

**DATE: MARCH 2, 1998**

**TO: COMMUNITY DEVELOPMENT COMMISSION**

**FROM: PHILIP A. HAWKEY, CHIEF EXECUTIVE OFFICER**

**SUBJECT: LOAN GUARANTY FOR THE FAIR OAKS BUSINESS PARK**

**RECOMMENDATION**

It is recommended that the Pasadena Community Development Commission approve a Guaranty of Payment Agreement (for a six year period with a maximum amount of \$300,000) to stand behind the issuance of a irrevocable direct-pay-letter of credit from Tokai Bank, Limited, Los Angeles ("TBLA"), to secure \$1,505,000 in Pasadena Community Development Commission 1984 Variable Rate Demand Certificates of Participation used by the Pasadena Redevelopment Company ("Developer") for the construction of the Fair Oaks Business Park, and approve the extension of the existing Repayment Agreement between the Commission and the Developer regarding the repayment of monies that might be paid under the guaranty.

**BACKGROUND**

In September, 1984, the City Board of Directors and the Pasadena Community Development Commission ("Commission") approved a Disposition and Development Agreement ("DDA") between the Commission and the Pasadena Redevelopment Company ("Developer") for the construction of a new shopping center to be known as the King's Plaza Neighborhood Shopping Center. For this project the Commission assisted the Developer by issuing Variable Rate Demand Certificates of Participation ("COP's") in the amount of \$2.7 million.

For a variety of reasons the shopping center project failed to proceed. The Developer remained interested in bringing a project forward for King's Plaza site. Subsequently, the Developer brought forward a project that entailed the construction of an approximately 91,000 light industrial business park. The Developer identified Castle Press, a local printing company, as the anchor tenant that would occupy the only existing building on the site. In order to move forward with this project it was necessary for the Commission to amend the Fair Oaks Redevelopment Plan to allow for a change in land use from commercial to light industrial.

Following the amendment to the redevelopment plan the Developer entered into a revised DDA with the Commission to construct the Fair Oaks Business Park. As part of the new DDA, the COP's initially programed for the King's Plaza Shopping Center were reprogrammed to assist the Developer with his construction financing for the business park. The Third amendment to the DDA was approved by the City Council and Commission on December 14, 1987. The Fair Oaks Business Park was completed in December, 1988.

### **Financing Structure:**

The COPs for the proposed Fair Oaks Business Park provided the Developer with the construction funds needed to build the project. The COP's were issued by the City, on behalf of the Developer to provide a low cost source of construction and takeout financing. The COP's were issued at a variable rate and required a bank letter of credit. The letter of credit would assure repayment of the COP's.

The Developer was able to obtain a ten (10) year letter of credit from Tokai Bank. The letter of credit would stand behind the COPs should there be a default for any reason. As is usual in these cases, Tokai Bank imposed two important conditions on the issuance of the letter of credit. These conditions were met. First, the Bank required that the Developer execute a Reimbursement Agreement. The Reimbursement Agreement requires the Developer to repay the Bank in the event that any draw is made on the letter of credit to make payments required for the COPs. The Reimbursement Agreement is secured by a first trust deed on the Fair Oaks Business Park. Second, the Bank required the Commission to execute a Subsidy Agreement. The Subsidy Agreement provides that if the Developer fails to make a required payment under the Reimbursement Agreement, the Bank may foreclose on the Fair Oaks Business Park and/or require the Commission to make up the deficit. The Commission and the Developer entered into a Repayment Agreement. The Repayment Agreement restates the Developer's obligation to repay the Commission in the event that the Commission is required to make a payment under the Subsidy Agreement, and is secured by a trust deed on the property.

Several months ago, the Developer notified staff that the ten (10) year letter of credit was due to expire on November 15, 1997. The Developer was negotiating with Tokai and other banks for a replacement letter of credit. Under the COP documents, if the letter of credit is not replaced or renewed by the due date, the trustee must notify Certificate holders of that fact forty-five (45) days before the letter of credit's expiration. Marketing agents have informed staff that after notification is given, the COPs will most likely be called by all of the COP holders and the entire financing structure would have to be replaced if a new letter of credit is not in place by April 30, 1998.

The Developer has notified staff that it has come to a tentative agreement for an amended letter of credit from Tokai Bank, but that the Commission would be required to continue to back the letter of credit as it had. The Bank also required that the Commission enter into a Guaranty of Repayment (the "Guaranty") that would replace the Subsidy Agreement. The resulting proposed Guaranty limits the Commission's exposure to Three Hundred Thousand Dollars (\$300,000.00) instead of the original guarantee of \$2.7 million. In addition, the Guaranty provides that if the Developer fails to pay the Bank under the Reimbursement Agreement, instead of foreclosing and collapsing the entire financing structure, the Bank will allow the Commission to take over the project keeping the existing financing in place. This would allow the Commission to seek out other developers to take over the project.

The Repayment Agreement between the Developer and the Commission was tailored to the Subsidy Agreement, restating the right of Commission to proceed against the Developer if the Commission makes a payment to the Bank. The Developer has agreed to apply the Repayment Agreement to the guaranty by means of an extension agreement.

In order to accommodate negotiations, the Bank has extended the existing letter of credit to April 30, 1998. It is staff recommendation that the Commission approve the proposed guarantee and extension agreement in order to permit the project to continue to be financed by the COPs.

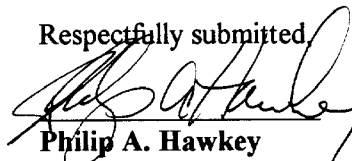
### **Housing Impact**

There is no housing impact should the Commission approve staff recommendation.

### **Fiscal Impact**

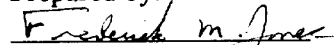
In order for the Developer to secure the Letter of Credit, Tokai Bank required the Commission to enter into a Subsidy Agreement. The Subsidy Agreement provided a guarantee should the Developer default that the Commission would pay the COP's in the amount of \$2.7 million. In April, 1998 the Subsidy Agreement will expire and the Developer has requested that the Commission renew its guaranty. In providing the letter of credit, Tokai has requested that the Commission guarantee the sum of \$300,000 to stand behind the letter of credit to be drawn upon should the Developer default on the COPs. The recommendation that staff is bringing forward improves the Commission's financial exposure for this transaction. The new loan guaranty will potentially expose the Commission to a liability not to exceed \$300,000 should the Developer default on the COPs while the original Subsidy Agreement had the potential of exposing the Commission for the entire amount (\$2.7 million) of the COPs.

Respectfully submitted,




**Philip A. Hawkey**

Prepared by:



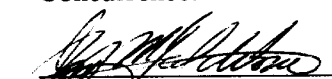
**Frederick M. Jones**  
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Approved by:

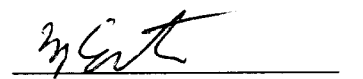


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