

FUNDING/COOPERATIVE AGREEMENT

Corona MDP Line 5, Stage 1
Project No. 2-0-00280
Miscellaneous No. 215

This Funding/Cooperative Agreement ("Agreement"), dated as of _____, is entered into by the Riverside County Flood Control and Water Conservation District, a body corporate and politic ("DISTRICT"), and the City of Corona, a 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 has budgeted for and CITY has plans to design and construct Corona MDP Line 5, Stage 1 ("LINE 5 STAGE 1") to provide flood protection to businesses along Railroad Street and Sherman Avenue; and

B. LINE 5 STAGE 1, as shown in concept in blue on Exhibit "A" attached hereto and made a part hereof, and as shown on DISTRICT Drawing No. 2-0507, includes approximately 2,400-foot underground storm drain ranging in pipe diameter from 30-inches to 54-inches, to collect runoff on Sherman Avenue, south of Railroad Street and extend westerly in Railroad Street to Smith Avenue, discharging into an existing CITY owned storm drain; and

C. Associated with the construction of LINE 5 STAGE 1 are certain inlets, connector pipes and storm drains that are thirty-six inches (36") or less in diameter within CITY rights of way, hereinafter called ("APPURTENANCES"); and

D. LINE 5 STAGE 1 and APPURTENANCES are hereinafter called ("PROJECT"); and

E. 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

F. CITY desires that DISTRICT include certain unavoidable utility relocations as part of the DISTRICT's financial contribution to construct PROJECT. ("UTILITY RELOCATIONS") is defined as the unavoidable relocation of utilities not owned by CITY that (a) conflict with the construction of PROJECT; and (b) cannot be relocated by others under CITY's franchise authority. These certain unavoidable UTILITY RELOCATIONS shall be included in the public works construction contract for PROJECT; and

G. Due to the Parties' mutual interest in PROJECT, DISTRICT wishes to support CITY's efforts by providing a financial contribution to implement PROJECT; and

H. DISTRICT is willing to provide a financial contribution towards PROJECT and shall be as follows, subject to the not to exceed amount provided in Recital I below:

- i. One hundred percent (100%) of costs associated with engineering design, hydrology and hydraulics, geo-technical analysis and potholing required to complete the design of PROJECT; California Environmental Quality Act ("CEQA") determination; preparation, application, and acquisition of the environmental clearance and permits if required for PROJECT; and other typical ancillary costs related to the preparation of improvement plans ("DESIGN CONTRIBUTION"). However, DESIGN CONTRIBUTION shall not include the fees associated with the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"); and
- ii. In the event that CITY chooses to hire an engineering consulting firm to prepare IMPROVEMENT PLANS (defined in Section I.4.), DISTRICT is also willing to contribute an additional ten percent (10%) of design proposal cost to offset CITY's administrative costs

associated with design contract administration ("DESIGN ADMIN"); and

iii. One hundred percent (100%) of the lowest responsible bid contract price for construction of PROJECT and the costs associated with UTILITY RELOCATIONS ("CONSTRUCTION CONTRIBUTION"); and

iv. Up to an additional ten percent (10%) of CONSTRUCTION CONTRIBUTION to offset CITY's administrative costs associated with construction, contract administration and other typical ancillary costs related to the delivery of PROJECT ("CONSTRUCTION ADMINISTRATION CONTRIBUTION"); and

v. Up to an additional ten percent (10%) of CONSTRUCTION CONTRIBUTION for construction contract change orders ("CONSTRUCTION CHANGE ORDERS CONTRIBUTION"); and

I. Altogether, DESIGN CONTRIBUTION, DESIGN ADMIN, CONSTRUCTION CONTRIBUTION, CONSTRUCTION ADMINISTRATION CONTRIBUTION, and CONSTRUCTION CHANGE ORDERS CONTRIBUTION are hereinafter called ("TOTAL DISTRICT CONTRIBUTION"). TOTAL DISTRICT CONTRIBUTION for PROJECT shall not exceed a total of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000); and

J. CITY agrees to fund and secure all remaining costs of PROJECT that exceeds TOTAL DISTRICT CONTRIBUTION, as set forth herein; and

K. DISTRICT and CITY acknowledge it is in the best interest of the public to proceed with the construction of PROJECT at the earliest possible date; and

L. The purpose of this Agreement is to memorialize the mutual understandings by and between CITY and DISTRICT with respect to the design, construction, ownership, operation and maintenance of PROJECT and the payment of TOTAL DISTRICT CONTRIBUTION.

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.

2. Upon execution of this Agreement, issue a first invoice to DISTRICT (Attn: Special Projects Section) for fifty percent (50%) of DESIGN CONTRIBUTION, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

3. Provide DISTRICT an opportunity to review and approve the PROJECT engineering design cost proposal and associated design schedule. As PROJECT design progresses, CITY shall update said design schedule as requested by DISTRICT.

4. Prepare or cause to be prepared the necessary plans, bid documents and specifications for PROJECT, hereinafter called "IMPROVEMENT PLANS" in accordance with the applicable DISTRICT and CITY standards, and submit to DISTRICT (Attn: Special Projects

Section) for its review, comment and approval prior to advertising PROJECT for construction bids.

5. Make reasonable efforts during the preparation of IMPROVEMENT PLANS to avoid utility conflicts associated with UTILITY RELOCATIONS.

6. Keep an accurate accounting of all PROJECT costs associated with the TOTAL DISTRICT CONTRIBUTION as set forth in Recital I and provide this accounting along with future invoices to DISTRICT. The final accounting of construction costs shall include a detailed breakdown of all costs, including, but not limited to, payment vouchers, approved change orders and other such construction contract documents as may be necessary to establish the actual costs associated with PROJECT.

7. Prior to advertising PROJECT for public works construction contract, 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"). CITY shall also provide DISTRICT an opportunity to review, comment on and approve, as appropriate, all applications for REGULATORY PERMITS prior to submitting the application to the applicable regulatory agencies.

8. Following the signing of improvement plans by all Parties, issue a second invoice to DISTRICT (Attn: Special Projects Section) for (i) the remainder of DESIGN CONTRIBUTION and, if applicable, (ii) DESIGN ADMIN. The invoice shall include an

accounting of all design costs associated with the preparation of plans and specifications for PROJECT, a copy of the signed improvement plans, including, and if applicable, the associated design contract administration cost. TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

9. Prior to advertising PROJECT for public works construction contract, secure at its sole cost and expense, all necessary permits, licenses, agreements, approvals, rights of entry and construction easements, necessary to construct, inspect, operate and maintain PROJECT.

10. Prior to awarding a public works construction contract for PROJECT, provide DISTRICT seven (7) calendar days following construction bid opening to review and approve or reject bids for construction of PROJECT. DISTRICT may only reject bids found by DISTRICT to be unreasonably high.

11. Advertise, award and administer a public works construction contract for PROJECT pursuant to the applicable provisions of the California Public Contract Code. At the time of advertising for bids, provide DISTRICT with a copy of IMPROVEMENT PLANS and any subsequent addenda thereto.

12. Provide DISTRICT with written notice (Attention: Special Projects Section) that CITY has awarded a public works construction contract for PROJECT. The written notice shall include CITY contractor's actual bid amounts for PROJECT, setting forth the lowest responsible bid contract amount.

13. At the time of providing written notice of the award of a construction contract as set forth in Section I.12, issue a third invoice to DISTRICT (Attention: Special Projects Section) for the payment of CONSTRUCTION CONTRIBUTION subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

14. Prior to commencing construction of PROJECT, procure or caused 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 should adhere to DISTRICT's required insurance provided in Exhibit "B" attached hereto and made a part hereof.

15. Prior to commencing construction of PROJECT, 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: Special Project Section) in writing at least twenty (20) days prior to conducting the pre-construction meeting.

16. Prior to commencing construction of PROJECT, furnish DISTRICT with final mylar of IMPROVEMENT PLANS and assign ownership of the IMPROVEMENT PLANS to DISTRICT.

17. Furnish DISTRICT, at the time of providing written notice of intent to start construction as set forth in Section I.15, with 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

18. 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 PROJECT 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 hereunder, and b) to accept responsibility for ownership, operation and maintenance of LINE 5 STAGE 1 due, either in whole or in part, to said breach of this Agreement.

19. 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.

20. 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 and DISTRICT employees on the site.

21. 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 PROJECT.

22. Require its construction contractor(s) to furnish DISTRICT (Attention: Contract Management Section) with a confined space procedure specific to PROJECT. 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 provided to DISTRICT no less than twenty (20) days prior to requesting that DISTRICT perform a final inspection for acceptance of PROJECT. The procedure shall be reviewed and approved by DISTRICT prior to conducting the final inspection.

23. Inspect PROJECT construction or cause PROJECT's construction to be inspected by its construction manager, and pay all costs associated therewith, provided that such costs will be included within CONSTRUCTION ADMINISTRATION CONTRIBUTION. In the event CITY wishes to utilize DISTRICT's construction inspection, materials testing and

construction survey services, CITY shall provide DISTRICT with a written request (Attn: Special Projects) for such services. However, CITY will continue to serve as construction contract manager.

24. Perform all survey and construction staking work as needed for PROJECT as specified herein.

25. Furnish, or cause its construction manager to furnish, all construction survey and materials testing services necessary to ensure PROJECT construction is accomplished in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

26. 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, the construction of PROJECT.

27. Within two (2) weeks of completing PROJECT construction, provide DISTRICT with written notice (Attention: Construction Management Section) that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of LINE 5 STAGE 1.

28. Upon completion of PROJECT construction, accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES and LINE 5 STAGE 1 (subject to DISTRICT's subsequent acceptance of ownership and responsibility for the operation and maintenance pursuant to Section II.12.) upon (i) CITY inspection of PROJECT in accordance with Section I.23., (ii) CITY acceptance of PROJECT construction as being complete, (iii) DISTRICT acceptance of LINE 5 STAGE 1 construction as being complete, and (iv) CITY receipt of stamped and signed record drawings of LINE 5 STAGE 1 plans as set forth in Section II.13.

29. Following CITY's acceptance of LINE 5 STAGE 1 for ownership, operation and maintenance and prior to DISTRICT's acceptance of ownership and responsibility for the

operation and maintenance of LINE 5 STAGE 1 pursuant to Section II.12., LINE 5 STAGE 1 shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole discretion of DISTRICT, LINE 5 STAGE 1 is not in an acceptable condition, corrections shall be made at CITY's sole expense.

30. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY's Recorded Notice of Completion. The recorded Notice of Completion shall be accompanied by the final accounting of all PROJECT construction costs as set forth in Section I.6. The final accounting of construction costs shall include, but not limited to, payment vouchers, approved change orders and other such construction contract documents as may be necessary to establish the actual cost of construction for PROJECT.

31. At the time of providing a Notice of Completion as set forth in Section I.30., and if applicable, issue a fourth invoice to DISTRICT (Attention: Special Projects Section) for CONSTRUCTION ADMINISTRATION CONTRIBUTION and CONSTRUCTION CHANGE ORDERS CONTRIBUTION, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

32. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of LINE 5 STAGE 1 for ownership, operation and maintenance, provide DISTRICT with appropriate engineering documentation necessary to establish that LINE 5 STAGE 1 was constructed in accordance with DISTRICT-approved and CITY-approved IMPROVEMENT PLANS.

33. Upon completion of PROJECT construction but prior to CITY's acceptance of LINE 5 STAGE 1 and APPURTENANCES for ownership, operation and maintenance pursuant to Section I.28., provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT and CITY

with redlined "record drawings" of IMPROVEMENT PLANS. After DISTRICT and CITY approval of the redlined "record drawings" CITY's engineer shall schedule with DISTRICT and CITY a time to transfer the redlined changes into DISTRICT's original mylars at DISTRICT's office, after which the engineer shall review, stamp and sign mylars "record drawings."

34. Refund to DISTRICT, at the time of providing a Notice of Completion as set forth in Section I.30., any unexpended portions of TOTAL DISTRICT CONTRIBUTION.

SECTION II

DISTRICT shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA for PROJECT.

2. Within thirty (30) business days of receiving CITY's first invoice to DISTRICT, pay CITY for fifty percent (50%) of DESIGN CONTRIBUTION as set forth in Section I.2, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

3. At its sole cost and expense, review, comment and make a determination on CITY's PROJECT engineering design cost proposal and associated design schedule as set forth in Section I.3.

4. Review IMPROVEMENT PLANS in accordance with the applicable DISTRICT and CITY standards and approve IMPROVEMENT PLANS prior to advertising PROJECT for construction bids as set forth in Section I.4.

5. Within thirty (30) business days of receiving CITY's second invoice to DISTRICT, pay CITY for the remaining fifty percent (50%) of DESIGN CONTRIBUTION following the signing of IMPROVEMENT PLANS as set forth in Section I.8., subject to and

provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

6. Within seven (7) calendar days following CITY's public works construction bid opening, review and approve or reject bids for construction of PROJECT. CITY shall follow State law and its Municipal Code related to public works contracts. DISTRICT may only reject bids found by DISTRICT to be unreasonably high and shall not unreasonably withhold approval of contract.

7. Within thirty (30) business days of CITY awarding PROJECT construction contract, pay, at its sole cost and expense and not part of TOTAL DISTRICT CONTRIBUTION, the costs associated with MSHCP, which is either the lesser of (i) three percent (3%) of the lowest responsible bid price, or (ii) three percent (3%) of lowest responsible bid price less the value of applicable project-specific mitigation.

8. Within thirty (30) business days of receiving CITY's third invoice to DISTRICT, pay CITY for CONSTRUCTION CONTRIBUTION as set forth in Section I.13., subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

9. Conduct periodic inspections of LINE 5 STAGE 1 construction for quality control purposes at its sole cost and provide any comments to CITY's designated PROJECT construction inspector.

10. Upon receipt of CITY's Notice of Completion that PROJECT construction is substantially complete, conduct a final inspection of LINE 5 STAGE 1.

11. Pay CITY, within thirty (30) business days after receipt of CITY's fourth invoice, for CONSTRUCTION ADMINISTRATION CONTRIBUTION and if applicable, CONSTRUCTION CHANGE ORDERS CONTRIBUTION, as set forth in Section I.31., subject

to and provided that TOTAL DISTRICT CONTRIBUTION does not exceed a total sum of Three Million Five Hundred Ten Thousand Dollars (\$3,510,000) for PROJECT.

12. Accept ownership and responsibility for the operation and maintenance of LINE 5 STAGE 1 from CITY once all of the following takes place: (i) DISTRICT's inspection of LINE 5 STAGE 1 in accordance with Section I.27., (ii) DISTRICT's acceptance of LINE 5 STAGE 1 construction as being complete, (iii) DISTRICT's receipt of CITY's recorded Notice of Completion as set forth in Section I.30., (iv) DISTRICT's receipt of appropriate engineering documentation as set forth in Section I.32., (v) DISTRICT receipt of stamped and signed "record drawings" of IMPROVEMENT PLANS, as set forth in Section I.33., (v) CITY acceptance of APPURTENANCES for ownership, operation, and maintenance, (vi) LINE 5 STAGE 1 is fully functioning as a flood control drainage system as solely determined by DISTRICT, and (vii) DISTRICT's sole determination that LINE 5 STAGE 1 is in a satisfactorily maintained condition.

13. Provide CITY with a reproducible duplicate copy of "record drawings" of IMPROVEMENT PLANS upon; (i) DISTRICT acceptance of PROJECT construction as being complete, and (ii) DISTRICT receipt of stamped and signed "record drawings" of IMPROVEMENT PLANS as set forth in Section I.33.

14. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of LINE 5 STAGE 1, LINE 5 STAGE 1 shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole discretion of DISTRICT, LINE 5 STAGE 1 is not in an acceptable condition, corrections shall be made at sole expense of CITY.

SECTION III

It is further mutually agreed:

1. Notwithstanding any other provision herein this agreement TOTAL DISTRICT CONTRIBUTION shall not exceed a total sum of Three Million Five Hundred Ten

Thousand Dollars (\$3,510,000) for PROJECT and shall be used by CITY solely for the purpose of the design and construction of said PROJECT as set forth herein. No additional funding whatsoever shall be provided by DISTRICT for any subsequent PROJECT modifications, extensions or repairs.

2. In the event the actual construction cost for PROJECT is less than CONSTRUCTION CONTRIBUTION, CITY shall refund the difference to DISTRICT within thirty (30) days of filing the Notice of Completion for PROJECT.

3. In the event CITY's construction contractor does not complete the construction of PROJECT in accordance with DISTRICT standards, CITY shall complete the PROJECT utilizing the bonds and insurances secured for PROJECT provided such bonds and insurance are sufficient to complete PROJECT. In the event such bonds and insurance are insufficient to complete PROJECT, CITY shall perform and prioritize the work necessary to ensure public safety requirements are met.

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, the Riverside County Flood Control and Water Conservation 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), their 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, CITY 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's indemnification to Indemnitees as set forth herein.

7. CITY's obligation hereunder shall be satisfied when CITY 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 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 from indemnifying the Indemnitees to the fullest extent allowed by law.

10. 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.

11. This Agreement is to be construed in accordance with the laws of the State of California.

12. 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 the 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.

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 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.

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: Contracts Services Section

CITY OF CORONA
400 S. Victoria Avenue
Corona, CA 92882
Attn: Savat Khamphou

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 stopping DISTRICT or CITY from enforcing this Agreement.

18. The obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for DISTRICT's financial contribution toward PROJECT as set forth herein. In the event that such funds are not forth coming for any reason, DISTRICT shall immediately notify CITY in writing. Agreement shall be deemed terminated and have no further force and effect immediately upon receipt of DISTRICT's notification by CITY. If CITY has executed any third-party contracts for PROJECT prior to DISTRICT terminating this Agreement pursuant to this provision, DISTRICT shall compensate CITY for any work performed prior to DISTRICT terminating this Agreement.

19. 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.

20. No alternation or variation of the terms of this Agreement shall be valid unless made in writing and signed by both Parties, and no oral understanding or agreement not incorporated herein shall be binding on either Party hereto.

21. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not Parties to this.

22. 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

(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:

COUNTY COUNSEL

KIMBERLY RECTOR
Clerk of the Board

By _____
KRISTINE BELL-VALDEZ
Supervising Deputy County Counsel

By _____
Deputy

(SEAL)

Funding/Cooperative Agreement with City of Corona
Corona MDP Line 5, Stage 1
Project No. 2-0-00280
Miscellaneous No. 215
08/26/24
AMR:blj

RECOMMENDED FOR APPROVAL: **CITY OF CORONA**

By _____
SAVAT KHAMPHOU
Public Works Director

By _____
JACOB ELLIS
City Manager

APPROVED AS TO FORM:

ATTEST:

By _____
DEAN DERLETH
City Attorney

By _____
SYLVIA EDWARDS
City Clerk

(SEAL)

Funding/Cooperative Agreement with City of Corona
Corona MDP Line 5, Stage 1
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RIVERSIDE COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

Corona MDP Line 5
Supervisorial District 2

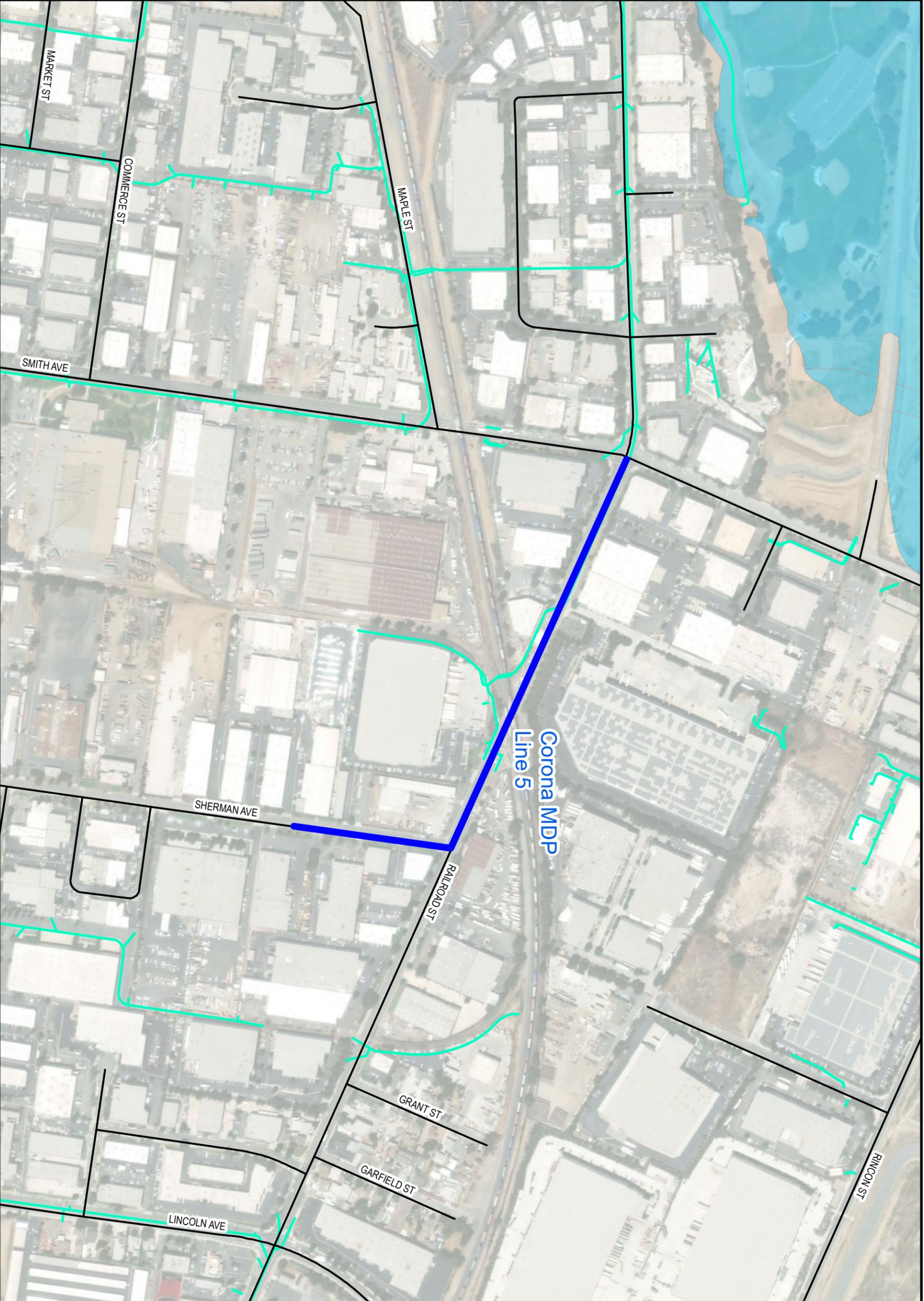


EXHIBIT A

- Legend**
- Corona MDP Line 5
 - City Facilities
 - FEMA Floodplain



Project No.	2-8-00280-01
Engineer	T. Hanson

Exhibit B

DISTRICT's Insurance Requirements is as follows:

CITY's contractor(s) shall not commence operations until DISTRICT has been furnished with 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 as required in this Section.

Without limiting or diminishing CITY's contractor(s) obligation to indemnify or hold DISTRICT harmless, CITY contractor(s) 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 contractor(s) has employees as defined by the State of California, CITY contractor(s) 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 contractor(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 CITY's contractor(s) vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CITY contractor(s) 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

Exhibit B

name the DISTRICT as Additional Insureds.

D. Pollution and Asbestos Liability:

CITY's contractor(s) shall obtain, at its sole expense and keep in effect during the term of the contract, Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) covering CITY's contractor(s) liability for a third-party bodily injury and property damage arising from pollution conditions caused by the CITY's contractor(s) while performing their operations under the contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the DISTRICT. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance.

CITY's contractor(s) shall maintain Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this contract. Any self-insured retention/deductible amount shall be submitted to the DISTRICT for review and approval. If CITY's contractor(s) maintains broader coverage and/or higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to the broader coverage and/or higher limits maintained by CITY's contractor(s). Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

In the event, CITY's contractor(s) encounters materials on the site that is believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, CITY's contractor(s) shall immediately stop work in the area affected and report the condition to the DISTRICT in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the DISTRICT and CITY, if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the DISTRICT and CITY.

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CITY's construction contractor(s) shall not be required to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB).

E. Professional Liability:

CITY contractor(s) shall cause any architect or engineer retained by CITY contractor(s) in connection with the performance of CITY's contractor(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 \$1,000,000 per occurrence and \$2,000,000 annual aggregate. CITY contractor(s) 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 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.

F. 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 contractor(s) 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 contractor(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

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defense costs and expenses.

- c. CITY contractor(s) shall cause their 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 contractor(s) insurance carrier(s) policies does not meet the minimum notice requirement found herein, CITY contractor(s) shall cause CITY's contractor(s) insurance carrier(s) to furnish a 30-day Notice of Cancellation Endorsement.
- 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 contractor(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,

Exhibit B

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 contractor(s) has become inadequate.

- g. CITY contractor(s) 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 contractor(s) 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.