

RESOLUTION NO. 12-154

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
APPROVING AND AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT TO
PAY ENFORCEABLE OBLIGATIONS PURSUANT TO HEALTH AND SAFETY CODE
SECTION 34173(h)

WHEREAS, pursuant to the Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*), the City Council of the City of El Paso de Robles created the Redevelopment Agency of the City of El Paso de Robles (“Redevelopment Agency”); and

WHEREAS, in July 2009, the Redevelopment Agency issued bonds (“Redevelopment Agency Bonds”) for the purpose of paying certain costs of implementing the Redevelopment Plan for the Paso Robles Redevelopment Project Area, including costs of providing public improvements to benefit the Redevelopment Project Area; and

WHEREAS, on September 7, 2010, the City Council made findings that the existing restroom facilities located west of the Carnegie Library are inadequate and obsolete, as well as being non-compliant with State of California and Americans with Disabilities Act requirements; and

WHEREAS, in settlement of a lawsuit filed against the City on March 16, 2010, the City entered into a Consent Decree dated December 11, 2010, which specified certain corrective actions to be undertaken by the City, including the design and construction of a new accessible restroom building in City Park (the “ADA Improvements”), located within the Redevelopment Project Area, which was entered into by the City in reliance upon the availability of proceeds of the Redevelopment Agency Bonds (the “Redevelopment Agency Bond Proceeds”) to pay a portion of the costs of the ADA Improvements; and

WHEREAS, to formalize the Redevelopment Agency’s commitment to fund a portion of the costs of the ADA Improvements, the Redevelopment Agency and City entered into that certain Funding Agreement, dated as of December 22, 2010 (“Funding Agreement”), whereby the Redevelopment Agency agreed to pay an amount not to exceed \$3,250,000.00 (“Agency Contribution”) from Redevelopment Agency Bonds Proceeds to assist with financing the ADA Improvements; and

WHEREAS, the cost of the ADA Improvements may exceed the amount set forth in the Funding Agreement; and

WHEREAS, pursuant to AB 1X 26, enacted June 28, 2011 (as found constitutional and as partially reformed by the California Supreme Court in its decision in *California Redevelopment Association v. Matosantos* on December 29, 2011), and as amended by AB 1484, enacted June 27, 2012 (the “Dissolution Act”), the Redevelopment Agency, along with all other redevelopment agencies in the State, was dissolved as of February 1, 2012; and

WHEREAS, pursuant to the authority provided in Health and Safety Code Section 34173, as enacted by AB 1X 26, the City Council of the City of El Paso de Robles (“City”) elected and determined that the City shall become the “successor agency” to the former Redevelopment Agency, and upon dissolution of the Redevelopment Agency under AB 1X 26, all authorities, rights, powers, duties and obligations previously vested with the former Redevelopment Agency, under the Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*), were vested in the

Successor Agency, including the former Redevelopment Agency's rights, duties and obligations under the DDA; and

WHEREAS, also pursuant to the Dissolution Act, an Oversight Board has been selected to oversee, direct and approve specified actions of the Successor Agency; and

WHEREAS, as part of the Dissolution Act, agreements and contracts between the former redevelopment agency and the city that created the former redevelopment agency were deemed void. However, Section 34191.4, added by AB 1484, provides, in part, that loan agreements entered into between the former redevelopment agency and the city that created the former redevelopment agency shall be deemed to be enforceable obligations, if a finding of completion has been issued by the Department of Finance ("DOF") pursuant to Health and Safety Code Section 34179.7, and the oversight board finds that the loan was for legitimate redevelopment purposes; and

WHEREAS, Section 34191.4 also provides, in part, that if a finding of completion has been issued by DOF pursuant to said Section 34179.7, bond proceeds derived from bonds issued on or before December 31, 2010, shall be used for the purposes for which the bonds were sold; and

WHEREAS, after a lengthy design and bidding process, the City is prepared to award a contract for construction of the ADA Improvements. Because the earliest the Successor Agency could obtain a finding of completion from DOF is the spring 2013, the Redevelopment Agency Bond Proceeds are not yet available for funding of the Successor Agency's obligations under the Funding Agreement; and

WHEREAS, pursuant to Health and Safety Code Section 34173(h), the City may loan or grant funds to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses at the City's discretion, but the receipt and use of those funds shall be reflected on the Recognized Obligation Payment Schedule ("ROPS"), and are subject to Oversight Board approval; and

WHEREAS, because the Successor Agency has insufficient funds to make the Agency Contribution out of existing Successor Agency funds, the City Council has determined that the City will loan funds to the Successor Agency to pay the Agency Contribution, with the understanding that upon issuance of a finding of completion by DOF, the City will be repaid from Redevelopment Agency Bond Proceeds; and

WHEREAS, Successor Agency and City staff have cooperated in preparing a "Loan Agreement to Pay enforceable Obligations Pursuant to Health and Safety Code Section 34173(h)" ("Agreement") to formalize the terms and conditions for the City to advance funds to the Successor Agency to pay the Agency Contribution under the Funding Agreement and any additional costs of the ADA Improvements, up to a total maximum contribution of \$3,500,000;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby approves the Loan Agreement in substantially the form on file with the City Clerk, which Loan Agreement is incorporated herein by reference.

Section 2. The City Council hereby further approves the loan of the Loan Amount to the Successor Agency, in the amount of \$3,500,000, to enable the Successor Agency to meet its obligations under the Funding Agreement and pay its portion of the ADA Improvements.

Section 3. Subject to approval of the Loan Agreement by the Oversight Board to the Successor Agency, the City Manager is hereby authorized and directed to execute the Loan Agreement on behalf of the City, subject to any minor clarifying, conforming and technical changes as may be approved by the City Attorney. Following approval of the Loan Agreement by the Oversight Board and execution by the parties, the City Manager is further authorized and directed to take such actions and execute such documents as may be necessary to carry out the obligations of the City under the Loan Agreement, including without limitation advance of the Loan Amount as provided for under the Loan Agreement.

This resolution was passed and adopted at a regular meeting of the City Council of the City of El Paso de Robles held on September 4, 2012, by the following vote:

AYES: Gilman, Steinbeck, Hamon, Picanco
NOES:
ABSTAIN:
ABSENT: Strong

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

Section 2. The City Council hereby further approves the loan of the Loan Amount to the Successor Agency, in the amount of \$3,500,000, to enable the Successor Agency to meet its obligations under the Funding Agreement and pay its portion of the ADA Improvements.

Section 3. Subject to approval of the Loan Agreement by the Oversight Board to the Successor Agency, the City Manager is hereby authorized and directed to execute the Loan Agreement on behalf of the City, subject to any minor clarifying, conforming and technical changes as may be approved by the City Attorney. Following approval of the Loan Agreement by the Oversight Board and execution by the parties, the City Manager is further authorized and directed to take such actions and execute such documents as may be necessary to carry out the obligations of the City under the Loan Agreement, including without limitation advance of the Loan Amount as provided for under the Loan Agreement.

This resolution was passed and adopted at a regular meeting of the City Council of the City of El Paso de Robles held on September 4, 2012, by the following vote:

AYES: Gilman, Steinbeck, Hamon, Picanco
NOES:
ABSTAIN:
ABSENT: Strong



Duane Picanco, Mayor

ATTEST:


Caryn Jackson, Deputy City Clerk