

AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES AND COST OF CERTAIN PUBLIC IMPROVEMENTS AND PROGRAMS NECESSARY TO CARRYOUT THE GOALS AND OBJECTIVES OF THE REDEVELOPMENT PLAN

This AGREEMENT FOR ADVANCE AND REIMBURSEMENT OF ADMINISTRATIVE AND OVERHEAD EXPENSES AND COST OF CERTAIN PUBLIC IMPROVEMENTS AND PROGRAMS NECESSARY TO CARRYOUT THE GOALS AND OBJECTIVES OF THE REDEVELOPMENT PLAN (this “Agreement”) is entered into as of this 15<sup>th</sup> day of February, 2011, by and between the Lemoore Redevelopment Agency, a public body, corporate and politic (the “Agency”), and the City of Lemoore, a municipal corporation (the “City”).

RECITALS:

A. Pursuant to the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.) (the “Redevelopment Law”), the Agency is undertaking a program for the redevelopment of blighted areas in the City and, in that regard, the Agency proposes to pay for all or part of the value of the land for and the cost of the installation and construction of certain public improvements and to pay for all or part of the programs associated with certain public improvements described in Exhibit A hereto (collectively, the “Improvements”); and with regard to the performance of the Improvements, the Agency proposes to pay for the cost of administration and overhead necessary to carryout the work associated with the Improvements as described in Exhibit B hereto (collectively, the “Cost Allocation Plan”); all for the benefit of the Redevelopment Project Area, hereto (the “Project Area”).

B. The Project Area consists of the 1986 Redevelopment Project Area, the 1990 Amendment No. 1 to the Redevelopment Project Area, and the 1997 Amendment No. 2 to the Redevelopment Project Area.

C. The Agency is tasked with carrying out the goals and objectives of the redevelopment plan for the Project Area, and, in that connection, is utilizing the staff and other resources of the City. The City Manager of the City serves as Executive Director of the Agency and the staff of the redevelopment division, planning department, public works department, finance department, and other departments devote substantial time in gathering information relating to the Project Area, conferring with developers and potential developers of land within the Project Area, conferring with public officials representing governmental agencies regarding redevelopment of the Project Area, and undertaking other activities in connection with redevelopment of the Project Area.

D. The City intends to carryout the Improvements for the benefit of the Agency and the Project Area. No moneys of the City are, or are reasonably expected to be, available on a long-term basis under the budget of the City to pay for the Improvements without the financial contribution from the Agency as specified in Exhibit A and the payment of City staff as specified in Exhibit B.

E. The City shall provide and make available to the Agency the staff and other resources of the City, and by providing and making available to the Agency office space, equipment, supplies, insurance, and other City services and facilities, the Agency shall advance, and will continue to advance annually, the cost of the foregoing to the City for the benefit of the Project Area.

F. The City and the Agency desire to enter into this Agreement to acknowledge the foregoing recitals and to provide for an appropriate method of payment for such advances and for such Improvements by the Agency to the City.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

Section 1. The City and the Agency desire to enter into this Agreement to acknowledge the above recitals and to provide for the advancement or reimbursement by the Agency for the payment of the costs to carryout the Improvements as described in Exhibit A. Pursuant to this Agreement, the Agency agrees to pay to the City for the benefit of the Agency the cost of acquiring the land, including payment of related costs, and agrees to pay to the City for the benefit of the Agency the cost of the installation and construction of the Improvements subject to the provisions of this Agreement. By providing for the acquisition of land and the undertaking of the Improvements, the Agency shall advance the cost of the foregoing to the Agency.

Section 2. The City shall make available to the Agency (and any successor agency or entity of the Agency created by the Agency, the City or the State of California) (hereinafter, references to the Agency include references to such a successor agency or entity unless the context requires otherwise) its staff resources, office space, equipment, supplies, insurance and other services and facilities necessary to carry out the redevelopment plan of the Agency or successor agency or entity. The Agency shall have access to the services and facilities of the planning commission, the city engineer, the city attorney, and the departments, divisions, and offices of the City.

Section 3. The value of the staff resources, including all employee retirement and other benefits, office space, equipment, supplies, insurance and other services and facilities, as determined by the City's Finance Director pursuant to Section 4 hereof, shall be advanced to the City annually for the administrative expenses and overhead of the Agency or successor agency or entity for the life of the redevelopment plan or until such time all Improvements identified in any outstanding instrument of indebtedness, or in Exhibit A or as amended, are complete.

Section 4. The City's Finance Director has prepared the Cost Allocation Plan identified in Exhibit B, or as amended by City Council and pursuant to Section 16 of this Agreement, which is based upon reasonable allocations and generally accepted cost accounting principles, and which documents and accounts for administrative and overhead costs and expenses advanced to the City by the Agency.

Section 5. The City shall perform or cause to be performed all required preparatory work for the Improvements, including the acquisition of land and shall install and construct, or cause to be installed and constructed, the Improvements not previously installed and

constructed. The City shall cause to be undertaken the design of the Improvements and the preparation of plans and specifications therefor. The City shall, in accordance with all applicable federal, state and local laws, rules and regulations, install and construct, or cause to be installed and constructed, the Improvements in accordance with such plans and specifications. The acquisition of land and the planning, specification and the timing with respect to the installation and construction of the Improvements shall be subject to the City's sole and absolute discretion.

Section 6. The Agency and the City hereby agree that the cost of the Improvements shall be advanced to the City by the Agency. Subject to the provisions of this Agreement, the Agency hereby agrees to advance to the City the cost of the acquisition of the necessary land, including payment of related costs, and the costs of the installation and construction of the Improvements, including payment of related costs, including but not limited to the costs for planning, permitting, design, site testing, bidding, and construction management, for the Improvement as set forth in Exhibit A, or as amended pursuant to Section 16 of this Agreement.

Section 7. The City's Finance Director shall, from time to time, review and determine the value of the various Improvements, or various portions thereof, and submit to the Agency invoices (including itemized statements) showing the cost of the Improvements incurred by the City. The Finance Director shall additionally, from time to time, invoice the Agency the amount owed under the cost allocation plan, pursuant to Section 3 and 4 of this Agreement. The Agency shall make such payments from (i) tax increment generated in the Project Area and eligible to be allocated to the Agency pursuant to the Redevelopment Law, or to any successor agency or entity of the Agency and/or any entity established by law to carryout the redevelopment plan for the Project Area and/or expend tax increment or pay indebtedness of the Agency; (ii) available proceeds of tax allocation bonds or other obligations of the Agency; (iii) available proceeds from loans or other obligations which constitute indebtedness of the Agency repayable from tax increment (as described in the foregoing clause (i)), or (iv) any other available funds of the Agency. Amounts not paid by the Agency to the City within 30 days of demand therefor pursuant to this Agreement shall bear interest at the rate then paid to the City on its funds invested in the Local Agency Investment Fund ("LAIF"), plus one and one-half percent per annum from the date of such demand to the date of repayment. In any event, all amounts due hereunder shall be due and payable to the City by the date established in the redevelopment plan for the Project Area, or the Redevelopment Law or other law, as the time limit for the repayment of indebtedness with respect to the Project Area. The obligations of the Agency hereunder shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment plan for the Project Area.

The Agency's obligation to pay to or for the benefit of the City all amounts due hereunder, shall, without the necessity of further action by the Agency or the City, be junior and subordinate to all other obligations or indebtedness heretofore or hereafter voluntarily incurred by the Agency, including bonds or loans secured by a pledge of tax increment revenues derived from the Project Area, and to all pre-existing statutory obligations of the Agency pursuant to Section 33607.5 or 33606.7 of the Redevelopment Law.

Section 8. No Agency member, Councilmember, and no official, agent, or employee of the Agency or the City shall be personally liable to the other parties, or any

successor in interest, in the event of any default or breach by the Agency or the City, or for any amount which may become due to the City or Agency, or successor thereto, or on any obligations under the terms of this Agreement.

Section 9. The City covenants and agrees for itself, its successors and its assigns that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Improvements, nor shall the City, or any person claiming under or through the City, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Improvements.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.

All deeds, leases or contracts entered into with respect to the sale, lease, sublease or other transfer of the Improvements shall contain or be subject to substantially the following nondiscrimination/nonsegregation clauses:

In deeds: “The Grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the Grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

In contracts: “The contracting party or parties hereby covenant by and for himself or herself and their respective successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the contracting party or parties, any subcontracting party or parties, or their respective assigns or transferees, establish or permit any such practice or practices of discrimination or segregation.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

Section 10. In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-

stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

Section 11. If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party. All notices of defaults shall clearly indicate a notice of default under this Agreement.

Section 12. The parties hereto agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Agreement.

Section 13. Each party shall maintain books and records regarding its duties pursuant to this Agreement. Such books and records shall be available for inspection by the officers and agents of the other party at all reasonable times.

Section 14. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the parties hereto and their successors in interest.

Section 15. This Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed.

Section 16. This Agreement may be amended at any time, and from time to time, by an agreement executed by both parties to this Agreement.

LEMOORE REDEVELOPMENT AGENCY

By \_\_\_\_\_  
Willard J. Rodarmel, Chairperson

CITY OF LEMOORE

By \_\_\_\_\_  
Willard J. Rodarmel, Mayor

**ATTEST:**

\_\_\_\_\_  
Nanci C. O. Lima, MMC  
City Clerk

**CERTIFICATE**

**STATE OF CALIFORNIA )  
COUNTY OF KINGS ) SS  
CITY OF LEMOORE**

I, Nanci C.O. Lima, City Clerk of the City of Lemoore, do hereby certify the foregoing Agreement between the City of Lemoore and the Lemoore Redevelopment Agency was duly passed and adopted at a Regular Meeting of the City Council held on February 15, 2011.

Dated: February 16, 2011

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Nanci C. O. Lima, MMC  
City Clerk