Agenda Report

DATE: OCTOBER 18, 1999

TO: CITY COUNCIL/PASADENA COMMUNITY DEVELOPMENT COMMISSION

FROM: CYNTHIA J. KURTZ, CITY MANAGER/CHIEF EXECUTIVE OFFICER

SUBJECT: FINAL ENVIRONMENTAL IMPACT REPORT; TERMS AND CONDITIONS OF PROPOSED OWNER PARTICIPATION AGREEMENT, PARKING, OPERATION AND MAINTENANCE AGREEMENT, AND AMENDED AND RESTATED OPERATION AND RECIPROCAL EASEMENT AGREEMENT (DOWNTOWN REDEVELOPMENT PROJECT)

RECOMMENDATIONS:

1. That the City Council adopt a resolution approving the terms and conditions of the Owner Participation Agreement ("OPA"), and authorizing the City Manager to execute the OPA once it has been approved by the City Attorney as to form, subject to its conformance with the approved terms and conditions as set forth in this Agenda Report and the attachments hereto, further subject to its execution by all third parties, and to take any and all other actions necessary to implement the terms thereof.

2. That the Pasadena Community Development Commission (the "Commission") adopt a resolution:

   a. Incorporating by reference the findings and determinations included in the resolution adopted by the City Council relating to the Final Environment Impact Report and Addendum for the Plaza Pasadena Renovation Project, to be called "Paseo Colorado" (the "Project");

   b. Approving the terms and conditions as set forth in this Agenda Report of the following agreements (collectively, the "Agreements"):

      i. The Owner Participation Agreement by and among the Commission, the City of Pasadena, and H-CHH Associates, a California limited partnership ("Developer");

ii. The Parking Operation and Maintenance Agreement for Paseo Colorado by and among the Commission, the City, the Developer, Post Apartment Houses, L.P. ("Post"), a Georgia limited partnership, and Federated Western Properties, Inc., an Ohio corporation;

iii. The Amended and Restated Operation and Reciprocal Easement Agreement for Paseo Colorado by and among the Commission, the Developer, and Post; and

iv. Authorizing the Commission's Chief Executive Officer to execute the above-referenced Agreements once they have been approved by the General Counsel as to form, subject to their conformance with the approved terms and conditions for each respective agreement as set forth in this Agenda Report and the attachments hereto, and further subject to execution by all third parties, and to take any and all other actions necessary to implement the terms thereof.

BACKGROUND:

I. Overview of Existing Plaza Pasadena Project and Assistance from the Former Pasadena Redevelopment Agency

In February 1975, the former Pasadena Redevelopment Agency ("PRA") entered into a Disposition and Development Agreement ("DDA") with H-CHH Associates/Ernest W. Hahn (the "Developer") for the redevelopment of five (5) blocks in the Mid-Town area of the Downtown Redevelopment Project (bordered by Colorado Boulevard on the north, Los Robles Avenue on the east, Green Street on the south and Arroyo Parkway on the west) into a two-story, enclosed, retail mall with parking facilities known as the "Plaza Pasadena". The purpose of the Plaza Pasadena was to revive retail along Colorado Boulevard and to better compete with suburban shopping malls in surrounding communities. The DDA subsequently was amended by three (3) implementation agreements. These four documents, together with the Construction, Operation and Reciprocal Easement Agreement (the "REA") and the Agreement for Lease, Operation and Maintenance of Parking Facilities (the "Parking Lease") constitute the major agreements (the "Prior Agreements") between the Developer and the PRA.

Pursuant to the Prior Agreements, the Developer financed and developed an approximately 600,000 sq. ft. department store/retail/restaurant regional shopping center or "mall" anchored by The Broadway, May Company and J.C. Penney's which opened in September 10, 1980. Also pursuant to these agreements, the PRA purchased the 14.9 acre site, relocated individuals and businesses, demolished the existing buildings, and built an underground garage below the retail center. The PRA also built two free-standing garages at Marengo and Green and Los Robles and Green which are linked to the retail center by two pedestrian bridges. The Developer purchased the property below the subterranean garage and the air space above it from the PRA for approximately $4.4 million. The PRA assistance and public improvements were funded by the issuance of $58 million in Tax Allocation Bonds (the "Bonds"). The debt service on the Bonds is paid from Downtown Redevelopment Project tax increment revenues in the approximate amount of $6 million annually. The Bonds are due to be retired by August 1, 2000, at which time the tax increment is pledged to fund Police and Fire Pension Fund obligations.

The three parking garages are subject to the Parking Lease between the Developer and the PRA for a term of fifty (50) years for the use and operation of 3,225 public parking spaces, subject to a certain number of spaces dedicated to two adjacent property owners, Security Pacific Bank and the "Wolff Sesnon" building. The Parking Lease includes a lease to the Developer for the operation and maintenance of the garages and the bridges for which the Developer currently pays $177,000 annually to the Commission, successor agency to the PRA. The Parking Lease does not allow the Developer to charge for parking without the Commission's consent. The Lease, however, allows the Developer to charge its tenants for operation and maintenance costs.

As part of the land assemblage and development of the Plaza Pasadena, both Garfield Avenue and Euclid Avenue south of Colorado Boulevard were vacated in favor of the Developer and became part of the Plaza Pasadena. By virtue of closing these streets, the traditional commercial street grid in the Mid-Town area and the long-established Beaux Arts axial plan for the Civic Center (the "Bennett Plan") were disrupted, particularly along Garfield Avenue, thereby severing the visual connectivity and formal grouping of the major buildings of the Civic Center (i.e. the Library, the City Hall and the Civic Auditorium). As a compromise at the time the Plaza Pasadena was built, the mall design included a glass enclosed archway along the Garfield Avenue axis.

Currently, the Pasadena Plaza is struggling financially with a vacancy rate of less than 40%. The physical condition of the Plaza Pasadena, including the parking garages, perimeter sidewalks and other public areas, are in need of significant upgrade and renovation.

In response to the improved real estate market and developer interest in the area, the City Council established the Mayor and Council's City Center Task Force (the "Task Force") in July, 1997. The Developer was appointed by the City Council as a member of the Task Force. In that role, the Developer has actively participated in the numerous public meetings and discussions which led to the preparation of the "Mayor and Council's City Center Task Force Civic Center/Mid-Town Programming Effort Report" (the "Programming Effort Report") which was accepted by the City Council on April 6, 1998. The Programming Effort Report establishes broad development parameters for the redevelopment of the Civic Center/Mid-Town

District (the "District"), including the renovation of the Plaza Pasadena, as well as including design and land use standards to be used in the evaluation and review of the proposed renovation of the Plaza Pasadena. The Programming Effort Report calls for the Plaza Pasadena to be predominantly retail in nature but include other uses such as office, hotel and entertainment in order to promote "24-hour" activity; to turn uses outward to the street to promote pedestrian activity; to include a re-opened Garfield Avenue portion of the shopping mall to create a community gathering place with a commercial focus but designed as a public space; to connect public parking to the public areas, and to design the renovated center consistent with the quality of existing major buildings in the District.

II. Project Description

The Developer submitted an application on August 3, 1998 (which was significantly revised on April 30, 1999 to include housing) for a complete renovation and redevelopment of the Plaza Pasadena. The proposed renovated Plaza Pasadena, to be known as the "Paseo Colorado", would contain up to 625,000 square feet of gross leasable area and up to 400 housing units, and would re-establish the three city blocks along Colorado Boulevard for street-oriented uses. It also includes re-establishing the historic Garfield Avenue segment into a pedestrian walkway between Colorado Boulevard and Green Street which is part of the Garfield Avenue north-south axis linking the Pasadena Civic Auditorium with the Central Library and City Hall. The proposal also re-orients the shops and restaurants of the Paseo Colorado to the perimeter streets and avenues of the Project site. Significant portions of the existing Plaza Pasadena are to be demolished and rebuilt.

The Paseo Colorado is proposed to include a major cineplex, rental housing, retail and restaurant uses, a health club, a specialty market and public spaces oriented around the re-established Garfield Avenue pedestrian walkway as shown in Attachment No. 1. Approximate square footages and unit counts by use are summarized as follows:

USE AND GROSS LEASABLE SQUARE FOOTAGE; RESIDENTIAL UNITS

	Market	Retail[1]	Restaurant	Office[2]	Cinema	Health Club	Apartments
Block A	37,000	115,393	32,000			24,000	289
Block B		82,060	13,000		83,900		
Block C		202,547		35,000			111
Total GLA	**37,000**	**400,000**	**45,000**	**35,000**	**83,900**	**24,000**	**400 units** (390,000)

[1] The retail site allocations include Macy's (152,549 sf) which is to remain in the Project.

[2] The office space, most likely, will be either retail and/or small offices.

III. Project Development Status

The Developer successfully executed a buy-out agreement in March 1999 with its partner, Emerick Properties, and JC Penney has been released from the Plaza Pasadena Reciprocal Easement Agreement. JC Penney vacated its building on September 10, 1999. Also, the Developer has executed an option agreement with Teacher's Insurance and Annuity Association of America, the lender on the Plaza Pasadena, to settle the outstanding mortgage on the Plaza Pasadena, subject to the Developer's determination of the Project feasibility. An additional option payment was made on July 29, 1999, which extended the option period to November 26, 1999; at the end of the extended option period, the remaining balance is required to be paid.

The Commission approved a Standstill Agreement on July 13, 1998, and an Estoppel Certificate was executed by the Commission's Chief Executive Officer on March 11, 1999, which permitted the Developer to take the necessary steps to commence the process to renovate the mall and to allow JC Penney to vacate its building without either party being in default of the Prior Agreements. Also, Macy's has indicated to the Developer that it will likely upgrade its store on Colorado Boulevard to a full-line Macy's. For the housing portion of the Project, the Developer and Post Properties have entered into an agreement of purchase and sale and joint escrow instructions dated July 29, 1999.

IV. Summary of Proposed Terms and Conditions for Proposed Agreements and Related Documents

The Developer submitted an outline of proposed modifications to existing project documents, dated June 17, 1999, which provided the basis for negotiating the terms and conditions for the proposed amended and new agreements. The proposed agreements and related documents are to include: 1) An "Owner Participation Agreement" among the Commission, the City and the Developer (the "OPA"); 2) A "Parking Operation and Maintenance Agreement" among the Commission, the Developer, Post Apartment Homes and Federated Western Properties ("POMA"); and 3) an "Amended and Restated Operation and Reciprocal Easement Agreement" between the Commission and the Developer (the "REA"). The proposed City financial investment on behalf of the Commission for the proposed Paseo Colorado redevelopment is in the form of $26 million in Certificates of Participation ("COPs") to be issued by the City of Pasadena to provide certain public-related improvements associated with the proposed renovation and the acquisition of the parking lease. The total private development (not including the proposed City investment) is estimated to be $180 million. The debt service for the proposed City investment is to be paid by the acquisition of the remaining term of the parking lease and instituting a paid parking operation in the Plaza Pasadena garages. If these agreements are approved, staff will return to the Council in approximately February 2000 for authorization to issue the COPs.

A summary of the proposed terms and conditions for the proposed OPA, POMA and REA and related documents is contained in Attachment No. 2. These documents will be finalized in accordance with the terms and conditions approved by the City Council and the Commission, and executed by the City Manager/Chief Executive Officer.

V. Proposed City Financial Investment/Keyser Marston Description and Analysis Incentives

The Project as proposed by the Developer reflects the City's goals for the Civic Center/Mid-Town District, including quality of building design, a mix of land uses to achieve a 24-hour downtown, and the re-establishment of the Civic Center visual connectivity and formal grouping of major civic buildings. As a result, the Project is more costly than a basic renovation of the existing building forms. The Developer requested "gap" financing for the Project to address the difference between Project value and Project costs. In response, staff informed the Developer that the City would consider an investment in the Project based upon the creation of a revenue producing asset created by purchasing the Developer's leasehold interest in the three Project garages and instituting a paid parking operation in the garages. The transaction would result in a City asset with substantial future value. This approach has been utilized in Old Pasadena and at Plaza Las Fuentes. There are no other financial incentives being recommended for the Project.

A. Description of Proposed City Financial Investment

General:

Staff recommends that the City of Pasadena invest $26 million in the proposed renovation of the Plaza Pasadena. This investment will be used to purchase the Developer's leasehold interest in the three parking garages associated with the existing Plaza Pasadena; to make necessary improvements to the parking garages; to make improvements associated with re-establishing and widening the extension of Garfield Avenue through the Project and to fund public improvements for the Project in perimeter streetscape. The portion of Garfield Avenue through the Project will be converted into a pedestrian promenade open to public access on a 24-hour basis.

A portion of the garage renovation funds will be used to convert the garages to a paid parking system which will provide the City with a Project-based, income-producing asset to meet debt service payments on the proposed COPs. The City will have the discretion to set parking rates in the garages, subject to Macy's required free parking for its customers. It is expected that sales tax revenue and business license fees will cover the negative cash flow as described below, although actual funding sources will be decided by the City as part of its annual budgeting process. The Developer has agreed to cover any shortfalls above $600,000 annually with a cap of $200,000 per year. Any General Fund advances are expected to be repaid from surplus garage revenue. No Commission funds are to be pledged to meet any debt service shortfalls. There are no other financial incentives being provided to the Developer such as tax increment and sales tax reimbursements.

This approach has the additional advantage of placing the operation of the two Adjacent Parking Facilities in the control of the City subject to the terms and conditions of the proposed parking agreement, thereby making the parking available for other users.

Specific:

It is proposed that the City/Commission will purchase the Developer's leasehold interest in the parking facilities effective upon execution of the OPA, the REA and the POMA. Upon execution of these agreements, the Developer's obligations under the existing Parking Lease, including lease payments to the Commission, will cease. The City will pay to the Developer the sum of $26 million which is intended to provide funds to offset (a) the loss of Developer's leasehold rights; (b) the cost of the Garfield Promenade, including expansion of the width to 77 feet, and (c) the cost of the improvements to the parking facilities, public sidewalks, and other public improvements.

The City's investment is proposed to be financed based upon the parking facilities revenue. The City will structure the financing so as to avoid operating shortfalls (i.e. insufficient operating revenues from the parking facilities to meet debt service and operating expenses related to the parking facilities) which have been projected to date by Keyser Marston Associates to be a cumulative total of approximately $4.5 million in the first seven (7) years. To the extent operating revenues from the parking facilities are insufficient to pay both debt service on the City financing plus operating expenses in any calendar year after the Grand Re-Opening Date (a "shortfall"), the parties' respective obligations (calculated on an annual basis and prorated for any partial year) are proposed as follows:

a) City would pay the first $600,000 of the shortfall;

b) Provided the shortfall occurs during either the ramp-up parking rate period, or any times during which the Developer is the manager of the subterranean garage, Developer will pay the next portion of the shortfall, up to a maximum amount of $200,000; and

c) City will pay the balance of any shortfalls. Amounts paid by the City and the Developer to offset shortfall(s) (plus interest at the rate of 6% per annum from the date paid until the date reimbursed) shall be reimbursed on a pro rata basis to the City and to the Developer from net revenues from the parking facilities after operation expenses and debt service.

Proceeds of the COPs allocable to the leasehold acquisition are to be paid to Developer up to the maximum leasehold price, on a dollar-for-dollar basis, as the Developer draws funds against its construction loan and after the Developer has committed approximately $40 million to the Project. Proceeds of the COPs allocable to construction of improvements will be disbursed during the course of construction of the public improvements.

Bond counsel may require that certain terms of this financing be modified in the interest of qualifying or optimizing the terms of the COPs bond financings. Such modifications would be subject to the reasonable approval of the City, provided that any proposed modifications would not adversely affect the fundamental terms or the fundamental objectives of the proposed redevelopment.

B. Keyser Marston Associates Description and Analysis of Public Financial Investment

The Commission's independent real estate economics consultant, Keyser Marston Associates ("KMA"), assisted the City and the Commission in evaluating the Developer's request for public investment in the Project and in recommending the preferred financing arrangements and method of funding. KMA's description and analysis of the proposed City investment is described in Attachment No. 3.

KMA's conclusion is that the proposed development agreements represents a fair transaction for both the Developer and the City. This conclusion is based on KMA's judgement that the City's net investment in the Project is the amount necessary to make the Project feasible with the City's being able to obtain an asset with substantial value in the long-term and the Developer's achieving an equitable return for its investment. The major points of the analysis leading to KMA's conclusions are contained in Attachment No. 3 and are summarized as follows:

(a) Retail projects in the current investment environment require a total return on investment of between 10.5% to 12%. Based upon the unique factors involved with the Project, including higher than typical costs, KMA has concluded that a target rate of return of 11.75% is appropriate. The projected return for the Project is 10.50%, substantially below the appropriate rate of return. To reach the minimum rate of return, a cost reduction of $4.3 million would be necessary with the Developer keeping the parking revenue.

(b) In order to address this cost reduction necessary for Project feasibility, the proposal is to have a sharing of investment responsibilities. The public investment is proposed to be the purchase of the Developer's long-term leasehold interest in the parking garages and in the development of project-related public improvements. Based on the proposed City investment of $26 million, the resulting return is 11.38%, which the Developer is willing to accept.

(c) The City's investment is expected by KMA in its analysis as provided to the Committee at its prior meeting to result in an initial seven (7) year cumulative shortfall of approximately $4.5 million based upon the parking rate ramp-up period. Following the ramp-up period, the parking rates will be consistent with those for the City's Old Pasadena garages at which time income is project to exceed expenses and debt service.

(d) KMA believes that the proposed risk mitigation measures negotiated in the transaction of the proposed public investment offer certain protections based upon the risk associated with the Project. These mitigation measures include the following: (1) any construction cost overruns associated with the public improvements will be the responsibility of the Developer; (2) lien free and timely completion of the public improvements will be guaranteed by the Developer's corporate parent which has net worth in excess of $600 million; (3) the City can require all parking operation contracts to be based on the lowest responsible bidder; (4) the Developer will be obligated to pay up to $200,000 annually in any parking garages operating shortfalls in excess of $600,000 annually; (5) the City will set the parking rates irrespective of who operates the garages, and (6) after satisfying Project-related demand, the parking will be available to the public at large, thereby maximizing parking income potential.

V. Related City Recommendations, Environmental Review and Project Schedule

A. Related City Recommendations and Environmental Review

In a separate but related City action, City staff is recommending amendments to the Land Use Element of the City of Pasadena General Plan (the "General Plan") and to the Civic Center Specific Plan to reflect the proposed Paseo Colorado project. Also, a Final Environmental Impact Report ("FEIR") was prepared for the Plaza Pasadena Renovation and related approvals, including the amendments to the Civic Center Specific Plan, the General Plan, the proposed OPA, POMA and REA documents, and the proposed public financing. The proposed land use-related amendments, the FEIR and the FEIR Addendum are more fully described in the Agenda Report for these amendments prepared for the City Council's consideration at its public hearing scheduled for October 18, 1999.

B. Project Schedule

The Design Commission considered the proposed amendments on September 13, 1999, and unanimously recommended approval to the Planning Commission and the City Council. On September 20, 1999, the Cultural Heritage

Commission reviewed the Cultural Resources section of the Draft Environmental Impact Report and recommended its certification by the City Council with minor notifications. The Transportation Advisory Commission considered the Draft Final Environmental Impact Report on October 11, 1999, and unanimously recommended its certification by City Council. The actions of the Planning Commission are described in the Agenda Report prepared for the City Council for the land use-related actions. A more detailed Project Schedule is contained in Attachment No. 4 to this Agenda Report.

VI. Community Development Committee Actions -- Meeting of October 14, 1999

The Community Development Committee (the "Committee") reviewed and discussed the proposed Paseo Colorado at its meetings of September 9, October 7, and October 14, 1999. After consideration of the recommended actions regarding this project at its meeting of October 14, 1999, the Committee, by motion, recommended that the City Council and the Commission certify the environmental findings and the terms and conditions of the proposed agreements.

FISCAL IMPACTS:

The fiscal impacts of the Project as estimated by KMA are described in more detail in Attachment No. 5 and are summarized as follows:

1. The annual revenue cumulative total by the 30th year is estimated at $136.7 million. When this revenue stream is discounted 12% for the net parking income and 10% for all other revenues, the total revenues have a present value of $30 million. By FY 2004, the annual revenue estimates include approximately $1.2 million in sales tax increment, approximately $1.6 million in property tax increment, approximately $130,000 in utility user tax increment and approximately $46,000 in business license tax increment.

2. The estimated one-time development fees received by the City in the FY 2000 are valued at $5.2 million.

3. Estimated total annual revenues and one-time development fees have a net present value of $35.2 million.

4. There will be approximately 1,373 new permanent jobs created by the Project. The restaurant component creates the most jobs per square foot at 10 jobs per 1,000 square feet of space. New construction jobs are estimated to be 1,715.

In addition, the City's investment in the three parking facilities and other public improvements will be $26 million. The City plans to issue Certificates of Participation. The debt service on these Certificates is projected to be approximately $2.3 million annually. During the first two years of operations, it is anticipated that parking facility revenues will not be adequate to fully cover debt service and the accumulated shortfall is projected to be $1.46 million. Beginning in the third full year of operations, net operating revenues from the three parking facilities are anticipated to provide adequate cashflow to fully cover the debt service and to begin repaying the City for any advances provided. As described above, addition to parking revenue (but not specifically factored into any cashflow analysis) is the incremental sales tax and business license revenue projected to accrue to the City, as well as property tax increment and utility user tax increment.

Respectfully submitted,

Cynthia Kurtz

CYNTHIA J. KURTZ
City Manager/Chief Executive Officer

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Attachments:	No. 1	Site Plan and Preliminary Concept Plans
	No. 2	Summary of Essential Terms and Conditions for Proposed Agreements
	No. 3	Updated KMA Description and Analysis of Proposed City Investment
	No. 4	Project Schedule
	No. 5	KMA Estimates of Project Impacts

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