

FUNDING AGREEMENT

(Traffic Signal)

This Funding Agreement ("Agreement") is entered into as of the ____ day of _____, 2017, by and between the County of Solano, a political subdivision of the State of California ("County") and the City of Fairfield, a California municipal corporation ("City").

RECITALS

- A. County owns and operates certain facilities, located at 2500 Clay Bank Road, Fairfield, CA, generally described as Assessor Parcel Numbers 0170-050-310 and 0170-050-320 (the "County Property").
- B. The City and Rancho Tolenas Corp. (the "Developer") have entered into that certain Improvement Agreement, Clay Bank Road and Air Base Parkway Improvements, dated as of July 17, 2017, pursuant to which Developer is constructing certain roadway improvements and the installation of sidewalks and a cross walk at the intersection of Fonstal Way and Clay Bank Road (the "Construction Project").
- C. The County informed the City that the Construction Project will have adverse impacts on County operations, including ingress and egress to the County Property.
- D. To alleviate such adverse impacts, the County has requested installation of a traffic signal at Fonstal Way and Clay Bank Road (the "Traffic Signal").
- E. The City proposes to install the Traffic Signal at this time provided that the County will reimburse the City for 25% of the design and construction costs.
- F. The City and the County desire to enter into this Funding Agreement for the purpose of reimbursing the City for the Traffic Signal.

Now therefore, for good and valuable consideration, receipt of which is acknowledged, the Parties agree as follows:

AGREEMENT

1. **Recitals.** The foregoing recitals are incorporated into this Agreement.
2. **Term.** This Agreement shall terminate upon receipt by the City of the full payment required by Section 4 of this Agreement.

3. The City's Obligations.

A. The City shall provide for design and construction of the Traffic Signal.

B. The Traffic Signal design shall accommodate: (i) right turns and left turns from Fonstal Way onto Clay Bank Road and (ii) turns from Clay Bank Road onto Fonstal Way from the northbound and southbound directions.

C. Except to the extent deemed necessary to accommodate construction activities, the City shall maintain the current traffic movements until the Traffic Signal is completed and operational.

D. As soon as practicable after the City accepts the completed Traffic Signal, the City shall submit to the County an invoice showing the total cost for design and construction of the Traffic Signal.

4. County Reimbursement. Within 60 days after the City accepts the completed Traffic Signal, the County shall reimburse the City in an amount equal to 25% of the total cost for design and construction of the Traffic Signal, as shown on the invoice submitted by the City; provided, however, that the amount of the reimbursement shall not exceed \$175,000.

5. Liability and Indemnification.

A. County agrees to indemnify, defend, protect, hold harmless, and release City, their elected bodies, agents, officers and employees (collectively referred to in this paragraph as "City") from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused solely by any negligent act or omission or willful misconduct of the County. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

B. City agrees to indemnify, defend, protect, hold harmless, and release the County, their elected bodies, agents, officers and employees (collectively referred to in this paragraph as "County") from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused solely by any negligent act or omission or willful misconduct of City. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The obligations of this Section 5 shall survive termination of this Agreement.

6. Insurance.

A. Each of the City and the County (each being a "Party") agrees to maintain its status as a legally self-insured public entity for general, auto and professional liability insurance coverage with limits of no less than \$1,000,000 per occurrence and no less than twenty-five million dollars (\$25,000,000) aggregate. Each Party's insurance will be considered primary for all claims arising out of acts of that Party. Each Party agrees to endorse the other Party, its officials, employees and agents, using standard ISO endorsement No. CG 20 10 or its equivalent for general liability coverage

B. Each Party will maintain Workers' Compensation as required by law for all its employees with limits not less than \$1,000,000 per occurrence. Neither Party's insurance shall be called upon to satisfy any claim for workers' compensation filed by an employee of the other Party. Each Party will provide the other with a Waiver of Subrogation endorsement for Workers' Compensation.

7. Notice. All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that a Party desires to give to the other Party shall be addressed to the other Party at the addresses set forth below. A Party may change its address by notifying the other Party of the change of address. Any notice sent by mail in the manner prescribed by this Paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

TO COUNTY:

Birgitta E. Corsello, County Administrator
County of Solano
675 Texas Street, Suite 6500
Fairfield, CA 94533

TO CITY:

David White, City Manager
City of Fairfield
1000 Webster Street
Fairfield, CA 94533

8. Cooperation. County and City agree to promptly take whatever steps are necessary to execute, acknowledge, and deliver the documents necessary to effectuate the terms and purpose of this Agreement.

9. Force Majeure. Neither the County nor City shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or for any interruption of services, directly or indirectly, from acts of god, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of the Parties.

10. Governing Law. This Agreement shall be interpreted in accordance with and governed in all respects by the laws of the State of California.

11. Entire Agreement. This Agreement contains the entire understanding between the parties with regard to the matters set forth in this Agreement and is intended to be and is a final integration of it. There are no representations, warranties, agreements, arrangements, undertakings, oral or written between or among the parties relating to the terms and conditions of this Agreement which are not fully expressed here. The terms are contractual and not a mere recital and it is understood that no alterations, modifications or changes may be effected except by a writing duly executed by all the parties to this Agreement.

12. Binding Effect. This Agreement shall be binding on the heirs, legal representatives, successors and assigns of the parties.

The parties have executed this Agreement as of the date first above written.

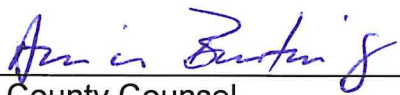
County
County of Solano

City
City of Fairfield

By: _____
County Administrator

By:  _____
City Manager GELK

Approved as to Form:

By:  _____
County Counsel

Approved as to Form:

By:  _____
City Attorney