

# Agenda Report

**DATE: MARCH 2, 1998**

**TO: CITY COUNCIL**

**FROM: PHILIP A. HAWKEY, CITY MANAGER**

**SUBJECT: PROPOSED SALES TAX INCREMENT REIMBURSEMENT AGREEMENT  
WITH FOREST CITY DEVELOPMENT CALIFORNIA, INC.**

**RECOMMENDATION:**

It is recommended that the City Council approve the terms and provisions of a Sales Tax Increment Reimbursement Agreement (the "Agreement") by and between the City of Pasadena and Forest City Development Inc., subject to execution by Forest City Development California, Inc., and authorize the City Manager to execute and the City Clerk to attest, the Agreement on behalf of the City.

**BACKGROUND:**

The Community Development Committee (the "Committee") reviewed the recommended Agreement between the City of Pasadena (the "City") and Forest City Development California, Inc. (the "Developer") for "The Shops on South Lake Avenue" retail development project (the "Project") at its special meeting of February 19, 1998. Staff is recommending City Council consideration of the proposed Agreement which is attached as Exhibit "A" to this Agenda Report. This Agreement is undergoing review by the Developer and its legal counsel.

**I. Project Description and Schedule**

The Developer has proposed the addition of approximately 153,158 square feet of new retail, restaurant, cinema (1,250 seats) and restaurant uses adjacent to the existing Macy's Department Store (295,000 square feet) and the former I. Magnin Building (39,871 square feet). The proposed Project uses and gross buildable area as revised in July 1997 are summarized as follows:

<u>Uses</u>	<u>Gross Buildable Area</u>
Retail .....	76,327 square feet
Cinema .....	27,500 square feet (1,250 seats) <sup>(1)</sup>
Gelson's .....	31,033 square feet
Restaurant .....	12,000 square feet
Loading .....	<u>6,298 square feet</u>
TOTAL:	153,158 square feet
Parking .....	1,270 spaces <sup>(2)</sup>

(1) Reduced from 57,210 square feet (3,000 seats)

(2) Reflects Developer's request for shared parking based upon Korve Engineering's analysis as presented to the City.

The Final Environmental Impact Report ("FEIR") includes the Developer's request for a sales tax incentive agreement as part of the discretionary actions being requested by the Developer. The Project was reviewed at a joint meeting of the key City advisory bodies on January 24, 1998; at a joint public meeting of the Cultural Heritage Commission and Design Commission on February 2, 1998; at a public meeting of the Transportation Advisory Commission on February 6, 1998, and at a public hearing of the Planning Commission on February 11, 1998.

The Developer's preliminary Project schedule calls for the Project to be entitled by March 1998; design approvals by July 1, 1998; building permit by February 1, 1999; completion of Building "A" Garage by July 30, 1999; and Buildings "A", "B", "C" and Macy's Exterior by July 1, 2000.

## II. Economic Impact Analysis Report for Project

The City engaged the services of Economic Research Associates ("ERA") to provide an independent analysis of the impact that the Project, as well as alternatives as set forth in the DEIR, is expected to have on South Lake Avenue and the City as a whole. The final ERA report entitled "Estimated Economic and Market Impacts of the Proposed Forest City Development South Lake Avenue Retail Redevelopment Project Pasadena, California" (the "ERA Report") was received by the City in November 1997 and includes an analysis of economic impacts, net fiscal impacts to the City, and employment impacts of the Project, as well as the alternatives to the Project as defined in the Revised Draft EIR (please see Attachment No. 1 for Executive Summary). A summary of the fiscal impacts and employment to the City of the proposed Project and as estimated by ERA are as follows:

Net Annual Fiscal Revenues .....	\$ 558,942
One-Time Development Fees .....	\$ 955,000
Potential Added Annual South Lake District Business Volume Revenues ...	\$11,400,000
New Jobs .....	365

### **III. Sales Tax Incentives Request by Developer**

#### **A. Developer's Request**

As reported at the Community Development Committee's (the "Committee") meeting of April 24, 1997, the Developer submitted a letter application for a Sales Tax Incentives Agreement for the Project which was received by the Housing and Development Department staff on April 16, 1997. The Developer submitted a revised request dated September 22, 1997, based upon the current Project as described above. Both the revised letter application and the City's Sales Tax Incentives ordinance are attached as Attachments No. 2 and No. 3 respectively.

A summary of the Developer's request is as follows:

- (1) 50% of the sales tax revenue from the Project; and
- (2) 50% of the increase in sales tax revenue from Macy's Department Store.

The Developer's justification as stated in the Developer's revised letter of request:

- (1) The cost of the Project is \$3,596,000 too high to achieve the 12% cash-on-cost return which the Developer requires for the Project. Therefore, on this basis, the Project is not feasible for this Developer without the sales tax incentive.
- (2) The sales tax revenue to the City from the Project is estimated to be \$403,000 at the first stabilized year (Year 4), with strong expectations that the sales tax revenues will continue to increase over time [based upon Kotin Mouchly Group Consulting ("KMG Consulting")'s analysis].
- (3) Based upon a 50% sales tax rebate over the ten-year agreement period, the Developer has stated that they are optimistic that they will be able to recover all or most of the shortfall between Project revenue and costs.

The Developer has requested \$3.596 million in assistance from the City in consideration for the costs it will incur to make the Project economically feasible. Based upon the projected stabilized sales from the Project as estimated by the Developer, the sales tax incentive is estimated to be approximately \$200,000 per year. It is doubtful that the sales tax incentive will generate the \$3.6 million requested by the Developer and after the application of the sales tax incentive, the Project will still be faced with unsupported development costs in order to achieve a 12% cash-on-cost return.

## **B. Determining the Need for Financial Assistance**

The City referred the Developer's request for financial assistance to Economic Research Associates ("ERA") for analysis to determine the validity of the request. ERA has concluded that the Developer's sales tax revenue projections are reasonable, although a little optimistic; that the rent projections are in line with similar types of projects and are available; that the development costs appear reasonable; and that a 12% cash-on-cost rate of return is in the expected range of 12% to 14% for mixed use retail, restaurant, food and commercial entertainment projects of this type. ERA's analysis of the Developer's request for sales tax incentives assistance is attached as Attachment No. 4. Based upon ERA's analysis, staff is recommending Commission consideration of the draft Agreement which is more particularly described below.

The City further requested ERA to address certain specific questions with respect to the Project's overall feasibility if sales tax incentives are provided to the Project. Also, staff requested ERA to analyze the Project's feasibility with no "Boutique Stores" in the Macy's setback area as well as various scenarios with respect to a reduced square footage of these "Boutiques." The ERA analysis attached as Attachment No. 5 to this Agenda Report indicates that the Project has a \$3.596 million capital cost reduction requirement ("gap") based on an annual 12% yield. The "gap" increases to \$5.05 million without Building "C" (the Boutique Stores).

## **C. Establishing the Guidelines for Defining a Project Which a Sales Tax Incentives Agreement Would Assist**

The most comprehensive analysis of South Lake Avenue in terms of a development/urban design/parking framework was conducted in the 1985/86, near in time to the adoption of the current zoning regulations for the Central District ("CD"). Although not formally adopted by the then-City Board of Directors, the Board (City Council) in January 27, 1986 accepted in concept the "South Lake Avenue Parking & Planning/Design Framework" (the "Framework Plan") as prepared by Archiplan and Barton-Aschman for the City of Pasadena as a guide for the short-term, mid-term and long-term development of South Lake Avenue. The Framework Plan was the subject of many community meetings held on South Lake Avenue in 1985/86 and included review and recommendations from the South Lake Business Association, the South Lake Avenue Parking Place Commission, and the Community Development Commission. Its recommendations regarding streetscape improvements became the basis for the South Lake Avenue Business Association's formation of a business-based improvement district in 1987 in order to fund these improvements.

The Framework Plan sets forth an overall district planning/design framework for the thirteen blocks which are located in the area bounded by Colorado Boulevard, California Avenue, Mentor Avenue and Oak Knoll Avenue. The goals for the Bullock's (Macy's) block as stated in the Framework Plan can be summarized as follows: (a) ensuring that new development makes a positive contribution to the pedestrian experience of South Lake Avenue by developing retail uses at the sidewalk level; (b) preserving the image of Bullock's and I.

Magnin's as significant structures on South Lake Avenue; (c) improving pedestrian continuity; (d) strengthening connections between both sides of South Lake Avenue; and (e) maintaining an adequate separation between new or intensified uses and nearby residential areas.

The Framework Plan anticipated that Bullock's (Macy's) would continue to play a key role on South Lake Avenue. The Framework Plan assumed that the parking lot would be re-used in combination with open space and new retail, that new shops may be located in certain areas of the terraced landscaped area in front of Bullock's along South Lake Avenue, that the sidewalk level of the existing Bullock's and Magnin's parking structure may be developed into retail, and that some of the space in the existing Bullock's building may be subdivided out for new retail lease space. Specifically, the Framework Plan stated the following goal for the "Bullocks Setback":

"Develop ground floor retail uses at the sidewalk level, relating them directly to the existing retail uses on the Avenue, without sacrificing the significant image of the Bullock's and I. Magnin's buildings."

The Framework Plan considered the existing Bullock's Setback area as an important example of pedestrian discontinuity, but that the contribution that this setback area made was an important one. The Framework Plan states:

".....the landscaping and the views of the building's period architecture lend their distinctive character to the visual imagery of the street. Thus, whatever improvements are to be made at this location to address the question of pedestrian vitality must build from these positive contributions and incorporate the existing landscape and architecture into them."

In terms of a "Long-Range Action Framework - New Enlivening Infill Development," the Framework Plan stated that the surface parking lot at the southwest corner of Del Mar Boulevard and South Lake Avenue could be more viewed as a site for potential development with strong pedestrian linkages to the block to the north between Del Mar and Cordova. Also, the Framework Plan stated that new pedestrian paths through new development should not burrow through new buildings without frequent returns to South Lake Avenue, and that the sidewalk of South Lake are the unifying pedestrian element. With respect to the Bullock's Building, the Framework Plan states that:

"....development further to the south on the Bullocks block should further make use of the sidewalk as a unifying element. New and active uses should be found for the terraced setback along the Lake Avenue frontage of the Bullocks store, including terraced outdoor dining facilities and possibly a new small retail pavilion located at the present Lake Avenue entrance to Bullocks, where the setback is deep enough to accommodate a small new building. This new building should be pulled out to the sidewalk and property line, and be complementary to the existing Bullocks building."

The Framework Plan also calls for the sidewalk level of the parking structure between Bullocks and I. Magnin to be redesigned to incorporate new retail uses in the lower levels and to orient to the street and sidewalk. As a complement to this new retail as well as the activated Bullock's Setback, the Framework Plan calls for a significant, design-enhanced pedestrian crossing located just east of the Macy's (Bullock's) Building stairway to South Lake Avenue.

**While staff has used the Framework Plan as a guide for making recommendations regarding the proposed sales tax incentives, the Housing and Development Department has relied on the findings of the Planning and Permitting Department indicating that the proposed Project is consistent with the General Plan and that the proposed Planned Development ("PD") is consistent with the General Plan. Without this General Plan consistency, application of sales tax incentives is not warranted.**

#### **D. Negotiation Parameters for Financial Incentives**

In order to determine the parameters for negotiating the requested Sales Tax Incentive Reimbursement Agreement, staff identified a set of issues and recommended negotiation parameters which were reviewed by the Community Development Committee on October 23, 1997; on November 13, 1997, and on January 22, 1998. On February 19, the Committee received the recommended Agreement which was based upon the previously reviewed negotiation parameters. These parameters include:

1. The Project must be consistent with the Comprehensive General Plan of the City of Pasadena and create and retain job opportunities and expand the City's commercial base.
2. The Project must meet the objective of including Upscale Tenants in the use mix.
3. No sales tax increment rebates shall be used by the Developer to pay to the proposed cinema use.
4. Building "C" of the Project shall be redesigned to conform to the recommended PD zone as approved by City Council and shall ensure to the greatest extent feasible that improvements in the Macy's Building set back area comply with the Secretary of Interior's Standards for Rehabilitating Historic Buildings (see Attachment No. 6 for brief summary of illustrated guidelines).
5. Sales tax increment from Macy's shall be included in the Agreement provided the following conditions are satisfied:

## V. The Recommended Agreement

The proposed Agreement is attached to this report as Exhibit "A" and is under review by the Developer. Key provisions incorporated into the proposed Agreement include the following:

1. **Sales Tax Sharing**: The Sales Tax Incentives Law allows the Developer to receive up to 50% of the sales tax increment generated to the City, provided that the Developer fulfills certain Business Covenants. The proposed Business Covenants contained in the Agreement are summarized in "3" through "13" below. Based on the analyses discussed above by Economic Research Associates, the proposed Project is estimated to generate in excess of \$37 million in sales per year, resulting in about \$378,000 per year in sales tax revenue to the City. Payments of 50% of this annual amount are to be made to the Developer on a pro-rata quarterly basis after receipt of sales tax revenue to the City from sales generated by the Project has been confirmed.
2. **Term**: The term of the Agreement shall expire on the earliest of the following: Ten (10) years from the date the project is completed (meaning the date the initial certificate of Occupancy); or the date on which the City has reimbursed the Developer the full \$3.595 million in Project costs; or the end of the City's current fiscal year, subject to annual appropriations by the City (pursuant to State of California Constitutional debt limit restrictions).
3. **Schedule**: All work shall commence and be completed within the times specified in the Project Development Schedule (shown in Exhibit No. 2 to the Agreement).
4. **Quality**: The Project shall utilize high quality building materials, detailing, and landscaping with construction techniques and methods to ensure superior quality in the construction of the Project.
5. **Macy's Restoration**: For any restoration work associated with the Macy's Building as described in "12." below, the Developer shall ensure that the restoration work meets the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
6. **Boutique Buildings**: The design and placement of any buildings and/or other improvements to be added to the existing landscaped area east of Macy's Building along South Lake Avenue shall: (i) conform to the Planned Development as (may be) approved by the City Council; and (ii) further ensure that said buildings and/or improvements meet to the greatest feasible extent that the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as determining through the City's design review process.

7. **Tenancy:** The Developer shall include Upscale Tenancies in the Project that are customarily found in first class shopping districts and fashion/specialty centers. These Upscale Tenancies shall be specifically listed in the proposed Agreement. The Developer's receipt of the fullest benefit of sales tax increment will be contingent upon its maintaining a minimum of 80% of the 153,158 square feet with Upscale Tenants. To the extent any non-Upscale Tenants occupy over 20% of the 153,158 square feet of the Project, the percentage of the Sales Tax Increment Payment to the Business shall be reduced on a pro rata basis equivalent to the square footage of the Project which is leased to said non-Upscale tenant(s) which exceeds 20% of the total Project square feet. In order for the Developer to continue to be eligible to receive sales tax increment from Macy's, Macy's shall continue to remain in operation as a "Macy's" or operator of equivalent or superior quality to Macy's. "Equivalent" or "superior quality" stores specifically excluded from consideration for sales tax increment are "Off-Price/Outlet Stores" (which sell brand name goods at 20 to 70 percent off manufacturer's suggested retail price) and/or "Discount Stores" (including large discount department stores and small value-priced retailers.)
8. **Site Maintenance:** Upon completion of construction of the Project, the Developer shall maintain and repair or cause to be maintained and repaired the improvements and landscaping on the Project Site in good order, and in the condition and repair typical of first class upscale fashion/specialty centers in Southern California.
9. **Business Improvement District:** The Developer shall not oppose the formation of a redevelopment project area or Business Improvement District which includes the Project Site.
10. **Point of Sale:** The Developer shall use reasonable good faith efforts to cause its tenants on the Project Site to maximize the City as the point-of-sale for all goods and services sold as a result of business activities on any portion of the Project Site.
11. **Employment Plan:** In cooperation with the City, the Developer shall develop a reasonable program for the seeking out, training (where reasonably possible) and hiring of qualified local residents and minority and women employees (both construction and permanent) for itself, its contractors, and subcontractors for approval by the City and shall use reasonable good faith efforts to cause its tenants to do the same, as evidenced by a provision in the tenants' leases indicating the same.
12. **Use of Macy's Sales Tax:** In order to be eligible to receive sales tax increment from Macy's, the Developer shall submit documentation to the City containing the consent to the use of Macy's incremental sales taxes for Project costs from Macy's Real Estate West. Also, the Developer shall complete, or cause to be completed, the items described below with respect to the Macy's Building:
  - a. restoration and activation of the historic Building up-lighting and the inset of display boxes on the second level exterior facing South Lake Avenue;



- b. removal of the non-historic metal grilles;
- c. treatment of the revealed windows which are currently covered by the non-historic metal grilles in an historically appropriate manner and in a manner which reduces or eliminates potential damage to merchandise from sunlight;
- d. contracts with historic preservation architects, landscape architects and other historic resource consultants; and
- e. retention of original character of the landscape elements and features including plant material, paving, planters, lighting, stonework, perimeter walls, gates and the bus shelter on Del Mar Boulevard to the greatest extent possible; reuse such elements and features to the extent feasible by relocating them in the Project if retention is not possible.

13. **No Cinema Benefits:** The Developer shall not pay for the benefit of any cinema use located in the Project any portion of the Sales Tax Increment payable to the Developer.

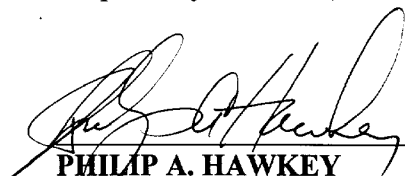
#### **VI. COMMUNITY DEVELOPMENT COMMITTEE ACTION ON RECOMMENDED SALES TAX REIMBURSEMENT AGREEMENT**

The Community Development Committee (the "Committee") held a special meeting to consider recommendations regarding the recommended Sales Tax Increment Reimbursement Agreement for the Project. Staff will forward in writing the Committee's recommendations for City Council consideration at its March 2, 1998 meeting.

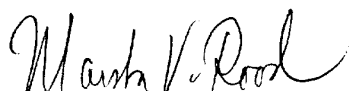
#### **FISCAL IMPACT**

The fiscal impact of the proposed Project on the General Fund will generate total one-time development impact fees of an estimated \$955,000 and annual net revenue of \$588,942, as more particularly described in Attachment No. 1 to this Agenda Report. Implementation of the proposed Agreement would reduce the net annual fiscal revenues to the City for an up to 10-year period by \$189,000 (ERA estimate) to \$200,000 (Developer estimate) for a net annual recurring revenue after sales tax sharing of approximately \$389,000 to \$400,000 to the City's General Fund.

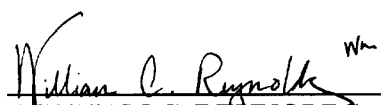
Respectfully submitted,

  
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**PHILIP A. HAWKEY**  
City Manager


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ATTACHMENTS