

COOPERATION AGREEMENT FOR PAYMENT OF COSTS ASSOCIATED WITH CERTAIN HOUSING PROGRAMS AND PROJECTS

This COOPERATION AGREEMENT FOR PAYMENT OF COSTS ASSOCIATED WITH CERTAIN HOUSING PROGRAMS AND PROJECTS (the "Agreement") is entered into as of this 1st day of May, 2012, by and between, the City of Lemoore, a municipal corporation (the "City") and the City of Lemoore Housing Authority, a public body, corporate and politic (the "Authority") (collectively, the "Parties").

RECITALS:

- A. City of Lemoore Resolution 2011-06 activated the Lemoore Housing Authority as a public body corporate and politic, effective February 15, 2011.
- B. Pursuant to Assembly Bill (AB) No. X1 26, the City, through its City Council, determined that the Authority would be the housing successor to the Lemoore Redevelopment Agency (the "Agency"). Therefore, on January 30, 2012, the Agency transferred and the Authority accepted and assumed all rights, powers, assets, including bond proceeds and obligations to properly expend them, liabilities, duties, and obligations associated with the housing activities previously performed by the Agency.
- C. The Authority is tasked with carrying out affordable housing activities in the City of Lemoore, 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 Authority and the staff of the City Manager, planning department, public works department, finance department, and other departments will devote the necessary time in gathering information, conferring with developers and potential developers of land, conferring with public officials representing governmental agencies, and undertaking related activities. The Authority, not the City, proposes to pay for the cost of the projects and programs associated with certain improvements described in Exhibit A hereto (collectively, the "Improvements"); and, with regard to the performance of the Improvements, the Authority proposes to pay for the cost of administration and overhead necessary to carry out the work associated with the Improvements as described in Exhibit B hereto (collectively, the "Administrative Budget").
- D. The City intends to carry out the Improvements for the benefit of the Authority. No monies 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 Authority 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 Authority the staff and other resources of the City, and by providing and making available to the Authority office space, equipment, supplies, insurance, and other City services and facilities, the Authority shall advance, and will continue to advance annually, the cost of the foregoing to the City.
- F. The City and the Authority desire to enter into this Agreement to incorporate the foregoing recitals and to provide for an appropriate method of payment of administrative and overhead expenses for such Improvements by the Authority to the City.

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

Section 1. The City and the Authority hereby enter into the Agreement, incorporate by reference the above recitals, and the Authority agrees to pay the City for providing administrative and overhead costs in support of the Improvements as set forth below.

Section 2. Staff and other necessary City resources (resources), including all employee salary, retirement and other benefits, use of office space, equipment, supplies, insurance and other services and facilities (collectively, administrative and overhead costs), as determined by the City's Finance Director, shall be provided to the Authority annually in exchange for the payment of administrative and overhead costs incurred by the City (the Administrative Budget) until such time that all Improvements identified in any outstanding instrument of indebtedness, or in Exhibit A or as amended, are completed. In addition, the Authority shall have resource 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 to the extent included in the Administrative Budget.

Section 3. The Administrative Budget identified in Exhibit B, or as amended by the City is based upon reasonable allocations, generally accepted cost accounting principles, and documents and accounts for administrative and overhead costs and expenses incurred by the City in providing resources to the Authority.

Section 4. City staff shall perform or cause to be performed all required preparatory work for the Improvements. City staff shall cause to be undertaken the design of the Improvements and the preparation of plans and specifications therefor. City staff shall, in accordance with all applicable federal, state and local laws, rules and regulations, 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 5. The Authority and the City hereby agree that the administrative and overhead costs incurred for the resources necessary to perform the Improvements provided by the City shall be paid by the Authority pursuant to Section 6 below. Subject to the provisions of this Agreement, the Authority hereby agrees to pay the City for the administrative and overhead costs of performing the Improvements, including but not limited to the costs for planning, permitting, design, site testing, bidding, and construction management, for the Improvements as set forth in Exhibit A.

Section 6. The City's Finance Director shall, from time to time, invoice the Authority for the amounts owed under the Administrative Budget. The Authority may make such payments from (i) grants received for housing programs and projects; (ii) tax allocation bond proceeds; (iii) loan proceeds, rents or any other revenue of the Authority; or (iv) any other available funds of the Authority. Amounts not paid by the Authority to the City within 30 days of demand therefor shall bear interest at the rate then paid to the City on its funds invested in the Local Authority Investment Fund ("LAIF"), plus one and one-half percent per annum from the date of such demand to the date of repayment.

The Authority's obligation to pay to or for the benefit of the City all amounts due hereunder, shall, with the concurrence or consent by the Authority and the City, be junior and subordinate to other obligations or indebtedness heretofore or hereafter voluntarily incurred by the Authority, including bonds or loans secured by a pledge of tax increment revenues derived from the Redevelopment Project Area.

Section 7. No Authority member, Councilmember, official, agent, or employee of the Authority 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 Authority or the City, or for any amount which may become due to the City or Authority, or successor thereto, or on any obligations under the terms of this Agreement.

Section 8. The City and the Authority covenant and agree 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 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, or other applicable or subsequently enacted law, 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.

Section 9. 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 10. 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 default shall clearly indicate a notice of default under this Agreement. Notwithstanding the foregoing, this Agreement may be terminated at any time by mutual consent of the Parties.

Section 11. 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 12. 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 13. 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 14. This Agreement may be amended at any time, and from time to time, by an agreement executed by the Parties to this Agreement.

LEMOORE HOUSING AUTHORITY

By _____
Willard J. Rodarmel, Chairman

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 Housing Authority was duly passed and adopted at a Regular Meeting of the City Council and the Housing Authority Commission held on May 1, 2012.

Dated: May 2, 2012

Nanci C. O. Lima, MMC
City Clerk

J:\wdocs\01943\001\agt\00245072.DOC