

Mayor
Lois Wynne
Mayor Pro Tem
Willard Rodarmel
Council Members
Ray Madrigal
Eddie Neal
William Siegel



**Oversight Board
for the
Successor Agency**

119 Fox Street
Lemoore, CA 93245
Phone (559) 924-6704
Fax (559) 924-6708

Staff Report

ITEM NO. 5

To: Oversight Board for the Successor Agency
From: Jeff Laws, City Manager
Date: September 12, 2014 **Meeting Date:** September 24, 2014
Subject: Adoption of Resolution No. 2014-10 for the Disposition of Property APN 024-051-013 and a portion of APN 024-051-015 to Tom Vorhees for the combined amount of \$87,500 and the Construction of a Road and other Improvements for the creation of a Business Park

Discussion

The City of Lemoore, acting on behalf of the Lemoore Successor Agency, received the attached Letter of Intent (LOI) from Tom Vorhees (Vorhees) to purchase Lot 4 (APN 024-051-013) and a portion of Lot 14 (APN 024-051-015), which are vacant properties in the Lemoore Industrial Park (APN map attached). Lot 4 is approximately 3.49+/- acres. Lot 14 is approximately 10.78+/- acres. However, Lot 14 is being divided into nine smaller lots with a road to be constructed through the middle as shown on the attached Parcel Map. Lot 1 (of Lot 14) is a 1.78+/- acre parcel and is being considered for sale separately to another developer. Lots 2 through 9 (of Lot 14) total approximately 7.64+/- acres and the portion dedicated for the proposed road is approximately 1.36+/- acres. Vorhees has agreed to pay a total of \$87,500 for the two parcels and construct the road and other improvements on Lot 14 to develop it into a Business Park.

Vorhees has agreed to open a pre-owned vehicle dealership on a portion of Lot 14. The remaining lots will be developed into shovel-ready sites for lease to other businesses. Additionally, Vorhees is prepared to construct build-to-suit facilities to match the specifications required by the businesses, if they so desire. The new construction will generate additional property tax revenue for the taxing entities.

Vorhees is in preliminary talks with business owners that are considering opening businesses in Lemoore. Two in particular are very promising, but the names remain confidential. One is a metal finishing company and the other is an agricultural equipment related business.

The Lemoore City Council, acting as the Lemoore Successor Agency to the former Lemoore Redevelopment Agency, met in closed session on July 15, 2014 to discuss

Vorhees' proposal. The terms set forth below were negotiated with Vorhees and are acceptable to Council.

Property:	3.49± acres – APN 024-051-013 – Lot 4 and 7.64± acres – APN 024-051-015 – a portion of Lot 14
Zoning:	Light Industrial
Price:	\$87,500 and
Add'l Price:	Construction of road and improvements within 12 months
Deposit:	\$5,000 for Lot 4 and \$5,000 for Lot 14 paid July 28, 2014
Due Diligence:	30 days following DOF approval
Balance:	\$82,500 to be paid prior to close of escrow
Letter of Credit:	Security in the form of a Letter of Credit in the amount of \$280,000, which is 150% of the total estimated cost to construct the road and improvements
Deposit terms:	Lot 4 Deposit non-refundable once sale is approved by DOF Lot 14 Deposit refundable following construction of the road
Escrow fees:	Split 50/50
Escrow period:	30 days

It should be noted that the road (Venture Place) was originally slated to be constructed and paid for by the Lemoore Redevelopment Agency. Following the dissolution of redevelopment, the project was put on hold for lack of funding. Mr. Vorhees' proposal provides an opportunity for the road to be constructed and increased economic development to occur, which will increase the amount of property tax revenue for the taxing entities. Additionally, this project meets the intent of our Long Range Property Management Plan, which governs the disposition and use of our available properties.

Mr. Vorhees has agreed to the terms listed above, and as shown in the attached Agreement for Purchase and Sale of Real Property (Agreement). As noted in the terms, a Letter of Credit in the amount of \$280,000 will be required of Vorhees prior to close of escrow. Additionally, the road and improvements are to be constructed and receive a Notice of Completion before any of the lots (Lots 2 through 9 of Lot 14) can be developed. The details of the construction are listed in the attached Parcel Improvement Agreement. If after 12 months, the road is not being constructed, then the property will revert back to the Lemoore Successor Agency (Lemoore Redevelopment Agency).

Council has determined that the proposed project is appropriate for the surrounding uses and that the offer is acceptable to the community of Lemoore. Therefore, Council requests that the Oversight Board direct the Successor Agency to approve the sale of said parcels to Vorhees for a price of not less than \$87,500 and that Vorhees be required to install the road and improvements for a Business Park within 12 months following close of escrow.

Pursuant to California Health & Safety Code (HSC) Section 34181(a), an oversight board shall direct its successor agency to dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency. The required 10-day Public Notice announcing the potential

property sale was posted at City Hall and published in the Hanford Sentinel beginning on September 12, 2014.

If the Lemoore Oversight Board determines that the proposed project is acceptable, then the Board should approve the Agreement and adopt Resolution No. 2014-10 (attached), which is required for the disbursement of public properties. Following the Board's approval, staff will seek approval from the California Department of Finance for the proposed property transaction.

Budget Impact

The sale of this property will net approximately \$87,500 minus one-half of the escrow fees. Pursuant to HSC Section 34177 (e), proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under HSC Section 34188.

Recommendation

It is recommended that the Lemoore Oversight Board adopt Resolution No. 2014-10 approving the Agreement for Purchase and Sale of Real Property between the Lemoore Successor Agency to the former Lemoore Redevelopment Agency and Tom Vorhees for the disposition of real property listed as APN 024-051-013 and a portion of APN 024-051-015 for the amount of \$87,500 plus the construction of the road and improvements within 12 months following close of escrow.

RESOLUTION NO. 2014-10

A RESOLUTION OF THE LEMOORE OVERSIGHT BOARD FOR THE LEMOORE SUCCESSOR AGENCY TO THE FORMER LEMOORE REDEVELOPMENT AGENCY APPROVING THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY BETWEEN THE LEMOORE SUCCESSOR AGENCY TO THE FORMER LEMOORE REDEVELOPMENT AGENCY AND TOM VORHEES FOR THE DISPOSITION OF PROPERTY – APN 024-051-013 AND A PORTION OF APN 024-051-015

WHEREAS, AB X1 26 (“AB 26”) was passed by the California State Legislature on June 15, 2011, signed by the Governor on June 28, 2011, and on February 1, 2012 redevelopment agencies in the state of California were dissolved; and

WHEREAS, AB 1484 was subsequently passed by the California State Legislature and signed into law by the Governor on June 27, 2012 modifying the provisions of AB 26; and

WHEREAS, pursuant to AB 1484, Health and Safety Code (HSC) sections 34177(e) and 34181(a) were suspended forbidding successor agencies from disposing of any property until they receive a Finding of Completion and receive approval of a Long Range Property Management Plan (LRPMP) from the California Department of Finance (DOF); and

WHEREAS, on June 7, 2013, the DOF issued its Finding of Completion to the Lemoore Successor Agency; and

WHEREAS, on March 12, 2014, the Lemoore Successor Agency received notification from the DOF that its LRPMP was approved and that pursuant to HSC section 34191.3, the approved LRPMP shall govern and supersede all other provisions relating to the disposition and use of all real property assets of the former redevelopment agency; and

WHEREAS, in accordance with HSC section 34191.4, upon receiving a Finding of Completion and approval of a LRPMP, all real property and interests in real property shall be transferred to the Community Redevelopment Property Trust Fund of the Agency, unless that property is subject to the requirements of an existing enforceable obligation; and

WHEREAS, actions taken by successor agencies pursuant to a DOF approved LRPMP are subject to oversight board approval per HSC Section 34181 (f); and

WHEREAS, the City of Lemoore as Successor Agency to the former Lemoore Redevelopment Agency, received a Letter of Intent dated July 15, 2014 (Exhibit A) from Tom Vorhees (Vorhees) to purchase APN 024-051-013 (approximately 3.49 acres) and a portion of APN 024-051-015 (approximately 7.64 acres) of vacant land in the Lemoore Industrial Park to develop a used car dealership and other businesses conducive to a business park; and

WHEREAS, the Lemoore Successor Agency convened on July 15, 2014 and directed staff to negotiate the terms of the agreement with Vorhees and to further present it to the Oversight Board for approval; and

WHEREAS, the terms of the agreement were negotiated with and accepted by Vorhees to purchase said properties in an Agreement for Purchase and Sale of Real Property (Exhibit B); and

WHEREAS, HSC section 34180 requires the actions of a successor agency shall first be approved by its oversight board; and

WHEREAS, the Oversight Board convened on September 24, 2014 and directed the Successor Agency to execute said Agreement; and

WHEREAS, HSC Section 34181(f) requires that actions to dispose of assets and properties of a former redevelopment agency shall be approved by resolution of its oversight board at a public meeting after at least 10 days' notice to the public of the specific proposed actions and that such notice was posted for the required 10 days beginning on September 12, 2014.

NOW, THEREFORE, THE LEMOORE OVERSIGHT BOARD FOR THE LEMOORE SUCCESSOR AGENCY TO THE FORMER LEMOORE REDEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The recitals above are true and correct and are incorporated into this Resolution.

SECTION 2. The Lemoore Oversight Board for the Lemoore Successor Agency to the former Lemoore Redevelopment Agency hereby approves the Agreement for Purchase and Sale of Real Property for the sale of APN 024-051-013 and a portion of APN 024-051-015 with Tom Vorhees for an amount not less than \$87,500 (minus one-half title and escrow fees) and construction of the improvements identified in the Parcel Improvements Agreement for Parcel Map No. _____.

SECTION 3. Approval by the State of California Department of Finance will be obtained prior to the disposition of any individual property sale.

SECTION 4. The proceeds from the sale of each property will be submitted to the Kings County Auditor-Controller for distribution to the taxing entities.

SECTION 5. The City Manager of the City of Lemoore, or designee, acting as the Successor Agency to the former Lemoore Redevelopment Agency is authorized to execute said Agreement.

SECTION 6. Pursuant to HSC section 34179(h), all actions taken by an oversight board may be reviewed by the State of California Department of Finance, and therefore, this Resolution shall not be effective for five (5) business days unless the Department requests a review.

///

///

///

PASSED, APPROVED, AND ADOPTED by the Lemoore Oversight Board for the Lemoore Successor Agency to the former Lemoore Redevelopment Agency at a special meeting this 24th day of September, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary J. Venegas, Board Clerk

John F. Murray, Chairperson

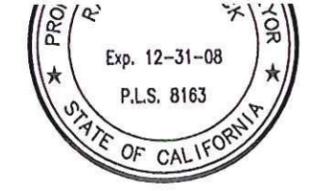
CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, **Mary J. Venegas**, Board Clerk of the Lemoore Oversight Board for the Lemoore Successor Agency to the former Lemoore Redevelopment Agency, do hereby certify the forgoing Resolution of the Lemoore Oversight Board for the Lemoore Successor Agency to the former Lemoore Redevelopment Agency was duly passed and adopted at a Special Meeting of the Lemoore Oversight Board held on September 24, 2014.

DATED: September 24, 2014

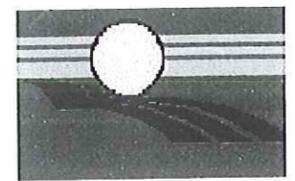
Mary J. Venegas, Board Clerk



5110 W. CYPRESS AVE.
P.O. BOX 3699
VISALIA, CA 93278
TEL: (559) 733-0440
FAX: (559) 733-7821
WEBSITE: www.quadknopf.com



210 FOX ST.
LEMOORE CA 93245
TEL: (559) 924-8740



DATE _____

RE ME _____

VED TO ME ON THE BASIS OF SATISFACTORY
HOSE NAME(S) IS/ARE SUBSCRIBED TO THE
ED TO ME THAT HE/SHE/THEY EXECUTED THE
CAPACITY(IES), AND THAT BY HIS/HER/THEIR
PERSON(S), OR ENTITY UPON BEHALF OF WHICH
THE INSTRUMENT.

PRINT NAME _____
COMMISSION NO. _____
County _____

USED FOR A
PUBLIC
SIDEWALK,
Y SEWER AND
THE
CONVEYED TO
DIATION.

SW COR. LOT 14 OF LEMOORE
INDUSTRIAL PARK NO. 1
FD. 3/4" IP BENT, 8" DEEP

MAY 198

LOT 13

LOT 3

INDUSTRIAL

LEMOORE
PARK
L.S.P.

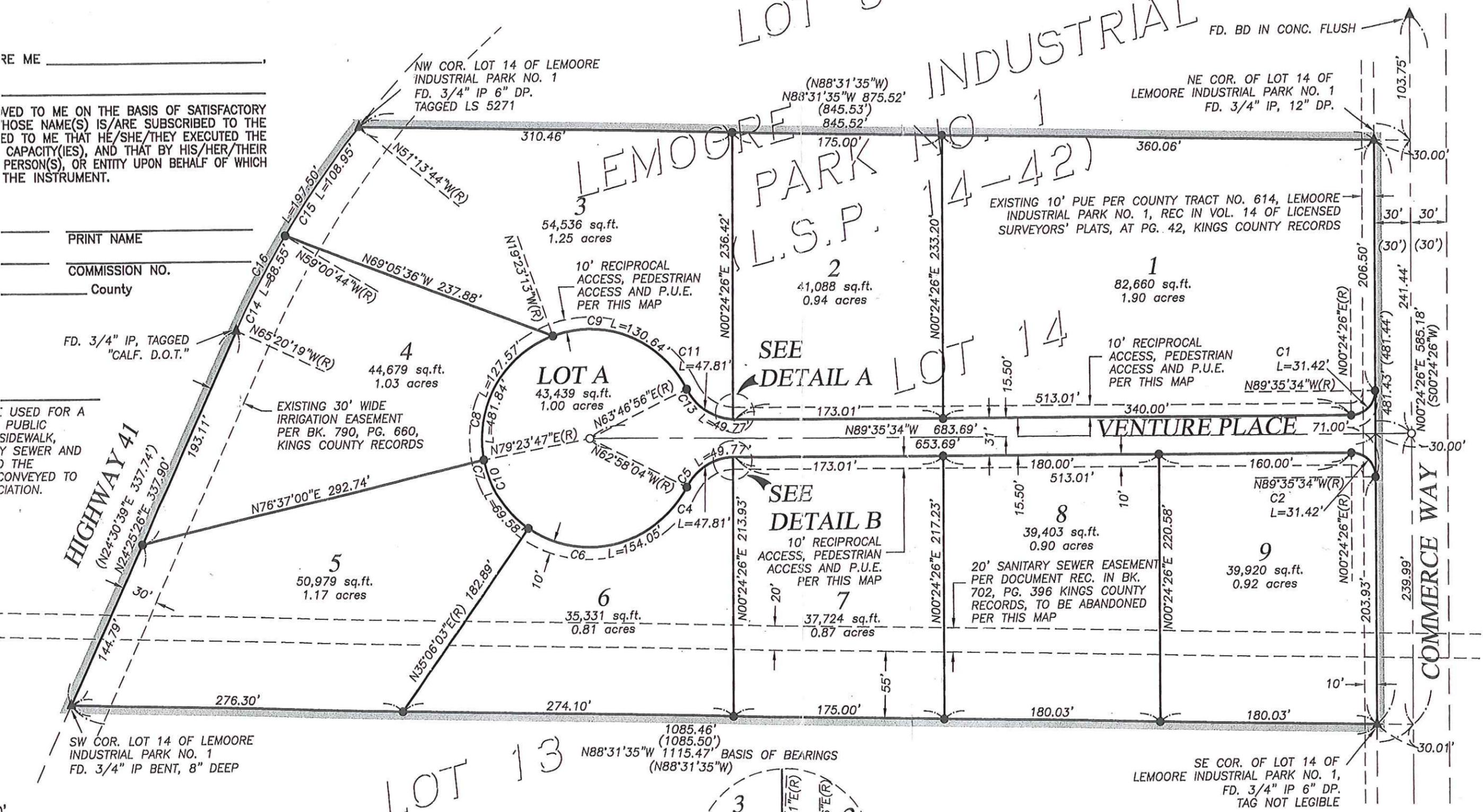
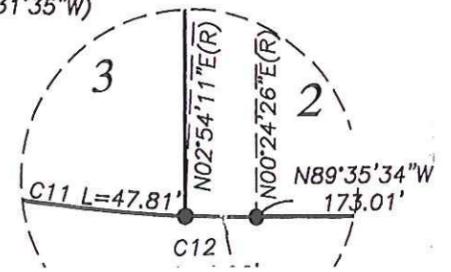
SEE
DETAIL A

SEE
DETAIL B

LEGEND

- ▲ FOUND AND ACCEPTED AS DESCRIBED
- SET 2" BRASS CAP FLUSH IN CONCRETE TAGGED PLS 8163

CURVE TABLE	



KINGS COUNTY ASSESSOR'S MAP

24-05

SEC'S. 15 & 16-19-20

THIS MAP IS FOR ASSESSMENT PURPOSES ONLY
IT IS NOT TO BE CONSTRUED AS PORTRAYING
LEGAL OWNERSHIP OF DIVISIONS OF LAND FOR
PURPOSES OF ZONING OR SUBDIVISION LAW.
NOVEMBER 2007



Tom Vorhees

Phone (760) 510-6795

Cell (650) 255-2073

tom@lentechology.com

July 15, 2014

Mayor Siegel and City Council Members
City of Lemoore
Lemoore Successor Agency
119 Fox Street
Lemoore, CA 93245

RE: Letter of Intent to purchase the remainder of Lot 14 – APN 024-051-015
approximately 8.89± acres of vacant land in the Lemoore Industrial Park and
Lot 4 – APN 024-051-013 approximately 3.49+/- acres

Dear Mayor Siegel and City Council Members:

I am very interested in obtaining the remaining acreage of Lot 14 in your Lemoore Industrial Park. I understand that Bennett & Bennett Irrigation is in the process of acquiring approximately 1.89+/- acres of this parcel (approximately 10.78+/- acres in total) and that there is a Tentative Parcel Map to divide it into 9 smaller parcels with a road (Venture Place) to be constructed through the middle. Additionally, I would like to purchase Lot 4, which is approximately 3.49+/- acres.

This letter serves as an offer to acquire the remaining acreage of Lot 14 (approximately 8.89+/- acres) and in exchange, I will construct the proposed Venture Place road, estimated at \$315,000. Within 18 months following the close of escrow, I will develop at least one of the remaining eight parcels into a pre-owned automobile dealership. I believe this is a great location for such development since it is adjacent to both Highway 198 and Highway 41. This project will be good for the community since there is the possibility of generating a large amount of sales tax revenue to the City's General Fund. Additionally, I am offering to pay \$87,500 for Lot 4 (approximately \$25,000 per acre).

In an effort to show good faith, upon signing a purchase agreement, I will place a \$5,000 deposit into an escrow account. The deposit will be released back to me upon completion of the road construction. If the road is not complete within 12 months of close of escrow, the property will revert back to the Agency and the deposit will be non-refundable. Additionally, I will pay a deposit of \$5,000 for Lot 4, which will become non-refundable following a 30-day due diligence period.

In addition to Council's approval, I understand that the sale of these properties are contingent on approval by the Lemoore Oversight Board and the California Department of Finance. I request escrow be opened within 10 days following notification by the Department of Finance of its approval, and that escrow close after 30 days. Additionally, I would appreciate splitting the escrow fees fifty-fifty.

Thank you in advance for your consideration of my offer. If I can answer any questions, please feel free to contact me at either of the numbers listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom V", followed by a long horizontal flourish line extending to the right.

Tom Vorhees

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (“**Agreement**”) is made and entered into this ___ day of September, 2014, by and between, The Successor Agency to the Lemoore Redevelopment Agency (hereinafter “**Seller**”), and Tom Vorhees (hereinafter “**Buyer**”).

RECITALS

WHEREAS, Seller is the successor agency to the Lemoore Redevelopment Agency, and as such, is the owner of certain real property identified as APN 024-051-013 (“**Lot 4**”) comprised of approximately 3.49+/- acres of vacant open land in the Lemoore Industrial Park, and APN 024-051-015 (“**Lot 14**”) comprised of approximately 10.78+/- acres of vacant open land in the Lemoore Industrial Park.

WHEREAS, Buyer desires to purchase Lot 4 and a portion of Lot 14 totaling approximately 9.0+/- acres comprised of Lots 2 through 9 of Parcel Map No. _____ (excluding Lot 1 being approximately 1.78+/- acres and including approximately 1.36+/- acres for the installation of improvements) (the “**Properties**”) more particularly described on Exhibit “A” attached hereto and incorporated herein.

WHEREAS, Seller desires to sell the Properties to Buyer on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for such other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. AGREEMENT AND PROPERTY.

1.1 Real Property. Seller agrees to sell, and convey to Buyer, and Buyer agrees to purchase from Seller, fee simple title to all of Seller’s right, title and interest in and to the Properties and all improvements thereon, if any, together with all rights, privileges and easements appurtenant to the Real Properties, whether or not recorded (collectively “**Real Properties**”).

2. PURCHASE PRICE. The purchase price (“**Purchase Price**”) for the Properties shall be Eighty-seven Thousand, Five Hundred Dollars (\$87,500.00) cash and construction of the improvements identified in the Parcel Improvement Agreement attached, which will complete the intent of Tentative Parcel Map 2007-01 approved by Lemoore Planning Commission Resolution 2007-12 on May 14, 2007. Improvements are to be complete within twelve (12) months following close of escrow. The Purchase Price shall be paid as follows:

- Five Thousand Dollars (\$5,000.00) refundable deposit (“**Deposit for Lot 4**”) by Buyer upon signing this Agreement. The Deposit for Lot 4 shall be nonrefundable if this Agreement terminates for any reason, unless canceled or terminated within the 30-day due diligence period, except as further outlined in paragraph 3.3 below.
- Five Thousand Dollars (\$5,000.00) refundable deposit (“**Deposit for Lot 14**”) by Buyer upon signing this Agreement. The Deposit for Lot 14 shall be refunded upon completion of the road construction and improvements listed in the Parcel Improvement Agreement. If the improvements are not complete within twelve (12) months of close of escrow, the property will revert back to the Agency, as further outlined in paragraph 3.4 below, and the Deposit for Lot 14 shall be nonrefundable.
- Execution of Parcel Improvement Agreement for Parcel Map No. _____ prior to execution of Agreement for Purchase and Sale of Real Property.
- Letter of Credit in the amount of \$280,000 from Vorhees to the City of Lemoore shall be due prior to Close of Escrow.
- The balance of the Purchase Price, being Eighty-two Thousand, Five Hundred Dollars (\$82,500.00), shall be all due and payable prior to the Close of Escrow.

3. CONTINGENCIES. This transaction and the closing thereof are expressly contingent upon the following:

3.1 Preliminary Title Report. As soon as possible after the Opening of Escrow, Escrow Agent shall prepare or cause to be prepared a Preliminary Title Report for the Real Properties showing all liens, encumbrances and other matters affecting title to the Real Properties and shall provide a copy thereof, together with legible copies of the documents shown as title exceptions therein, to Buyer. Buyer shall have thirty (30) days from its receipt of the Preliminary Title Report to approve the Preliminary Title Report. If Seller fails to eliminate any title matter disapproved by Buyer within the ten (10) days of written notice thereof to Seller, Buyer may terminate this Agreement and the transaction identified herein. Subsequent to the approval of the Preliminary Title Report by Buyer, Seller shall not allow or cause any additional exception to title to occur. This obligation shall survive the Close of Escrow.

3.2. Feasibility. Buyer shall have until 5:00 p.m., Pacific Standard Time, on that date which is thirty (30) days from the date of execution of this Agreement by Buyer in which to investigate the Properties, and to perform all engineering, and other similar studies that Buyer deems necessary, in its sole discretion, which shall be considered the due diligence period. Seller shall use its best efforts to provide to Buyer, within two (2) business days of Buyer’s request complete copies of any and all documents and information related

to or affecting the Properties, or any portion thereof which Buyer may request. If Buyer requests any materials or information from Seller, and Seller does not possess the same but Seller is aware of from whom Buyer can obtain the same, Seller will completely disclose the same to Buyer.

At any time during said thirty (30) day due diligence period, Buyer may terminate this Agreement and this transaction for any reason by giving written notice to Seller, and shall receive the return in full of the Deposit. If Buyer does not terminate this Agreement, regardless of any issues discovered with the Properties as a result of Buyer investigation, the Parties agree that the Properties are being sold in an “as is” condition.

Any engineering or other similar inspection of the Properties requested by Buyer shall be performed by a party selected by Buyer, and the expense therefore shall be paid by Buyer.

3.3 State Mandated Approval for Transfer of Property and Close of Escrow. As required by law pursuant to AB x 1 26, as amended by AB 1484, close of escrow is contingent upon ratification or approval of the Successor Agency to the Lemoore Redevelopment Agency, the Lemoore Oversight Board, and the Department of Finance of the State of California. If the state mandated approvals cannot be obtained, Seller, or its successors or assigns, shall have no obligation or liability whatsoever to Buyer or its successors or assigns except as follows: If such approvals cannot be obtained and escrow cannot be closed due to the inability to secure said approvals, Buyer shall be refunded its deposits of \$5,000 and Seller agrees to pay any escrow cancellation charges.

3.4 Reversion. In the event Buyer fails to construct the improvements listed in the Parcel Improvement Agreement within twelve (12) months after the Close of Escrow (as described below), then upon Seller’s written request to Buyer to transfer the portion of Lot 14 as described in Exhibit A (“**Transfer Request**”), the Buyer shall transfer Lot 14 back to Seller. The transfer of Lot 14 to Seller shall be at no cost to either party, other than any applicable transfer taxes and incidental title, escrow, and recording fees, for which the Buyer shall be solely responsible. In the event that a Transfer Request is made, Buyer agrees to take whatever steps necessary to ensure Lot 14 is transferred back in the same or better condition and with clear title.

4. REPRESENTATIONS AND WARRANTIES.

4.1 Seller makes no representations or warranties related to the Properties which are being sold “as is”.

4.2 Buyer represents and warrants that Buyer will comply with all laws in the development of the Properties, including, without limitation, the Lemoore Municipal Code

5. ESCROW

5.1 Opening of Escrow. Following approval by the Department of Finance, an escrow shall open to consummate the sale of the Property according to the

terms and conditions of this Agreement at the office of Chicago Title, in Hanford, California (“**Escrow Agent**”). Written escrow instructions in accordance with the terms and conditions of this Agreement shall be prepared by the Escrow Agent, and the instructions shall be signed by the parties and delivered to the Escrow Agent and Escrow shall be opened within ten (10) days of either the Seller’s acceptance hereof or receipt of approval from the California Department of Finance of the sale set forth herein, whichever is later. Buyer and Seller shall also deposit with the Escrow Agent all instruments, documents, monies and other items identified in the escrow instructions or reasonably required by the Escrow Agent to close the sale on the closing date specified below.

5.2 Closing Date. The Parties shall use their best efforts to have Escrow close (the “**Closing**”) on or before 30 days following the approval of the California Department of Finance. All monies and documents required to be delivered shall be deposited in Escrow no later than close of business on the day prior to the Closing Dated.

5.3 Termination of Escrow. If Escrow Agent is unable to comply with the instructions contained in this Agreement on or before the dates set forth in Paragraph 5.1 above, it shall do so as soon thereafter as possible, unless Escrow Agent shall have received a demand to terminate the Escrow from a party hereto that is not in default in the performance of any of its obligations hereunder. Under no circumstances shall the provisions of this paragraph create an express or implied duty on the part of Seller or Buyer to extend the time of the Escrow, but Seller and Buyer shall have the option to extend the Escrow beyond the initial thirty (30) day extension period if they so agree.

5.4 General. Possession and risk of loss in connection with the Properties shall not be transferred by Seller to Buyer until Close of Escrow. If the Properties are damaged in any way whatsoever during the Escrow, Buyer shall have the right, at any time within twenty (20) days thereafter, to terminate this transaction and the Escrow and the same shall be treated as if terminated. Escrow Agent shall close Escrow when it is in a position to issue to Buyer a binding commitment from the title insurer to issue a title insurance policy as required for the Properties and to otherwise perform under the Escrow Instructions to be prepared.

5.5 Brokers. The Parties represent and warrant that neither party engaged or worked with a real estate agent or broker related to this transaction.

5.6 Fees. Escrow and Title fees are to be split 50/50 by Seller and Buyer.

6. DEFAULT.

6.1 Correct and Cure. In the event either party in any way breaches the terms and provisions of this Agreement or the Escrow Instructions to be prepared in connection herewith, the non-breaching party shall give the breaching party ten (10) days written notice in which to cure the failure to perform, defect, breach or other problem, and if the same is not cured on or before the expiration of such ten (10) day period, then an event of default shall have occurred and the non-defaulting party shall be entitled to terminate this

transaction and the escrow and seek any and all remedies available to it pursuant to law and this Agreement.

6.2 Right to Damages. If Buyer fails to complete the purchase under this agreement as herein provided by reason of any default of Buyer to close Escrow, Seller shall be released from its obligation to sell the properties to Buyer and may proceed against Buyer upon any claim or remedy which Seller may have in law or equity.

7. GENERAL

7.1 Time of Essence. Time shall be considered of the essence in this Agreement.

7.2 Severability. In the event that any clause, provision, or portion of this Agreement or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Agreement unless the result would be manifestly inequitable or materially impair the benefits intended to inure to either party under this Agreement, in which case this Agreement, as a whole, shall be deemed invalid, void and unenforceable.

7.3 Notices. Any notices or demands upon either party shall be in writing and shall be effective when delivered personally or when sent by United States registered or certified mail, postage prepaid, and addressed to the parties at the addresses shown in this Agreement or such other addresses indicated by one party to the other in writing from time to time.

Buyer:

Tom Vorhees
6985 Corte Langosta
Carlsbad, CA 92009

Seller:

The Successor Agency to the
Lemoore Redevelopment Agency
119 Fox Street
Lemoore, CA 93245

7.4 Inconsistencies. In the event any term or condition of this Agreement or the Escrow Instructions to be prepared in connection herewith are in any way inconsistent with any pre-printed form Escrow Instructions or any other documents which have been or will be prepared in connection with this transaction, then, in such event, the terms and conditions of this Agreement (or any subsequent amendments thereto) shall control.

7.5 Attorneys' Fees. In the event a court action is instituted by either of the parties hereto for the enforcement of any of its rights or remedies hereunder, the party in whose favor judgment shall be rendered therein shall be entitled to recover from the other party all costs incurred by said prevailing party in said action, including reasonable attorneys' fees fixed by the Court.

7.6 Counterparts. This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one single agreement between the parties.

7.7 Complete Agreement. It is understood and agreed that this Agreement contains the entire agreement between the parties relating to all issues involving the subject matter of this Agreement. No binding understandings, statements, promises or inducements contrary to this Agreement exist. This Agreement supersedes and cancels all previous agreements, negotiations, communications, commitments and understandings with respect to the subject matter hereof, whether made orally or in writing. Each of the parties to this Agreement expressly warrants and represents to the other that no promise or agreement which is not herein expressed has been made to the other, and that neither party is relying upon any statement or representation of the other that is not expressly set forth in this Agreement. Each party hereto is relying exclusively on the terms of this Agreement, its own judgment, and the advice of its own legal counsel and/or other advisors in entering into this Agreement.

7.8 Headings. The captions and titles in this Agreement are for convenience only and shall not affect the interpretation or meaning of this Agreement.

7.9 Governing Law. This Agreement and the construction and enforceability thereof shall be interpreted in accordance with the laws of the State of California. Venue shall be in Kings County.

7.10 Power and Authority. Each party represents and warrants to the other that (i) it has all requisite power and authority to execute and deliver this Agreement and perform its obligations hereunder, (ii) all corporate, board, body politic, or other approvals necessary for its execution, delivery, and performance of this Agreement have been or will be obtained except as otherwise addressed in this Agreement, and (iii) this Agreement constitutes its legal, valid, and binding obligation.

7.11 Amendment and Waiver. The parties hereto may by mutual agreement amend this Agreement in any respect, provided that any such amendment shall be in writing, signed by both parties. The waiver of any condition under this Agreement shall not constitute a future waiver of the same or like condition.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date set forth above.

<p>SELLER:</p> <p>The Successor Agency to the Lemoore Redevelopment Agency</p> <p>By: _____ Jeff Laws, City Manager</p>	<p>BUYER:</p> <p>Tom Vorhees</p> <p>By: _____ Tom Vorhees</p>
--	--

CITY OF LEMOORE

PARCEL IMPROVEMENT AGREEMENT

PARCEL MAP NO. _____

THIS AGREEMENT, made the _____ day of _____, 2014 by and between the City Council of the City of Lemoore, hereinafter referred to as "CITY" and Buyer Tom Vorhees, hereinafter referred to as the "SUBDIVIDER".

WITNESETH

WHEREAS, the SUBDIVIDER desires to purchase certain real property known and designated as lots 2 through 9 of Parcel Map No. _____ in the City, and

WHEREAS, the CITY has accepted the dedications delineated and shown on said Parcel Map for the use and purpose specified thereon, and otherwise approved said Parcel Map and caused the same to be recorded as required by law, and

WHEREAS, the CITY, as a condition of sale, requires and deems as necessary for the public use that any and all streets delineated and shown thereon shall be improved by the construction thereon and the installation therein of the improvements in said proposed subdivision as hereinafter specified, and

WHEREAS, the parties hereto have agreed that the improvement of said land included and shown by said Parcel Map shall be completed in accordance with the applicable ordinances and resolutions of the CITY and the laws of the State of California and the SUBDIVIDER has agreed to post the necessary Letter of Credit, hereinafter referred to "Improvement Security", to guarantee said improvements in accordance with the laws of the State of California and the ordinances of the CITY.

NOW, THEREFORE, in consideration of the sale of lots 2 through 9 of Parcel Map No. _____, it is mutually understood and agreed by and between the SUBDIVIDER and the CITY and they do hereby mutually agree as follows:

1. **Onsite and Offsite Improvements.** SUBDIVIDER agrees that it will construct and install in accordance with the improvement plans prepared for the Parcel Map No. _____ by and approved by the City Engineer, which improvement plans are hereby incorporated by reference, at its sole cost and expense and in full conformity with the design and construction standards as prescribed by CITY, including all of the required work and Parcel Map improvements.

- A. All landmarks, monuments and lot corners required to locate the divisions shown on the Parcel Map. Pursuant to Section 66497 of the State Subdivision Map Act prior to the CITY's final acceptance of the subdivision and release of securities, the SUBDIVIDER shall submit evidence to the City of payment and receipt thereof by the SUBDIVIDER's engineer or surveyor for the final setting of all monuments required in the Parcel Map.
- B. Street improvements for a 40' local street per City Standards including curbs, gutters and paving.
- C. Storm drainage facilities, including valley gutters.

- D. Extension of the CITY water system including water mains, valves, services, fire hydrants and miscellaneous appurtenances.
- E. Sanitary sewer system including sewer mains, manholes, lot branches and appurtenances.
- F. Street lighting facilities, including electroliers, stands, and all required underground electrical service.

SUBDIVIDER further agrees to pay at the time of filing of the Improvement Security hereinafter required by Paragraph 12 of this Agreement an amount to cover the CITY's costs of engineering and construction monitoring as may be set by the CITY's Municipal Code.

The estimated costs of all said improvements to be completed, including a ten percent (10%) contingency, is \$280,000, as shown on Exhibit "A", attached hereto.

2. **Inspection of Work.** The CITY shall monitor all construction work to be done and performed by the SUBDIVIDER and, SUBDIVIDER agrees that all work, improvements and materials to be done and/or supplied and performed shall be done, supplied and performed in strict accordance with the approved improvement plans of said work on file in the Office of the City Engineer of the CITY, and in accordance with the Standard Specifications of the CITY, which said improvement plans, and specifications, and standards are hereby referred to and incorporated by reference in this Agreement. All of said work and improvements and/or materials shall be done, performed, and installed to the satisfaction of the City Engineer of the CITY. SUBDIVIDER agrees to pay all fees for such engineering and construction monitoring as required by the current City Municipal Code and fee resolutions and, agrees to pay an additional three percent (3%) for any re-inspection required by reason of defective work, improvements and/or materials.

3. **Final Acceptance.** Upon completion of all said work and improvements and acceptance thereof by CITY, or upon the acceptance by CITY of the required Improvement Security referred to in Paragraph 12 hereof, the CITY agrees to issue a Notice of Completion of Parcel Map No. _____. The CITY and the SUBDIVIDER agree that no occupancy permits shall be issued, and no uses shall commence on the lots, until such time as the CITY accepts the improvements specified herein. A complete set of construction "as built" reproducible plans shall be submitted to the City Engineer for approval and to be filed with the CITY upon completion of the work and construction improvements.

4. **Completion of Said Work of Improvements.** SUBDIVIDER agrees to complete the work and construction improvements as herein set forth within a period of twelve (12) months from the Close of Escrow on the purchase of said lots 2 through 9. When a delay occurs due to unforeseen causes beyond the control and without the fault or negligence of the SUBDIVIDER, the time of completion may be extended for a period justified by the effect of such delay on the completion of the work. The SUBDIVIDER shall file a written request for a time extension with the Director of Public Works prior to the above noted date who shall ascertain the facts and determine the extent of justifiable delays, if any. The Director of Public Works shall give the SUBDIVIDER notice of his determination in writing, which shall be final and conclusive. In the event an extension is granted to the time within which all work is to be completed on this subdivision, the SUBDIVIDER hereby agrees that he will comply with all applicable improvement plans and Standard Specifications in effect at the time of said extension.

5. **Maintenance of Improvements Following Acceptance.** Upon satisfactory completion of all improvements required in accordance with this agreement and acceptance thereof by the CITY, the CITY agrees to accept for maintenance the improvements to be constructed in accordance with this Agreement; provided, however, within fifteen (15) days after written notice from the CITY, the

SUBDIVIDER agrees to remedy any defects in the improvements arising from faulty or defective construction of said improvements occurring within twelve (12) months after acceptance thereof.

6. **Safety.** SUBDIVIDER shall perform all work in accordance with the applicable sections of Title 3 of the California Administrative Code (CAL OSHA), and the Manual of Traffic Controls, Warning Signs, Lights, and Devices for Use in Performance of Work Upon Highways, published by California Department of Transportation, and available at the City Engineer's Office.

Provisions shall be made by SUBDIVIDER for protection of the traveling public on all public roads affected by the improvements. Barricades and related facilities shall be placed in such number and in such locations as required for public safety, and at night they shall be equipped with flashing yellow lights. CITY reserves the right to require, and SUBDIVIDER shall promptly install or place additional barricades or other facilities to assure public safety if CITY shall deem the same to be necessary or desirable for public safety. SUBDIVIDER is responsible for all liability which may arise out of work herein permitted whether or not on public property, and shall indemnify, defend and hold CITY harmless from any and all claims, damages, or causes of action arising there from or related thereto.

7. **Insurance and Indemnity.** The SUBDIVIDER shall take and assume all responsibility for the construction of the improvements and the safety of operation in connection therewith. The SUBDIVIDER shall bear all losses and damages directly or indirectly resulting to the CITY, its officers, agents, and employees or to others on account of the construction of the improvements, unforeseen difficulties, accidents, or any other causes whatsoever.

The SUBDIVIDER shall assume the defense of and indemnify and save harmless the CITY, its officers, agents, and employees from all claims, loss, damage, injury and liability of every kind, nature, and description, directly or indirectly arising from the construction of the improvements.

SUBDIVIDER further agrees that before commencing any work pursuant to this agreement, SUBDIVIDER will obtain, and at all times prior to final acceptance of all improvements hereunder, and will keep in full force and effect, insurance coverage in such limits and amounts, and covering such risks as shall be acceptable to the CITY. In the event that no other requirement is made known to SUBDIVIDER, the minimum coverage and limits shall be as follows:

<u>COVERAGE</u>	<u>LIMITS</u>
Workers Compensation	Statutory
Comprehensive General Liability, including or separately insuring liability assumed by contract	
Bodily Injury	\$ 500,000 per person \$1,000,000 per occurrence
Property Damage	\$ 250,000 per occurrence

SUBDIVIDER shall, prior to commencement of construction work, furnish to CITY a certificate of insurance, which shall provide that the above insurance shall not be cancelled without 30 days prior written notice to CITY, and which shall also show the CITY, its officers and employees, as additional named insured (except as to worker's compensation coverage).

8. **Compliance with Codes.** SUBDIVIDER shall comply with any and all ordinances and resolutions or other codes of the CITY applicable to the proposed subdivision and the work to be done

by SUBDIVIDER under the terms of this Agreement.

9. **Notice of Commencement of Work.** The SUBDIVIDER shall give the City Engineer written notice of not less than two working days in advance of the actual date on which work is to be started. Failure on the part of the contractor to notify the City Engineer may cause delay for which the SUBDIVIDER shall be solely responsible.

Whenever the SUBDIVIDER varies the period which work is carried on each day, he shall give due notice to the City Engineer so that proper construction monitoring may be provided. Any work done in the absence of the City Engineer or his duly authorized observer may be subject to rejection.

The observation of work shall not relieve the SUBDIVIDER of any of his obligations to fulfill this Agreement as prescribed, and the SUBDIVIDER agrees that defective work shall be made good, and unsuitable materials may be rejected, notwithstanding the fact that such defective work and unsuitable materials have been previously overlooked by the City Engineer or authorized observer and accepted.

Any damage to sewer systems, concrete work or street paving or other works of improvements, as required by this agreement, that occurs after installation and prior to the acceptance thereof by the CITY shall be made good by the SUBDIVIDER, to the satisfaction of the City Engineer, before release of the Improvement Security guaranteeing said work.

10. **Dust Control.** The SUBDIVIDER shall be responsible for the complete control of dust during the construction of the subdivision improvements and will take the following measures to reduce dust generation during the development and construction of the subdivision:

- A. Submit for approval by the Director of Public Works a program for the control of dust, which shall include but not be limited to, a watering schedule (frequency and time of day), use of dust control emulsions, and/or other measures necessary for the control of dust.
- B. Provide equipment and manpower for watering of all exposed or disturbed soil surfaces including on weekends and holidays.
- C. Sweep construction area and adjacent streets of all mud and dust daily and/or at the end of the work day.
- D. The developer shall deposit with the CITY \$5,000.00, which may be used by the CITY for dust control measures on this development should the developer fail to adequately control dust. In case the CITY incurs cost for dust control in excess of the above amount, the developer shall reimburse the City for the total cost of dust control incurred by the CITY. Upon acceptance by the CITY of the Parcel Map improvements, the above amount, less any amount expended by the CITY for dust control, shall be returned to the SUBDIVIDER.

11. **Repair by CITY of any Work Damaged or Destroyed by CITY.** In the event that the CITY should damage, destroy or tear up any of the paving or other Parcel Map improvements to be installed by the SUBDIVIDER under the terms of this agreement in order to install sewer or water service connections or any other services to said parcels that could have been installed prior to the installation of said paving or other Parcel Map improvements, the CITY agrees to repair and replace such destroyed paving or other Parcel Map improvements at its own cost and expense.

12. **Improvement Security.** Upon execution of this agreement, the SUBDIVIDER shall obtain and file with the CITY good and sufficient Improvement Security in favor of the CITY and in the

form approved by CITY securing the faithful performance by SUBDIVIDER of the work of improvement required by the provisions of this agreement in the sum of \$280,000.

Said Improvement Security shall be an Improvement Security as defined and described in the Government Code of the State of California Section 66499, et. seq. and it is agreed that the City Council of the CITY has determined that the amount of said Improvement Security has been fixed at One Hundred Percent (100%) of the total estimated cost of said improvements as hereinabove set forth in Paragraph 1, conditioned upon the SUBDIVIDER's faithful performance of this agreement, and an additional amount of fifty percent (50%) of the total estimated cost of said improvements as hereinabove set forth in Paragraph 1, securing payment to the contractor, his subcontractors and to persons furnishing labor, materials, or equipment to them for the improvements.

- A. Release of Improvement Security given for faithful performance of this agreement:

The SUBDIVIDER may request the CITY to monitor the work as it progresses. If the work performed is observed and found to be constructed in conformity with the requirements of the CITY, a partial release of the Improvement Security for faithful performance of this agreement shall be made in the sum in the same ratio of the total deposit as the work inspected bears to the total work to be done. No release of Improvement Security for faithful performance of this agreement in excess of eighty-five percent (85%) of the total amount of \$280,000 shall be made until all the work has been completed and accepted.

The determination of the CITY as to the amount of work done and the amount of Improvement Security to be released shall be final and conclusive.

When the work of improvements is accepted, not less than ten (10%) percent of the total improvement costs to guarantee the faithful performance of the provisions of this agreement relating to defective or faulty construction will be retained for a period of one year following completion and acceptance thereof is required. The total improvement costs for this project is \$280,000.

- B. Release of Improvement Security securing the payment of contractors, subcontractors and to persons furnishing labor, materials, or equipment:

The SUBDIVIDER may certify to the CITY that any phase of the work required by terms of this agreement as set forth in Paragraph 1 of this agreement has been completed. Upon certification by City Engineer that such phase of said work has been completed and inspected by CITY, the portion of said Improvement Security furnished by SUBDIVIDER for the purpose of securing the payment of the contractor, his subcontractors and persons furnishing labor, materials, or equipment for said phase or phases of said work shall be released six (6) months after the completion and acceptance of said work in an amount determined by the City Engineer, less an amount equal to all claims upon which an action has been filed and notice given in writing to the City Council of the CITY, and if no actions are filed such portion of said Improvement Security for said phase of said work shall be released in full.

Such release shall not apply to any required guarantee and warranty period nor to the amount of security deemed necessary by the CITY in such guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorney's fees.

13. **Title Held Under Holding Agreement.** Where title to the subdivided property is held by the record owner thereof under a holding agreement, this agreement and the bond given pursuant thereto may be executed by the real party or parties in interest.

14. **Extension of time Not to Release Improvement Securities.** Any extension of time hereunder shall not operate to release the surety on any Improvement Security given pursuant to this agreement and the said surety shall waive the provisions of Section 2819 of the Civil Code of the State of California.

15. **Time.** Time is of the essence of this agreement, and the same shall bind and inure to the benefit of the parties hereto, their successors and assigns.

16. **Attorney's Fees.** In the event legal action is taken by the CITY to enforce the terms of this agreement, or remedy the breach thereof, or in any action against the surety, the court shall award to the CITY a sum representing its reasonable attorney's fees.

IN WITNESS WHEREOF the parties have executed this agreement or caused the same to be executed by the officer thereunto duly authorized, on the day and year first written above.

CITY OF LEMOORE

By _____
JEFF LAWS, City Manager

ATTEST:

Mary J. Venegas, City Clerk

SUBDIVIDER:

By _____
TOM VORHEES

EXHIBIT "A"

**PRELIMINARY ESTIMATE FOR ONSITE AND OFFSITE IMPROVEMENTS
ASSOCIATED WITH THE ROAD CONSTRUCTION
KNOWN AS VENTURE PLACE AND FURTHER IDENTIFIED ON
PARCEL MAP NO. _____**

Prepared for Tom Vorhees

<u>Improvements</u>	<u>Estimate</u>
Site Preparation and Grading	\$37,000
Sanitary Sewer	\$25,000
Domestic Water	\$33,000
Storm Drainage	\$30,000
Dry Utilities	\$3,000
Roadway/Street Improvements	<u>\$42,000</u>
TOTAL IMPROVEMENTS	\$170,000
Contingency at 10%	\$17,000
TOTAL COST ESTIMATE	<u>\$187,000</u>
Security required at 150% (Gov't Code 66499 et. seq.)	<u>\$280,000</u>

Note: This opinion of probable costs listed above was prepared for the purpose of determining the bonding amounts in this agreement. It was prepared prior to actual design of the improvements, and therefore is less accurate than an opinion prepared after design. Also, since the City of Lemoore, has no control over the cost of labor, materials, or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, our estimates are made on the basis of our experience and represent our best judgment. However, the City of Lemoore does not guarantee that the estimated construction costs listed above will not vary from the actual cost of construction.