

D. Agreement with the City of Palm Springs and the Coachella Valley Water District Regarding the Ramon Road Widening (from San Luis Rey Drive to Landau Boulevard) Including the Whitewater Bridge Widening, City Project No CIP 2500, Federal-Aid Project No. BHLS-5282(040).

Recommendation: To approve an agreement with the City of Palm Springs and the Coachella Valley Water District (CVWD) for the construction of the Ramon Road Widening (San Luis Rey to Landau Boulevard) including the Whitewater River Bridge Widening, City Project No CIP 2500, Federal-Aid Project No. BHLS-5282(040); and authorize the City Manager to execute all necessary documents.

AGREEMENT REGARDING THE RAMON ROAD WIDENING PROJECT OVER THE WHITEWATER RIVER

This Agreement Regarding the Ramon Road Widening Project ("Agreement") is entered into this ___ day of _____, 20___ ("Effective Date"), by and between the CITY OF PALM SPRINGS, a California municipal corporation ("Palm Springs"), and the CITY OF CATHEDRAL CITY, a California municipal corporation ("Cathedral City") and the COACHELLA VALLEY WATER DISTRICT, a public agency of the State of California ("CVWD"). Palm Springs, Cathedral City, and CVWD are sometimes referred to herein individually as a "Party" or collectively as "Parties". Palm Springs and Cathedral City are sometimes referred to herein collectively as "Cities".

RECITALS

- A. Palm Springs is administering a project to widen the road bridge ("Project") of Ramon Road over the Whitewater River Stormwater Channel ("WWRSC").
- B. CVWD operates and maintains the WWRSC on Assessor's Parcel Number ("APN") 680-170-014, 680-170-053, and 677-420-023 as a regional flood conveyance and control channel to protect human life and property and for related purposes ("CVWD Stormwater Facilities").
- C. CVWD holds certain stormwater easement rights on APN 680-170-014, 680-170-053, and 677-420-023 (collectively "CVWD Property").
- D. CVWD previously issued Encroachment Permit 040517-4-002 to the Riverside County Road Department on June 9, 1981 to construct the existing road bridge. However, said Encroachment Permit was never assigned or otherwise transferred to the Cities in order to formally permit the construction and location of the existing road bridge.
- E. The Project will impact CVWD Stormwater Facilities and will encroach on CVWD Property.
- F. The Parties desire to enter into this Agreement to establish the responsibilities of each Party.

NOW THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:

AGREEMENT

- 1. CITIES' RESPONSIBILITIES
 - A. To be solely responsible for all cost and expense of project management, planning, environmental, design, and construction work on the Project. Any consultants or contractors hired by the Cities will be subject to the terms and conditions of this Agreement, as applicable.
 - B. To comply with CVWD's rules, regulations, ordinances, and procedures regarding the design, installation, and construction of the Project, including but

not limited to CVWD's Development Design Manual, and design standards, as may be amended by CVWD and the CVWD Board of Directors ("Board") from time to time (collectively, "Rules").

- C. To keep itself and all contractors, staff, and employees fully informed of and in compliance with all local, state, and federal laws, rules, and regulation that may impact, or be implicated by the construction of the Project including, without limitation, the Federal Emergency Management Agency's floodplain management requirements; CVWD Ordinance No. 1234; Cities' equivalent ordinance or Riverside County Ordinance 458; all applicable provisions of the local ordinances regulating discharges of stormwater; the Federal Water Pollution Control Act (33 U.S.C 1251 et seq.); the California Porter-Cologne Water Quality Control Act (Water Code 13000 et seq.); and any and all regulations, policies, or permits issued pursuant to any such authority. These include but are not limited to California Regional Water Quality Control Board, Colorado Region, Order No. R7-2013-0011 (NPDES Permit No. CAS617002) and State Water Resources Control Board Order NO. 2010-0014-DWQ, Order No. 2009-0009-DWQ, and Order NO. 2012-0006-DWQ.
- D. To be responsible for compliance with the laws of the State of California and the United States applicable to the design and construction of the Project, including but not limited to, applicable state and federal environmental laws, such as the California Environmental Quality Act ("CEQA"), the National Environmental Policy Act ("NEPA"), California Public Resources Code section 21000 et seq., and the Federal Species Act and the California Endangered Species Act, (collectively "Environmental Laws").
- E. To the extent permitted by law, indemnify and hold harmless CVWD, its official, offers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liability of any kind or nature ("Claims") which CVWD, its officials, officers, agents, employees and authorized volunteers may sustain or incur for Cities' noncompliance with the laws, regulations, and ordinances listed above, arising out of or in connection with the improvements and Project, except for Claims resulting from the sole established negligence, willful misconduct or active negligence of CVWD, its officials, officers, agents, employees or authorized volunteers.
- F. Prior to construction of the Project, submit the Project's construction plans ("Plans") to CVWD for CVWD's review and approval, which shall not be unreasonably withheld. CVWD shall approve or disapprove the Plans in writing within a reasonable amount of time after submittal to CVWD. In the event CVWD disapproves the Plans, Cities shall modify the Plans in accordance with the reasons given for disapproval and shall resubmit the revised Plans to CVWD for approval. This procedure shall continue until the Plans have been approved by CVWD.
- G. To not allow any utilities to be constructed within the Project or CVWD Property without prior approval from CVWD, which shall not be unreasonably withheld.

H. To provide certain insurance requirements, including the following:

- i. Cities, along with any contractors or subcontractors of the Cities, shall throughout the term of the Agreement, comply with and maintain the insurance coverages described in the Exhibit A.
- ii. CVWD's insurance requirements are periodically updated to reflect adjustments in insurance amounts and types of coverage. CVWD will provide written notice to the Cities of changes in the insurance requirements, after which the Cities will have thirty (30) calendar days within which to implement any changes and provide proof of coverage.

I. To provide certain operation and maintenance responsibilities, including the following:

- i. Operate and maintain the Project and the existing road bridge.
- ii. Maintain concrete aprons and associated cutoff walls beneath the bridge, as detailed in Exhibit C.
- iii. Prohibit and enforce, to the extent permitted by the law, the prohibition of camping or overnight occupancy on the Project. Post appropriate signage at the Project location to provide notices of these prohibited activities.
- iv. Maintain reasonable security precautions and programs to protect the Project against vandalism, graffiti, theft, arson, or other similar actions.
- v. Allow CVWD access for purposes related to the operation, maintenance, and repair of CVWD Stormwater Facilities.
- vi. Cities shall notify CVWD Right-of-Way Division a minimum of 72-hours for any planned maintenance activities by Cities' staff.
- vii. For emergency repairs and maintenance, the Cities shall endeavor to notify CVWD as soon as possible about the emergency repairs.
- viii. If the Cities contract any of the operations, maintenance, repairs, and construction work, the Cities' contractor shall apply for a construction permit with CVWD Right-of-Way Division and comply with all the requirements including insurance and indemnification. The Cities' Contractor (as defined herein) shall allow for a minimum of 30 calendar days for CVWD to process the construction permit.

J. To follow certain pre-construction requirements, including the following:

- i. Following receipt of CVWD's approval of the Plans and prior to construction, Cities shall do the following:

- a. Employ, a qualified contractor or contractors (collectively, "Cities' Contractor") properly licensed by the State of California, to construct and complete the Project.
- b. Invite a CVWD representative to any pre-bid meetings for the Project.
- c. Require Cities' Contractor to hold a preconstruction meeting with CVWD a minimum of 7 calendar days before mobilization to the Project. At such meeting there shall be at least one (1) representative of CVWD, Cities and Cities' Contractor. At such meeting (or, prior to), Cities shall pay to CVWD an inspection services deposit for inspection services required by CVWD. CVWD shall deduct from said inspection services deposit all reasonable expenses of CVWD, including, but not limited to, CVWD's agents, employees, consultants, or independent contractors, to inspect the Project. CVWD shall handle such deposit consistent with CVWD's rules, regulations and procedures with respect to such deposits. The inspection services deposit is a minimum required amount and may be modified in CVWD's sole discretion, based on the project size, complexity, or impacts to CVWD. CVWD may elect to use consultants to perform the inspection services for this Project based on either technical needs and/or staff availability.

K. To follow certain construction requirements, including the following:

- i. Cities' Contractor shall name CVWD as an additional insured in the insurance policies provided by Cities' Contractor pursuant to the Cities' construction contract with the Cities' Contractor.
- ii. Cities shall include CVWD and the CVWD Indemnitees as defined herein, as indemnitees in the indemnification clause in the Cities' construction contract with the Cities' Contractor.
- iii. Cities shall require the Cities' Contractor to comply with the applicable Occupational Safety and Health Administration ("OSHA") standards and requirements, including, but not limited to, submitting construction and shoring plans.
- iv. Cities shall pay all valid and undisputed charges from all contractors, subcontractors and suppliers supplying goods or services to Cities for the Project and shall keep the Project free and clear of any liens related to such charges. Cities shall indemnify CVWD for all claims, losses, damages, liabilities and expenses resulting from any liens filed against Project in connection with such charges; provided, however, that Cities shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Project or that assure that any adverse

judgment with respect to such lien will be paid without affecting title to the Project.

- v. The Project shall be installed in strict compliance with the approved Plans. Any request for deviations from the approved Plans related to CVWD's Stormwater Facilities must be submitted to CVWD in writing by the Cities and shall include approval by the Project's engineer-of-record. The Cities shall provide CVWD with 21 calendar days to review and approve any proposed changes to the approved Plans. CVWD shall not be responsible for any cost or schedule impacts due to any changes to the Plans except to the extent caused by not reviewing and approving proposed changes to the Plans in a timely manner. At Cities' sole risk, Cities' Contractor may construct CVWD facilities that deviate from the approved Plans. However, the deviated work is subject to rejection at no cost to CVWD, if CVWD does not subsequently approve the proposed changes to the Plans.
- vi. Construction of the Project will be limited to the Temporary Construction Easements as shown in Drawing Nos 49187 through 49203. The Temporary Construction Easement shall expire when the Cities files and records a Notice of Completion with the County of Riverside.
- vii. Cities shall provide CVWD representatives with reasonable access for inspection purposes. It is understood and agreed that CVWD's inspection personnel shall have the authority to enforce the Plans with the Cities. Nothing herein shall be construed to grant CVWD direct control over Cities' Contractor or anyone but Cities or its designee. CVWD's inspection does not include inspection for compliance with safety requirements by Cities' Contractor. Any inspection completed by CVWD shall be for the sole use and benefit of CVWD, and neither Cities nor any third party shall be entitled to rely thereon for any purpose. CVWD does not undertake or assume any responsibility for or owe a duty to select, review or supervise the creation of the Project. CVWD shall direct all concerns regarding the construction of the Project to the Cities.
- viii. Upon completion and acceptance of the Project, Cities shall provide CVWD a recorded copy of the Notice of Completion.
- ix. Cities warrant and represent to CVWD that the Cities' Contractor shall provide a guarantee that the Project will be free from construction defects for twelve (12) months from the date of the Notice of Completion recorded with the County of Riverside.

2. CVWD Responsibilities

- A. To review the Plans, any proposed deviations from the approved Plans that may affect CVWD's ability to operate and maintain CVWD's Stormwater Facilities, RFIs, and construction submittals and provide Cities approval or disapproval with comments in writing.

- B. Attend any pre-bid meetings during the Cities bidding process.
- C. Attend any pre-construction meeting prior to commencement of construction of the Project.
- D. Maintain the new concrete slope protection on the west side of the channel starting where it meets with the concrete apron cutoff wall at Station 7+24.93 south to Station 5+91.27, detailed in Exhibit C.
- E. Provide Cities ongoing access to the Project site and CVWD's Stormwater Facilities for the purpose of performing their obligations required by this Agreement.

3. Indemnity

- A. To the extent permitted by law, the Cities, on their own behalf and on behalf of successor entities, shall defend, indemnify and hold CVWD, its officers, directors, administrators, representatives, consultants, engineers, employees and agents, their successors and assigns (collectively, "CVWD Indemnitees") free and harmless from and against any and all claims, actions, causes of action, damages, demands, liabilities, costs (including, without limitation, reasonable attorneys' fees), losses and expenses of every type and description ("Claims" and "Costs") to which CVWD Indemnitees may be subjected resulting from or arising out of this Agreement or the construction, installation, repair, maintenance and operation of the Project on the Property to the extent caused by the negligence or willful misconduct of the Cities. The forgoing indemnity shall not apply to the extent that such Claims and Costs are ultimately established by a court of competent jurisdiction to have been caused by the negligence or willful misconduct of CVWD Indemnitees. All who enter upon the Property pursuant to this Agreement shall do so at their own risk and shall at all times comply with all reasonable instructions and directions of CVWD. CVWD shall make all decisions regarding its representation in any legal proceeding described in this Indemnity Section. The Cities shall not settle any claim without prior written consent of CVWD, which shall not be unreasonably withheld. If the Cities fail to indemnify CVWD, CVWD shall have the right, but not the obligation, to defend against the matters described herein and charge all actual Costs of such defense to the Cities and recover the same from the Cities to extend of the Cities' proportional fault.
- B. Storm, surface, ground, nuisance, or other waters may be encountered at various times during construction of the Project and/or maintenance activities thereafter. The Cities hereby acknowledges and agrees that there are certain inherent risks and dangers associated with such waters; and that, except as expressly set forth herein, it knowingly and voluntarily accepts and assumes responsibility for, each of these risks and dangers, and all other risks and dangers that could arise out of, or occur during, construction of the Project and/or maintenance activities. Such inherent risks and dangers include, but are not limited to flooding, health hazards, slippery ground, uneven surfaces, and debris.

- C. CVWD shall not be responsible for construction or maintenance of any part of the Project either within or outside the Property area. If the Cities construction and/or maintenance activities cause damage to CVWD Stormwater Facilities, and the Cities does not repair or restore the same after proper written notice from CVWD in a timely manner, CVWD may repair or restore the same and the Cities and the Cities' successor entities shall reimburse any cost incurred by CVWD in repairing such damage. Such undisputed costs shall be paid by the Cities and its successor entities within thirty (30) calendar days following receipt of an invoice from CVWD.

4. Conflict of Interest

- A. The Cities shall not engage directly or indirectly in any activity which materially conflicts with the Cities' faithful performance of services, commitments, and obligations undertaken to be performed pursuant to this Agreement.

5. Termination

- A. In the event the Cities fails to perform any material obligation required by this Agreement, CVWD shall demand in writing that the Cities cure such non-performance. The Cities shall have thirty (30) calendar days after receipt of such demand to commence curing the non-performance. In the event the Cities fails to commence curing such a non-performance within the thirty (30) day period, CVWD may terminate this Agreement. Following termination, CVWD shall have the right to take whatever steps it deems necessary to correct the Cities' deficiencies, including but not limited to, hiring a third-party to perform the Cities' obligations and charge the cost thereof to the Cities, who shall be liable for the full cost of CVWD's corrective action, including reasonable overhead, attorneys' fees, and a ten percent (10%) supervision fee shall be due and payable within thirty (30) days of invoice by CVWD.
- B. In the event CVWD fails to perform any obligation required by this Agreement, the Cities shall demand in writing that CVWD cure such non-performance. CVWD shall have thirty (30) calendar days after receipt of such demand to commence curing such non-performance. In the event the CVWD fails to commence curing such non-performance within the thirty (30) day period, the Cities may terminate this Agreement.
- C. Notwithstanding any other provision, this Agreement may be terminated by CVWD as to all or any portion of the Property if CVWD determines that such termination is necessary in order to protect human lives or property against those hazards for which CVWD has responsibility as a public agency. Prior to such termination, CVWD such meet and confer with Cities regarding the termination and discuss options to continue the Agreement. Any such termination will be affected with maximum possible notice to the Cities consistent with the nature of circumstances threatening public safety.

6. General Provisions

A. Notices

- i. All notices under this Agreement shall be in writing and mailed (registered or certified, postage prepaid, return receipt requested), or by express carrier (return receipt requested) or hand delivered to Parties the addresses set forth below. All such notices shall, if hand delivered, or delivered by express carrier, be deemed received upon delivery and, if mailed, be deemed received three (3) business days after such mailing.

CVWD:

Coachella Valley Water District
Attention: J. M. Barrett, General Manager
Post Office Box 1058
Coachella, CA 92236

CITY OF PALM SPRINGS:

City of Palm Springs
Attention: City Engineer
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

CITY OF CATHEDRAL CITY:

City of Cathedral City
68700 Avenida Lalo Guerrero
Cathedral City, CA 92234

B. Waiver

- i. Except as otherwise expressly provided in this Agreement, no waiver by a Party of any breach of this Agreement or of any warranty or representation hereunder by the other Party shall be deemed to be a waiver of any other breach by such other Party (whether preceding or succeeding and whether or not of the same or similar nature) and no acceptance of payment or performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other Party whether or not the first Party knows such breach at the time it accepts such payment or performance. Except as otherwise expressly provided in this Agreement, no failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be so in default.

C. Governing Law

- i. The rights and obligations of the parties and the interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflicts of rules of law.

D. Jurisdiction and Venue

- i. The Parties agree that venue for any action brought to enforce the terms of this Agreement or arising out of this Agreement shall be in a court of competent jurisdiction in the County of Riverside, California, and consent to the jurisdiction thereof.

E. Counterparts; Entirety

- i. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. The Parties agree that this Agreement constitutes the entire and only Agreement between the parties with reference to the subject matter hereof and supersedes any prior Agreement, oral or written, with respect thereto.

F. Modification

- i. The provisions of this Agreement may not be amended, changed or modified orally, except by an Agreement in writing signed by the Party against whom any amendment, change or modification is sought.

G. Severability

- i. Any provision of this Agreement adjudicated by a court of competent jurisdiction to be invalid or unenforceable for any reason shall be ineffective to the extent of such prohibition or invalidity and shall not invalidate or otherwise render invalid or unenforceable any remaining provisions of this Agreement.

H. No Interpretation Against the Drafter

- i. This Agreement is the product of negotiations between the Parties hereto represented by counsel and any rules of construction relating to interpretation against the drafter of an Agreement shall not apply to this Agreement and are expressly waived by the Parties hereto.

I. Assignability

- i. This Agreement shall not be assigned by any Party without prior written consent of the other Parties.

J. Time

- i. Time is of the essence for this Agreement.

K. No Third Party Beneficiaries

- i. Except as set expressly set forth herein, no third party shall have the right to enforce any term of this Agreement.

[REMAINDER OF PAGE LEFT BLANK – SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first set forth above.

Dated: 6/19/2024

**THE CITY OF PALM SPRINGS, a
California municipal corporation**

DocuSigned by:
Scott Stiles
By: 6377D99970ED4B6...
Scott C. Stiles
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Jeff Ballinger
9656A1483C6E407...
City Attorney

ATTEST:

DocuSigned by:
Brenda Price
54C8B30D3EDE4BE...
City Clerk

Dated: _____

**THE CITY OF CATHEDRAL CITY, a
California municipal corporation**

By: _____
Name
Title City Manager

Dated: _____

CVWD:

**COACHELLA VALLEY WATER DISTRICT,
a public agency of the State of California**

By: _____
J. M. Barrett
General Manager

ATTEST:

Sylvia Bermudez
Clerk of the Board

EXHIBIT LIST

EXHIBIT “A”	INSURANCE
EXHIBIT “B”	INDEMNITY
EXHIBIT “C”	CHANNEL MAINTENANCE RESPONSIBILITY PLAN

EXHIBIT "A"

INSURANCE REQUIREMENTS

EXHIBIT "A"

INSURANCE REQUIREMENTS

1. MINIMUM SCOPE AND LIMIT OF COVERAGE. Prior to and at all times after executing the Agreement, Developer shall procure and maintain, at its sole cost, for the duration of Developer's obligations hereunder, not less than the following coverage and limits of insurance with insurers and under policy forms satisfactory to CVWD.

(a) **Commercial General Liability Insurance** written on an occurrence basis of at least \$2,000,000 per occurrence/\$4,000,000 aggregate providing coverage for ongoing and products and completed operations, property damage, bodily injury, personal and advertising injury, property damage, and premises/operations liability.

(i) Coverage for Commercial General Liability insurance shall be at least as broad as Insurance Services Office Commercial General Liability coverage form (Occurrence Form CG 00 01) or exact equivalent.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(iii) The policy shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds using ISO endorsement forms CG 20 10 07 04 and 20 37 07 04, or endorsements providing the exact same coverage.

(b) **Commercial Automobile Liability Insurance** written on a per occurrence basis of at least \$1,000,000 per occurrence for bodily injury and property damage.

(i) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto)

(ii) The policy shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds.

(c) **Workers' Compensation Insurance/Employers Liability** as required by the State of California with statutory limits or be legally self-insured pursuant to Labor Code section 3700 *et. seq.* along with Employer's Liability limits of no less than \$1,000,000 per occurrence for bodily injury or disease. The workers compensation insurer shall agree, using form WC 00 03 13 or the exact equivalent to waive all rights of subrogation against Coachella Valley Water District, its employees, directors, officers, and agents.

2. OTHER INSURANCE PROVISIONS. All of Developer's policies shall meet the following requirements and contain all specified provisions/endorsements noted hereunder.

(a) Insurers shall provide CVWD at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that insurers shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. In the event any insurer issuing coverage hereunder does not agree to provide notice of cancellation to CVWD, Developer shall assume such obligation and provide written notice of cancellation in accordance with the above. If any of the required coverage is cancelled or expires during the term of this Agreement, Developer shall deliver renewal certificate(s) including endorsements to CVWD at least ten (10) days prior to the effective date of cancellation or expiration.

(b) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Developer's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by CVWD or any additional insureds shall not be called upon to contribute to any loss.

(c) All required insurance coverages shall contain a provision, or be endorsed, to waive subrogation in favor of the Coachella Valley Water District, its employees, directors, officers, and agents or shall specifically allow Developer to waive its right of recovery prior to a loss. Developer hereby waives its own right of recovery against Coachella Valley Water District, its employees, directors, officers, and agents.

(d) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, CVWD has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by CVWD will be promptly reimbursed by Developer. In the alternative, CVWD may cancel this Agreement.

(e) CVWD may require Developer to provide complete copies of all insurance policies and endorsements in effect for the duration of the Agreement.

(f) Developer shall not allow any of its contractors, consultants, subcontractors or subconsultants to commence work under this Agreement until Developer has verified that contractors, subcontractors, consultants, or subconsultants have secured all insurance required herein, including waivers of subrogation and other endorsements. Policies of commercial general liability insurance provided by such contractors, consultants, subcontractors or subconsultants shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Developer, CVWD may approve different scopes or minimum limits of insurance for particular contractors, consultants, subcontractors or subconsultants.

(g) The general liability program and automobile liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by CVWD, and provided that such deductibles shall not apply to CVWD as an additional insured.

(h) Claims made policies are not acceptable.

3. VERIFICATION OF COVERAGE. Prior to execution of the Agreement, Developer shall file with CVWD evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance. All policies required shall be issued by acceptable insurance companies, as determined by CVWD. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

4. LIABILITY NOT LIMITED. Defense costs shall be payable in addition to the limits set forth herein. Requirements of specific coverage or limits contained herein are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve Developer from liability in excess of such coverage, nor shall it limit Developer's indemnification obligations to CVWD and shall not preclude CVWD from taking such other actions available to CVWD under other provisions of the Agreement or law.

5. AVAILABLE LIMITS. Notwithstanding the minimum limits set forth above, any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds.

6. RESERVATION OF RIGHTS. CVWD reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

EXHIBIT "B"

INDEMNITY PROVISION

EXHIBIT "B"

INDEMNITY

Developer shall assume the defense of, indemnify and hold harmless CVWD and its officers, directors, administrators, representatives, consultants, engineers, employees and agents, and their respective successors and assigns (collectively, "CVWD Indemnitees") and each and every one of them, from and against all actions, causes of action, damages, demands, liabilities, costs (including, but not limited to reasonable attorneys' fees), claims, losses and expenses of every type and description (collectively, "Costs") to which they may be subjected or put, by reason of, or resulting from: (A) this Agreement; (B) the design, engineering and construction of the Domestic Water System; (C) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act or neglect on the part of Developer or its Representatives (as defined below); (D) any death, injury, property damage, accident or casualty caused or claimed to be caused by Developer or its Representatives or including Developer or its Representatives or its or their property; (E) any breach by Developer of its obligations under this Agreement; and (F) any enforcement by CVWD of any provision of this Agreement. The foregoing indemnity shall not apply to the extent any such Costs are ultimately established by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of CVWD Indemnitees or any of them. CVWD shall make all decisions with respect to its representation in any legal proceeding concerning this Section. If Developer fails to do so, CVWD shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including fees and costs, to Developer and to recover the same from Developer. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable. No provision of this Agreement shall in any way limit the extent of the responsibility of Developer for payment of damages resulting from its operations or the operations of any of its Representatives. Developer further covenants and agrees to pay, or reimburse CVWD Indemnitees, or any of them for any and all Costs in connection with the investigating, defending against or otherwise in connection with Developer's obligations pursuant to this Agreement, except liability arising through the gross negligence or willful misconduct of CVWD Indemnitees, or any of them. CVWD shall have the right, at Developer's expense, to commence, to appear in, or to defend any action or proceeding arising out of or in connection with this Agreement, and in connection therewith, may pay all necessary expenses if Developer fails upon reasonable notice to so commence, appear in or defend any action or proceeding with counsel reasonably acceptable to CVWD. Developer shall be furnished with copies of bills relating to the foregoing upon request.

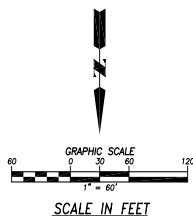
EXHIBIT "C"

CHANNEL MAINTENANCE RESPONSIBILITY PLAN





Underground Service Alert



DIAL:
811



LEGEND

- | | |
|---|---|
|  | CITY OF PALM SPRINGS MAINTAINED CHANNEL
CONCRETE LINING AND TRANSVERSE CUTOFF WALL |
|  | CITY OF CATHEDRAL CITY MAINTAINED CHANNEL
CONCRETE LINING AND TRANSVERSE CUTOFF WALL |
|  | ROFCAHWD MAINTAINED LONGITUDINAL
AND TRANSVERSE CUTOFF WALLS |
|  | CVWD MAINTAINED LONGITUDINAL CUTOFF WALL |



THE CITY OF PALM SPRINGS OR ITS
OFFICERS OR AGENTS SHALL NOT BE
RESPONSIBLE FOR THE ACCURACY OR
COMPLETENESS OF ELECTRONIC OR
SCANNED COPIES OF THIS PLAN SHEET.

APPROVED BY
CITY OF CATHEDRAL CITY

ARMANDO J. GARCIA-BALDIZZONE - CITY ENGINEER

70102

C.V.W.D. DRAWING APPROVAL

[illegible]

IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

RAMON ROAD WIDENING PROJECT

WHITEWATER RIVER STORMWATER CHANNEL IMPROVEMENT PLANS

CHANNEL MAINTENANCE RESPONSIBILITY PLAN
PORTIONS OF THE S 1/2 OF SECT. 17 AND THE N 1/2 OF SEC. 20, T4S, R5E., S.B.M.

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