

TO: James App, City Manager
FROM: Ron Whisenand, Community Development Director
SUBJECT: Redevelopment Reimbursement Agreement
DATE: April 1, 2008

Needs: For the Redevelopment Agency and City Council to consider a new Reimbursement Agreement between the Agency and the City regarding use of redevelopment funds to reimburse the City for its debt to construct the Library/City Hall.

- Facts:
1. In 1993, the City and Redevelopment Agency entered into an agreement under which the Agency would reimburse the City for its debt payments on the City Hall.
 2. In 1993, the City and Agency jointly agreed to form the El Paso de Robles Public Financing Authority, which issued certificates of participation to finance City Hall.
 3. In 2004, the Public Financing Authority refinanced the certificates of participation, which, the City Attorney has advised, effectively terminated the 1993 reimbursement agreement. A new reimbursement agreement, therefore, is needed.
 4. The 2004 reimbursement agreement provides that the Agency agrees to reimburse the City, its successors and assigns, the City's annual debt service payments required to be paid under the 2004 Certificates of Participation, estimated at approximately \$300,000 per year, to the extent that Net Agency Revenues are available. According to the Redevelopment Annual Report, in Fiscal Year 06/07, the Agency received a net of about \$2.5 million in tax increment revenue.
 5. In December 2007 and in January 2008, the City Council and Redevelopment Agency approved the use of non-housing redevelopment funds for the Carnegie Library Repair and Uptown/Town Centre Specific Plan.

Analysis & Conclusion: As noted above, a new Reimbursement Agreement is needed to replace the 1993 agreement. Attached is a new reimbursement agreement, dated 2004, to correspond with the date of the refinancing of the City Hall debt. This agreement was prepared by the City Attorney.

The new Reimbursement Agreement does not prevent the Agency from paying down the debt at a faster rate than specified, should that be the Agency's desire.

Policy Reference: State Redevelopment Law (Sections 33000 et seq. of the Health and Safety Code)

Fiscal Impacts: The new Reimbursement Agreement will provide a commitment for retiring the debt on City Hall, and it will allow for redevelopment tax increment funds to be used for other projects prior to such retirement.

Options: After accepting any public testimony on the proposed amendment to the Implementation Plan, take one of the following options:

Redevelopment Agency

- a. Adopt attached Resolution RA08-XXX authorizing execution of the 2004 Reimbursement Agreement.
- b. Amend, modify, or reject the above options.

City Council

- a. Adopt attached Resolution 08-XXX authorizing execution of the 2004 Reimbursement Agreement.
- b. Amend, modify, or reject the above options.

Prepared by: Ed Gallagher, City Planner

Attachments:

1. Resolution RA 08-XX Authorizing Execution of the 2004 Reimbursement Agreement
2. Resolution 08-XXX Authorizing Execution of the 2004 Reimbursement Agreement.
3. 2004 Reimbursement Agreement

ED\REDEV\CITY HALL FINANCING\IRDA REPORT 040108 – REIMBURSEMENT AGREEMENT

RESOLUTION NO. RA 08-XXX
A RESOLUTION OF THE PASO ROBLES REDEVELOPMENT AGENCY APPROVING AND
AUTHORIZING EXECUTION OF THE REIMBURSEMENT AGREEMENT BETWEEN THE
AGENCY AND CITY RELATING TO THE 2004 REFUNDING CERTIFICATES OF
PARTICIPATION.

WHEREAS, El Paso de Robles Public Financing Authority (the "Authority"), a joint exercise of powers agency organized and existing under the laws of the State of California pursuant to a Joint Exercise of Powers Agreement dated as of January 19, 1993, by and between the City of El Paso de Robles ("City") and the Redevelopment Agency of the City of El Paso de Robles ("Agency"), issued those certain Certificates of Participation (1993 Capital Facilities Financing Project), dated November 1, 1993 (the "1993 Certificates") to finance the construction of certain improvements to the Library building located at 1000 Spring Street (the "Library Building"); and

WHEREAS, in furtherance of the Redevelopment Plan (the "Redevelopment Plan") for the Paso Robles Redevelopment Project (the "Redevelopment Project"), the Agency and City entered into a Reimbursement Agreement, dated as of November 1, 1993 (the "1993 Reimbursement Agreement"), providing for the Agency to reimburse the City for its debt service payments related to the 1993 Certificates; and

WHEREAS, in order to take advantage of lower financing costs, the Authority issued those certain 2004 Refunding Certificates of Participation (the "2004 Certificates"), the proceeds of which were used to defease and prepay the outstanding 1993 Certificates and related costs; and

WHEREAS, in light of such refinancing, the City and the Agency desire to enter into a Reimbursement Agreement to confirm the termination of the 1993 Reimbursement Agreement and provide for the continued reimbursement by the Agency of the City's debt service payments relating to the 2004 Certificates;

NOW, THEREFORE, BE IT RESOLVED that the Redevelopment Agency hereby approves and authorizes the execution of the 2004 Reimbursement Agreement in substantially the form attached hereto as Exhibit A and incorporated herein by reference, subject to any minor, technical or clarifying changes that may be approved by Agency counsel.

PASSED AND ADOPTED by the Redevelopment Agency of the City of Paso Robles on this 1st day of April 2008 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Fred Strong, Chairman

ATTEST:

Deborah D. Robinson, Deputy City Clerk

RESOLUTION NO. 08-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
APPROVING AND AUTHORIZING EXECUTION OF THE REIMBURSEMENT AGREEMENT
BETWEEN THE AGENCY AND CITY RELATING TO THE 2004 REFUNDING CERTIFICATES
OF PARTICIPATION.

WHEREAS, El Paso de Robles Public Financing Authority (the "Authority"), a joint exercise of powers agency organized and existing under the laws of the State of California pursuant to a Joint Exercise of Powers Agreement dated as of January 19, 1993, by and between the City of El Paso de Robles ("City") and the Redevelopment Agency of the City of El Paso de Robles ("Agency"), issued those certain Certificates of Participation (1993 Capital Facilities Financing Project), dated November 1, 1993 (the "1993 Certificates") to finance the construction of certain improvements to the Library building located at 1000 Spring Street (the "Library Building"); and

WHEREAS, in furtherance of the Redevelopment Plan (the "Redevelopment Plan") for the Paso Robles Redevelopment Project (the "Redevelopment Project"), the Agency and City entered into a Reimbursement Agreement, dated as of November 1, 1993 (the "1993 Reimbursement Agreement"), providing for the Agency to reimburse the City for its debt service payments related to the 1993 Certificates; and

WHEREAS, in order to take advantage of lower financing costs, the Authority issued those certain 2004 Refunding Certificates of Participation (the "2004 Certificates"), the proceeds of which were used to defease and prepay the outstanding 1993 Certificates and related costs; and

WHEREAS, in light of such refinancing, the City and the Agency desire to enter into a Reimbursement Agreement to confirm the termination of the 1993 Reimbursement Agreement and provide for the continued reimbursement by the Agency of the City's debt service payments relating to the 2004 Certificates;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves and authorizes the execution of the 2004 Reimbursement Agreement in substantially the form attached hereto as Exhibit A and incorporated herein by reference, subject to any minor, technical or clarifying changes that may be approved by City counsel.

PASSED AND ADOPTED by the City Council of the City of Paso Robles on this 1st day of April 2008 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk

Exhibit A

REIMBURSEMENT AGREEMENT [2004 Refunding Certificates of Participation]

This Reimbursement Agreement (this "Reimbursement Agreement"), dated for convenience as of December 1, 2004, is entered into 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 the REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES, a public body, corporate and politic, organized and existing under the laws of the State of California (the "Agency").

RECITALS

WHEREAS, El Paso de Robles Public Financing Authority (the "Authority"), a joint exercise of powers agency organized and existing under the laws of the State of California pursuant to a Joint Exercise of Powers Agreement dated as of January 19, 1993, by and between the City and the Agency, issued those certain Certificates of Participation (1993 Capital Facilities Financing Project), dated November 1, 1993 (the "1993 Certificates") to finance the construction of certain improvements to the Library building located at 1000 Spring Street (the "Library Building"); and

WHEREAS, in furtherance of the Redevelopment Plan (the "Redevelopment Plan") for the Paso Robles Redevelopment Project (the "Redevelopment Project"), the Agency and City entered into a Reimbursement Agreement, dated as of November 1, 1993 (the "1993 Reimbursement Agreement"), providing for the Agency to reimburse the City for its debt service payments related to the 1993 Certificates; and

WHEREAS, in order to take advantage of lower financing costs, the Authority issued those certain 2004 Refunding Certificates of Participation (the "2004 Certificates"), the proceeds of which were used to defease and prepay the outstanding 1993 Certificates and related costs; and

WHEREAS, in light of such refinancing, the City and the Agency desire to enter into this Reimbursement Agreement to confirm the termination of the 1993 Reimbursement Agreement and provide for the continued reimbursement by the Agency of the City's debt service payments relating to the 2004 Certificates;

AGREEMENTS

ARTICLE I

TERM OF THIS REIMBURSEMENT AGREEMENT; AGENCY PAYMENTS

Section 1.1. Term of Agreement. This Reimbursement Agreement is dated for convenience as of December 1, 2004, the date of the 2004 Certificates. The Term of this Reimbursement Agreement shall commence on the date of execution of this Reimbursement

Agreement by both parties, and shall end upon payment in full of all debt service obligations of the City under the 2004 Certificates.

Section 1.2. Agency Payments.

(a) Subject to the limitations set forth below, the Agency agrees to reimburse to the City, its successors and assigns, the City's annual debt service payments required to be paid under the 2004 Certificates (the "Agency Payments"), estimated at approximately Three Hundred Thousand Dollars (\$300,000) per year, to the extent Net Agency Revenues (as defined below) are available to the Agency. For purposes of this Section 1.2, "Net Agency Revenues" shall include all Tax Revenues and other income received by the Agency, less any amounts required to be paid by the Agency into its Low and Moderate Income Housing Fund, and less any amounts appropriated by the Agency for operational needs and debt service requirements (including any amounts required to be paid to affected taxing agencies) of the Agency. The amount of Agency Payments shall not exceed in any year the amount of Net Agency Revenues available to the Agency for such purpose. Agency Payments to the City shall be due and payable following receipt, from time to time, by the Agency of its allocation of Tax Revenues pursuant to Health and Safety Code Section 33670 et seq., or as otherwise may be agreed to by the parties.

(b) In the event the amount of Net Agency Revenues in any year is not sufficient to cover the Agency's Payment provided for under subsection (a), above, any unpaid amount shall continue as an obligation of the Agency until said unpaid amount shall have been fully paid. The Agency shall not be deemed to be in default hereunder to the extent the reason for nonpayment of all or a portion of any Agency Payment is due to insufficient Net Agency Revenues.

Section 1.3. Termination of 1993 Agreement. The Agency and City hereby acknowledge and agree that the 1993 Reimbursement Agreement is hereby terminated, and replaced in its entirety by this Reimbursement Agreement. Following execution of this Reimbursement Agreement, neither party shall have any further rights or obligations under the 1993 Reimbursement Agreement.

ARTICLE II

COVENANTS

Section 2.1. Plan Limitations; Sufficient Tax Revenues. The Agency shall take no action, including but not limited to the issuance of its bonds, notes or other obligations, which causes or which, with the passage of time, would cause any of the Plan Limitations to be exceeded or violated. The Agency shall manage its fiscal affairs in a manner which ensures that it will have sufficient Tax Revenues available under the Plan Limitations in the amounts and at the times required to enable the Agency to pay the Agency Payments when due. Subject to the foregoing and the prior approval of the City, the Agency may incur obligations payable from Tax Revenues that are senior to, on a parity with or subordinate to its obligations under this Reimbursement Agreement, and the City hereby agrees to execute any subordination requested by the Agency incident thereto.

Section 2.2. Maintenance of Tax Revenues. The Agency shall comply with all requirements of the Redevelopment Law to insure the allocation and payment to it of the Tax Revenues, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of the County and the State. The Agency shall not enter into any agreement with the County or any other governmental unit pursuant to Section 33401 of the Redevelopment Law, or amend any of such pass-through agreements, which would have the effect of reducing the amount of Tax Revenues available to the Agency without the prior approval of the City.

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

Section 3.1. Events of Default Defined. The following shall be "events of default" under this Reimbursement Agreement and the terms "Events of Default" and "Default" shall mean, whenever they are used in this Reimbursement Agreement, any one or more of the following events:

(a) Failure by the Agency to pay any Agency Payment or other payment required to be paid hereunder at the time specified herein, and the continuation of such failure for a period of ten (10) days.

(b) Failure by the Agency to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Reimbursement Agreement, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Agency by the City; *provided, however*, if the failure stated in the notice can be corrected, but not within the applicable period, the City shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Agency within the applicable period and diligently pursued until the default is corrected.

(c) The filing by the Agency of a voluntary petition in bankruptcy, or failure by the Agency promptly to lift any execution, garnishment or attachment, or adjudication of the Agency as a bankrupt, or assignment by the Agency for the benefit of creditors, or the entry by the Agency into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Agency in any proceedings instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar acts which may hereafter be enacted.

For purposes of determining whether any Event of Default has occurred under and as described in the preceding clause (a), Agency Payments required hereunder shall be subject to the limitations set forth in Section 1.2.

Section 4.2. Binding Effect. This Reimbursement Agreement shall inure to the benefit of and shall be binding upon the City and the Agency, and their respective successors and assigns.

Section 4.3. Severability. In the event any provision of this Reimbursement Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 4.4. Further Assurances and Corrective Instruments. The City and the Agency agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intentions of this Reimbursement Agreement.

Section 4.5. Execution in Counterparts. This Reimbursement Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 4.6. Applicable Law. This Reimbursement Agreement shall be governed by and construed in accordance with the laws of the State.

Section 4.7. Agency and City Representatives. Whenever under the provisions of this Reimbursement Agreement the approval of the City or the Agency is required, or the City or the Agency is required to take some action at the request of the other, such approval or such request shall be given for the City by a City Representative and for the Agency by an Agency Representative, and each party hereto shall be authorized to rely upon any such approval or request.

Section 4.8. Captions. The captions or headings in this Reimbursement Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Reimbursement Agreement.

IN WITNESS WHEREOF, the City has caused this Reimbursement Agreement to be executed in its name by its duly authorized officers; and the Agency has caused this Reimbursement Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

CITY OF EL PASO DE ROBLES

By _____
Mayor

Attest:

By _____
City Clerk

**REDEVELOPMENT AGENCY OF THE CITY
OF EL PASO DE ROBLES**

By _____
Executive Director

Attest:

By _____
Secretary