DATE: OCTOBER 13, 2008

TO: PASADENA COMMUNITY DEVELOPMENT COMMISSION

THROUGH: FINANCE COMMITTEE (OCTOBER 13, 2008)

FROM: MICHAEL J. BECK, CHIEF EXECUTIVE OFFICER

SUBJECT: AMENDED BUSINESS POINTS; OWNER PARTICIPATION AGREEMENT WITH TRADEMARK DEVELOPMENT COMPANY, LLC FOR AN EIGHT-UNIT OWNERSHIP HOUSING PROJECT AT 1350 N. EL MOLINO AVENUE

RECOMMENDATION

It is recommended that the Pasadena Community Development Commission ("Commission"):

a) Approve the amended business points, as described in this report, to be incorporated into the Owner Participation Loan Agreement ("OPLA") CDC-560-1 between the Commission and Trademark Development Company, LLC, in connection with the development of the eight-unit project at 1350 North El Molino Avenue.

b) Approve a journal voucher appropriating an amount not to exceed $227,241 in Workforce Housing Reward funds for the 1350 North El Molino project.

ADVISORY BODY RECOMMENDATION

The Community Development Committee at its special meeting of July 31, 2008, recommended unanimous approval of the amendments to the business terms of the Owner Participation Loan Agreement. There have been modifications to the business terms since the approval of the Community Development Committee. Due to time constraints on funding obligations from the lender, staff will not be able to present these modifications to the Community Development Committee.

EXECUTIVE SUMMARY

The downturn in the for-sale housing market has necessitated the restructuring of the proposed development and financing plan for 1350 N. El Molino Avenue by Trademark Development LLC (the "Developer"). While the original eight-unit development concept and plans remains unchanged, certain modified business terms are proposed:

a) the unit mix will be redistributed from two moderate income units and six market rate units to four moderate income units and four market rate units for sale;
b) based upon current project pro forma, $524,245 of the Commission project loan will be recast as homebuyer financing assistance to achieve housing affordability for the moderate income units; the transaction will be structured however, to allow for a greater amount of the Commission project loan to be recast as second trust deed homebuyer loans should home market values increase at the time of project completion;
c) the Commission will receive 50% of sales proceeds from the market rate units in excess of the established pro forma in the event of an upturn in housing market prices; and,
d) the time of the OPLA will be extended to January, 2010 by which date the project should be completed; the Performance schedule will be revised accordingly.

BACKGROUND

The original proposal for the site included an eight-unit ownership housing complex with two affordable units and six market rate units. On August 8, 2005 the Commission approved a loan of $1,350,000 to purchase the property. On March 19, 2007 the Commission approved an amendment to the OPLA to extend the terms of the loan for an additional 18 months and to increase the loan by $179,869 to provide assistance for the two affordable units due to an escalation in construction costs and a reduction in the sales prices of the affordable units. The total investment was $1,529,869 for land acquisition and assistance to moderate income home buyers.

At this point in time, the subsequent downturn in the for-sale housing market coupled with an increase in construction costs has rendered the project financially unfeasible. In response, the Developer and staff negotiated the restructuring of the project with the objective of avoiding the infusion of additional Commission funds. The restructured project will consist of four affordable moderate income units and four market rate units ("the Project"). The revised financing terms for the proposed project were reviewed by Keyser Marston and Associates (KMA). KMA's report is attached as Exhibit "A".

The amount of subsidy for this project is higher than staff would typically recommend due to several extraordinary factors, including the necessary acquisition of a liquor store and liquor license on the site, the need to work around an aging storm drain under the site, and the dramatic changes in the real estate market since the site was purchased.

The site at 1350 North El Molino Avenue prior to acquisition housed a nuisance liquor store and parking lot. The liquor store had a negative impact on the adjacent neighborhood which witnessed the tragic death of one of the owners at the site. Washington Park directly across the street became the gathering place to drink and dispose of bottles and trash from the liquor store. The acquisition of the site required the purchase of the land, the retail liquor store business and the liquor license.

Upon further examination of the site, it was determined that in order to preserve the structural integrity of a storm drain running through the center of the site, additional costs were necessary in the methodology for the demolition and construction of the project. Finally, land prices and resale values have dropped dramatically since the property was purchase in 2005. The combination of these unique expenses and the unanticipated decline in value have rendered the original project financially unfeasible and required the restructuring of the City's investment in the project in order to achieve the City's goals for the site.

The Developer has been in discussion with Century Housing and they have issued a letter of approval to provide construction financing for the Project. The developer is currently in final plan check. All other city approvals (variance, design review and tentative tract maps) have been received.

OPLA Amended Business Points

The total Commission investment for the project is $1,529,869. Based on the current project pro forma, this total consists of $1,005,624 for land acquisition and $524,245 recast as second trust deed loans to moderate income buyers for four units for which the Commission will be paid back in 45 years or upon re-sale. The remainder of the Commission funds ($1,005,624) for acquisition will be a grant to the project. The grant consists of $778,383 from the Inclusionary Housing funds and $227,241 from the State Workforce Housing Reward fund.

However, should the market increase the transaction will be restructured such that at the time the affordable household purchases the unit the loan will be increased to the then total value of the property at that time. For example, should market values increase by 16% resulting in a value of approximately $450,000 per unit, the Commission second trust deed loan per affordable unit would be increased to $192,000. In this event, up to $767,800 of the Commission project loan would be recast as homebuyer loans, thereby reducing the Commission project grant to $762,069 ($1,529,869 minus $767,800). The principal amounts of the Commission second trust deed loans shall be subject to conventional mortgage underwriting standards and prevailing conditions in the credit and housing markets.

The estimated purchase price for the affordable units is $238,700 for the smallest unit and $266,500 for the three larger units. The purchase price for the market rate units range from $389,000 to $450,000. If the for-sale housing market experiences an upturn at the time the project is completed, the Developer will share with the Commission 50% of any sales revenues in excess of the established pro forma.

FISCAL IMPACT

Total investment in the project will remain a $1,529,869. Of this amount $227,241 will be a grant from the State Workforce Housing Reward fund and the remaining $1,302,628 in Inclusionary Housing Funds will be comprised of $524,245 in the form of recast second trust deeds on the affordable units, and $778,383 as a grant to the project. This results in a maximum total subsidy from Inclusionary Housing Funds of $325,657 per affordable unit. However, there is a potential for reduction in the Commission grant if home prices increase above the pro forma: the Commission would recast a greater portion of its project loan as second trust deed loans on the affordable units and share 50% of the increase in sales proceeds for the market rate units. This amount is higher than staff would typically recommend for several reasons. The acquisition costs for this project were higher than normal because of the requirement to purchase the retail business and liquor license on the site which was a priority for the community. The construction costs were higher than anticipated because of the extra work to reinforce and work around an aging storm drain. These two factors combined with the dramatic changes in the real estate market since the time the site was purchased has necessitated a larger subsidy to make the project financially feasible.

Respectfully submitted,

Stephanie Dellolfe

for Michael J. Beck
Chief Executive Officer

Prepared by:

S. Dellolfe

for Lola Osborne
Northwest Programs Manager

Approved By:

S. Dellolfe

for Richard Bruckner
Director of Planning and Development

EXHIBIT "A"

1350 NORTH EL MOLINO / TRADEMARK DEVELOPMENT

KMA PROFORMA

TABLE 1

FINANCIAL GAP COMPARISON
1350 N. EL MOLINO AVENUE
PASADENA, CALIFORNIA

		Original (Jan 2007) Per Agreement		Recommended Alternative	
I.	Project Description				
	Land Area	14,270		14,270	
	Acres	0.33		0.33	
	Unit Mix				
	Two-bedroom Units	-		2	
	Three-bedroom Units	8		6	
	Total Units	8		8	
	Density	24		24	
	Gross Building Area	11,960		11,883	
	Average Unit Size	1,495		1,485	
	FAR	0.84		0.83	
	Affordability Mix				
	Two-bedroom Units				
	Market Rate	-		1	
	Moderate Income	-		1	
	Three-bedroom Units				
	Market Rate	6		3	
	Moderate Income	2		3	
II.	Estimated Development Costs				
	A. Land Assemblage Costs	$1,300,000		$1,300,000	
	B. Direct Costs				
	Demolition	$25,000		$41,000	
	Off-site Improvements	42,000		109,000	
	On-site Improvements	71,000		219,000	
	Shell Costs	998,000		1,181,000	
	Contractor Fee	142,000		233,000	
	Contingency Allowance	80,000		84,000	
	Total Direct Costs	$1,358,000		$1,867,000	
	C. Indirect Costs				
	Architecture, Engineering & Consulting	$153,000		$118,000	
	Permits & Fees	158,000		158,000	
	Taxes, Legal & Accounting	9,000		2,000	
	Insurance	145,000		145,000	
	Marketing	9,000		6,000	
	Developer Fee	99,000		-	
	Contingency	-		-	
	Total Indirect Costs	$573,000		$429,000	
	D. Financing Costs				
	Interest During Construction	$105,000		$170,000	
	Loan Fees	47,000		32,000	
	Sales Costs	141,000		151,000	
	Total Financing Costs	$293,000		$353,000	
	Total Development Costs	$3,524,000		$3,949,000	
	Per Unit	$440,500		$493,600	
III.	Project Revenues				
	101 - 3-Bdrm Unit	$245,000	mod	$266,500	mod
	102 - 3-Bdrm Unit	469,000	mkt	266,500	mod
	103 - 3-Bdrm Unit	245,000	mod	399,000	mkt
	104 - 3-Bdrm Unit	469,000	mkt	266,500	mod
	105 - 3-Bdrm Unit	469,000	mkt	415,000	mkt
	106 - 2-Bdrm Unit	469,000	mkt	238,700	mod
	107 - 2-Bdrm Unit	469,000	mkt	389,000	mkt
	108 - 3-Bdrm Unit	469,000	mkt	450,000	mkt
	Total Sales Revenues	$3,304,000		$2,691,200	
	Market Rate Price / Sf	$314		$259	
	Number of Moderate Income Units	2		4	
IV.	Threshold Developer Profit	$330,000		$269,100	
	As % of Sales Revenues	10%		10%	
V.	Financial Surplus / (Gap) Calculation				
	Total Sales Revenues	$3,304,000		$2,691,200	
	(Less) Total Development Costs	(3,524,000)		(3,949,000)	
	Add: Developer Off-set to Cost Increases	-		26,900	
	(Less) Developer Profit	(330,000)		(269,100)	
	Financial Surplus / (Gap)	($550,000)		($1,500,000)	
	Per Unit	($68,800)		($187,500)	
	Per Affordable Unit	($275,000)		($375,000)	

Prepared by: Keyser Marston Associates, Inc.
Filename: 1350 North El Molino - 07.31.08; Table 1; jlr; 9/11/2008

TABLE 2

AGENCY REPAYMENT COMPARISON
1350 N. EL MOLINO AVENUE
PASADENA, CALIFORNIA

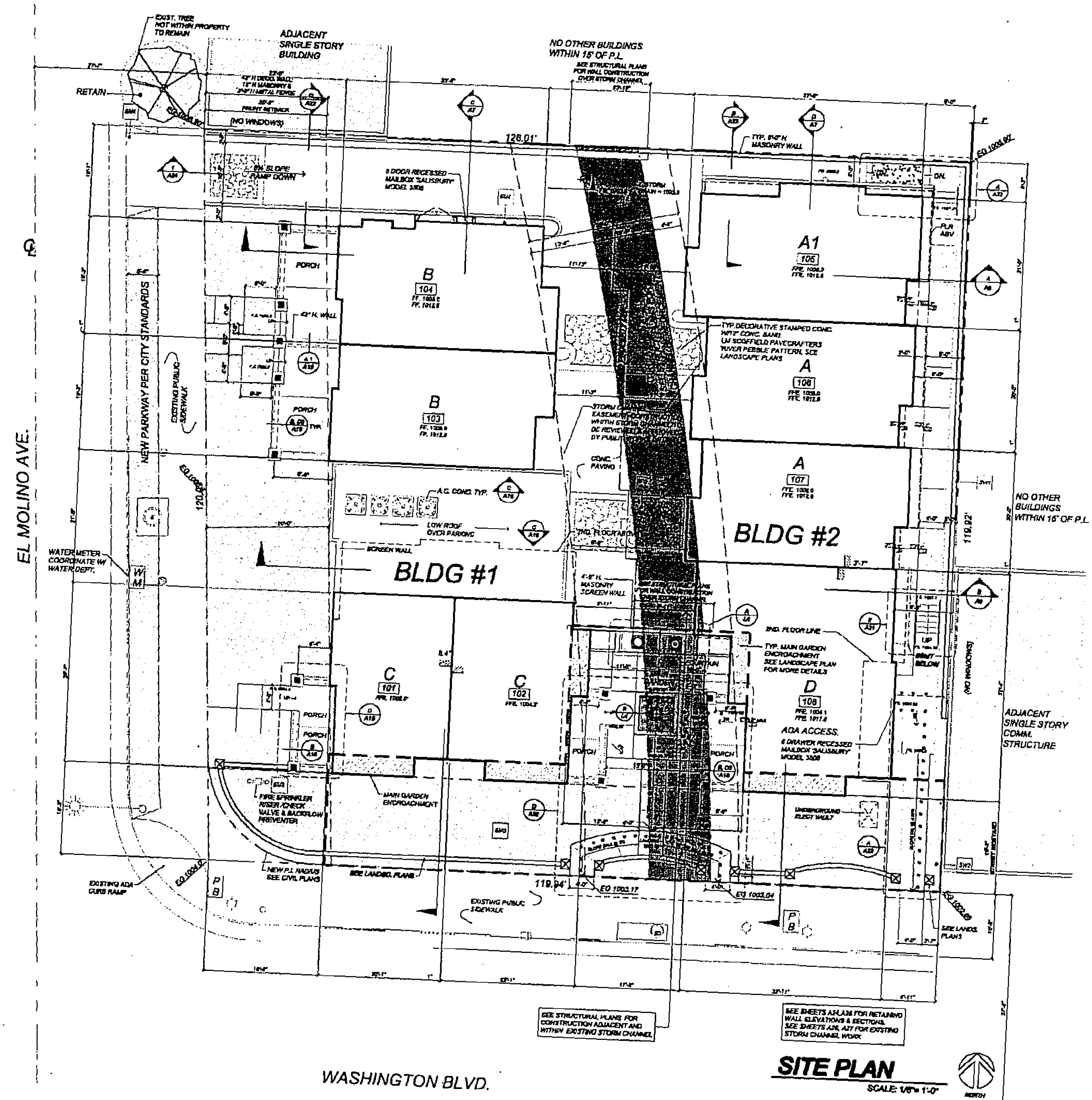
			Original (Jan 2007) Per Agreement	Recommended Alternative
I.	Project Description			
	Total Units		8	8
	Total Affordable Units		2	4
II.	Financial Gap Analysis			
	Financial Gap		$550,000	$1,500,000
	Per Unit		$68,800	$187,500
	Per Affordable Unit		$275,000	$375,000
	Affordability Gap		$448,000	$524,200
	Per Affordable Unit		$224,000	$131,100
	Feasibility Gap		$102,000	$975,800
	Per Unit		$12,800	$122,000
II.	Agency Assistance			
	Approved Agency Loan		$1,500,000	$1,500,000
	(Less) Loan Repayment		(950,000)	-
	Net Agency Assistance		$550,000	$1,500,000
	Per Total Unit		$68,800	$187,500
	Per Affordable Unit		$275,000	$375,000
III.	Profit Sharing per Market Price @ $325/sf (Proposed Alternative)		Recommended Alternative	
	A. Additional Sales Revenues	26% Increase in Market Sales Prices		$425,000
	B. Agency Profit Sharing Scenario			50%
	C. Total Developer Profit			
	Base Developer Profit			$0
	Add: Additional Developer Profit			212,500
	Total Developer Profit			$212,500
	As a % of Sales Revenues			7%
	D. Agency Share			$212,500
			Recommended Alternative	50% Share to Agency
IV.	Agency Assistance if Market Prices Increase			
	Agency Loan			$1,500,000
	(Less) Loan Repayment			(212,500)
	Net Agency Assistance			$1,287,500
	Per Total Unit			$160,900
	Per Affordable Unit			$321,900

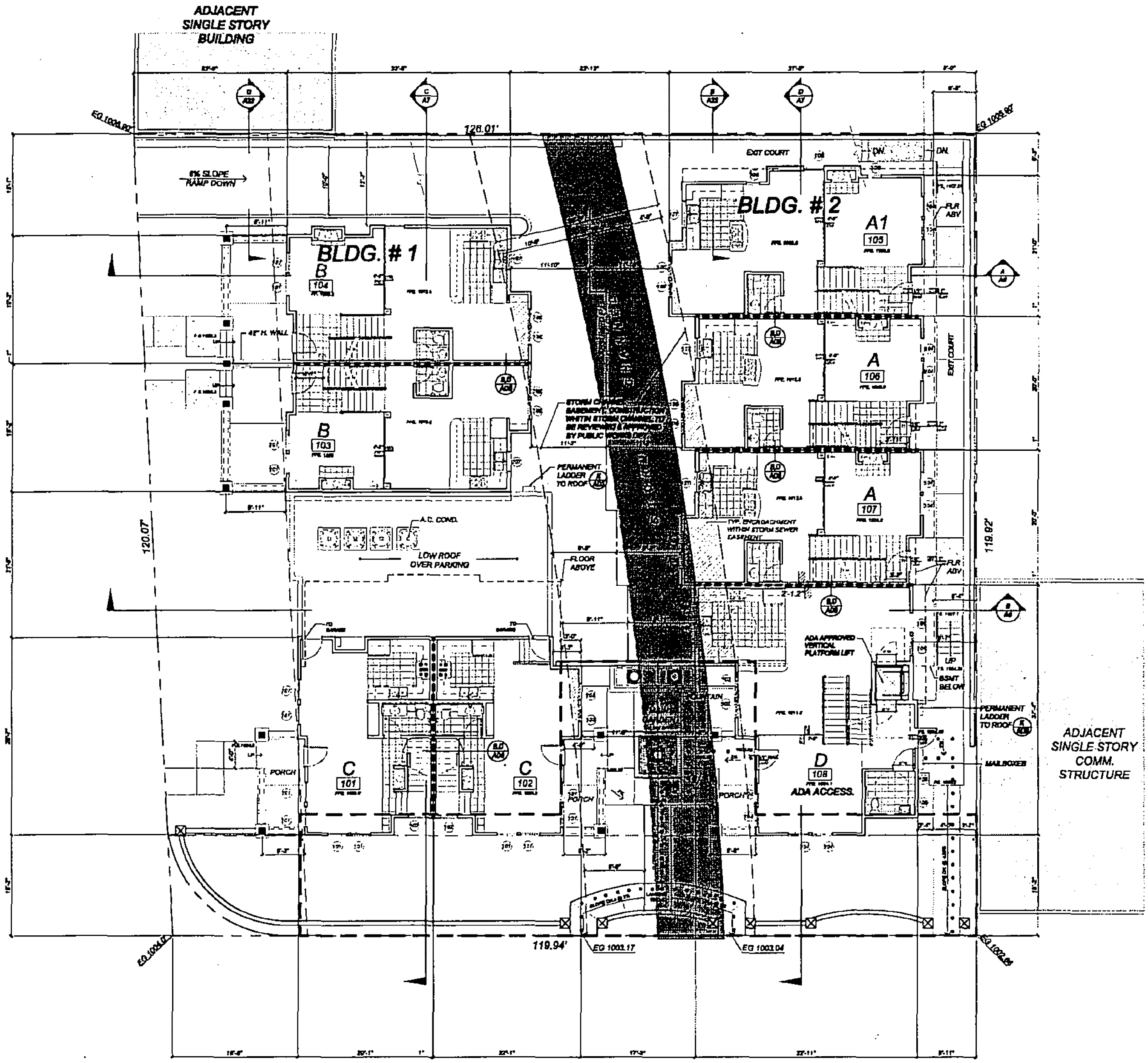
Prepared by: Keyser Marston Associates, Inc.
Filename: 1350 North El Molino - 07.31.08; Table 2; jlr; 9/11/2008

EXHIBIT "B"

1350 N. EL MOLINO / TRADEMARK DEVELOPMENT

SITE PLANS





FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

NORTH

EXHIBIT "C"

TRADEMARK DEVELOPMENT COMPANY

1350 N. El Molino Avenue

KEY TERMS AND CONDITIONS OF

OWNER PARTICIPATION LOAN AGREEMENT

I. Developer Entity

The Developer entity is Trademark Development, LLC.

II. Land Use Entitlements

- The existing zoning designation for the project site is CL (Commercial Limited) which utilizes the RM-32 residential standards for the proposed project.
- The maximum allowable density in the RM-32 zone would be 10 dwelling units. The developer plans to construct eight (8) units for ownership on site.
- The Developer has been approved for the following variances: a) three-story height limit beyond the interior 16%; b) parking beyond the rear 60 percent of the site. c) massing of the building façade to extend beyond 60 feet in length along El Molino,

III. Acquisition

- The project site closed escrow in August, 2005.

IV. Environmental Studies and Documentation

- Phase 1 study required.
- Commission prepared a Notice of Exemption based on the project determination of "no environmental impacts".

V. Project Financing

Developer has requested that Agency provide financial assistance for the development of the proposed project.

- The total Commission financial assistance requested for the project is $1, 529,869 with $524,244 to be recast as second trust deeds to qualified moderate income buyers for the four affordable units. The remaining funds of $778,383 will be a grant to the project. The grant consists of $551, 142 from the Inclusionary Housing funds and $227,241 from the Workforce Housing Reward funds. The estimated purchase price for the affordable units is $238,700 for the smallest unit and $266,500 for the balance of the three. The market rate unit prices range from $389,000 to $450,000.

- Commission Homeownership Opportunities Program loans totaling $524,245 (or average of $131,061 per loan) will be provided as secondary financing to qualified buyers and have a 45-year term with an interest rate to exceed six percent. In addition, the loan will carry a shared appreciation requirement in event of loan prepayment from refinancing or resale of the dwelling units.

Sources:

Construction Loan	$ 2,220,000
Commission Funds	1,529,869
Developer's Equity	249,131
Total	$3,999,000

Uses:

Land Acquisition	$1,350,000
Direct Costs	1,867,000
Indirect Costs	429,000
Finance costs	353,000
Total	$3,999,000

In addition to the Agency's financial assistance, City shall provide partial waivers of plan review fees and building permit fees for affordable units pursuant to Resolution No. 6681.

- Commission shall share 50% of sales revenues in excess of established pro forma.
- The principal amounts of the Commission 2nd trust deed loans shall be subject to conventional mortgage underwriting standards, and prevailing conditions in the credit and housing markets.

VI. Scope of Development

- The project shall consists of the new construction of four affordable and four market rate townhouse style units at 1350 North El Molino Avenue to provide homeownership units to moderate-income households.

- The development shall be designed in accordance with all applicable city codes.

- ☐ Developer shall be required to provide Concept Design Drawings, 50% Design/Development Documents, and 100% Design/Development Documents.

VII. Schedule of Performance

- ☐ Developer shall adhere to Schedule of Performance elements identified in the OPLA Schedule of Performance.

VIII. Relocation

- ☐ Relocation of commercial tenants shall comply with the State of California Government Code Section 7260 et seq. and Section 6000 et seq. of Title 25 of the California Code of Regulations.

IX. Marketing Plan

- ☐ Developer shall coordinate its residential marketing activities to give priority first to displaced Pasadena residents, second, to local residents, third to persons who are employed in Pasadena, and four to all potential homebuyers.

- ☐ Dwelling units shall be occupied by homeowners.

- ☐ Liquor license for beer and wine sales shall be cancelled by the Developer

X. Equal Employment Opportunity/Local Hiring/Local Preference/Fair Housing

- ☐ Owner shall comply with all applicable City Equal Employment Opportunity policies.

- ☐ Owner shall comply with the City's First Source Hiring Ordinance.

- ☐ Owner shall implement the City's and Commission's Local Preference and Priority System Guidelines whereby, to the extent permissible under applicable state and federal law, people who live and/or work in the City of Pasadena shall have priority over other persons to rent affordable housing units which are supported or sponsored by the City of Pasadena or Pasadena Community Development Commission in whole or part.

- ☐ Owner shall comply with all Federal laws pertaining to Fair Housing, Equal Opportunity and Handicapped Accessibility.

XI. Insurance

- ☐ Owner shall comply with all applicable City insurance requirements.

- Owner agrees to and shall indemnify the Commission and City from and against all claims and expenses arising from or in connection with the Owner, or its lessees, use of the Property or performance of the obligations under the terms of this Agreement.

XII. Affordable Housing Covenant Agreement; Restrictions on Units

- An Affordable Housing Covenant Agreement shall run with the land for a minimum of 45 years for each of the four (4) moderate income affordable units. The Agreement shall include restrictions regarding income limits, principal place of residence, resale, Commission first right of refusal for purchase, and non-discrimination provisions, among other things. Agency shall monitor the project's compliance with the Agreement.

Disclosure Pursuant to the
City of Pasadena Taxpayer Protection Amendment
Pasadena City Charter, Article XVII

Contractor/Organization hereby discloses its trustees, directors, partners, officers, and those with more than 10% equity, participation, or revenue interest in Contractor/Organization, as follows:

(If printing, please print legibly. Use additional sheets as necessary.)

1. Contractor/Organization Name: TRADEMARK DEVELOPMENT COMPANY, LLC

2. Type of Entity:
☑ non-government ☐ nonprofit 501(c)(3), (4), or (6)

3. Name(s) of trustees, directors, partners, officers of Contractor/Organization:

DAN AKINS
JOEL BRYANT

4. Names of those with more than a 10% equity, participation or revenue interest in Contractor/Organization:

DAN AKINS
JOEL BRYANT

Prepared by: JOEL BRYANT

Title: PRINCIPAL

Phone: (626) 398-4221

Date: 09/26/08

Rev.07.10.2007