

DEPOSIT AND REIMBURSEMENT AGREEMENT

THIS DEPOSIT AND REIMBURSEMENT AGREEMENT (this “Deposit Agreement”), dated as of _____, 2017, is by and between the City of Lompoc, California (the “City”) and HARRIS GRADE PARTNERS, LP, a California limited partnership, MJ LAND, LLC, a California Limited Liability Company, LOMPOC RANCH JOINT VENTURE, a California partnership, JOE A. SIGNORELLI, JR, an individual, and ADAM PETER SIGNORELLI, an individual, (individually, “Owner” and collectively Owners) (collectively, the “Parties” and each, individually, a “Party”).

RECITALS

WHEREAS, the Owners are in the process of developing a residential housing development known as Burton Ranch on approximately 150 acres at the intersection of Highway 1/Purisima Road/Harris Grade Road in the City (the “Development”);

WHEREAS, pursuant to the Burton Ranch Specific Plan, the Development will include a not-to-exceed 476 residential units with a mixture of housing products, in addition to streets, sidewalks, landscape buffer areas, utilities, a private community park, storm drain improvements, and other infrastructure;

WHEREAS, the Owners have requested the City initiate proceedings to create a community facilities district (the “Community Facilities District”) under the Mello-Roos Community Facilities Act of 1982 (the “Act”) to finance certain facilities and services allowable under the Act; and

WHEREAS, the Owners own fee title to the real property within the proposed Community Facilities District;

WHEREAS, in accordance with the City’s policy regarding use of the Act, the Owners are required to compensate the City for all costs incurred in the formation of the Community Facilities District and issuance of bonds for the Community Facilities District;

WHEREAS, Section 53314.9 of the Act provides, at any time either before or after the formation of a Community Facilities District, the City Council may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the Community Facilities District (including the issuance of bonds thereby);

WHEREAS, Section 53314.9 of the Act further provides the City Council may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the City Council, with or without interest under all of the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish the Community Facilities District adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish the Community Facilities District pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified

electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify, if the qualified electors of the Community Facilities District do not approve the proposed special tax, then the City shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and the Owners desire to enter into this Deposit Agreement in accordance with Section 53314.9 of the Act to provide for the advancement of funds by the Owners to be used to pay costs incurred in connection with the proposed formation of the Community Facilities District and issuance of special tax bonds for the Community Facilities District (the “Bonds”), and to provide for the reimbursement to the Owners of such funds advanced, without interest, from the proceeds of any Bonds;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

Section 1. The Deposits and Application Thereof.

(a) The Owners have deposited herewith the amount of \$100,000 (the “Initial Deposit”). The City, by its execution hereof, acknowledges receipt of, and accepts, the Initial Deposit.

(b) The Initial Deposit, together with any subsequent deposit required to be made by the Owners pursuant to the terms hereof (collectively, the “Deposits”), are to be used to pay for costs incurred for any authorized purpose in connection with the formation of the Community Facilities District and the issuance of the Bonds (other than costs, fees and expenses to be paid out of the proceeds of the Bonds), including, without limitation, (i) the fees and expenses of any consultants to the City employed in connection with the formation of the Community Facilities District and the issuance of the Bonds, including the engineer, special tax consultant, financial advisor, bond counsel, and any other consultant deemed necessary or advisable by the City, (ii) the costs of appraisals, market absorption and feasibility studies and other reports deemed necessary or advisable by the City and the Owners in connection with the formation of the Community Facilities District and issuance of the Bonds, (iii) the costs of publication of notices, preparation and mailing of ballots and other costs related to any hearing, election or other action or proceeding undertaken in connection with the formation of the Community Facilities District and issuance of the Bonds, (iv) charges for City staff time incurred in connection with the formation of the Community Facilities District and the issuance of the Bonds by the Community Facilities District, including a reasonable allocation of City overhead expense related thereto provided that such charges and overhead allocations shall be consistent with the City’s practices as to state and federally funded programs, and (v) any and all other actual costs and expenses incurred by the City in connection with the formation of the Community Facilities District and the issuance of the Bonds, provided that the City has given the Owner notice of those costs before incurring them and provided an estimate of the amount to be incurred; provided further that such estimate shall not act to limit Owners’ liability for same. If Owner objects to any such additional cost, the City shall not incur it, but may also cease all work related to the formation of the Community Facilities District or the issuance of the Bonds. (Collectively, the “Initial Costs”).

Owner expressly agrees that Owner are responsible for all Initial Costs, regardless of whether such Initial Costs exceed any estimate provided for the amount of such Initial Costs, and that such estimates are provided only for the benefit of Owner and are not binding upon City.

The City may draw upon the Deposits from time to time to pay the Initial Costs. Upon request of the Owners, the City shall provide Owners a written accounting of the Deposits and applications of funds from the Deposits within 30 days of such request. The cost of providing any such accounting shall be charged to the Deposits.

(c) If, at any time, the unexpended and unencumbered balance of the Deposits is less than \$25,000, then the City may request, in writing, the Owners to make an additional deposit in an amount estimated to be sufficient, together with any such unexpended and unencumbered balance, to pay for all Initial Costs. The City shall provide a good faith estimate of the costs to be funded by the new Deposit; provided, however, that should costs exceed such estimate, they shall nonetheless be paid from the new Deposit or any additional Deposit made pursuant to the provisions of this agreement. The Owners shall make such additional deposit with the City within two weeks after the receipt by the Owners of the City's written request therefor. If Owners fail to make any such additional deposit within such two week period, then the City may cease all work related to the formation of the Community Facilities District or the issuance of the Bonds.

(d) The Deposits may be commingled with other funds of the City for purposes of investment and safekeeping, but the City shall at all times maintain records as to the expenditure of the Deposits.

(e) Owners have appointed Craig Zimmerman, President, the Towbes Group, Inc. to act as representative of the Owners (the "Representative"). Should an additional Deposit be required, City shall seek such Deposit directly from the Representative, pursuant to Section 1(c) above. It shall be considered a breach of this Agreement if such Deposit is not timely made pursuant to Section 1(c) above, and each Owner shall be jointly and severally liable for such breach. The City may pursue any remedy available at law or under this Agreement against any individual Owner as if that individual Owner was responsible for the entire Deposit.

(f) Provided that the City complies with the terms of this Agreement, nothing contained herein (including any requirement that City provides an estimate of costs) shall in any way create any responsibility on the part of the City to pay for any costs incurred in connection with the formation of the Community Facilities District. It is expressly understood that any estimates are provided solely for informational purposes for the Owners, and not to create any ceiling or limit to liability of such Owners.

Section 2. Return of Deposits; Reimbursement.

(a) As provided in Section 53314.9 of the Act, the approval by the qualified electors of the Community Facilities District of the proposed special tax to be levied therein is a condition to the repayment to the Owners of the funds advanced by the Owners pursuant hereto. Therefore, if the qualified electors of the Community Facilities District do not approve the proposed special tax to be levied thereon, then the City shall have no obligation to repay the

Owners any portion of the Deposits expended or encumbered to pay Initial Costs, but shall return to the Owners any portion of the Deposits which have not been expended or encumbered to pay Initial Costs by the time of the election on said proposed special tax.

(b) If proceedings for the formation of a Community Facilities District or the issuance of the Bonds are terminated, then the City shall, within fifteen business days after official action by the City or the Community Facilities District to terminate said proceedings, return the then unexpended and unencumbered portion of the Deposits to the Owners, without interest except for any interest earned by virtue of deposit in an interest-bearing account.

(c) If the Bonds are issued by the Community Facilities District, then the City shall reimburse the Owners for the portion of the Deposits that has been expended or encumbered, said reimbursement to be made within fifteen business days after the issuance of such Bonds, solely from the proceeds of such Bonds and only to the extent otherwise permitted under the Act. The City shall, within fifteen business days after the issuance of such Bonds, return the then unexpended and unencumbered portion of the Deposits to the Owners, without interest except for any interest earned by virtue of deposit in an interest-bearing account

Section 3. Abandonment of Proceedings. The Owners acknowledge and agree the issuance of the Bonds and, subject to the Act, the formation of the Community Facilities District shall be in the sole discretion of the City and/or the Community Facilities District, as applicable. No provision of this Deposit Agreement shall be construed as an agreement, promise or warranty of the City and/or the Community Facilities District to issue the Bonds.

Section 4. Deposit Agreement Not Debt or Liability of City. As provided in Section 53314.9(b) of the Act, this Deposit Agreement does not constitute a debt or liability of the City, but shall constitute a debt and liability of the Community Facilities District upon its formation. The City shall not be obligated to advance any of its own funds to pay Initial Costs or any other costs incurred in connection with the issuance of the Bonds. No member of the City Council of the City and no officer, employee or agent of the City shall to any extent be personally liable hereunder.

Section 5. Notices, Demands and Communications Between the Parties. Any notices, requests, demands, documents, approvals or disapprovals given or sent under this Deposit Agreement from one Party to another (collectively, "Notices") may be personally delivered, or deposit with the United States Postal Service for mailing, postage prepaid, to the address of the other Party as stated in this Section. Notices shall be sent as follows

If to City:

City of Lompoc
Attn: City Clerk
100 Civic Center Plaza
Lompoc, CA 93436

With copies to:

Aleshire & Wynder, LLP

Attn: City Attorney
2361 Rosecrans Avenue, Suite 475
El Segundo, CA 90245-4916

If to Owner:

Craig Zimmerman, President
The Towbes Group, Inc.
21 East Victoria Street, Suite 200
Santa Barbara, CA 93101

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) upon actual personal service or delivery, (b) 72 hours after such notice is deposited with the United States Mail for delivery by registered or certified mail, (c) 24 hours after delivery to an overnight courier with directions for overnight delivery, or (d) if given by any other means, then upon actual delivery at the address specified in this Section.

Section 6. California Law. This Deposit Agreement shall be governed and construed in accordance with the laws of the State of California. The Parties shall be entitled to seek any remedy available at law and in equity. Venue for any such action shall lie in Santa Barbra County, California and each party hereby consents to jurisdiction there for purposes of such actions.

Section 7. Successors and Assigns. This Deposit Agreement shall be binding upon and insure to the benefit of the successors and assigns of the parties hereto.

Section 8. Counterparts. This Deposit Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

Section 9. Other Agreements. The obligations of the Owners hereunder shall be those of parties hereto. Nothing herein shall be construed as affecting the City's or an Owner's rights, or duties to perform its or his respective obligations, under other agreements, use regulations or subdivision requirements relating to the development. This Deposit Agreement shall not confer any additional rights, or waive any rights given, by any party hereto under any development or other agreement to which he or it is a party.

Section 10. Titles and Caption. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Deposit Agreement or of any of its terms. Reference to section numbers are to sections in this Deposit Agreement, unless expressly stated otherwise.

Section 11. Interpretation. As used in this Deposit Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others if the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Deposit Agreement shall be interpreted as though prepared jointly by both Parties.

Section 12. No Waiver. A waiver by a Party of a breach of any of the covenants, conditions or agreements under this Deposit Agreement to be performed by another Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Deposit Agreement.

Section 13. Modifications. Any alteration, change or modification of or to this Deposit Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of the Party to be charged.

Section 14. Severability. If any term, provision, condition or covenant of this Deposit Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, then the remainder of this Deposit Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

Section 15. Computation of Time. The time in which any act is to be done under this Deposit Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code as it currently states as of the date of this Deposit Agreement. If any act is to be done by a particular time during a day, then that time shall be Pacific Time Zone time.

Section 16. Legal Advice. Each Party represents and warrants to the other the following: it or he has carefully read this Deposit Agreement, and in signing this Deposit Agreement, does so with full knowledge of any right which it or he may have; he or it has received independent legal advice from his or its respective legal counsel as to the matters set forth in this Deposit Agreement, or has knowingly chosen not to consult legal counsel as to the matters set forth in this Deposit Agreement; and, he or it has freely signed this Deposit Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of another Party, or his or its respective agents, employees, or attorneys, except as specifically set forth in this Deposit Agreement, and without duress or coercion, whether economic or otherwise.

Section 17. Cooperation. Each Party agrees to cooperate with the others in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Deposit Agreement including, but not limited to, releases or additional agreements.

Section 18. Conflicts of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Deposit Agreement, nor shall any such member, official or employee participate in any decision relating to the Deposit Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

Section 19. Warranties of Authority. Each signor of this agreement hereby warrants for the benefit of the other party that he, she or it has actual authority to do so and to bind his, her or its principal to this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have executed this Deposit Agreement as of the respective dates set forth below.

“CITY”

CITY OF LOMPOC, a municipal corporation

Dated: _____, 2016

By: _____
City Manager

ATTEST:

STACEY HADDON, CITY CLERK

By: _____
STACEY HADDON

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP
City Attorney

By: _____
JOSEPH W. PANNONE

OWNERS

By: _____
Adam Peter Signorelli, an individual

GUS THOMAS SIGNORELLI, AS His Sole and Separate Property, as to an undivided 16.67% interest of Parcels Two, Three, Four, and Five [APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

By: _____
Gus Thomas Signorelli

THE TOWBES GROUP, INC., a California Corporation, as to an undivided 12.5% interest of Parcels Two, Three, Four, and Five [APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

By: _____
Michael Towbes, Chairman

HARRIS GRADE PARTNERS, LP, a California limited partnership [APN: 097-250-040]

By: MARTIN FARRELL HOMES, INC., a California Corporation, General Partner

By: _____
Jon Martin, President
MJ LAND, LLC, a California Limited Liability Company [APNs: 097-250-002 and 097-250-069]

By: _____
Patrick J. McCarthy, Managing Member

By: _____
Donald M. Jensen, Managing Member

LOMPOC RANCH JOINT VENTURE, a California partnership, as to an undivided 37.5% interest of Parcels Two, Three, Four, and Five [APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

John Gherini, Managing Partner

By: _____
John Gherini, Managing Partner

JOE A. SIGNORELLI, JR., as His Sole and
Separate Property, as to an undivided
16.66% interest of Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

By: _____
Joe A. Signorelli, Jr.

ADAM PETER SIGNORELLI, as His Sole and
Separate Property, as to an undivided
16.67% interest of Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

By: _____
Adam Peter Signorelli

GUS THOMAS SIGNORELLI, AS His Sole and
Separate Property, as to an undivided
16.67% interest of Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

By: _____
Gus Thomas Signorelli

THE TOWBES GROUP, INC., a California
Corporation, as to an undivided 12.5% interest of
Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

By: _____
Michael Towbes, Chairman

Exhibit A
Owners Proportional Shares

Owner	Percentage Funding Obligation
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HARRIS GRADE PARTNERS, LP,
a California limited partnership
[APN: 097-250-040]

MJ LAND, LLC, a California Limited Liability Company
[APNs: 097-250-002 and 097-250-069]

LOMPOC RANCH JOINT VENTURE, a
California partnership, as to an undivided
37.5% interest of Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

JOE A. SIGNORELLI, JR., as His Sole and
Separate Property, as to an undivided
16.66% interest of Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

ADAM PETER SIGNORELLI, as His Sole and
Separate Property, as to an undivided
16.67% interest of Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

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[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]

THE TOWBES GROUP, INC., a California
Corporation, as to an undivided 12.5% interest of
Parcels Two, Three, Four, and Five
[APNs: 097-250-050, 097-250-051, 097-250-005, and 097-250-062]