 3 in the Agreement (as amended) with the following Paragraph 3.

3. COMPENSATION

The work to be performed by RANCH ADMINISTRATOR under and pursuant to the Agreement shall be paid on a cost-plus-fixed-fee basis. The total costs reimbursed under this Agreement shall not exceed the amount set forth at the end of this Paragraph,

inclusive of the fixed fee paid to RANCH ADMINISTRATOR that shall not exceed \$35,000 annually. Costs to be reimbursed pursuant to this Agreement shall be only the following:

- a. Labor costs; not including any salary or additional compensation to managing partner(s) of Spring Valley Associates;
- b. Minor repair costs
- c. Necessary insurance
- d. Travel expenses
- e. General and administrative expenses
- f. Set up or start up costs

Payment shall be made by the AUTHORITY based on the monthly submission of bills by RANCH ADMINISTRATOR which will include a detailed description of the Cost and be supported with accompanying invoices, bills, wage statements, etc. or other documentation as required by the AUTHORITY's Ranch and Resource Manager, signed by the managing partner of Spring Valley Associates, LLC, and warranted as true and correct. Payment by the AUTHORITY will include an amount equal to the described Cost for reimbursable expenses plus the prorated monthly portion of the fixed fee, which is equal to \$2,916.66. In no event will the AUTHORITY's payments for Costs and fixed fees to RANCH ADMINISTRATOR exceed \$850,000 per year.

C. ADD the following sentence to the end of Paragraph 15 of the Agreement.

The RANCH ADMINISTRATOR shall retain financial and other records related to this Agreement for three (3) years.

D. REPLACE Paragraph 20 of the Agreement (as amended) with the following Paragraph 20.

20. INDEMNIFICATION

The RANCH ADMINISTRATOR shall indemnify, hold harmless, and defend without cost to the AUTHORITY, its Board of Directors and its officers, agents, and employees, against any and all losses, claims, costs (including attorney's fees and court costs), damages, fines, penalties, and liability for or by reason of any death or deaths of, or any physical injury or injuries to, any person or persons or damage to real or personal property of any kind whatsoever, whether the person(s) or property of the RANCH ADMINISTRATOR, its agents, employees, or subconsultants, or of third parties, arising out of or resulting from RANCH ADMINISTRATOR's services performed under this Agreement, and includes, but is not limited to, any claims for harassment or discrimination or any theory of joint or dual employment by the RANCH ADMINISTRATOR's employees, agents, subcontractors, or subconsultants arising out of the services under this Agreement, including the negligence, whether active, passive, or contributory, of the AUTHORITY, and its officers, employees or agents.

E. REPLACE Paragraph 21 of the Agreement (as amended) with the following Paragraph 21.

21. NOTICES

Any and all notices, demands or requests required or appropriate under this Agreement (including invoices) shall be given in writing and signed by a person with authorization to bind the RANCH ADMINISTRATOR or AUTHORITY, either by personal delivery, via facsimile, via a scanned document sent via email, or by registered or certified mail, return receipt requested, addressed to the following addresses and fax numbers:

To RANCH ADMINISTRATOR: Spring Valley Associates, LLC
Attention: Kerri Wright
P.O. Box 150083
Ely, NV 89315
EMAIL: Kwright_sva@yahoo.com

To AUTHORITY: Southern Nevada Water Authority
Attention: Bernard Petersen
HC 10 Box 10853
Ely, Nevada 89301
EMAIL: bernard.petersen@snwa.com
FAX: (775) 591-0480

When notice is given by mail, it shall be deemed served three (3) business days following deposit, postage prepaid in the United States mail. When notice is given by facsimile or email transmission, it shall be deemed served upon receipt of confirmation of transmission if transmitted during normal business hours or, if not transmitted during normal business hours, on the next business day following the facsimile or email transmission.

The Parties may designate a new contact person under this provision for notices or invoices or change the address, email address or fax number identified above by notifying the other Party.

F. ADD the following Paragraphs 28 and 29 to the Agreement.

28. NON-DISCRIMINATORY EMPLOYEE PRACTICES:

a. The RANCH ADMINISTRATOR shall not employ discriminatory practices in the provision of Services, employment of personnel, or in any other respect on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin.

b. No person in the United States shall, on the grounds of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin, be excluded from participation in, be denied the benefits of, or be subject to

discrimination under any program or activity made possible by or resulting from this Agreement.

- c. The RANCH ADMINISTRATOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin. The RANCH ADMINISTRATOR shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin. This non-discrimination provision shall include, but not be limited to 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 RANCH ADMINISTRATOR agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this non-discrimination clause.
- d. The RANCH ADMINISTRATOR will, in all solicitations or advertisements for employees placed by or on behalf of the RANCH ADMINISTRATOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin.
- e. The RANCH ADMINISTRATOR 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 advising the said labor union or workers' representatives of the RANCH ADMINISTRATOR's commitment under this

provision and shall post copies of the notice in conspicuous places available to employees and applicants for employment

29. EQUAL EMPLOYMENT OPPORTUNITY:

a. The RANCH ADMINISTRATOR and any subcontractor or subconsultant working under the authority of the RANCH ADMINISTRATOR, who is responsible for the selection, referral, hiring, or assignment of workers for the Services provided pursuant to this Agreement, is required to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964. This requirement includes compliance with Equal Employment Opportunity Commission regulations that prohibit discrimination based upon race, color, religion, sex, or national origin. Furthermore, the RANCH ADMINISTRATOR shall in all relevant manners comply with the Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Equal Pay Act, and Title I of the Americans with Disabilities Act.

b. The RANCH ADMINISTRATOR shall make all necessary documentation as required to comply with the Acts referred to above and shall make such documentation immediately available to the AUTHORITY upon the AUTHORITY's request. The RANCH ADMINISTRATOR is solely liable for failure to comply with this provision.

G. ADD the following Paragraph 30 to the Agreement.

30. NO THIRD PARTY RIGHTS:

This Agreement is not intended by the Parties to create any right in or benefit to parties other than the AUTHORITY and the RANCH ADMINISTRATOR. This Agreement does not create any third party beneficiary rights or causes of action.

H. All other terms and conditions of the Agreement, as amended, shall remain in full force and effect.

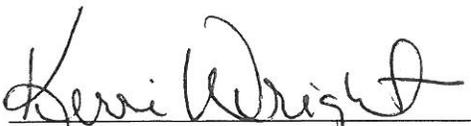
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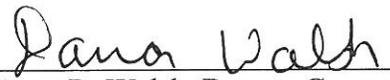
IN WITNESS WHEREOF, the Parties have executed this AMENDMENT No. 3 on the
____ day of _____, 2012.

SPRING VALLEY ASSOCIATES, LLC SOUTHERN NEVADA WATER AUTHORITY

By: 
Kerri Wright, President

By: _____
Patricia Mulroy, General Manager

APPROVED AS TO FORM:


Dana R. Walsh, Deputy Counsel

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Agreement and Acceptance of Construction Work	Director's Backup
Petitioner: Richard B. Holmes, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve a takeover agreement between Safeco Insurance Company of America and the Authority providing for Safeco's acceptance of contractual obligations remaining to be performed, and accept all construction work required to be performed under Contract No. 340A 04 C1, Coyote Spring Valley Well and Moapa Transmission System – Moapa Treatment Facility.	

Fiscal Impact:

The previous commitment from the New Expansion Bond Fund in the amount of \$9,515,566.07 will be reduced to \$8,812,674.93 if the above recommendation is approved.

Background:

On May 21, 2009, the Board of Directors awarded Contract No. 340A 04 C1 to Wiser Construction Company, LLC (Wiser), in the amount of \$8,650,566.07 for the construction of a 6,200 gallons per minute water treatment facility, as generally shown on Attachment A. The Board further authorized a change order contingency in the amount of \$865,000 to be utilized by the General Manager in accordance with Resolution 96-003.

The General Manager approved 18 change orders and two work change directives for an aggregate increase of \$83,179.86 and extended the contract time 44 calendar days. The Board approved one change order for an increase of \$221,312 and extended the final completion date by 70 calendar days. Assessment of liquidated damages for failure to complete the work by the contract completion date reduced the funding commitment by \$109,000.

On July 18, 2011, with the project nearing final completion, the Authority was advised that Wiser had voluntarily defaulted under the contract and bonds issued for the project and had requested that the Performance Bond surety complete the project. Since that time, the Authority and Safeco Insurance Company of America (Safeco), the Performance Bond surety, have coordinated successfully to complete the remaining work necessary for project close-out. If approved, the Takeover Agreement obligates Safeco to assume Wiser's remaining contractual obligations, which consist of various extended equipment warranties and potential undiscovered latent defects, and indemnify the Authority for any future claims related to the work. In exchange, the Authority will pay Safeco \$99,917, which represents the unpaid balance of the contract price less costs incurred by the Authority in the amount of \$33,383 to effectuate the project completion.

Takeover Agreement

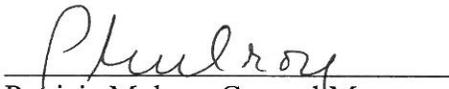
June 21, 2012

Page Two

Wiser breached the contract by voluntarily defaulting on its contractual obligations. In addition, staff is advised that Wiser filed for bankruptcy after its voluntary default, has had its state contractors' license suspended and the office of the Secretary of State indicates its business license has expired. These facts would be compelling evidence in the future that Wiser was not a responsible bidder as defined by Nevada State Law.

The Takeover Agreement is authorized by the SNWA Cooperative Agreement Section 6 and Las Vegas Valley Water District Act, 1947 Nevada Revised Statutes Chapter 167, Section 1. The office of the General Counsel has reviewed and approved the Takeover Agreement.

Respectfully submitted:



Patricia Mulroy, General Manager

PM:RBH:MRJ:LLM:SBH:djt X0228

Attachments

DISCLOSURE FORM NOT REQUIRED

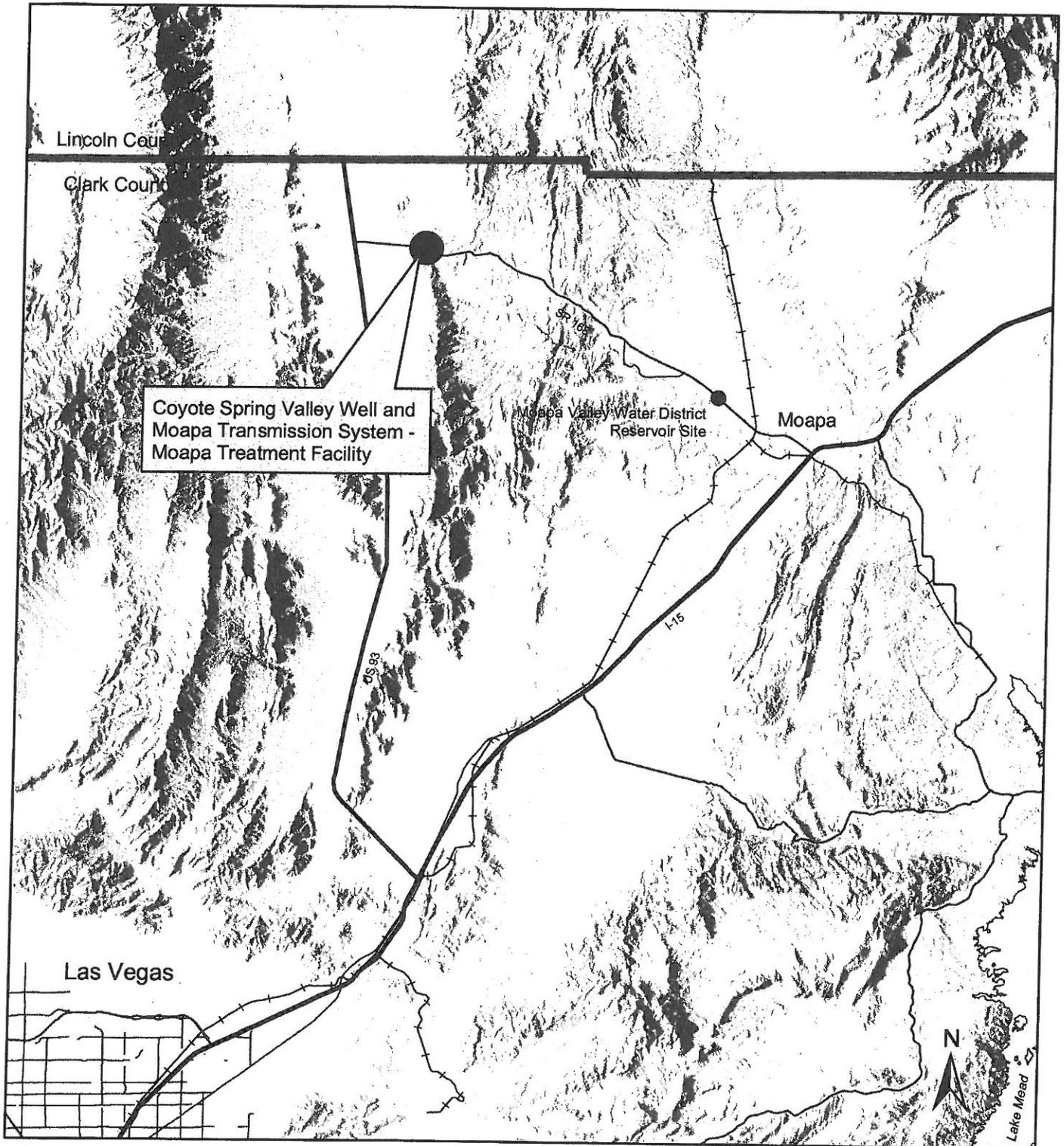
Wiser Construction

Safeco Insurance Company was the performance bond surety for this construction project. The surety agreement was entered into by Safeco and Wiser Construction approximately three years ago. While the District was a third party beneficiary of that agreement, it was not an actual party to the agreement. Since the District was not a party to the surety agreement, had no part in or discretion in choosing Safeco as the surety, and disclosure of ownership forms were not required in 2009, no form was sought from Safeco.

BOARD OF DIRECTORS
AGENDA ITEM

CONTRACT NO. 340A 04 C1

COYOTE SPRING VALLEY WELL AND
MOAPA TRANSMISSION SYSTEM -
MOAPA TREATMENT FACILITY



TAKEOVER AGREEMENT

THIS AGREEMENT ("Agreement"), made and entered into this 21st day of June, 2012 ("Effective Date") by and between Safeco Insurance Company of America ("Surety") and Southern Nevada Water Authority ("Owner"). Surety and Owner are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties".

RECITALS

A. On June 19, 2009, Owner awarded a contract (the "Contract") to Wiser Construction, LLC ("Contractor") for the project known as Contract No. 340A 04C1, Coyote Spring Valley Well and Moapa Transmission System-Moapa Treatment Facility, PWP-CL-2009-1 ("Project").

B. On or about May 29, 2009, Surety executed Performance and Payment Bonds numbered 661327 ("Performance Bond," "Payment Bond" or collectively "Bonds"), each in the amount of \$8,650,566.00. A true and correct copy of the Performance Bond is attached hereto as Exhibit A, and incorporated herein.

C. By letter dated July 18, 2011, the Owner was advised that the Contractor had voluntarily defaulted under the Bonds issued for the Project and under the Contract.

D. As of the date of Contractor's default, certain work remained to be performed under the Contract and as of the Effective Date of this Agreement certain Contractual obligations remain to be performed.

E. The Parties are willing to undertake the completion or to procure the completion of the remaining Contractual obligations in the manner hereinafter provided, and to provide that the unpaid balance of the Contract price, as adjusted as provided herein, is paid to Surety.

F. As of the Effective Date of this Agreement, the adjusted Contract price is \$8,846,057.93, and Owner has paid \$8,712,757.93. There remains an amount held and unpaid by Owner of \$133,300.00 ("Contract Balance"). See Exhibit B, which is incorporated by this reference.

G. There was certain work on the Project that was the obligation of the Contractor which the Owner has performed for the total cost of \$33,383.00 (\$13,369.00 for Warranty Costs + \$2,544.00 for the Warranty Walk-Through Costs + \$17,470.00 for Latent Defect Repair Costs for Tonka filters), (collectively, "Owner-Performed Work"). See Exhibit C identifying a breakdown of each component of the Owner-Performed Work, which is incorporated herein by this reference. Surety agrees that the total amount of the Owner-Performed Work shall be deducted from the Contract Balance, resulting in an adjusted Contract Balance of \$99,917.00 (\$133,300.00-\$33,383.00). See Exhibit B.

H. The Parties agree that although the contractual warranty period ("Correction Period") expired on October 7, 2011, there are certain equipment warranties which remain open, as identified on Exhibit D ("Equipment Warranties"), which is incorporated by this reference. The Parties also agree that there is also the potential of future latent defects as defined by the Contract ("Latent Defects") which may need to be remedied in accordance with the Contract.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and based on the Recitals set forth above which form a part of this Agreement, Surety and Owner agree to the following terms and conditions:

TERMS AND CONDITIONS

1. Recitals. The above Recitals and the Terms and Conditions herein are contractual and not merely recitals and the agreements contained herein and consideration transferred are to satisfy the rights and obligations between Owner and Surety, except as to rights reserved by this Agreement.

2. Payments to Surety. Within thirty (30) days after the Effective Date of this Agreement, Owner will pay to Surety \$99,917.00, which represents the unpaid Contract Balance less the cost of the Owner-Performed Work.

3. Performance of the Work, Equipment Warranties and Latent Defects.

3.1 The Owner-Performed Work was performed to the satisfaction of the Owner and Surety shall have no responsibility with regard to such work.

3.2 If a valid and timely claim under the Equipment Warranties is made by Owner, Surety shall investigate the claim and, if appropriate, perform with reasonable speed all warranty work associated therewith, in accordance with the terms and conditions of the Contract. Owner agrees that in no event shall Surety be liable for any and all sums, amounts, claims, liquidated or unliquidated damages, compensations, actual or punitive damages, penalties, assessments, fees, fines, whether claimed or imposed for any reason by any person, entity or governmental agency for any sum in excess of the penal amount of the Performance Bond. Surety may cause further work to complete the Contract to cease on its behalf if it has expended the full Performance Bond penalty. Owner hereby acknowledges that Surety is not acting as a contractor and is not licensed as such in the State of Nevada. Surety is acting as a performing Surety. All construction work will be performed by, or at the direction of, licensed contractors or subcontractors.

3.3 For the applicable period of limitations of actions as defined by Nevada law, Surety shall promptly, after discovery and notice from the Owner, and its own investigation and confirmation, correct and repair, at no expense to the Owner, any Latent Defect for the Project work.

4. Surety's and Owner's Releases and Indemnification.

4.1. In consideration of payments from the Owner previously made to the Contractor and the payment to be made to the Surety in accordance with this Agreement, the Surety hereby unconditionally releases the Owner, its officers, agents, employees, and assigns from any and all liens, charges and claims whatsoever arising out of or during the performance of the Project work that the Surety may have. Further, the Surety shall indemnify, defend, and hold the Owner harmless of and from any liens, claims, demands, penalties, losses, costs, damages and liability in any manner whatsoever heretofore or hereafter arising out of or in respect of any claims by any person or entity for payment for work, labor, services or materials heretofore or hereafter performed, furnished or rendered under or pursuant to or in respect of the performance of the Project work.

4.2. In consideration for the terms and conditions of this Agreement, and except for the Surety's liability for the Equipment Warranties and any Latent Defects, the Owner hereby unconditionally releases the Surety, its officers, agents, employees, and assigns from any and all liens, charges and claims whatsoever arising out of or during the performance of the Project work that the Owner may have. Further, the Owner shall hold the Surety harmless of and from any liens, claims, demands, penalties, losses, costs, damages and liability in any manner whatsoever heretofore or hereafter arising out of or in respect of any claims by any person or entity for payment for charges that relate to or are associated with Owner-Performed Work.

5. Surety's Performance Bond Liability. The total liability of Surety under this Agreement and the Performance Bond for the performance of the work, after the expenditure of the Contract Balance, less the cost of the Owner-Performed Work, is limited to and shall not exceed the penal sum of the Performance Bond. All payments made by the Surety for the performance of the Contract shall be credited against the penal sum of the Performance Bond. Nothing in this Agreement constitutes a waiver of such penal sum or an increase in the liability of the Surety under the Performance Bond.

6. Payment Bond Obligations. Surety will, with all reasonable promptness, investigate and discharge its liability under the Payment Bond as to any demand upon it by subcontractor and suppliers to Contractor of labor and material in connection with the Contract.

7. No Admission of Liability. Neither this Agreement nor any provision hereof shall be deemed or construed to be an admission of concession of liability of any kind or nature by Contractor, its subcontractors, Surety or the Owner.

8. Notices. All notices and correspondence to Surety shall be mailed certified mail, return receipt requested, or overnight mail, with a copy by facsimile or email transmission with verified receipt, to:

Safeco Insurance Company of America
c/o Christine Bartholdt
1001 4th Avenue, Suite 1300
Seattle, WA98154
Telephone: (206) 473-3353
Facsimile: (866) 548-7321
Email: Christine.bartholdt@libertymutual.com

With copy to:

Guardian Group, Inc.
c/o Todd Bauer
2350 West 205th Street
Torrance, CA90501
Telephone: (310) 320-0320
Facsimile: (310) 320-0120
Email: todd.bauer@guardiangroup.com

9. Reservation of Rights. Surety expressly reserves all prior rights, equitable liens and rights of subrogation that would be the Owner's, Contractor's, the laborers', the materialmens', or the Contractor's under the Contract or at law or equity, as well as its own rights dating back to the execution of the Performance Bond and Payment Bond, including but not limited to those rights and remedies that accrued during the completion of the Project work. No waiver of such rights is agreed to or implied or intended regardless of any provisions of this Agreement to the contrary.

10. Miscellaneous.

- 10.1. Except to the extent modified herein, all terms and conditions of the Contract shall be and remain the same.
- 10.2. The Parties hereto do not intend by any provision of this Agreement to create any third-party beneficiaries nor to confer any benefit upon or enforceable rights or otherwise upon any one other than the Parties hereto.
- 10.3. It is understood and agreed that this Agreement constitutes the whole of the understanding, discussions and agreements by and between the Parties, and the written or oral discussion prior to the effective date hereof shall not in any way vary or alter the terms of this Agreement.
- 10.4. This Agreement may be signed in multiple counterparts, and all such counterparts taken together shall constitute one complete Agreement. Furthermore, the Parties agree that facsimile

signatures will be accepted as originals. Each Party hereto expressly warrants that it has necessary authority to execute this Agreement on behalf of its governing board or board of directors or council, and that each signatory hereto has the authority to execute this Agreement on behalf of the respective named Party.

- 10.5. This Agreement shall not in any way be amended or modified without the written consent of both Parties.
- 10.6. This Agreement shall extend to and be binding upon the Parties hereto and their respective successors and assigns.
- 10.7. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Nevada.

WHEREFORE, the Parties have executed this Agreement by their authorized representatives. This Agreement is effective as of the last date written below.

DATED: _____

SOUTHERN NEVADA WATER AUTHORITY

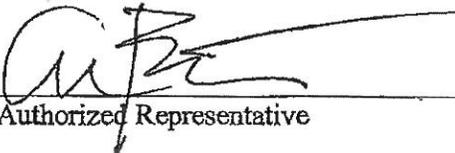
By: _____
Pat Mulroy, General Manager

Approved as to Form:

By: 
Mari K. Bochanis, Project Attorney

DATED: 6.11.12

SAFECO INSURANCE COMPANY OF AMERICA

By: 
Its: Authorized Representative

Approved as to Form:

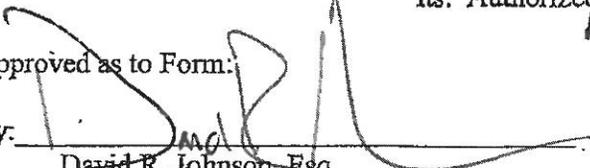
By: 
David R. Johnson, Esq.
Watt, Tieder, Hoffar & Fitzgerald, LLP

EXHIBIT A

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
Wiser Construction, Limited- Liability Company
P.O. Box 106
Mespa, NV 89025

SURETY (Name and Address of Principal Place of Business):
Safeco Insurance Company of America
1001 4th Avenue, Suite 1700
Seattle, WA 98154

OWNER (Name and Address):
Southern Nevada Water Authority
107 City Parkway, Suite 700
Las Vegas, NV 89106

CONTRACT
Date:
Amount: \$3,850,566.00
Description (Name and Location):
Contract No. 340A 04G1 - Coyote Spring Valley Well and Mespa Transmission System -
Mespa Treatment Facility PWP-CL-2009-1

BOND
Date (Not earlier than Contract Date): 5/23/00
Amount: \$8,650,566.00 (Eight Million Six Hundred Fifty Thousand Five Hundred Sixty Six and No/100 Dollars)
Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative.

Wiser Construction, Limited- Liability Company

CONTRACTOR AS PRINCIPAL
Company: _____ (Corp. Seal)
Signature: [Signature]
Name and Title: _____

SAFECO INSURANCE COMPANY OF AMERICA

SURETY
Company: _____ (Corp. Seal)
Signature: [Signature]
Name and Title: Nanette Mariele Meyer
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL
Company: _____ (Corp. Seal)
Signature: _____
Name and Title: _____

SURETY NA
Company: _____ (Corp. Seal)
Signature: _____
Name and Title: _____

BCDC No. 1910-28-A (1996 Edition)
Or jointly prepared through the joint efforts of the Surety Association of America, National Joint Contract Documents Committee, the Associated General Contractors of America, and the American Institute of Architects.

1. The CONTRACTOR and the Surety, jointly and severally, bind from time to time, accuracy, administration, execution and copies to the Owner for the performance of the Contract, which is incorporated hereby by reference.

2. If the CONTRACTOR performs the Contract, the Surety and the CONTRACTOR have no obligation under this Bond, except to participate in accordance as provided in paragraph 3.1.

3. If there is an OWNER Default, the Surety's of Obligation under this Bond shall include:

3.1. The OWNER has notified the CONTRACTOR and the Surety in the address specified in paragraph 11 below, that the OWNER is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a settlement with the CONTRACTOR and the Surety to be held not later than fifteen days after receipt of such notice to correct methods of performing the Contract. If the OWNER, the CONTRACTOR and the Surety agree, the CONTRACTOR shall be allowed a reasonable time to perform the Contract, but such agreement shall not waive the OWNER's right, if any, subsequently to declare a CONTRACTOR Default; and

3.2. The OWNER has declared a CONTRACTOR Default and thereby terminated the CONTRACTOR's right to complete the Contract. Such CONTRACTOR Default shall not be declared earlier than thirty days after the CONTRACTOR and the Surety have received notice as provided in paragraph 3.1; and

3.3. The OWNER has agreed to pay the Balance of the Contract Price:

- 3.3.1. The Surety is satisfied with the terms of the Contract;
- 3.3.2. Another contract is not in progress in paragraph 4.1 to perform the Contract.

4. When the OWNER has notified the completion of paragraph 3, the Surety shall promptly and to the Surety's expense take one of the following actions:

- 4.1. Arrange for the CONTRACTOR, with consent of the OWNER, to perform and complete the Contract; or
 - 4.2. Arrange to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 4.3. Obtain bids or completed proposals from qualified contractors acceptable to the OWNER for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the OWNER and its surety and award such contract to the contractor whose proposal is most advantageous to the Owner, and pay to the OWNER the amount of the contract price in paragraph 4.1 in lieu of the balance of the Contract Price provided by the OWNER pending final payment of the CONTRACTOR Default; or
 - 4.4. Where its right to performance is complete, arrange for completion, or obtain a new contractor and with necessary approvals under the contract; and
- 4.4.1. After investigation, determine the amount for which it may be liable to the OWNER and, as soon as practicable after the amount is determined, tender payment therefor to the OWNER; or
- 4.4.2. Deem itself to be liable or to pay and satisfy the OWNER owing amounts therefor.

5. If the Surety does not perform as provided in paragraph 4 with reasonable promptness the Surety shall be deemed to be in default on the Bond fifteen days after receipt of notification with respect from the OWNER to the Surety, describing the default or failure to perform under this Bond, and the OWNER shall be entitled to claim any amount payable to the OWNER. If the Surety performs as provided in paragraph 4.4, and the OWNER notifies the payment tendered to the Surety has been

paid, in whole or in part, without further notice the OWNER shall be entitled to receive any amount payable to the OWNER.

6. After the OWNER has notified the CONTRACTOR's right to complete the Contract, and if the Surety does not act under paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the OWNER shall not be greater than those of the CONTRACTOR under the Contract, and the responsibility of the OWNER to the Surety shall not be greater than those of the OWNER under the Contract. To the extent of the Contract Price in satisfaction of costs and damages on the Contract, the Surety is obligated without duplication for:

- 6.1. The responsibility of the CONTRACTOR for completion of defective Work and completion of the Contract;
- 6.2. Additional legal, design professional and delay costs resulting from the CONTRACTOR's Default, and resulting from the actions or failures set out in the Surety under paragraph 4; and
- 6.3. Physical damage, or if no physical damage is specified in the Contract, actual damage caused by delayed performance or non-performance of the CONTRACTOR.

7. The Surety shall not be liable to the OWNER or others for completion of the CONTRACTOR's Default as provided in the Contract, and the balance of the Contract Price shall not be required or owed as a result of any such completion obligation, the right of action shall accrue to the Surety or party other than the OWNER or its heirs, assigns, successors, or assigns.

8. The Surety hereby waives notice of any change, including changes of time, in the Contract or to which a provision, practice, order and other obligations.

9. Any provision, legal or equitable, which this Bond may be included in any part of subsequent jurisdiction in the location in which the Work or part of the Work is located and that is in effect within two years after CONTRACTOR Default or within two years after the CONTRACTOR's completion or within two years after the Surety release of this obligation in satisfaction of this Bond, whichever occurs first. If no provision of this paragraph is valid or provided by law, the maximum period of limitation available in a jurisdiction as a defense to the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the address shown on the Surety's page.

11. When the Bond has been furnished to comply with a statutory or other legal requirement in a jurisdiction where the Contract was to be performed, any provision in this Bond concerning this and statutory or legal requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirements shall be deemed incorporated herein. The fact that this Bond shall be construed as a contract shall not affect its effect.

12. Definitions:

- 12.1. Balance of the Contract Price: The net amount payable by the OWNER to the CONTRACTOR under the Contract after all proper set-offs have been made, including set-offs as the CONTRACTOR or others cannot collect or is provided by the OWNER in satisfaction of amounts or other claims for amounts to which the CONTRACTOR is entitled, reduced by all valid and proper payments made to or on behalf of the CONTRACTOR under the Contract.
- 12.2. Contract: The agreement between the OWNER and the CONTRACTOR identified on the contract page, including all Contract Documents and change orders.
- 12.3. CONTRACTOR Default: Failure of the CONTRACTOR, which has either been notified or waived, to perform or otherwise to comply with the terms of the Contract.
- 12.4. OWNER Default: Failure of the OWNER, which has either been notified or waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY—Name, Address and Telephone)
AGENT BY BROKER: OWNER'S REPRESENTATIVE (Engineer or other party):

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On MAY 29 2009 before me, Jane Kepner, Notary Public
(Type in full name and title of the officer)

personally appeared Nanette Mariella-Myers

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jane Kepner
Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT	
(Title or description of attached document)	
(Title or description of attached document, continue)	
Number of Pages _____	Document Date _____
(Additional Information)	

CAPACITY CLAIMED BY THE SIGNER	
<input type="checkbox"/> Individual (s)	
<input type="checkbox"/> Corporate Officer	
<input type="checkbox"/> Partner(s)	(Title) _____
<input type="checkbox"/> Attorney-in-Fact	
<input type="checkbox"/> Trustee(s)	
<input type="checkbox"/> Other _____	

INSTRUCTIONS FOR COMPLETING THIS FORM

- Any acknowledgment completed in California must contain verbatim wording exactly as appears above in the every section of a separate acknowledgment form must be properly completed and attached to the document. The only exception is if a document is a heretofore unfiled California document, any document acknowledgment verbatim as may be printed on such a document or copy as it is changed does not require the entry in an acknowledgment form for a notary in California (i.e., certifying the authorized capacity of the signer). Please check the document carefully for proper verbatim wording and attach this form as required.*
- State and County information must be the State and County where the document is signed personally appeared before the notary public the acknowledgment.
 - Date of acknowledgment must be the date that the signature(s) personally appeared which must also be the same date as the acknowledgment is completed.
 - The notary public must print his or her name as it appears with his or her commission followed by a comma and then your title (notary public).
 - Print the name(s) of document signers who personally appear at the date of acknowledgment.
 - Indicate the proper signers applied for by checking off the proper forms (i.e., for Individuals, I used or verified the correct forms. For any incorrect information with information may lead to rejection of document recording.
 - The entry and signature must be clear and photographically reproducible. Reproducible must not have any lines. If used to describe an agent, record if a conflict of interest exists, unless an appropriate disclosure is attached to the front.
 - Signature of the notary public must include signature on file with the office of the county clerk.
- ◆ Additional information is not required but will help to ensure this acknowledgment is not retained or attached to a different document.
 ◆ Indicate the correct official document recording page and date.
 ◆ Indicate the capacity claimed by the signer. If the correct capacity is a corporate officer, indicate the title (i.e., CEO, CFO, Secretary).
 ◆ Document attach the document to the sign of the document.

EXHIBIT B

Coyote Spring Valley Well and Moapa Transmission System -
Moapa Treatment Facility
SNWA Contract No. 340A 04 C1
Accounting Summary

1.	Original Contract Sum	\$ 8,650,566.07	
2.	Adjustments to Contract Sum	\$ 195,491.86	
3.	Contract Sum to Date	\$ 8,846,057.93	
4.	Total Completed & Stored to Date	\$ 8,846,057.93	
5.	Retention	\$ -	
6.	Total Earned Less Retention	\$ 8,846,057.93	
7.	Total Earned Less Retention	\$ 8,846,057.93	
8.	Less Previous Payments	\$ (8,712,757.93)	
9.	Current Unpaid Balance	\$ 133,300.00	
10.	Current Unpaid Balance	\$ 133,300.00	
11.	SNWA Warranty Work (Parts & Labor)	\$ (13,369.00)	
12.	Sub-total	\$ 119,931.00	
13.	SNWA Warranty Walk-Thru Estimated Costs**	\$ (2,544.00)	<i>(Added as of 12/07/2011)</i>
14.	Remaining Balance	\$ 117,387.00	
15.	Latent Defect Repair Costs (SNWA)***	\$ (17,470.00)	<i>(Added as of 4/10/2012)</i>
16.	Total Remaining Balance	\$ 99,917.00	

** Costs deducted by this line item resolve all nine (9) warranty items detailed in the "Notice of Defective Work Under Warranty" letter dated Sept. 29, 2011

***Labor & material costs associated with work performed by SNWA/LVVWD in the repair of the Tonka Filter latent defect activity.

EXHIBIT C

OWNER-PERFORMED WORK

Coyote Spring Valley Well and Moapa Transmission System -
 Moapa Treatment Facility
 SNWA Contract No. 340A 04 C1
SNWA Warranty Costs

Work Order #	Description	Labor	Material	Total
Estimated Costs	Lamella Clarifier Touch Paint Item	\$890.00	\$175.00	\$1,065.00
952470-2	Filter access hatch leaking	\$1,258.00	\$312.00	\$1,570.00
952470-3	Replace manway gasket	\$1,029.00	\$0.00	\$1,029.00
952470-4	Replace manway gasket	\$939.00	\$0.00	\$939.00
952470-8	Filters 2 & 3 leaking	\$150.00	\$0.00	\$150.00
952470-12	Lamella PRV won't close	\$225.00	\$0.00	\$225.00
952470-13	Filter 4A influent valve packing leaking	\$378.00	\$257.00	\$635.00
952470-14	Filter 3A influent valve packing leaking	\$828.00	\$0.00	\$828.00
983159	Filter 2A differential switch failed	\$800.00	\$723.00	\$1,523.00
952470-19, 20, 21, 25, 26	Pit pump #1 pull & repair	\$2,974.00	\$462.00	\$3,436.00
952470-22	Waste water flow control valve	\$912.00	\$125.00	\$1,037.00
952470-28	Sludge pump seal	\$629.00	\$303.00	\$932.00
		\$11,012.00	\$2,357.00	\$13,369.00

OWNER-PERFORMED WORK

Coyote Spring Valley Well and Moapa Transmission System -
 Moapa Treatment Facility
 SNWA Contract No. 340A 04 C1
SNWA Warranty Walk-Through Costs

Location	Description	Labor	Material	Total
Chemical Feed Pumps	Thermistor not functioning	\$225.00	\$15.00	\$240.00
Control Room	UPS not on-line	\$150.00	\$0.00	\$150.00
Control Room	Missing Door Sweep	\$75.00	\$25.00	\$100.00
Control Room	Duct Sensor on HVAC stays in de	\$425.00	\$350.00	\$775.00
Near Clarifier	Flow control valve broken	\$75.00	\$454.00	\$529.00
WWR Tank	Overflow switch not reset	\$75.00	\$0.00	\$75.00
Filter Canopy	Emergency lights do not come	\$75.00	\$0.00	\$75.00
Various Locations	Provide sunshades per 13300,	\$225.00	\$375.00	\$600.00
North Side of Facility	Rubbish bin needs to be	\$0.00	\$0.00	\$0.00
		\$1,325.00	\$1,219.00	\$2,544.00

OWNER-PERFORMED WORK

Coyote Spring Valley Well and Moapa Transmission System -
Moapa Treatment Facility
SNWA Contract No. 340A 04 C1
Latent Defect Repairs – Tonka Filters

Work Order #	Description	Labor	Material	Equipment	Total
952470-60	SNWA/LVVWD Costs associated w/ repair*	\$15,470.00	\$0.00	\$2,000.00	\$17,470.00
		\$15,470.00	\$0.00	\$2,000.00	\$17,470.00

*Labor costs are based on 238 man hours at a burdened rate of \$65/hr. Equipment costs are based on one month rental fee for the manlift.

EXHIBIT D

**Coyote Spring Valley Well and Moapa Transmission System –
 Moapa Treatment Facility
 SNWA Contract No. 340A 04 C1
Extended Warranties**

The equipment listed below is covered by a manufacturer warranty that expires after the Contractor Correction Period (expiration dates noted after equipment type). All other equipment is covered by the Contractor Correction Period that expired on October 7, 2011.

No.	Description	Expiration Date
1	Submersible Mixers	4/12/2012
2	Vertical Turbine Pump	10/7/2015
3	Low Voltage Frequency Drives	10/7/2012
4	Chemical Sump Pump Control Panel & Switch	6/1/ 2013
5	Progressive Cavity Pumps	5/1/2013
6	Pressure Detection Switches	7/22/2013
7	Sample Water Return Pump Control Panel (only)	10/7/2013
8	Sample Water Recovery Tank	6/6/2013
9	Refrigerant Compressor	10/7/2014

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Amended Facilities and Operations Agreement	Director's Backup
Petitioner: John J. Entsminger, Senior Deputy General Manager	
Recommendations: That the Board of Directors approve the 2012 Amended Facilities and Operations Agreement, in substantially the same form, among the City of Boulder City, the City of Henderson, the Las Vegas Valley Water District, the City of North Las Vegas, and the Authority.	

Fiscal Impact:

None by approval of the above recommendation.

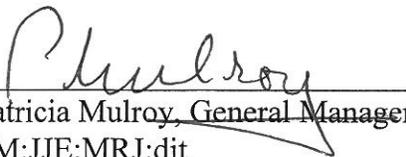
Background:

The Facilities and Operations (F&O) Agreement was first adopted effective January 1, 1996. The F&O Agreement has been amended four times before, most recently in 2010 to allow integration of the few remaining projects of the 1995 Capital Improvements Plan into the Major Construction and Capital Plan (MCCP); provide for the commodity charge to be applied to potential future raw water deliveries to the cities of Henderson and North Las Vegas and to the Las Vegas Valley Water District; and incorporate other incidental updates.

The attached proposed amendment of the F&O Agreement will clarify the role of the Southern Nevada Water System (SNWS) Work Group in reviewing and recommending revisions to the MCCP and the Operating Plan and will remove the apparent requirement for the Authority to reaffirm or revise the MCCP at least annually. The SNWS Work Group, composed of technical managers of each of the Authority's Purveyor Members and Contract Users, is already closely engaged in reviewing and monitoring progress of the projects in the MCCP and compliance with the Operating Plan. Under this amendment, the SNWS Work Group will be responsible for recommending the appropriate time for Authority action to approve an amendment of the MCCP and Operating Plan.

The Authority is authorized to enter into and amend the F&O Agreement under the provisions of NRS 277.060 and Article 24 of the Southern Nevada Water Authority Cooperative Agreement. The SNWS Work Group and the office of the General Counsel have reviewed and approved the amended agreement.

Respectfully submitted:


Patricia Mulroy, General Manager

PM:JJE:MRJ:djt
Attachment

AGENDA ITEM #

9

SOUTHERN NEVADA WATER AUTHORITY

FOURTH AMENDED FACILITIES AND OPERATIONS AGREEMENT

EFFECTIVE _____

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SOUTHERN NEVADA WATER AUTHORITY

FOURTH AMENDED FACILITIES AND OPERATIONS AGREEMENT

THIS AGREEMENT, the amendment of which is effective as of this ____ day of _____, 2012 (Effective Date), is entered into pursuant to the provisions of Nevada Revised Statutes 277.060 and the provisions of Article 24 of the Cooperative Agreement and is among the following parties:

1. Southern Nevada Water Authority, a joint powers authority established pursuant to Chapter 277 of the Nevada Revised Statutes by the Southern Nevada Water Authority Cooperative Agreement, originally effective July 25, 1991;
2. The following Purveyor Members of the Authority:
 - a. City of Boulder City, a municipal corporation and political subdivision of the State of Nevada;
 - b. City of Henderson, a municipal corporation and political subdivision of the State of Nevada;
 - c. Las Vegas Valley Water District, a water district created by a special act of the Legislature and a political subdivision of the State of Nevada; and
 - d. City of North Las Vegas, a municipal corporation and political subdivision of the State of Nevada.

RECITALS

A. The Southern Nevada Water System, defined particularly in Section 24.1 of this Agreement, is generally a water supply system consisting of diversion, treatment, conveyance, turnouts, wells, power transmission, and related facilities, including SNWS Water Supplies and

real property necessary and convenient to support the operation of such facilities, utilized to convey water into the water systems of the SNWS Purveyor Members and a Contract User, the United States Air Force at Nellis Air Force Base.

B. The Authority and the SNWS Purveyor Members originally intended that the SNWS would continue to be expanded and improved over time so that it would have the operational capacity and flexibility to supply water at locations and at rates that would meet the following demands for Treated Water:

- (1) 19.4 MGD by Boulder City, which is equivalent to the 30 CFS maximum capacity, as of January 1, 1996, of the Boulder City lateral;
- (2) 3.9 MGD by the United States for Nellis Air Force Base, which is equivalent to the 6 CFS maximum delivery right under the Nellis AFB Contract; and
- (3) the first 900 MGD of aggregate demand by Henderson, North Las Vegas, and the District for water conveyed through the SNWS, where and when it actually occurs, such demand being determined without regard to any demand that can be satisfied by any water production, treatment, or delivery systems then owned or operated separately by Henderson, North Las Vegas, and the District.

The SNWS has now been expanded and improved to the extent that the operational capacity and flexibility of the SNWS is now capable of supplying water at locations and at rates that meet these objectives.

C. The Authority and the SNWS Purveyor Members also anticipated that, over time, one or more SNWS Purveyor Members might request that facilities be added to the SNWS for the provision of Raw Water to the requesting SNWS Purveyor Member. The Authority and the SNWS Purveyor Members agreed that the decision whether to so expand the SNWS would be

made on a case-by-case basis and that the Authority would be under no obligation to approve any such request.

D. The Authority has now determined that all of the Authority's capital improvement activity, whether previously conducted pursuant to either the Capital Improvements Plan (the primary focus of which was to continue the expansion of the SNWS to meet the demand specified in Paragraph B above) or the Major Construction and Capital Plan (which was intended to endure and govern the acquisition and construction of all other facilities and assets of a capital nature that are a part of, or used in connection with or for the benefit of, the SNWS), both plans as authorized by the Facilities and Operation Agreement, as effective June 20, 2002, should now be conducted pursuant to a single Major Construction and Capital Plan, as authorized by this amended Facilities and Operation Agreement.

E. The SNWS Purveyor Members are the only members of the Authority that receive water through the SNWS. The purpose of this Agreement is to memorialize certain of the understandings and agreements of the Authority and the SNWS Purveyor Members respecting, among other matters, (i) acquisition, construction, replacement, improvement, and repair of facilities or other assets of a capital nature relating or incidental to the development, conveyance, and treatment of water by or for the Authority or its Members through the SNWS; (ii) operation of the SNWS; (iii) construction of dedicated facilities for the delivery of Raw Water to SNWS Purveyor Members; (iv) acquisition and allocation of SNWS Water Supplies; (v) delivery through the SNWS of water to which each of the SNWS Purveyor Members has a right; (vi) payment of the Authority's costs (including Finance Costs) respecting the SNWS; and (vii) application of Other SNWS Revenues. It is the intention and expectation of the parties, however, that issues and disputes among the parties, or any of them, respecting the SNWS generally will be resolved through the Authority and that the SNWS Purveyor Members shall

have judicially enforceable rights under this Agreement only to the extent and in the manner provided in Article 17.

F. This Agreement constitutes the SNWS Operations Agreement referenced in Recital L Paragraph (4) and Article 24 of the Cooperative Agreement.

G. This Agreement was originally made effective as of January 1, 1996. It has been amended three times effective as of May 1, 1998, January 1, 1999, and June 20, 2002, respectively, and is now being further amended to provide the Authority sufficient flexibility to adequately meet the evolving requirements of the SNWS Purveyor Members.

AGREEMENT

IN CONSIDERATION of the mutual promises, covenants, and agreements contained herein, the parties hereto agree as follows:

ARTICLE 1

EFFECTIVENESS

Section 1.1 This Agreement originally became effective as of January 1, 1996, has been amended three times effective as of May 1, 1998; January 1, 1999; and June 20, 2002, respectively. This Agreement as now amended as of the Effective Date shall remain in full force and effect until terminated by a written Agreement executed by all parties.

ARTICLE 2

CAPITAL PLANS

Section 2.1 Maintenance of Capital Plans.

Section 2.1.1 In General. The Authority shall maintain in effect and revise as provided in this Article a Major Construction and Capital Plan (“MCCP”) which shall provide for (1) the completion of any capital improvement project previously identified in any Capital

Improvements Plan or Major Construction and Capital Plan as authorized by the original (January 1, 1996) or amended (May 1, 1998; January 1, 1999; June 20, 2002) versions of this Agreement; and (2) the expansion and improvement of the SNWS. The MCCP shall govern the acquisition or construction of all facilities (including related infrastructure) and other assets of a capital nature that are to be a part of, or used in connection with or for the benefit of, the SNWS, including SNWS Water Supplies.

Section 2.1.2 Boulder City. The MCCP shall not provide capacity for the delivery of Treated Water to Boulder City greater than that provided in the December 1995 Capital Improvements Plan, namely 19.4 MGD, which is equivalent to the 30 CFS capacity as of January 1, 1996 of the Boulder City Lateral.

Section 2.2 Major Construction and Capital Plan.

Section 2.2.1 In General. The MCCP shall provide for and govern (i) the phased construction of diversion, treatment, conveyance, turnout, and related facilities, located and sized, and the construction of which is timed, to provide the SNWS with the operational capacity and flexibility to deliver water to meet the needs of the SNWS Purveyor Members; (ii) the acquisition of all SNWS Water Supplies; and (iii) the acquisition, construction, replacement, and improvement of all facilities (including related infrastructure) and other assets of a capital nature relating or incidental to (1) the development, conveyance, and treatment of water by or for the Authority, irrespective of whether such facilities are to be owned by the Authority, and (2) the Authority's performance of any other Conferred Function, as that term is used in the Cooperative Agreement, with respect to the SNWS Purveyor Members. Without limiting the generality of the preceding sentence, such facilities and assets may include wells and well fields; dams and diversion works; water storage facilities; water conveyance facilities; electric generation, transmission, and distribution facilities; facilities for the maintenance or

improvement of water quality; laboratories, office, and other buildings; long-term water, energy resource, and other supply contracts; and any other facilities, real property or assets where payments for such properly should be treated as capital outlays.

Section 2.2.2 Accommodation of Competing Objectives. Subject to the provisions of Section 2.2.1, the diversion, treatment, conveyance, turnout, and related facilities for Treated Water provided for in the MCCP shall be located and sized, and the construction of such facilities shall be timed, so as to achieve a balance among the following objectives:

- (1) Enable the Authority to maximize utilization of the SNWS operational capacity and flexibility for the benefit of all SNWS Purveyor Members;
- (2) Enable each SNWS Purveyor Member to maximize utilization of its delivery system for the benefit of its customers;
- (3) Minimize the necessity for construction of additional SNWS facilities so as to reduce the construction costs of the SNWS as a whole and to minimize the Authority's charges to all SNWS Purveyor Members; and
- (4) Minimize the necessity for construction of additions to SNWS Purveyor Member systems, or changes in such systems, for purposes of connecting to the SNWS.

Section 2.2.3 Water Quality Related Facilities. The MCCP shall provide for the acquisition and construction of all facilities that may become necessary to enable the Authority, in its operation of the SNWS, to comply with all requirements of law pertaining to water quality. The MCCP may, but is not required to, provide for the acquisition and construction of other facilities for the maintenance or improvement of the quality of SNWS Water Supplies or of water which is a source of SNWS Water Supplies.

Section 2.2.4 Raw Water Facilities.

Section 2.2.4.1 Inclusion in MCCP. The MCCP shall provide for the acquisition and construction of any Raw Water Facilities which the Authority determines pursuant to Section 2.2.4.2 to construct. All Raw Water Facilities constructed by the Authority shall be owned by the Authority and shall be a part of the SNWS.

Section 2.2.4.2 Determination to Construct Raw Water Facilities. Any SNWS Purveyor Member desiring construction of Raw Water Facilities shall make a written request therefore to the Authority, the Authority being under no obligation to agree to such request. If, however, in response to such request the Authority determines to construct Raw Water Facilities for the SNWS Purveyor Member, the Authority shall revise the MCCP accordingly and the SNWS Purveyor Member and the Authority shall enter into a Raw Water Facilities Agreement pursuant to Section 4.2.2.

Section 2.2.5 Candidate Facilities. The MCCP may, but is not required to, reflect facilities of a capital nature that are under consideration and are identified in the plan as candidates for construction by the Authority (“Candidate Facilities”). No Candidate Facility shall be constructed by the Authority until the MCCP is revised to include such facility as one to be constructed. No Candidate Facility shall be considered for purposes of determining the Total Cost of the MCCP.

Section 2.2.6 General Information Respecting Specific Facilities. The MCCP shall include the Total Cost of the MCCP and at least the following elements with respect to each asset to be acquired or facility to be constructed:

- (1) A general description of the asset or facility, including the size of any diversion, treatment, conveyance, turnout, and related facility;
- (2) A map or written description of the general location of the asset or facility;

- (3) The date the asset is to be acquired or schedule on which construction of each facility is to be completed; and
- (4) The estimated Capital Cost of the asset or facility and the anticipated revenue sources that will be used to pay the Capital Cost.

Section 2.2.7 SNWS Water Supplies. The MCCP shall provide for the acquisition by the Authority of SNWS Water Supplies as needed to meet anticipated demand of the SNWS Purveyor Members.

Section 2.2.8 Capacity. The MCCP may, but shall not be required to, provide that any facility have a capacity greater than that required to meet the aggregate demand then projected to be served by the facility in question if such greater capacity will reasonably provide greater flexibility and reliability in the SNWS.

Section 2.3 Review of and Revisions to MCCP.

Section 2.3.1 Plans Effective Until Revised. Each revision to the MCCP shall remain in effect until revised as provided in this Agreement.

Section 2.3.2 Revisions to MCCP. The SNWS Work Group, functioning in the roles designated in Section 14.1, shall review the MCCP at least annually and, when significant project additions or substantial additional expenditures of funds are proposed affecting the elements defined in Section 2.2.6, shall recommend to the Authority revision of the MCCP as appropriate (i) so that the plan will continue to meet the requirements of this Article; and (ii) to otherwise serve the SNWS Purveyor Members and any Contract Users. In aid of such review, the SNWS Work Group shall regularly consult with the SNWS Purveyor Members concerning, among other things, (i) the then-existing and projected demand of each SNWS Purveyor Member for deliveries of Treated Water by turnout; and (ii) any revisions proposed in writing by a SNWS Purveyor Member.

Section 2.3.3 Reduction in Capacity. The Authority may, but shall not be required to, reduce the capacity of any facility included in the MCCP on account of subsequent decreases in the demand projected to be served by such facility.

ARTICLE 3

OPERATING PLAN

Section 3.1 Operating Plan Required. The Authority shall maintain in effect, and revise at least annually, the Operating Plan which shall govern operation of the SNWS and the delivery of water to SNWS Purveyor Members and Contract Users.

Section 3.2 Deliveries to SNWS Purveyor Members. Subject to the provisions of Sections 3.5 and 3.6, the Operating Plan shall provide for the SNWS to be operated to the maximum extent possible to meet the requirements of each SNWS Purveyor Member (i) for water which has been allocated to the SNWS Purveyor Member by or pursuant to the Cooperative Agreement; (ii) for any water which has been allocated to the SNWS Purveyor Member pursuant to Section 5.2 of this Agreement; and (iii) for water to which the SNWS Purveyor Member has a right pursuant to an individual contract with the United States.

Section 3.3 Specifications Respecting Deliveries. The Operating Plan and each annual revision to the Operating Plan shall cover at least a three year period and shall specify at least the following with respect to the period covered by the Plan, distinguishing between Treated Water and Raw Water where appropriate:

- (1) Each turnout from the SNWS into the system of each SNWS Purveyor Member and Contract User;
- (2) Maximum daily rates at which water could be delivered at each turnout;

- (3) Delivery schedules showing the average daily rate by month at which water will be delivered at each turnout for the period covered by the Operating Plan;
- (4) Target hydraulic grade lines at each point of delivery;
- (5) Target chlorine concentrations at each point of delivery; and
- (6) Other matters pertinent to the operation of the SNWS.

Section 3.4 Accommodation of Competing Objectives. Subject to the requirements of Sections 3.2 and 8.1, the points and rates of delivery specified in the Operating Plan for Treated Water shall be chosen, and modified as appropriate, so as to achieve a balance among the following objectives:

- (1) Enable the Authority to maximize utilization of the SNWS operational capacity and flexibility for the benefit of all SNWS Purveyor Members;
- (2) Enable each SNWS Purveyor Member to maximize utilization of its delivery system for the benefit of its customers;
- (3) Minimize the operating costs of the SNWS;
- (4) Minimize the operating costs of each SNWS Purveyor Member;
- (5) Minimize the necessity for construction of additional SNWS facilities so as to reduce the construction costs of the SNWS as a whole and to minimize the Authority's charges to all SNWS Purveyor Members; and
- (6) Minimize the necessity for construction of additions to SNWS Purveyor Member systems, or changes in such systems, for purposes of connecting to the SNWS.

Section 3.5 Prioritization of Deliveries Due to Capacity Constraints.

Section 3.5.1 Priority Schedule. Whenever the aggregate SNWS Purveyor Member demand to be served from any particular treatment, conveyance, or turnout facility is

greater than can be physically met by such facility, the SNWS will be operated to deliver water from such facility according to the following priorities:

- (1) The first priority is delivery for direct redelivery to customers, with deliveries for redelivery to customers whose demand requires potable water having priority for all purposes under this Agreement over deliveries for redelivery to customers whose demand can be satisfied with non-potable water;
- (2) The second priority is delivery for ground water recharge where such recharge will be used or replaces ground water which has been used for redelivery to customers within that calendar year;
- (3) The third priority is delivery for ground water recharge where such recharge will not be used and does not replace ground water which has been used for redelivery to customers within that calendar year; and
- (4) The fourth priority is delivery of water temporarily allocated by the Authority to a SNWS Purveyor Member for ground water recharge or other uses.

Section 3.5.2 Lower Priority Deliveries. Deliveries with a lower priority shall be permitted only to the extent they do not affect deliveries with a higher priority.

Section 3.5.3 Allocation of Capacity within a Priority. Whenever the capacity of one or more treatment, conveyance, or turnout facilities is, for any reason, insufficient to allow all deliveries under a given priority to be achieved from those facilities, then the following actions shall be taken in the following order of priority:

- (1) First, the operations of the SNWS shall be modified to the maximum extent practicable to provide for the full delivery of such priority water through alternate SNWS facilities;

- (2) Second, each SNWS Purveyor Member shall modify to the maximum extent practicable operation of its delivery system and increase use of any water production and treatment systems that it owns or operates if such will allow the SNWS to increase deliveries of such priority water; and
- (3) Third, the capacity of the insufficient facilities shall be allocated by the Authority to the maximum extent practicable in such a manner so as to equitably apportion the available water and capacity among all SNWS Purveyor Members taking into account customer needs.

Section 3.5.4 Notice to Authority. Whenever the procedures of Section 3.5.3 are in effect, each SNWS Purveyor Member shall notify the Authority whenever such Purveyor Member takes delivery of water under any priority other than the first priority.

Section 3.6 Apportionment of Reductions. Should deliveries of SNWS Water Supplies to the Authority or of Colorado River water or other water supplies to any SNWS Purveyor Member be suspended or reduced by the supplier thereof for any reason, the reduction to each SNWS Purveyor Member as a consequence shall be in accordance with a shortage sharing plan adopted by the SNWS Purveyor Members. In the absence of such a plan, SNWS Water Supplies shall be delivered by the Authority to SNWS Purveyor Members consistent with the following principles, which are consistent with the principles first adopted by the governing bodies of the Big Bend Water District, Henderson, North Las Vegas, and the District in May 1990 in their “Joint Resolution Establishing a Joint Position on Shared Reductions in Deliveries of Colorado River Water”:

In times of such shortages or reductions, SNWS Water Supplies shall be delivered to the SNWS Purveyor Members as if, among themselves and the Big Bend Water

District, all such entities shared a common priority, without regard to contrary provisions of the specific contracts pursuant to which the water is delivered.

Under the principle of a shared common priority, each such entity shall bear a reduction in the delivery of SNWS Water Supplies appropriately taking into account the entity's then existing demand and the quantity of water then being used or reliably available to the entity from all sources. No such entity whose deliveries are reduced more than they otherwise would have been shall be entitled to compensation from any other such entity, the United States, or the Authority on account thereof.

Section 3.7 Revisions to Operating Plan.

Section 3.7.1 Operating Plan Effective Until Revised. Once adopted, the Operating Plan shall remain in effect until revised as provided in this Agreement, and each revision of the Operating Plan similarly shall remain in effect until further revised.

Section 3.7.2 Annual Review of Operating Plan. The SNWS Work Group, functioning in the roles designated in Section 14.1, shall review the Operating Plan at least annually and shall recommend to the Authority revision of the Operating Plan as appropriate so that it will conform to the requirements of Sections 3.2, 3.3, and 3.4. During each such review, the SNWS Work Group shall consider any revisions proposed in writing by a SNWS Purveyor Member.

ARTICLE 4

CONSTRUCTION AND FUNDING OF FACILITIES

Section 4.1 Requirement to Construct and Fund. The Authority shall use, and continue to use, every reasonable effort to (i) construct all facilities provided for in, and in accordance with, the MCCP then in effect; (ii) acquire or construct all facilities and other assets, including

SNWS Water Supplies, provided for in, and in accordance with, the MCCP then in effect; (iii) issue MCCP Debt in amounts and at frequencies necessary to fund the acquisition and construction of facilities and other assets of a capital nature in accordance with the MCCP then in effect to the extent such construction or acquisition is not funded from other sources.

Section 4.2 Raw Water Facilities.

Section 4.2.1 Raw Water Facility Funding. Any SNWS Purveyor Member for which Raw Water Facilities are to be constructed by the Authority shall be responsible for the following: (i) the Capital Cost of the Raw Water Facilities to be constructed for it; (ii) a proportionate share of the Capital Cost of any other SNWS facilities that will be utilized in the delivery of Raw Water to such SNWS Purveyor Member; and (iii) the Capital Costs incurred by the Authority relating to the acquisition of any SNWS Water Supplies delivered, or to be delivered, as Raw Water to such SNWS Purveyor Member. The Authority may, but shall not be required to, finance any or all of such Capital Costs using any funds available to it for such purpose, including the proceeds of Authority Debt, except to the extent such use is otherwise prohibited by this Agreement or is specifically prohibited by a bond instrument, statute, or other legal requirement applicable to such funds.

Section 4.2.2 Raw Water Facilities Agreement. The Authority and any SNWS Purveyor Member for which Raw Water Facilities are to be constructed by the Authority shall enter into a separate Raw Water Facilities Agreement which shall, among other things, (i) specify the facilities that are to be constructed by the Authority; (ii) specify the water supply that will be delivered through the Raw Water Facilities; (iii) specify the extent to which the Authority's costs described in Section 4.2.1 will be financed initially by the Authority and the extent to which such costs will be funded directly by the SNWS Purveyor Member; (iv) specify the terms and conditions for payments by the SNWS Purveyor Member of those costs to be

funded directly by it; and (v) obligate the SNWS Purveyor Member to pay a Raw Water Facilities Charge with respect to any Section 4.2.1 costs of the Authority initially funded by the Authority.

Section 4.2.3 Charges Relating to Raw Water. Each SNWS Purveyor Member for which Raw Water Facilities are to be constructed by the Authority shall pay a Raw Water Facilities Charge pursuant to Section 7.3 for all Section 4.2.1 costs of the Authority not directly funded by such SNWS Purveyor Member. Each SNWS Purveyor Member to which the Authority delivers Raw Water shall pay the Raw Water component of the Wholesale Delivery Charge pursuant to Section 7.5.1.

ARTICLE 5

ACQUISITION OF SNWS WATER SUPPLIES

Section 5.1 Acquisition of SNWS Water Supplies for SNWS Purveyor Members. If and for so long as all Purveyor Member(s) that are not SNWS Purveyor Members have elected by agreement with the Authority not to participate in, and for the period of such election to be ineligible for allocation of, SNWS Water Supplies, as defined in Section 24.1(40) of this Agreement, acquired by the Authority, then as provided in Article 24 of the Cooperative Agreement, any SNWS Water Supplies, or any interest therein, may be acquired by the Authority pursuant to this Agreement and allocated as provided in this Article 5.

Section 5.2 Allocation of SNWS Water Supplies.

Section 5.2.1 Allocation among SNWS Purveyor Members. All SNWS Water Supplies to which the Authority obtains a right shall be allocated among the SNWS Purveyor Members according to the principles stated in Article 8(g) of the Cooperative Agreement.

Section 5.2.2 Water reserved from Allocation. To the extent SNWS Water Supplies acquired by the Authority are subject to the reservation requirements of subArticle 8(e)

of the Cooperative Agreement, such SNWS Water Supplies shall be reserved and allocated as provided in the Cooperative Agreement and not as provided in this Agreement, except that any Purveyor Member that is not a SNWS Purveyor Member shall not be entitled to participate in any such allocation. Any SNWS Water Supplies which have been allocated by or pursuant to subArticle 8(e) of the Cooperative Agreement to a SNWS Purveyor Member, but which will not be used by such SNWS Purveyor Member in a given year, shall be made available in such year to any other SNWS Purveyor Member requesting such SNWS Water Supplies.

Section 5.3 Participation by Boulder City.

Section 5.3.1 Initial Election Not to Participate. Boulder City has elected, as of May 1, 1998, not to participate in any Water Supplies or Water Rights thereafter acquired by the Authority and, for the period of such election, to be ineligible for allocation under the Cooperative Agreement of any portion thereof. As a consequence of this election, Boulder City shall have no right to, no interest in, and no obligation respecting any such Water Supply or Water Right, including a SNWS Water Supply, until Boulder City rescinds this election pursuant to Section 5.3.2.

Section 5.3.2 Rescission of Election.

Section 5.3.2.1 Notice of Rescission; Future Water Supplies. Boulder City may rescind the election referenced in Section 5.3.1 by giving notice of such rescission to the Authority and to all other SNWS Purveyor Members. Upon giving such notice Boulder City shall again be eligible to participate in, and be eligible for allocation of, all Water Rights and Water Supplies (including SNWS Water Supplies) thereafter acquired by the Authority.

Section 5.3.2.2 Previously Acquired SNWS Water Supplies. Upon a notice of rescission given pursuant to Section 5.3.2.1, Boulder City shall also be eligible for allocation of any Water Rights and Water Supplies (including any SNWS Water Supplies)

acquired by the Authority prior to such notice to the extent such have not been allocated to other Purveyor Members and subject to Boulder City's obligation to reimburse the other Purveyor Members for an appropriate share of their payments to the Authority (including Connection Charges and Commodity Charges) allocable to the acquisition of such Water Rights and Water Supplies. Within 90 days of the notice of rescission, Boulder City and the Authority shall meet to jointly determine the amount of such reimbursement, which determination shall be incorporated into a separate agreement between Boulder City and the Authority. Boulder City shall become eligible for an allocation of such Water Rights and Water Supplies effective upon approval of the separate agreement by the governing boards of Boulder City and the Authority.

Section 5.4 Reversion of SNWS Water Supplies to the Cooperative Agreement. If a Purveyor Member that is not a SNWS Purveyor Member rescinds an election made by agreement with the Authority not to participate in new Water Rights and Water Supplies acquired by the Authority, any SNWS Water Supplies that have not been allocated to a SNWS Purveyor Member as of the date such notice of rescission is given shall no longer be considered SNWS Water Supplies and shall be subject to allocation pursuant to the Cooperative Agreement.

ARTICLE 6

DELIVERY AND TREATMENT OF WATER

Section 6.1 Delivery Requirement. The Authority shall operate the SNWS and deliver water to each SNWS Purveyor Member in accordance with the Operating Plan then in effect.

Section 6.2 Applicable Law; Contract. This Agreement and all rights of the SNWS Purveyor Members to the delivery of water hereunder are subject to all provisions of (i) applicable federal and State law, including federal reclamation law; (ii) the Contract for the Delivery of Water and Repayment of project Works, originally entered into as of August 25, 1967, and most recently amended as of March 2, 1992, between the United States and the State acting through the Commission (Contract No. 7-07-30-W004LA1, Amendment No. 1) as it may

be amended; and (iii) Contract No. 7-07-30-W0004, Assignment No. 1, the assignment by the Commission of the foregoing contract to the Authority.

Section 6.3 Water Quality. The Authority shall treat all Raw Water and all Treated Water delivered hereunder to the SNWS Purveyor Members to at least the extent required by applicable law.

ARTICLE 7

CHARGES AND PAYMENTS

Section 7.1 In General. The Authority shall establish, revise as necessary, and use every reasonable effort to collect the charges provided for in this Article. Such charges, in the aggregate, shall have the purpose of funding and shall be set at levels sufficient to fund (i) reserves authorized or required by this Agreement or required by any bond or other debt instrument for which the Authority is responsible, directly or indirectly, relating to the SNWS; and (ii) the payment when due of all costs, expenses, Capital Costs not otherwise funded, and liabilities, including Finance Costs, of the Authority relating to the SNWS and to the acquisition of SNWS Water Supplies as provided in this Agreement.

Section 7.2 Connection Charge; Commodity Charge.

Section 7.2.1 Establishment of Charges. There shall be (i) a charge for each new connection within the service areas of Henderson, North Las Vegas, and the District (“Connection Charge”); and (ii) a charge for each 1,000 gallons of Treated Water, from any source whatever, and Raw Water, delivered and metered by Henderson, North Las Vegas, and the District to their customers (“Commodity Charge”).

Section 7.2.2 Purpose of Charges. The Connection Charge, the Commodity Charge, the payments due from Boulder City under Section 7.4, any Raw Water Facilities Charges, and any Other SNWS Revenues that have been allocated for the purposes of this Section 7.2.2, taken together shall have the purpose of providing funds for:

- (1) Payment when due of Finance Costs on MCCP Debt to the extent provided in the MCCP;
- (2) Payment of the Capital Cost of assets and facilities (other than Candidate Facilities) identified in the MCCP to the extent provided in the MCCP;
- (3) Payment of the Capital Cost of Raw Water Facilities identified in the MCCP to the extent such are not funded by the SNWS Purveyor Member for which they are constructed pursuant to a Raw Water Facilities Agreement; and
- (4) Maintenance of the MCCP Debt Reserve Fund at the levels specified in Section 11.2.

The Connection Charge and the Commodity Charge shall have the additional purpose of providing funds for payment of Capital Costs related to the acquisition of SNWS Water Supplies.

Section 7.2.3 Level of Charges. The Authority shall set the Connection Charge, the Commodity Charge, and the Raw Water Facilities Charge at levels at least sufficient to ensure that the Authority will at all times have available for the purposes specified in Section 7.2.2 sufficient funds derived from the sources identified in that Section. In setting the Connection Charge and the Commodity Charge, the Authority shall consider and appropriately take into account, among any other factors the Authority considers relevant, (i) shortfalls and surpluses in revenues derived from the Connection Charge and Commodity Charge in the prior fiscal year; (ii) existing MCCP Debt and Debt Service thereon to the extent provided in the MCCP; (iii) the factors specified in Section 7.2.4; and (iv) the then-most current projections of:

- (1) Planned MCCP Debt and Finance Costs thereon;
- (2) The capital required to improve or expand SNWS facilities related to Treated Water which are not funded by MCCP Debt;

- (3) New Treated Water connections within SNWS Purveyor Member service areas;
- (4) Future deliveries of Treated Water by SNWS Purveyor Members to customers;
- (5) Capital improvements required to meet existing and anticipated water quality standards or to provide enhanced water treatment;
- (6) The capital required to acquire SNWS Water Supplies;
- (7) The capital required for any other purposes specified in Section 7.2.2; and
- (8) Any Other SNWS Revenues projected to be available to the Authority for the purpose of paying Finance Costs on MCCP Debt, funding facilities to improve or expand the SNWS, and acquiring SNWS Water Supplies.

Section 7.2.4 Consideration of Benefit Conferred. With respect to assets and facilities provided for in the MCCP that relate to expansion of the capacity of the SNWS, in establishing the Connection Charge and the Commodity Charge, the Authority shall also consider, and appropriately take into account, the following factors: (i) the New Service Benefit and the Reliability Benefit of those facilities and assets the capital cost of which is to be paid (either directly or through payment of Debt Service on MCCP Debt) by the revenues resulting from such charges; (ii) projected Raw Water Facilities Charges, payments due from Boulder City under Section 7.4, and Other SNWS Revenues available for the purposes specified in Section 7.2.2; and (iii) the general principle that, as between themselves, Connection Charges relate to capital costs of additional capacity, including Finance Costs, attributable to the New Service Benefit and Commodity Charges relate to capital costs, including Finance Costs, attributable to the Reliability Benefit.

Section 7.2.5 Service Equivalency for Connection Charge. The Connection Charge shall be separately determined for connections of different types and shall be set on such

basis as will, in the Authority's judgment, equitably apportion such charges among all connections.

Section 7.2.6 Assessments for Revenue Deficiencies. The Authority shall equitably make assessments to Henderson, North Las Vegas, and the District for payment of Finance Costs on MCCP Debt whenever revenues from the following (to the extent authorized to be used to pay those Finance Costs) are insufficient for such purpose: (i) Connection Charges, (ii) Commodity Charges; (iii) Wholesale Delivery Charges; (iv) any Raw Water Facilities Charges; (v) payments due from Boulder City under Section 7.4; (vi) any Other SNWS Revenues allocated for the purposes specified in Section 7.2.2; (vii) funds in the MCCP Debt Reserve Fund to the extent such funds are not required to be maintained at a specified level by any debt instrument.

Section 7.3 Raw Water Facilities Charge.

Section 7.3.1 Establishment of Charge. For each SNWS Purveyor Member for which Raw Water Facilities are to be constructed, there shall be an annual Raw Water Facilities Charge with respect to all Section 4.2.1 costs of the Authority not directly funded by such SNWS Purveyor Member.

Section 7.3.2 Purpose of Raw Water Facilities Charge. The Raw Water Facilities Charge for a SNWS Purveyor Member shall have the purpose of providing, and shall be set at levels sufficient to provide, funds for:

- (1) Payment when due of Finance Costs on MCCP Debt allocable to the Raw Water Facilities constructed or to be constructed for such SNWS Purveyor Member;
- (2) Payment of any part of the Capital Cost of Raw Water Facilities constructed or to be constructed for such SNWS Purveyor Member which is not funded by MCCP Debt or directly by such SNWS Purveyor Member;

- (3) With respect to any other SNWS facilities that will be utilized in the delivery of Raw Water to such SNWS Purveyor Member, payment of a proportionate share of (i) when due, the Finance Costs on MCCP Debt; and (ii) that part of the Capital Cost which is not funded by MCCP Debt or directly by such SNWS Purveyor Member;
- (4) Providing funds for payment of Capital Costs related to the acquisition of SNWS Water Supplies delivered, or to be delivered, to such SNWS Purveyor Member as Raw Water; and
- (5) Maintenance of that portion of any MCCP Debt Reserve Fund that is allocable to the Raw Water Facilities constructed or to be constructed for such SNWS Purveyor Member in order to maintain the fund at the levels required under Section 11.2.

Section 7.4 Separate Charge for Boulder City. Each fiscal year Boulder City shall pay 3.24 percent of (i) the Authority's Finance Costs for that fiscal year on that portion of total MCCP Debt which is attributable to the following; and (ii) the Authority's Capital Costs for that fiscal year which are not funded by MCCP Debt and which are attributable to the following:

- (1) the improvement or expansion of those facilities, existing on January 1, 1996, from and including the Lake Mead diversion intake to and including the clear well of the Alfred Merritt Smith Water Treatment Facility; and
- (2) any other improvements to or expansion of the SNWS that benefits Boulder City, including power delivery facilities and facilities for ozone and other enhanced treatment of water.

In addition, each fiscal year Boulder City shall also pay that portion of the total amount to be contributed by all SNWS Purveyor Members to any MCCP Debt Reserve Funds which is

proportionate to Boulder City's responsibility for Finance Costs and Capital Costs under this Section 7.4.

Section 7.5 Wholesale Delivery Charge.

Section 7.5.1 Purpose and Level of Charge. There shall be a delivery charge which shall be paid by each SNWS Purveyor Member for each unit of water delivered to it by the Authority (“Wholesale Delivery Charge”). The Wholesale Delivery Charge shall have separate components for Treated Water and for Raw Water. The Wholesale Delivery Charge shall be for the purpose of providing, and shall be set at levels to ensure that the Authority at all times will have available sufficient funds to pay, for the following:

- (1) Operation, maintenance, and replacement costs of facilities and other assets of a capital nature that are to be a part of, or used in connection with or for the benefit of the SNWS, including water delivery and other charges relating to the delivery of SNWS Water Supplies;
- (2) Capital Costs to the extent provided in the MCCP;
- (3) The Authority's administrative expense relating to the SNWS;
- (4) An appropriate part of the Authority's contribution to the Commission's water administrative and operating budget;
- (5) Maintenance of the O&M Reserve Fund at required levels;
- (6) Debt Service on Original SNWS Bond Indebtedness;
- (7) Finance Costs of any MCCP Debt to the extent provided in the MCCP Debt and maintenance of the MCCP Debt Reserve Fund;
- (8) Any other Capital Cost, expenditure, or liability of the Authority with respect to the SNWS, including liabilities of the Commission assumed by the Authority pursuant to the Transfer Act; and

- (9) General administrative expense of the Authority whether or not related to the SNWS.

Section 7.5.2 Considerations in Setting Charge. In setting the Wholesale Delivery Charge, the Authority shall consider and appropriately take into account, among any other factors the Authority considers relevant, (i) differences between Treated Water and Raw Water with respect to the cost and expense elements listed in Section 7.5.1; (ii) surpluses and shortfalls in revenue derived from the Wholesale Delivery Charge in the prior fiscal year; and (iii) then most current projections of:

- (1) Future deliveries by the Authority of Treated Water and Raw Water to SNWS Purveyor Members; and
- (2) Any revenues available to the Authority for payment of the items set forth in Section 7.5.1 from sources other than charges under this Agreement.

Section 7.6 Allocation of Other SNWS Revenues. The Authority may, but except to the extent specified by law shall not be required to, allocate Other SNWS Revenues between Section 7.2.2 purposes generally and Section 7.5.1 purposes generally and may, but shall not be required to, sub-allocate such Other SNWS Revenues among the various purposes specified in such Sections. All such allocations shall be made on such basis as the Authority determines appropriate.

Section 7.7 Procedure to Establish Charges. The Authority shall periodically review and make a five-year projection for the Connection Charge, the Commodity Charge, each Raw Water Facilities Charge, and the Wholesale Delivery Charge. Upon each review, the Authority shall affirm or revise the rates for each such charge. To the maximum extent practicable, the rates for the Connection Charge, the Commodity Charge, and each component of the Wholesale Delivery Charge shall be set at constant levels for such periods as the Authority may determine

from time to time. Notwithstanding the foregoing, the Authority shall review and readjust the rates for such charges whenever shortfalls in collections of Connection Charges, Commodity Charges, Raw Water Facilities Charges, payments from Boulder City under Section 7.4, or Wholesale Delivery Charges have caused or are reasonably expected to cause the reserves available under Article 11 to cover such shortfalls to be unduly depleted.

Section 7.8 Uniform Application. The Connection Charge and the Commodity Charge shall be applied uniformly to Henderson, North Las Vegas, and the District; the Treated Water component of the Wholesale Delivery Charge shall be applied uniformly to all SNWS Purveyor Members; and the Raw Water component of the Wholesale Delivery Charge shall be applied uniformly to all SNWS Purveyor Members receiving delivery of Raw Water.

Section 7.9 Delinquencies by SNWS Purveyor Members.

Section 7.9.1 Step-Up Charge. If (i) any SNWS Purveyor Member is delinquent for more than 60 days in making payment to the Authority of any amount due as Connection Charge, Commodity Charge, Raw Water Facilities Charge, or Wholesale Delivery Charge, or Boulder City is delinquent for more than 60 days in making payment to the Authority of any amount due pursuant to Section 7.4; and (ii) the Authority has determined that, as a result of such delinquency, either default in the payment of any Finance Costs will occur within the next 90 days or reserve funds required to be maintained under any debt instrument will be depleted below the required level within the next 90 days, then the Authority shall have the right, but not the obligation, to immediately require the payment of such delinquency by the other SNWS Purveyor Members. Such delinquency shall be apportioned proportionate to the liability of such SNWS Purveyor Members for such charge during the preceding month. In no event, however, shall the delinquency apportioned to a SNWS Purveyor Member with respect to any of the Connection Charge, Commodity Charge, Raw Water Facilities Charge, or Wholesale

Delivery Charge for any period of delinquency be greater in amount than 100 percent of the amount of such charge the SNWS Purveyor Member is otherwise required to pay with respect to such period. The Authority shall send a statement to each SNWS Purveyor Member to which the delinquency is apportioned immediately upon exercising its rights pursuant to this Section 7.9.1, and each such SNWS Purveyor Member shall pay the amount of any delinquency apportioned to it within 45 days after the date on which, pursuant to Article 23, the SNWS Purveyor Member is deemed to have received the statement. The Authority may continue to apportion delinquencies to SNWS Purveyor Members pursuant to this Section 7.9.1 for so long as a delinquency by a SNWS Purveyor Member of more than 60 days continues to exist. Any SNWS Purveyor Member making a payment pursuant to this Section 7.9.1 shall, to such extent, be subrogated to all rights of the Authority, and shall have a direct right of reimbursement, against the delinquent SNWS Purveyor Member.

Section 7.9.2 Refund of Step-Up Payments. Any payment of delinquencies by SNWS Purveyor Members pursuant to Section 7.9.1 shall be refunded proportionately to the SNWS Purveyor Members at the time, and to the extent, the delinquent SNWS Purveyor Member pays all or a portion of its delinquency attributable to such payments, and an appropriate share of any interest paid by the delinquent SNWS Purveyor Member and credited pursuant to Section 7.9.7 similarly shall be paid to the SNWS Purveyor Member.

Section 7.9.3 Loss of Voting Rights. If a SNWS Purveyor Member is delinquent for more than 60 days in making payment to the Authority of any amount due under this Agreement, during the period of such delinquency (i) the director appointed by such SNWS Purveyor Member shall not be entitled to vote on any matter coming before the Authority Board; (ii) the governing board of the SNWS Purveyor Member shall have no right of approval pursuant to the provisions of Section 15.2; and (iii) whether approval has been given for any matter

requiring the affirmative vote of the director appointed by each SNWS Purveyor Member pursuant to Sections 15.3.1 and 15.4 or the affirmative vote of the director appointed by each of Henderson, North Las Vegas, and the District pursuant to Section 15.3.2 shall be determined without reference to such delinquent SNWS Purveyor Member.

Section 7.9.4 Withholding of Water Deliveries. The Authority may, but shall not be required to, withhold in whole or in part delivery of water to any SNWS Purveyor Member that is delinquent in the payment of any charges or other amounts payable to the Authority under this Agreement for more than 90 days after such payment was due.

Section 7.9.5 Late Charges. The Authority shall have the right to establish late charges to be paid by any SNWS Purveyor Member which is delinquent by more than 60 days in any charge or other payment due under this Agreement.

Section 7.9.6 Automatic Assignment of Connection Charges. If any of Henderson, North Las Vegas, or the District is delinquent for more than 60 days in making payment to the Authority of any Connection Charges due under this Agreement, such delinquent SNWS Purveyor Member, without any further notice or demand by the Authority, hereby assigns and transfers to the Authority all connection fees and charges, tap fees, and similar fees and charges (the “Assigned Fees”), if any, payable to the delinquent SNWS Purveyor Member by each customer whose connection gives rise to a Connection Charge under this Agreement, together with the right, power, and authority to collect all such Assigned Fees directly from such customer. The Authority shall be entitled to retain all such Assigned Fees and shall credit them, in the order specified in Section 7.9.7, to the delinquent Connection Charge, any late charge assessed pursuant to Section 7.9.5, interest due on the delinquent Connection Charge, and all of the costs and expenses incurred by the Authority in collecting the Assigned Fees. In the event collections of Assigned Fees are insufficient to pay such amounts, the delinquent SNWS

Purveyor Member shall remain obligated to pay such unpaid amounts to the Authority. Any assignment of Assigned Fees shall cease to have effect only if and when collection of Assigned Fees are sufficient to pay such amounts in full or the delinquent SNWS Purveyor Member otherwise pays such amounts in full. The assignment of the Assigned Fees in itself shall not cure or waive any default by the delinquent SNWS Purveyor Member with respect to such Connection Charges.

Section 7.9.7 Crediting of Payments. Payments by any SNWS Purveyor Member which is delinquent in any charge or other payment due under this Agreement shall be credited (i) first to interest and late charges then owing; (ii) second to the charges and other payments then due and owing as to which the Authority has not received payments from other SNWS Purveyor Members pursuant to Section 7.9.1, applying such payments first to the most recent amounts then due and owing; and (iii) third to the charges and other payments then due and owing as to which, pursuant to Section 7.9.1, other SNWS Purveyor Members have made payments and as to which such SNWS Purveyor Members are entitled to a refund pursuant to Section 7.9.2, applying such payments first to the most recent amounts than due and owing.

Section 7.10 Billing and Payment.

Section 7.10.1 Connection and Commodity Charges. Henderson, North Las Vegas, and the District each shall pay to the Authority (i) the Connection Charge then in effect for all new connections made within its service area during each month; and (ii) the Commodity Charge then in effect for all metered deliveries of Treated Water to customers from any source whatsoever, and Raw Water. Such payment shall be due by the first day of the second month after such connections and deliveries were made and shall be accompanied by a statement from the SNWS Purveyor Member reflecting the number and size of such connections and the amount of such deliveries made by the SNWS Purveyor during the month to which the statement relates.

By way of example, payment is due on March 1 for all connections and deliveries made during the preceding January. For purposes of this Section 7.10.1, a connection shall be deemed to have been made at the earlier of (i) the date on which payment of a fee or similar charge with respect to the connection is due from the customer pursuant to the SNWS Purveyor Member's service rules; or (ii) the date on which water is first delivered to the connection by the SNWS Purveyor Member.

Section 7.10.2 Wholesale Delivery Charge. Once each month the Authority shall determine the amount of Treated Water and Raw Water delivered through the SNWS to each SNWS Purveyor Member for the preceding one month period. Within 20 days after such determination, the Authority shall send a statement to each SNWS Purveyor Member for the Wholesale Delivery Charge due to the Authority with respect to such deliveries. Payment shall be due from each SNWS Purveyor Member within 30 days after the date the SNWS Purveyor Member is deemed to have received the statement pursuant to Section 23.1.1.

Section 7.10.3 Raw Water Facilities Charge. Within 30 days prior to the beginning of each fiscal year or as specified in the Raw Water Facilities Agreement, the Authority shall send to each SNWS Purveyor Member to which a Raw Water Facilities Charge is applicable a statement for the Raw Water Facilities Charge due from that SNWS Purveyor Member for that fiscal year, the payments to be made monthly or quarterly as specified on the statement. Payment shall be due from the SNWS Purveyor Member as specified on the statement. The Authority shall promptly revise the statement to take into account any changes during the fiscal year in (i) the Authority's Finance Costs on MCCP Debt; (ii) Capital Costs of the Authority as to which the SNWS Purveyor Member has a responsibility pursuant to Section 4.2.1; and (iii) contributions to the MCCP Debt Reserve Fund.

Section 7.10.4 Boulder City. Within 30 days prior to the beginning of each fiscal year, the Authority shall send to Boulder City a statement for the amounts due from Boulder City pursuant to Section 7.4 for that fiscal year, the payments to be made monthly or quarterly as specified on the statement. Payment shall be due from Boulder City as specified on the statement. The Authority shall promptly revise the statement to take into account any changes during the fiscal year in (i) the Authority's Finance Costs on MCCP Debt; (ii) Capital Costs of the Authority as to which Boulder City has a responsibility pursuant to Section 7.4; and (iii) contributions to the MCCP Debt Reserve Fund.

Section 7.10.5 Assessments. Whenever the Authority makes an assessment to Henderson, North Las Vegas, and the District pursuant to Section 7.2.6, the Authority immediately shall send a statement for the assessment to each such SNWS Purveyor Member. Payment shall be due from the SNWS Purveyor Member within 45 days after the date on which the SNWS Purveyor Member is deemed to have received the statement pursuant to Section 23.1.1.

Section 7.10.6 Late Charges: Interest. Each month the Authority shall send a statement to delinquent SNWS Purveyor Members for late charges which have been assessed pursuant to Section 7.9.5 and interest owed with respect to delinquent charges and other payments due under this Agreement. Payment shall be due from the SNWS Purveyor Member within 45 days after the date on which the SNWS Purveyor Member is deemed to have received the statement pursuant to Section 23.1.1.

Section 7.10.7 Place of Payment. SNWS Purveyor Members shall transmit their payments under this Agreement to such banks and such accounts, and by such means, as specified in a notice given by the Treasurer of the Authority.

Section 7.10.8 Interest. All delinquent payments shall bear interest from the date the payment was due at the prime rate most recently published in the Western Edition of the Wall Street Journal plus 2 two percent per annum.

Section 7.11 Investment of Funds. The Authority may invest all monies received pursuant to this Article.

Section 7.12 Interaccount Loans. Any moneys collected hereunder including, without limitation, Connection Charges, Commodity Charges, Wholesale Delivery Charges, Raw Water Facility Charges, and Other SNWS Revenues (each a “Collected Charge”) may be temporarily loaned for use on a purpose on which the Authority is authorized to expend moneys hereunder (a “Loan Purpose”) other than the purpose for which the particular Collected Charge was collected. No such loan (an “Interaccount Loan”) shall be made unless the Interaccount Loan has been approved by the Board. Any Interaccount Loan must be repaid within 10 years after the date it is made. The repayment must also include interest in such an amount as the Board or the chief financial officer of the Authority determines is sufficient to make whole the account from which the Interaccount Loan was made. In order to make repayment, the Board shall set and collect sufficient charges of a type that can be expended on the Loan Purpose to repay the Interaccount Loan and interest within such 10 year period.

ARTICLE 8

OBLIGATIONS OF SNWS PURVEYOR MEMBERS

Section 8.1 Operation of SNWS Purveyor Member Systems. Subject to the provisions of Section 18.1, each SNWS Purveyor Member shall use every reasonable effort to maintain and operate to the fullest extent its delivery system and any water production and treatment system that it owns or operates so as to (i) allow the Authority to deliver the maximum amount of water through the SNWS to all SNWS Purveyor Members in a manner that provides optimum benefit

to each SNWS Purveyor Member; and (ii) avoid the necessity for the Authority to construct additions to the SNWS.

Section 8.2 Payment of Charges; Obligation Absolute. Each SNWS Purveyor Member shall pay when due all charges and other amounts provided for in this Agreement. The obligation of each SNWS Purveyor Member to make such payments is absolute and unconditional. No SNWS Purveyor Member is entitled to any right of set-off of any amounts due under this Agreement against any other obligations, to delay making any payments due under this Agreement for any reason, or to withhold any payment to the Authority under this Agreement on account of any breach or alleged breach of this or any other Agreement by the Authority or any other SNWS Purveyor Member or for any other reason whatever.

Section 8.3 SNWS Purveyor Member Rates. The Connection Charge, Commodity Charge, Raw Water Facilities Charge, Wholesale Delivery Charge, and payment to be made by Boulder City pursuant to Section 7.4 are charges by the Authority to be paid by the SNWS Purveyor Member to which they apply. Each SNWS Purveyor Member shall be solely responsible for setting rates and charges to its customers. Subject to Section 8.5, nothing in this Agreement shall be construed as governing or affecting how any Purveyor Member sets such rates and charges.

Section 8.4 Special Obligation. The obligation of each of the SNWS Purveyor Members to make payments under this Agreement shall be a special obligation of that SNWS Purveyor Member, payable from and secured by a lien on (i) the gross revenues of the water system of that SNWS Purveyor Member, which for purposes of this Agreement shall be deemed to include connection fees and charges, tap fees, flat fees, metered charges, and all other fees and charges made for services, water, or other commodities furnished by or through the SNWS

Purveyor Member's water system; and (ii) revenues from other sources that are legally available and specifically designated and authorized to be used for such purpose.

Section 8.5 Source of Payments. Each SNWS Purveyor Member shall maintain sufficient gross revenues from its water system, or from a combination of its water system and other legally available sources that are specifically designated or authorized to be used for such purpose, such that there will be available in each fiscal year from such sources adequate monies to make all payments to be paid from such sources, including all payments due under this Agreement.

Section 8.6 Payments as Operating Expenses. Each SNWS Purveyor Member represents and covenants that all payments to be made by it under this Agreement shall constitute operating expenses of its water system and that all such payments shall constitute operating expenses under any and all bond issues of the SNWS Purveyor Member payable from pledged revenues derived from the operation of its water system, with the effect that each SNWS Purveyor Member's obligation to make payments under this Agreement from its gross revenues described in Section 8.4(i) has priority over its obligation to make payments of the principal of and interest on any and all of such outstanding bonds.

ARTICLE 9

CONTRACT USERS

Section 9.1 Contract Users. The Authority shall have the right to enter into or renew a contract, on such terms as it shall deem reasonable, with any person other than the SNWS Purveyor Members ("Contract User"), including the United States on behalf of Nellis Air Force Base, for the delivery through the SNWS of (i) water to which the Authority has a right under a contract with the United States or otherwise; or (ii) water to which the Contract User has a right under a contract with the United States.

ARTICLE 10

DISPOSITION OF REVENUES

Section 10.1 Compliance with Law. All revenues received by the Authority, pursuant to this Agreement and otherwise, shall be applied as required by the applicable provisions of the Transfer Act.

ARTICLE 11

RESERVE FUNDS

Section 11.1 In General. To the extent required by debt installments for Authority Debt, the Authority shall, and otherwise the Authority may, establish and maintain in connection with the SNWS the reserve funds specified in this Article and such other reserve funds as the Authority may deem appropriate. In the event monies in any reserve fund exceed the levels specified in this Article, the Authority shall retain the excess monies in such reserve fund and consider such excess when subsequently adjusting the Connection Charge, Commodity Charge, or Wholesale Delivery Charge, as applicable.

Section 11.2 MCCP Debt Reserve Fund. One or more MCCP Debt Reserve Funds shall be for the purpose of providing, and in amounts reasonably necessary to provide, sufficient funds (i) for the payment of Finance Costs on existing and planned MCCP Debt to the extent revenues from Connection Charges, Commodity Charges, Wholesale Delivery Charges, any Raw Water Facilities Charges, payments from Boulder City under Section 7.4, and any Other SNWS Revenues allocated for the purposes specified in Section 7.2.2 are insufficient for such purpose; (ii) for the purpose of maintaining, to the extent practicable, the Connection Charge and Commodity Charge at a constant level for such periods as the Authority may determine from time to time; and (iii) for such other purposes related to MCCP Debt as the Authority determines appropriate (collectively, "MCCP Debt Reserve Fund"). In no event shall the level of the MCCP

Debt Reserve Fund be less than required to satisfy reserve requirements under the debt instruments for MCCP Debt.

Section 11.3 O&M Reserve Fund. One or more reserve funds shall be established and maintained for the purpose of providing, and in amounts reasonably necessary to provide, sufficient funds (i) to make in any fiscal year the payments specified in Section 7.5 if revenues from the Wholesale Delivery Charge in such fiscal year are insufficient for such purpose; (ii) for the purpose of maintaining, to the extent practicable, each component of the Wholesale Delivery Charge at a constant level for such periods as the Authority may determine from time to time; and (iii) for such other purposes related to the SNWS as the Authority determines appropriate (collectively, "O&M Reserve Fund"). In no event shall the level of the O&M Reserve Fund be less than required to satisfy reserve requirements under the debt instruments for Original SNWS Bond Indebtedness.

Section 11.4 Conditions Governing Reserve Funds. The Authority shall periodically establish levels at which each of the reserve funds established under this Article is to be maintained and other requirements respecting the investment and expenditure of such reserve funds.

ARTICLE 12

BONDS AND OTHER OBLIGATIONS

Section 12.1 Tax Covenant.

Section 12.1.1 It is anticipated that Authority Debt will be issued as tax-exempt governmental bonds under the provisions of the Tax Code. Each of the parties hereto agrees that it will not take any action or omit to take any action with respect to such Authority Debt, the proceeds thereof, any of the funds belonging to or controlled by any party, or the facilities financed with the proceeds of such Authority Debt, if the act or omission (i) would cause interest

on such Authority Debt to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, or any successor provision thereof; or (ii) would cause interest on such Authority Debt to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or any successor provision thereof, except to the extent such interest is required to be included in the adjusted earnings adjustment applicable to corporations under Section 56 of the Tax Code, or any successor provision thereof, in calculating corporate alternative minimum taxable income.

Section 12.1.2 In lieu of or in addition to being tax-exempt, Authority Debt may be issued in a manner such that it is entitled to certain other advantages under the Tax Code (“Tax Advantages”), including, without limitation, tax credits under Sections 54, 54A, 54AA, 54B, 54C, or 54D of the Tax Code, other tax credits or any other economic advantages made available directly or indirectly to the Authority as a result of compliance with the requirements of the Tax Code to obtain those Tax Advantages (“Tax Advantage Requirements”) in connection with Authority Debt. If Authority Debt is issued in anticipation of the receipt of any such Tax Advantages, each of the parties hereto agrees that it will not take any action or omit to take any action with respect to that Authority Debt, the proceeds thereof, any of the funds belonging to or controlled by any party, or the facilities financed with the proceeds of that Authority Debt, if the act or omission (i) would violate the applicable Tax Advantage Requirements; or (ii) would cause the Authority to be unable to obtain the anticipated Tax Advantage in connection with that Authority Debt.

Section 12.2 Further Assurances. The parties to this Agreement agree to do such further acts, take such action, and to execute and deliver to each other such additional agreement, certificates, documents, and instruments as may reasonably be required or deemed advisable to affect the purposes of this Agreement. The SNWS Purveyor Members shall execute all

agreements, consents, certificates, and other documents, including any instruments reasonably requested in order that any Authority Debt be issued in compliance with the applicable rules and regulations of the Internal Revenue Service and the Securities Exchange Commission, and shall provide whatever additional information is reasonably requested by the Authority in connection with complying with those rules and regulations.

ARTICLE 13

EXCHANGE OF INFORMATION

Section 13.1 Information Regarding Plans, Charges. The Authority shall make available to each SNWS Purveyor Member all reports, studies, and other information used by the Authority in connection with adoption of (i) the MCCP; (ii) revisions to the MCCP and the Operating Plan; and (iii) Connection Charges, Commodity Charges, Raw Water Facilities Charges, and Wholesale Delivery Charges.

Section 13.2 Progress of Construction; Deliveries. The Authority shall keep the SNWS Purveyor Members currently informed of (i) the status of construction of facilities provided for in the MCCP; and (ii) any matters respecting operation of the SNWS that would affect the ability of the Authority to deliver water in accordance with the Operating Plan.

Section 13.3 Books and Records. The Authority shall make available to the SNWS Purveyor Members, and the SNWS Purveyor Members shall make available to the Authority, all books and other records maintained by such party with respect to matters pertaining to this Agreement.

ARTICLE 14

SNWS WORK GROUP

Section 14.1 Work Group Established. There is hereby established the Southern Nevada Water System Work Group (“SNWS Work Group”), consisting of one representative designated

by the Authority and each SNWS Purveyor Member and Contract User. The SNWS Work Group at its election may consider, consult with the Authority about, and provide advice respecting any matter pertaining to the administration, operation, maintenance, and construction of the SNWS. Each SNWS Purveyor Member shall notify the Authority whenever it designates a representative to the SNWS Work Group.

ARTICLE 15

APPROVALS; EFFECTIVENESS OF ACTION BY AUTHORITY

Section 15.1 In General. Actions taken by the Authority pursuant to this Agreement shall become effective when approved as provided in this Article, but subject to Section 7.9.3, and not otherwise.

Section 15.2 Actions Requiring Approval by SNWS Purveyor Members. Any revision to the MCCP which would increase the Total Cost of the MCCP over the Total Cost of the MCCP as last approved by the governing boards of the SNWS Purveyor Members shall require approval by the majority vote of the Authority Board with the affirmative vote of the director appointed by each SNWS Purveyor Member and by the governing board of each SNWS Purveyor Member.

Section 15.3 Actions Requiring Approval by the Authority Board.

Section 15.3.1 Approval with Affirmative Vote of All SNWS Purveyor Member Directors. The following actions shall require approval by the majority vote of the Authority Board with the affirmative vote of the director appointed by each SNWS Purveyor Member:

- (1) Adoption of each revision to the MCCP;
- (2) Adoption of each revision of the Operating Plan;

- (3) Issuance, re-funding, or early payment of Authority Debt and contracts relating to Authority Debt pursuant to which the Authority commits to establish and maintain charges at levels sufficient to pay Finance Costs on Authority Debt;
- (4) Approval of a Raw Water Facilities Agreement pursuant to Section 4.2.2;
- (5) Actions taken with respect to SNWS Water Supplies pursuant to Article 5, provided that during the time the Section 5.3.1 election of Boulder City not to participate in new SNWS Water Supplies is in effect, the affirmative vote of the director appointed by Boulder City shall not be required;
- (6) Establishment and revisions of Raw Water Facilities Charges pursuant to Section 7.3;
- (7) Establishment and revisions of Wholesale Delivery Charges pursuant to Section 7.5;
- (8) Allocation of Other SNWS Revenues pursuant to Section 7.6;
- (9) Approval of step-up charges pursuant to Section 7.9.1;
- (10) Withholding of delivery of water pursuant to Section 7.9.4;
- (11) Establishment of late charges pursuant to Section 7.9.5;
- (12) Any contract or renewal of a contract with a Contract User pursuant to Section 9.1;
- (13) Determinations respecting the levels at which reserve funds are to be maintained and other requirements respecting the investment and expenditure of such funds;
and
- (14) Approval of an Interaccount Loan pursuant to Section 7.12.

Section 15.3.2 Approval with Affirmative Vote of Directors of Henderson, North Las Vegas, and the District. The following actions shall require approval by the majority

vote of the Authority Board with the affirmative vote of the director appointed by each of Henderson, North Las Vegas, and the District:

- (1) Establishment and revisions of Connection Charges and Commodity Charges pursuant to Section 7.2;
- (2) Service equivalency determinations pursuant to Section 7.2.5; and
- (3) Imposition of an assessment pursuant to Section 7.2.6.

Section 15.4 Response to Notice of Claims. A response to a claim submitted by a SNWS Purveyor Member pursuant to Section 17.1.2 shall require approval by a majority vote of the Authority Board with the affirmative vote of the director appointed by each SNWS Purveyor Member other than the claimant SNWS Purveyor Member.

Section 15.5 Other Actions. All other actions of the Authority shall be subject to approval as provided in the Cooperative Agreement or in any delegation of authority made by the Authority Board pursuant to the Cooperative Agreement.

ARTICLE 16

ENFORCEMENT BY THE AUTHORITY

Section 16.1 Remedies Not Limited by Agreement. Nothing in this Agreement is intended to limit, or shall be construed as limiting, any right or remedy available to the Authority against an SNWS Purveyor Member under this Agreement or at law or in equity, and all such rights and remedies shall be cumulative. No failure of the Authority to exercise, and no delay by the Authority in exercising, any right shall operate as a waiver of that right or of any other right provided under this Agreement or otherwise available at law or in equity. No single or partial exercise of any right by the Authority shall preclude any further exercise of such right or any other right available to the Authority under this Agreement or at law or in equity.

Section 16.2 Attorneys Fees; Costs. The prevailing party in any action by the Authority under this Agreement shall be entitled to its costs of litigation, and appeal, including the fees of attorneys, expert witnesses, and other consultants, in such amount as the court determines is reasonable.

ARTICLE 17

CLAIMS BY SNWS PURVEYOR MEMBERS; DISPUTE RESOLUTION

Section 17.1 Claims Seeking Performance by Authority.

Section 17.1.1 Maintainable Claims Against Authority. Except as provided in Section 17.2, the following claims by an SNWS Purveyor Member under this Agreement, and no others, may be maintained against the Authority:

- (1) A claim that the Authority has not revised the Operating Plan as required by Section 3.1;
- (2) A claim that the Authority is not using every reasonable effort to construct or fund facilities as required by Section 4.1;
- (3) A claim that the Authority has not revised the MCCP then in effect as required by Section 2.3.2 to serve the demand of the SNWS Purveyor Member asserting the claim;
- (4) A claim that the Authority is not delivering water to that SNWS Purveyor Member as required by Article 6;
- (5) A claim that the Authority has failed to meet to review charges as required by Section 7.7; and
- (6) A claim that the Authority is not constructing Raw Water Facilities as required by a Raw Water Facilities Agreement.

A SNWS Purveyor Member may maintain, or seek redress respecting, such a claim only by instituting the procedures specified in this Section 17.1, instituted in the order in which they are set forth and within the periods specified, subject to extension pursuant to Section 18.1.

Section 17.1.2 Notice to the Authority of Claim.

Section 17.1.2.1 Requirement for Notice. Any SNWS Purveyor Member asserting a claim against the Authority under Section 17.1 must first give the Authority notice of its claim. Such notice must be adopted by vote of the governing board of the SNWS Purveyor Member and specify the action the SNWS Purveyor Member claims the Authority is required to take, the schedule for taking such action, and the provisions of this Agreement, the MCCP, or the Operating Plan that require such action. If the claim relates to revisions in the MCCP sought by the SNWS Purveyor Member, the notice must contain or be accompanied by the following information:

- (1) Data supporting the SNWS Purveyor Member's claim that, even if all facilities are constructed in accordance with the MCCP, the SNWS would not have the operational capacity, or would not have the operational capacity in sufficient time, to enable the Authority to meet demand within a particular part of the SNWS Purveyor Member's service area;
- (2) Data supporting the SNWS Purveyor Member's claim that demand in the parts of the SNWS Purveyor Member's service area to be served by the facility the SNWS Purveyor seeks to have added to the MCCP, or the construction of which the SNWS Purveyor Member seeks to have begun on an accelerated schedule, cannot otherwise be served by the SNWS Purveyor Member consistent with an appropriate balance among the objectives set forth in Section 2.2.2;

- (3) Population and demand studies, conducted reasonably contemporaneously with the notice, and, if relevant, engineering and other studies; and
- (4) Other information to enable the Authority to reach an informed judgment about the merits of the claim.

Section 17.1.2.2 Authority Response to SNWS Purveyor Member Notice.

The Authority shall respond in writing to a notice given pursuant to Section 17.1.2.1 within the following periods:

- (1) For notices of a claim that the MCCP must be revised, 6 months; and
- (2) For notices of all other claims, 60 days.

Section 17.1.3 Mediation.

Section 17.1.3.1 Mediation Notice. No SNWS Purveyor Member may institute litigation on any claim pursuant to Section 17.1 without first giving written notice to the Authority demanding mediation. Any notice demanding mediation must be given within the earlier of (i) 30 days after the date of the Authority's response to the claim under Section 17.1.2.2; or (ii) in the absence of a timely response by the Authority, sixty days after the date by which such response is due pursuant to Section 17.1.2.2.

Section 17.1.3.2 Selection of Mediator. If a SNWS Purveyor Member gives a timely mediation notice pursuant to Section 17.1.3.1, the Authority and the SNWS Purveyor Member shall select a single independent mediator experienced in the subject matter of the claim within 20 days after the mediation notice. The initial mediation session shall be held within 40 days after the mediation notice. The specific format of the mediation shall be left to the discretion of the mediator and may include the preparation of agreed upon statements of fact or the preparation of written statements of position furnished to the mediator and all other parties to the mediation. If a single mediator is not selected within 20 days after the mediation notice or the

claim is not resolved within 90 days after the mediation notice, the SNWS Purveyor Member may, but is not obligated to, institute litigation pursuant to Section 17.1.4. Each party shall bring to any mediation session, unless excused from doing so by the mediator, its chief executive officer or designee. In addition, each party may bring counsel and such other persons as needed to contribute to a resolution of the dispute. The mediation process is to be considered a settlement negotiation for the purpose of all state rules protecting disclosures made or documents prepared during such a negotiation from later discovery or use in evidence; provided that evidence otherwise subject to discovery is not excluded from discovery or use in evidence by virtue of having been used in mediation. The costs of the mediator shall be shared equally by the parties to the mediation, except as provided otherwise in Section 17.1.4.3 in the event litigation ensues.

Section 17.1.4 Litigation.

Section 17.1.4.1 Conditions Precedent to Litigation. No action may be brought against the Authority by any SNWS Purveyor Member pursuant to Section 17.1 unless each of the procedures specified in Sections 17.1.2 and 17.1.3 has been timely instituted, and such action is brought within 120 days after the mediation notice given pursuant to Section 17.1.3.1, subject to extension pursuant to Section 18.1 or agreement by the Authority.

Section 17.1.4.2 Burden of Proof. The parties agree that, in any action brought by a SNWS Purveyor Member against the Authority pursuant to Section 17.1, the SNWS Purveyor Member shall have the burden of proving its claim or claims against the Authority by clear and convincing evidence.

Section 17.1.4.3 Remedies. The only remedy that a SNWS Purveyor Member shall be entitled to in any action brought against the Authority pursuant to Section 17.1 is an order of the court requiring the Authority to perform an action which is required by this

Agreement to be performed by the Authority. The prevailing party in any such action shall be entitled to its costs of mediation, litigation, and appeal, including the fees of attorneys, expert witnesses, and other consultants, in such amount as the court determines is reasonable.

Section 17.1.4.4 No Effect on Final Court Order. The fact that an approval described in Article 15 has not been obtained shall not be a defense in an action brought pursuant to Section 17.1 or to the enforcement of any final order of a court of competent jurisdiction in such action.

Section 17.2 Claims for Erroneous Statements.

Section 17.2.1 Nature of Maintainable Claim. Notwithstanding the provisions of Section 17.1, a SNWS Purveyor Member may maintain a claim against the Authority for the refund of:

- (1) Wholesale Delivery Charges paid by such SNWS Purveyor Member on either of the following grounds and no other: (i) the deliveries to which such charges relate were less than reflected on the Authority statement for the period to which such payments relate; or (ii) the rate of the applicable Wholesale Delivery Charge is other than the then-effective rate approved pursuant to Section 15.3.1(7) or provided for in a final order of a court of competent jurisdiction in an action brought pursuant to Section 17.1; and
- (2) Late charges and interest which the SNWS Purveyor Member claims were assessed incorrectly against it.

Section 17.2.2 Conditions Precedent to Litigation. No action may be brought against the Authority pursuant to Section 17.2 unless (i) the SNWS Purveyor Member has paid all charges and interest in dispute; (ii) within 18 months after the date such payment was due the SNWS Purveyor Member has given the Authority notice, adopted by vote of the governing board

of the SNWS Purveyor Member, of the claim stating the amount of and reasons for the claim; and (iii) the action is brought within 120 days after such notice, subject to extension pursuant to Section 18.1 or agreement by the Authority. The prevailing party in any action by a SNWS Purveyor Member pursuant to Section 17.2 shall be entitled to its costs of litigation, and appeal, including the fees of attorneys, expert witnesses, and other consultants, in such amounts as the court determines is reasonable.

Section 17.2.3 Interest. All payments recovered by a SNWS Purveyor Member pursuant to Section 17.2 shall bear interest from the date the payment was made at the prime rate most recently published in the Western Edition of the Wall Street Journal plus two (2) percent per annum.

Section 17.3 Court. Any action arising out of this Agreement must be brought in the Nevada State District Court situated in Las Vegas, Nevada, the jurisdiction of which court is hereby agreed to by each party hereto.

ARTICLE 18

UNCONTROLLABLE FORCES

Section 18.1 Excuse from Performance. Except as provided otherwise in Section 8.2, no party shall be considered to be in default with respect to any obligation herein and no party shall forfeit any right provided herein, if, and for the period of no default, the defaulting party was prevented from fulfilling such obligation or exercising such right by reason of Uncontrollable Forces. A party rendered unable to fulfill any obligation or exercise any right by reason of Uncontrollable Forces shall use every reasonable effort to remove such inability with all reasonable dispatch.

ARTICLE 19
CONSERVATION

Section 19.1 Conservation Plans Required.

Section 19.1.1 SNWS Purveyor Member Plans. Each SNWS Purveyor Member shall submit to Reclamation an effective, written, water conservation program, acceptable to Reclamation, at five-year intervals, or at such other interval as Reclamation may specify by regulation or pursuant to a water delivery contract with the Authority or the Purveyor Member. The water conservation program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, time schedules for meeting those objectives, and other pertinent information requested by Reclamation. Each SNWS Purveyor Member shall update its water conservation program by submitting to Reclamation for review information regarding the effectiveness and status of the program. The information shall include (i) an evaluation of water conservation accomplishments in the previous five years; (ii) a discussion of future water conservation opportunities; and (iii) revised or new water conservation objectives, measures, and time schedules. Based on the conclusions from the review and pursuant to consultation with Reclamation, the SNWS Purveyor Member shall continue or revise the existing water conservation program as determined by Reclamation. All submissions made to Reclamation under this Section 19.1.1 shall be made at the same time to the Authority. Reclamation shall have the right to enforce the requirements of this Section 19.1.1 directly against any SNWS Purveyor Member defaulting in its obligation under this Section 19.1.1.

Section 19.1.2 Submission by Authority. Submission by the Authority of a water conservation program which is applicable to the service area of a SNWS Purveyor Member and which takes into account delivery of water pursuant to this Agreement, and

acceptance thereof by Reclamation, shall constitute compliance by the SNWS Purveyor Member with the requirements of this Article.

ARTICLE 20

EQUAL OPPORTUNITY

Section 20.1 During the performance of this Agreement, the SNWS Purveyor Members agree as follows:

Section 20.1.1 The SNWS Purveyor Members will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The SNWS Purveyor Members 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 SNWS Purveyor Members agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary of the Interior setting forth the provisions of this nondiscrimination clause.

Section 20.1.2 The SNWS Purveyor Members will, in all solicitations or advertisements for employees placed by or on behalf of the SNWS Purveyor Members, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

Section 20.1.3 The SNWS Purveyor Members will send to each labor union or representative of workers with which they have a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary of the Interior, advising said labor union or workers' representative of the SNWS Purveyor Member'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.

Section 20.1.4 The SNWS Purveyor Members 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.

Section 20.1.5 The SNWS Purveyor Members 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 their respective books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

Section 20.1.6 In the event of any SNWS Purveyor Member's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, water deliveries to such SNWS Purveyor Member may be canceled, terminated, or suspended, in whole or in part, and such SNWS Purveyor Member 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.

Section 20.1.7 The SNWS Purveyor Members will include the provisions of Sections 20.1.1 through 20.1.6 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 SNWS Purveyor Member 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 any SNWS Purveyor Member becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, such SNWS Purveyor Member may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 21

CIVIL RIGHTS

Section 21.1 The SNWS Purveyor Members shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (Public Law 93-122, 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 or the Bureau of Reclamation.

Section 21.2 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 Reclamation. By executing this Agreement, the SNWS Purveyor Members agree to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

Section 21.3 The SNWS Purveyor Members make 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 SNWS Purveyor Members by the Secretary of the Interior, including installment payments after such date on account of arrangements for federal financial assistance which were approved before such date. The SNWS Purveyor Members recognize and agree 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.

ARTICLE 22

MISCELLANEOUS PROVISIONS

Section 22.1 Third Party Beneficiaries.

Section 22.1.1 SNWS Purveyor Members. The provisions of this Agreement which obligate SNWS Purveyor Members to make payments of Connection Charges, Commodity Charges, Raw Water Facilities Charges, and Wholesale Delivery Charges to the Authority are made for the express benefit of each of the other SNWS Purveyor Members, in addition to the Authority, and to that extent each of the SNWS Purveyor Members shall be a third party beneficiary of such provisions of this Agreement and entitled to enforce them.

Section 22.1.2 No Other Third Party Beneficiaries. This Agreement is not intended to confer any rights on any person or entity other than the Authority and the SNWS Purveyor Members and, with respect to Section 19.1.1, Reclamation. Except as expressly provided in Section 19.1.1 and Section 22.1.1, this Agreement shall not be construed as a third party beneficiary contract or as conferring third party beneficiary status on any person or entity.

Section 22.2 Assignment; Successors.

Section 22.2.1 Assignments Prohibited. Except as expressly authorized by Section 22.2.2, neither the Authority nor any SNWS Purveyor Member may assign or otherwise transfer any of its rights or obligations under this Agreement, and any such purported assignment or other transfer shall be void.

Section 22.2.2 Certain Assignments by Authority. Notwithstanding the provisions of Section 22.2.1, the Authority may assign any of its rights and obligations under this Agreement in connection with Authority Debt.

Section 22.2.3 Binding Effect. Subject to the limitations specified in Section 22.2.1, this Agreement shall bind and benefit the respective successors and assigns of the parties hereto.

Section 22.3 Integration: Amendment. This Agreement contains the entire Agreement of the parties hereto regarding the subject matter hereof and supersedes any prior written or oral agreements, representations, conditions, or understandings between them regarding the subject matter hereof. This Agreement may be amended only by a written instrument executed by each of the parties hereto.

Section 22.4 Governing Law. This Agreement is entered into and is to be performed within the State of Nevada and shall be governed by the laws of the State of Nevada.

Section 22.5 Captions. All captions are for reference only and shall not be considered in interpreting or enforcing the provisions of this Agreement.

Section 22.6 Drafting Considerations. This Agreement has been drafted, negotiated, and revised by each of the parties hereto, each of whom is sophisticated in the matters to which this Agreement pertains, and no specific party shall be considered to have drafted this Agreement.

Section 22.7 Severability. If any provision of this Agreement should be deemed invalid or unenforceable by a final decision of any court of competent jurisdiction, then the remaining provisions of this Agreement shall remain in effect and shall not be affected by any such decision.

ARTICLE 23

NOTICES

Section 23.1 Notices.

Section 23.1.1 Method of Giving. All notices and other communications required by this Agreement (“Notices”) shall be in writing and shall be given by one of the following methods:

- (1) By personal delivery, the Notice being effective on delivery;
- (2) By first class mail, the Notice being effective four mail delivery days after deposit, postage pre-paid, in a United States Postal Service office or mailbox;
- (3) By certified mail, the Notice being effective on delivery if confirmed by a return receipt;
- (4) By overnight delivery by Federal Express or similar service, the Notice being effective on delivery if delivery is confirmed by the delivery service; or
- (5) By facsimile transmission, the Notice being effective on receipt, provided that (i) either (A) a duplicate notice is promptly given by one of the other methods permitted by this Article, or (B) the receiving party delivers a written confirmation of receipt; and (ii) any Notice given by facsimile transmission shall be deemed received on the next business day if it is received after 4:30 p.m. pacific time or on a nonbusiness day.

Section 23.1.2 Addresses for Notices. Notices shall be given to the following addresses and facsimile numbers:

Southern Nevada Water Authority
1001 South Valley View Boulevard
Las Vegas, Nevada 89153
Attention: General Manager
Facsimile number: 702/258-3268

City of Boulder City
401 California Avenue
Post Office Box 61350
Boulder City, Nevada 89006
Attention: City Manager
Facsimile number: 702/293-9402

City of Henderson
240 Water Street
Henderson, Nevada 89015
Attention: City Manager
Facsimile number: 702/564-2530

City of North Las Vegas
2250 Las Vegas Boulevard North
Post Office Box 4086
North Las Vegas, Nevada 89030
Attention: City Manager
Facsimile number: 702/633-1339

Las Vegas Valley Water District
1001 South Valley View Boulevard
Las Vegas, Nevada 89153
Attention: General Manager
Facsimile number: 702/258-3268

Any party may change its address or facsimile number by giving the other parties notice of the change in any manner permitted by this Article.

ARTICLE 24

DEFINITIONS

Section 24.1 Defined Terms. As used in this Agreement, the following terms have the following meanings:

- (1) "AFY" means acre-feet per year;
- (2) "Assigned Fees" has the meaning set forth in Section 7.9.6;
- (3) "Authority" means the Southern Nevada Water Authority;
- (4) "Authority Debt" means any bonds or other obligations issued at any time by, on behalf of, or at the request of the Authority or for which the Authority is otherwise responsible, directly or indirectly;

- (5) “Boulder City” means the City of Boulder City, Nevada;
- (6) “Candidate Facilities” has the meaning set forth in Section 2.2.5;
- (7) “Capital Cost” means all direct and indirect costs incurred by the Authority that are properly allocable to the acquisition, construction, replacement, or improvement of any facility or other asset of a capital nature provided for in the MCCP, including without limitation the acquisition of specific Water Supplies and costs for construction, materials, engineering and design, permitting, environmental compliance, administration, personal, rent, and legal and consulting services;
- (8) “Capital Improvements Plan” or “CIP” means the “Southern Nevada Water Authority Capital Improvements Plan, December 18, 2008 Amendment” as it may have been revised pursuant to prior versions of this Agreement and, to the extent required by context, its predecessors, which Plan has become wholly consolidated into and replaced by the Major Construction and Capital Plan pursuant to this amended Facilities and Operation Agreement;
- (9) “CFS” means cubic feet per second;
- (10) “Commission” means the Colorado River Commission of Nevada;
- (11) “Commodity Charge” has the meaning set forth in Section 7.2.1;
- (12) “Connection Charge” has the meaning set forth in Section 7.2.1;
- (13) “Contract User” has the meaning set forth in Section 9.1;
- (14) “Cooperative Agreement” means the Southern Nevada Water Authority Cooperative Agreement by which the Authority was established, originally effective July 25, 1991, as amended;

- (15) “December 1995 Capital Improvements Plan” means the revision by the Authority as of January 1, 1996 to the existing capital improvements plans for the SNWS and consolidation into a single Capital Improvements Plan ("CIP"), which included those facilities of which construction started prior to January 1, 1996.
- (16) “Debt Service” means the payment of principal, interest, and other charges and costs in connection with Authority Debt, including without limitation costs of credit enhancement and liquidity and interest rate exchange agreements entered into in connection with Authority Debt;
- (17) “District” means the Las Vegas Valley Water District;
- (18) “Finance Costs” means Debt Service and all other costs incurred by the Authority in connection with the issuance of Authority Debt;
- (19) “Henderson” means the City of Henderson, Nevada;
- (20) “Major Construction and Capital Plan” or “MCCP” means the plan described in Section 2.2;
- (21) “MCCP Debt” means bonds and other obligations issued by, on behalf of, or at the direction of the Authority to finance the acquisition, planning, design, construction, replacement or improvement of any facility or other asset of a capital nature provided for in the MCCP then in effect, including the acquisition of SNWS Water Supplies; “MCCP Debt” shall include any debt which may have been entitled “New Expansion Debt” in the SNWS Amended Facilities and Operation Agreement effective June 20, 2002;
- (22) “MCCP Debt Reserve Fund” has the meaning set forth in Section 11.2; “MCCP Debt Reserve Fund” shall also include any reserve maintained in the New

Expansion Debt Reserve Fund, as defined in the SNWS Amended Facilities and Operation Agreement effective June 20, 2002, Section 24.1(30);

- (23) “MGD” means million gallons per day;
- (24) “Nellis AFB Contract” means the Negotiated Water Service Contract, entered into as of January 23, 1978, between the State acting through the Commission and the United States on behalf of Nellis Air Force Base;
- (25) “New Service Benefit” means the percentage of the benefits to be derived from the total capacity to be added and other capital improvements to be made to the SNWS by the facilities provided for in the MCCP that properly should be allocated to service to new connections within the service areas of the SNWS Purveyor Members;
- (26) “1992 Water Delivery Contract” means the Contract for the Delivery of Water through the Southern Nevada Water System, entered into as of March 2, 1992, between the State acting through the Commission and the SNWS Purveyor Members, which contract amended and restated individual contracts dated August 4, 1977 between the State acting through the Commission and each SNWS Purveyor Member;
- (27) “North Las Vegas” means the City of North Las Vegas, Nevada;
- (28) “Notices” has the meaning set forth in Section 23.1.1;
- (29) “O&M Reserve Fund” has the meaning set forth in Section 11.3;
- (30) “Original SNWS Bond Indebtedness” means (i) the following bonds issued by the Commission, and any bonds or other obligations issued by the Commission before January 1, 1996 to refund such bonds;

<u>Date of Issue</u>	<u>Principal Amount of Issue</u>	<u>Amount Outstanding As of January 1, 1996</u>
August 14, 1986	\$ 11,000,000	\$ 605,000
September 12, 1990	6,500,000	1,645,000
November 15, 1992	9,815,000	8,730,000
November 1, 1993	46,805,000	43,680,000

(ii) 14.6 percent of the 1994 CRC Bonds; (iii) bonds, if any, issued by the Commission before January 1, 1996 to refund the Original SNWS Bond Indebtedness portion of the 1994 CRC Bonds; and (iv) bonds and other obligations issued after January 1, 1996 by, on behalf of, or at the direction of the Authority to refund any of the foregoing bonds or other obligations;

- (31) “Other SNWS Revenues” means any revenues which are available to the Authority from any source whatever, other than charges under this Agreement, and which have been designated for purposes of the SNWS by a budget of the Authority adopted pursuant to the Cooperative Agreement;
- (32) “Purveyor Member” means the following: the Big Bend Water District, Boulder City, Henderson, the District, North Las Vegas, and any other public entity which is engaged in the retail delivery of potable water in Clark County and which is admitted to the Authority as a Purveyor Member pursuant to the provisions of Article 12 and subarticle 18(b) of the Cooperative Agreement;
- (33) “Raw Water” means water that is delivered through the SNWS and that has not been treated for purposes of making it potable;
- (34) “Raw Water Facilities” means dedicated facilities for the delivery of Raw Water to a SNWS Purveyor Member that are constructed, or to be constructed, by the Authority pursuant to a Raw Water Facilities Agreement;
- (35) “Raw Water Facilities Agreement” has the meaning set forth in Section 4.2.2;
- (36) “Raw Water Facilities Charge” has the meaning set forth in Section 7.3;

- (37) “Reclamation” means the United States Bureau of Reclamation;
- (38) “Reliability Benefit” means the percentage of the benefits to be derived from the total capacity to be added and other capital improvements to be made to the SNWS by the facilities provided for in the MCCP that properly should be allocated to increased system reliability within the SNWS and improved quality of water delivered by the SNWS;
- (39) “Southern Nevada Water System” or “SNWS” is the common term used to describe all diversion, treatment, conveyance, turnout, power transmission, and related facilities (i) constructed by the United States prior to January 1, 1996 pursuant to the Act of October 22, 1965 (70 Stat. 1068), as amended on July 19, 1966 (80 Stat. 312), which facilities generally are known as the Robert B. Griffith Water Project and subsequently transferred to the Authority; and (ii) constructed by the Colorado River Commission of Nevada before January 1, 1996, and transferred to the Authority pursuant to 1967 Nev. Stat., ch. 268, as amended by 1975 Nev. Stat., ch. 482, and other acts supplemental thereto, which facilities generally are known as the Alfred Merritt Smith Water Treatment Facility. As utilized in this Agreement, “Southern Nevada Water System” or “SNWS” means both all of the facilities described above and: (i) all facilities and real and personal property, including SNWS Water Supplies, created, constructed, purchased, maintained or otherwise acquired pursuant to the MCCP and any revisions thereto, any Capital Improvements Plan authorized by the Facilities and Operations Agreement, effective June 20, 2002, or any predecessor, unamended versions of the Facilities and Operations Agreement; and (ii) any other facility,

asset or real or personal property otherwise designated by the Authority as part of the SNWS;

- (40) “SNWS Purveyor Member” means the following Purveyor Members of the Authority: Boulder City, Henderson, North Las Vegas, and the District;
- (41) “SNWS Water Supplies” means any Water Supplies or Water Rights as defined in Sections 2(l) and 2(m) of the Cooperative Agreement and specifically includes, without limitation, any Water Supplies or Water Rights acquired by the Authority pursuant to Section 5(b) of the Cooperative Agreement;
- (42) “SNWS Work Group” has the meaning set forth in Section 14.1;
- (43) “State” means the State of Nevada;
- (44) “Tax Code” means the Internal Revenue code of 1986, as amended;
- (45) “Transfer Act” means that certain legislation codified at Chapter 393, Statutes of Nevada 1995;
- (46) “Total Cost of the M CCP” means the sum of the following: (i) the actual Capital Cost of all facilities constructed pursuant to the M CCP after the Effective Date; plus (ii) the estimated Capital Cost, including contingencies, of all facilities remaining to be constructed pursuant to the M CCP as such estimated Capital Cost is projected to the year in which construction is scheduled to occur;
- (47) “Treated Water” means water that has been treated for the purpose of rendering it potable;
- (48) “Uncontrollable Forces” means (i) any cause beyond the reasonable control of the party affected, including but not limited to inadequacy of water, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, accident, unlawful actions or omissions

by others, and restraint by court or public authority, which, by exercise of due diligence and foresight, the party could not reasonably have been expected to avoid; and (ii) with respect to the Authority, the inability to acquire for any particular facility the necessary (A) financing, (B) environmental permits, (C) land use and other required authorizations from the United States, or (D) other permits or authorizations;

- (49) “Water Right” means any entitlement to the beneficial use of Water Supplies, whether such entitlement exists by contract, by interest in real property, or by rights granted by the State of Nevada or other governmental agency;
- (50) “Water Supplies” means surface water, groundwater, Reuse Water as defined in the Cooperative Agreement, and any other water capable of being put to beneficial use; and
- (51) “Wholesale Delivery Charge” has the meaning set forth in Section 7.5.1.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Approved as to form:



Brian V. Chally, Director of Legal Services

SOUTHERN NEVADA WATER AUTHORITY

By: _____
Patricia Mulroy, General Manager

Attest:

Lorene Krumm, City Clerk

THE CITY OF BOULDER CITY

By: _____
Roger Tobler, Mayor

Approved as to form:

Dave Olsen, City Attorney

Attest:

Sabrina Mercadante, CMC, City Clerk

THE CITY OF HENDERSON

By: _____
Arthur "Andy" Hafen, Mayor

Approved as to form:

Josh M. Reid, City Attorney

Attest:

Karen L. Storms, CMC, City Clerk

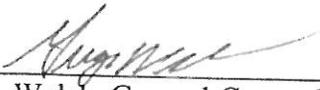
THE CITY OF NORTH LAS VEGAS

By: _____
Shari Buck, Mayor

Approved as to form:

Jeffrey F. Barr, City Attorney

Approved as to form:



Greg J. Walch, General Counsel

LAS VEGAS VALLEY WATER DISTRICT

By: _____
Patricia Mulroy, General Manager

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Agreement	Director's Backup
Petitioner: Philip D. Speight, Deputy General Manager, Administration	
Recommendations: That the Board of Directors approve the Second Power Exchange Agreement between the Authority and Nevada Power Company, doing business as NV Energy, to exchange power, enabling the Authority to manage its power costs effectively and with more reliable delivery.	

Fiscal Impact:

Approval of this agreement will enhance the Authority's ability to manage its power costs.

Background:

On May 19, 2005, as part of the Business Accord Master Agreement, a long-term Power Exchange Agreement was executed between the Authority and Nevada Power Company, currently doing business as NV Energy (NVE), under which NVE had the right to schedule and deliver natural gas and the right to dispatch and obtain the energy output from the Authority's ownership share of the Silverhawk Facility for a period of eight years. In exchange, the Authority received from NVE 75 MW of firm delivered energy.

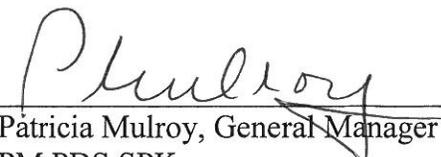
This Second Power Exchange Agreement is similar to the first agreement. NVE will have the right to schedule and deliver natural gas and the right to dispatch and obtain the energy output from the Authority's ownership share of the Silverhawk Facility for nearly six additional years. In exchange, the Authority will receive from NVE 125 MW during peak hours and 25 MW during off-peak hours of firm delivered energy.

This is a mutually beneficial agreement whereby NVE has power generation control and flexibility to meet its overall system requirements and the Authority receives a firm supply of delivered power, which it needs for reliability and control of costs.

Implementation of this agreement is contingent upon regulatory approval from the Public Utilities Commission of Nevada.

This agreement is being entered into pursuant to Section 6(j) of the 1995 Amended Cooperative Agreement authorized pursuant to NRS Chapter 277. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:



Patricia Mulroy, General Manager
PM:PDS:SPK:cc
Attachment

AGENDA ITEM #

10

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
Business Designation Group						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/>	<input type="checkbox"/>	
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise			
Corporate/Business Entity Name:		Nevada Power Corporation				
(Include d.b.a., if applicable)		NV Energy				
Street Address:		6226 West Sahara Avenue		Website: www.nvenergy.com		
City, State and Zip Code:		Las Vegas, NV 89146		POC Name and Email:		
Telephone No:		702-402-5000		Fax No:		
Local Street Address:		Same as above		Website:		
City, State and Zip Code:				Local Fax No:		
Local Telephone No:				Local POC Name Email:		
Number of Clark County, Nevada Residents Employed: N/A						

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the SNWA Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Philip G. Satre	Chairman of the Board NV Energy, Inc.	
Joseph B. Anderson, Jr.	Chairman and CEO of TAG Holdings, LLC	
Glenn C. Christenson	Retired Executive Vice President and Chief Financial Officer of Station Casinos, Inc.	
See additional list attached		

This section is not required for publicly-traded corporations.

1. Are any individual members, partners, owners or principals, involved in the business entity, an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please note that SNWA employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)

2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the SNWA will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

DISCLOSURE OF OWNERSHIP/PRINCIPALS

The agreement is essentially a six year extension of an existing agreement with NV Energy. The agreement allows use of SNWA's share of Silverhawk generating capacity in return for a firm supply of power delivered by NV Energy. In form, the agreement is more like a cooperative agreement providing for the exchange of resources than a competitively bid, pay-for-performance contract with a company that may not have done business with SNWA before. Besides simply duplicating the previous agreement, NV Energy is a publicly traded company with its Board members and officers publicly listed on its website. For these reasons, the form as submitted allows the Board members to determine whether to recuse themselves from voting, as provided in NRS ch. 281A and the stated purpose of the form.

Signature _____ Print Name _____

Title _____ Date _____

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Susan F. Clark	Shareholder of Radey, Thomas Yon & Clark, a Florida law firm	
Stephen E. Frank	Retired Chairman, President and CEO, Southern California Edison	
Brian J. Kennedy	President and Chief Executive Officer of Argonaut, LLC; Chairman of Meridian Gold, Inc.; past President and Chief Operating Officer of FMC Gold Company	
Maureen T. Mullarkey	Retired Executive Vice President, CFO and Treasurer, IGT	
John F. O'Reilly	Chairman and Chief Executive Officer of the law firm of O'Reilly Law Group, LLC and John F. O'Reilly, APC; and Chairman and an officer and/or Board member of various family-owned business entities and related investments and businesses	
Donald D. Snyder	Chairman of the Smith Center for the Performing Arts, Retired President and Board member of Boyd Gaming Corporation, a gaming entertainment company	
Michael W. Yackira	President and Chief Executive Officer, NV Energy	

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF SNWA EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO SNWA EMPLOYEE OR OFFICIAL	SNWA EMPLOYEE'S/OFFICIAL'S DEPARTMENT
Publicly-traded corporation ... N/A			

“Consanguinity” is a relationship by blood. “Affinity” is a relationship by marriage.

“To the second degree of consanguinity” applies to the candidate’s first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For SNWA Use Only:

If any Disclosure of Relationship is noted above, please complete the following:

- Yes No Is the SNWA employee(s) noted above involved in the contracting/selection process for this particular agenda item?
- Yes No Is the SNWA employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

Signature

Print Name
Authorized Department Representative

SECOND POWER EXCHANGE AGREEMENT

BETWEEN

SOUTHERN NEVADA WATER AUTHORITY

AND

NEVADA POWER COMPANY d/b/a NV ENERGY

DATED AS OF JUNE 22, 2012

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**SECOND POWER EXCHANGE AGREEMENT
BETWEEN
SOUTHERN NEVADA WATER AUTHORITY
AND
NEVADA POWER COMPANY**

This SECOND POWER EXCHANGE AGREEMENT (this “Agreement”) is made and entered into as of this 22nd day of June, 2012 (“Effective Date”), between **SOUTHERN NEVADA WATER AUTHORITY (“SNWA”)**, an agency created by inter-local agreement among its members pursuant to Chapter 277, Nevada Revised Statutes, having its principal office and place of business at 1001 S. Valley View Boulevard, Las Vegas, NV 89153, and **NEVADA POWER COMPANY d/b/a NV Energy (“NV Energy”)**, a Nevada corporation having its principal office and place of business at 6226 W. Sahara Avenue, Las Vegas, Nevada, 89146. SNWA and NV Energy are hereafter referred to individually and collectively as a “Party” or the “Parties,” respectively.

RECITALS:

WHEREAS, subject to the terms and conditions of this Agreement, NV Energy and SNWA desire to exchange power between them in order to, *inter alia*, enable each Party to satisfy different peak load demands, to accommodate temporary outages, to diversify supply, and to enhance reliability in accordance with Prudent Industry Practices (as hereafter defined); and

WHEREAS, to effectuate such power exchange, SNWA has agreed to provide NV Energy with unit contingent power from its ownership share of the Facility (as hereafter defined), consistent with SNWA’s rights to operate and receive the output from the Facility; and

WHEREAS, to effectuate such power exchange, NV Energy has agreed to provide SNWA with Firm Energy at the Mead Substation (as hereafter defined); and

WHEREAS, the Parties reasonably expect that the value to be derived by each from this exchange will be mutually beneficial and approximately equal.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

The following terms shall have the respective meanings set forth below.

“Additional Capacity” means all generating capacity at the Facility in addition to the Capacity Share from which SNWA has the right to procure and obtain energy from time to time, the rights to which are set forth in Article 7 of the CTA.

“Affiliate” means, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly (through one or more intermediaries) controls, is controlled by, or is under common control with, such corporation, partnership, or other entity. A voting interest of 10 percent or more creates a rebuttable presumption of control.

“After-Tax Basis” means, with respect to any payment under Section 10.2 to any Person, the amount of such payment (“Base Payment”) supplemented by a further payment (“Additional Payment”) to that Person so that the sum of the Base Payment plus the Additional Payment shall, after deduction of the amount of all Federal, state and local income taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and

the Additional Payment (taking into account the net present value of any reduction in such income taxes resulting from tax benefits realized by the recipient as a result of the payment or the event giving rise to the payment), be equal to the amount required to be received. Such calculations shall be made on the basis of the highest generally applicable Federal, state and local income tax rates applicable to the Person for whom the calculation is being made for all relevant periods, and shall take into account the deductibility of state and local income taxes for Federal income tax purposes.

“**Agreement**” means this Second Power Exchange Agreement between SNWA and NV Energy, including any appendices and attachments hereto and any amendments that the Parties may execute at any time in the future.

“**Availability Factor**” shall, for any 365 Day period, be calculated as follows:

$$AF = \frac{AE - DS}{TE}$$

Where:

AF = Availability Factor

AE = Available Energy (expressed in MWh) for the period for which AF is calculated, determined as follows:

$$AE = \sum_{h=1}^q AC_h \times 1 \text{ hour}$$

AC_h = Available Capacity (expressed in MW) for each hour during the period. Available Capacity shall be the actual physical capacity associated with the Capacity Share that is available for dispatch by NPC in such hour as communicated to NPC by the operator of the Facility, regardless of the reason(s) for any unavailability.

h = each hour during the period.

q = the total number of hours in the period or 8,760 hours.

DS = Delivery Shortfall (expressed in MWh) for the period for which AF is calculated, determined as follows:

$$DS = \sum_{h=1}^q (SC_h - DC_h) \times 1 \text{ hour}$$

SC_h = Scheduled Capacity (expressed in MW) for each hour during the period, which shall equal the amount of energy Scheduled by NPC under this Agreement for that hour divided by 1 hour. Solely for the purposes of the Availability Factor calculation, Scheduled Capacity for any hour shall not exceed Available Capacity for that hour.

DC_h = Delivered Capacity (expressed in MW) for each hour during the period. Delivered Capacity for any hour shall equal the energy delivered to NPC pursuant to this Agreement for that hour divided by 1 hour. For the purposes of the Availability Factor calculation, Delivered Capacity for any hour shall not exceed Scheduled Capacity for that hour.

h = each hour during the period.

q = the total number of hours in the period or 8,760 hours.

The Delivery Shortfall for the period shall be reduced by quantities of energy (expressed in MWh) that were requested by NPC but were not delivered to NPC during the period because NPC failed to deliver Fuel in accordance with Section 7.1.

TE = Total Energy (expressed in MWh) for the period for which AF is calculated, determined as follows:

$$TE = (NC_s \times 2,928 \text{ hr}) + (NC_w \times 5,832)$$

NC_s = Notional Capacity (expressed in MW) for the Months of June through September, which shall be 115 MW.

NC_w = Notional Capacity (expressed in MW) for the Months of January through May and October through December, which shall be 125 MW.

Availability Factor calculations shall not include capacity and energy attributable to the duct burners at the Facility.

“Billing Month” means each Month during the Term beginning with the second Month of the Service Term and includes the Month immediately following the expiration or early termination of this Agreement.

“**Btu**” means British Thermal Units.

“**Business Day**” means any Day on which Federal Reserve Member Banks in New York, New York are open for business. A Business Day shall begin at 0800 PPT and end at 1700 PPT.

“**Capacity Share**” means SNWA’s proportionate share of available capacity from the Facility, as such share is set forth in the CTA, and as expressed in MW. The Capacity Share is twenty-five percent (25%) of the full generating capability of the Facility.

“**Commercially Reasonable**” or “**Commercially Reasonable Efforts**” means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision, or other action, including without limitation, electric system reliability and stability, the amount of notice of the need to take such action, the duration and type of the purchase or sale or other action, and the commercial environment in which such purchase, sale, decision, or other action occurs.

“**CTA**” means the Co-Tenancy Agreement by and between GenWest, LLC and SNWA dated as of the 17th day of January, 2002, including any procedures, protocols and methodologies adopted thereunder, and any successor arrangement(s). The ownership interests of GenWest, LLC were acquired by NV Energy on January 10, 2006, and NV Energy became the successor in interest to GenWest, LLC.

“**Day**” means a calendar day.

“**Default Damages**” shall have the meaning set forth in Section 12.4.3 of this Agreement.

“**Defaulting Party**” has the meaning set forth in Section 12.3 of this Agreement.

“Delivery Point” means: (i) in the context of energy deliveries by SNWA under this Agreement, the Harry Allen Switchyard; and (ii) in the context of energy deliveries by NV Energy under this Agreement, the Mead Substation.

“Effective Date” has the meaning set forth in the introductory paragraph hereof.

“Event of Default” has the meaning set forth in Section 12.1 and Section 12.2 of this Agreement.

“Facility” means the 2x2x1 gas fired combined cycle electric generating unit known as the Silverhawk Power Plant (as may be modified) and all appurtenant facilities, located near Apex, Nevada. As of the Effective Date, the Facility has a nominal capacity rating of 590 MW.

“Firm Energy” means energy required to be delivered by NV Energy under this Agreement, which delivery can only be interrupted or suspended for reason of Force Majeure or as otherwise expressly provided in this Agreement. In the event that delivery of such energy is interrupted or suspended other than pursuant to the terms of this Agreement, NV Energy shall be responsible for paying damages to SNWA under Section 3.7 of this Agreement. Firm Energy is comparable to the energy that would be provided under Schedule C of the Western Systems Power Pool Agreement.

“Force Majeure” has the meaning set forth in Section 11.1 of this Agreement.

“Fuel” means natural gas.

“Government Agency” means any federal, state, local, territorial or municipal government and any department, commission, board, court, bureau, agency, instrumentality, judicial or administrative body thereof.

“Governmental Approval” means any authorization, consent, approval, license, ruling, permit, exemption, variance, order, judgment, decree, declarations of or regulation of any

Government Agency relating to the Facility or to the execution, delivery or performance of this Agreement.

“Greenhouse Gases” means carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), hydrofluorocarbons (HFCs), sulfur hexafluoride (SF₆), perfluorocarbons (PFCs) and any other gas determined by the applicable Government Agency to be considered a greenhouse gas.

“Harry Allen Switchyard” means the Harry Allen 500 kV switchyard to which the Facility is interconnected.

“HE” means hour ending. For example, HE 0700 means the hour ending at 0700 (7:00 AM) and HE 2200 means the hour ending at 2200 (10:00 PM).

“kW” means kilowatt(s).

“kWh” means kilowatt hour(s).

“Law” means any act; statute; law; requirement; ordinance; order; ruling or rule; regulation; standards and/or criteria contained in any permit, license or other approval; legislative or administrative action; or a decree, judgment or order of any Government Agency imposed, whether in effect now or at any time in the future.

“Mead Substation” means the Mead 230 kV substation located near Boulder City, Nevada, which is owned and operated by the Western Area Power Administration.

“MMBtu” means one million Btu.

“Month” means a calendar month. The term “Monthly” shall have a meaning correlative to a Month.

“Monthly NV Energy Payment” means the payment made by NV Energy to SNWA pursuant to Section 6.1, subject to the netting provisions of Section 6.5.

“Monthly SNWA Payment” means the payment made by SNWA to NV Energy pursuant to Section 6.2, subject to the netting provisions of Section 6.5.

“MW” means megawatt(s).

“MWh” means megawatt hour(s).

“NERC” means the North American Electric Reliability Council, or any successor to its functions.

“Non-Defaulting Party” has the meaning set forth in Section 12.3 of this Agreement.

“NV Energy Purchase Damages” means the difference between the present value (using the Present Value Rate) of: (i) all dollar amounts that NV Energy reasonably would be expected to pay at then prevailing market conditions (utilizing Commercially Reasonable Efforts) to buy from a third party capacity and associated energy (excluding costs of fuel required to produce such energy) that is comparable to the capacity and associated energy that would be provided to NV Energy under this Agreement had SNWA continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date; less (ii) all dollar amounts NV Energy reasonably would have been expected to pay to SNWA under this Agreement (excluding Fuel and imbalance related costs and/or expenses) had SNWA continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date.

“NV Energy Sale Damages” means the difference between the present value (using the Present Value Rate) of: (i) all dollar amounts NV Energy reasonably would have been expected to receive from SNWA under this Agreement had SNWA continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date; less (ii) all dollar amounts NV Energy reasonably would be expected to receive at then

prevailing market conditions (utilizing Commercially Reasonable Efforts) from the sale to a third party of the energy that SNWA would be provided by NV Energy under this Agreement had SNWA continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date.

“O&M Agreement” means that Facility Operating and Maintenance Agreement dated as of April 18, 2002 by and among Pinnacle West Energy Corporation, GenWest, LLC and SNWA, including any procedures, protocols and methodologies adopted thereunder, and any successor arrangement(s).

“Off-Peak Hours” means HE 0100 through HE 0600 PPT and HE 2300 through HE 2400 PPT of a Day.

“On-Peak Hours” means HE 0700 through HE 2200 PPT of a Day.

“Payment Due Date” has the meaning set forth in Section 6.6.

“Permits” means any permit, license, approval, order, consent or authorization of any Government Agency necessary for the lawful operation, maintenance, alteration, repair, or improvement of the Facility.

“Person” means any individual, corporation, limited liability corporation, partnership, joint venture, trust, unincorporated organization, Government Agency or other entity.

“PPT” means Pacific Prevailing Time.

“Present Value Rate” means the sum of 0.50% plus the yield reported on page “USD” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in United States government securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that matches the remaining Term of this Agreement.

“Prime Rate” means, for any Day on which the calculation of an interest amount begins under this Agreement, the “Prime Rate” specified for such Day (or, if such Day is not a Business Day, on the first Business Day following such Day) under the “Money Rate” table of the *Wall Street Journal*. In the event that the *Wall Street Journal* ceases to report a Prime Rate, the Prime Rate shall be the prime rate (or its functional equivalent) charged by the Federal Reserve Bank of San Francisco.

“Procedures and Protocols” means any of the procedures, protocols or methodologies established under the CTA or the O&M Agreement to the extent that they pertain to or affect the dispatch of the Capacity Share or the Additional Capacity by NV Energy under this Agreement and/or costs, expenses and/or charges for which NV Energy may be responsible under the terms of this Agreement.

“Provider” means: (i) NV Energy in the context of energy deliveries required under Section 3.2; and (ii) SNWA in the context of energy deliveries required under Section 3.1.

“Prudent Industry Practices” means any of the practices, methods, standards and acts (including the practices, methods and acts engaged in or approved by a significant portion of the electric power industry in the United States) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, could have been expected to accomplish the desired result consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts generally conform to operation and maintenance standards recommended by equipment suppliers and manufacturers, applicable design limits and applicable Governmental Approvals and Laws.

“**PUCN**” means the Public Utilities Commission of Nevada and any successor entity thereto.

“**Recipient**” means: (i) NV Energy in the context of energy deliveries required under Section 3.1; and (ii) SNWA in the context of energy deliveries required under Section 3.2.

“**Schedule**” means NV Energy’s request for energy from the Facility pursuant to this Agreement or the act of providing such request.

“**Service Term**” has the meaning set forth in Section 2.2 of this Agreement.

“**SNWA Purchase Damages**” means the difference between the present value (using the Present Value Rate) of: (i) all dollar amounts that SNWA reasonably would be expected to pay at then prevailing market conditions (utilizing Commercially Reasonable Efforts) to buy from a third party the energy NV Energy would have been required to deliver to SNWA under this Agreement had NV Energy continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date; less (ii) all dollar amounts SNWA reasonably would have been expected to pay to NV Energy under this Agreement had NV Energy continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date.

“**SNWA Sale Damages**” means the difference between the present value (using the Present Value Rate) of: (i) all dollar amounts SNWA reasonably would have been expected to receive from NV Energy under this Agreement (excluding Fuel and imbalance related costs and/or expenses) had NV Energy continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date; less (ii) all dollar amounts SNWA reasonably would be expected to receive at then prevailing market conditions (utilizing Commercially Reasonable Efforts) from the sale to a third party of the capacity and

energy that NV Energy would be provided under this Agreement (excluding costs of fuel required to produce such energy) had NV Energy continued to perform as required by this Agreement for the remainder of the original Term had there not been an Early Termination Date.

“**Tax**” or “**Taxes**” means any or all ad valorem, property, occupational, severance, emissions, generation, first use, conservation, energy, transmission, utility, gross receipts, privilege, sales, use, excise and other taxes, governmental charges, licenses, fees, permits and assessments, and taxes based on net income or net worth.

“**Term**” has the meaning set forth in Section 2.1.

“**Transmission Service Agreement 101B**” means that Transmission Service Agreement dated as of December 12, 2002 and designated as Service Agreement No. 101B, between SNWA and NV Energy entered into pursuant to the Open Access Transmission Tariff of the NV Energy, Inc. Operating Companies and reserving 125 MW of firm point-to-point transmission service from the Harry Allen Switchyard to the Mead Substation for an initial term of July 31, 2003 through July 30, 2008, and any successor arrangement extending the term of such service.

“**VOM Charge**” means the Variable Operations and Maintenance Charge for the Facility as set forth in the Procedures and Protocols.

ARTICLE 2

TERM OF AGREEMENT

2.1 Term. Subject to the survival provisions set forth in Section 15.5, this Agreement shall continue in full force and effect from the Effective Date until December 31, 2018, or on such earlier date on which this Agreement is terminated in accordance with its terms (“Term”).

2.2 Service Term. Subject to early termination of this Agreement as provided hereunder, the Parties shall provide capacity and/or energy under this Agreement from June 1, 2013 through the end of the Term (“Service Term”).

2.3 Effect of Termination. Subject to the exercise of a Non-Defaulting Party’s rights under Section 12.4, in the event that this Agreement is terminated, the rights and obligations of the Parties hereunder shall continue unaffected until the termination is effective in accordance with the terms and conditions thereof. Any termination of this Agreement shall not relieve the Parties of their obligation to pay any amounts accrued prior to the effective date of such termination of its obligations or relieve either Party of any of its other liabilities or obligations accruing prior to termination.

ARTICLE 3

EXCHANGE OF POWER

3.1 Supply by SNWA to NV Energy. For all hours of the Service Term, SNWA shall provide and deliver, and NV Energy shall receive: (i) electric capacity from the Facility in the amount of the Capacity Share plus the Additional Capacity; and (ii) net energy associated with such capacity, all pursuant to the terms and conditions of this Agreement.

3.2 Supply by NV Energy to SNWA. For all hours of the Service Term, NV Energy shall deliver, and SNWA shall receive Firm Energy in the amount of 125 MWh per hour during the On-Peak Hours of each Day and 25 MWh per hour during the Off-Peak Hours of each Day, pursuant to the terms and conditions of this Agreement.

3.3 Suspension of Supply Obligation.

3.3.1 If at any time after May 31, 2013 the Availability Factor for the previous 365 Day period is less than 75 percent (75%) for any reason(s), NV Energy shall be excused from delivering energy to SNWA under this Agreement until such time that the Availability Factor for the previous 365 Day period is at least 75 percent (75%).

3.3.2 During any suspension by NV Energy under this Section 3.3, SNWA shall not be relieved from its obligation to provide NV Energy with capacity and associated energy pursuant to the terms of this Agreement.

3.4 Transmission and Scheduling Requirements. The Recipient shall be responsible for complying with all transmission reservation, scheduling and tagging requirements associated with energy provided hereunder after the Delivery Point.

3.5 Delivery of Energy. Subject to the terms of this Agreement, energy provided by the Provider pursuant to this Agreement shall be deemed to be delivered at the Delivery Point.

3.6 Requirement for SNWA to Deliver. Notwithstanding any other provision of this Agreement, to the extent that the Capacity Share and/or the Additional Capacity are available and SNWA fails to deliver energy to NV Energy hereunder other than due to NV Energy's failure to provide Fuel as required by this Agreement (excluding any failure to provide Fuel as a result of any differences in projected and actual heat rates of the Facility), SNWA shall pay to NV Energy the Replacement Costs for energy not delivered as calculated in accordance with Appendix C.

3.7 Requirement for NV Energy to Deliver. To the extent that NV Energy fails to deliver energy to SNWA as required by this Agreement and such failure is not excused or

allowed by this Agreement, NV Energy shall pay to SNWA the Replacement Costs for energy not delivered as calculated in accordance with Appendix C.

3.8 Exclusive Right to Capacity Share. During the Service Term, SNWA shall not provide any other party capacity or energy associated with the Capacity Share or the Additional Capacity without the prior written consent of NV Energy; provided, however, nothing contained in this Section 3.8 shall give NV Energy the right to capacity and energy from the Facility produced as a result of an expansion of the Facility as set forth in Section 3.8 of the CTA.

ARTICLE 4

SCHEDULING AND DISPATCH OF THE FACILITY

4.1 Scheduling and Dispatch Rights. For all hours of the Service Term, NV Energy shall have the right to Schedule, dispatch and receive all energy associated with the Capacity Share and Additional Capacity in the same manner that SNWA would be able to schedule, dispatch and receive such energy under the provisions of the CTA.

4.2 Dispatch Costs and Expenses. Subject to the billing dispute procedures set forth in Section 6.8, NV Energy shall reimburse SNWA for any costs and expenses SNWA is assessed under Section 7.5 of the CTA as a result of the action or inaction of NV Energy. In addition, subject to the billing dispute procedures set forth in Section 6.8, SNWA shall pay NV Energy an amount equal to any reimbursement for costs and expenses to which SNWA would be entitled under Section 7.5 of the CTA as a result of the action or inaction of any Person (including co-owners of the Facility) as if SNWA were the party dispatching (or entitled to dispatch) energy from the Facility under the CTA. SNWA shall provide NV Energy supporting data for such costs and/or expenses upon request by NV Energy.

ARTICLE 5

TRANSMISSION

5.1 Recipient Obligations. Subject to Section 5.3, the Recipient, or its designee, shall have the sole and exclusive responsibility at all times to arrange, obtain, contract and pay for any and all transmission service and ancillary services required (including service under any applicable transmission tariff) to deliver any energy provided hereunder beyond the Delivery Point.

5.2 Provider Obligations. The Provider, or its designee, shall have the sole and exclusive responsibility at all times to arrange, obtain, contract, and pay for any and all transmission service required to deliver energy hereunder to the Delivery Point.

5.3 Transmission Service to the Mead Substation.

5.3.1 For all hours during the Service Term, SNWA shall provide NV Energy with the sole and exclusive right to access and use the firm point-to-point transmission capacity reserved by SNWA under the Transmission Service Agreement 101B. SNWA shall take all necessary action in order to extend the term of such reservation through at least the end of the Service Term (including by the exercise of rollover rights pursuant to the applicable transmission tariff). NV Energy may utilize such transmission capacity for its own purposes (including the transmission of energy for NV Energy's account) when and in a manner determined by NV Energy in its sole discretion, or it may reassign such rights to a third party. SNWA shall take any and all actions required in order to provide NV Energy the ability to utilize the transmission capacity in such manner, including by providing appropriate and timely information to third parties (e.g., applicable transmission providers and control area operators).

5.3.2 SNWA shall be responsible for all costs associated with the Transmission Service Agreement 101B for the Service Term determined pursuant to the terms and conditions of the applicable transmission tariff.

5.4 Curtailment of Transmission to the Mead Substation. To the extent that transmission service is not available on each and every transmission path to the Mead Substation, NV Energy shall be excused from delivering energy to SNWA under this Agreement.

5.5 No Continued Right to Transmission Service Agreement 101B. The Parties expressly intend that Transmission Service Agreement 101B shall remain in the possession of SNWA and that NV Energy shall have no claimed right to use the transmission capacity provided thereunder after the expiration of the Service Term based on this Article 5.

ARTICLE 6

BILLING AND PAYMENT

6.1 Monthly NV Energy Payment. For each Month of the Term, subject to Section 6.5, NV Energy shall pay to SNWA a Monthly payment in exchange for NV Energy's right to schedule, dispatch and receive capacity and energy under the terms of this Agreement. The calculation of the Monthly NV Energy Payment is set forth in Appendix A.

6.2 Monthly SNWA Payment. For each Month of the Term, subject to Section 6.5, SNWA shall pay to NV Energy a Monthly payment in exchange for SNWA's receipt of energy under the terms of this Agreement. The calculation of the Monthly SNWA Payment is set forth in Appendix B.

6.3 Additional Payments. In addition to the payments specified in Sections 6.1 and 6.2, the Parties shall pay all amounts due pursuant to the other provisions of this Agreement.

6.4 Statements. Each Party will deliver, as promptly as practicable after the first of each Billing Month, a statement (by mail, facsimile or electronic means) for the amounts due to such Party under the terms of this Agreement for the preceding Month.

6.5 Netting of Payments. The Parties agree that they shall pay all amounts owing to each other under this Agreement through netting such that all amounts owed by each Party to the other under this Agreement (including any damages and interest) shall be offset on a Monthly basis so that only the difference in the amounts owed shall be paid by the Party owing the greater amount. In this regard, at least 5 Days prior to the Payment Due Date (as defined in Section 6.6), the Parties shall confer by any reasonable means and compare the total amounts owed by each other under the statements issued pursuant to Section 6.4. Each Party shall calculate and use best efforts to agree with the other Party upon the net difference between: (i) the total amounts accrued through the end of the previous Month which NV Energy is obligated to pay; and (ii) the total amounts accrued through the end of the previous Month which SNWA is obligated to pay. The net difference shall be paid by the Party who owes the greater of the amounts in (i) or (ii) of the foregoing sentence by the Payment Due Date.

6.6 Timing and Method of Payment. All amounts owing to a Party under this Agreement for each Month shall be due and payable by the other Party on the 20th Day of the following Month (“Payment Due Date”). If the Payment Due Date falls on a Day that is not a Business Day, the Payment Due Date shall be the next Business Day. Each Party shall make payment to the other in immediately available funds through wire transfer, or other mutually agreeable method.

6.7 Late Payment. Amounts that are owed shall, if not remitted within the time period specified under this Article 6, be subject to a late payment charge equal to the interest

calculated pursuant to Section 15.9 accrued and payable on a Monthly basis with respect to the unpaid amount. Such late payment charge shall accrue from the due date of such amount until the date on which it is paid.

6.8 Disputed Billings. In the event that either Party has a bona fide dispute with any invoice submitted hereunder, such Party shall inform the other Party in writing of its grounds for disputing such invoice. The disputing party shall pay the amount in dispute until the dispute is resolved. Upon resolution of the dispute, the amount of any overpayment shall be refunded with interest as calculated pursuant to Section 15.9 accruing from and after the date such amount was originally due until the date on which such amount is paid.

6.9 Adjustments. If any overcharge or undercharge in any form whatsoever shall at any time be found and the invoice therefor has been paid, the Party that has been paid the overcharge shall refund the amount of the overcharge to the other Party, and the Party that has been undercharged shall pay the amount of the undercharge to the other Party, within 30 Days after final determination thereof; provided, however, that no retroactive adjustment shall be made for any overcharge or undercharge unless written notice of the same is provided to the other Party within a period of 24 Months from the date of the invoice in which such overcharge or undercharge was first included. Any such adjustments shall be made with interest calculated in accordance with Section 15.9 from the date that the undercharge or overcharge actually occurred. If a Party fails to deliver an invoice under this Agreement, then such party may deliver to the other Party an invoice within 2 years from the date on which the invoice would have been delivered under this Article 6. The right to payment shall be waived with respect to any amounts not invoiced within such 2 year period.

6.10 Audit Rights. The Parties shall keep complete and accurate records of their operations under this Agreement and shall maintain such data for a period of at least 7 years after the completion of the relevant Billing Month hereunder; provided, however, records relating to a disputed matter shall be retained until the later of 7 years or until the dispute is resolved. Such records shall be available for inspection and audit by the other Party upon reasonable request during any regular Business Day.

ARTICLE 7

FUEL

7.1 Fuel Supply and Transportation. NV Energy shall be responsible for making all arrangements for the supply and transportation of Fuel required for the Facility to generate energy requested by NV Energy in the same manner as SNWA would be required to make such arrangements under Article 6 of the CTA. NV Energy shall comply with all provisions of Sections 6.1 through 6.5 of the CTA applicable to SNWA. In the event that NV Energy fails to arrange for sufficient Fuel and such failure causes SNWA to incur costs under Section 6.2 and/or Section 6.4 of the CTA, NV Energy shall reimburse SNWA for such costs subject to the billing dispute procedures set forth in Section 6.8. In addition, subject to the billing dispute procedures set forth in Section 6.8, SNWA shall pay NV Energy an amount equal to any reimbursement for costs to which SNWA would be entitled under Section 6.2 and/or Section 6.4 of the CTA as if SNWA were the party dispatching (or entitled to dispatch) energy from the Facility under the CTA.

ARTICLE 8

OPERATION AND MAINTENANCE OF THE FACILITY

8.1 Compliance with Laws. The Parties shall comply will all Laws and Permits associated with the discharge of their responsibilities hereunder.

8.2 Actions Affecting the Facility. Each Party agrees that it and its Affiliates will not take any action under this Agreement that would adversely affect the other Party's ownership in the Facility.

8.3 CTA Remains in Effect. Both Parties agree that the CTA is still in full force and effect, and this Agreement does not modify any of the terms of the CTA.

ARTICLE 9

REGULATORY

9.1 PUCN Approval. No later than July 1, 2012, NV Energy shall submit this Agreement to the PUCN for: (i) a determination that the terms and conditions of this Agreement are just and reasonable, (ii) a determination that the costs associated with this Agreement are prudently incurred and that NV Energy may recover all just and reasonable costs associated with this Agreement, and (iii) a determination that this Agreement qualifies as a retail power exchange under NV Energy Rate Schedule RPE. If the PUCN does not grant such approval or acceptance by December 31, 2012, either Party may terminate this Agreement upon ten (10) Business Days written notice to the other Party. If the PUCN grants the approval or acceptance of this Agreement and the conditions of such approval or acceptance are not acceptable to either Party, then such Party shall have the right to terminate this Agreement within thirty (30) Days of

such PUCN approval or acceptance upon ten (10) Business Days written notice to the other Party.

9.2 Greenhouse Gases. If a Government Agency passes a law or regulation that will impose a Tax, charge or fee on NV Energy for Greenhouse Gases attributable to either (i) NV Energy's utilization of the Capacity Share or the Additional Capacity under this Agreement, or (ii) any other generation source, including purchased power, utilized by NV Energy to deliver energy to SNWA under this Agreement, then either Party may terminate this Agreement on or after the effective date of such Tax, charge or fee, by providing one hundred eighty (180) Days written notice to the other Party.

9.3 Changes in Agreement. Nothing in this Agreement shall be construed to modify the "public interest" standard of review of this contract, whether proposed by a Party, a non-Party or the Federal Energy Regulatory Commission acting *sua sponte* as set forth in United Gas Pipeline Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956), Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. (1956) (the "Mobile-Sierra" doctrine) and Morgan Stanley Capital Group, Inc. v. Pub. Util. Dist. No. 1 of Snohomish County, 128 S. Ct. 2733 (2008) in determining whether the rates charged or the terms of the Agreement are just and reasonable as provided under the Federal Power Act.

ARTICLE 10

LIABILITY ALLOCATION; LIMITATIONS ON LIABILITY

10.1 Costs, Taxes and Charges. Except as otherwise provided in this Agreement, in addition to all other amounts due and payable under this Agreement: (i) the Provider shall be responsible for all costs, Taxes, and charges of any kind relating to the delivery of energy, capacity, transmission, and/or related services prior to and at the Delivery Point (by way of

clarification of the foregoing, Taxes prior to and at the Delivery Point include: ad valorem taxes on the Facility, income taxes on the Provider or its property and any taxes incurred in connection with sales of the delivered energy at the Delivery Point); and (ii) the Recipient shall be responsible for all costs, Taxes, and charges of any kind relating to the delivery of energy, capacity, transmission, and/or related services after the Delivery Point (by way of clarification of the foregoing, Taxes after the Delivery Point include: income taxes on the Recipient or its property and taxes in connection with downstream sales of delivered energy). Each Party shall provide the other Party upon written request a certificate of exemption or other reasonably satisfactory evidence of exemption if any exemption from or reduction of any Tax is applicable. Each Party shall exercise Commercially Reasonable Efforts to obtain and to cooperate in obtaining any exemption from or reduction of any Tax.

10.2 Indemnification. Each Party will be solely and exclusively responsible for any and all damages, losses, claims, costs, charges, fines, penalties, expenses and liabilities, and any interest thereon, that result from its or its Affiliates' negligence or willful misconduct, and such Party will indemnify and hold harmless, on an After-Tax Basis, the other Party, its Affiliates and their directors, governing body members, officers, agents and employees from any such damages, losses, claims, costs, charges, fines, penalties, expenses and liabilities, including any interest thereon. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.

10.3 Limitation of Liability.

10.3.1 There are no warranties under this Agreement except to the extent specifically set forth herein. The Parties hereby specifically disclaim and exclude all implied

warranties, including the implied warranties of merchantability and of fitness for a particular purpose.

10.3.2 Subject to Section 12.4, neither Party shall be liable to the other for consequential, incidental, punitive, exemplary or indirect damages suffered by that Party or by any customer of that Party, for lost profits or other business interruption damages, whether by virtue of any statute, in tort or contract, under any of indemnity or otherwise. The Parties intend that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including, without limitation, the negligence of any party, whether such negligence be sole, joint or concurrent, or active or passive. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

10.3.3 In the event that any provision of this Section 10.3 is held to be invalid or unenforceable, this Section shall be void and of no effect solely to the extent of such invalidity or unenforceability, and no claim arising out of such invalidity or lack of enforceability shall be made by one Party against the other or its officers, agents, or employees. Notwithstanding the foregoing, this Section 10.3 shall not limit or negate the right of either Party to be fully indemnified as provided in Section 10.2 or limit the remedies set forth in this Agreement for an Event of Default.

10.3.4 Neither any Affiliate of a Party nor any stockholder, officer, director or employee of a Party or of any Affiliate of a Party shall have any liability to the other Party for the payment of any sums now or hereafter owing by such Party or for the performance of any of

the obligations of such Party contained herein, and each of the Parties hereto agrees that all of the obligations of the other Party under this Agreement shall be obligations solely of such other Party and recourse in enforcing said obligations shall only be had against the assets of such other Party; provided that the foregoing provision shall not constitute a waiver, release or discharge of any of the terms, covenants or conditions of this Agreement and the same shall continue until fully paid, discharged, observed or performed.

ARTICLE 11

FORCE MAJEURE

11.1 Force Majeure Defined.

11.1.1 As used herein, "Force Majeure" shall have the meaning set forth in Appendix A of the CTA. Provided, however, the term Force Majeure shall not include any of the following:

- (i) the inability of the Recipient, for any reason, to obtain or maintain adequate transmission service from and after the Delivery Point;
- (ii) a change or circumstance in market conditions that affect the cost, price, or demand for capacity and/or energy;
- (iii) a change or circumstance in market conditions or otherwise that affects the economic value of this Agreement to any Party;
- (iv) an increase in costs or expenses to any Party as a result (either directly or indirectly) of such Party's performance under this Agreement;
- (v) a change in Law, action or inaction by any Government Agency or the inability to comply with any Law;

- (vi) the failure of or the de-rating of generation equipment and/or facilities (including the Facility); or
- (vii) any occurrence caused by or arising from the action or inaction by any third party (including a supplier, vendor or subcontractor of a Party), unless and to the extent that such action or inaction would constitute or be attributable to a Force Majeure as defined herein and such third party shall have satisfied the requirements for a Force Majeure as if such person was the claiming party.

11.2 Applicability of Force Majeure. Neither Party shall be in breach or liable for any delay or failure in its performance under this Agreement (except for such Party's performance of its payment obligations hereunder, which shall not be excused by any Force Majeure) to the extent such performance is prevented or delayed due to a Force Majeure, provided that:

11.2.1 The non-performing Party shall give the other Party written notice within 3 Business Days of the commencement of the Force Majeure, with available details to be supplied within 15 Days after the commencement of the Force Majeure further describing the particulars of the occurrence of the Force Majeure;

11.2.2 The delay in performance shall be of no greater scope and of no longer duration than is directly caused by the Force Majeure;

11.2.3 The Party whose performance is delayed or prevented shall proceed with Commercially Reasonable Efforts to overcome the events or circumstances preventing or delaying performance and shall, as requested (but not more often than weekly), provide written progress reports to the other Party during the period that performance is delayed or prevented describing actions taken and to be taken to remedy the consequences of the Force Majeure, the

schedule for such actions and the expected date by which performance shall no longer be affected by the Force Majeure; and

11.2.4 When the performance of the Party claiming the Force Majeure is no longer being delayed or prevented, that Party shall give the other Party written notice to that effect.

11.3 Effect of Force Majeure. Except for the obligation of either Party to make any required payments under this Agreement, the Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if and to the extent that they are unable to so perform or are prevented from performing by a Force Majeure.

ARTICLE 12

EVENT OF DEFAULT

12.1 NV Energy Events of Default. The occurrence of any one or more of the following events with respect to NV Energy shall constitute an “Event of Default” attributable to NV Energy under this Agreement:

12.1.1 The failure by NV Energy to make payment to SNWA for amounts due under this Agreement after said amounts have become due and payable and such failure is not cured within 15 Days after receiving written notice of such failure from SNWA;

12.1.2 Any representation or warranty made by NV Energy under Article 13 proves to have been false or misleading in any material respect when made and such representation or warranty is not made true within 30 Days after NV Energy has obtained actual knowledge thereof or has been provided notice thereof by SNWA; provided, however, that the cure must also remove any adverse effect on the SNWA; or

12.1.3 The material failure by NV Energy to comply with any material provision of this Agreement if such failure is not the result of a Force Majeure or is not otherwise excused in accordance with this Agreement, and such failure continues uncured for 30 Days after written notice thereof from SNWA; provided, however, if such failure is not capable of being cured within such period of 30 Days with the exercise of reasonable diligence, then such cure period shall be extended for an additional reasonable period of time (not to exceed 90 Days), so long as NV Energy is exercising reasonable diligence to cure such failure. Provided, however, such failure shall not be deemed cured unless any adverse effect on SNWA resulting from such failure is removed. Provided, further, this Section 12.1.3 shall not apply to: (i) any event described in Sections 12.1.1 and 12.1.2; or (ii) any event described in Section 3.7 for which a remedy is expressly provided in that Section.

12.2 SNWA Events of Default. The occurrence of any one or more of the following events with respect to SNWA shall constitute an “Event of Default” attributable to SNWA under this Agreement:

12.2.1 The failure by SNWA to make payment to NV Energy for amounts due under this Agreement after said amounts have become due and payable and such failure is not cured within 15 Days after receiving written notice of such failure from NV Energy;

12.2.2 Any representation or warranty made by under Article 13 proves to have been false or misleading in any material respect when made and such representation or warranty is not made true within 30 Days after SNWA has obtained actual knowledge thereof or has been provided notice thereof by NV Energy; provided, however, that the cure must also remove any adverse effect on NV Energy;

12.2.3 The material failure of SNWA to comply with any material provision of this Agreement if such failure is not the result of a Force Majeure or is not otherwise excused in accordance with this Agreement, and such failure continues uncured for 30 Days after written notice thereof from NV Energy; provided, however, if such failure is not capable of being cured within such period of 30 Days with the exercise of reasonable diligence, then such cure period shall be extended for an additional reasonable period of time (not to exceed 90 Days), so long as SNWA is exercising reasonable diligence to cure such failure. Provided, however, such failure shall not be deemed cured unless any adverse effect on NV Energy resulting from such failure is removed. Provided further, this Section 12.2.3 shall not apply to any event described in Sections 12.2.1 and 12.2.2.

12.2.4 The occurrence of a Participant Default with respect to SNWA under the CTA; or

12.2.5 SNWA no longer has access to or ownership rights with respect to the Capacity Share or the Additional Capacity so as to be able to provide energy to NV Energy pursuant to the requirements of this Agreement.

12.3 Defaulting and Non-Defaulting Party. The Party in default or the Party to whom an Event of Default is attributable as provided in Section 12.2 shall be referred to as the “Defaulting Party” and the other Party shall be referred to as the “Non-Defaulting Party”.

12.4 Exclusive Remedies.

12.4.1 Upon and after the occurrence of an Event of Default, the Non-Defaulting Party’s sole and exclusive remedy (whether arising in contract, tort or otherwise) shall be to suspend its performance under this Agreement and declare an Early Termination Date with the relevant remedies as provided below.

12.4.2 If an Event of Default has occurred, the Non-Defaulting Party shall have the right, in its sole discretion, with 20 Days notice to the Defaulting Party, to designate a Day no earlier than the Day such notice is effective as the date on which the Agreement shall terminate (“Early Termination Date”). Subject to Sections 15.5 and 15.17, this Agreement shall terminate on the Early Termination Date and neither Party shall have any further liability or obligation to the other hereunder, except as provided in Section 12.4.3 below. The exercise by a Party of its rights under this Section 12.4 shall be the sole and exclusive remedy of such Party for an Event of Default by or attributable to the other Party. The Parties acknowledge and agree that in the event of termination of this Agreement due to an Event of Default, all or a portion of the amount of damages arising therefrom are not susceptible to an accurate determination. The Parties further acknowledge and agree that the liquidated damages set forth herein are not intended as a penalty and represent a fair and reasonable approximation of all or a portion of the damages a Non-Defaulting Party may incur in each particular case.

12.4.3 Within 15 Days after the Non-Defaulting Party’s notice under Section 12.4.2, the Parties shall each select an independent party to determine the Default Damages. Within 30 Days after such notice, the two independent parties shall select a third independent party to determine the Default Damages. Within 60 Days after such notice, the three (3) independent parties shall provide the Parties with their respective estimates of Default Damages. The actual Default Damages due to the Non-Defaulting Party shall equal the arithmetic average of the three estimates. If one Party disputes the actual Default Damages, within 5 Business Days after the receipt of notice of the Default Damages determined by the independent parties, such Party may submit the dispute for resolution pursuant to the arbitration procedures of Article 14 and the arbitration order or finding regarding the Default Damages shall be

conclusive; provided, however, in no event shall the Default Damages be less than \$0 whether or not arbitrated. Subject to such qualification, the Default Damages will be paid by the Defaulting Party to the Non-Defaulting Party within 3 Business Days after being determined by the independent parties unless disputed and arbitrated pursuant to the terms of this Agreement in which event they shall be paid within 3 Business Days after the relevant arbitration finding or order. As used herein, where SNWA is the Non-Defaulting Party, "Default Damages" means the sum of: (i) SNWA Sale Damages; and (ii) SNWA Purchase Damages. Where NV Energy is the Non-Defaulting Party, "Default Damages" means the sum of: (i) NV Energy Sale Damages; and (ii) NV Energy Purchase Damages.

ARTICLE 13

REPRESENTATIONS AND WARRANTIES

13.1 Execution. Each Party represents and warrants to the other Party as of the Effective Date that: (i) it has all the necessary corporate and legal power and authority and has been duly authorized by all necessary corporate action to enable it to lawfully execute, deliver and perform under this Agreement; and (ii) it is a valid legal entity duly organized and validly existing in good standing under the laws of the state of its formation and is, to the extent required, qualified to do business in the state where it is organized.

13.2 Permits. Each Party represents and warrants to the other Party that as of the Effective Date it has all permits, licenses or approvals necessary to lawfully perform its obligations contained herein in the manner prescribed by this Agreement.

13.3 Binding Obligations. Each Party represents and warrants to the other Party that as of the Effective Date this Agreement is the valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may

be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting enforcement generally, and by equitable principles regardless of whether such principals are considered in a proceeding at law or in equity.

13.4 Execution and Consummation. Each Party represents and warrants to the other Party that as of the Effective Date the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement do not and will not conflict with any of the terms, conditions or provisions of its organizational documents or any law applicable to it or result in a breach or default under any evidence of its indebtedness or any other agreement or instrument to which it is a party or by which it or any of its property is bound which has a reasonable likelihood of materially and adversely affecting the consummation of the transactions contemplated hereby or the performance by the Party of any of its obligations under this Agreement.

13.5 Actions and Proceedings. Each Party represents and warrants to the other that as of the Effective Date there is no pending or, to the knowledge of such Party, threatened action or proceeding affecting such Party before any Government Agency that has a reasonable likelihood of materially adversely affecting or reasonably threatening the ability of such Party to perform its obligations under this Agreement or the validity or enforceability of this Agreement against it and that there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it.

13.6 Absence of Certain Events. Each Party represents and warrants to the other Party that as of the Effective Date no Event of Default attributable to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or

performing its obligations under this Agreement.

13.7 Other Agreements. Each Party represents and warrants throughout the Term that there is nothing contained in any other agreement to which it is a party prohibiting it from performing its obligations under this Agreement.

ARTICLE 14

DISPUTE RESOLUTION

14.1 Senior Officers.

14.1.1 Each of the Parties will designate in writing to the other Party a representative who will be authorized to resolve any dispute arising under this Agreement and, unless otherwise expressly provided herein, to exercise the authority of such Party to make decisions by mutual agreement. Each Party recognizes and understands that some resolutions reached by the Parties may require board approval of either or both Parties.

14.1.2 If such designated representatives are unable to resolve a dispute under this Agreement, such dispute will be referred by each Party's representative, respectively, to a designated senior officer.

14.1.3 The Parties hereto agree: (i) to attempt to resolve all disputes arising hereunder promptly; and (ii) to provide each other with reasonable access during normal business hours to any and all non-privileged and non-confidential records, information and data pertaining to any such dispute. Privileged and confidential information shall be made available to a Party pursuant to a confidentiality agreement consistent with the confidentiality provisions of this Agreement and the CTA, as applicable.

14.2 Arbitration.

14.2.1 All disputes arising under, out of, or in relation to any provision of this Agreement that are not resolved pursuant to Section 14.1 within 30 Days after either Party's receipt of notice referring the dispute to the senior officers of the Parties (and in any event within the time which legal or equitable proceedings based on such claim, dispute, or controversy would not be barred by the applicable statute of limitations) will be submitted upon written request of any Party to binding arbitration. Each Party will have the right to designate an arbitrator of its choice, who need not be from the American Arbitration Association ("AAA") panel of arbitrators but who (a) will be an expert in the independent power electric generation field and (b) will not be and will not have been previously an employee or agent of or consultant or counsel to either Party or any of its Affiliates and will not have a direct or indirect interest in either Party or any of its Affiliates or the subject matter of the arbitration. Such designation will be made by notice to the other Party and to the AAA within 10 Days or, in the case of payment disputes, 5 Days after the date of the giving of notice of the demand for arbitration. The arbitrators designated by the Parties will designate a third arbitrator, who will have a background in legal and judicial matters (and who will act as chairman), within 10 Days or, in the case of payment disputes, 5 Days after the date of the designation of the last of the arbitrators to be designated by the Parties, and the arbitration will be decided by the three arbitrators. If the two arbitrators cannot or do not select a third independent arbitrator within such period, either Party may apply to the AAA for the purpose of appointing any person listed with the AAA as the third independent arbitrator under the expedited rules of the AAA. Such arbitration will be held in Las Vegas, Nevada or in any other mutually agreed upon location. The rules of the AAA will apply to the extent not inconsistent with the rules herein specified.

Each Party will bear its own expenses (including attorneys' fees) with respect to the arbitration. The Parties shall share the expenses of the arbitrators equally.

14.2.2 Subject to Section 12.4, the arbitrators conducting an arbitration proceeding under this Section shall have no authority to award to any Party consequential, incidental, punitive, exemplary or indirect damages or any lost profits or business interruption damages, whether by virtue of any Law or otherwise. Confidential information, to the extent relevant, may be disclosed by any Party to the arbitrators conducting the arbitration and any court of competent jurisdiction enforcing the arbitrators' award.

14.3 Binding Nature of Proceedings. Each Party understands that this Agreement contains an agreement to arbitrate with respect to specified disputes. After signing this Agreement, each Party understands that it will not be able to bring a lawsuit concerning any dispute that may arise that is covered by this arbitration provision. Instead, each Party agrees to submit any such dispute to arbitration pursuant to Section 14.2. Any award of the arbitrator may be enforced by the Party in whose favor such award is made in any court of competent jurisdiction.

ARTICLE 15

MISCELLANEOUS

15.1 Assignment. Neither Party shall assign its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

15.2 Restriction on Transfer of Capacity Share. SNWA covenants and represents that as of the Effective Date, it has not encumbered, pledged, transferred, or assigned any portion of its rights or interests in the Capacity Share. SNWA will not sell, transfer or otherwise

dispose of its ownership interest in the Capacity Share to any third party absent the written consent of NV Energy if such sale, transfer or disposition would take effect prior to the end of the Service Term.

15.3 Governing Law; Waiver of Jury Trial. This Agreement shall be governed by, and construed in accordance with, the law of the state of Nevada, exclusive of its conflicts of law provisions. By choosing to have this Agreement governed by and construed under the law of the state of Nevada, the Parties are in no way submitting to or incorporating into this Agreement any Nevada statute, regulation, or order, or any of the same involving the generation, sale, purchase or transmission of electric capacity or electric energy in, or for consumption in, the state of Nevada. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated by this Agreement.

15.4 Confidentiality. The Parties agree to be bound by and follow the procedures set forth in Section 16.1 and Appendix E of the CTA with respect to information that SNWA is required to keep confidential under those provisions of the CTA. In addition, the Parties agreed to be bound by and follow the procedures set forth in Section 16.1 and Appendix E of the CTA with respect to other confidential information exchanged between NV Energy and SNWA (except for Section 2.1(a)(ii) of Appendix E, which shall not apply).

15.5 Survivorship of Obligations. Termination of this Agreement shall not discharge any Party from any obligation it owes the other Party under this Agreement by reason of any transaction, loss, cost, damage, expense or liability occurring, accruing or arising prior to such termination. It is the intent of the Parties that any such obligation owed (whether the same shall be known or unknown as of the termination or cancellation of this Agreement) will survive

the termination or cancellation of this Agreement in favor of the Party to which such obligation is owed. The Parties also intend that the indemnification and limitation of liability provisions contained in Sections 10.5 and 10.3 shall remain operative and in full force and effect and that any specific survivability provisions in any other sections be given full effect.

15.6 No Third Party Beneficiaries. This Agreement is not intended to, and shall not, create rights, remedies or benefits of any character whatsoever in favor of any Persons, corporations, associations, or entities other than the Parties and their permitted successors and assigns, and the rights and obligations of each of the Parties under this Agreement are solely for the use and benefit of, and may be enforced solely by the Parties, their permitted successors and assigns.

15.7 Section Headings Not to Affect Meaning. The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms and provisions thereof. References to “Articles”, “Sections” and “Appendices” in this Agreement shall mean the Articles, Sections and Appendices of this Agreement unless otherwise expressly noted.

15.8 Computation of Time. In computing any period of time prescribed or allowed by this Agreement, the designated period of time shall begin to run on the Day immediately following the Day of the act, event or default that precipitated the running of the designated period of time. The designated period shall expire on the last Day of the period so computed unless that Day is not a Business Day, in which event the period shall run until the end of the next Business Day.

15.9 Interest. Whenever the provisions of this Agreement require the calculation of an interest rate, such rate shall be computed at an annual rate equal to the Prime Rate as of the

date on which the calculation begins, but not to exceed the maximum rate, which may be lawfully charged. Interest on obligations arising under this Agreement shall be compounded daily and be calculated based on a 360 Day year.

15.10 No Reliance. The Parties have entered into this Agreement in reliance upon the representations and mutual understandings contained herein and not in reliance upon any oral or written representation or information provided by one Party to another Party not contained or incorporated herein.

15.11 Counterparts. This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.12 Amendments. This Agreement may only be amended or modified by written agreement signed by the duly authorized representatives of both Parties. Having freely negotiated and agreed upon the economic bargain among them as set forth in this Agreement, the Parties waive all rights under all applicable Laws to effect a change in the Agreement absent the written agreement of both Parties.

15.13 Waivers. Waivers of the provisions of this Agreement or excuses of any violations of this Agreement shall be valid only if in writing and signed by an authorized officer of the Party issuing the waiver or excuse. A waiver or excuse issued under one set of circumstances shall not extend to other occurrences under similar circumstances.

15.14 No Partnership Created. Any revision of this Agreement to the contrary notwithstanding, the Parties do not intend to create hereby any joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit. If it should appear that one or more changes to this Agreement would be required in order not to

create an entity referenced in the preceding sentence, the Parties agree to negotiate promptly and in good faith with respect to such changes.

15.15 Character of Exchange. The exchange of power hereunder shall not constitute a sale, lease, transfer or conveyance of any contractual rights or ownership interests in any generating unit or other equipment comprising the Facility.

15.16 Notices. Any notice, demand, request, statement, or correspondence provided for in this Agreement, or any notice which a Party may desire to give to the other, shall be in writing (unless otherwise expressly provided by this Agreement) and shall be considered duly delivered when received by hand delivery, first-class mail, facsimile, or by overnight delivery, at the address(es) and to the attention of the person(s) listed below; provided, however, if actual delivery occurs at a time other than between the hours of 0800 and 1700 PPT on a Business Day (each a "Business Hour"), delivery shall be deemed to have occurred in the next Business Hour after actual delivery.

(i) **To SNWA:**

SNWA Energy Director
Southern Nevada Water Authority
100 City Parkway, Suite 700
Las Vegas, Nevada 89106

With a copy to:

General Counsel
Southern Nevada Water Authority
1001 South Valley View Boulevard
Las Vegas, Nevada 89153

(ii) **To NV Energy:**

Manager, Energy Supply Contract Management
Nevada Power Company d/b/a NV Energy
6226 West Sahara Avenue
Las Vegas, Nevada 89146

With a copy to:

Assistant General Counsel
Nevada Power Company d/b/a NV Energy
6226 West Sahara Avenue
Las Vegas, Nevada 89146

Either Party may change the information set forth in this Section 15.16 by giving written notice to the other Party in the manner prescribed by this Section.

15.17 Survival. Any provision(s) of this Agreement that expressly comes into or remains in force following the termination or expiration of this Agreement shall, subject to the express terms of the relevant provision, survive the termination or expiration of this Agreement.

15.18 Construction. The language used in this Agreement is the product of both Parties' efforts. Accordingly, each Party irrevocably waives the benefit of any rule of contract construction that disfavors the drafter of a contract or the drafter of specific language in a contract.

15.19 Imaged Agreement. Any original executed Agreement, schedule confirmation or other related document may be photocopied and stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper, the schedule confirmation, if introduced as evidence in automated facsimile form, the transaction tape, if introduced as evidence in its original form and as transcribed onto paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the transaction tape, the schedule confirmation or the Imaged Agreement (or photocopies of the

transcription of the transaction tape, the schedule confirmation or the Imaged Agreement) on the basis that such were not originated or maintained in documentary form under either the hearsay rule, the best evidence rule or other rule of evidence.

15.20 Severability. If any provision or provisions of this Agreement or the application thereof to any Person or circumstance or in any jurisdiction is found by a court of competent jurisdiction to be illegal, invalid, unlawful, void or unenforceable as written for any reason, then it is the intent of each of the Parties that any such provision or provisions shall be given force and effect to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Agreement and the application of such provision or provisions to other Persons or circumstances or in other jurisdictions shall be deemed valid and enforceable to the fullest extent possible and continue in force and effect. If the determination that any provision or provisions hereof are illegal, invalid, unlawful, void or unenforceable (even after such provision or provisions are given force and effect to the fullest extent possible) results in a significant material deviation from the Parties' original intent or economic expectations regarding this Agreement, the Parties shall negotiate to (and/or the applicable court, in its discretion, may) replace any such illegal, invalid, unlawful, void or unenforceable provision or provisions with valid provision(s) which result in the least deviation from the Parties' intent and economic expectations.

15.21 Include. As used herein, the words "include" or "including" shall be deemed to be followed by the words "without limitation."

15.22 Future Cooperation. SNWA may seek a private letter ruling or similar advice from the Internal Revenue Service ("IRS") as to the effect this Agreement may have on SNWA's ability to continue to finance its interest in the Facility with obligations that bear tax-

exempt interest. NV Energy agrees to negotiate in good faith with SNWA regarding any minor changes to this Agreement that the IRS indicates to SNWA would be advisable in order to obtain a favorable ruling from the IRS. This provision does not require NV Energy to agree to any change in this Agreement that NV Energy determines would materially adversely affect NV Energy, including any change that would result in any increase in costs or expenses to NV Energy or a decrease in the Facility's availability for dispatch under this Agreement. In addition, the Parties agree to provide each other such information as may be required to ensure timely compliance with applicable regulatory transaction reporting requirements.

[signature page follows]

IN WITNESS WHEREOF, SNWA and NV Energy have caused this Agreement to be executed in duplicate by their respective duly authorized officers as of the Effective Date.

SOUTHERN NEVADA WATER AUTHORITY

APPROVED AS TO FORM:

BY: 

FOR

NAME: Greg J. Walch

TITLE: General Counsel

BY: _____

NAME: Patricia Mulroy

TITLE: General Manager

NEVADA POWER COMPANY d/b/a NV ENERGY

BY: _____

NAME: Jeffrey L. Ceccarelli

TITLE: Senior Vice President, Energy Supply

APPENDIX A

CALCULATION OF MONTHLY NV ENERGY PAYMENT

The Monthly NV Energy Payment for each Month shall be determined pursuant to the following formula:

$$MNP = \sum_{k=1}^n DEF_k * VOM_k$$

Where:

MNP = the Monthly NV Energy Payment, expressed in dollars.

n = number of hours in the Month.

k = each hour in the Month.

DEF_k = the amount of energy (expressed in MWh) provided by SNWA from the Facility during hour k of the Month at the Delivery Point pursuant to NV Energy's Schedule.

VOM_k = the VOM Charge during hour k.

APPENDIX B**CALCULATION OF MONTHLY SNWA PAYMENT**

The Monthly SNWA Payment for each Month shall be determined pursuant to the following formula:

$$\text{MSP} = \sum_{k=1}^n \text{DEM}_k * [(7.5 * \text{Gas Index}) + \text{VOM}_k]$$

Where:

MSP = the Monthly SNWA Payment, expressed in dollars.

n = number of hours in the Month.

k = each hour in the Month.

DEM_k = the amount of energy (expressed in MWh) deemed to be provided by NV Energy to SNWA under this Agreement during hour k of the Month at the Mead Substation.

Gas Index = the SoCal Border daily gas index in \$/MMBtu for the Day in which hour k occurred as published in Platts Gas Daily as the SoCal Gas midpoint for the published flow date. If the Gas Index is not published for any Day (e.g., holiday or weekend), the next available published price shall be used to determine the Gas Index. In the event that the Gas Index described above is no longer published, the Parties shall mutually agree on a replacement index that reflects the price of natural gas previously represented by the SoCal Border daily gas index.

VOM_k = the VOM Charge during hour k.

APPENDIX C

CALCULATION OF REPLACEMENT COSTS

In the event that either Party is required to pay Replacement Costs under Section 3.6 or Section 3.7 (as applicable) of this Agreement, such Replacement Costs shall be calculated as follows:

$$\text{Replacement Costs} = (\text{RP} - \text{CP}) * \text{END}$$

Where:

RP = Replacement Price = the price (in \$/MWh) at which the Recipient, utilizing Commercially Reasonable Efforts to mitigate its Replacement Costs, purchases energy at the Delivery Point to replace the energy not delivered by the Provider as required by this Agreement, plus: (i) costs reasonably incurred by the Recipient in purchasing such replacement energy; and (ii) additional transmission charges, if any, reasonably incurred by the Recipient to transmit such replacement energy to the Delivery Point. Provided, however, in no event shall the Replacement Price include any penalties, ratcheted demand or similar charges.

CP = Contract Price = the price (in \$/MWh) that the Recipient would have paid under this Agreement for the energy not delivered as required by this Agreement.

END = Energy Not Delivered = the amount of energy (in MWh) not delivered by the Provider and for which Replacement Costs must be paid pursuant to Section 3.6 or Section 3.7 (as applicable).

In the event that the above calculation results in a negative amount, Replacement Costs shall be deemed to be equal to zero.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

June 21, 2012

Subject: Update on Water Resources	Director's Backup
Petitioner: Patricia Mulroy, General Manager	
Recommendations: That the Board of Directors receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, the results of the implementation of the Authority's Water Resource and Conservation Plans, activities on the Colorado River, and on the development of in-state water resources.	

Fiscal Impact:

None by approval of the above recommendation.

Background:

The Colorado River Basin has been experiencing a severe drought which began in 2000. The severity of these conditions has become increasingly evident in lake levels along the lower Colorado River Basin, where major reservoirs such as Lake Powell and Lake Mead are experiencing some of the lowest water levels in recent memory.

The nature of the drought in the Colorado River Basin has direct effects on water resources and future planning. The drought has prompted communities to launch major conservation initiatives to reduce water use among citizens and businesses, and has resulted in the development and implementation of the Authority's Water Resource and Conservation Plans.

This agenda item provides for an update from staff on the drought; the results of the implementation of the Authority's Water Resource and Conservation Plans; activities on the Colorado River; and on the development of in-state water resources.

The office of the General Counsel has reviewed and approved this agenda item.

Respectfully submitted:


Patricia Mulroy, General Manager
PM:JJE:td

AGENDA ITEM #	11
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