

TO: City Council
 FROM: James L. App, City Manager *[Signature]*
 SUBJECT: Economic Development - Holiday Inn Express
 DATE: April 6, 1999

NEEDS: For the City Council to consider an Economic Development Agreement with AKSHAR Partners, the developers of a new Holiday Inn Express.

- FACTS:**
1. The City's Economic Development Strategy targets expansion of local commerce.
 2. The City's Financial Assistance Policy provides a mechanism whereby the City may assist new or expanding businesses, which fulfill key objectives of the Economic Strategy, with the cost of City building/development fees and/or installation of public improvements.
 3. Paresh Patel, a general partner of AKSHAR Partnership, acquired a Holiday Inn Express franchise for Paso Robles.
 4. The new sixty room Holiday Inn Express is being built at 2405 Riverside Drive.
 5. The owners of the new Holiday Inn Express franchise seek financial assistance to offset the cost of certain City fees and public improvements.
 6. The Council's Fiscal Committee has reviewed the proposed development project and recommend financial assistance as detailed in the attached Economic Development Agreement.

ANALYSIS & CONCLUSION: The development of a new Holiday Inn Express in Paso Robles is a significant addition to the City's tourism industry. It will increase the City's transient occupancy, property and sales tax base. On both counts, it fulfills key objectives of the City's Economic Strategy and Financial Assistance Policy.

The attached Economic Development Agreement documents the Fiscal Committee's recommended assistance, as well as the owner's performance obligations. Financial assistance is offered in two parts: First, with the issuance of building permits, the City will reimburse up to \$50,000 for City building/development fees and certain public improvements. Second, following one full year of operation, if the project generates at least \$100,000 transient, retail sales & property tax revenue for the City, it may be reimbursed up to \$50,000 for certain public improvements.

POLICY REFERENCE: Economic Development Strategy; Financial Assistance Policy.

FISCAL

IMPACT:

Income - New recurring transient occupancy, property and retail sales tax revenue.
Expense - a maximum of \$100,000.

OPTIONS:

1. **Approve the Economic Incentive Agreement with AKSHAR Partners and Authorize the Mayor to Execute the Agreement.**
2. **Amend, Modify or Reject the Option Above.**

Attachment:

Economic Incentive Agreement

**ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF EL PASO DE ROBLES
AND AKSHAR PARTNERSHIP**

THIS ECONOMIC DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 7th day of April, 1999, by and between the CITY OF EL PASO DE ROBLES, a municipal corporation organized and existing under the laws of the State of California (the "City") and AKSHAR Partnership ("Owner").

Recitals

A. Owner is the owner of certain property located at 2405 Riverside Drive (the "Property"), which is located within the City of El Paso de Robles, which Owner seeks to develop as a Holiday Inn Express hotel. The proposed development and construction of the necessary facilities for and operation of the hotel is referred to herein as the "Project."

B. Pursuant to the City's Economic Development Assistance Policy, City wishes to encourage and assist in the location and expansion of the facility, which will generate additional transient occupancy tax, retail sales tax, property tax and employment opportunities within the City.

C. The City has determined that the proposed Project will present certain public benefits and opportunities which are made possible by the parties entering into this Agreement. The Agreement will, among other things: (1) ensure the productive use of property and foster orderly growth and quality development in the City; (2) strengthen the City's economic base by providing an additional source of transient occupancy tax and jobs and provide the opportunity to increase its property tax, sales tax base and employment opportunities; (3) reduce uncertainties in planning and provide for the orderly development of the Project; (4) contribute to the provision of needed hotel rooms; and (5) provide for the reimbursement to Owner of costs for certain development fees and construction of public improvements in order to make development of the Project economically feasible and achieve the City's goals described in paragraph B., above.

D. Inasmuch as this Agreement provides for the participation of Owner in financing the public improvements required to carry out the project approvals for this Project, this Agreement constitutes a financing agreement within the meaning and scope of Government Code section 53511 in that it provides for a means of satisfying financing obligations for various public improvements and facilities to be owned by or maintained for the benefit of City and the public generally in the City's planning area.

NOW, THEREFORE, in consideration of the mutual covenants and promises of City and Owner, City and Owner agree as follows:

Agreements

Section 1. Parties

The City is a municipal corporation. The office of the City is located at 1000 Spring Street, Paso Robles 93446. "City" as used in this Agreement, includes the City of El Paso de Robles and any assignee of or success to its rights, powers and responsibilities.

Owner is AKSHAR Partnership, whose general partners are Prakash Patel, Paresh Patel, and Jiten & Uloopi Patel. The Owner's offices for purposes of this Agreement are located at 3600 El Camino Real, Atascadero, California. Wherever the term "Owner" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided. The qualifications and identity of Owner are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Agreement with Owner. No voluntary or involuntary success in interest of Owner shall acquire any rights or powers under this Agreement.

Section 2. Property

The Property is described in Exhibit A, attached hereto and incorporated herein by this reference.

Section 3. Obligations Conditional

a. Owner acknowledges and agrees that the City's reimbursement obligations, as set forth in Section 5 below, are entirely contingent upon Owner's satisfaction of the conditions set forth in Section 6, below, and the City's reimbursement obligations, as set forth in Section 7 below, are entirely contingent upon Owner's satisfaction of the conditions set forth in Section 7, below.

b. The City acknowledges and agrees that Owner does not by this Agreement covenant to continue its business operations on the Property for any specified period of time, or maintain any particular level of employment on the Property. However, the continuation of such business operations is a condition to the City's obligations under this Agreement.

Section 4. Development of the Property

Owner intends to develop the Property with a 60-room, three-story Holiday Inn Express hotel and to complete such development within 15 months from the date of this Agreement. Owner agrees that it will be responsible, at its sole cost and expense, for applying for and obtaining all necessary environmental and land use approvals and making any submissions required by the City for the development and operation of the Project.

It is anticipated that in connection with the development of the Project, Owner will be required to install, or cause to be installed, certain public improvements which include, but are not limited to, the installation and construction of the following improvements and related actions (collectively, the "Public Improvements"): public road improvements including pavement, curb, gutter sidewalk & drive approach, water and fire system improvements including main water line, fire hydrant, and gate valves, utility services and other related improvements. The cost of such Public Improvements is estimated to exceed FIFTY THOUSAND DOLLARS (\$50,000). Owner shall install, or cause to be installed, all such required Public Improvements in accordance with all City requirements, standards and conditions, and maintain records and invoices of the costs of such Public Improvements, including evidence of payment therefor, and submit all such documentation to the City.

Section 5. City Assistance

Subject to the satisfaction by Owner of all of the conditions described in Section 6., below, the City agrees as follows:

a. City agrees that, in consideration of the Owner's acquiring the Property and obtaining all approvals necessary for development of the Project improvements on the Property, that it shall reimburse a portion of the building permit and development fees and costs of constructed and installed public improvements paid by Owner in an amount not to exceed FIFTY THOUSAND DOLLARS (\$50,000).

b. City agrees to reimburse Owner for a portion of the costs actually incurred by the Owner for the construction and installation of the Public Improvements, until such reimbursement payments have reached a total aggregate amount of FIFTY THOUSAND DOLLARS (\$50,000), but in no event shall such reimbursement exceed the total cost of the Public Improvements. The amount of any such reimbursement shall be made at the following times and in the following amounts:

Within thirty (30) days of receipt by the City of one (1) full year of both transient occupancy tax, retail sales tax, and property tax generated by Owner's ownership and operation of the Project, City shall pay to Owner an amount not to exceed FIFTY THOUSAND DOLLARS (\$50,000), subject to the satisfaction by Owner of the conditions set forth in Section 6, below.

Section 6. Conditions to City Assistance

Owner shall be entitled to receive assistance from the City as set forth in Section 5.a. if and only if all of the following conditions have been satisfied:

a. The Owner has provided to City evidence that it owns the Property in fee simple.

b. The Owner has provided to City a copy of a franchise agreement and any other documentation reasonably satisfactory to City evidencing Owner's right to operate a hotel under the name "Holiday Inn Express" on the Property.

c. The Owner has provided to City evidence reasonably satisfactory to City that it has the equity capital and financing commitments necessary to develop and construct the Project on the Property.

d. The Owner has provided to City a copy of an executed contract with a general contractor for the construction of the Project.

Owner shall be entitled to receive assistance from the City as set forth in Section 5.b. if and only if all of the following conditions have been satisfied:

a. All of the conditions to receive City assistance as set forth in Section 5.a. have been satisfied.

b. The Project has been completed in accordance with the Project approvals and within the time set forth in Section 4. hereof, and the City has issued a Certificate of Occupancy for the improvements on the Property.

c. Owner is operating a Holiday Inn Express on the Property at the time such reimbursement is due.

d. The City has received one (1) full year of transient occupancy tax, sales tax and property tax from the Owner for its ownership and operation of the Project which together have resulted in the receipt by the City of at least ONE HUNDRED THOUSAND DOLLARS (\$100,000). In the event the combined amount of transient occupancy tax, sales tax and property tax from the Project is less than ONE HUNDRED THOUSAND DOLLARS (\$100,000) after such year, the amount of reimbursement to be paid to Owner by the City under Section 5.b shall be reduced on a dollar-for-dollar basis.

Section 7. Indemnification

Owner hereby indemnifies and holds the City harmless from all demands, claims, actions and damages to any person or property arising out of or connected with the terms of this Agreement.

Section 8. Default

Failure by either party to perform its obligations hereunder shall constitute a default under this Agreement, and the other party may institute legal action to cure, correct or remedy such default, to recover damages for such default or to obtain any other remedy whether at law or in equity, consistent with the purpose of this Agreement. In the event the Project is not completed within the time set forth in

Section 4., above, Owner shall promptly pay to the City the full amount of the waived fees set forth in Section 5.a.

Section 9. Termination of this Agreement

In the event this Agreement is not earlier terminated due to the material default of a party, this Agreement and the obligations of Owner and City hereunder shall terminate upon the earliest occurrence of any of the following events:

a. When the total aggregate amount of the reimbursement payment paid to Owner by City equals the amount set forth in Sections 5., above; or

b. Two (2) years from the date of this Agreement.

Section 10. Miscellaneous Provisions

a. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

b. Time of the Essence. Time is of the essence of each and every provision of this Agreement.

c. Notices. Notices or other communications given under this Agreement shall be in writing and shall be served personally or transmitted by first-class mail, postage prepaid. Notices shall be deemed received either at the time of actual receipt or, if mailed in accordance herewith, on the third (3rd) business day after mailing, whichever occurs first. Notices shall be directed to the parties at the following addresses or at such other addresses as the parties may indicate by notice:

City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446
Attention: City Manager

J. P. Patel
3600 El Camino Real
Atascadero, California 93422

d. Headings. The titles and headings of the various sections of this Agreement are intended solely for reference and are not intended to explain, modify or place any interpretation upon any provision of this Agreement.

e. Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any

waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

f. Further Assurances. The parties shall execute, acknowledge, file or record such other instruments and statements and shall take such additional action as may be necessary to carry out the purpose and intent of this Agreement.

g. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, legal representatives, successors and assigns.

h. Entire Agreement. This Agreement and Exhibit A, which is incorporated herein, together constitute the entire agreement between the parties and supersede all prior or contemporaneous agreements, representations, warranties and understandings of the parties concerning the subject matter contained herein, written or oral. No change, modification, addendum or amendment to any provision of this Agreement shall be valid unless executed in writing by each party hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective representatives thereunto duly authorized as of the day first written above.

CITY:

CITY OF EL PASO DE ROBLES

By: _____
Duane J. Picanco, Mayor

Attest:

By: _____
Madelyn Paasch, City Clerk

OWNER:

By: _____
Its: _____

