

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (this “Agreement”) is made and entered into this ____ day of _____, 2014 (the “Effective Date”), by and between the **EASTSIDE UNION SCHOOL DISTRICT** (the “District”), and the **CITY OF LANCASTER**, a California municipal corporation and charter city (the “City”).

RECITALS

A. The City’s Planning Director (the “Director”) approved, subject to certain conditions, Director’s Review No. 08-100 (the “Review”) relative to the proposed construction of an elementary school located on 37th Street East (Assessor’s Parcel Number 3150-013-035) (the “Site”). The Site is legally described in Exhibit “A” attached hereto and incorporated herein.

B. The Director’s conditions of approval of the Review included (without limitation) a condition that the District pay certain development fees at the time an encroachment permit is issued, which development fees include (but are not limited to) the Sewer Facilities Fee, Biological Impact Fee, Administrative Office Fee, Corporate Yard Fee, Traffic Signal Impact Fee, the Planned Local Drainage Facilities Fee and Traffic Impact Fees (as such fees are defined in the Lancaster Municipal Code) (the “Impact Fees”) and a condition that the District provide a 30-foot wide paved roadway on 37th Street East from the Site’s southerly property line to Avenue J-8 (the “Roadway”).

C. Subject to the District complying with all conditions imposed by the Director, and subject further to the terms and conditions set forth in this Agreement, the City has agreed to reimburse the District for the design and construction cost of the Roadway.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Responsibilities of City. City agrees to and shall pay to the District within sixty (60) days of the Effective Date the sum of One Hundred Thirty-One Thousand Three Hundred Ninety Dollars and Fifty-Two Cents (\$131,390.52) (the “Reimbursement Amount”) as and for reimbursement of third-party costs incurred and actually paid by the District that were directly attributable to the design and construction of the Roadway. The City acknowledges that it has received and reviewed the invoice and supporting documentation attached hereto as Exhibit “B” and incorporated herein, and that such invoice and documentation evidence that the District did in fact pay the Reimbursement Amount for the design and construction of the Roadway.

2. Responsibilities of District. The District shall be responsible for the design and construction of the Roadway, payment of the Impact Fees and compliance with and satisfaction of each and every condition imposed by the Director as a part of the Review. The District shall provide the City with copies of all reports produced by the District or its general contractor (or any of its general contractor’s subcontractors) in connection with the design and/or construction of the Roadway.

3. Indemnification. The District agrees to indemnify, defend and hold the City and its officers, employees, agents, representatives, and assigns (“City Indemnitees”) harmless from and against any losses, claims, demands, actions, or causes of action, of any nature whatsoever, arising

out of or in any way connected with the performance of the District, its officers, employees, agents, or representatives under this Agreement, including costs of suit and reasonable attorneys' fees. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding in any way involving such losses, claims, demands, actions, or causes of action, the District shall provide a defense to the City Indemnitees, including reasonable attorneys' fees, incurred in defense of such claim. In addition, the District shall be obligated to promptly pay any final judgment or portion thereof rendered against the City Indemnitees.

4. City Officers and Employees. No officer or employee of the City shall be personally liable to District or any successors in interest in the event of any default or breach by the City or for any amount, which may become due to the District or any successor(s) in interest or for breach of any obligation of the terms of this Agreement. No officer or employee of the District shall be personally liable to the City or any successor(s) in interest in the event of any default or breach by the District or for any amount which may become due to the City or their successors in interest or for breach of any obligation of the terms of this Agreement.

5. Notice. Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or any person shall be in writing, and either served personally or sent by prepaid, first-class mail to the address set forth below. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To City: City of Lancaster
 44933 Fern Avenue
 Lancaster, CA 93534
 Attn: City Manager

To District: Eastside Union School District
 45006 North 30th Street East
 Lancaster, CA 93535
 Attn: Mark E. Marshall, Ed.D.
 Superintendent

6. Assignment of Agreement. The parties hereto may not assign their obligations hereunder to any assignee without the knowledge and consent of the other parties hereto, which other parties shall not unreasonably withhold consent. Assignment may be made only to an assignee willing, financially capable and competent to carry out the assignor's obligations.

7. General Provisions.

(a) Except as otherwise provided herein, the terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns, and successors of the parties hereto.

(b) The parties to this Agreement do not rely upon any warranty or representation not contained in this Agreement.

(c) This Agreement shall be governed by and interpreted with respect to the laws of the State of California.

(d) Any failure or delay by any party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies provided for herein.

(e) This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing signed by the parties.

8. Severability. In the event that any provision or provisions of this Agreement are held unenforceable, all provisions not so held shall remain in full force and effect.

9. Authority of Signatories. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties, and that by so executing this Agreement, the parties are formally bound to the provisions of this Agreement.

[SIGNATURE BLOCKS BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY:

CITY OF LANCASTER

Mark Bozigian
City Manager

ATTEST:

Britt Avrit, CMC, City Clerk

DISTRICT:

EASTSIDE UNION SCHOOL DISTRICT

By: _____
Name: _____
Its: _____

APPROVE:

Allison E. Burns, Esq.
City Attorney

EXHIBIT "A"

SITE LEGAL DESCRIPTION

That real property located in the State of California, County of Los Angeles, City of Lancaster, and described as follows:

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 11 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF LANCASTER, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND.

EXCEPT THEREFROM THE EAST 20 FEET THEREOF, AS CONVEYED TO THE COUNTY OF LOS ANGELES, FOR PUBLIC ROAD AND HIGHWAY PURPOSES, AS DESCRIBED IN DEED RECORDED IN BOOK 72 PAGE 112, OFFICIAL RECORDS.

EXCEPT ONE-HALF OF ALL OIL, AND MINERAL RIGHTS IN AND UNDER SAID LAND AS RESERVED BY VARIOUS DEEDS OF RECORD.