

**REIMBURSEMENT AGREEMENT
BETWEEN THE CITY OF MENIFEE AND MT. SAN JACINTO COLLEGE (MSJC)
FOR CIP 22-15 ANTELOPE ROAD/MSJC ENTRANCE TRAFFIC SIGNAL**

This reimbursement Agreement (“Agreement”) is entered into by and between City of Menifee (“CITY”) and Mt. San Jacinto College (“MSJC”) whose address is 1499 North State Street, San Jacinto, CA 92583

CITY proposes to improve an existing “tee intersection” with a traffic signal installation on Antelope Road and the main entrance of the MSJC Menifee Campus. All in the City of Menifee, California, hereinafter referred to as the “PROJECT”. MSJC owns, operates, and maintains one of the three legs that makes up the “tee intersection”.

Therefore, it is hereby mutually agreed between CITY and MSJC that:

I. WORK TO BE DONE

- A. CITY shall prepare plans for the new traffic signal, ADA ramps, signs, and striping.
- B. CITY shall construct the traffic signal, ADA ramps, signs and striping.
- C. All work shall be performed in accordance with state and CITY standards. MSJC hereby acknowledges the CITY’s plans for work and agrees to the construction in the manner approved.
- D. Deviations from the work described above, initiated by either CITY or MSJC, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by CITY and agreed to/acknowledged by MSJC, will constitute an approved revision, and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by MSJC of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner.

II. LIABILITY FOR WORK

- A. Costs for installation by CITY are to include, but are not limited to, all elements of planning, design, construction, inspection, and project closeout.
- B. Costs associated with the construction of the PROJECT will be shared 2/3 CITY (two legs of the intersection) and 1/3 MSJC (one leg of the intersection), as reflected in Section VI of this Agreement.

III. PERFORMANCE OF WORK

- A. CITY will administer the construction contract to construct a fully functioning traffic signal on CIP 22-15 Antelope Road/MSJC entrance traffic signal plans. CITY will provide construction management and inspection as well.
- B. Engineering services for locating, making of surveys, preparation of plans, specifications, estimates, supervision, and inspection are to be furnished by CITY.
- C. Pursuant to Public Works Case No. 2001-059 determination by the California Department of Industrial Relations dated October 25, 2002, work performed by the CITY’s contractor is a public work under the

definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirement.

- D. The CITY agrees that if, during design or construction, the CITY requests or initiates any revision to the Plans and Specifications that would increase the cost of the PROJECT, such additional costs shall be borne by the CITY, except for revision(s) and cost(s) that are determined necessary to construct the PROJECT and could not reasonably have been foreseen at the time bid were received. The costs of any such necessary and unforeseeable revisions, and the cost of any revisions requested or initiated by MSJC, shall be reimbursed by MSJC as provided herein. The CITY shall promptly furnish MSJC with copies of any proposed change orders to or impacting MSJC's costs relative to the PROJECT, or its share of the costs, within five (5) working days of initiation of the changed conditions to such contract, which charge orders shall be subject to MSJC approval if and to the extent MSJC's share of the costs are affected thereby. MSJC will review and respond to such proposed change orders within five (5) business days of receipt by MSJC. The Parties acknowledge that MSJC is subject to a limitation imposed by Public Contract Code section 20659, limiting MSJC's ability to approve change orders without securing bids to 10 percent of the original contract.

IV. PAYMENT FOR WORK

- A. In any event, if the final bill exceeds 110% of the estimated cost of this Agreement as reflected in Section VI of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of CITY's final bill.
- B. Detailed records from which the billing is compiled shall be retained by CITY for a period of three years from the date of the final payment and will be available for audit by CITY and/or Federal auditors. MSJC agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645.
- C. 1/3 of the final construction costs will be paid (reimbursed) by MSJC to the CITY within the first 60 days after (1) construction has been completed and the PROJECT accepted by the CITY and (2) the CITY has submitted an invoice to MSJC for its share of the costs of the PROJECT as set forth herein.

V. GENERAL CONDITIONS

- A. If CITY's PROJECT which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work described herein, CITY will notify MSJC in writing and CITY reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating this Agreement and reconciling outstanding costs/reimbursements due.
- B. CITY shall prepare all documentation and obtain any and all environmental clearances as necessary for the construction of the facilities, including but not limited to compliance with requirements imposed under the California Environmental Quality Act (CEQA).
- C. MSJC and CITY each hereby agree to indemnify, defend, and hold harmless the other party and their respective directors, officials, officers, employees, and agents from and against any claims, actions, damages, expenses, costs (including attorney's fees and costs of litigation), and liabilities arising out of or in any manner connected with the activities governed by this Agreement due to any negligent acts, errors, or omissions or willful misconduct of the indemnifying party performed in connection with such party's duties and obligations hereunder.

- D. The CITY shall cause its contractors for the construction of the PROJECT to obtain insurance coverage sufficiently broad to insure the matters set forth in this Agreement and to include MSJC as an additional insured on all insurance policies that the CITY requires its contractors to provide. As evidence of such insurance coverage, the CITY shall, prior to commencement of construction of the PROJECT, provide MSJC with copies of the certificates of insurance and insurance endorsements in forms that are reasonably acceptable to MSJC. The CITY shall require its Contractor to provide performance and payments bonds in an amount equal to 100 percent of the contract amount.
- E. The CITY shall require in its contract for the construction of the PROJECT that its contractor be fully informed of and comply with all laws, ordinances, rules and regulations, including but not limited to, all applicable requirements of the California Labor Code, prevailing wage laws, and Public Contract Code, in connection with the PROJECT.
- F. The undersigned individuals hereby warrant and represent that they each have full legal authority to sign this Agreement and bind the respective party hereto.
- G. This Agreement will be construed and interpreted under and governed and enforced according to the laws of the State of California.
- H. This Agreement contains the entire agreement between the parties regarding the subject matter of this Agreement. No subsequent agreement, representation, or promise made by either party hereto, or by or to any employee, officer, agent or representative of either party, will be of any effect unless it is in writing and executed by the party to be bound thereby. No person is authorized to make, and by execution hereof each of the parties acknowledges that no person has made, any representation, warranty, guaranty, or promise except as set forth herein; and no such agreement, statement, representation, or promise that is not contained herein will be valid or binding on any of the parties.
- I. This Agreement may be executed simultaneously in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. For purposes of this Agreement, facsimile and electronic signatures will be deemed to be original signatures.
- J. Each of the parties has reviewed this Agreement and each has had the opportunity to have its respective counsel review and revise this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in the interpretation of this Agreement or any amendments or exhibits thereto. In this Agreement the neuter gender includes the feminine and masculine, and singular number includes the plural, and the words "person" and "party" include corporation, partnership, firm, trust, or association wherever the context so requires. The recitals and captions of the sections and subsections of this Agreement are for convenience and reference only, and the words contained therein will in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- K. If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if this Agreement did not contain the particular part, term or provision held to be invalid.
- L. Pursuant to Section VI. MSJC shall reimburse the city 1/3 of the construction costs.

VI. COST ESTIMATES AND WAIVERS

Please refer to Attachment A for quantities and reimbursement fees.

Reimbursement Agreement

	Description	MSJC	CITY
Design	Prepare Plans, Specifications And Estimates for New Traffic Signal, ADA Ramps, Striping and Signage; Obtain Permitting; And Advertise for Bidding.		CITY's responsibility
Construction	New Traffic Signal, ADA Ramps, Striping and Signage; Contingency; Labor Compliance; and Materials/Geotechnical Testing.	1/3 MSJC's responsibility (\$228,407.00)	2/3 CITY's responsibility (\$456,813.00) (MSJC to reimburse CITY 1/3 of cost for construction upon completion of project)
ESTIMATED TOTAL COST		\$685,220.00	

****MSJC and City agree to waive all design reviews, encroachment permits, and inspection fees.**

****THE ACTUAL REIMBURSEMENT COST TO CITY BY MSJC FOR ITS SHARE OF THE ABOVE-DESCRIBED WORK SHALL BE DETERMINED AT COMPLETION OF WORK.**

Project Cost:

Construction costs for the project are as follows:

Construction Contract:	\$604,514.00
Construction Contingency(10%):	\$60,451.00
Consultant Labor Compliance:	\$11,500.00
Construction Management/Inspection	\$0.00
Materials Testing/Geotechnical	\$8,755.00
Total Construction Cost:	\$685,220.00

Signatures on Following Page

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

CITY OF MENIFEE:

By _____
Name _____
Title _____
Date _____

MT. SAN JACINTO COLLEGE (MSJC):

By _____
Name _____
Title _____
Date _____

APPROVAL RECOMMENDED:

By _____
Name _____
Title _____
Date _____

By _____
Name _____
Title _____
Date _____