

**SUBMITTAL TO THE FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 11.1  
(ID # 17620)

**MEETING DATE:**

Tuesday, March 01, 2022

**FROM :** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of the Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Lake Elsinore for the City of Lake Elsinore MS 195 Drainage Improvement – Summerhill Drive Storm Drain Line A, Stage 1, Project No. 3-0-00195-01, Nothing Further is Required Under CEQA, District 1. [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the Cooperative Agreement will not have a significant adverse effect on the environment and that any potentially significant environmental effects have been analyzed in a Subsequent Environmental Impact Report (SCH# 2004071082) certified by the Lead Agency (City of Lake Elsinore);
2. Approve the Cooperative Agreement (Agreement) between the Riverside County Flood Control and Water Conservation District (District) and the City of Lake Elsinore (City);
3. Authorize the Chair of the District's Board of Supervisors to execute the Agreement documents on behalf of the District;
4. Authorize the District's General Manager-Chief Engineer or designee to take all necessary steps to implement the Agreement, including, but not limited to, negotiating, approving and executing any non-substantive amendments, subject to approval as to form by County Counsel; and
5. Direct the Clerk of the Board to return three (3) copies of the executed Agreement to the District.

**ACTION:Policy**

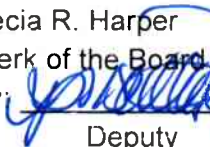
  
Jason Uhley, GENERAL MGR CHIEF FLD CNTRL ENG 2/10/2022

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Washington, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: March 1, 2022  
xc: Flood

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> The City is funding 100% construction costs and 3% of the construction inspection costs.			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> N/A	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The Cooperative Agreement (Agreement) sets forth the terms and conditions by which a certain flood control facility, City of Lake Elsinore MS 195 Drainage Improvement – Summerhill Drive Storm Drain Line A, Stage 1 (Project), is to be constructed, inspected and maintained in the interim by the City, until such time the remaining upstream and downstream drainage facilities connecting to the Project will be constructed by Tract Map No. 31370 development (Future Drainage Facilities) to convey flows to the Project and adequately drain the Project to Lake Elsinore. The City is constructing this Project as part of the City's Summerhill Drive Road Extension Project.

Upon completion of construction of Future Drainage Facilities pursuant to a separate agreement, the District will assume ownership and responsibility for the operation and maintenance of the Project and the regional mainline portion of Future Drainage Facilities. The City will assume ownership and responsibility for the operation and maintenance for the Project in the interim and the Project's associated catch basins, inlets and lateral storm drains that are thirty-six inches (36") or less in diameter that may need to be constructed to adequately collect and convey flows within the City's jurisdiction or rights of way. Additionally, the City will maintain an underground reinforced concrete box culvert under Summerhill Extension Project and its associated inlet, outlet and safety devices.

County Counsel has approved the Agreement as to legal form, and the City has executed the Agreement.

**Environmental Findings**

Pursuant to Section 15096 of the State CEQA Guidelines, Making Responsible Agency Findings, the District has considered the Subsequent Environmental Impact Report (SCH #2004071082) prepared for the Tuscany Hills North Project. The District, in its limited capacity as a Responsible Agency, finds that the ownership and responsibility for the operation and maintenance of the Future Drainage Facilities as described in the Agreement are adequately addressed by the Subsequent Environmental Impact Report (SCH #2004071082). The terms of

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ownership, operation and maintenance between the City and District as described in this Agreement will not have a significant impact on the environment. Therefore, no further analysis is required under CEQA.

**Impact on Residents and Businesses**

As noted above, construction of these drainage improvements is part of the City's Summerhill Drive Road Extension Project. The principal beneficiaries are the public who will utilize the extended portion of Summerhill Drive.

**Additional Fiscal Information**

The City is funding all construction and 3% of the construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facilities will accrue to the District.

**ATTACHMENTS:**

1. Vicinity Map
2. Cooperative Funding Agreement

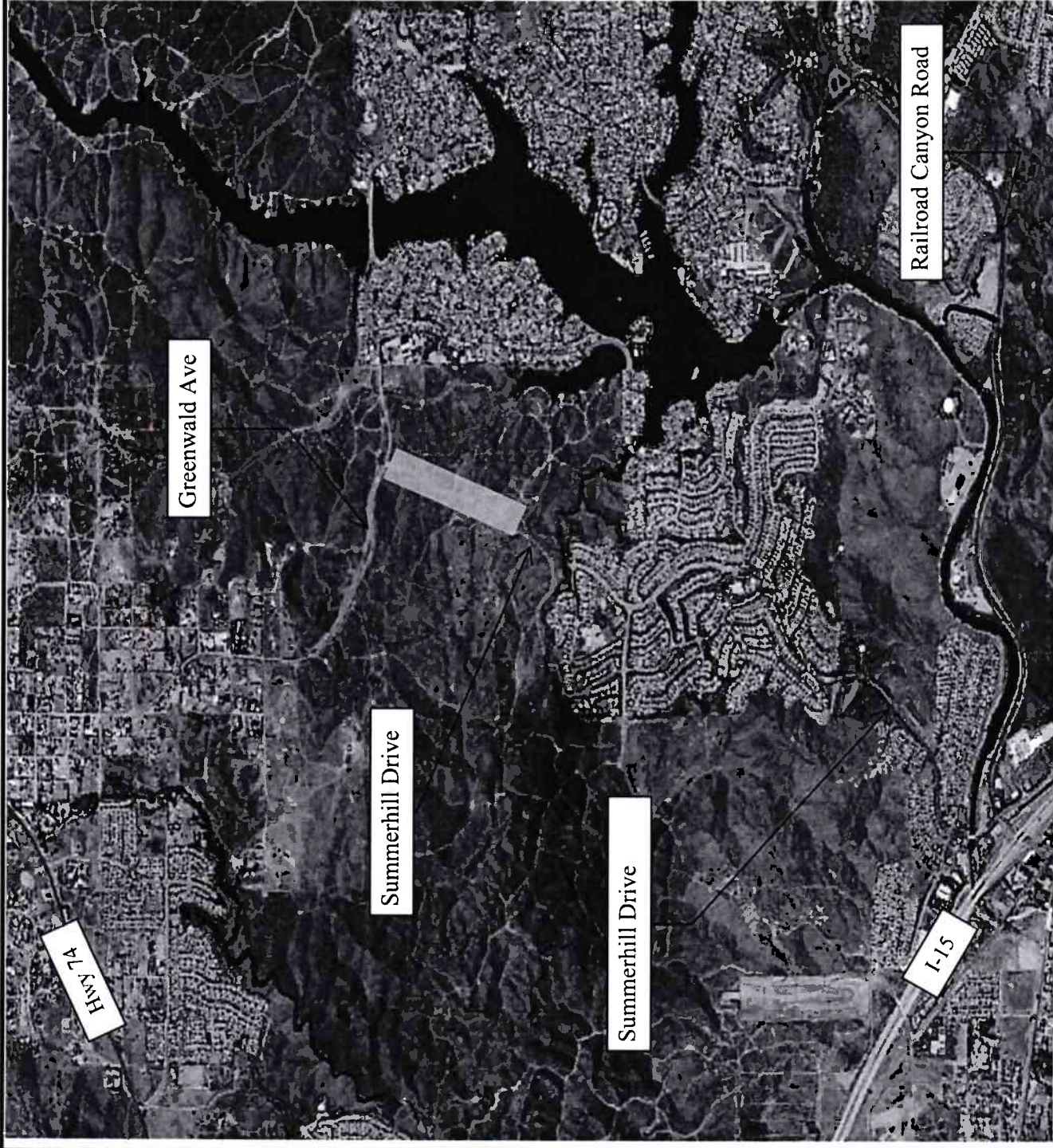
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Jason Farin, Principal Management Analyst 2/22/2022

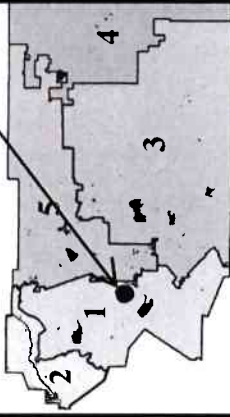


Gregory V. Priamos, Director County Counsel 2/10/2022



VICINITY MAP

Project Location



Supervisor District (1)

LEGEND:

Project Site

Supervisor District 1

Project:

City of Lake Elsinore MS 195  
 Drainage Improvement -  
 Summerhill Drive Storm Drain  
 Line A - Stage 1  
 Project No. 3-0-00195-01  
 Miscellaneous No. 195



Attachment 1

COOPERATIVE AGREEMENT

City of Lake Elsinore MS 195 Drainage Improvement –  
Summerhill Drive Storm Drain Line A - Stage 1  
Project No. 3-0-00195-01  
Miscellaneous No. 195

This Cooperative Agreement ("AGREEMENT"), dated as of March 1  
2022, ~~2021~~, is entered into by and between the Riverside County Flood Control and  
Water Conservation District, a body politic ("DISTRICT"), and the City of Lake Elsinore, a  
California municipal corporation ("CITY"). DISTRICT and CITY are collectively referred to  
herein as "Parties" and individually as "Party". The Parties hereto agree as follows:

RECITALS

A. DISTRICT and CITY wish to work collaboratively to expedite the  
construction of City of Lake Elsinore MS 195 Drainage Improvement - Summerhill Drive Storm  
Drain Line A - Stage 1. Upon construction completion, City of Lake Elsinore MS 195 Drainage  
Improvement - Summerhill Drive Storm Drain Line A - Stage 1 will provide necessary flood  
control and drainage improvements to alleviate flooding to the surrounding communities within  
CITY; and

B. City of Lake Elsinore MS 195 Drainage Improvement - Summerhill Drive  
Storm Drain Line A - Stage 1, as identified in DISTRICT's Drawing No. 3-0220, includes the  
construction of approximately 1,700 lineal feet of underground reinforced concrete box, as  
shown in concept in blue on Exhibit "A", attached hereto and made a part hereof, and is  
hereinafter called "SUMMERHILL LINE A – STAGE 1". SUMMERHILL LINE A – STAGE  
1 is part of the Summerhill Drive Road Extension Project ("Summerhill Extension Project") and  
will also serve the future development in CITY. CITY has proposed to install SUMMERHILL  
LINE A – STAGE 1 with the Summerhill Extension Project to prevent future road removals and  
repairs.

C. All safety devices requested by DISTRICT staff during the course of project construction and during any final field inspections, including, but not limited to, manhole shaft safety ledge, access ramp, signage, and fencing ("SAFETY DEVICES"), shall be purchased and installed by CITY's Contractor, and subject to DISTRICT's inspection and approval. Together, SUMMERHILL LINE A – STAGE 1 and SAFETY DEVICES are hereinafter called "FUTURE DISTRICT FACILITIES".

D. SUMMERHILL LINE A – STAGE 1 will terminate with a concrete bulkhead at both ends and will not fully function as a flood control drainage system until such time the remaining drainage facilities are constructed to: (i) collect and convey flows into SUMMERHILL LINE A – STAGE 1 ("Future Upstream Line A"), and (ii) drain into Canyon Lake ("Future Downstream Line A") by Tract Map No. 31370 development ("TR 31370"). Together, Future Upstream Line A and Future Downstream Line A are hereinafter called "Future Line A Facilities".

E. All Parties recognize and acknowledge that Future Line A Facilities shall be constructed by TR 31370 pursuant to a separate cooperative agreement ("Separate Agreement"). The Separate Agreement will be prepared when CITY initiates or causes to initiate the design of Future Line A Facilities. The Separate Agreement will identify the terms that DISTRICT will require to accept Future Line A Facilities for operation and maintenance.

F. Associated with the construction of FUTURE DISTRICT FACILITIES is the construction of (i) an underground reinforced concrete box culvert under Summerhill Extension Project and its associated inlet, outlet, and safety devices, and (ii) minor lateral storm drains that are thirty-six inches (36") or less in diameter and street inlets located within CITY rights of way, hereinafter called "CITY APPURTENANCES"; and

G. Together, FUTURE DISTRICT FACILITIES and CITY APPURTENANCES are hereinafter called "PROJECT"; and

H. DISTRICT shall not accept FUTURE DISTRICT FACILITIES for ownership, operation and maintenance until Future Line A Facilities are (i) constructed in accordance with DISTRICT standards pursuant to the Separate Agreement and (ii) accepted by DISTRICT for ownership, operation and maintenance.

I. DISTRICT desires CITY to accept ownership and responsibility for the operation and maintenance of FUTURE DISTRICT FACILITIES on an interim basis until Future Line A Facilities are accepted by DISTRICT for ownership, operation and maintenance.

J. CITY is willing to accept ownership and responsibility for the maintenance of CITY's APPURTENANCES and FUTURE DISTRICT FACILITIES on an interim basis as set forth herein, with the recognition and understanding that DISTRICT acceptance of FUTURE DISTRICT FACILITIES for ownership, operation and maintenance responsibilities by DISTRICT is entirely dependent upon: (i) the completion of construction of Future Line A Facilities pursuant to Separate Agreement; (ii) DISTRICT acceptance of ownership and responsibilities for the operation and maintenance of Future Line A Facilities pursuant to Separate Agreement; (iii) FUTURE DISTRICT FACILITIES being constructed in accordance with plans and specifications approved by DISTRICT and as set forth herein; (iv) DISTRICT's sole determination that FUTURE DISTRICT FACILITIES are in a satisfactorily maintained condition; and (v) FUTURE DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT. Therefore, DISTRICT must (a) review and approve CITY's plans and specifications for FUTURE DISTRICT FACILITIES and subsequently inspect the construction of FUTURE DISTRICT FACILITIES as set forth in this AGREEMENT, and (b) review and approve CITY's plans and specifications for Future Line A Facilities and subsequently inspect the construction of Future Line A Facilities pursuant to the Separate Agreement; and

K. DISTRICT and CITY wish to work collaboratively to expedite the construction of PROJECT and, therefore, desire to have one agency take a lead role in the development and implementation of PROJECT; and

L. CITY is willing to assume the lead role for PROJECT and, therefore, will provide the administrative, technical, managerial and support services necessary to plan, design and construct PROJECT; and

M. The purpose of this AGREEMENT is to memorialize the mutual understanding by and between DISTRICT and CITY with respect to the design, construction, inspection, ownership, operation and maintenance of PROJECT.

NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the Parties hereto mutually agree that the above recitals are true and correct and incorporated into the terms of this AGREEMENT and as follows:

#### SECTION I

CITY shall:

1. Pursuant to the California Environmental Quality Act ("CEQA"), act as Lead Agency and assume responsibility for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to the construction, operation and maintenance of PROJECT, and pay all costs associated therewith.

2. Endeavor to award a public works construction contract for FUTURE DISTRICT FACILITIES and begin construction within thirty-six (36) months of execution of this AGREEMENT.

3. Prepare or cause to be prepared the necessary plans and specifications for PROJECT, hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT (Attention: Plan Check) for its review, comment and approval prior to advertising PROJECT for construction bids. CITY shall



not permit any change to or modification of DISTRICT-approved and CITY-approved IMPROVEMENT PLANS without DISTRICT's prior written permission and consent.

4. Pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with the review of IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents, and with the processing and administration of this AGREEMENT.

5. Deposit with DISTRICT (Attention: Business Office - Accounts Receivable), and notify Contract Services Section, at the time of providing written notice to DISTRICT of the start of PROJECT construction as set forth in Section I.8., the estimated cost of providing construction inspection for FUTURE DISTRICT FACILITIES, a not to exceed amount of One Hundred Seventy Nine Thousand Nine Hundred Eighty Three (\$179,983), as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 of the County of Riverside, including any amendments thereto, based upon the bonded value of FUTURE DISTRICT FACILITIES.

6. Prior to commencing construction, secure all necessary permits, approvals or agreements required by any federal, state and local resource or regulatory agencies pertaining to PROJECT. Such documents may include, but are not limited to, a Section 404 permit issued by the U.S. Army Corps of Engineers, a Section 401 Water Quality Certification issued by the California Regional Water Quality Control Board (CRWQCB), a Streambed Alteration Agreement issued by the California Department of Fish and Wildlife, and a National Pollutant Discharge Elimination System Permit issued by the State Water Resources Control Board or CRWQCB and Western Riverside County Regional Conservation Authority ("REGULATORY PERMITS").

7. Ensure that REGULATORY PERMITS, including any subsequent renewal or amendments thereto, will not (i) unreasonably impede DISTRICT's ability to perform all necessary operation and maintenance activities for PROJECT as determined by DISTRICT, or (ii) include any stipulations that would result in additional mitigation obligations being placed upon DISTRICT for maintenance operations within FUTURE DISTRICT FACILITIES right of way.

8. Assume sole responsibility for compliance with the requirements of all REGULATORY PERMITS, including any amendments thereto, pertaining to the construction, operation and maintenance of PROJECT.

9. Prior to advertising PROJECT for public works construction contract, prepare all REGULATORY PERMIT applications, draft REGULATORY PERMITS and submit REGULATORY PERMITS to DISTRICT for review and approval prior to submitting any applications to the applicable regulatory agencies. Upon approval by DISTRICT of draft REGULATORY PERMITS, submit to and secure final REGULATORY PERMITS from applicable regulatory agencies. DISTRICT approval of IMPROVEMENT PLANS may be withheld when, in the sole judgment of DISTRICT's General Manager-Chief Engineer, the REGULATORY PERMITS unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain PROJECT.

10. Be responsible for any and all additional regulatory, mitigation and/or litigation costs, and/or mitigation measures to PROJECT resulting from this AGREEMENT and/or REGULATORY PERMITS.

11. Prior to advertising PROJECT for public works construction contract and at its sole cost and expense, prepare or cause to be prepared and obtain all necessary permits, licenses, agreements, approvals, rights of way, rights of entry and temporary construction easements as may be needed to inspect, construct, operate and maintain PROJECT ("ROW

DOCUMENTS"), and consult with DISTRICT regarding existing dedications, proposed legal description, plat maps, basemap and survey controls, including any requests for waivers and variances from DISTRICT policies.

12. Prior to advertising PROJECT for public works construction contract, consult with DISTRICT regarding ROW DOCUMENTS, if any, and provide DISTRICT an opportunity to review and make a determination on all ROW DOCUMENTS, including any existing dedications, proposed legal descriptions and plat maps, basemap and survey controls. DISTRICT approval of IMPROVEMENT PLANS may be withheld when, in the sole judgment of DISTRICT's General Manager-Chief Engineer, ROW DOCUMENTS unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain FUTURE DISTRICT FACILITIES.

13. At its sole cost and expense, advertise, award and administer a public works contract for PROJECT of the bids pursuant to the applicable provisions of the California Public Contract Code.

14. Provide DISTRICT with written notice (Attention: Plan Check Section) that CITY has awarded a public works construction contract for PROJECT.

15. Within thirty (30) days of awarding PROJECT construction contract, pay the Western Riverside County Regional Conservation Authority CITY's contribution percentage, which is CITY's portion of the mitigation fee per the 2004 Implementing Agreement for the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP").

16. Prior to commencing PROJECT construction, procure or cause to be procured insurance coverages during the term of this AGREEMENT. CITY shall require its PROJECT construction contractor(s) to furnish original certificate(s) of insurance and original certified copies of endorsements and, if requested, certified original policies of insurance including all endorsements and any and all other attachments. Prior to CITY issuing a Notice to Proceed to its construction contractor(s) to begin construction of PROJECT, an original

certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT. At minimum, the procured insurance coverages shall adhere to DISTRICT's required insurance provided in Exhibit "B", attached hereto and made a part hereof.

17. Prior to commencing PROJECT construction, schedule and conduct a mandatory pre-construction meeting between CITY, CITY's construction manager, CITY's construction contractor(s), DISTRICT and other affected entities. CITY shall notify DISTRICT (Attention: Construction Management Section) in writing of the mandatory pre-construction meeting at least twenty (20) days prior to conducting the pre-construction meeting.

18. At the time of providing written notice of the pre-construction meeting as set forth in Section I.17, furnish DISTRICT with written notice of intent to start construction and a construction schedule which shall show the order and dates in which CITY or CITY's contractor proposes to carry on the various parts of work, including estimated start and completion dates.

19. At the time of providing written notice of the pre-construction meeting as set forth in Section I.17, require its construction contractor(s) to furnish DISTRICT (Attention: Contract Management Section) with a confined space procedure specific to FUTURE DISTRICT FACILITIES. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations; Section 5157, Permit Required Confined Space; and District confined Space Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to conducting the final inspection.

20. Prior to commencing PROJECT construction, furnish DISTRICT with final mylar FUTURE DISTRICT FACILITIES plans and assign ownership of FUTURE DISTRICT FACILITIES plans to DISTRICT.

21. Construct or cause to be constructed PROJECT pursuant to a CITY administered public works contract in accordance with IMPROVEMENT PLANS approved by DISTRICT and CITY, and pay all costs associated therewith.

22. Require its construction contractor(s) to comply with all Cal/OSHA safety regulations, including regulations concerning confined space and maintain a safe working environment for all CITY or DISTRICT employees or contractors on the site.

23. Relocate or cause to be relocated, at its sole cost and expense, all conflicting CITY owned utilities. CITY shall also order the relocation of all other utilities installed by permit or franchise within CITY rights of way which conflict with the construction of FUTURE DISTRICT FACILITIES and which could be relocated at the utility company's expense.

24. Inspect or cause to be inspected, the PROJECT's construction, and pay all costs associated therewith.

25. Grant DISTRICT, by execution of this AGREEMENT, the right to enter upon property owned or controlled by CITY where necessary and convenient for the purpose of gaining access to and performing inspection service for FUTURE DISTRICT FACILITIES and operation and maintenance of FUTURE DISTRICT FACILITIES.

26. Not permit any change to or modification of DISTRICT and CITY approved IMPROVEMENT PLANS that would result in a change of functionality or maintainability of FUTURE DISTRICT FACILITIES without DISTRICT's prior written permission and consent. Failure to do so shall be deemed a material breach of this AGREEMENT and shall authorize and constitute authority for DISTRICT, at its sole discretion, to provide written notice to CITY that DISTRICT is unable to: a) perform its obligations under AGREEMENT, and b) to accept responsibility for ownership, operation and maintenance of FUTURE DISTRICT FACILITIES due, either in whole or in part, to said breach of this AGREEMENT.

27. Within two (2) weeks of completion of PROJECT construction, provide DISTRICT with written notice (Attention: Construction Management Section) that PROJECT

construction is substantially complete and request that DISTRICT conduct a final inspection of FUTURE DISTRICT FACILITIES.

28. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY's Notice of Completion.

29. Upon completion of PROJECT construction, accept ownership operation and maintenance of PROJECT.

30. Upon completion of PROJECT construction, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT (Attention: Construction Management Section) with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer, (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record and (iii) a redlined "record drawings" copy of PROJECT plans. After DISTRICT approval of the redlined "record drawings", CITY's engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT's original mylars at DISTRICT's office; after which, the engineer shall review, stamp and sign the original IMPROVEMENT PLANS as "record drawings".

31. Accept ownership and sole responsibility for the operation and maintenance of PROJECT to include the (i) structural integrity and (ii) maintenance of any defects to FUTURE DISTRICT FACILITIES until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of FUTURE DISTRICT FACILITIES as set forth in Section II.7. CITY shall continue to accept ownership and sole responsibility for the operation and maintenance of FUTURE DISTRICT FACILITIES on an interim basis until Future Line A Facilities are accepted by DISTRICT for ownership, operation and maintenance. CITY shall remedy any defects within FUTURE DISTRICT FACILITIES determined by DISTRICT prior to DISTRICT's acceptance of FUTURE DISTRICT FACILITIES.

32. Upon completion of PROJECT but prior to DISTRICT's acceptance of FUTURE DISTRICT FACILITIES as set forth in Section II.7, convey or cause to be conveyed to DISTRICT all rights of way and easements deemed necessary by DISTRICT for the operation and maintenance of FUTURE DISTRICT FACILITIES. DISTRICT's interest in said property shall be free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded) and accept those which, in the sole discretion of DISTRICT, are acceptable. All rights of way and easements shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the rights of way and easements.

## SECTION II

DISTRICT shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA for FUTURE DISTRICT FACILITIES.
2. Review, comment and approve IMPROVEMENT PLANS in accordance with the applicable DISTRICT and CITY standards prior to advertising FUTURE DISTRICT FACILITIES for construction bids.
3. Review, comment and make a determination on, as appropriate, all necessary REGULATORY PERMITS and permit applications pursuant to Section 1.6. REGULATORY PERMITS shall not unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain FUTURE DISTRICT FACILITIES. DISTRICT may withhold approval of IMPROVEMENT PLANS when, in the sole judgment of DISTRICT's General Manager-Chief Engineer, REGULATORY PERMITS unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain FUTURE DISTRICT FACILITIES.
4. Review, comment on and approve, as appropriate, all ROW DOCUMENTS necessary for the construction and operation and maintenance of FUTURE DISTRICT

FACILITIES as set forth in Section I.12. DISTRICT may withhold approval of IMPROVEMENT PLANS when, in the sole judgment of DISTRICT's General Manager-Chief Engineer, ROW DOCUMENTS unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain FUTURE DISTRICT FACILITIES.

5. Conduct inspections of FUTURE DISTRICT FACILITIES construction for quality control purposes and provide any comments to CITY's designated FUTURE DISTRICT FACILITIES construction inspector.

6. Upon receipt of CITY's written notice that PROJECT construction is substantially complete as set forth in Section I.27, conduct a final inspection of FUTURE DISTRICT FACILITIES.

7. Accept ownership and responsibility for the operation and maintenance of FUTURE DISTRICT FACILITIES upon (i) the completion of Future Line A Facilities construction pursuant to Separate Agreement, (ii) DISTRICT's final inspection of FUTURE DISTRICT FACILITIES in accordance with Section I.27 and subsequent inspections of FUTURE DISTRICT FACILITIES upon completion of Future Line A Facilities construction pursuant to Separate Agreement, (ii) DISTRICT acceptance of FUTURE DISTRICT FACILITIES as being complete, (iii) DISTRICT receipt of CITY's recorded Notice of Completion as set forth in Section I.28, (iv) DISTRICT receipt of appropriate engineering documentation as set forth in Section I.30, (v) DISTRICT receipt of stamped and signed "record drawing" of FUTURE DISTRICT FACILITIES plans as set forth in Section I.30, (vi) DISTRICT's receipt of conveyance to DISTRICT all RIGHTS OF WAY and easements deemed necessary by DISTRICT for the operation and maintenance of FUTURE DISTRICT FACILITIES as set forth in Section I.32, (vii) DISTRICT's acceptance of all necessary rights of way and/or easements as set forth in Section I.32, and (viii) DISTRICT's sole determination that FUTURE DISTRICT FACILITIES is in a satisfactorily maintained condition, including but not



limited to: the structural integrity and the compaction surrounding FUTURE DISTRICT FACILITIES, as determined at the time of subsequent inspections of FUTURE DISTRICT FACILITIES upon completion of Future Line A Facilities construction pursuant to Separate Agreement.

### SECTION III

It is further mutually agreed:

1. In the event CITY's construction contractor does not complete the construction of FUTURE DISTRICT FACILITIES in accordance with DISTRICT standards, CITY shall complete FUTURE DISTRICT FACILITIES utilizing the bonds and insurances secured for FUTURE DISTRICT FACILITIES.

2. All work involved with FUTURE DISTRICT FACILITIES shall be inspected by DISTRICT and CITY and shall not be deemed complete until DISTRICT and CITY mutually agree in writing that construction is completed in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS. CITY shall not request DISTRICT to accept any portion of FUTURE DISTRICT FACILITIES for ownership, operation or maintenance until FUTURE DISTRICT FACILITIES and Future Line A Facilities construction is deemed fully complete and all necessary easements, rights of way or grant deeds have been conveyed as set forth herein.

3. DISTRICT personnel may observe and inspect all work being done on FUTURE DISTRICT FACILITIES but shall provide any comments to CITY personnel or its construction manager who shall be solely responsible for all communications with CITY's construction contractor(s).

4. DISTRICT, the County of Riverside, the State of California or any of their duly authorized representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this AGREEMENT. CITY agrees to

maintain such records for possible audit for a minimum of three (3) years after final payment. CITY agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

5. CITY shall indemnify, defend and hold harmless and require its construction contractor(s) to indemnify, defend and hold harmless DISTRICT, County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, based or asserted upon any acts, omissions or services of CITY or CITY's construction contractor(s), its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this AGREEMENT, including, but not limited to, property damage, bodily injury or death, or any other element of any kind or nature whatsoever arising from the performance of CITY or CITY's construction contractor(s), its officers, employees, subcontractors, agents or representatives ("Indemnitors") from this AGREEMENT. CITY or CITY's construction contractor(s) shall defend, at its sole expense, all costs and fees, including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

6. With respect to any action or claim subject to indemnification herein by CITY or CITY's construction contractor(s), CITY or CITY's construction contractor(s) shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle or compromise any such action or claim without the prior consent of DISTRICT and the County of Riverside, provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CITY or CITY's construction contractor(s) indemnification to Indemnitees as set forth herein.

7. CITY or CITY's construction contractor(s) obligation hereunder shall be satisfied when CITY or CITY's construction contractor(s) has provided to DISTRICT and the County of Riverside the appropriate form of dismissal relieving DISTRICT and the County of Riverside from any liability for the action or claim involved.

8. The specified insurance limits required in this AGREEMENT shall in no way limit or circumscribe CITY's construction contractor(s) obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

9. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve CITY's construction contractor(s) from indemnifying the Indemnitees to the fullest extent allowed by law.

10. This AGREEMENT is to be construed in accordance with the laws of the State of California. Any action at law or in equity brought by any of the Parties hereto for the purpose of enforcing a right or rights provided for by AGREEMENT shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the Parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

11. If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

12. The obligation(s) of DISTRICT to operate and maintain FUTURE DISTRICT FACILITIES are limited by and contingent upon (i) CITY fulfilling the roles and responsibilities established by this AGREEMENT, and (ii) the completion of the Future Line A Facilities in accordance with Recital H. This AGREEMENT shall be deemed immediately terminated and have no further force and effect upon the determination by DISTRICT that (i)

CITY has not fulfilled their roles and responsibilities established by this AGREEMENT, and (ii) the Future Line A Facilities are not completed in accordance with Recital H.

13. Neither CITY nor DISTRICT shall assign this AGREEMENT without the written consent of the other Party. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

14. This AGREEMENT is made and entered into for the sole protection and benefit of the Parties hereto. No other person or entity shall have any right of action based upon the provisions of this AGREEMENT. Nothing in the provisions of this AGREEMENT is intended to create duties or obligations to or rights in third parties not Parties to this AGREEMENT.

15. Any and all notices sent or required to be sent to the Parties of this AGREEMENT will be mailed by first class mail, postage prepaid, to the following addresses:

RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Attn: Special Project Section

CITY OF LAKE ELSINORE  
130 South Main Street  
Lake Elsinore, CA 92530  
Attn: Remon Habib

16. This AGREEMENT is the result of negotiations between the Parties hereto and the advice and assistance of their respective counsel. The fact that this AGREEMENT was prepared as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty or ambiguity in this AGREEMENT shall not be construed against DISTRICT because DISTRICT prepared this AGREEMENT in its final form.

17. Any waiver by DISTRICT or CITY of any breach by any other Party of any provision of this AGREEMENT shall not be construed to be a waiver of any subsequent or other breach of the same or any other provision hereof. Failure on the part of DISTRICT or CITY to require from any other Party exact, full and complete compliance with any of the provisions of

this AGREEMENT shall not be construed as in any manner changing the terms hereof or estopping DISTRICT or CITY from enforcing this AGREEMENT.

18. This AGREEMENT is intended by the Parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This AGREEMENT may be changed or modified only upon the written consent of the Parties hereto.

19. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Each Party of this AGREEMENT agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this AGREEMENT. The Parties further agree that the electronic signatures of the Parties included in this AGREEMENT are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from time to time. CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

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IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT on

March 1, 2022  
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

By   
JASON E. UHLEY  
General Manager-Chief Engineer

By   
KAREN SPIEGEL, Chair  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors


APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER  
Clerk of the Board

By   
KATHRYN E. ROMO  
Deputy County Counsel


By   
Deputy

(SEAL)

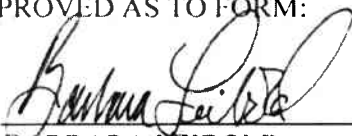
Cooperative Funding Agreement: City of Lake Elsinore  
City of Lake Elsinore MS 195 Drainage Improvement –  
Summerhill Drive Storm Drain Line A - Stage 1  
Project No. 3-0-00195-01  
Miscellaneous No. 195  
11/03/21  
AK:blm

RECOMMENDED FOR APPROVAL:

CITY OF LAKE ELSINORE

By   
JASON SIMPSON  
City Manager

APPROVED AS TO FORM:

By   
BARBARA LEIBOLD  
City Attorney

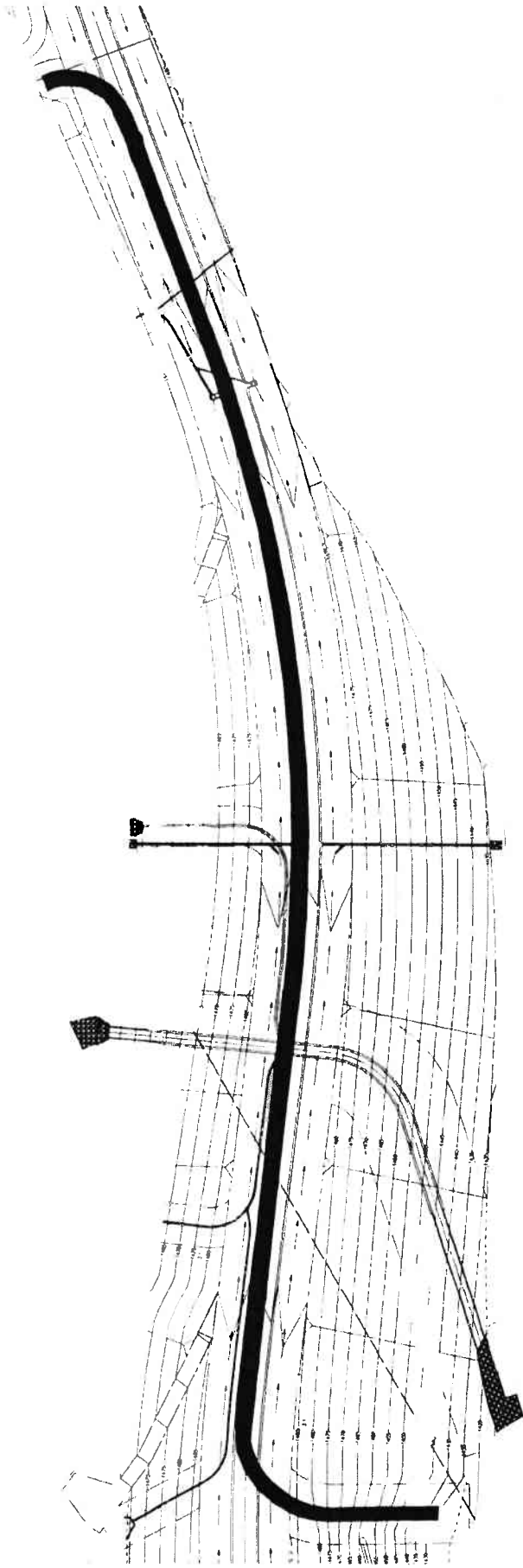
ATTEST:

By   
CANDICE ALVAREZ  
City Clerk

(SEAL)

Cooperative Funding Agreement: City of Lake Elsinore  
City of Lake Elsinore MS 195 Drainage Improvement –  
Summerhill Drive Storm Drain Line A - Stage 1  
Project No. 3-0-00195-01  
Miscellaneous No. 195  
11/03/21  
AK:blm

EXHIBIT "A"



COOPERATIVE AGREEMENT  
CITY OF LAKE ELSINORE MS 195 DRAINAGE IMPROVEMENT -  
SUMMERHILL DRIVE STORM DRAIN LINE A - STAGE 1  
PROJECT NO.: 3-0-00195-01



## EXHIBIT "B"

### DISTRICT's Insurance Requirements is as follows:

Without limiting or diminishing CITY's obligation to indemnify or hold DISTRICT harmless, CITY shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the DISTRICT herein refers to the Riverside County Flood Control and Water Conservation District, the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

A. Workers' Compensation:

If CITY has employees as defined by the State of California, CITY shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of DISTRICT.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CITY's performance of its obligations hereunder. Policy shall name the DISTRICT as Additional Insured. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CITY shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name the DISTRICT as Additional Insureds.

D. Professional Liability:

CITY shall cause any architect or engineer retained by CITY in connection with the performance of CITY's obligations under this Agreement to maintain Professional Liability Insurance providing coverage for the performance of their work included within this Agreement, with a limit of liability of not less than \$2,000,000 per occurrence and \$4,000,000 annual aggregate. CITY shall require that, if such Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of

## EXHIBIT "B"

this Agreement and that such architect or engineer shall purchase at such architect or engineer's sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that such architect or engineer has maintained continuous coverage with the same or original insurer. Coverage provided under items: 1), 2) or 3) shall continue for the term specified in the insurance policy as long as the law allows.

E. General Insurance Provisions – All Lines:

- a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the DISTRICT Risk Manager. If the DISTRICT's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- b. The CITY must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the DISTRICT Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to the DISTRICT, and at the election of the DISTRICT's Risk Manager, CITY's carriers shall either: 1) reduce or eliminate such self-insured retention with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- c. CITY shall cause their insurance carrier(s) or its contractor's insurance carrier(s), to furnish DISTRICT with 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by the DISTRICT Risk Manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If CITY insurance carrier(s) policies does not meet the minimum notice requirement found herein, CITY shall cause CITY's insurance carrier(s) to furnish a 30-day Notice of Cancellation Endorsement.

## EXHIBIT "B"

- d. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing coverages set forth herein and the insurance required herein is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.
- e. It is understood and agreed by the parties hereto that CITY's insurance shall be construed as primary insurance, and DISTRICT's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- f. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverages currently required herein, if, in the DISTRICT Risk Manager's reasonable judgment, the amount or type of insurance carried by CITY has become inadequate.
- g. CITY shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- h. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- i. CITY agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.