

## COOPERATIVE AGREEMENT

This Cooperative Agreement ("Agreement"), dated as of \_\_\_\_\_, 2021, is entered into by and between The Beaumont Unified School District, a body politic ("DISTRICT"), and the City of Beaumont, 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 applied for an encroachment permit to make certain improvements ("Improvements") within the City right of way and incorporated herein by this reference, and CITY has agreed to the same subject to certain traffic and related improvements which are conditions of approval ("Conditions of Approval") as described in Exhibit "A" attached hereto and made a part hereof by this reference.

B. The Conditions of Approval are identified On Exhibit A.

C. DISTRICT has competitively bid the Improvements as part of a larger high school expansion project and said Improvements do not include all the Conditions of Approval; and

D. DISTRICT has requested that City delay the performance of the Conditions of Approval and CITY has agreed to do so in accordance with the terms of this Agreement; and

E. The construction of the Conditions of Approval is referred to in this Agreement as the "PROJECT"; and

F. DISTRICT shall be solely responsible to design, bid and construct the PROJECT under applicable law and this Agreement;

G. Upon satisfactory completion of the PROJECT, CITY shall ultimately accept ownership and responsibility for operation and maintenance of that part of the PROJECT within the CITY right of way. Therefore, CITY must review and approve the improvement plans ("IMPROVEMENT PLANS") for the PROJECT and subsequently inspect the construction of the PROJECT; and

H. It is in the best interest of the public to forgo immediate construction of PROJECT provided the same is completed no later than 18 months of the Effective Date;

and

I. The purpose of this Agreement is to memorialize the mutual understandings by and between DISTRICT and CITY with respect to funding, 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

DISTRICT 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. Award a public works construction contract for PROJECT and complete construction within eighteen (18) months of execution of this Agreement.

3. Provide CITY an opportunity to review and approve the engineering design and associated design schedule for PROJECT.

4. Prepare, or cause to be prepared, the necessary plans and specifications for PROJECT ("IMPROVEMENT PLANS"), in accordance with the applicable state, local and CITY laws and standards, and submit to CITY (Attn Public Works Director) for its review and approval prior to advertising PROJECT for construction bids.

5. Prior to construction of the PROJECT, obtain, or cause to be obtained, at no cost and expense to the City all necessary permits, approvals, or agreements as may be required by any Federal, State and local agencies (including City) pertaining to the construction, operation and maintenance of PROJECT.

6. Implement, or cause to be implemented, all environmental mitigation required in association with the construction, operation and maintenance of PROJECT.

7. Prior to construction of the PROJECT, obtain or cause to be obtain, at no cost and expense to the City, all necessary permits, licenses, agreements, approvals, rights of way, rights of entry, encroachment permits, and temporary construction easements as may be needed to construct, operate and maintain PROJECT ("ROW DOCUMENTS") and

consult with CITY regarding existing dedications, proposed legal and plats, including any requests for waivers and variances from policies.

8. Prior to construction of the PROJECT, provide CITY an opportunity to review, comment on, and make a determination on all (i) REGULATORY PERMITS and (ii) ROW DOCUMENTS.

9. 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.

10. Advertise, award and administer a public works construction contract for PROJECT at its sole cost and expense.

11. Secure and deliver, or cause to be secured and delivered to City statutory payment and completion bonds from the winning bidder in the full amount of the PROJECT cost naming City as the party legally entitled to enforce said bonds.

12. Provide CITY with written notice (Attention: Public Works Director) that DISTRICT has awarded a public works construction contract for PROJECT.

13. Prior to commencing PROJECT construction, furnish CITY with final mylar PROJECT plans and assign ownership of PROJECT plans to CITY.

14. Not permit any change to, or modification of, DISTRICT- and CITY-approved IMPROVEMENT PLANS without CITY's prior written permission and consent. Failure to do so may be deemed a material breach of this Agreement and shall authorize and constitute authority for CITY, at its sole discretion, to provide written notice to DISTRICT that CITY issued a stop work order until CITY can provide approval for change. Any construction related to non-approved IMPROVEMENT PLANS may jeopardize CITY's ability to: a) perform its obligations hereunder, and b) to accept responsibility for ownership, operation and maintenance of the PROJECT due, either in whole or in part, to said breach of this Agreement.

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

16. Furnish CITY (Attention: Public Works Director), at the time of providing written notice of the pre-construction meeting with:

- A. A construction schedule which shall show the order and dates in which DISTRICT's contractor proposes to carry on the various parts of work, including estimated start and completion dates, and

17. 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.

18. Order the relocation of all utilities within CITY rights of way which conflict with the construction of PROJECT and which must be relocated at the DISTRICT's expense.

19. Procure or cause to be procured insurance coverages during the term of this Agreement. DISTRICT 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 DISTRICT 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 CITY. At minimum, the procured insurance coverages should adhere to the required insurance provided in Exhibit "B", attached hereto and made a part hereof.

20. Construct, or cause to be constructed, at DISTRICTS sole expense, the PROJECT pursuant to a DISTRICT administered public works construction contract, in accordance with IMPROVEMENT PLANS approved by DISTRICT and CITY, and pay in a timely manner all amounts due thereunder, without contribution or payment by CITY of any amount.

21. Inspect PROJECT construction or cause PROJECT's construction to be inspected by its construction manager and pay all costs associated therewith. In the event CITY requires CITY's construction inspection, materials testing, and construction survey services, CITY shall provide DISTRICT with written notice requiring the same to be provided at costs contained in CITY's published fee schedule. However, DISTRICT will continue to serve as construction contract manager.

22. Furnish, or cause its construction manager to furnish, CITY (Attention:

Public Works Director) all construction survey and materials testing services necessary to ensure PROJECT construction is accomplished in accordance with the DISTRICT- and CITY-approved IMPROVEMENT PLANS.

23. Grant CITY, by execution of this Agreement, the right to inspect PROJECT and subsequently operate and maintain PROJECT within CITY rights of way.

24. Within two (2) weeks of completing PROJECT construction, provide CITY with written notice (Attention: Public Works Director) that PROJECT construction is substantially complete and requesting that CITY conduct a final inspection of the PROJECT.

25. Assume ownership and sole responsibility for the operation and maintenance of PROJECT (subject to CITY's rights of way) until such time as CITY accepts ownership and responsibility for the operation and maintenance of the portion of the PROJECT within CITY rights of way. DISTRICT shall retain ownership, operation and maintenance obligations for all parts of the PROJECT not within the CITY right of way.

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

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

28. Upon completion of PROJECT construction, but prior to CITY acceptance of the PROJECT for ownership, operation and maintenance, convey, or cause to be conveyed, to CITY the easement(s), or grant deed(s) of fee title where appropriate, deemed necessary by CITY for the operation and maintenance of the PROJECT. The easement(s) or grant deed(s) shall be in a form approved by CITY and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

29. At the time of recordation of the conveyance document(s) as set forth in Section I.28, furnish CITY with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value as determined by CITY for each easement parcel to be conveyed to CITY; or (ii) one hundred percent (100%) of the estimated value as determined by CITY for each fee parcel to be conveyed to CITY, guaranteeing CITY's interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except those which

in the sole discretion of CITY are acceptable.

30. Upon completion of PROJECT construction but prior to CITY's acceptance of the PROJECT for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide CITY with redlined "record drawings" of PROJECT plans.

## SECTION II

CITY shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
2. Review and make a determination on DISTRICT's engineering design cost proposal and associated design schedule for PROJECT.
3. Prior to construction of PROJECT, review and make a determination on, as appropriate, all (i) REGULATORY PERMITS and (ii) ROW DOCUMENTS, including any existing dedications, proposed legal and plat descriptions, basemap, and survey controls.
4. Review and approve IMPROVEMENT PLANS prior to issuance of a construction permit for said work.
5. Conduct periodic inspections of the PROJECT construction for quality control purposes at DISTRICT's or DISTRICT's contractor's sole cost and provide any comments to DISTRICT's designated PROJECT construction inspector.
6. CITY shall provide all necessary construction inspection, materials testing and construction survey services for PROJECT and assist DISTRICT as needed with the administration of PROJECT's construction contract at DISTRICT's sole expense. DISTRICT hereby agrees to pay or cause to be paid all CITY costs associated with the inspection and testing of PROJECT construction, as set forth herein.
7. Upon receipt of DISTRICT's written notice that PROJECT construction is substantially complete conduct a final inspection of the portions of the PROJECT within the CITY right of way.
8. Accept ownership and responsibility for the operation and maintenance of PROJECT within its right of way (i) CITY inspection of PROJECT, (ii) CITY acceptance

of PROJECT as being complete, (iii) CITY receipt of DISTRICT's recorded Notice of Completion, (iv) CITY receipt of appropriate engineering documentation, (v) CITY receipt of stamped and signed "record drawings" of PROJECT plans, (vi) CITY's acceptance of all necessary rights of way and/or easements (vii) CITY's sole determination that PROJECT is in a satisfactorily maintained condition.

### SECTION III

#### Indemnification:

1. DISTRICT shall indemnify and hold harmless and require its construction contractor(s) to indemnify, defend and hold harmless CITY and its officers, City Council members, 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 DISTRICT and DISTRICT'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 DISTRICT's construction contractor(s), its officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement. DISTRICT or DISTRICT'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.

2. With respect to any action or claim subject to indemnification herein by DISTRICT or DISTRICT's construction contractor(s), DISTRICT or DISTRICT'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 CITY, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes DISTRICT or DISTRICT's construction contractor(s) indemnification to Indemnitees as set forth herein.

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

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

5. 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 the DISTRICT's construction contractor(s) from indemnifying the Indemnitees to the fullest extent allowed by law.

#### SECTION IV

It is further mutually agreed:

1. In the event DISTRICT's construction contractor does not complete the construction of the PROJECT in accordance with CITY standards, DISTRICT shall complete the project utilizing the bonds and insurances secured for the PROJECT in the name of CITY as approved by CITY.

2. In the event that DISTRICT fails to commence and/or complete the PROJECT in accordance with this Agreement, City shall have the right, but not the obligation, to commence and/or complete the PROJECT as provided in this Agreement, and DISTRICT hereby grants CITY an irrevocable license to enter DISTRICT property for such purpose, and DISTRICT shall reimburse CITY for all of CITY's costs in furtherance of the forgoing as such costs are incurred within ten day of receipt of CITY's invoice, with interest at the rate of ten percent (10%) per annum from the time such costs were invoiced by CITY.

3. Except as otherwise provided herein, all construction work involved with PROJECT shall be inspected by CITY but shall not be deemed complete until DISTRICT and CITY mutually agree that construction is completed in accordance with DISTRICT- and CITY-approved IMPROVEMENT PLANS. DISTRICT shall not request CITY to accept any portion of PROJECT for ownership, operation or maintenance until PROJECT construction is deemed fully complete and all necessary rights of way have been conveyed as set forth herein.

4. Prior to CITY acceptance of ownership and responsibility for the operation and maintenance of the PROJECT, the PROJECT shall be in a satisfactorily maintained condition as solely determined by CITY. If, in the sole discretion of CITY the PROJECT is not in an acceptable condition, corrections will be made at sole expense of DISTRICT.

5. CITY shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. DISTRICT agrees to maintain such records for possible audit for a minimum of three (3) years after final payment. DISTRICT 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.

6. Any waiver by DISTRICT or by CITY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or CITY from enforcement hereof.

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

8. 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:

To DISTRICT:                   BEAUMONT UNIFIED SCHOOL DISTRICT  
  P.O. Box 187  
  Beaumont, CA 92223  
  ATTN: Director of Facilities

To CITY:                           CITY OF BEAUMONT  
  550 E. 6th Street  
  Beaumont, CA 92223  
  Attn: Director of Public Works

9. 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.

10. 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 CITY shall have no import or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against CITY because CITY prepared this Agreement in its final form.

11. 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 or action based upon the provisions of this Agreement.

12. Neither CITY nor DISTRICT shall assign this Agreement without the

written consent of the other Party.

13. 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.

14. DISTRICT and CITY each pledge to cooperate in regard to the operation and maintenance of their respective facility as set forth herein and to discharge their respective maintenance responsibilities in an expeditious fashion so as to avoid the creation of any nuisance condition or undue maintenance impact upon the others' facility.

15. Time is of the essence in prosecuting the work contemplated under this Agreement.

16. 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 and written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the Parties hereto.

17. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one 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.

See next page for signatures

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on \_\_\_\_.

**BEAUMONT UNIFIED SCHOOL DISTRICT**

By \_\_\_\_\_  
Penni S. Harbauer,  
Asst. Supt. Of Business Services

BOARD APPROVED ON

Date: \_\_\_\_\_

**CITY OF BEAUMONT**

By \_\_\_\_\_

APPROVED AS TO FORM:

ATTEST:

By \_\_\_\_\_  
JOHN O. PINKNEY  
City Attorney

By \_\_\_\_\_  
STEVEN MEHLMAN  
City Clerk

## **EXHIBIT “A”**

### **Beaumont Avenue & Cherry Valley Blvd Intersection**

- Extend the length of the northbound left-turn lane by at least 30 feet.
  - This will require restriping of the existing painted yellow median on Beaumont Avenue south of the existing left-turn pocket

### **Beaumont Avenue & Brookside Avenue Intersection**

- Extend the length of the northbound and southbound left-turn lane by at least 60 feet.
  - This will require restriping of the existing painted yellow median on Beaumont Avenue south of the existing left-turn pocket
- Modify left-turn traffic signals for all directions from protected turns to protective-permissive turns
- Install a right-turn overlap arrow phase for eastbound Brookside Ave., and adjust the traffic signal cycle length to 100 seconds.

### **Cherry Valley Blvd/School’s North Driveway Intersection**

- Install a new access driveway on Cherry Valley Blvd at the northwest corner of the school site:
    - Using Option B (copy attached)
    - Designate this driveway as an inbound-only driveway with right-turn ingress from eastbound Cherry Valley Blvd.
    - Install a “No Left Turn” sign on Cherry Valley Blvd at the new access driveway to prevent left turns into the driveway from westbound Cherry Valley Blvd.
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DISTRICT's Required Insurance is as follows:

1. DISTRICT's construction contractor(s) shall not commence operations until CITY 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 Exhibit.
  
2. Without limiting or diminishing DISTRICT's construction contractor(s) obligation to indemnify or hold CITY and DISTRICT harmless, DISTRICT's construction 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 CITY herein refers to the city council members, officers, employees, elected or appointed officials, agents or representatives as Additional Insured
  - A. Workers' Compensation:

If DISTRICT's construction contractor(s) has employees as defined by the State of California, DISTRICT's construction 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 the Riverside County Flood Control and Water Conservation DISTRICT and the County of Riverside.
  
  - B. Commercial General Liability:

Commercial General Liability insurance coverage, include ng 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 DISTRICT's construction contractor(s) performance of its obligations hereunder. Policy shall name DISTRICT and CITY as Additional Insureds. 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 DISTRICT's construction contractor(s) shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not 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. Policy shall name DISTRICT as Additional Insured.

D. Professional Liability:

DISTRICT shall cause any architect or engineer retained by DISTRICT in connection with the performance of DISTRICT'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. DISTRICT 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 his 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) will continue as long as the law allows.

E. General Insurance Provisions – All Lines:

- i. 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)
- ii. DISTRICT's construction 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 CITY before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to CITY, and at the election of the CITY, DISTRICT's construction 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 defense costs and expenses.
- iii. DISTRICT's construction contractor(s) shall cause their insurance carrier(s) to furnish DISTRICT and CITY 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 CITY, 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 DISTRICT and CITY prior to any material modification, cancellation, expiration or reduction in coverage of such insurance.

- iv. It is understood and agreed by the Parties hereto that DISTRICT's construction contractor(s) insurance shall be construed as primary insurance, and DISTRICT's and CITY's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
- v. DISTRICT's construction contractor(s) shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- vi. DISTRICT's construction contractor(s) shall agree 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.