



## City of Needles, California Request for City Council Action

☒ CITY COUNCIL ☐ NPUA ☒ HACN ☒ Regular ☐ Special

**Meeting Date:** July 11, 2023

**Title:** City Council Resolution 2023-44  
A Resolution of the City Council of the City of Needles Approving an Agreement with the Fort Mojave Indian Tribe for the Abatement of 1900 Needles Highway, also known as Assessor's Parcel Number 0185-043-05-0000 or the "Best Motel" to be completed by December 31, 2023.

**Background:** On May 26, 2022, the administrative hearing officer for the City of Needles declared the property located at 1900 Needles Highway, also known as Assessor's Parcel Number 0185-043-05-0000 or the "Best Motel" a public nuisance. After the property was declared a public nuisance, the City filed a Petition for the Appointment of a Receiver pursuant to Health and Safety Code section 17980.7 in the Superior Court of the County of San Bernardino, Case No. CIVSB2218469.

Recently, the FMIT has entered into an agreement to purchase property and abate the public nuisances on the property by demolishing it. The City has prepared an agreement with the FMIT regarding the Best Motel which reaches the City's goal of achieving compliance by:

- City agrees to dismiss the Petition and forego and forgive the fines associated with the property.
- The FMIT shall clean up the property in accordance with the attached agreement and settle for the amount of \$35,603.74 to cover City Staff times and attorney fees.

**Fiscal Impact:** Reimbursement of staff time and legal fees in the amount of \$35,603.74.

**Recommendation:** Approve Resolution 2023-44 Approving an Agreement with the Fort Mojave Indian Tribe for the Abatement of 1900 Needles Highway, also known as Assessor's Parcel Number 0185-043-05-0000 or the "Best Motel" to be completed by December 31, 2023.

**Submitted By:** Patrick Martinez, Assistant City Manager

**City Management Review:** Rick

**Date:** 7/6

Approved: ☐

Not Approved: ☐

Tabled: ☐

Other: ☐

Agenda Item: 4

**RESOLUTION NO. 2023-44**

**A RESOLUTION OF THE CITY OF NEEDLES, CALIFORNIA,  
APPROVING AN AGREEMENT WITH THE FORT MOJAVE INDIAN TRIBE FOR THE  
ABATEMENT OF 1900 NEEDLES HIGHWAY, ALSO KNOWN AS ASSESSOR'S PARCEL  
NUMBER 0185-043-05-0000 OR THE "BEST MOTEL" TO BE COMPLETED BY  
DECEMBER 31, 2023.**

WHEREAS, On May 26, 2022, the administrative hearing officer for the City of Needles declared the property located at 1900 Needles Highway, also known as Assessor's Parcel Number 0185-043-05-0000 or the "Best Motel" a public nuisance; and

WHEREAS, After the property was declared a public nuisance, the City filed a Petition for the Appointment of a Receiver pursuant to Health and Safety Code section 17980.7 in the Superior Court of the County of San Bernardino, Case No. CIVSB2218469; and

WHEREAS, the FMIT has entered into an agreement to purchase property and abate the public nuisances on the property by demolishing it. The City has prepared an agreement with the FMIT regarding the Best Motel to outline the abatement and clean up of the motel.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Needles, California hereby approves an agreement with the Fort Mojave Indian Tribe for the clean up and abatement of the public nuisance property located at 1900 Needles Highway, also known as Assessor's Parcel Number 0185-043-05-0000 or the "Best Motel" and authorizes the Mayor to sign said Agreement on behalf of the City of Needles.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 11 day of July, 2023 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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, Mayor

ATTEST:

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Dale Jones, City Clerk

APPROVED AS TO FORM:

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John O. Pinkney, City Attorney

## AGREEMENT

This Agreement is entered into effective as of June \_\_\_\_, 2023 (the "Effective Date"), by and between the City of Needles ("City") and Fort Mojave Indian Tribe ("Tribe"), to facilitate the abatement of the public nuisances on certain real property within boundaries of the City. Together the Tribe and the City shall be referred to as the "Parties".

## RECITALS

A. Recently, the Tribe has entered into an agreement to purchase property located at 1900 Needles Highway, City of Needles, County of San Bernardino, State of California, identified by Assessor's Parcel Number 0185-043-05-0000 (the "Property").

B. The property is currently owned by Needles Property LLC, a California limited liability company ("NPLLC"), pursuant to a quitclaim deed, recorded on July 17, 2021, as document # 2021-0318267 in the official records of the Assessor-Recorder-County Clerk of the County of San Bernardino.

C. After the Property was designated a nuisance by the City, the City filed a Petition for the Appointment of a Receiver ("Petition") pursuant to Health and Safety Code section 17980.7 in the Superior Court of the County of San Bernardino, Case No. CIVSB2218469.

D. The City has assessed fines against the Property in the amount of \$834,200.00 (the "Fines") and has incurred out of pockets costs in attempting to abate the public nuisances on the Property in the amount of \$35,603.74 ("Expenses").

E. The Tribe desires to purchase the Property and then abate the public nuisances on the Property.

F. The City is willing to (i) dismiss the Petition; (ii) forgo and forgive the Fines; and (iii) collect the Expenses from the Tribe prior to or at the time escrow closes (the Expenses may also be referred to as "Settlement Amount"), provided the Property is cleaned up and the nuisances abated, and the Settlement Amount is paid to the City as described herein.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein the parties agree as follows:

1. The Parties agree the recitals above are true and correct.
2. By this Agreement, the City agrees to dismiss the Petition without prejudice and forego and forgive the fines that exceed the Settlement Amount and shall remove any and all liens on the Property related to the Fines on the condition that the Tribe (1) cleans up the Property in accordance with Attachment A attached hereto and incorporated herein by this reference, and (2) the Settlement Amount in the sum of **\$35,603.74** is paid to the City prior to or at the time escrow closes. The City shall dismiss the Petition without prejudice and forego and forgive the fines that exceed the Settlement Amount and shall remove any and all liens on the Property related to the Fines as set forth in paragraph 6 below.
3. By this Agreement, the Tribe agrees that upon the Tribe's obtaining title to the Property, the Tribe shall abate the public nuisances on the Property in accordance with applicable Municipal Codes and regulations, and in accordance with Attachment A attached hereto. The

City shall be the entity responsible for determining whether the abatement of the public nuisances comply with the applicable city codes and regulations.

4. Upon completion of the abatement of the Property, the Tribe shall provide notice to the City that the abatement has been completed (the "Completion Notice"). The City shall have fifteen (15) days from the date of the Completion Notice to conduct an inspection of the Property. If the abatement is acceptable to the City then the City shall provide the Tribe notice of the City's approval ("Approval Notice") within fifteen (15) days of the inspection. If additional reasonable, remedial measures are required to conform to the requirements of Attachment A, as determined by the City, the City shall provide notice of such measures ("Remedial Notice") within fifteen (15) days of the inspection.

5. If the Tribe receives a Remedial Notice it shall complete the items set forth in the Remedial Notice then it shall issue a new Completion Notice to the City and the Parties shall proceed in a similar manner provided for in paragraph 4 above.

6. Upon issuing the Approval Notice, provided the Settlement Amount has been delivered to the City as required in this Agreement, the City shall dismiss the Petition and release the Tribe and any prior owners of the Property from any and all liability for the Fines. In addition, the City shall remove any and all liens on the Property that relate to the Fines within thirty (30) days from date of the Approval Notice.

7. In the event that the Tribe breaches this agreement, the Tribe agrees to waive sovereign immunity for the purpose of the Petition action, enforcement of this Agreement, and collection of the Settlement Amount, including but not limited to actions in San Bernardino County Superior Court, Federal County and/or arbitration as provided for in paragraph 12.

8. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and the Tribe. Notice shall be effective on the date delivered in person, or the date when postal authorities indicate that the mailing was delivered to the address of the receiving party indicated below:

To City:

City of Needles  
Attn: City Manager  
817 3<sup>rd</sup> Street  
Needles, CA 92363

To Tribe:

Fort Mojave Tribe  
Attn: Chairman  
500 Merriman Avenue  
Needles, CA 92363

9. If any action is brought by either party in respect to its rights under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs as determined by the court.

10. This Agreement shall become effective on upon signature by both parties. However, the completion of the sale of the Property to the Tribe shall act as a condition precedent to either party having an obligation to perform any part of this Agreement.

11. This Agreement may be amended only by written mutual consent signed by both parties.

12. Governing Law Arbitration and Waiver of Sovereign Immunity. This Agreement shall be governed exclusively by the provisions hereof and by the laws of the United States, and if there is no applicable federal law, then the applicable law of California. The Tribe hereby waives its tribal sovereign immunity from proceedings in arbitration, but only as described and limited herein. Either party may file a demand for arbitration with JAMS for binding arbitration of any claim for the breach of this Agreement according to its rules for commercial disputes. Unless the Parties agree otherwise, the arbitration will be before a single arbitrator who shall be a retired state court or federal court judge. Discovery will be allowed consistent with the Federal Rules of Civil Procedure. The arbitrator will control any discovery and the general conduct of the arbitration in accordance with the above rules of JAMS. The arbitrator shall award reasonable attorney's fees to the prevailing party.

City Representative's Initials: \_\_\_\_\_

Tribe's Representative's Initials: TW

THIS AGREEMENT SHALL NOT BE EFFECTIVE UNTIL APPROVED BY THE VOTE OF CITY OF NEEDLES CITY COUNCIL AT DULY CONVENED REGULAR MEETING AND EXECUTED BY A DULY AUTHORIZED REPRESENTATIVE OF THE CITY.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**CITY OF NEEDLES**

A municipal corporation and charter city

By: \_\_\_\_\_  
Janet Jemigan, Mayor

**FORT MOJAVE INDIAN TRIBE**

By: TW  
Timothy Williams, Chairman

**ATTEST:**

By: \_\_\_\_\_  
Dale Jones, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
John O. Pinkney, City Attorney

**CITY OF NEEDLES  
AGREEMENT  
(FORT MOJAVE INDIAN TRIBE)**

Attachment A  
ABATEMENT PLAN

Clean-Up Schedule  
1900 Needles Highway, Needles, CA

Abatement Activities: The work of Contractor, retained by the Fort Mojave Indian Tribe ("Tribe"), property owner, shall be performed on behalf of the Tribe.

1. Contractor will give 10-day notification to Mohave Air Quality Management District (MAQMD). Demolition work may require a permit from MAQMD in addition to the City of Needles ("City") Demolition Permit.
2. Contractor shall provide Demolition Site plans to City to obtain demolition permit(s).
3. Tribe to have all utilities such as gas, electric, cable, water etc., abandoned at the street. Contractor will notify Underground Service Alert prior to start of demolition. City Inspector shall inspect these disconnects prior to further work being started.
4. Contractor will demolish all structures and remove all debris within the property lines.
5. Contractor shall perform abatement of 200 square feet of asbestos containing floor tile in Room 43, and 50 square feet of roof penetration mastic. Contractor shall provide receipt for proper disposal of hazardous materials to City prior to final inspection and permit closeout.
6. Contractor shall provide men, machinery and dump fees to complete the job in professional and workmanlike manner.
7. All salvage rights are Contractor's as acknowledged by Tribe.
8. All hidden obstacles are excluded but may be added in a change order.
9. Contractor shall cap sewer connection as directed by City.
10. Contractor shall leave site clean. All structure concrete slabs/surfacing material to remain in place.
11. Contractor is not responsible for any hazardous waste handling or disposal as acknowledged by Tribe. Contractor and Tribe represent that hazardous waste may be handled as a cost plus item.
12. All perimeter fencing/walls shall remain in place if possible.
13. Contractor and Tribe represent that the bid, dated \_\_\_\_\_, for the abatement activities is valid for thirty (30) calendar days.
14. Contractor and Tribe represent that no bonds, permits, SWPP, testing, staking, basements, temporary fencing, traffic control, street sweepers, bees, temporary supports, no rattle plates, trench plates, subterranean engineering or any other fees not previously stated included in bid. Price is based on the uses of Contractor's trucking firms and our discretion of recycling and dumps facility to be used. Disposal facilities must be certified to accept the type of waste to be disposed.



15. Fully executed contract between Contractor and Tribe is required before project to begin.
16. Contractor and Tribe represent that payment in full is due upon completion. Past due amounts are subject to an 18% per year or 1.5% per month payable monthly to Contractor.

Schedule for Completion:

The Abatement Plan as set forth above in this Attachment A shall be completed by December 31, 2023.