
**REIMBURSEMENT AGREEMENT BETWEEN
CITY OF KERMAN AND KERMAN UNIFIED SCHOOL DISTRICT
RELATING TO INSTALLATION OF WATER MAIN ACROSS STATE
ROUTE 180**

This Reimbursement Agreement Between City of Kerman and Kerman Unified School District Relating to Installation of Water Main across State Route 180 (“Reimbursement Agreement”) is entered into this 17th day of October, 2024, (“effective date”) by and between the City of Kerman, a municipal corporation of the State of California, (“City”), and the Kerman Unified School District (“District”).

WHEREAS, City is in need of a segment of 12-inch water main across State Route 180 for establishing a contiguous large diameter alignment; and

WHEREAS, the 12-inch water main will enable future development north of State Route 180; and

WHEREAS, District is engaged in the construction of public improvements for the construction of its new school site (“School Construction Project”); and

WHEREAS, the District will construct public improvements over the same area as the City’s necessary 12-inch water main; and

WHEREAS, District has utilized public bidding requirements and contracting procedures for the School Construction Project; and

WHEREAS, it will be in the best interests of the City and its residents to have District construct the 12-inch water main at the time of School Construction Project; and

WHEREAS, it will be in the best interests of the District to construct the 12-inch water main at the same time as the School Construction Project; and

WHEREAS, construction of the 12-inch water main at this time is economical and an efficient use of resources; and

WHEREAS, the City and District now desire to set forth the terms and conditions whereby City agrees to pay District for the costs of the 12-inch main public improvements; and

WHEREAS, the City will reimburse District for actual costs which have been incurred by District in constructing and installing the eligible water main required as described in this Agreement; and

NOW, THEREFORE, based on the foregoing recitals which are deemed true and correct by the parties, it is mutually agreed between City and District as follows:

1. Estimated Cost of Improvements. The estimated cost of the 12-inch water main across State Route 180 improvements is Two Hundred Thirty Thousand, dollars and zero cents (\$230,000.00). (“Estimated Cost”).

2. Construction Requirements. District shall construct a 12-inch water main in First Street across State Route 180 by jack and bore means, approximately 215 feet in length. District will cooperate and engage with City to ensure the line is built in accordance with City standards.

3. Reimbursement. City will reimburse District the actual cost of improvements and the cost of a reasonable change order as approved by City Engineer, whose approval will not be unreasonably withheld.

4. Term. This Agreement and all obligations of the parties hereunder shall terminate upon completion of the 12-inch water main across State Route 180 and payment by City of the Estimated Cost of Improvements.

5. Water Main Maintenance. Upon completion of the water main’s installation by the District the City shall assume full ownership and responsibility for the maintenance and repair of the water main and all elements of the infrastructure installed by the District.

5. Attorney’s Fees. In the event either party commences legal action or arbitration to enforce or interpret any provisions of this Agreement, the prevailing party in such action or arbitration shall be entitled to recover from the losing party reasonable attorneys’ fees, court costs and legal expenses, including expert witness costs and fees, in the amounts determined by the court or tribunal having jurisdiction.

6. Waiver. Waiver of any provision of this Agreement must be in writing and signed by a duly authorized representative of each party.

7. Assignment. No party to this Agreement may assign or transfer by operation of law or otherwise, any or all of its rights, duties or obligations hereunder without the prior written consent of the other party.

8. Insurance. District shall provide insurance in an amount and form acceptable to City’s Finance Director and Risk Management Authority. District shall require its contractors and subcontractors to provide the same requisite level of insurance.

9. Indemnification. To the furthest extent allowed by law, each party (“Indemnitor”) shall indemnify, hold harmless and defend the other party (“Indemnitee”) and each of its officers, officials, employees, consultants, attorneys, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, damages and costs (including attorney’s fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third Party Action based on the development and installation of the water main and/or the ownership, maintenance and repair of the water main after its completion. The term “Third Party Action” collectively means any legal action or other proceeding instituted by (i) a third party or parties or (ii) a governmental body, agency or official other than the City or a City Agency, that:

(a) challenges or contests any or all of this Agreement; or (b) makes a claim on any reimbursement paid to District under this Agreement; or (c) the City's granting, issuing or approving use of this Agreement. The Indemnitor's indemnification obligations under the proceeding portions of this paragraph shall apply regardless of whether the Indemnitee or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to that portion of any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers. The provisions of this Section shall survive the termination of this Agreement.

10. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon each party and their respective successors and assigns.

11. Severability. If a court of competent jurisdiction shall hold that any provision of this Agreement is invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

12. Amendment. This Agreement may be amended, altered or modified only by a written document signed by both parties.

13. Governing Law. The rights and obligations of the parties and all interpretations in performance of this Agreement shall be governed in all respects by the laws of the State of California and venue shall be in Fresno County.

14. Notices. All notices, certificates or other communications hereunder shall be deemed given when personally delivered or mailed by regular mail, postage prepaid, to the parties at their respective addresses provided below. Notices may also be sent by facsimile provided that a proof of facsimile transmission is made to verify the facsimile transmission.

To the City: City of Kerman
Attn: City Manager
850 S. Madera Avenue
Kerman, California 93630

To District: Kerman Unified School District
Attn: Kraig Magnussen, Assistant Superintendent
[15218 W. Whitesbridge Ave.
Kerman, CA 93630]

15. Entire Agreement. This Agreement, together with Exhibits A attached hereto and incorporated herein by reference, constitutes the entire agreement of the parties who have executed this Agreement with respect to the subject matter hereof and supersedes any prior agreements, negotiations or understandings. Each of these parties acknowledges and agrees that no other party, agent, or attorney of any of the parties made any promise, representation or warranty, express or implied, not set forth in this Agreement. Each party signing this Agreement acknowledges that such party has not executed this Agreement in reliance upon any promise, representation, conduct or warranty of any other party not expressly set forth in this Agreement.

16. Waiver of Presumptions. The parties acknowledge and agree that each of them has taken part in drafting every part of this Agreement, and the parties hereby waive the presumption that any ambiguities in a contract are read against the drafter of same.

17. Authority. Each signatory to this Agreement on behalf of a corporation or entity other than an individual, represents and warrants that he or she is the duly authorized representative of the party for whom the signatory executes this Agreement and may bind such corporation or entity to this Agreement.

18. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures of the parties may appear on separate signature pages. Facsimile or photocopy signatures shall be deemed original signatures for all purposes.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective as of the date first above mentioned.

(Signatures on following page)

CITY OF KERMAN

John Jansons, City Manager

Date: _____

ATTEST:

Josie Camacho, City Clerk

APPROVED AS TO FORM

Hilda Cantu Montoy, City Attorney

KERMAN UNIFIED SCHOOL DISTRICT



Craig Magnussen, Assistant Superintendent

Date: 11/17/24

APPROVED AS TO FORM
