

TO: James L. App, City Manager
FROM: Mike Compton, Director of Administrative Services
SUBJECT: Budget Appropriation for Economic Incentive Agreement
DATE: May 4, 2004

Needs: For the City Council to consider a \$95,000 appropriation for payment of economic incentive pursuant to the agreement with Pacific Coast Hotel Properties (Hampton Inn).

Facts:

1. The Council previously approved economic incentive agreement with Pacific Coast Hotel Properties.
2. The agreement provided for a building permit fee waiver not to exceed \$35,000 and reimbursement for public improvements on Theatre Drive and Alexa Court not to exceed \$95,000.
3. To receive the reimbursement, Pacific Coast Hotel Properties must document that the public improvements cost at least \$95,000 and that transient occupancy lodging tax collections were at least \$95,000.
4. Both conditions have been met.

Analysis

and

Conclusion:

It is desirable that the Council appropriate funds from the Economic Incentive Fund to cover the economic incentive payment to be made to Pacific Coast Hotel Properties.

The economic incentive due this business has resulted in new indirect recurring revenues to the City's General Fund.

Fiscal

Impact:

There are sufficient funds in the Economic Incentive Fund to cover the requested budget appropriation. The Economic Incentive Fund has a balance of \$671,500 as of March 31, 2004.

Options:

- a. Adopt Resolution No. 04-xxx approving a budget appropriation in the amount of \$95,000 from the Economic Incentive Fund; or
- b. Amend, modify, or reject the above option.

to m. Compton 4/7/04

RECEIVED
MAR 29 2004
Community Development

Pacific Coast Hotel Properties

**P.O. Box 3343
Carefree, Arizona 85377**

March 23, 2004

Robert A. Lata
City of El Paso De Robles
1000 Spring Street
Paso Robles, California 93446

Re: Economic Development Agreement / Hampton Inn & Suites

Dear Robert:

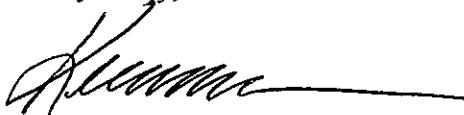
It is our understanding at this time that we have completed all obligations as set forth in the Economic Development Agreement by and between the **City of El Paso Robles De Robles** and **Pacific Coast Hotel Properties**, dated October 30, 2001. As stated in the agreement and subject to certain conditions the City has agreed to reimburse the Owner a portion of the transient occupancy tax and property tax generated by Owner's operation of the Hampton Inn & Suites. As the owner, it is our understanding that the requirements have been satisfied as per the conditions set forth in Section 6.b., in the agreement, therefore would like to hereby request that an amount equal to \$95,000.00 be refunded to us at this time.

Please note that our address has changed from the time the agreement was originated. Our new address is as follows:

**Pacific Coast Hotel Properties
c/o Kevin A. Bierl
P.O. Box 3343
Carefree, Arizona 85377**

We have enjoyed working with the City on this project and thank you for your assistance on this matter. If you have any questions, please feel free to call me at (480) 595-5559.

Very Truly,



Kevin A. Bierl

RESOLUTION NO. 01-219

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
GRANTING FINANCIAL ASSISTANCE TO PACIFIC COAST PROPERTIES I, LLC

WHEREAS, the City Council adopted an Economic Strategy in 1993, up-dated in 1999, identifying strategies to address community economic opportunities and barriers; and

WHEREAS, the Strategy focused community resources and effort towards five key economic goals, one of which is to increase visitor serving facilities; and

WHEREAS, pursuit of this goal led to the development of a financial incentive/assistance program to entice/stimulate business expansion; and

WHEREAS, Pacific Coast Properties I, LLC, is proposing to construct an 81 room Hampton Inn Hotel near the intersection of Highway 46 West and Highway 101; and

WHEREAS, Pacific Coast Properties I, LLC, will have an obligation of paying approximately \$35,000 in city permit and impact fees; and

WHEREAS, the project fulfills the purpose and intent of the City's Economic Development Strategy in terms of providing visitor serving facilities that will enhance the City's ability to accommodate tourism; and

WHEREAS, financial incentives/assistance may be calculated against the new transient occupancy tax income generated by this project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Paso de Robles, that consistent with the City's adopted policy for financial assistance, the Council is prepared to provide a financial assistance package of up to a potential total of \$130,000, based on the following parameters:

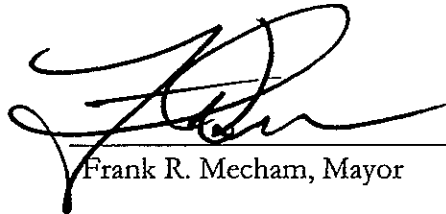
1. Building Permit fee reductions based on actual valuation of plans submitted up to a maximum of \$35,000 in fee reductions based on building permit valuation (the actual reduction would be based on the valuation reflected by the plans submitted - - which could result in fee reductions of somewhat less than \$35,000). With regards to fees already paid, if the Agreement is approved by the City Council, Pacific Coast Hotel Properties would be eligible for a reimbursement equal to the fee reduction amount.
2. Reimbursement to Pacific Coast Hotel Properties for their cost to install public improvements that are required in conjunction with their proposed development up to a maximum of \$95,000. This reimbursement would be contingent upon increases in transient occupancy tax income actually generated by the proposed project.

The City Council hereby approves the attached Agreement (Exhibit A), which is incorporated herein by reference, and the City Manager is hereby authorized to execute said agreement with Pacific Coast Properties I, LLC.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of El Paso de Robles, that a budget appropriation for a building permit fee reduction of up to \$35,000 during Fiscal Year 2001-2002 is hereby appropriated from Account No. 115-110-5212-101. Future transient occupancy tax-based incentive payments would be separately appropriated following a full year of operation of the Hampton Inn Hotel and would be contingent upon income generated during the first year's operations.

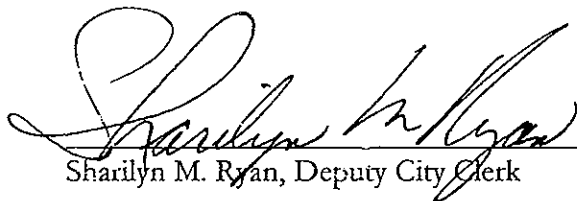
PASSED AND ADOPTED by the City Council of the City of Paso Robles this 18th day of September 2001 by the following vote:

AYES: Finigan, Heggarty, Nemeth, Picanco and Mecham
NOES: None
ABSENT: None
ABSTAIN: None



Frank R. Mecham, Mayor

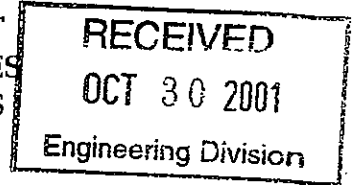
ATTEST:



Sharilyn M. Ryan, Deputy City Clerk

ORIGINAL

ECONOMIC DEVELOPMENT AGREEMENT
 BETWEEN THE CITY OF EL PASO DE ROBLES
 AND PACIFIC COAST HOTEL PROPERTIES
 (Hampton Inn)



THIS ECONOMIC DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 30th day of October, 2001, 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 PACIFIC COAST HOTEL PROPERTIES ("Owner").

Recitals

A. Owner is the owner of certain property, consisting of approximately 2.3 +/- acres, located at the southwest corner of Theatre Drive and Highway 46 West (the "Property"), within the City of El Paso de Robles, which Owner seeks to develop as a Hampton Inn 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 development and construction of the Project, which will generate additional transient occupancy 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 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 in the community; 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.

Exhibit A Attachment
 Resolution No. 01-319
 Page No. 1 of 1

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 Pacific Coast Hotel Properties. The Owner's offices for purposes of this Agreement are located at 34522 N. Scottsdale Road, Scottsdale, Arizona. 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.a., below, are entirely contingent upon Owner's satisfaction of the conditions set forth in Section 6.a., below, and the City's reimbursement obligations as set forth in Section 5.b., below, are entirely contingent upon Owner's satisfaction of the conditions set forth in Section 6.b., 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 81-room, three-story Hampton Inn 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"): Alexa Court and Theater Drive frontage improvements consisting of curb, gutter, and sidewalk. The cost of such Public Improvements is estimated to exceed Ninety-Five Thousand DOLLARS (\$95,000). 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 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 waive a portion of the building permit fees to be paid by Owner in an amount not to exceed THIRTY-FIVE THOUSAND DOLLARS (\$35,000).

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 NINETY-FIVE THOUSAND DOLLARS (\$95,000), 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 and property tax generated by Owner's ownership and operation of the Project, City shall pay to Owner an amount not to exceed NINETY-FIVE THOUSAND DOLLARS (\$95,000), subject to the satisfaction by Owner of the conditions set forth in Section 6.b., below.

c. In the event there is any claim or action filed as a result of the City's obligation to reimburse to the Owner a portion of the transient occupancy tax generated from the Project, as provided for under Section 5.b., above, which results in the payment of prevailing wage with respect to the Project, then the Owner shall either: (i) be fully responsible and liable for payment of prevailing wages in compliance with all applicable laws, or (ii) submit a written request to the City to modify this Agreement to delete the City's reimbursement obligations under Section 5.b. above.

EXHIBIT A Attachment

To Resolution No. 01-219

To Ordinance No. _____

Page 3 of 7

Section 6. Conditions to City Assistance

a. 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:

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

2. 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 "Hampton Inn" on the Property.

3. 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.

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

b. 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:

1. All of the conditions set forth in Section 6.a., above, have been satisfied.

2. 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.

3. Owner is operating a Hampton Inn hotel on the Property at the time such reimbursement is due.

4. The City has received one (1) full year of transient occupancy 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 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 pay to the City, within ten (10) days following receipt of a written demand from the City, the full amount of the fees waived by the City under Section 5.a., above.

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 amounts set forth in Sections 5.a. and 5.b., above; or
- b. Three (3) 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

Pacific Coast Hotel Properties 1 - LLC
34522 N. Scottsdale Road
Scottsdale, AZ 85262
Attn: Kevin Bierl

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.

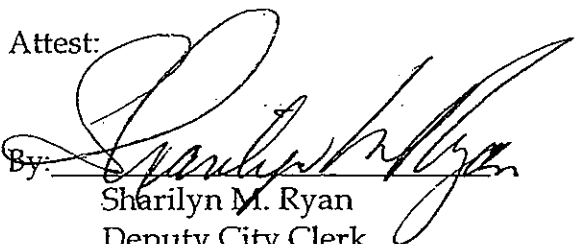
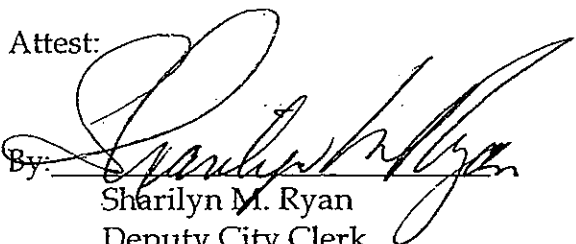
h. Entire Agreement. This Agreement and Exhibit A, which is incorporated herein, together constitute the entire agreement between the parties and supersede all prior or contemporaneous agreements, representations, warranties and understandings of the parties concerning the subject matter contained herein, 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:

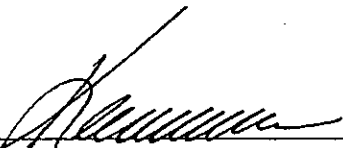
CITY OF EL PASO DE ROBLES

By: 
Frank Mecham
Mayor

Attest:

By: 
Sharilyn M. Ryan
Deputy City Clerk

OWNER:

PACIFIC COAST HOTEL PROPERTIES

By: 
Its: MANAGING MEMBER

RESOLUTION NO. 04-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING A BUDGET APPROPRIATION FOR THE CITY'S ECONOMIC
INCENTIVE PAYMENT TO PACIFIC COAST HOTEL PROPERTIES

WHEREAS, the City has an economic incentive agreement with Pacific Coast Hotel Properties; and

WHEREAS, this agreement provides financial incentives based upon having constructed certain public improvements and generated a minimum amount of transient occupancy taxes; and

WHEREAS, Coast Hotel Properties has successfully earned the incentive payment based upon performance; and

WHEREAS, the current budget does not contain an appropriation for the incentive payment; and

WHEREAS, it is desirable to provide a budget appropriation to cover the incentive payment.

THEREFORE BE IT HEREBY RESOLVED by the City Council of the City of El Paso de Robles to approve a one time budget appropriation from Economic Incentive Fund reserves in the amount of \$95,000 to budget account 115-110-5235-101 for fiscal year 2004.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 4th day of May 2004 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk