

PUBLIC FACILITIES IMPACT FEE CREDIT/REIMBURSEMENT AGREEMENT

THIS PUBLIC FACILITIES IMPACT FEE CREDIT/REIMBURSEMENT AGREEMENT ("Agreement"), made and entered into _____, 2018, between the City of Merced, a California Charter Municipal Corporation, hereinafter called "City," and Stonefield Home, Inc., a California Corporation, hereinafter called "Developer," relating to the installation of a traffic signal at M Street and Cardella Road

RECITALS

- A. Developer has an approved Tentative Subdivision Map for Bellevue Ranch West, Village 12 (TSM #1304) (the "Development") which requires the installation of the traffic signal at M Street and Cardella Road with the first phase of construction.
- B. Developer has filed a Final Map for Bellevue Ranch West, Village 12, Phase 1 (Final Map #5358).
- C. The construction of the traffic signal at M Street and Cardella Road will, in part, benefit other properties due to the regional use of the roadway and traffic signal.
- D. Prior to the construction of the traffic signal, the City Engineer shall approve all plans for the signal and an encroachment permit shall be issued.
- E. The intersection of Cardella Road and M Street constitutes the intersection of two arterials as identified on the Circulation Map of the *Merced Vision 2030 General Plan*.
- F. Developer is qualified to receive either a fee credit, a reimbursement, or a combination of fee credit and reimbursement from the City for the Improvements in an amount not to exceed the cost estimate approved by the City Engineer (Exhibit A) as provided in Chapter 17.62 of the Merced Municipal Code and as provided for under the Policy A-32 of the City's Administrative Policy and Procedure.
- G. Security for the traffic signal shall be provided as part of the Subdivision Agreement for Bellevue Ranch West, Village 12, Phase 1.

Based on the foregoing recitals, and in consideration of the mutual covenants, promises, and agreements herein contained, the parties hereto mutually agree as follows:

1. INCORPORATION OF RECITALS

The RECITALS above are true and correct and constitute an enforceable provision of this Agreement.

2. POLICIES, ORDINANCES, AND RESOLUTIONS

Fee credit or reimbursement for the Improvements shall be made only in accordance with policies, ordinances, and resolutions in effect at the time of execution of this Agreement. Such fee credit or reimbursement shall be limited to the items and quantities actually installed or constructed. Estimated items and quantities shall be listed in a schedule to be submitted and approved at the time of execution of this Agreement, and attached hereto as "Exhibit A". The burden of clearly establishing the actual costs of items and quantities installed rests on the Developer.

3. RESERVED

4. REIMBURSEMENT

If the actual cost of the Improvements is greater than the total amount of fees to be paid for the Development, a reimbursement shall be established hereunder:

- A. Developer shall be reimbursed on a first in time basis and based on the availability of public facility fee program funds. First in time shall be determined by when the public Improvement is completed and accepted by City.
- B. Reimbursement, if funds are available, shall be paid as prescribed in Chapter 17.62 of the Merced Municipal Code and related Administrative Policy and Procedure A-32 following the recording of Notice of Completion by the City, and after correction of any and all deficiencies, assuming no labor and material claims are filed, and after Developer has filed a claim therefore, supported by itemized paid invoices for such work or materials.

- C. Reimbursements shall not bear interest but shall be owed indefinitely until paid in full.

The Developer is entitled to either fee credit or reimbursement, or a combination of both, in an amount not exceed the Engineer's Estimate approved by the City Engineer. No reimbursement shall be given until and unless the Improvements are constructed and accepted by City.

5. REIMBURSEMENT AMOUNT

The Developer is, therefore, entitled to a reimbursement in an amount not to exceed Four Hundred Twenty-Two Thousand Five Hundred and Nine Dollars (\$422,509.00) for the installation of the traffic signal at M Street and Cardella Road (see Exhibit A).

If the Developer elects to obtain the reimbursement through fee credits, the credit given shall be for a portion of the PFFP fee collected as part of the building permit process. The remaining portion of the PFFP fee would remain the Developer's responsibility. If the reimbursement amount exceeds the PFFP fees for which credits are provided, Developer shall remain entitled to a reimbursement for such difference in accordance with the terms of Section 4.

All of the Improvements shall be subject to the City's final inspection and approval, and in no event shall the reimbursement given hereunder be construed as acceptance of the Improvements, or any portion thereof, by the City.

6. NOTICE OF COMPLETION

Where applicable, City shall record a Notice of Completion with the Merced County Recorder following City's acceptance of the Improvements.

7. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto.

8. WAIVER

In the event that either City or Developer shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

9. VENUE

This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Merced.

10. AMENDMENT

This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

11. INTEGRATION

This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

12. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

13. COUNTERPARTS

This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

14. CONSTRUCTION

The provisions of this Agreement shall be liberally construed to effectuate its purpose. The language of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against any party, as each party has participated in the drafting of this Agreement. Whenever the context and construction so require, all words used in the singular shall be deemed to be used in the plural, and vice versa.

15. SECTION HEADINGS

The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:  3-19-2018
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

DEVELOPER:
STONEFIELD HOME, INC.,
A California Corporation

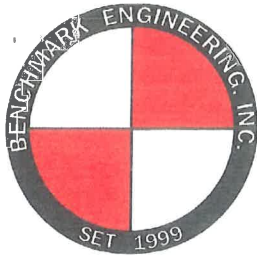
By: 
Greg Hostetler

Its: President

Tax ID No. 32-0439641

Address: 923 E. Pacheco Blvd.
Suite C
Los Banos, CA 93665

Telephone: (209) 826-6200



BENCHMARK ENGINEERING INC.

CIVIL ENGINEERING & LAND SURVEYING

JOB #125971
March 8, 2018

ENGINEER'S ESTIMATE
FOR
TRAFFIC SIGNALIZATION AT
M' STREET AND CARDELLA ROAD
MERCED, CA

ITEM	DESCRIPTION	UNIT	QUAN.	UNIT PRICE	AMOUNT
A.	TRAFFIC SIGNALS AT 'M' STREET AND CARDELLA ROAD				
1.	TRAFFIC SIGNAL INSTALLATION (COMPLETE)	LS	1	\$272,976.00	\$272,976.00
2.	INSPECTION (3%)	LS	1	\$8,189.28	\$8,189.28
3.	ENCROACHMENT PERMIT (3%)	LS	1	\$8,189.28	\$8,189.28
4.	TOPOGRAPHY SURVEY AND PLAN	LS	1	\$5,000.00	\$5,000.00
5.	TRAFFIC SIGNAL PLANS	LS	1	\$14,500.00	\$14,500.00
6.	CONSTRUCTION STAKING	LS	1	\$2,500.00	\$2,500.00
7.	CONSTRUCTION ADMINISTRATION	LS	1	\$13,648.80	\$13,648.80
8.	AS-BUILTS	LS	1	\$4,500.00	\$4,500.00
SUB-TOTAL					\$329,503.36
20% PREVAILING WAGE ON ITEM A.1.=====>					\$54,595.20
CONSTRUCTION SUB-TOTAL=====>					\$384,098.56
10% CONTINGENCY=====>					\$38,409.86
CONSTRUCTION TOTAL=====>					\$422,508.42

NOTE:

1. THE ABOVE DEVELOPMENT COST ESTIMATE DOES **NOT** INCLUDE LAND, ADJACENT RIGHT-OF-WAY, INTEREST, TAXES, COMMISSIONS, LEGAL FEES, ENGINEERING FEES, GEOTECHNICAL FEES, CITY FEES. FEES CHARGED IN CONNECTION WITH A BUILDING PERMIT. PRICES REFLECT CURRENT NORMAL CONSTRUCTION COSTS AND ARE SUBJECT TO CHANGE ONCE IMPROVEMENT PLANS HAVE BEEN APPROVED.

K:125971/Estimates/Traffic Signal.xls

MODESTO: 915 17th Street • Modesto, CA 95354 • 209.548.9300

LOS BANOS: 507 J Street • Los Banos, CA 93635 • 209.737.0900

EXHIBIT A