

TO: James L. App, City Manager

FROM: Ed Gallagher, Community Development Director

SUBJECT: Agreement Regarding Expenditure of Excess Bond Proceeds between the Paso Robles Successor Agency and the City of El Paso de Robles

DATE: February 18, 2014

Needs: For the City Council and Successor Agency to the Paso Robles Redevelopment Agency to consider approval of an Agreement Regarding Expenditure of Excess Bond Proceeds between the Paso Robles Successor Agency and the City of El Paso de Robles.

- Facts:
1. The legislation that dissolved redevelopment agencies, AB 1x 26 and AB 1484 (collectively, the "Dissolution Law"), also prescribes the procedures to be followed for winding down the former redevelopment agency's affairs.
 2. The Dissolution Law provides that after the successor agency has received a finding of completion from the state Department of Finance ("DOF"), the successor agency may enter into an agreement to list obligations to expend excess bond proceeds, so long as the expenditures are consistent with the bond covenants.
 3. The successor agency received a finding of completion from DOF on July 16, 2013.
 4. If the agreement is approved by the oversight board and DOF, the successor agency may list the agreement as an enforceable obligation on its Recognized Obligation Payment Schedule.
 5. The proposed Agreement Regarding Expenditure of Excess Bond Proceeds would authorize the Successor Agency to transfer excess bond proceeds from the Redevelopment Agency's 2009 Tax Allocation Bond (Series A and B) issue to the City, to be used in accordance with the bond covenants. DOF has approved similar agreements transferring bond proceeds from a successor agency to its city.

Analysis &
Conclusions: California Health and Safety Code Section 34191.4(c) authorizes the successor agency to enter into an agreement, subject to the approval of its oversight board, to expend excess bond proceeds. The proposed Agreement Regarding Expenditure of Excess Bond Proceeds with the City would permit all excess bond proceeds to be transferred to the City, which must use the proceeds in accordance with the bond covenants. DOF has approved similar agreements.

Both the City Council and Successor Agency need to adopt resolutions to approve the proposed agreement. It is recommended that the Council first adjourn to a meeting of the Successor Agency and adopt the Successor Agency's resolution, then re-adjourn to the Council meeting and adopt the Council's resolution.

Reference: California Health and Safety Code Section 34191.4(c)

Fiscal Impact: None to the General Fund

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

1. Successor Agency to the Paso Robles Redevelopment Agency
 - a. Adopt the attached Resolution approving the Agreement Regarding Expenditure of Excess Bond Proceeds; or
 - b. Amend, modify, or reject the above option.
2. City Council
 - a. Adopt the attached Resolution approving the Agreement Regarding Expenditure of Excess Bond Proceeds; or
 - b. Amend, modify, or reject the above option.

Attachments:

1. Resolution of the Successor Agency to the Paso Robles Redevelopment Agency Agreement Regarding Expenditure of Excess Bond Proceeds.
2. Resolution of the City Council Approving Agreement Regarding Expenditure of Excess Bond Proceeds.

SUCCESSOR AGENCY RESOLUTION NO. 2014-xx

RESOLUTION OF THE SUCCESSOR AGENCY TO
REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES
APPROVING A BOND EXPENDITURE AGREEMENT BETWEEN
THE SUCCESSOR AGENCY AND THE CITY OF EL PASO DE ROBLES

WHEREAS, pursuant to Assembly Bill 1X 26, enacted on June 28, 2011, and Assembly Bill 1484, enacted on June 27, 2012, (collectively the "Dissolution Law"), the Redevelopment Agency of the City of El Paso de Robles ("Redevelopment Agency") was dissolved on February 1, 2012; and

WHEREAS, on January 17, 2012, under the authority of the Dissolution Act and by adoption of Resolution No. 2012-005, the City of El Paso de Robles declared itself to be the Successor Agency to the Redevelopment Agency ("Successor Agency") upon the Redevelopment Agency's dissolution; and

WHEREAS, the Oversight Board to the Successor Agency was established under the Dissolution Law to direct and oversee the Successor Agency's action in winding down the affairs of the Redevelopment Agency and to perform other related functions; and

WHEREAS, pursuant to Health and Safety Code section 34191.4(c), after a successor agency has received a finding of completion from the state Department of Finance ("DOF"), a successor agency, with the approval of its oversight board, to list enforceable obligations to expend excess bond proceeds on its Recognized Obligation Payment Schedule ("ROPS"), so long as such expenditures are consistent with the bond covenants; and

WHEREAS, the Successor Agency received a Finding of Completion from DOF on July 16, 2013; and

WHEREAS, the Successor Agency has excess bond proceeds from the Redevelopment Agency's 2009 Series A and Series B Tax Allocation Bonds; and

WHEREAS, the Successor Agency and City desire to have all the excess bond proceeds held by the Successor Agency transferred to the City, to be expended in a manner consistent with the applicable bond covenants; and

WHEREAS, the proposed Agreement Regarding Expenditure of Excess Bond Proceeds has been approved by the Oversight Board and submitted to DOF for its approval;

NOW, THEREFORE BE ITS RESOLVED, the Successor Agency to the Redevelopment Agency of the City of EL Paso de Robles hereby finds and resolves as follows:

Section 1. The foregoing recitals are true and correct and incorporated herein.

Section 2. The Agreement Regarding Expenditure of Excess Bond Proceeds, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.

Section 3. All legal prerequisites to the adoption of this Resolution have been satisfied.

Section 4. The Executive Director of the Successor Agency or designee is hereby authorized to execute the Agreement and to take such other actions as are necessary and appropriate to implement this decision of the Successor Agency, including, but not limited to, listing the Agreement Regarding Expenditure of Excess Bond Proceeds on the Successor Agency's ROPS as an enforceable obligation.

Section 5. This Resolution shall become effective in accordance with Health and Safety Code section 34179(h), which authorizes DOF to review all actions taken by the Oversight Board.

PASSED AND ADOPTED this ____ day of February 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Chair

Dennis Fansler, Secretary

Exhibit A

[Agreement Regarding Expenditure of Excess Bond Proceeds]

CITY COUNCIL RESOLUTION NO. 2014-xx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
APPROVING A BOND EXPENDITURE AGREEMENT BETWEEN
THE SUCCESSOR AGENCY AND THE CITY OF EL PASO DE ROBLES

WHEREAS, pursuant to Assembly Bill 1X 26, enacted on June 28, 2011, and Assembly Bill 1484, enacted on June 27, 2012, (collectively the “Dissolution Law”), the Redevelopment Agency of the City of El Paso de Robles (“Redevelopment Agency”) was dissolved on February 1, 2012; and

WHEREAS, on January 17, 2012, under the authority of the Dissolution Act and by adoption of Resolution No. 2012-005, the City of El Paso de Robles declared itself to be the Successor Agency to the Redevelopment Agency (“Successor Agency”) upon the Redevelopment Agency’s dissolution; and

WHEREAS, the Oversight Board to the Successor Agency was established under the Dissolution Law to direct and oversee the Successor Agency’s action in winding down the affairs of the Redevelopment Agency and to perform other related functions; and

WHEREAS, pursuant to Health and Safety Code section 34191.4(c), after a successor agency has received a finding of completion from the state Department of Finance (“DOF”), a successor agency, with the approval of its oversight board, to list enforceable obligations to expend excess bond proceeds on its Recognized Obligation Payment Schedule (“ROPS”), so long as such expenditures are consistent with the bond covenants; and

WHEREAS, the Successor Agency received a Finding of Completion from DOF on July 16, 2013; and

WHEREAS, the Successor Agency has excess bond proceeds from the Redevelopment Agency’s 2009 Series A and Series B Tax Allocation Bonds; and

WHEREAS, the Successor Agency and City desire to have all the excess bond proceeds held by the Successor Agency transferred to the City, to be expended in a manner consistent with the applicable bond covenants; and

WHEREAS, the proposed Agreement Regarding Expenditure of Excess Bond Proceeds has been approved by the Oversight Board and submitted to DOF for its approval;

NOW, THEREFORE BE ITS RESOLVED, the City Council of the City of EL Paso de Robles hereby finds and resolves as follows:

Section 1. The foregoing recitals are true and correct and incorporated herein.

Section 2. The Agreement Regarding Expenditure of Excess Bond Proceeds, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.

Section 3. All legal prerequisites to the adoption of this Resolution have been satisfied.

Section 4. The City Manager or designee is hereby authorized to execute the Agreement and to take such other actions as are necessary and appropriate to implement this decision of the City Council.

Section 5. This Resolution shall become effective in accordance with Health and Safety Code section 34179(h), which authorizes DOF to review all actions taken by the Oversight Board.

PASSED AND ADOPTED this ____ day of February 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Mayor

Dennis Fansler, City Clerk

Exhibit A

[Agreement Regarding Expenditure of Excess Bond Proceeds]

AGREEMENT REGARDING EXPENDITURE OF EXCESS BOND PROCEEDS

This Agreement Regarding Expenditure of Excess Bond Proceeds (“Agreement”) is entered into this ____ day of _____, 2014 by and between the Successor Agency to the Redevelopment Agency of the City of El Paso de Robles (“Successor Agency”) and the City of El Paso de Robles, a municipal corporation (“City”). The Successor Agency and the City are hereinafter collectively referred to as the “Parties.”

RECITALS

A. Pursuant to the Community Redevelopment Law (Health & Saf. Code §33000 *et al.*) (“CRL”), the former Redevelopment Agency of the City of El Paso de Robles (“Redevelopment Agency”) had responsibility to implement the Paso Robles Redevelopment Plan, originally adopted by Ordinance No. 540 enacted by the City Council of the City of El Paso de Robles (“City Council”).

B. Pursuant to a Supplemental Indenture of Trust dated October 1, 2000, and executed by and between the Redevelopment Agency and Union Bank, N.A. as Trustee (the “2000 Indenture”), the Agency issued 2000 Tax Allocation Refunding Bonds in the aggregate principal amount of \$4,090,000 (the “2000 Bonds”). The 2000 Bonds were to be used for repayment of outstanding Redevelopment Agency loan obligations and to finance the construction of certain road and bridge improvements.

C. Pursuant to a Second Supplemental Indenture of Trust dated as of August 1, 2009, and executed by and between the Redevelopment Agency and Union Bank, N.A. as Trustee (the “2009 Indenture”), the Agency issued 2009 Tax Allocation Refunding Bonds (Series A) in the aggregate principal amount of \$9,330,000 and 2009 Tax Allocation Bonds (Series B) in the aggregate principal amount of \$2,785,000 (the “2009 Bonds”). The 2009 Bonds are on parity with the 2000 Bonds. The 2009 Series A Bonds are to be used to (i) refund and defease the Redevelopment Agency’s 1996 Tax Allocation Bonds; (ii) finance certain redevelopment activities within or of benefit to the Paso Robles Redevelopment Project; (iii) finance certain low and moderate income housing projects of the Redevelopment Agency; (iv) repay a portion of a loan from the City; (v) fund the Series A Reserve Account for the 2009 Bonds; and (vi) pay issuance costs. Proceeds of the 2009 Series B Bonds are to be used to (i) repay a portion of a loan from the City; (ii) pay certain amounts to the Paso Robles Joint Unified School District; (iii) fund the Series B Reserve Account for the 2009 Bonds; and (iv) pay issuance costs.

D. Pursuant to Resolution No. 2012-005, adopted by the City Council on January 17, 2012, the City agreed to serve as the Successor Agency to the Redevelopment Agency commencing upon dissolution of the Redevelopment Agency on February 1, 2012 pursuant to Assembly Bill 1X 26.

E. Health and Safety Code section 34191.4(c) provides that once the Successor Agency has been issued a Finding of Completion by the California Department of Finance (“DOF”) the

Successor Agency is authorized to use bond proceeds for the purposes for which the bonds were sold. Further, the Successor Agency may designate the use of and commit indebtedness obligation proceeds that were derived from indebtedness issued for redevelopment purposes on or before December 31, 2010, and that remain available after the satisfaction of enforceable obligations that have been approved on a Recognized Obligation Payment Schedule (“ROPS”) and that are consistent with the indebtedness obligation covenants (hereafter “Excess Bond Proceeds”).

F. The DOF issued a Finding of Completion to the Successor Agency on July 16, 2013.

G. Health and Safety Code section 34191.4(c) further provides that the expenditure of Excess Bond Proceeds must be listed separately on the applicable ROPS.

H. The Parties desire to enter into this Agreement to use the Excess Bond Proceeds for the purposes identified in and consistent with the covenants contained in the 2009 Indenture and related documents (the “Bond Covenants”) and the requirements of the CRL, and to provide for the Successor Agency to transfer the Excess Bond Proceeds to the City to be used for such purposes.

I. As of February 1, 2014, the Successor Agency had the following Excess Bond Proceeds available: \$2,014,003 from the 2009 Bonds.

J. This Agreement was approved by the Oversight Board to the Successor Agency in a public meeting on _____, 2014.

K. The execution of this Agreement was approved in a public meeting of the City Council and the Successor Agency on _____, 2014.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises herein contained, the Parties hereby agree as follows:

1. Recitals. The Recitals above are true and correct and are incorporated herein by reference.

2. Effective Date. This Agreement shall become effective upon the date set forth pursuant to Health and Safety Code section 34179(h).

3. Term. The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the date that all Excess Bond Proceeds are expended in accordance with the requirement of this Agreement.

4. Use of Excess Bond Proceeds. The City agrees that it shall use the Excess Bond Proceeds solely for the purposes identified in Recital C above, the projects identified in this Section 4., or for other projects consistent with the 2009 Bond covenants and the provisions of the CRL that apply to the expenditure of redevelopment funds.

5. Transmittal of Excess Bond Proceeds. Upon the Effective Date, the Successor Agency shall transfer the Excess Bond Proceeds (including any interest accrued thereon by the Effective Date) to the City, and the City shall deposit such funds into a separate 2009 Excess Bond Proceeds Account for the City's use in accordance with the terms, conditions and purposes set forth in this Agreement.

6. Project Approvals; Environmental Review. This Agreement is not intended to limit in any manner the discretion of the City in connection with the issuance of approvals and entitlements for the projects described in this Agreement, nor to avoid legally required processes attendant to project approval, including, without limitation, the undertaking and completion of any required environmental review pursuant to the California Environmental Quality Act and the National Environmental Protection Act, as applicable, and the review and approval of plans and specifications.

7. Severability. If any term, provision, covenant, or condition set forth in this Agreement is held by the final judgment of a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, covenants, and conditions shall continue in full force and effect to the extent that the basic intent of the Parties as expressed herein can be accomplished. In addition, the Parties shall cooperate in good faith in an effort to amend or modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant or condition can be accomplished to the maximum extent legally permissible.

8. No Third-Party Beneficiaries; Assignments. Nothing in this Agreement is intended to create any third-party beneficiaries to this Agreement, and no person or entity other than the Successor Agency and the City, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

9. Further Assurances. Each Party agrees to execute, acknowledge and deliver all additional documents and instruments, and to take such other actions as may be reasonably necessary to carry out the intent of the transactions contemplated by this Agreement.

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

11. Counterparts. This 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.

12. Amendment. This Agreement may be modified or amended, in whole or in part, only by an instrument in writing, executed by the Parties.

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

[Signatures on following page]

CITY OF EL PASO DE ROBLES

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

By: _____
Duane Picanco, Mayor

By: _____
Duane Picanco, Chairperson

Attest:

By: _____
Dennis Fansler, City Clerk

By: _____
Dennis Fansler, Secretary

Approved as to Form:

By: _____
Iris P. Yang, City Attorney