

TO: City Council & Redevelopment Agency Board
FROM: James L. App, City Manager
SUBJECT: **City/Agency Reimbursement Agreement – Flamson Improvements**
DATE: August 18, 2009

NEEDS: For the City Council and Redevelopment Agency Board to consider a reimbursement agreement for funding of the Flamson Middle School public improvement project.

- FACTS:**
1. Flamson Middle School, located at 24th & Spring Streets within the Redevelopment Project Area, was severely damaged by the 2003 San Simeon earthquake.
 2. The Federal Emergency Management Agency (FEMA) is paying the cost of the reconstruction of Flamson's main classroom building.
 3. In connection with the reconstruction, the adjacent curbs, gutters and sidewalks must be replaced along with certain other circulation improvements.
 4. The City has obtained bids for the construction, and construction phase engineering, for the improvements.
 5. The improvements are identified in the Redevelopment Plan and are proposed to be included in the Agency's 5-Year Implementation Plan (as a public improvement project for the Agency).
 6. The City does not have the financial means to fund the costs of the improvements.
 7. The Agency has funds available for the project.
 8. The improvements and payment of the costs thereof are legitimate redevelopment activities.
 9. Thus, the Agency can, pursuant to a Reimbursement Agreement, reimburse the City for the costs of the improvements.

ANALYSIS &

CONCLUSION: Following the 2003 San Simeon earthquake, FEMA and the School District determined Flamson's main classroom building a total loss. FEMA is funding its replacement. However, there were other damages that are not covered by FEMA so the City Council pledged assistance in their replacement.

The pledged assistance includes circulation and landscape improvements. The circulation improvements have been bid; however, the City does not have the financial resources to pay the costs. The Redevelopment Agency does, and the improvements are legitimate redevelopment projects. The proposed reimbursement agreement will provide funds for the circulation improvements.

POLICY

REFERENCE: California Health & Safety Code Section 33000 et seq.; Paso Robles Redevelopment Plan.

FISCAL

IMPACT: \$260,000 from the Redevelopment Agency's 2009 Tax Allocation Bond proceeds.

OPTIONS:

- A. City Council & Redevelopment Agency Board Take the Following Actions:**
 - 1. Redevelopment Agency Adopt Resolution Approving the Reimbursement Agreement with the City and Making Certain Benefit Findings Regarding Improvements at 24th & Spring Streets.**
 - 2. City Council Adopt Resolution Approving the Reimbursement Agreement with the Redevelopment Agency and Making Certain Benefit Findings Regarding Improvements at 24th & Spring Streets.**
- B. Amend, Modify, or Reject the Option Above.**

Attachments: Redevelopment Agency Resolution Approving Reimbursement Agreement
City Resolution Approving Reimbursement Agreement
Agency/City Reimbursement Agreement

REIMBURSEMENT AGREEMENT

PASO ROBLES REDEVELOPMENT PROJECT AREA (24TH and Spring Streets)

THIS FUNDING AGREEMENT is entered into as of August 18, 2009, by and between the **REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES**, a public body, corporate and politic (Agency), and the **CITY OF EL PASO DE ROBLES**, a municipal corporation (City).

Recitals

A. Pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the Agency is a duly constituted redevelopment agency under the laws of the State of California and pursuant to said laws is carrying out the Redevelopment Plans for the Paso Robles Redevelopment Project Area (the "Project Area").

B. The major goals and objectives of the Redevelopment Plan include, among others, to provide for the installation and improvement of streets, and to provide for adequate traffic circulation and control systems within the project Area, so as to provide for efficient and safe movement of people, goods and services. The Redevelopment Plans provide the Agency with powers, duties and obligations for the redevelopment, rehabilitation and revitalization of the areas within the Project Area.

C. Flamson School, which is located at 24th and Spring Streets and within the Project Area, was severely damaged in the December 2003 San Simeon earthquake. The reconstruction of the school is being paid for with funds from the Federal Emergency Management Agency ("FEMA"). In connection with the reconstruction of the school, adjacent sidewalks, curbs and gutters and associated circulation improvements are required to be installed (the "Improvements")

D. Pursuant to Health and Safety Code section 33445, the City Council, by **Resolution No. 09-XXX**, adopted on August 18, 2009, and the Agency, by **Resolution No. RA 09-XXX**, adopted on August 18, 2009, have determined, and the Agency and the City hereby reaffirm and declare, that the Improvements to be funded as provided for in this Agreement are of benefit to the Project Area, that no other reasonable means of financing such Improvements are available to the community, and that the payment of funds for the cost of such Improvements will assist in the elimination of one or more blighting conditions inside the Project Area and is consistent with the Agency's Five-Year Implementation Plans for the Project Area, as such Implementation Plan is proposed to be amended.

E. Health and Safety Code section 33678 provides that the portion of taxes allocated to the Agency pursuant to Section 33670(b) of the Community Redevelopment Law ("Tax Increments") will not be deemed the receipt or appropriation of proceeds of taxes for the purposes of Article XIII B of the California Constitution so long as such Tax Increments are used for redevelopment activity which primarily benefits the Redevelopment Project Area.

F. The parties desire to enter into this Agreement providing for the Agency to reimburse the City for the costs relating to the Improvements, as specified herein.

Agreements

THE AGENCY AND THE CITY HEREBY AGREE AS FOLLOWS:

1. The City shall be responsible for all of the design and construction of the Improvements. The City shall cause such design and construction work to be undertaken as soon as feasible and continue in order to ensure that the Improvements are completed in a timely manner.

2. In consideration of the undertakings of the City under Section 1. of this Agreement, the Agency shall pay to the City (or pay to a third party on behalf of the City of up to TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000) (the "Agency Contribution") to pay for the engineering work for and installation of the Improvements. The City intends to enter into contracts with R. Burke Corporation for the construction of the Improvements, and with Cannon Associates for certain construction phase engineering work for the Improvements. The Agency shall make such Agency Contribution from any funds available to the Agency for such purpose, including the proceeds of any bonds issued by the Agency, loans and tax increments from the Project Area.

3. Prior to the Agency making such Agency contribution under Section 2. of this Agreement, the City shall provide the Agency with a copy of the construction bid or construction contract(s) or consultant agreements for the Improvements.

4. 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, including injunctive or declaratory relief, consistent with the purpose of this Agreement.

5. This Agreement constitutes an indebtedness of the Agency incurred in carrying out the Redevelopment Plan and a pledge of tax increments from the Redevelopment Project to repay such indebtedness, under the provisions of Section 16 of Article XVI of the California Constitution and Section 33670 *et seq.* of the Health and Safety Code; provided, however, that such pledge of Tax Increments shall always be subordinate and subject to the right of the Agency to pledge or commit Tax Increments from the Redevelopment Project Area to repay bonds or other indebtedness incurred by the Agency in carrying out the Redevelopment Project.

6. Pursuant to Section 895.4 of the Government Code, the Agency and City agree that each will assume the full liability imposed upon it or any of its officers, agents or employees for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement and each party agrees to indemnify and hold harmless the other party for any loss, costs or expense that may be imposed upon such other party by virtue of Sections 895.2 and 895.6 of the Government Code.

7. This Agreement and the obligations of the City and the Agency hereunder shall terminate upon the completion of the construction of the Improvements by the City and the payment of the Agency Contribution as set forth in Section 2, unless amended by the parties.

8. The City shall provide the Agency, in a timely manner, any information necessary for the Agency to fulfill its reporting requirements under California Health and Safety Code Section 33080 *et seq.*

IN WITNESS WHEREOF, the Agency and the City have executed this Agreement as of the date first above written.

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

By: _____
James L. App, Executive Director

Attest:

By: _____
Cathy David, Agency Secretary

CITY OF EL PASO DE ROBLES

By: _____
James L. App, City Manager

Attest:

By: _____
Cathy David, Deputy City Clerk

AGENCY RESOLUTION NO. RA 09-XXX

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES APPROVING THE REIMBURSEMENT AGREEMENT WITH THE CITY OF EL PASO DE ROBLES AND MAKING CERTAIN BENEFIT FINDINGS REGARDING IMPROVEMENTS AT 24TH AND SPRING STREETS

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the Redevelopment Agency of the City of El Paso de Robles ("Agency") is carrying out the Redevelopment Plan for the Paso Robles Redevelopment Project Area ("Redevelopment Project Area"); and

WHEREAS, in furtherance of the Redevelopment Plan, the Agency adopted a Five-Year Implementation Plan, as required by Health and Safety Code Section 33490, and is in the process of amending such plan (the "Implementation Plan"); and

WHEREAS, pursuant to Section 33445 of the Health and Safety Code, the Agency is authorized, with the consent of the City Council and upon making certain findings, to pay all or part of the value of the land for and the cost of installation and construction of any building, facility, structure or other improvements which are publicly owned, either within or outside the Redevelopment Project Area, upon a determination by the Agency and Council that such buildings, facilities, structures or other improvements are of benefit to the Redevelopment Project Area or the immediate area in which the project is located, that no other reasonable means of financing such buildings, facilities, structures, or other improvements are available to the community, and that the payment of funds for the cost of such buildings, facilities, structures or other improvements will assist in the elimination of one or more blighting conditions inside the project area and is consistent with the Agency's Five-Year Implementation Plan; and

WHEREAS, Section 33678 of the Community Redevelopment Law provides that the portion of taxes allocated to the Agency pursuant to Section 33670(b) of the Community Redevelopment Law ("Tax Increments") will not be deemed the receipt or appropriation of proceeds for the purposes of Article XIII.B. of the California Constitution so long as such Tax Increments are used for redevelopment activity which primarily benefits the redevelopment project area; and

WHEREAS, Flamson School, located at 24th and Spring Streets and within the Redevelopment Project Area, was severely damaged by the 2003 San Simeon earthquake; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") is paying for the cost of the reconstruction of the Flamson School; and

WHEREAS, in connection with such reconstruction, the adjacent curbs, gutters and sidewalks must be replaced and certain other circulation improvements installed (the "Improvements"); and

WHEREAS, the City has obtained bids for the construction of and construction phase engineering for the Improvements; and

WHEREAS, the Improvements have been identified in the Redevelopment Plan and are proposed to be included within the Agency's Five-Year Implementation Plan as a public improvement project to be paid for by the Agency;

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of El Paso de Robles, as follows:

Section 1. The Agency hereby finds and determines that the Improvements, and reimbursement to the City to assist with financing the Improvements, are of primary benefit to the Redevelopment Project Area and the immediate area in which the project is located; that no other reasonable means of financing the costs of the Improvements are available to the City; and that the construction of the Improvements and payment of the costs of the Improvements by the Agency will assist in the elimination of one or more blighting conditions inside the Redevelopment Project Area, and will be consistent with the proposed amendment to the Implementation Plan to be adopted by the Agency pursuant to Section 33490 of the Community Redevelopment Law. These findings and determinations are based on the following facts:

(a) The proposed Improvements are located within the Redevelopment Project Area and the immediate neighborhood in which the project is located, and will improve pedestrian safety and traffic flow on a main arterial roadway that within the Redevelopment Project Area.

(b) As set forth in Section 33030(c) of the Community Redevelopment Law, the existence of inadequate public improvements, parking facilities or utilities is one condition that contributes to the characterization of an area as blighted. At the time of adoption of the Redevelopment Plan, inadequate infrastructure, particularly the inadequate street system, was identified as a major impediment to the private sector's ability to develop and rehabilitate the area, thereby perpetuating blighting conditions. The proposed Improvements will assist in reducing blighting conditions by reducing infrastructure deficiencies and providing improvements to a high-volume street and pedestrian safety adjacent to a school, and will stimulate and encourage further redevelopment and private investment in the Redevelopment Project Area.

(c) Given the ongoing downturn in the economy, the decreases in funding available to cities and other local jurisdictions for general funding purposes, including capital infrastructure improvements, the current budget crisis of the City, State and federal governments, and the lack of other governmental grants and assistance programs to help with the cost of these improvements, the City does not have the financial means available to it to fund the costs of the Improvements.

Section 2. The Agency hereby approves the Reimbursement Agreement, in substantially the form attached hereto as Exhibit A and incorporated herein by reference. The Executive Director is authorized and directed to execute the Reimbursement Agreement on behalf of the Agency, subject to any minor, clarifying or technical modifications approved by Agency Counsel. The Executive Director is further authorized and directed to take all actions and execute such documents as may be necessary to carry out the obligations of the Agency under the Reimbursement Agreement.

Section 3. Pursuant to Section 33678 of the Community Redevelopment Law, the Agency further determines that the Improvements and payment of the costs thereof are redevelopment

Exhibit A

activities as prescribed in Sections 33020 and 33021 of the Community Redevelopment Law, that the Improvements will primarily benefit the Redevelopment Project Area, and that none of the funds used to pay for the Improvements will be used for employee or contractual services of any local government agency except for services directly relating to the construction of the Improvements.

DULY AND REGULARLY ADOPTED by the Redevelopment Agency of the City of El Paso de Robles this 18th day of August, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Hamon, Chairman

Attest:

Cathy David, Agency Secretary

Exhibit A

REIMBURSEMENT AGREEMENT

PASO ROBLES REDEVELOPMENT PROJECT AREA (24TH and Spring Streets)

THIS FUNDING AGREEMENT is entered into as of August 18, 2009, by and between the **REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES**, a public body, corporate and politic (Agency), and the **CITY OF EL PASO DE ROBLES**, a municipal corporation (City).

Recitals

A. Pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the Agency is a duly constituted redevelopment agency under the laws of the State of California and pursuant to said laws is carrying out the Redevelopment Plans for the Paso Robles Redevelopment Project Area (the "Project Area").

B. The major goals and objectives of the Redevelopment Plan include, among others, to provide for the installation and improvement of streets, and to provide for adequate traffic circulation and control systems within the project Area, so as to provide for efficient and safe movement of people, goods and services. The Redevelopment Plans provide the Agency with powers, duties and obligations for the redevelopment, rehabilitation and revitalization of the areas within the Project Area.

C. Flamson School, which is located at 24th and Spring Streets and within the Project Area, was severely damaged in the December 2003 San Simeon earthquake. The reconstruction of the school is being be paid for with funds from the Federal Emergency Management Agency ("FEMA"). In connection with the reconstruction of the school, adjacent sidewalks, curbs and gutters and associated circulation improvements are required to be installed (the "Improvements")

D. Pursuant to Health and Safety Code section 33445, the City Council, by Resolution No.09-XXX, adopted on August 18, 2009, and the Agency, by Resolution No. RA 09-XXX, adopted on August 18, 2009, have determined, and the Agency and the City hereby reaffirm and declare, that the Improvements to be funded as provided for in this Agreement are of benefit to the Project Area, that no other reasonable means of financing such Improvements are available to the community, and that the payment of funds for the cost of such Improvements will assist in the elimination of one or more blighting conditions inside the Project Area and is consistent with the Agency's Five-Year Implementation Plans for the Project Area, as such Implementation Plan is proposed to be amended.

E. Health and Safety Code section 33678 provides that the portion of taxes allocated to the Agency pursuant to Section 33670(b) of the Community Redevelopment Law ("Tax Increments") will not be deemed the receipt or appropriation of proceeds of taxes for the purposes of Article XIII B of the California Constitution so long as such Tax Increments are used for redevelopment activity which primarily benefits the Redevelopment Project Area.

F. The parties desire to enter into this Agreement providing for the Agency to reimburse the City for the costs relating to the Improvements, as specified herein.

Agreements

THE AGENCY AND THE CITY HEREBY AGREE AS FOLLOWS:

1. The City shall be responsible for all of the design and construction of the Improvements. The City shall cause such design and construction work to be undertaken as soon as feasible and continue in order to ensure that the Improvements are completed in a timely manner.

2. In consideration of the undertakings of the City under Section 1. of this Agreement, the Agency shall pay to the City (or pay to a third party on behalf of the City of up to TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000) (the "Agency Contribution") to pay for the engineering work for and installation of the Improvements. The City intends to enter into contracts with R. Burke Corporation for the construction of the Improvements, and with Cannon Associates for certain construction phase engineering work for the Improvements. The Agency shall make such Agency Contribution from any funds available to the Agency for such purpose, including the proceeds of any bonds issued by the Agency, loans and tax increments from the Project Area.

3. Prior to the Agency making such Agency contribution under Section 2. of this Agreement, the City shall provide the Agency with a copy of the construction bid or construction contract(s) or consultant agreements for the Improvements.

4. 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, including injunctive or declaratory relief, consistent with the purpose of this Agreement.

5. This Agreement constitutes an indebtedness of the Agency incurred in carrying out the Redevelopment Plan and a pledge of tax increments from the Redevelopment Project to repay such indebtedness, under the provisions of Section 16 of Article XVI of the California Constitution and Section 33670 *et seq.* of the Health and Safety Code; provided, however, that such pledge of Tax Increments shall always be subordinate and subject to the right of the Agency to pledge or commit Tax Increments from the Redevelopment Project Area to repay bonds or other indebtedness incurred by the Agency in carrying out the Redevelopment Project.

6. Pursuant to Section 895.4 of the Government Code, the Agency and City agree that each will assume the full liability imposed upon it or any of its officers, agents or employees for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement and each party agrees to indemnify and hold harmless the other party for any loss, costs or expense that may be imposed upon such other party by virtue of Sections 895.2 and 895.6 of the Government Code.

7. This Agreement and the obligations of the City and the Agency hereunder shall terminate upon the completion of the construction of the Improvements by the City and the payment of the Agency Contribution as set forth in Section 2., unless amended by the parties.

8. The City shall provide the Agency, in a timely manner, any information necessary for the Agency to fulfill its reporting requirements under California Health and Safety Code Section 33080 *et seq.*

Exhibit A

IN WITNESS WHEREOF, the Agency and the City have executed this Agreement as of the date first above written.

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

By: _____
James L. App, Executive Director

Attest:

By: _____
Cathy David, Agency Secretary

CITY OF EL PASO DE ROBLES

By: _____
James L. App, City Manager

Attest:

By: _____
Cathy David, Deputy City Clerk

COUNCIL RESOLUTION NO. 09-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
APPROVING THE REIMBURSEMENT AGREEMENT WITH THE REDEVELOPMENT
AGENCY OF THE CITY OF EL PASO DE ROBLES AND MAKING CERTAIN BENEFIT
FINDINGS REGARDING IMPROVEMENTS AT 24TH AND SPRING STREETS

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the Redevelopment Agency of the City of El Paso de Robles ("Agency") is carrying out the Redevelopment Plan for the Paso Robles Redevelopment Project Area ("Redevelopment Project Area"); and

WHEREAS, in furtherance of the Redevelopment Plan, the Agency adopted a Five-Year Implementation Plan, as required by Health and Safety Code Section 33490, and is in the process of amending such plan (the "Implementation Plan"); and

WHEREAS, pursuant to Section 33445 of the Health and Safety Code, the Agency is authorized, with the consent of the City Council and upon making certain findings, to pay all or part of the value of the land for and the cost of installation and construction of any building, facility, structure or other improvements which are publicly owned, either within or outside the Redevelopment Project Area, upon a determination by the Agency and Council that such buildings, facilities, structures or other improvements are of benefit to the Redevelopment Project Area or the immediate area in which the project is located, that no other reasonable means of financing such buildings, facilities, structures, or other improvements are available to the community, and that the payment of funds for the cost of such buildings, facilities, structures or other improvements will assist in the elimination of one or more blighting conditions inside the project area and is consistent with the Agency's Five-Year Implementation Plan; and

WHEREAS, Section 33678 of the Community Redevelopment Law provides that the portion of taxes allocated to the Agency pursuant to Section 33670(b) of the Community Redevelopment Law ("Tax Increments") will not be deemed the receipt or appropriation of proceeds for the purposes of Article XIII.B. of the California Constitution so long as such Tax Increments are used for redevelopment activity which primarily benefits the redevelopment project area; and

WHEREAS, Flamson School, located at 24th and Spring Streets and within the Redevelopment Project Area, was severely damaged by the 2003 San Simeon earthquake; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") is paying for the cost of the reconstruction of the Flamson School; and

WHEREAS, in connection with such reconstruction, the adjacent curbs, gutters and sidewalks must be replaced and certain other circulation improvements installed (the "Improvements"); and

WHEREAS, the City has obtained bids for the construction of and construction phase engineering for the Improvements; and

WHEREAS, the Improvements have been identified in the Redevelopment Plan and are proposed to be included within the Agency's Five-Year Implementation Plan as a public improvement project to be paid for by the Agency;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Paso de Robles, as follows:

Section 1. The City Council hereby finds and determines that the Improvements, and the Agency's reimbursement to the City to assist with financing the Improvements, are of primary benefit to the Redevelopment Project Area and the immediate area in which the project is located; that no other reasonable means of financing the costs of the Improvements are available to the City; and that the construction of the Improvements and payment of the costs of the Improvements by the Agency will assist in the elimination of one or more blighting conditions inside the Redevelopment Project Area, and will be consistent with the proposed amendment to the Implementation Plan to be adopted by the Agency pursuant to Section 33490 of the Community Redevelopment Law. These findings and determinations are based on the following facts:

(a) The proposed Improvements are located within the Redevelopment Project Area and the immediate neighborhood in which the project is located, and will improve pedestrian safety and traffic flow on a main arterial roadway that within the Redevelopment Project Area.

(b) As set forth in Section 33030(c) of the Community Redevelopment Law, the existence of inadequate public improvements, parking facilities or utilities is one condition that contributes to the characterization of an area as blighted. At the time of adoption of the Redevelopment Plan, inadequate infrastructure, particularly the inadequate street system, was identified as a major impediment to the private sector's ability to develop and rehabilitate the area, thereby perpetuating blighting conditions. The proposed Improvements will assist in reducing blighting conditions by reducing infrastructure deficiencies and providing improvements to a high-volume street and pedestrian safety adjacent to a school, and will stimulate and encourage further redevelopment and private investment in the Redevelopment Project Area.

(c) Given the ongoing downturn in the economy, the decreases in funding available to cities and other local jurisdictions for general funding purposes, including capital infrastructure improvements, the current budget crisis of the City, State and federal governments, and the lack of other governmental grants and assistance programs to help with the cost of these improvements, the City does not have the financial means available to it to fund the costs of the Improvements.

Section 2. The City hereby approves the Reimbursement Agreement, in substantially the form attached hereto as Exhibit A and incorporated herein by reference. The City Manager is authorized and directed to execute the Reimbursement Agreement on behalf of the City, subject to any minor, clarifying or technical modifications approved by the City Attorney. The City Manager is further authorized and directed to take all actions and execute such documents as may be necessary to carry out the obligations of the City under the Reimbursement Agreement.

Exhibit A

DULY AND REGULARLY ADOPTED by the City Council of the City of El Paso de Robles this 18th day of August, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Mayor

Attest:

Cathy David, Deputy City Clerk

Exhibit A

REIMBURSEMENT AGREEMENT

PASO ROBLES REDEVELOPMENT PROJECT AREA (24TH and Spring Streets)

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D. Pursuant to Health and Safety Code section 33445, the City Council, by Resolution No. 09-XXX, adopted on August 18, 2009, and the Agency, by Resolution No. RA-09-XXX, adopted on August 18, 2009, have determined, and the Agency and the City hereby reaffirm and declare, that the Improvements to be funded as provided for in this Agreement are of benefit to the Project Area, that no other reasonable means of financing such Improvements are available to the community, and that the payment of funds for the cost of such Improvements will assist in the elimination of one or more blighting conditions inside the Project Area and is consistent with the Agency's Five-Year Implementation Plans for the Project Area, as such Implementation Plan is proposed to be amended.

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2. In consideration of the undertakings of the City under Section 1. of this Agreement, the Agency shall pay to the City (or pay to a third party on behalf of the City of up to TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000) (the "Agency Contribution") to pay for the engineering work for and installation of the Improvements. The City intends to enter into contracts with R. Burke Corporation for the construction of the Improvements, and with Cannon Associates for certain construction phase engineering work for the Improvements. The Agency shall make such Agency Contribution from any funds available to the Agency for such purpose, including the proceeds of any bonds issued by the Agency, loans and tax increments from the Project Area.

3. Prior to the Agency making such Agency contribution under Section 2. of this Agreement, the City shall provide the Agency with a copy of the construction bid or construction contract(s) or consultant agreements for the Improvements.

4. 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, including injunctive or declaratory relief, consistent with the purpose of this Agreement.

5. This Agreement constitutes an indebtedness of the Agency incurred in carrying out the Redevelopment Plan and a pledge of tax increments from the Redevelopment Project to repay such indebtedness, under the provisions of Section 16 of Article XVI of the California Constitution and Section 33670 *et seq.* of the Health and Safety Code; provided, however, that such pledge of Tax Increments shall always be subordinate and subject to the right of the Agency to pledge or commit Tax Increments from the Redevelopment Project Area to repay bonds or other indebtedness incurred by the Agency in carrying out the Redevelopment Project.

6. Pursuant to Section 895.4 of the Government Code, the Agency and City agree that each will assume the full liability imposed upon it or any of its officers, agents or employees for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement and each party agrees to indemnify and hold harmless the other party for any loss, costs or expense that may be imposed upon such other party by virtue of Sections 895.2 and 895.6 of the Government Code.

7. This Agreement and the obligations of the City and the Agency hereunder shall terminate upon the completion of the construction of the Improvements by the City and the payment of the Agency Contribution as set forth in Section 2., unless amended by the parties.

8. The City shall provide the Agency, in a timely manner, any information necessary for the Agency to fulfill its reporting requirements under California Health and Safety Code Section 33080 *et seq.*

Exhibit A

IN WITNESS WHEREOF, the Agency and the City have executed this Agreement as of the date first above written.

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

By: _____
James L. App, Executive Director

Attest:

By: _____
Cathy David, Agency Secretary

CITY OF EL PASO DE ROBLES

By: _____
James L. App, City Manager

Attest:

By: _____
Cathy David, Deputy City Clerk

Exhibit A