



# City Council Agenda Report

ITEM NO. 15

**DATE:** October 2, 2019

**FROM:** Stephanie DeWolfe, City Manager *J.*

**PREPARED BY:** Margaret Lin, Manager of Long Range Planning and Economic Development *M.L.*

**SUBJECT:** **Authorize the South Pasadena Housing Authority to Enter Into a Memorandum of Understanding with Heritage Housing Partners, New Prospect Housing, LLC, and New Economics for Women to Purchase the Remaining State Route 710 Phase I Surplus Properties for Affordable Housing Purposes**

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## Recommendation

It is recommended that the City Council authorize the South Pasadena Housing Authority to enter into a Memorandum of Understanding (MOU) with Heritage Housing Partners (HHP), New Prospect Housing, LLC (NPH), and New Economics for Women (NEW) to purchase the remaining State Route 710 (SR-710) Phase I surplus properties for affordable housing purposes.

## Commission Review and Recommendation

This matter was not reviewed by a commission.

## Discussion/Analysis

The Caltrans surplus SR-710 properties provide a unique opportunity to preserve and/or provide affordable housing. Caltrans has specified that only registered HREs that have been approved by Caltrans may submit a reasonable price statement under Priority 4: Public or Private HREs. The City is a Designated HRE and is granted a slightly higher order of priority in comparison to other public or private HREs. However, the City lacks the funding and expertise necessary to improve and maintain the properties as affordable housing. City Staff issued a Request for Qualifications from interested Caltrans registered HREs to identify potential partners to utilize the City's Designated HRE status. Based on the proposals submitted the City will establish a MOU to partner with HHP, NPH, and NEW to purchase the remaining Phase I surplus properties. HHP, NPH, and NEW have the expertise and necessary funding to purchase and maintain the properties for affordable housing purposes.

## Background

On June 4, 2018, Caltrans offered six surplus properties to the City and other HREs for purchase. Subsequently, the City submitted letters of interest and attended the open houses for each of the properties. Caltrans requested that the HREs provide a reasonable price statement (bid) for the

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properties that they were interested in purchasing by July 17, 2018. Due to the lack of available funding or qualified buyers for a side-by-side escrow, the City did not submit a reasonable price statement for the properties.

On January 21, 2019, the City issued a Professional Services Agreement with HHP to conduct a feasibility analysis of the affordable housing opportunities associated with the surplus properties. The HHP report provided an overview of the current ASP process, explored the possibilities for a double-escrow, and included an evaluation of the surplus properties. HHP found that the ASP process is extremely complicated and does not follow standard property acquisition practices. In addition, the lack of available information regarding existing tenants and property conditions further adds to the risk of acquiring the properties. Based on the ASP requirements a double-escrow or side-by-side escrow can only be completed between approved HREs. This provision provides the City with an opportunity to partner with other HREs to provide affordable housing.

**Next Steps**

1. Caltrans will review the Reasonable Price Statements and provide further guidance regarding the escrow process and timeline

**Legal Review**

The City Attorney has reviewed this item.

**Fiscal Impact**

There is no immediate fiscal impact associated with this report

**Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

**Attachments:**

1. Memorandum of Understanding with Heritage Housing Partners and New Prospect Housing
2. Memorandum of Understanding with New Economics for Women

**ATTACHMENT 1**  
Memorandum of Understanding with New  
Economics for Women

## MEMORANDUM OF UNDERSTANDING

The following is a Memorandum of Understanding (“MOU”) between the City of South Pasadena, a municipal corporation (City), the South Pasadena Housing Authority, a public body, corporate and politic (Authority), and New Economics for Women (NEW), a California nonprofit public benefit corporation (collectively hereinafter, the “Parties”). The Parties hereby agree as follows:

### Recitals.

- A. The South Pasadena Housing Authority (Authority) is a Designated Public Housing Related Entity (HRE) pursuant to 221 CCR § 1476(s), implementing the Roberti Act. Authority desires to participate with affordable housing developers in the acquisition and development for affordable housing purposes of all remaining Phase I surplus residential properties owned by the California Transportation Authority (Caltrans) located within the City of South Pasadena along the SR-710 corridor, and more particularly described in Attachment 1 (Phase I Caltrans surplus Properties, each a “Property”).
- B. NEW is an affordable housing developer and recognized Private Housing Related Entity (HRE) pursuant to 221 CCR § 1476(r). NEW desires to participate with Authority for the acquisition from CalTrans of specified Phase I surplus residential properties located within the City of South Pasadena along the SR-710 corridor, more particularly described in Attachment 2. The acquisition and development of the Phase I Properties listed on Attachment 2 is referenced as Project 1 (also each a “Unit”).
- C. NEW is an affordable housing developer (“Affordable Housing Developer”). Affordable Housing Developer proposes to provide all financing to acquire the Properties listed on Attachment 2 through a double escrow process with Authority, and rehabilitate the Properties to create affordable housing rental and sale opportunities for tenants and buyers, as described in this Agreement without any financial assistance from Authority for the acquisition, rehabilitation, sale or rental and maintenance of the Project 1 Units.
- D. Project 1 consists of the acquisition, rehabilitation, sale and/or rental of all properties listed on Attachment 2 for rental opportunities for existing Income-qualified tenants and new Income-qualified tenants (not to exceed 150% 2). Project 1 Affordable Housing Developer proposes to finance Project 1 by a combination of a purchase and construction loan from an affordable housing lender.

- E. It is understood by all parties to this Agreement that both Project 1 and Project 1 will, to the maximum extent possible, create at least 16 affordable unit, e.g. affordable to low- and moderate-income tenants or buyers.
- F. Accordingly, the contribution, transfer and use of the Project property pursuant to this Agreement, and the fulfillment generally of this Agreement are in the vital and best interests of Authority and the City of South Pasadena (the "City"), and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

NOW, THEREFORE:

1. Definitions

- a. For purposes this Agreement, the following capitalized terms shall have the following meanings
  - i. "Low-Income" means a household income household income that does not exceed 80% of the area median income, as determined by HUD and published annually by the California Department of Housing and Community Development ("HCD").
  - ii. "Moderate-Income" shall mean a household income that exceeds 80% but not 120% of the area median income, as determined by HUD and published annually by HCD.
  - iii. "Middle-Income" means a household income that exceeds 120% but not 150% of the area median income, as determined by HUD and published annually by HCD
  - iv. "Income-qualified" means a Low Income, or Moderate Income household.
  - v. "Affordable housing" means housing for sale or rent which is affordable to low- and moderate-income families [1]. .

2. Purpose of Agreement

- a. The purpose of this Agreement is to:
  - i. Preserve the Phase I Caltrans residential properties for rental or purchase by income-qualified existing tenants; and
  - ii. Provide maximum opportunity for creation of affordable housing opportunities in the City of South Pasadena for qualified Low-Income and Moderate Income purchasers and/or tenants for the Units, . Units which are

occupied by tenants who are income-qualified may be rented to the existing tenant at an affordable rent. Units which are occupied by tenants who are not income-qualified may be offered for sale to such existing tenant at market rate. [2]

### 3. Double Escrow.

- a. Subject to the terms and conditions of this Agreement and to effectuate the above purpose, Authority will participate in a double escrow arrangement with Affordable Housing Developer to transfer the Property from Caltrans to Authority and immediately thereafter to Affordable Housing Developer. Affordable Housing Developer shall complete the rehabilitation of the Units and rent or sell all Units to Low-Income or Moderate-Income tenants or purchasers. The Parties agree that all financing and funds for the acquisition and rehabilitation of the Property shall be provided by Affordable Housing Developer and that the Authority shall contribute no funds or financing in the acquisition or rehabilitation of the Property. The sale of the Property and the rehabilitation and use of the Units pursuant to this Agreement, and the fulfillment generally of the Agreement, are in the public interest and in accord with applicable federal, state and local laws and requirements.
- b. The Property is located in the City of South Pasadena and is owned by Caltrans. Subject to the terms and conditions of this Agreement, the Authority will convey fee title to the Property (through the double escrow process) to Affordable Housing Developer for Project 1.

### 4. Authority and City

- a. Authority is a public body, corporate and politic, exercising governmental functions and powers. The principal office of Authority is located at 1414 Mission Street, South Pasadena, California, 91030.
- b. City is a municipal corporation exercising governmental functions and powers, and organized and existing under the State Constitution and State laws. The principal office of Agency is located at 1414 Mission Street, South Pasadena, California, 91030.
- c. Authority and City as used in this Agreement includes any assignee of or successor to each of their rights, powers and responsibilities.

### 5. Affordable Housing Developer

- a. Project 1 Affordable Housing Developer is New Economics for Women, a California non-profit public benefit corporation, whose principal address is Prosperity Center, 303 S. Loma Drive, Los Angeles, California, 90017.

6. Conveyance of Title and Delivery of Possession

- a. A Schedule of Performance will be created by Affordable Housing Developer to outline all relevant dates for the escrow, closing, renovation and lease/sale of each of the Units to be reviewed and approved by City and Authority prior to entering escrow.
- b. Conveyance of title to the Property shall be completed on or prior to the date specified therefor in in the Schedule of Performance, or such later date as mutually agreed to in writing by City, Authority, and Affordable Housing Developer and communicated in writing to the Escrow Agent. City, Authority and Affordable Housing Developer agree to perform all acts necessary to convey title in sufficient time for escrow to be closed in accordance with the foregoing provisions.
- c. Possession of the Property shall be delivered to Affordable Housing Developer concurrently with the conveyance of title.

7. Form of Deed

- a. Authority shall convey to Affordable Housing Developer (New Economics for Women) title to the Property listed on Attachment 2, by Grant Deed consistent with this Agreement. The conveyance shall be either a transfer of the City's purchase rights to NEW during escrow or a reconveyance of the Grant Deed from CalTrans to NEW contemporaneous to the City's close of escrow with CalTrans.

8. Escrow Closing Date

- a. Subject to any mutually agreed-upon extension of time, the parties shall use their best efforts to satisfy all conditions precedent to the Closing of escrow prior to the date specified therefore in the Schedule of Performance. Authority shall not be obligated to convey the Property to Affordable Housing Developer unless all the conditions precedent to Closing have been satisfied, and such conditions precedent shall be satisfied on or before the date established for the conveyance of the Property to Developer in the Schedule of Performance.
- b. Prior to Closing, Authority and Affordable Housing Developer shall meet to review the Schedule of Performance for the purpose of identifying the minimum number of affordable housing Units to be produced.

9. Title Insurance

- a. Concurrent with the Closing of the land contribution, Affordable Housing Developer shall purchase a CLTA [3] Owner's policy (the "Owner's Title Policy") from the applicable title company.
- b. Concurrent with the issuance of the Owner's Title Policy, the applicable title company shall, if requested by Affordable Housing Developer [4], provide

Affordable Housing Developer with an endorsement to insure the amount of Developer's estimated construction costs of the Improvements.

- c. Affordable Housing Developer shall pay the total costs for Owner's Title Policy.

#### 10. Taxes and Assessments

Ad valorem taxes and assessments, if any, on the Property and taxes upon this Agreement or any rights hereunder levied, assessed, or imposed as to any period prior to or after the Closing shall be paid by Affordable Housing Developer.

#### 11. Condition of the Property

- a. The Property shall be conveyed in an "as is" condition, with no warranty, express or implied by City or Authority as to the condition of the Property or the buildings situated thereon, its soil (or water) conditions (including Hazardous Materials), its geology, or the presence of known or unknown seismic faults.
- b. Affordable Housing Developer shall have the right and responsibility to investigate and determine the soil and seismic conditions of the Property and their suitability for the Project. Affordable Housing Developer shall perform all work necessary to grade, clear, and prepare the Property and to investigate and determine the soil conditions of the Property (including Hazardous Materials) and the suitability of the Property for the Project. If any conditions of the Property or any portion thereof are not in all respects entirely suitable for the Project, then it is the sole responsibility and obligation of Developer to take such action as may be necessary to remediate such conditions and place the Property in all respects in a condition entirely suitable for the development of the Project thereon.

#### 12. Financing

Affordable Housing Developer shall provide applicable financing to close escrow in the time required by Caltrans for the purchase of the Property. Under no circumstances shall City or Authority be responsible for any purchase costs for the Property, any financing, or costs of escrow should the Property fail to Close escrow. Affordable Housing Developer's failure to acquire financing as required under this Agreement shall result in termination of this Agreement.

#### 13. Use of the Property

- a. NEW covenants and agrees (for itself, its successors, its assignees) that it shall use the Project 1 Property exclusively to provide at least 16 Units of affordable housing for Low- and Moderate-Income renters at rents affordable to the Income-qualified tenant. The Parties agree to review the terms of this Agreement and update it as needed to update the actual production of affordable housing Units.
  - i. Units will be offered for rent to existing income-qualified Caltrans tenants of the applicable Unit who are Low- or Moderate-Income families.



- ii. Units will be offered for purchase to the existing tenants of the applicable Unit who are Middle-Income Homebuyers. Affordable Housing Developer may offer such Units at market-rate.
- iii. Remaining rental Units will be offered to income-qualified tenants at an affordable rent, with priority given to existing South Pasadena residents and persons employed in the City of South Pasadena.

b. If NEW decides it must sell any one or more of the Units:

- i. If to an existing tenant who is a Middle-Income, Moderate-Income, or Low-Income renter, NEW will sell the Unit at fair market value and endeavor to obtain soft-second financing to enhance the purchaser's ability to acquire the Unit. Alternatively, should the Authority require the Unit for the purpose of compliance with its Regional Housing Needs Assessment for Low- and Moderate-income housing, NEW will sell the Unit at an affordable price to an income-qualified purchaser, subject to an affordability covenant, and a Right of First Refusal to NEW to purchase the Unit at the affordable price (as required by the primary lender) to re-rent or re-sell to a subsequent Income-qualified Low- or Moderate-income family.
- ii. If the sale is to any other purchaser, NEW will sell at fair market value and attach a covenant to require a Right of First Refusal to NEW to purchase the Unit at fair market to re-rent or re-sell to tenants or purchasers for Low-, Middle- and Moderate-income persons.
- iii. Affordability restrictions in the form of a recorded covenant will be placed on all affordable housing units (exclusively available to Low- and Moderate-income tenants) pursuant to CalTrans requirements under the Roberti Act.

14. Marketing of the Property

- a. Affordable Housing Developer covenants and agrees that it shall endeavor to market the greatest number of Units for rental or sale to income-qualified families.
- b. All vacant Units offered for rent or sale by Affordable Housing Developer are to be marketed with priority to income-qualified individuals/families in the following order of priority:
  - i. South Pasadena residents
  - ii. Persons employed within the City of South Pasadena
  - iii. other renters who are income-qualified
  - iv. market rate purchasers

15. Relationship of City, Authority and Affordable Housing Developer

Nothing contained in this Agreement or in any other document or instrument made in connection with this Agreement shall be deemed or construed to create a partnership, tenancy in common, joint tenancy, joint venture, or co-ownership by or between City, Authority, and Affordable Housing Developer. City and Authority shall not be in any way responsible or liable for the debts, losses, obligations, or duties of Affordable Housing Developer with respect to the Property or otherwise.

#### 16. Representations and Warranties

- a. As an inducement to City and Authority to enter into this Agreement and for Authority to participate in the double escrow process to convey the Property to Affordable Housing Developer, Affordable Housing Developer hereby represents and warrants to City and Authority, which representations and warranties are true and correct as of the date of this Agreement and which shall survive the Close of Escrow:
  - i. Affordable Housing Developer has the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to satisfy all obligations of Affordable Housing Developer in this Agreement or in any instrument or document referred to herein (referred to collectively as the “Affordable Housing Developer’s Obligations”);
  - ii. This Agreement and all documents required hereby to be executed by Affordable Housing Developer are, and shall be, valid, legally binding obligations of and enforceable against Affordable Housing Developer in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally;
  - iii. There is no charter, bylaw, or capital stock provision of Affordable Housing Developer, and no provision of any indenture, instrument, or agreement, written or oral, to which Affordable Housing Developer is a party or which governs the actions of Affordable Housing Developer or which is otherwise binding upon Affordable Housing Developer or Affordable Housing Developer’s property, nor is there any statute, rule, or regulation, or any judgment, decree, or order of any court or agency binding on Affordable Housing Developer or Affordable Housing Developer’s property which would be contravened by the execution, delivery, or performance of any of Affordable Housing Developer’s Obligations;
  - iv. To Affordable Housing Developer’s reasonable knowledge, there is no action, suit, or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of Affordable Housing Developer, threatened against or affecting Affordable Housing Developer, or any properties or rights of Affordable Housing Developer, which could reasonably be expected

materially to impair the right of Affordable Housing Developer to execute or perform any of Affordable Housing Developer's Obligations;

- v. To Affordable Housing Developer's reasonable knowledge, neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of Affordable Housing Developer's Obligations, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referenced herein, conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which Affordable Housing Developer is a party;
  - vi. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against Affordable Housing Developer, nor are any of such proceedings contemplated by Affordable Housing Developer;
  - vii. All reports, documents, instruments, information, and forms of evidence delivered to City and Authority concerning or required by this Agreement are accurate, correct and sufficiently complete to give City and Authority true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission;
  - viii. No representation, warranty or statement of Affordable Housing Developer in this Agreement contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.
- b. As an inducement to Affordable Housing Developer to enter into this Agreement and develop the Property as provided herein, City and Authority hereby represent and warrant to Affordable Housing Developer, which representations and warranties are true and correct as of the date of this Agreement and which shall survive the Close of Escrow:
- i. City and Authority have the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby;
  - ii. This Agreement and all documents required hereby to be executed by City and Authority are, and shall be, valid, legally binding obligations of and enforceable against City and Authority in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally;

- iii. There is no charter or bylaw of City or Authority, and no provision of any indenture, instrument, or agreement, written or oral, to which City or Authority is a party or which governs the actions of Authority or which is otherwise binding upon City or Authority or City or Authority's property, nor is there any statute, rule, or regulation, or any judgment, decree, or order of any court or agency binding on City or Authority or City or Authority's property, which would be contravened by the execution, delivery, or performance of this Agreement or any documents required hereby to be executed by City and Authority;
- iv. There is no action, suit, or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of City or Authority, threatened against or affecting City or Authority, or any properties or rights of Authority, which, if adversely determined, would materially impair the right of City or Authority to execute or perform its obligations under this Agreement or any documents required hereby to be executed by Authority, or would materially adversely affect the financial condition of City or Authority;
- v. Neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, lease or other agreements or instruments to which City or Authority is a party;
- vi. To the best of City and Authority's knowledge, there are no pending, threatened, or contemplated actions, suits, arbitrations, claims, or proceedings, at law or in equity, affecting the Property or in which City or Authority is, or to the best of City or Authority's knowledge will be, a party by reason of this Agreement, including but not limited to, judicial, municipal or administrative proceedings in eminent domain, unlawful detainer or tenant evictions, collections, alleged building code, health and safety or zoning violations, employment discrimination or unfair labor practices, or workers' compensation, personal injuries, or property damages;
- vii. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against City or Authority, nor are any of such proceedings contemplated by Authority;
- viii. All reports, documents, instruments, information, and forms of evidence delivered to Affordable Housing Developer concerning or required by this

Agreement are accurate, correct, and sufficiently complete to give Affordable Housing Developer true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission;

- ix. No representation, warranty or statement of City or Authority in this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading;
- c. Each party's representations and warranties made in this Section 13 shall be continuing, and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade in a separate certificate at that time. The truth and accuracy of each party's representations and warranties made herein shall constitute a condition for the benefit of the other party to the performance of such other party's obligations hereunder.

#### 17. Scope of Development

- a. The Project 1 Property shall be developed in accordance with and within the limitations approved by City pursuant to this Agreement and permits issued by City.
- b. All rehabilitation, repair and remodeling of any Property which has been identified by the City of South Pasadena as "historic" or within a "historic district" as identified by the City of South Pasadena inventory of cultural resources shall comply with the requirements of City Municipal Code Chapter 2, Article IVH and the applicable Secretary of Interior Standards for the Treatment of Historic Properties.

#### 18. Maintenance of the Property

- a. Affordable Housing Developer covenants and agrees Affordable Housing Developer shall maintain the Property in good repair and free from any accumulation of debris, graffiti or waste materials, maintain the landscaping required to be planted in a healthy and attractive condition, and take all other actions necessary to maintain and ensure the neat and clean appearance of the Property. The Property shall be maintained in a professional manner. In the event Affordable Housing Developer fails to comply with this Section, City or Authority, on two (2) weeks' prior written notice, may cause such compliance and upon the completion thereof, its cost shall be borne by Affordable Housing Developer and until paid, shall be a lien against the Property under the authority of and pursuant to relevant City code requirements, and in no instance more burdensome than current code requirements for other City properties.

#### 19. Progress Meetings

As necessary, during the preparation of all drawings and plans, Authority staff, City staff, and Affordable Housing Developer shall hold regular progress meetings to update City as

to Affordable Housing Developer's preparation of, submission of, and review of construction plans and related documents, and identify the specific affordable Units to be produced. City staff and Affordable Housing Developer shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents to City and Agency can receive prompt and speedy consideration.

## 20. Obligation to Refrain from Discrimination

- a. Affordable Housing Developer, for itself and its successors and assigns, agrees that during the construction of the Improvements provided for in the Agreement, Affordable Housing Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- b. Affordable Housing Developer covenants and agrees for itself, its successors and assigns, there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Developer, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

## 21. Effect of Violation of the Terms and Provisions of this Agreement

- a. City and Authority are deemed beneficiaries of the terms and provisions of this Agreement and the covenants herein, both for and in their own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. City and Authority shall have the right if the covenants contained in this Agreement are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants are entitled.
- b. Prior to the Close of Escrow, any Party<sup>(s)</sup> may cancel this Agreement upon thirty (30) days' notice in writing. Paragraph 22 shall survive termination of this Agreement.

## 22. Indemnities.

(a) **Indemnification.** During the period commencing with the Closing and until the issuance of the Certificate of Completion (the "Indemnification Period"), except for the sole negligence or willful misconduct of City or Authority, or their respective officers, employees, contractors or agents, each Affordable Housing Developer agrees to and shall defend, indemnify, and hold harmless City and Authority and each of their respective officers, employees, contractors, and agents from and against all claims, liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person

arising out of or related to actions contemplated by this Agreement or caused by Affordable Housing Developer or its officers, employees, contractors, or agents, including, but not limited to (1) Affordable Housing Developer's pre-development, construction, development, marketing, sale or use of the Property in any way, (2) any plans or designs for Improvements prepared by or on behalf of Affordable Housing Developer, including, without limitation, any errors or omissions with respect to such plans or designs, or (3) any loss or damage to City or Authority resulting from any inaccuracy in or breach of any representation or warranty of Affordable Housing Developer, or resulting from any breach or default by Affordable Housing Developer under this Agreement. The foregoing indemnities shall not terminate upon the issuance of the Certificate of Completion, but shall survive with respect to all applicable causes of action that accrued during the Indemnification Period.

(b) Affordable Housing Developer shall indemnify, protect, and hold harmless City, Authority, and each of their officers, employees, and agents from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the Obligations) which may at any time be imposed upon, incurred by, or asserted or awarded against City, Authority, or any of their officers or employees, arising from or out of the presence of any Hazardous Substances or Materials on, in, under, or affecting all or any portion of the Property while Affordable Housing Developer owns the Property; provided, that as among the parties, no party shall have any liability or obligation whatsoever for any event or condition of any kind or nature existing on or before that party became fee owner of the Property including, without limitation, any liability relating to the presence or release of any Hazardous Substances or Materials on, in, under or affecting all or any portion of the Property or any surrounding areas which occurred or existed prior to that party becoming fee owner of the Property. "Hazardous Substances" shall include, but not be limited to, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq.; and those substances defined as "hazardous waste" in Section 25117 of the California Health and Safety Code, as "infectious waste" in Section 25117.5 of the California Health and Safety Code, or as "hazardous substances" in Section 25316 of the California Health and Safety Code or "hazardous materials" as defined in Section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws.

THE CITY OF SOUTH PASADENA HOUSING  
AUTHORITY

Dated: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SOUTH PASADENA

Dated: \_\_\_\_\_

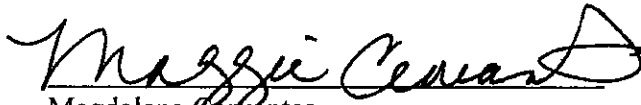
By: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney/General Counsel

NEW ECONOMICS FOR WOMEN, a California nonprofit public benefit corporation

Dated: \_\_\_\_\_

  
Magdalena Cervantes  
Executive Director



**ATTACHMENT NO. 1**

**[SEE ATTACHED]**

**(List of all Caltrans Properties in Phase I**

FID	PropType	SaleStatus	Sqft	Beds	Bath	Address
0	Single Family Residence	Notice Conditional Offer	1,818	5	1	5524 Kendall Avenue, Los Angeles, CA 90032
1	Single Family Residence	Notice Conditional Offer	1,367	2	1.5	863 Monterey Road, South Pasadena, CA 91030
2	Single Family Residence	Notice Conditional Offer	1,650	2	1.5	5501 Berkshire Drive, Los Angeles, CA 90032
3	Single Family Residence	Notice Conditional Offer	3,080	4	3	5500 Atlas Street, Los Angeles, CA 90032
4	Single Family Residence	Notice Conditional Offer	1,678	2	1	5512 Atlas Street, Los Angeles, CA 90032
5	Single Family Residence	Notice Conditional Offer	1,920	3	1.5	5506 Atlas Street, Los Angeles, CA 90032
6	Single Family Residence	Notice Conditional Offer	1,770	2	1.5	5513 Atlas Street, Los Angeles, CA 90032
7	Single Family Residence	Sold	1,012	3	1	1109 Grevelia Street, South Pasadena, CA 91030
8	Single Family Residence	Notice Conditional Offer	1,102	2	2	773 Bonita Drive, South Pasadena, CA 91030
9	Multi-Family Residence	Notice Conditional Offer	See Details.	See Details.	See Details.	626 Prospect Avenue, South Pasadena, CA 91030
10	Single Family Residence	Notice Conditional Offer	1,408	2	1	530 Orange Grove Avenue, South Pasadena, CA 91030
11	Single Family Residence	Notice Conditional Offer	1,681	3	1	1101 Pine Street, South Pasadena, CA 91030
12	Single Family Residence	Notice Conditional Offer	1,470	2	2	815 Bonita Drive, South Pasadena, CA 91030
13	Single Family Residence	Sold	1,423	3	1	2035 Berkshire Avenue, South Pasadena, CA 91030
14	Single Family Residence	Sold	1,817	2	1	852 Monterey Road, South Pasadena, CA 91030
15	Single Family Residence	Notice Conditional Offer	1,118	2	1	822 Valley View Road, South Pasadena, CA 91030
16	Single Family Residence	Notice Conditional Offer	1,114	2	1	885 Oneonta Drive, South Pasadena, CA 91030
17	Single Family Residence	Notice Conditional Offer	964	1	1	705 Bonita Drive, South Pasadena, CA 91030
18	Single Family Residence	Sold	1,222	2	1	910 Bonita Drive, South Pasadena, CA 91030
19	Single Family Residence	Notice Conditional Offer	2,810	4	3.5	400 Prospect Circle, South Pasadena, CA 91030
20	Single Family Residence	In escrow	1,304	3	2	268 Waverly Drive, Pasadena, CA 91105
21	Single Family Residence	Notice Conditional Offer	1,220	3	1	816 Bonita Drive, South Pasadena, CA 91030
22	Single Family Residence	Notice Conditional Offer	1,184	2	1	1821 Meridian Avenue, South Pasadena, CA 91030
23	Single Family Residence	Notice Conditional Offer	1,654	2	1	801 Bonita Drive, South Pasadena, CA 91030
24	Multi-Family Residence	Notice Conditional Offer	See Details.	See Details.	See Details.	0 Bonita Drive, South Pasadena, CA 91030
25	Single Family Residence	Sold	1,174	3	1	2011 Cambridge Place, South Pasadena, CA 91030
26	Single Family Residence	Notice Conditional Offer	1,276	2	1.5	808 Valley View Road, South Pasadena, CA 91030
27	Single Family Residence	Notice Conditional Offer	2,132	4	2	1131 Glendon Way, South Pasadena, CA 91030
28	Single Family Residence	Sold	1,581	2	2	265 Waverly Drive, Pasadena, CA 91105
29	Single Family Residence	Notice Conditional Offer	1,032	2	1	901 Bonita Drive, South Pasadena, CA 91030
30	Single Family Residence	Notice Conditional Offer	1,131	2	1	1707 Meridian Avenue, South Pasadena, CA 91030
31	Single Family Residence	Notice Conditional Offer	1,784	3	2	511 Prospect Avenue, South Pasadena, CA 91030
32	Single Family Residence	Notice Conditional Offer	1,119	2	1	540 Prospect Avenue, South Pasadena, CA 91030
33	Single Family Residence	Notice Conditional Offer	2,909	3	1.75	495 Prospect Avenue, South Pasadena, CA 91030
34	Single Family Residence	Sold	1,500	3	1	2007 Cambridge Place, South Pasadena, CA 91030
35	Single Family Residence	Notice Conditional Offer	1,839	3	1	2028 Berkshire Avenue, South Pasadena, CA 91030
36	Single Family Residence	Sold	927	2	1	532 Meridian Avenue, South Pasadena, CA 91030

37	Single Family Residence	Notice Conditional Offer	1,149	3	1	533 Prospect Avenue, South Pasadena, CA 91030
38	Single Family Residence	Notice Conditional Offer	1,107	2	1	529 Prospect Avenue, South Pasadena, CA 91030
39	Single Family Residence	Notice Conditional Offer	3,778	4	1	535 Meridian Avenue, South Pasadena, CA 91030
40	Single Family Residence	Notice Conditional Offer	1,650	2	1	534 Orange Grove Avenue, South Pasadena, CA 91030
41	Single Family Residence	Sold	See Details.	See Details.	See Details.	385 Havendale Drive, Pasadena, CA 91105

**ATTACHMENT NO. 2**

**[SEE ATTACHED]**

(List of Caltrans Properties to be purchased by NEW)

**Summary of Caltrans Phase 1 Request for Reasonable Price Statements—South Pasadena**

<b>Bundle</b>	<b>Property Addresses</b>	<b># of Units</b>	<b># of Bed/Bathrooms</b>	<b>Square Footage</b>	<b>Minimum Bid</b>		<b>Occupied</b>	<b>Vacant</b>
#3	705 Bonita Drive	1	1/1	879	\$206,200		1	0
	1832 Gillette Crescent	1	2/1	1,406			0	1
	823 Bonita Drive	1	3/2	1,388	\$514,000		0	1
	825 Bonita Drive	1	1/1	746			1	0
#4	815 Bonita Drive	1	3/2	1,470	\$380,200		1	0
	801 Bonita Drive	1	2/1.5	1,654	\$191,800		1	0
#5	540 Prospect Avenue	1	2/1	1,119	\$265,600		1	0
	529 Prospect Avenue	1	2/1	1,107	\$548,600		1	0
	533 Prospect Avenue	1	3/1	1,149	\$177,900		1	0
#7	885 Oneonta Drive	1	2/1	1,114	\$210,100		1	0
	1101 Pine Street	1	3/1	1,681	\$163,500		1	0
	1821 Meridian Avenue	1	2/1	1,184	\$117,900		1	0
	1707 Meridian Avenue	1	2/1	1,131	\$123,300		1	0
#8	495 Prospect Circle	1	6/1	2,909	\$278,700		1	0
	901 Bonita Drive	1	2/1	1,032	\$122,900		0	1
	400 Prospect Circle	1	4/3.5	1,937	\$408,100		1	0
<b>Total</b>		<b>16</b>		<b>21,027</b>	<b>\$3,708,800</b>		<b>13</b>	<b>3</b>
<b>Average</b>				<b>1,314</b>	<b>\$231,800</b>			

**ATTACHMENT 2**  
Memorandum of Understanding with Heritage  
Housing Partners and New Prospect Housing

## MEMORANDUM OF UNDERSTANDING

The following is a Memorandum of Understanding (“MOU”) between the City of South Pasadena, a municipal corporation (City), the South Pasadena Housing Authority, a public body, corporate and politic (Authority), and New Prospect Development, LLC, a California limited liability company (NPD) (collectively hereinafter, the “Parties”). The Parties hereby agree as follows:

### Recitals.

- A. The South Pasadena Housing Authority (Authority) is a Designated Public Housing Related Entity (HRE) pursuant to 21 CCR §1476 (s), implementing the Roberti Act. Authority desires to participate with NPD in the acquisition and development for affordable housing purposes certain Phase I surplus residential property owned by the California Transportation Authority (Caltrans) located within the City of South Pasadena along the SR-710 corridor, more particularly described below.
- B. NPD is an affordable housing developer that desires to participate with the Authority for the acquisition from Caltrans of surplus residential property located at 626 Prospect Avenue within the City of South Pasadena--a multifamily building containing twelve (12) residential Units (Property) which is more particularly described in the Reasonable Price Offer submitted to Caltrans, a copy of which is included as Attachment 1. The acquisition and development of the Property is referenced as the “Project”.
- C. NPD proposes to provide all financing to acquire the Project described on Attachment 1 through either: (1) an assignment & assumption with Authority prior to closing of Authority’s purchase rights; or (2) an assignment & assumption with Authority after transfer of the grant deed for the Property (i.e., a “double escrow”). The purpose of Authority’s assigning to NPD and NPD’s assuming from Authority of either Authority’s purchase rights or the Property grant deed is to cause the Property to be acquired, rehabilitated, and converted to a limited equity co-op (if feasible) or condominium form of ownership, such that the existing Property tenants can rent or purchase their co-op or condo units. It is understood that Authority shall not provide any financial assistance to NPD in the acquisition, development, sale or rental, and maintenance of the Project.
- D. The Project is intended to be rehabilitated and redeveloped as a Limited Equity Cooperative (LEC), if feasible, or a 12-unit condominium complex, with units which will be sold or rented by NPD to existing tenants who are Low-, Moderate-, Middle- (e.g. not exceeding 150% AMI), or Market-Income, with the remaining vacant units offered to Low-, Moderate- or Middle-Income purchasers.

- E. NPD proposes to finance the Project through a purchase and construction loan from Genesis LA, a Community Development Financial Institution. Affordability restrictions in the form of a recorded Caltrans covenant will be placed on all affordable housing units (Low- and Moderate-Income) pursuant to Caltrans requirements under the Roberti Act.
- F. It is understood by all parties to this Agreement that the Project will, to the maximum extent possible, create at least six (6) affordable units.
- G. The contribution, transfer, and use of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of Authority and the City, and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.

NOW, THEREFORE:

1. Purpose of Agreement

- a. The purpose of this Agreement is to: (i) preserve the Phase I Caltrans surplus residential property for income-qualified existing tenants for rental or purchase; and (ii) provide affordable housing opportunities in the City for qualified Low- and Moderate-Income purchasers and/or tenants for the Units which are not offered to the existing tenants.

2. Assignment & Assumption of the Purchase and Sale Agreement or Double Escrow.

- a. Subject to the terms and conditions of this Agreement and to effectuate the above purpose, Authority will participate in either: (i) an assignment & assumption of the Authority's purchase rights; or (ii) an assignment and assumption of the Property grant deed. If an assignment of purchase rights, the Authority will assign its executed Purchase and Sale Agreement with Caltrans to NPD during escrow. If an assignment of the grant deed, Caltrans will transfer the grant deed for the Property to Authority and Authority will immediately transfer the grant deed to NPD (subject to an escrow instruction that will require NPD to fund the purchase of the Property). NPD shall complete the rehabilitation of the Units and rent or sell all currently occupied Units to Low-, Moderate-, Middle-, or Market-Income existing tenants, and sell the currently unoccupied Units to Low-, Moderate-, Middle-, or Market-Income first-time homebuyers. The sale of the Property and the rehabilitation and use of the Units pursuant to this Agreement, and the fulfillment generally of the Agreement, are in the public interest and in accord with applicable federal, state and local laws and requirements.
- b. The Property is located in the City of South Pasadena and is owned by Caltrans. Subject to the terms and conditions of this Agreement, the Authority will convey either their purchase rights or fee title to the Property (through the double escrow or assignment process) to NPD for the Project.



### 3. Authority and City

- a. Authority is a public body, corporate and politic, exercising governmental functions and powers. The principal office of Authority is located at 1414 Mission Street, South Pasadena, California, 91030.
- b. City is a municipal corporation exercising governmental functions and powers, and organized and existing under the State Constitution and State laws. The principal office of Agency is located at 1414 Mission Street, South Pasadena, California, 91030.
- c. Authority and City as used in this Agreement includes any assignee of or successor to each of their rights, powers, and responsibilities.

### 4. Affordable Housing Developer

- a. The Developer of the Project is New Prospect Development, LLC, a California limited liability company, whose principal address is 608 North Fair Oaks Avenue, #126, Pasadena, California, 91103. There are two Members of New Prospect Development, LLC, including Heritage Housing Partners, a California nonprofit public benefit corporation, who will serve as Managing Member, and New Prospects Housing, a California limited liability company consisting of the current tenants of Property.

### 5. Conveyance of Title and Delivery of Possession

- a. Conveyance of title to the Property shall be completed on or prior to the date specified therefor in the Schedule of Performance, or such later date as mutually agreed to in writing by City, Authority, and NPD, and communicated in writing to the Escrow Agent. City, Authority, and NPD agree to perform all acts necessary to convey title in sufficient time for escrow to be closed in accordance with the foregoing provisions.
- b. Possession of the Property shall be delivered to NPD concurrently with the conveyance of title.

### 6. Form of Deed

- a. Authority shall convey to NPD either: (i) its purchase rights per an assignment of the Purchase and Sale Agreement between Authority (Buyer) and Caltrans (Seller); or (ii) title to the Property per an assignment of the Grant Deed in the form attached hereto as Attachment No. 2 consistent with this Agreement.

### 7. Closing Date

- a. Subject to any mutually agreed-upon extension of time, the parties shall use their best efforts to satisfy all conditions precedent to the Closing prior to the date specified therefore in the Schedule of Performance. Authority shall not be obligated

to convey the Property to NPD unless all the conditions set forth in the Method of Financing as conditions precedent to Closing have been satisfied, and such conditions precedent shall be satisfied on or before the date established for the conveyance of the Property to NPD in the Schedule of Performance.

#### 8. Title Insurance

- a. Concurrent with the Closing of the Property, the applicable title company shall be prepared to issue to NPD a CLTA Owner's policy (the "Owner's Title Policy").
- b. Concurrent with the issuance of the Owner's Title Policy, the applicable title company shall, if requested by NPD, provide NPD with an endorsement to insure the amount of NPD's estimated rehabilitation costs for the Property.
- c. NPD shall pay the total costs for Owner's Title Policy.

#### 9. Taxes and Assessments

Ad valorem taxes and assessments, if any, on the Property and taxes upon this Agreement or any rights hereunder levied, assessed, or imposed as to any period prior to or after the Closing shall be paid by NPD.

#### 10. Condition of the Property

- a. The Property shall be conveyed in an "as is" condition, with no warranty, express or implied by City or Authority as to the condition of the Property or the buildings situated thereon, its soil (or water) conditions (including Hazardous Materials), its geology, or the presence of known or unknown seismic faults.
- b. NPD shall have the right and responsibility to investigate and determine the soil and seismic conditions of the Property and their suitability for their Project. NPD shall perform all work necessary to investigate and determine the soil conditions of the Property (including Hazardous Materials) and the suitability of the Property for the Project. If any conditions of the Property or any portion thereof are not in all respects entirely suitable for the Project, then it is the sole responsibility and obligation of the NPD to take such action as may be necessary to remediate such conditions and place the Property in all respects in a condition entirely suitable for the development of the Project thereon.

#### 11. Financing

NPD shall provide applicable financing to close escrow in the time required by Caltrans for the purchase of the Property (Method of Financing). Under no circumstances shall City or Authority be responsible for any purchase or financing costs for the Property. Failure to provide financing as required shall result in termination of this Agreement. Neither City nor Authority shall be responsible for any escrow costs, regardless of whether the Property Closes escrow.

## 12. Relationship of City, Authority, and NPD

Nothing contained in this Agreement or in any other document or instrument made in connection with this Agreement shall be deemed or construed to create a partnership, tenancy in common, joint tenancy, joint venture, or co-ownership by or between City, Authority, and NPD. City and Authority shall not be in any way responsible or liable for the debts, losses, obligations, or duties of NPD with respect to the Property or otherwise.

## 13. Representations and Warranties

- a. As an inducement to City and Authority to enter into this Agreement and for Authority to participate in the assignment & assumption process to convey the Property to NPD, NPD hereby represents and warrants to City and Authority, which representations and warranties are true and correct as of the date of this Agreement and which shall survive the Close of Escrow:
  - i. NPD has the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to satisfy all obligations of NPD in this Agreement or in any instrument or document referred to herein (referred to collectively as the "NPD's Obligations");
  - ii. This Agreement and all documents required hereby to be executed by NPD are, and shall be, valid, legally binding obligations of, and enforceable against NPD in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws, or similar laws or equitable principles affecting or limiting the rights of contracting parties generally;
  - iii. There is no charter, bylaw, or capital stock provision of NPD, and no provision of any indenture, instrument, or agreement, written or oral, to which NPD is a party or which governs the actions of NPD or which is otherwise binding upon NPD or NPD's property, nor is there any statute, rule, or regulation, or any judgment, decree, or order of any court or agency binding on NPD or NPD's property which would be contravened by the execution, delivery, or performance of any of NPD's Obligations;
  - iv. To NPD's reasonable knowledge, there is no action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of NPD, threatened against or affecting NPD, or any properties or rights of NPD, which could reasonably be expected materially to impair the right of NPD to execute or perform any of NPD's Obligations;
  - v. To NPD's reasonable knowledge, neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of NPD's Obligations, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents

referenced herein, conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which NPD is a party;

- vi. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against NPD, nor are any of such proceedings contemplated by NPD;
  - vii. All reports, documents, instruments, information, and forms of evidence delivered to City and Authority concerning or required by this Agreement are accurate, correct, and sufficiently complete to give City and Authority true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission;
  - viii. No representation, warranty, or statement of NPD in this Agreement contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.
- b. As an inducement to NPD to enter into this Agreement and develop the Property as provided herein, City and Authority hereby represent and warrant to NPD which representations and warranties are true and correct as of the date of this Agreement and which shall survive the Close of Escrow:
- i. City and Authority have the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby;
  - ii. This Agreement and all documents required hereby to be executed by City and Authority are, and shall be, valid, legally binding obligations of, and enforceable against City and Authority in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws, or similar laws, or equitable principles affecting or limiting the rights of contracting parties generally;
  - iii. There is no charter or bylaw of City or Authority, and no provision of any indenture, instrument, or agreement, written or oral, to which City or Authority is a party or which governs the actions of Authority, or which is otherwise binding upon City or Authority or City's or Authority's property, nor is there any statute, rule, or regulation, or any judgment, decree, or order of any court or agency binding on City or Authority or City's or Authority's property, which would be contravened by the execution, delivery, or performance of this Agreement or any documents required hereby to be executed by City and Authority;

- iv. There is no action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of City or Authority, threatened against or affecting City or Authority, or any properties or rights of Authority, which, if adversely determined, would materially impair the right of City or Authority to execute or perform its obligations under this Agreement or any documents required hereby to be executed by Authority, or would materially adversely affect the financial condition of City or Authority;
- v. Neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referenced herein, conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, lease, or other agreements or instruments to which City or Authority is a party;
- vi. To the best of City and Authority's knowledge, there are no pending, threatened, or contemplated actions, suits, arbitrations, claims, or proceedings, at law or in equity, affecting the Property, or in which City or Authority is, or to the best of City's or Authority's knowledge will be, a party by reason of this Agreement, including but not limited to, judicial, municipal, or administrative proceedings in eminent domain, unlawful detainer or tenant evictions, collections, alleged building code, health and safety, or zoning violations, employment discrimination or unfair labor practices, or workers' compensation, personal injuries, or property damages;
- vii. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against City or Authority, nor are any of such proceedings contemplated by Authority;
- viii. All reports, documents, instruments, information, and forms of evidence delivered to NPD concerning or required by this Agreement are accurate, correct, and sufficiently complete to give NPD true and accurate knowledge of their subject matter, and do not contain any misrepresentation or omission;
- ix. No representation, warranty, or statement of City or Authority in this Agreement contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading;

- c. Each party's representations and warranties made in this Section 13 shall be continuing, and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade in a separate certificate at that time. The truth and accuracy of each party's representations and warranties made herein shall constitute a condition for the benefit of the other party to the performance of such other party's obligations hereunder.

#### 14. Scope of Development

- a. The Property shall be developed in accordance with and within the limitations approved by City pursuant to this Agreement and permits issued by City.
- b. All rehabilitation, repair, and remodeling of any Property which has been identified by the City of South Pasadena as "historic" or within a "historic district" as identified by the City of South Pasadena's inventory of cultural resources shall comply with the requirements of City Municipal Code Chapter 2, Article IVH and the applicable Secretary of Interior Standards for the Treatment of Historic Properties.

#### 15. Nondiscrimination During Construction

NPD, for itself and its successors and assigns, agrees that during the construction of the Improvements provided for in the Agreement, NPD will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

#### 16. Uses

- a. For purposes of this Agreement, the following capitalized terms shall have the following meanings
  - i. "Low-Income" means a household income that does not exceed 80% of the area median income, as determined by HUD and published annually by the California Department of Housing and Community Development ("HCD") as the Multifamily Tax Subsidy (MTSP) Income Limits for Los Angeles County.
  - ii. "Moderate-Income" shall mean a household income that exceeds 80% but not 120% of the area median income, as determined by HUD and published annually by HCD as the Multifamily Tax Subsidy (MTSP) Income Limits for Los Angeles County.
  - iii. "Middle-Income" means a household income that exceeds 120% but not 150% of the area median income, as determined by HUD and published annually by HCD as the Multifamily Tax Subsidy (MTSP) Income Limits for Los Angeles County.

- iv. "Market-Income" means a household income that exceeds 150% of the area median income, as determined by HUD and published annually by HCD as the Multifamily Tax Subsidy (MTSP) Income Limits for Los Angeles County.
- b. NPD covenants and agrees (for itself, its successors, its assignees) that it shall use the Property to maximize the number of affordable housing units for Low- or Moderate-Income Homebuyers or tenants, as is financially feasible.
  - i. For Units offered for purchase to existing Caltrans tenants of the applicable Unit who are Market-Income Homebuyers, NPD may offer such Units at market-rate sales prices.
  - ii. For Units offered for purchase to existing Caltrans tenants of the applicable Unit who are Middle-Income Homebuyers, NPD may offer such Units at Middle-Income sales prices (based on 30% of annual household income).
  - iii. For Units offered for purchase to existing Caltrans tenants of the applicable Unit who are Moderate-Income Homebuyers, NPD may offer such Units at Moderate-Income sales prices (based on 30% of annual household income).
  - iv. For Units offered for purchase to existing Caltrans tenants of the applicable Unit who are Low-Income Homebuyers, NPD may offer such Units at the Low-Income sales prices (based on 25% of annual household income).
  - v. Any Unit not purchased by its existing Caltrans tenant shall be marketed to an income-qualified Low- or Moderate-Income purchaser.
  - vi. To the extent that NPD or its Home Owners Association determines to rent any Unit, such Unit shall be marketed to and occupied by a Low- or Moderate-Income tenant.

#### 17. Marketing of the Property

- a. NPD covenants and agrees that it shall endeavor to market for rental or sale to the lowest income possible for renters or purchasers of Low- and Moderate-Income to the greatest extent as is practicable, but to no higher than Middle-Income renters or purchasers.
- b. All vacant Units offered for lease or sale by NPD are to be marketed in priority to income-qualified individuals in the following order of priority:
  - i. South Pasadena residents
  - ii. Persons who work in South Pasadena
  - iii. First-time homebuyers
  - iv. Any other renters.
- c. NPD will submit a marketing and program compliance plan to Authority prior to the sale or rental of the rehabilitated vacant Property units.

## 18. Obligation to Refrain from Discrimination

NPD covenants and agrees for itself, its successors and assigns, there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall NPD, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

## 19. Maintenance of the Property

- a. NPD covenants and agrees that NPD shall maintain the Property in good repair and free from any accumulation of debris, graffiti, or waste materials, maintain the landscaping required to be planted in a healthy and attractive condition, and take all other actions necessary to maintain and ensure the neat and clean appearance of the Property. The Property shall be maintained in a professional manner. In the event NPD fails to comply with this Section, City or Authority, on two (2) weeks' prior written notice, may cause such compliance and upon the completion thereof, its cost shall be borne by NPD and until paid, shall be a lien against the Property. NPD shall form a LEC, if feasible, or a Home Owner's Association for the Project, with by-laws to the reasonable satisfaction of Authority and City, in order to provide sufficient funding, including reserves, for the maintenance of the Property, prior to the initial sale of any Unit. Upon sale of all the Units, any Permitted Transfer, or other Transfer which is reasonably approved by Authority and City, NPD shall be released from liability under this Section upon such assignment; provided, that the Permitted Transferee assumes, in writing, all such liability under this Section during that Transferee's ownership of a Unit or the common areas, which shall be deemed to have been done upon recordation of the Grant Deed and any applicable affordability covenant. It is the intention of the parties to this Agreement that NPD's obligations pursuant to this Section shall be automatically transferred to the Limited Equity Co-op or Home Owners Association as to common areas, and to each purchaser of a Unit as to the respective Units.

## 20. Effect of Violation of the Terms and Provisions of this Agreement

City and Authority are deemed beneficiaries of the terms and provisions of this Agreement and the covenants herein, both for and in their own right, and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. City and Authority shall have the right if the covenants contained in this Agreement are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants are entitled.



## 21. Indemnities.

- a. During the period commencing with the Closing and until the issuance of the Certificate of Completion (the "Indemnification Period"), except for the sole negligence or willful misconduct of City or Authority, or their respective officers, employees, contractors or agents, NPD agrees to and shall defend, indemnify, and hold harmless City and Authority and each of their respective officers, employees, contractors, and agents from and against all claims, liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person arising out of or related to actions contemplated by this Agreement or caused by NPD or its officers, employees, contractors, or agents, including, but not limited to (1) NPD's pre-development, construction, development, marketing, sale or use of the Property in any way, (2) any plans or designs for Improvements prepared by or on behalf of NPD, including, without limitation, any errors or omissions with respect to such plans or designs, or (3) any loss or damage to City or Authority resulting from any inaccuracy in or breach of any representation or warranty of NPD, or resulting from any breach or default by NPD under this Agreement. The foregoing indemnities shall not terminate upon the issuance of the Certificate of Completion, but shall survive with respect to all applicable causes of action that accrued during the Indemnification Period.
- b. NPD shall indemnify, protect, and hold harmless City, Authority, and each of their officers, employees, and agents from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the Obligations) which may at any time be imposed upon, incurred by, or asserted or awarded against City, Authority, or any of their officers or employees, arising from or out of the presence of any Hazardous Substances or Materials on, in, under, or affecting all or any portion of the Property while NPD owns the Property; provided, that as among the parties, no party shall have any liability or obligation whatsoever for any event or condition of any kind or nature existing on or before that party became fee owner of the Property including, without limitation, any liability relating to the presence or release of any Hazardous Substances or Materials on, in, under or affecting all or any portion of the Property or any surrounding areas which occurred or existed prior to that party becoming fee owner of the Property.

THE CITY OF SOUTH PASADENA HOUSING  
AUTHORITY

Dated: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SOUTH PASADENA

Dated: \_\_\_\_\_

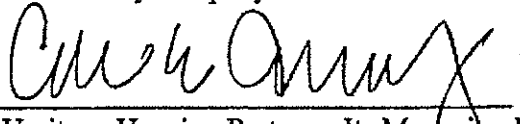
By: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney/General Counsel

NEW PROSPECT DEVELOPMENT, LLC, a California  
limited liability company

Dated: 1/26/19



By Heritage Housing Partners, Its Managing Member  
By Charles E. Loveman, Jr., Its Executive Director

**ATTACHMENT NO. 1**  
**REASONABLE PRICE STATEMENT**  
**[SEE ATTACHED]**

**Reasonable Price Statement for 626 Prospect Avenue, South Pasadena**  
**Submitted by**  
**the South Pasadena Housing Authority, a Designated Housing-Related Public Entity**  
**in association with**  
**New Prospect Development, LLC**  
**September 26, 2019**

**Introduction**

With the objective of maintaining and expanding the affordable housing supply to low- and moderate-income households, the South Pasadena Housing Authority, a Designated Housing-Related Public Entity (a "Public HRE", per 21 CCR §1476(s)), seeks to cause the purchase of 626 Prospect Avenue, South Pasadena, California 91030 ("Property") at a Reasonable Price of \$879,300. Per 21 CCR §1477(a)(4)(i) and Section 4.3 of the Draft Declaration of Covenants, Conditions, and Restrictions (CC&R's), and in response to Caltrans' Request for Reasonable Price Statement (Attachment A), the City and its Housing Authority, as a Public HRE, will team with New Prospect Development, LLC ("New Prospect Development"), a limited liability company that includes the existing 626 Prospect Avenue tenants. The Housing Authority and New Prospect Development will cause the property to be purchased, rehabilitated, and developed into an limited equity housing cooperative, if feasible, by transferring its rights and duties required under the Roberti Act, and as set forth in related laws and contracts, to New Prospect Development. New Prospect Development is a partnership between New Prospect Housing ("NPH") and Heritage Housing Partners ("HHP"). New Prospect Development's Articles of Organization are included in Attachment B.

The Property is an existing multi-family dwelling with 12 units, five of which are occupied and seven of which are vacant. New Prospect Development will invest and create decent, safe, and sanitary housing at affordable rents and/or affordable sales prices. First right of occupancy will be offered to current tenants as owner-occupants or tenants, and unoccupied units will be offered for sale to new income-qualified households as owner-occupants, with the goal of maximizing housing affordability.

**Experience**

NPH was founded in September, 2018 by current tenants of the Property, for the purpose of: (1) enabling the current tenants to purchase the Property pursuant to the procedures of the Roberti Act; and (2) providing much needed affordable housing for the current tenants and others in the community.

HHP is a California non-profit public benefit corporation with a mission to create affordable housing and neighborhood revitalization by providing affordable homeownership opportunities to low-, moderate-, and middle-income households. HHP has an interest in facilitating the purchase or rental by existing tenants at affordable sales prices or rents of Caltrans-owned multi-family properties in the City of South Pasadena, consistent with the intent of the Roberti Act. HHP's offices are located at 608 N. Fair Oaks Avenue #126, Pasadena, California 91103.

**HHP Development and Rehabilitation Experience**

HHP's mission is based upon the principle that the creation of homeownership opportunities for low-, moderate-, and middle-income first-time homebuyers results in neighborhood revitalization. Over the past twenty years, HHP has developed and sold over 187 affordable homeownership units, including rehabilitated units, with another 62 affordable units in its development pipeline. Having successfully planned, entitled, and completed eight projects since 2008, HHP understands that project proposals must

## Reasonable Price Statement for 626 Prospect Avenue, South Pasadena

be equally sensitive both to the needs of the target user (i.e., renters and homebuyers), and the surrounding community. A sample of past HHP development projects is included in Attachment C.

NPH, consisting of community members and Project residents, provides relevant historical and vital contemporary connections to the Property development. Therefore, New Prospect Development has both the technical capacity, community and political support, and the interests of the current tenants to develop the Property as affordable homeownership housing consistent with the objectives of the Roberti Act and Caltrans' Affordable Sales Program.

As a partner in New Prospect Development, HHP's experienced staff members will secure permits, hire an experienced general contractor, and manage and coordinate the rehabilitation work in collaboration with NPH.

### Funding Experience

As the following table demonstrates, HHP has substantial experience accessing affordable housing subsidies. HHP has secured funding for developments from the cities of Pasadena, Glendale, Sierra Madre, and Whittier, the County of Los Angeles, the State of California, and HUD. Since 2008, HHP has sourced over \$63 million of housing subsidies, representing an average subsidy of \$327,000 per affordable homeownership unit.

<b>HHP "Soft" Financing since 2008</b>		
	<b>Total</b>	<b>per Unit (194 units)</b>
<i>Off-Site Inclusionary Funds</i>	\$16,826,550	\$86,735
<i>City Redevelopment Funds</i>	\$16,674,651	\$85,952
<i>NMTC Equity</i>	\$12,142,426	\$62,590
<i>State BEGIN Funds</i>	\$6,853,703	\$35,328
<i>Federal HOME Funds</i>	\$5,407,242	\$27,872
<i>City Inclusionary Funds</i>	\$1,900,724	\$9,798
<i>Los Angeles County Funds</i>	\$1,838,280	\$9,476
<i>State CalHome Funds</i>	\$1,800,152	\$9,279
<b>Total</b>	<b>\$63,443,728</b>	<b>\$327,030</b>

### Property Management Experience

HHP's past projects have all been affordable homeownership developments, with operational responsibility by a Homeowners Association (HOA). For larger projects, the HOA Board hires a property manager to manage day-to-day common area maintenance and repair tasks. HHP often remains involved with our HOA's, either as a direct participant or an advisor to the Association. In this way, HHP is able to provide advice on budgeting, maintenance, and similar items. In addition, HHP has a dedicated "customer service" staff member who works with individual unit owners on any required post-completion repairs and maintenance items.

### Community Outreach Experience

HHP maintains an Interest List of over 6,000 households who are interested in affordable homeownership. HHP's in-house sales and marketing team transacts the sale of all of our low-, moderate-, and middle-

## **Reasonable Price Statement for 626 Prospect Avenue, South Pasadena**

income units to income-qualified first-time homebuyers. Among their various duties, HHP staff markets available affordable units, reviews and scores homebuyer applications, verifies household income and assets, and works with preferred mortgage lenders who have suitable loan products for first-time low- and mod- homebuyers.

HHP also acts on behalf of our municipal partners as Servicer for previously sold units. All of our affordable units include a Right of First Refusal (ROFR) provision in favor of HHP or our municipal partner. When a low- or mod- homebuyer wants to sell their unit, HHP exercises the ROFR, re-purchases the unit, and then re-sells it to a new income-qualified purchaser. Importantly, whenever HHP resells a unit that has an existing affordability covenant, HHP modifies the Covenant Agreement to reset the covenant period.

Through various mechanisms, HHP connects to the community about affordable housing opportunities; our typical outreach includes the following:

- Community briefings at non-profits or schools
- Website and social media
- Free quarterly in-depth educational workshops
- Emails and phone calls
- Informational literature

Furthermore, HHP transacts every affordable housing sale such that qualified buyers obtain funding from experienced affordable housing lenders, and HHP staff assist our buyers through their escrows all the way to closing. HHP has the capacity to provide such services for the Property, in order to secure eligible households for affordable homeownership or tenancy, as appropriate.

### **Transfer from South Pasadena Housing Authority to New Prospect Development**

The City of South Pasadena, the South Pasadena Housing Authority, and New Prospect Development have entered into a Memorandum of Understanding, with the intent that the South Pasadena Housing Authority, a Designated Public HRE, will “cause” 626 Prospect to be purchased, rehabbed, and developed either as a limited equity housing cooperative, or if an LEC is not financially feasible, as a condominium. The Housing Authority and New Prospect Development believe there are two procedures to “cause” this outcome. Per §1477(a)(4) of the Regulations, New Prospect Development could act as the “purchasing entity” for the purchase of the Property from Caltrans via an assignment of the Authority’s purchase rights under the Authority/Caltrans Purchase and Sale Agreement. Alternatively, in accordance with the “transfer” process as described in §4.3 of the CC&R’s, the Housing Authority, as a Public HRE, would enter into a Purchase and Sale Agreement with Caltrans, take title to the Property from Caltrans, and immediately transfer the grant deed to New Prospect Development. In either procedure, this would be an eligible transfer, inasmuch as the New Prospect Development entity includes the existing Low- and Moderate-Income tenants as members of NPD. In both cases, New Prospect Development will become the owner of the LEC or condo units, and after the rehab work and conversion process is complete, will provide “first right of occupancy” to the current tenants by selling or renting their units to the five existing tenants.

### **Reasonable Price Justification**

The South Pasadena Housing Authority and New Prospect Development are proposing to purchase the 626 Prospect Avenue property for the Minimum Price of \$879,300. Purchasing at the Minimum Price is justified, inasmuch as the City, the Authority, and New Prospect Development all have the dual goals of maximizing the affordability of the seven vacant units while also generating sufficient sales proceeds from

## Reasonable Price Statement for 626 Prospect Avenue, South Pasadena

the eventual sale of these vacant units to subsidize the purchase, rehab, and conversion from apartments to an LEC or condominium regime.

### Project Budget

In addition to the acquisition cost, per Attachment D-1, the total estimated cost for the rehab is \$1.37 million (\$114,000 per unit), and the estimated conversion cost is \$100,000 (\$8,300 per unit). A 5.0% contingency is added for all Project costs. A detailed rehab cost estimate was prepared by RAAM Construction, and is included as Attachment E. Regarding the conversion cost, tasks under this line item include: an "as built" survey of the Property by a licensed surveyor; preparation of a Condominium Plan by a licensed civil engineer; preparation of a CC&R's, Bylaws, and a Residential Purchase Agreement by Inman Law Group; and preparation of a detailed HOA budget to be approved by the State Department of Real Estate (DRE) by California Builder Services, a DRE budget consultant (see CBS's Proposal to prepare the HOA Budget and Reserve Study in Attachment F). A related task will be a survey and remediation plan (if necessary) for Lead-based Paint and Asbestos-Containing Materials. HHP will charge a 5.0% management fee to manage the rehab construction and apartment conversion tasks.

The total for acquisition, rehab, and conversion of the Property is budgeted at \$2.71 million (\$225,500 per unit). As described later in this Reasonable Price Statement, four of the five existing Prospect tenants intend to purchase their units. Of these four tenants, two have annual incomes above 150% of AMI; as described following, a pricing rule was established for these over-income tenants. For the other two tenants who intend to purchase, an Affordable Sales Price was calculated for each unit. One existing tenant does not currently have the financial means to purchase her unit, but is intending to remain in the unit as a renter.

### Estimated Sales Proceeds

The total estimated gross sales proceeds from the sales to the four existing tenants is \$1.12 million. The average sales price for these four units is \$279,300. Of this amount, the average sales price for the two income-qualified units is estimated to be \$157,150, and the average sales price for the two over-income units is estimated to be \$401,432.

For the seven vacant units, the estimated gross sales proceeds are \$2.22 million. The average sales price for these seven units is estimated to be \$316,543, and the weighted average affordability is 116% of AMI.

Total gross revenues from the sale of the four occupied and seven vacant units is expected to be \$3.33 million. From this amount, title & escrow, sales commissions, and HOA reserves will be deducted. Net revenues before loan repayment are anticipated to be \$2.91 million. Loan repayment (including accrued loan interest) is anticipated to be \$2.86 million, leaving a small "surplus" of about \$48,000, which will either be shared with CalHFA pursuant to §8.1 of the Sample CC&R's or serve as an additional source of contingency in case of an unanticipated cost overrun.

The business plan for the Property is based on completing the rehab work and conversion of the apartments to an LEC or condo regime prior to the commencement of any unit sales. Sales of units to existing tenants will occur before sales of the vacant units. After the sales to existing tenants are completed, and the costs and revenues are known with some certainty, final prices will be calculated for the seven vacant units; as stated above, pricing of these units will be set based on the dual goals of maximizing affordability while also generating sufficient sales proceeds to repay the acquisition & rehab loan.



## Reasonable Price Statement for 626 Prospect Avenue, South Pasadena

HHP has borrowed funds from Genesis LA on two previous projects, and on behalf of New Prospect Development, HHP has made a loan request to Genesis of \$2.865 million for the Prospect project. Genesis's Letter of Interest re: 626 Prospect, dated September 10, 2019, is included as Attachment G.

### Purchasing Entity's Financial Strength, Capacity, and Readiness to Undertake the Prospect Project

In accordance with the Affordable Sale Program Regulations, New Prospect Development will be the ultimate purchaser and developer of the Property. HHP, the managing member of New Prospect Development, will provide the majority of the LLC's financial capacity. As discussed previously in this Reasonable Price Statement, HHP has substantial experience accessing affordable housing subsidies.

Since 2008, HHP has completed eight projects with an average of 21 units per project. HHP's in-house sales team has sold 169 affordable and market-rate units in those eight projects, as well as another 14 units of HHP resales and five units as third-party servicer for the City of Pasadena's inventory of Inclusionary units built by others.

According to HHP's 2018 Audit, HHP had \$4.8 million of net assets and \$3.5 million of cash and cash equivalents as of 12/31/2018.

In summary, HHP has the financial capacity, affordable housing experience, knowledge of affordable housing subsidy sources, and success in marketing and selling housing units to income-qualified first-time homebuyers to undertake the Prospect project in partnership with Prospect's existing tenants.

### Community Outreach Plan

In conjunction with NPH, HHP will market the unoccupied rehabilitated units of the Property to prospective low-, moderate-, and middle-income households. HHP will create flyers and applications for the property and, along with NPH, disseminate them throughout the community, including but not limited to an e-blast to the 6,000+ subscribers on HHP's Interest List.

HHP will also provide up to five free community workshops on how to prepare for affordable homeownership, including how to fill out the application, improve or repair credit, and how much to save for down payment and non-recurring closing costs. NPH, whose members are well-known in South Pasadena, will also participate in the workshops plus make presentations at other community events regarding the availability of the seven vacant units and the qualifications necessary to purchase these units. All of the workshops can be presented in Spanish, if needed.

Materials will be provided at each of the events and workshops. HHP will also be available by email and telephone to answer questions from the community, and contact information for HHP's Sales & Marketing team will be included in the flyers and applications. HHP staff can communicate as necessary in Spanish.

Both HHP and NPH will also disseminate information through other forms of social media, including, but not limited to, Facebook.

### Priorities and Procedures for Calculating Unit Sales Prices

New Prospect Development will offer to the current tenants first priority to purchase their existing units for an Affordable Sales Price (ASP) or Fair Market Value, depending upon the existing tenant's income.

### Sales Prices for Existing Tenants



Reasonable Price Statement for 626 Prospect Avenue, South Pasadena

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Affordable Sales Prices for Currently Vacant Units

For the currently unoccupied units at 626 Prospect, HHP calculated Affordable Sales Prices based on unit size (1-BR or 2-BR units) and at different AMI levels. Of the seven vacant units, three units are 2-BR's and four are 1-BR units. HHP calculated ASP's for three income categories, including low-income (using 70% of AMI), moderate-income (at 110% of AMI), and middle-income (at 125% of AMI). The resulting prices are shown on Attachment D-4, and are summarized on the following page.

## Reasonable Price Statement for 626 Prospect Avenue, South Pasadena

2-BR ASP @125% of AMI = \$378,600

2-BR ASP @110% of AMI = \$323,900

1-BR ASP @125% of AMI = \$321,300

1-BR ASP @110% of AMI = \$273,500

1-BR ASP @70% of AMI = \$135,400

### Sales Process

The procedures for sales are as follows. With respect to the seven vacant units, HHP will evaluate each application received through our Community Outreach Plan. HHP will first check the application for completeness, and allow the applicant one week to provide any further documentation. HHP will next verify income based on the parameters for the low-, moderate-, or middle-income ranges. Income verifications will include review of the last two months of paycheck stubs, cross-checking the paystubs with bank deposits and tax returns for consistency. HHP will calculate annual income based on the two months of gross income plus any asset interest. The annual income for the household size will then be considered to determine if the household is low-, moderate-, or middle-income. Once the income review is complete, and the applicant has been determined to be program-qualified, HHP will send all documentation to a lender with experience in affordable housing. If the applicant is eligible for a first mortgage at the affordable sales price, HHP will score the applicant according to criteria set by the Caltrans Affordable Sales Program, all in adherence with the Fair Housing Act.

Experienced affordable housing attorneys will prepare an affordable housing covenant and related documents (Notice of Default; Notice of Delinquency). The affordable housing covenant will give New Prospect Development a Right of First Refusal (ROFR) to re-purchase an affordable unit if and when an income-qualified homeowner chooses to sell their unit. In this case, the ROFR will enable HHP (acting on behalf of New Prospect Development) to repurchase and then re-sell the unit to another qualified household. It is HHP's practice to re-set the covenant period when a resale occurs. HHP also intends to put on title a "non-monetary lien" representing the difference between the affordable sales price and the unit's market value. This lien will act to create parity from an appraisal point of view among units with different ASP's. HHP staff will review the terms of the various affordable housing documents with each selected homebuyer prior to opening an escrow.

Escrows will close 30-60 days after entering into a Residential Purchase Agreement (RPA); during the escrow period HHP will monitor the progress of escrow all the way through closing.

### After Occupancy Monitoring Plan

Owners of affordable units are purchasing their units at below-market prices. In consideration of this benefit, these owners are expected to comply with certain requirements, including, but not limited to: occupancy requirements; resale and/or rental restrictions; payment of property taxes, HOA dues, and other financial obligations related to the ownership of their unit; and property maintenance. Annually, HHP will verify compliance with these restrictions and requirements through a certification that is substantiated with appropriate documentation. HHP has significant experience in ensuring compliance and monitoring at its past development projects.

### Limited Equity Cooperative Housing (LEC) Feasibility

The Roberti Act and related Regulations state that, in the case of a multi-family property, the Public or Private HRE shall "cause the property to be developed as a limited equity housing cooperative", unless an LEC is infeasible. HHP has over 20 years of experience as an affordable homeownership developer, and is aware that LEC's are the most challenging form of common interest developments in California for a variety

## Reasonable Price Statement for 626 Prospect Avenue, South Pasadena

of reasons. These reasons include: LEC's don't fit well with the regulatory regime established by the Davis-Stirling Act and overseen by the State Department of Real Estate; and lenders perceive LEC's to be riskier and less secure.

The major advantage of an LEC is the affordability covenant applies to the entire property, instead of individual covenants applied to each unit. The risk under a condo regime is that, as individual condo units are sold, the affordability covenants are not maintained, and the unit "goes to market". However, based on HHP's experience as the holder and/or servicer of an ROFR, we have never let an affordable unit go to market, and when we repurchase and re-sell a unit subject to an affordability covenant, we always restart the covenant period. Over time, as units resell, the covenant periods are extended beyond the original 45 years. So through our servicing activities, HHP is able to achieve the same benefit with respect to long-term affordability as an LEC has.

HHP is typically required, immediately after receiving a Certificate of Occupancy, to perform a Project Eligibility (PERS) Review to be approved for mortgage lenders to originate and sell mortgages to Fannie Mae. Since the Program Regulations specifically mention "availability of financing" as a factor in determining the feasibility of an LEC, HHP reached out to Scott Iden, Manager at US Approvals, LLC, the consulting firm HHP uses to conduct our PERS approvals. Mr. Iden states in a letter dated August 7, 2019: "(A) Co-op structure can (does) limit the availability of financing to conventional loans. Moreover, it is our understanding that the availability of lenders which underwrite such cooperative share loans may be quite limited." Mr. Iden's letter is included as Attachment H.

The determination of whether an LEC is feasible for the 626 Prospect Avenue property, per the factors enumerated in the Regulations, will occur after an escrow to purchase the property is opened. However, New Prospect Development anticipates, for the reasons mentioned by Mr. Iden and others, that an LEC will prove to be infeasible, and that New Prospect Development will instead create a condominium form of common interest development. New Prospect Development intends to retain the Inman Law Group, a Sacramento-based law firm with expertise in condominium regimes and HOA's, and knowledge of LEC's.

## **Summary of Attachments**

Attachment A: Request for Reasonable Price Statement

Attachment B: New Prospect Development, LLC Formation Documents

Attachment C: HHP Project Development Experience

Attachment D-1: New Prospect Development, LLC Project Sources & Uses of Funds

Attachment D-2: Unit Sales Price Calculations for Existing Prospect Tenants

Attachment D-3: Summary of Market Comparables to 626 Prospect

Attachment D-4: Affordable Sales Price Calculations for Vacant Prospect Units

Attachment E: RAAM Construction Preliminary Cost Estimate

Attachment F: California Builder Services Proposal for HOA Start-Up Budget & Reserve Study

Attachment G: Genesis LA Loan Commitment

Attachment H: US Approvals letter dated August 7, 2019 re: Limited Equity Cooperatives