CITY OF SOUTH PASADENA
CITY COUNCIL

AGENDA

SPECIAL CITY COUNCIL MEETING
WEDNESDAY, JULY 31, 2024 AT 6:00 PM

AMEDEE O. "DICK" RICHARDS JR. COUNCIL CHAMBERS
1424 MISSION STREET, SOUTH PASADENA, CALIFORNIA 91030

NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY

The South Pasadena City Council Meeting will be conducted in-person from the Amedee O. "Dick" Richards, Jr. Council Chambers, located at 1424 Mission Street, South Pasadena, CA 91030.

Public participation may be made as follows:

- In-Person – Council Chambers, 1424 Mission Street, South Pasadena, CA 91030
- Live Broadcast via the City website – http://www.spectrumstream.com/streaming/south_pasadena/live.cfm
- Via Zoom – Meeting ID: **825 9999 2830**
- Written Public Comment – written comment must be submitted by 12:00 p.m. the day of the meeting by emailing to ccpubliccomment@southpasadenaca.gov
- Via Phone–+1-669-900-6833 and entering the Zoom Meeting ID listed above.

Meeting may be viewed at:

1. Go to the Zoom website, https://zoom.us/join and enter the Zoom Meeting information; or
2. Click on the following unique Zoom meeting link: https://us06web.zoom.us/j/82599992830 or
3. By calling: +1-669-900-6833 and entering the Zoom Meeting ID listed above; and viewing the meeting via http://www.spectrumstream.com/streaming/south_pasadena/live.cfm

CALL TO ORDER:	Mayor	Evelyn G. Zneimer
ROLL CALL:	Mayor	Evelyn G. Zneimer
	Mayor Pro Tem	Jack Donovan
	Councilmember	Janet Braun
	Councilmember	Michael A. Cacciotti
	Councilmember	Jon Primuth
PLEDGE OF ALLEGIANCE:	Mayor Pro Tem	Jack Donovan

CLOSED SESSION ANNOUNCEMENTS

1. CLOSED SESSION ANNOUNCEMENTS

PUBLIC COMMENT

2. PUBLIC COMMENT

Public Comment will be limited to 3 minutes per speaker for the agendized items only.

PRESENTATIONS

3. PRESENTATION BY LOS ANGELES COUNTY ASSESSOR'S OFFICE ON PROPERTY TAX UPDATE

CONSENT CALENDAR

OPPORTUNITY TO COMMENT ON CONSENT CALENDAR

Items listed under the Consent Calendar are considered by the City Manager to be routine in nature and will be enacted by one motion unless a public comment has been received or Councilmember requests otherwise, in which case the item will be removed for separate consideration. Any motion relating to an ordinance or a resolution shall also waive the reading of the ordinance or resolution and include its introduction or adoption as appropriate.

4. CONSIDERATION OF APPROVAL OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH RCS, LLC., FOR TEMPORARY STAFFING SERVICES, AT A COST OF $64,800, FOR A NEW TOTAL NOT-TO-EXCEED AMOUNT OF $94,300

Recommendation

It is recommended that the City Council consider approval of the First Amendment to the Professional Services Agreement with RCS, LLC, in the amount of $64,800, for continued temporary staffing services, and for a new total not-to-exceed amount of $94,300.

5. CONSIDERATION OF THE APPROVAL OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH TRIPEPI SMITH TO PREPARE ADDITIONAL INFORMATIONAL MATERIALS REGARDING THE UPCOMING NEIGHBORHOOD PRESERVATION AND LOCAL CONTROL BALLOT MEASURE FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $25,000

Recommendation

It is recommended that the City Council consider the approval of an amendment to the Professional Services Agreement with Tripepi Smith to prepare informational materials related to Housing Element Program 2.n. and the upcoming Neighborhood Preservation and Local Control ballot measure in the amount of $25,000, and for a new total not-to-exceed amount of $54,600.

ACTION/DISCUSSION

6. CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, ORDERING THAT A MEASURE BE SUBMITTED TO THE VOTERS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS AS NECESSARY TO IMPLEMENT THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT; AND APPROVE AN APPROPRIATION IN THE AMOUNT OF $5,630

Recommendation

It is recommended that the City Council adopt the Resolution ordering that the measure be submitted to the voters of the City at the General Municipal Election to be held on November 5, 2024, related to building heights in all zoning districts to implement the 2021-2029 (6th Cycle) Housing Element.

ADJOURNMENT

CERTIFICATION OF POSTING

I declare under penalty of perjury that I posted this notice of agenda for the meeting to be held on July 31, 2024, on the bulletin board in the courtyard of City Hall located at 1414 Mission Street, South Pasadena, CA 91030, and on the City, website as required by law, on the date listed below.

July 29, 2024	/S/
Date	Amber Tardif, Deputy City Clerk

City Council
Agenda Report

ITEM NO. 1

DATE: July 31, 2024

FROM: Sheila Pautsch, Acting City Manager

PREPARED BY: Amber Tardif, Deputy City Clerk

SUBJECT: **CLOSED SESSION ANNOUNCEMENTS**

City Council
Agenda Report

ITEM NO. 2

DATE: July 31, 2024

FROM: Sheila Pautsch, Acting City Manager

PREPARED BY: Amber Tardif, Deputy City Clerk

SUBJECT: **PUBLIC COMMENT**
Public Comment will be limited to 3 minutes per speaker for the agendized items only.

City Council
Agenda Report

ITEM NO. 3

DATE: July 31, 2024

FROM: Donald Penman, Interim City Manager

PREPARED BY: Amber Tardif, Deputy City Clerk

SUBJECT: **PRESENTATION BY LOS ANGELES COUNTY ASSESSOR'S OFFICE ON PROPERTY TAX UPDATE**

Attachment:
Attachment No. 1 - Los Angeles County Assessor Presentation.pdf

JEFF PRANG

LOS ANGELES COUNTY ASSESSOR

ASSESSOR.LACOUNTY.GOV

COUNTY-WIDE ELECTED OFFICIALS



ASSESSOR



SHERIFF



DISTRICT ATTORNEY

OFFICE OF THE ASSESSOR

- 1,400 Employees in five locations
- Locate and identify the ownership of all taxable property
- Produce an Assessment Roll showing the assessed values of all property
- Value over 2.5 million real property parcels and business property
- Apply all legal exemptions



ASSESSOR.LACOUNTY.GOV

JEFF PRANG

LOS ANGELES COUNTY ASSESSOR

PROPERTY TAX SYSTEM

- Registrar Recorder/County Clerk provides copies of deeds and documents
- Assessor's Office uses those documents to appraise all real estate and personal property business equipment,
- Auditor-Controller determines the tax rate and how to distribute collected taxes,
- Treasurer/Tax Collector mails bills and..... Collects taxes!



TAXABLE PROPERTY

Real Property

Residential | Commercial | Industrial



Business Personal Property

Furniture | Equipment | Machinery



ASSESSOR.LACOUNTY.GOV

JEFF PRANG

LOS ANGELES COUNTY ASSESSOR

ASSESSMENT ROLL

- The Assessment Roll is an inventory of all taxable property in the County
- The Roll serves as a planning document for local governments and their budget preparation
- The Roll also provides insight as to what is going on in the real estate market



2024 ASSESSMENT ROLL RESULTS: SOUTH PASADENA

Assessed Valuation: $6.8 Billion, 6.8% increase from 2023 Roll.

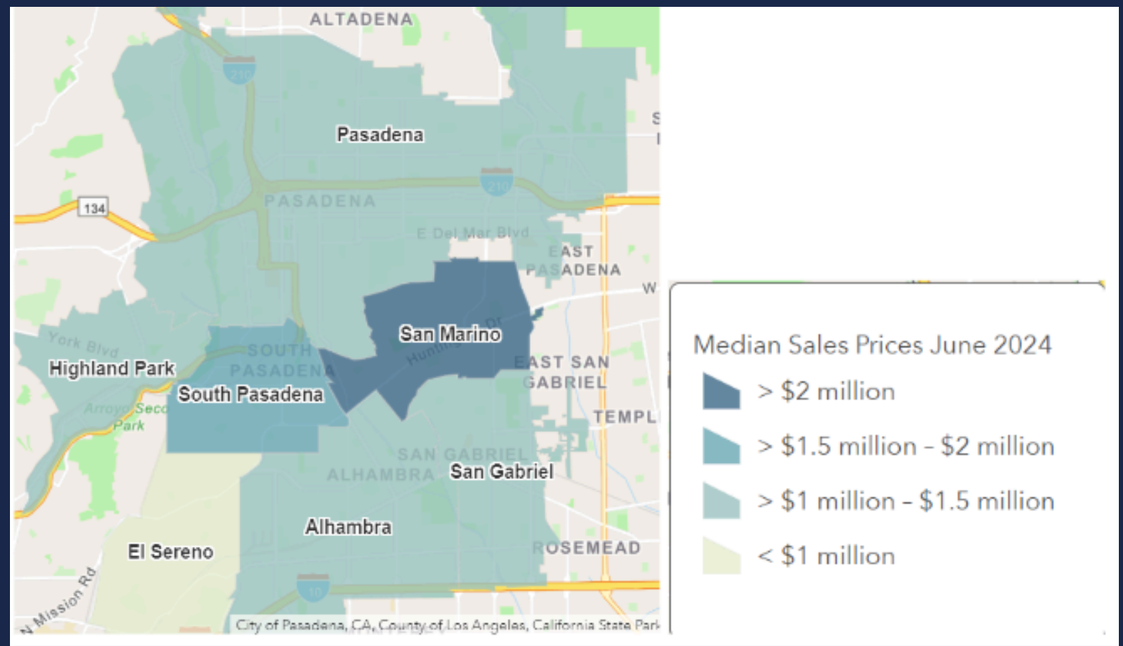
Single Family Residential	Residential Income	Commercial/ Industrial
5,724	942	375







MSP UPDATE



Community	Median Sales Price	Sales Volume (Jan'23-Jun'24)	YoY % Change in Median Sales Price
Alhambra	***$1,000,000***	80	**5.3%**
Pasadena	***$1,500,000***	239	**19.8%**
San Gabriel	***$1,170,000***	51	**17.0%**
San Marino	***$2,800,000***	58	**8.8%**
South Pasadena	***$2,000,000***	34	**9.3%**
LA County	$940,000	16502	**9.9%**

PROPOSITION 19

Expansion of benefits for seniors (55+), the severely disabled, and victims of natural disasters

- Eligible property owners may sell their home, purchase a replacement home, and transfer their tax base to the new home
- The replacement home may be located anywhere in California
- This benefit may be used up to 3 times







ASSESSOR.LACOUNTY.GOV

JEFF PRANG

LOS ANGELES COUNTY ASSESSOR

PROPOSITION 19

Qualifications for transfers between family members

- Inherited property has to be primary residence of the parent or grandparent - no other property now qualifies (no rental)
- The child or grand child must make that home their primary residence within **1 YEAR** of the transfer and file the Homeowners' Exemption



INTERGENERATIONAL TAX BASE TRANSFER CALCULATION

Once the Claim for Reassessment under Prop 19 is received our office compares the property's assessed taxable value to its fair market value.

- Fair Market Value is determined by comparing the property to similar households that were recently sold in the area.

Partial Re-assessment

Increase in taxes, but still a saving!

Fair Market Value > Assessed Taxable Value + $1,000,000 (Maximum Exclusion)

New Assessed Value =

Fair Market Value -$1,000,000

No Re-assessment

No increase on property taxes

Fair Market Value < Assessed Taxable Value + $1,000,000 (Maximum Exclusion)

New Assessed Value = Old Assessed Value

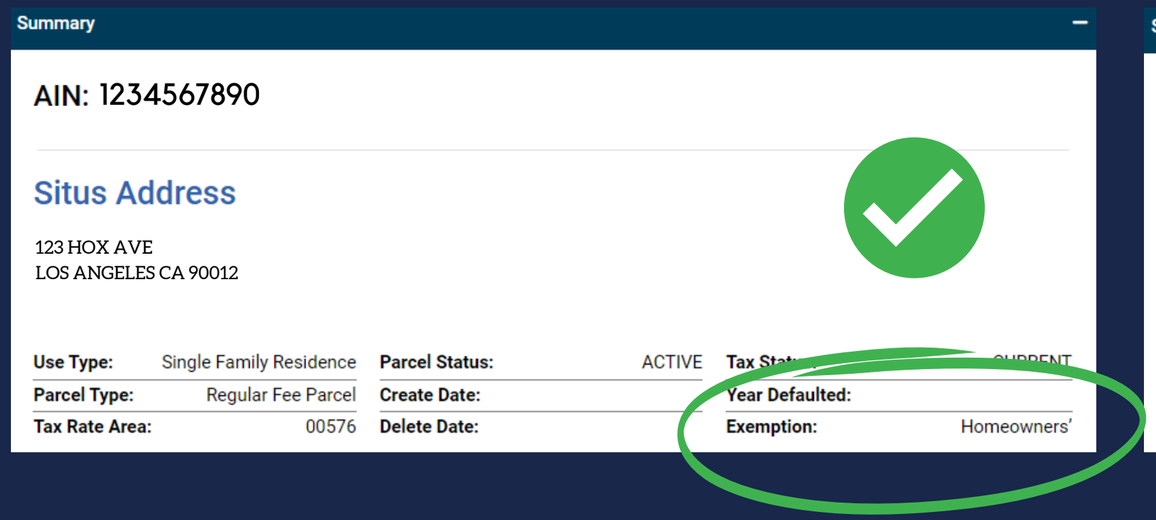
HOMEOWNERS' EXEMPTION (HOX)

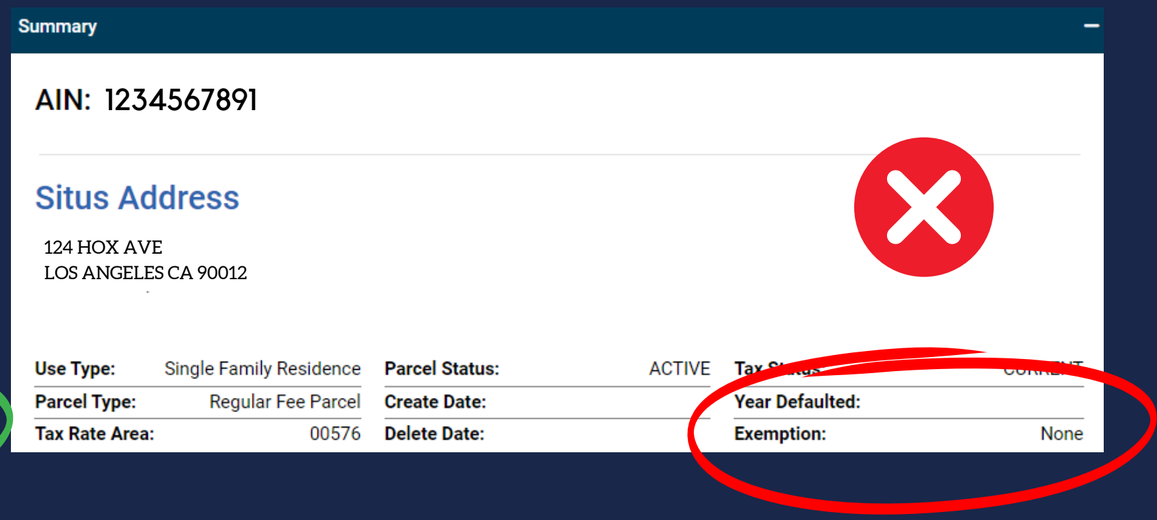
- Reduces the assessed value of your primary residence by $7,000 ($70 off annual property tax bill).
- Qualifications:
  - Own your home
  - Live in it
  - Don't already qualify for another exemption



VERIFY YOUR HOX STATUS

Use the Assessor's Property Search Tool to verify your exemption status, all you need in your AIN or address.





DECLINE-IN-VALUE (RP-87)

- A decline-in-value occurs when the current market value of your property is less than the current assessed value as of January 1.
- Filing Period: July 2 - November 30
- Requirements:
  - Must demonstrate that on Jan. 1, the market value of your property was less than its current assessed value.
  - File a Decline-In-Value Application form (**RP-87**) by a postmarked date of November 30



ASSESSOR'S E-SERVICE ACCOUNT

- The Homeowner Alert (e-Notification), in collaboration with the County Registrar-Recorder/County Clerk and the County Department of Consumer Business Affairs, *sends* ***e-mail alerts within 48 hours*** whenever a foreclosure, transfer of title, or mortgage is recorded on your property.
- The e-File service now allows property owners to file a *Change of Mailing Address Request (ASSR-451)* online.



CREATE YOUR ACCOUNT TODAY

Sign Up for
Homeowner Alert:

E-File Instructions:

ASSESSOR.LACOUNTY.GOV

JEFF PRANG

LOS ANGELES COUNTY ASSESSOR

JEFF PRANG

LOS ANGELES COUNTY ASSESSOR

(213) 974-3101 | jprang@assessor.lacounty.gov | @LACASSESSOR

NEWSLETTER

ASSESSOR.LACOUNTY.GOV

City Council Agenda Report

ITEM NO. 4

DATE: July 31, 2024

FROM: Donald Penman, Interim City Manager

PREPARED BY: John Downs, Finance Department Director

Dr. Scott G Miller, Finance Management Consultant

SUBJECT: **CONSIDERATION OF APPROVAL OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH RCS, LLC., FOR TEMPORARY STAFFING SERVICES, AT A COST OF $64,800, FOR A NEW TOTAL NOT-TO-EXCEED AMOUNT OF $94,300**

Recommendation

It is recommended that the City Council consider approval of the First Amendment to the Professional Services Agreement with RCS, LLC, in the amount of $64,800, for continued temporary staffing services, and for a new total not-to-exceed amount of $94,300.

Executive Summary

The City's Finance Department has been utilizing the services RCS, LLC, for Interim Accounting Manager activities and for fiscal analysis purposes as the City continues to rebuild its Finance Department due to staff vacancies. Due to the recent turnover of key staff, the department needs assistance in completing the Fiscal Year end accounting close, begin preparations for the FY 2024 ACFR, setting up accounts when the City Council approves the FY 2024-25 operating and capital budgets and working on providing investment reports. The current agreement with RCS expires on December 31, 2024, however, additional appropriation of funds, in the amount of $64,800 to the agreement is needed, to pay the vendor to continue providing services through December 31, 2024.

Background

RCS, LLC has provided temporary staffing for the Finance Department since May 2024, especially in the areas of accounting and required financial analysis. Their staff has been in an "acting accounting manager" role helping with general ledger transaction reviews and postings, fund balance reviews, and generating general ledger journal entries. The temporary staffing need in Finance is ongoing and has been instrumental in the Department becoming current with general ledger entries, weekly reviews, daily accounting work, and will be instrumental in doing work related to the upcoming FY 2024 ACFR year-end/audit preparation. RCS will also assist in developing the quarterly investment reports for the City. The continued employment of existing temporary staffing would enable the Department to:

- Assist in year-end closing activities

- Assist in preparing for the FY 2024 ACFR
- Continue providing journal entries, general ledger and payroll oversite
- Development of quarterly investment reports
- Begin development of quarterly financial statements

In working with RCS, LLC and others in prioritizing major accounting tasks that lie ahead for the Finance Department, the Finance Director proposes to continue the existing temporary staffing in Finance for their momentum and ongoing work and capacity building until permanent full-time staff can be hired.

Analysis
The initial RCS contract for Financial Consulting Services had a duration from June, 2024, through December, 2024, for a maximum amount of $29,500. Due to continued resignations in the Finance Department, with the ACFR Audit beginning with requiring specialized accounting needs, and the various other misc. audits and work on the investment and financial reports the original contract amount needs to be increased by $64,800 for a total contract amount of $94,300.

Staff recommends the approval of this first contract amendment and also hopes once full-time staff are hired and on-boarded, most of the contract staff can be concluded.

Fiscal Impact
The proposed amendment, if approved, will increase the contract amount by $64,800, for a total contract not to exceed $94,300. The amendment amount will be funded with $30,000 from the General Fund, account 101-3010-3011-8170, $13,000 from the Sewer Fund, account 210-6010-6501-8170 and $21,800 from the Water Fund, account 500-3010-3012-8170.

Attachment:
Attachment No. 1 - RCS Contract Amendment No. 1.pdf

FIRST AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT WITH RCS, LLC
FOR TEMPORARY CONSULTANT SERVICES

THIS FIRST AMENDMENT ("Amendment") is made on this 31st day of July, 2024, by and between the CITY OF SOUTH PASADENA ("CITY") and RCS, LLC. ("CONSULTANT").

RECITALS

WHEREAS, on June 20, 2024, the City entered an agreement with the Consultant RCS, LLC., to provide Financial Consulting Services to the City of South Pasadena (City) for total maximum amount of $29,500; and

WHEREAS, the CITY desires to execute an Amendment to increase the contract in the amount not to exceed $64,800, bringing the aggregate total of Agreement and Amendments to a sum total of $94,300

NOW, THEREFORE, THE CITY AND THE CONTRACTOR AGREE AS FOLLOWS:

1. That Section 3.4 "Maximum Amount" of the Agreement is amended to read as follows:

   ""Maximum Amount": the highest total compensation and costs payable to the Consultant by the City under this Agreement. The Maximum Amount under this Agreement is Ninety-Three Thousand Eight Hundred Dollars ($94,300)

2. That the maximum per hour billing rate is amended to be “up to $165 per hour”

3. That all other terms, conditions, and provisions of the Agreement to the extent not modified by this Amendment, shall remain in full force and effect.

"City"
City of South Pasadena

By: _____
Signature

Printed:

Title: City Manager

Date: _____

Date: _____

Approved as to form:

By: _____
Roxanne M. Diaz,
City Attorney

Date: _____

Attest:

By: _____

Deputy City Clerk

"Consultant"
RCS, LLC

By: _____
Signature

Printed: _____

Title: _____

Date: _____

City Council Agenda Report

ITEM NO. 5

DATE: July 31, 2024

FROM: Donald Penman, Interim City Manager

PREPARED BY: Angelica Frausto-Lupo, Community Development Director

SUBJECT: **CONSIDERATION OF THE APPROVAL OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH TRIPEPI SMITH TO PREPARE ADDITIONAL INFORMATIONAL MATERIALS REGARDING THE UPCOMING NEIGHBORHOOD PRESERVATION AND LOCAL CONTROL BALLOT MEASURE FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $25,000**

Recommendation

It is recommended that the City Council consider the approval of an amendment to the Professional Services Agreement with Tripepi Smith to prepare informational materials related to Housing Element Program 2.n. and the upcoming Neighborhood Preservation and Local Control ballot measure in the amount of $25,000, and for a new total not-to-exceed amount of $54,600.

Executive Summary

On April 24, 2024, the City Council approved two separate agreements. One agreement was with Fairbank, Maslin, Maullin, Metz, and Associates ("FM3") for surveying the community on a proposed ballot measure related to allowing height beyond the currently 45-foot limit. The second agreement was with Tripepi Smith in the amount of $29,600 for the preparation of impartial informational materials to complement the community survey effort. The community survey has been completed and at the time this report was written, the scope of work on the Tripepi Smith agreement has been completed except for two final informational materials (4-page brochure and postcard). These two collateral pieces are being finalized for community distribution at the writing of this report.

Recently, many community members have expressed frustration and confusion on the ballot measure, now being referred to as the "Neighborhood Preservation and Local Control Measure." Particularly, at a study session held on July 17, 2024, the City received several public comments in person, written, and by virtual participation, that they do not understand the survey conducted or the ballot measure. For this reason, staff is recommending an amendment to the agreement with Tripepi Smith for additional informational materials and education leading up to the November 2024 election. If the proposed amendment is approved, the contract new total not to exceed the amount would be $54,600.

Background

In July 1983, at a special municipal election, a voter-led initiative established that no commercial, office, manufacturing, or residential building in the City of South Pasadena

("City") would exceed a height of 45-feet, and that no variance or conditional use permit would be granted to allow such buildings to exceed the 45-foot limit.

A repeal or amendment of this ballot initiative is a requirement of the settlement agreement entered into by the City and Californians for Homeownership ("Settlement Agreement") and incorporated into the City's 6th Cycle 2021-2029 Housing Element as Program 2.n., Citywide Height Limit Ballot Initiative, which requires the City to bring forward a ballot measure to the voters to address the current 45-foot building height limit.

On April 15, 2024, the City Council conducted a study session to learn more about the ballot measure program and discussed next steps, including the benefits of surveying the community on the framing of a proposed ballot measure. On April 24, the City Council approved two agreements—the first was to conduct a community survey and the second for an educational campaign including impartial informational collateral materials.

The community survey was conducted between June 5 and June 10, 2024 by FM3 and results were presented at a study session on July 17, 2024. In terms of the educational component, Tripepi Smith has completed all but two tasks on the original scope of work. The firm created a webpage on the City website with information on why the City is pursuing the ballot measure, background information, and other related information, i.e., Zoning Map, Ostrich Farm Mixed Use Area Map, and Huntington Drive Mixed Use Area Map. Tripepi Smith also coordinated a virtual Town Hall Meeting with a Question and Answer (Q&A) session on June 12, 2024. The meeting was recorded and is available on the dedicated ballot measure webpage and was transcribed into Spanish and Chinese. Tripepi Smith has also developed frequently asked questions (FAQs), a press release, two articles for the City's Neighborhood Pulse e-newsletter, and five social media posts. As previously mentioned, a four-page brochure and postcard are being finalized now.

Analysis
Many residents attended the Neighborhood Preservation and Local Control study session on July 17, 2024 and expressed confusion about the ballot measure. Several community members asked for more educational information to better understand the key issues. There was a consensus that more informational materials as well as another community meeting would benefit the residents. While the law is very clear about cities not advocating for a ballot measure, it is appropriate for the City to provide impartial information to educate the community leading up to the election date. Due to the complexity of the Housing Element and, specifically, the height limit issues, staff is recommending the amendment to the agreement with Tripepi Smith to develop additional impartial informational materials to help voters understand the issues related to the current 45-foot height limit. The consultant will not provide any advocacy materials.

Alternatives (if applicable)
If a contract amendment is not approved, there will not be additional informational materials related to the ballot measure, except for the forthcoming postcard and four-page brochure from the original scope of work.

Fiscal Impact
The proposed amendment, if approved will increase the contract total amount by $25,000, for a new total not to exceed contract amount of $54,600, plus a 10% contingency. Funding for Housing Element program implementation is included in both Fiscal Years 2023-2024 and

2024-2025 Community Development Department Budget under Professional Services Account Number 101-7010-7011-8170-000.

Key Performace Indicators and Strategic Plan
A ballot measure to revise or repeal the City's existing 45-foot building height limit is required by the City's adopted Housing Element and General Plan. Housing is foundational to the implementation of most of the City's 2021-2026 Strategic Plan goals: 2) Economic Development, 3) Public Safety, 4) Infrastructure, and 5) Housing.

Commission Review and Recommendation
This matter was not reviewed by a commission or board.

Public Notification
The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally noticed agenda, posting of the same agenda and reports on the City's website.

Attachment:
Attachment No. 1 - PSA Tripepi Smith-Signed Contract
Attachment No. 2 - Proposed Tripepi Smith PSA 1st Amendment

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PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES

(City of South Pasadena / Tripepi Smith)

1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of South Pasadena, a California municipal corporation ("City"), and Tripepi Smith and Associates, Inc. ("Consultant").

2. RECITALS

2.1. City has determined that it requires the following professional services from a consultant to prepare impartial informational materials regarding a possible ballot measure related to allowed building heights.

2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

2.3. Consultant represents that it has no known relationships with third parties, City Council members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

3. DEFINITIONS

3.1. "Scope of Services": prepare impartial informational materials for ballot measure, Exhibit A.

3.2. "Agreement Administrator": The Agreement Administrator for this project is Ryder Todd Smith, President. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Consultant

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3.3. "Approved Fee Schedule": Consultant's compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.

3.4. "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is twenty nine thousand and six hundred Dollars ($29,600).

3.5. "Commencement Date": April 25, 2024.

3.6. "Termination Date": Upon completion of the work.

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 18 ("Termination") below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this Agreement.

5. CONSULTANT'S DUTIES

5.1. **Services**. Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

5.2. **Coordination with City**. In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator.

5.3. **Budgetary Notification**. Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.

5.4. **Business License.** Consultant shall obtain and maintain in force a City business license for the duration of this Agreement.

5.5. **Professional Standards.** Consultant shall perform all work to the standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement,

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including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

5.6. **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, City may consent in writing to Consultant's performance of such work.

5.7. **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Ryder Todd Smith shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.

5.8. **Substitution of Personnel.** Any persons named in the proposal or Scope of Services constitutes a promise to the City that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. If City and Consultant cannot agree as to the substitution of key personnel, City may terminate this Agreement for cause.

5.9. **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.

5.10. **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.

5.11. **Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or

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as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

6. SUBCONTRACTING

6.1. **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.

6.2. **Consultant Responsible.** Consultant shall be responsible to City for all services to be performed under this Agreement.

6.3. **Identification in Fee Schedule.** All subcontractors shall be specifically listed and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing as an amendment to this Agreement.

6.4. **Compensation for Subcontractors.** City shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

7. COMPENSATION

7.1. **General.** City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.

7.2. **Invoices.** Consultant shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges.

7.3. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.

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7.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.

7.5. **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the City through a fully executed written amendment. Consultant shall not undertake any such work without prior written approval of the City.

7.6. **City Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until City is satisfied that the services are satisfactory.

7.7. **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 11, City shall have the right to withhold payments under this Agreement to offset that amount.

~~8. PREVAILING WAGES~~

~~Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Consultant shall defend, indemnify, and hold the City, tis elected officials, officers, employees, and agents free and harmless form any claim or liability arising out of any failure or alleged failure of Consultant to comply with the Prevailing Wage Laws.~~

9. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products" herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

10. RELATIONSHIP OF PARTIES

10.1. **General.** Consultant is, and shall at all times remain as to City, a wholly independent contractor.

10.2. **No Agent Authority.** Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not

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represent that it is, or that any of its agents or employees are, in any manner employees of City.

10.3. **Independent Contractor Status.** Under no circumstances shall Consultant or its employees look to the City as an employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.

10.4. **Indemnification of CalPERS Determination.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

11. INDEMNIFICATION

11.1 **Definitions.** For purposes of this Section 11, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. "City" shall include City, its officers, agents, employees and volunteers.

11.2 **Consultant to Indemnify City.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.

11.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. Consultant shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.

11.4 **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of City's choice, expert fees and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.

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11.5 **Defense Deposit.** The City may request a deposit for defense costs from Consultant with respect to a claim. If the City requests a defense deposit, Consultant shall provide it within 15 days of the request.

11.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section 11 are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City.

11.7 **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant's behalf.

11.8 **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

12. INSURANCE

12.1. **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

12.2. **Documentation of Insurance.** City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with City:

- Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: informational materials for ballot measure.
- Documentation of Best's rating acceptable to the City.
- Original endorsements effecting coverage for all policies required by this Agreement.
- City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

12.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

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- Professional Liability Insurance: $2,000,000 per occurrence, $4,000,000 aggregate

- General Liability:
  - General Aggregate: $4,000,000
  - Products Comp/Op Aggregate $4,000,000
  - Personal & Advertising Injury $2,000,000
  - Each Occurrence $2,000,000
  - Fire Damage (any one fire) $ 100,000
  - Medical Expense (any 1 person) $ 10,000

- Workers' Compensation:
  - Workers' Compensation Statutory Limits
  - EL Each Accident $1,000,000
  - EL Disease - Policy Limit $1,000,000
  - EL Disease - Each Employee $1,000,000

- Automobile Liability
  - Any vehicle, combined single limit $1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

12.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.

12.5. **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.

12.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.

12.7. Pr**ofessional Liability Insurance or Errors & Omissions Coverage.** The deductible or self-insured retention may not exceed $50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

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Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

12.8. **Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

12.9. **Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees of South Pasadena must be endorsed as an additional insured for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.

12.10. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.

12.11. **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of South

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Pasadena, Attn: Angelica Frausto-Lupo, Community Development Director, South Pasadena, CA 95945.

12.12. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

12.13. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the City. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.

12.14. **Report of Claims to City.** Consultant shall report to the City, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.

12.15. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

12.16. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

13. MUTUAL COOPERATION

13.1. **City Cooperation in Performance.** City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

13.2. **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim or action.

14. NOTICES

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Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

Angelica Frausto-Lupo,
Community Development Director
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030
Telephone: (626) 403-7222
Facsimile: (626) 403-7241

If to Consultant

Ryder Todd Smith,
President
Tripepi Smith
P.O. Box 52152
Irvine, CA
(626) 536-2173

With courtesy copy to:

Roxanne Diaz
South Pasadena City Attorney
Richards, Watson & Gershon
350 South Grand Avenue, 37th Floor
Los Angeles, CA 90071
Telephone: (213) 626-8484
Facsimile: (213) 626-0078

15. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.11 (Records), paragraph 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnity), paragraph 12.8 (Claims-Made Policies), paragraph 13.2 (Consultant Cooperation in Defense of Claims), and paragraph 18.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

16. TERMINATION

16.1. **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

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16.2. **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.

16.3. **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.

16.4. **Remedies.** City retains any and all available legal and equitable remedies for Consultant's breach of this Agreement.

17. INTERPRETATION OF AGREEMENT

17.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.

17.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and Consultant.

17.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.

17.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

17.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

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17.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

18. GENERAL PROVISIONS

18.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.

18.2. **Conflicts of Interest.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

18.3. **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.

18.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.

18.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.

18.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.

18.7. **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the

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following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.

18.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.

18.9. **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

18.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.

18.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs expended in the action.

18.12. **Venue.** The venue for any litigation shall be Los Angeles County, California and Consultant hereby consents to jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

[Signatures on Next Page]

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TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

"City"
City of South Pasadena

DocuSigned by:
By: _____ B6F60358A0F24D7...
Signature

Printed: Arminé Chaparyan

Title: City Manager

Date: 5/8/2024

"Consultant"
Tripepi Smith and Associates, Inc.

By: _____
Signature

Printed: Ryder Todd Smith

Title: President

Date: 4/28/2024

Attest:

DocuSigned by:
By: _____ 8C28A8A8EFB14A7...
Amber Tarif
Deputy City Clerk

Date: 5/8/2024

Approved as to form:

DocuSigned by:
By: _____ A7800E5CA8A241F...
Roxanne Diaz, City Attorney

Date: 5/8/2024

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Exhibit A: Scope of Services

Tripepi Smith will develop impartial informational materials and conduct outreach for ballot measure. Scope of services includes the following items:

- Conduct a kickoff meeting with City Staff;
- Conduct bi-weekly check in calls with City Staff;
- Create a four-page brochure explaining the policy and related legal matters and state mandates generating the need to modify height-limit restrictions in the City;
- Create a web page on City website with background and information on the policy need and related information for the community;
- Create frequently asked questions;
- Develop 5 social media posts that explain a part of the housing element and direct people to the web page to learn more;
- Host a Zoom-based Q&A session with key City Staff to discuss the policy issue. Promote the Zoom meeting, record it and make it available online;
- Collaborate with FM3, City Attorney, and City Staff on the ballot title, ballot language and review of the survey results;
- Assist the City with a press release on the Resolution to declare a ballot measure and one release on key community outreach efforts;
- Craft two stories for City use on email or magazines to share updated with the community; and
- One postcard design for mailer to community to inform them about the issue and direct them to web resources (fees for postage and printing paid by City directly to preferred print shop).

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Exhibit B: Fee Schedule

Flat fee: $29,600

Payment Schedule: 33.33% of total agreed to fees invoiced at the end of the month in April, May, and June.

FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

(City of South Pasadena / Tripepi Smith)

This FIRST AMENDMENT ("Amendment") is entered into on this 31st day of July, 2024, by and between the City of South Pasadena, a California municipal corporation ("City"), and Tripepi Smith ("Consultant").

RECITALS

WHEREAS, on April 24, 2024, the City entered an agreement with Consultant to provide impartial informational materials related to allowed building heights ballot measure; and

WHEREAS, the City desires to execute an Amendment to add additional scope of work and increase the contract to an amount not to exceed $25,000, for a new total contract agreement not-to-exceed amount of $54,600.

NOW, THEREFORE, THE CITY AND CONSULTANT AGREE AS FOLLOWS:

1. DEFINITIONS

1.1. "Scope of Services": prepare additional impartial informational materials for ballot measure, Exhibit A.

1.2. "Approved Fee Schedule": Consultant's compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.

1.3. "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Amendment. The Maximum Amount under this Amendment is twenty-five thousand Dollars ($25,000).

All other terms, conditions, and provisions of the Agreement to the extent not modified by this First Amendment, shall remain in full force and effect.

DRAFT

TO EFFECTUATE THIS FIRST AMENDMENT, the parties have caused their duly authorized representatives to execute this Amendment on the dates set forth below.

"City"
City of South Pasadena

By:_____
Signature

Printed:_____

Title:_____

Date:_____

"Consultant"
Tripepi Smith
By:_____
Signature

Printed:_____

Title:_____

Date:_____

Attest:

By:_____
Amber Tarif
Deputy City Clerk

Date:_____

Approved as to form:

By:_____
Roxanne Diaz, City Attorney

Date:_____

DRAFT

Exhibit A: Scope of Services

Tripepi Smith will develop impartial informational materials related to the ballot measure. Amended scope of services may include the following items as requested by the Community Development Director:

- Develop key talking points for City Council and staff
- Design and copy for educational materials including but not limited to the following:
    - Creation of a presentation deck that explains the subject and key concepts
    - Newspaper campaign/articles
    - Social media campaign and IG post template
    - 2nd postcard design and copy

City to receive collateral files in "raw or native format."

DRAFT

Exhibit B: Fee Schedule

Fee is based on a time and material basis in an amount not to exceed: $25,000 with a 10% contingency. The hourly rates are as follows:

- Principal $350.00
- Director $240.00
- Art Director $240.00
- Senior Business Analyst $190.00
- Business Analyst $130.00
- Junior Business Analyst $105.00
- Sr. Videographer/Animator $195.00
- Photographer/Videographer $120.00
- Senior Graphic Designer $175.00
- Graphic Designer $120.00
- Web Developer $195.00

Consultant is responsible for notifying City in writing when 80% of the $25,000 is reached.

DRAFT

City Council Agenda Report

ITEM NO. 6

DATE: July 31, 2024

FROM: Donald Penman, Interim City Manager

PREPARED BY: Angelica Frausto-Lupo, Community Development Director
Roxanne Diaz, City Attorney

SUBJECT: **CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, ORDERING THAT A MEASURE BE SUBMITTED TO THE VOTERS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS AS NECESSARY TO IMPLEMENT THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT; AND APPROVE AN APPROPRIATION IN THE AMOUNT OF $5,630**

Recommendation

It is recommended that the City Council adopt the Resolution ordering that the measure be submitted to the voters of the City at the General Municipal Election to be held on November 5, 2024, related to building heights in all zoning districts to implement the 2021-2029 (6th Cycle) Housing Element.

Background

The proposed resolution pertains to the placement of a measure on the November 5, 2024 ballot to address the current 45-foot building height limit adopted by a voter-initiative. This measure is required to be placed on the November 5, 2024 ballot under the terms of a settlement agreement the City entered into with Californians for Homeownership. It is also a requirement set forth in Program 2.n of the 2021-2029 (6th Cycle) Housing Element (Housing Element).

With respect to the voter-initiative, in July 1983 at a special election, the voters at a special municipal election adopted an initiative that established that no commercial, office, manufacturing or residential building in the City of South Pasadena would exceed a height of 45 feet and that no variance or conditional use permit would be granted to allow such buildings to exceed 45 feet. Specifically, the language of the 1983 voter initiative is as follows:

"No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five per

cent (5%) of the required spaces."

This 1983 voter-initiative was referred to as "Measure 1" and narrowly passed by a vote of 2531 to 2262, a difference of 269 votes. Measure 1 is also referred as the "45-foot height limit." A copy of Measure 1 is set forth in Attachment 1 to this report.

Since the passage of Measure 1, the State of California's ongoing housing shortage has worsened and the sentiments of lawmakers in Sacramento regarding housing and the ability of cities to maintain local control over land use has dramatically shifted. Since 2017, over 100 housing laws have gone into effect to: (i) increase and expedite housing production, (ii) substantially limit a city's ability to maintain local control over land use and (iii) provide more tools to the Department of Housing and Community Development ("HCD") and the Attorney General's office to ensure that revisions to local zoning laws effectively comply with these state laws and guidelines.

In the Terner Center for Housing Innovation 2023 California Housing Legislative Round Up published on October 9, 2023, they succinctly and correctly summed up the current situation as follows: "The state legislature has continued its remarkable run over the last several years of providing developers of deed-restricted affordable housing ever more flexibility to exceed or override local zoning, greater certainty on the timing and likelihood of planning approvals, and substantial relief from CEQA review and litigation." We expect that this will continue with the bills proposed for the 2024 legislative season.

In California, every city is required to adopt a comprehensive, long-term, General Plan for the physical development of law within its jurisdiction. The General Plan must include, among other requirements, a housing element that identifies the existing and future housing needs of the city as determined by the State. The housing element in turn contains the required housing programs and strategies to accommodate a city's assigned housing needs.

The State assigns each city a total number of housing units that the city must plan for in specific price point categories that the housing should seek to target (i.e. very low income, low income, moderate income, and above moderate income). The assignment is accomplished through the Regional Housing Needs Assessment ("RHNA") process. In the 2021-2029 housing cycle, after the City appealed its housing allocation, the City's RHNA housing allocation was 2,067 units. This means that the City is required to plan and create zoning that would allow for the housing units to be built during the planning period. In general, it is the private sector market that will build the housing units taking into consideration various factors such as the economy, interest rates, etc. The City is not required to build units but is required to plan and create the zoning to accommodate the RHNA housing allocation.

Based on input from the City's residents as part of the General Plan adoption process, future units are planned to be located in existing commercial and mixed-use residential areas and along arterial corridors that have access to services, shopping and public transportation.

Accordingly, the City has increased zoning densities in multi-family zones, adopted the Downtown Specific Plan, Mixed Use Overlay Zone and the Housing Opportunity Zone in an effort to plan for its RHNA obligation as well as provide housing opportunities, including affordable housing, for middle and working class families, individuals and seniors.

The City of South Pasadena began its Housing Element process in early 2020. During the

course of developing the Housing Element, the City was sued on April 12, 2022 by Californians for Homeownership for non-compliance with State Law for failing to have adopted a compliant housing element by October 15, 2021 *(Californians for Homeownership v. City of South Pasadena), LASC Case Nos. 22STCP01388 & 22STCP01161).* On August 15, 2022, the City entered into a settlement agreement with Californians for Homeownership to resolve the lawsuit, and the settlement agreement committed the City to a number of actions, including but not limited to: completing the necessary rezoning to support the Housing Element within 120 days of the adoption of the Housing Element; and addition of a program to seek, through voter approval, the removal of the City's existing 45-foot height limit for at least any parcel identified in the Housing Element for which the base density is anticipated to exceed 50 dwelling units per acre. On August 19, 2022, the Court entered a Stipulated Judgment agreed upon by the parties, which committed the City to adopting a housing element certified by or eligible for certification by HCD no later than May 31, 2023. The settlement agreement and the Stipulated Judgment is referred to collectively as the "Court Order." The Court Order is included as Attachment 2 to this report.

As the City continued drafting of the Housing Element, HCD identified the 45-foot height limit as a potential constraint to housing development in the City, when applied to areas with allowable base residential densities in excess of 50 dwelling units per acre. To address this constraint, Program 2.n. was included and adopted as part of the Housing Element. Program 2.n requires the City to place a ballot measure on the November 2024 election to address the current 45-foot building height limit. The Program, however, does not require the repeal of the height limit city-wide. The Program language states that the City will seek "the repeal of the current height limit of 45 feet as to at least any residential or mixed-use (including residential) project on which the housing element anticipates a base density in excess of 50 units/acre. A copy of Program 2.n is included as Attachment 3 to this report.

Analysis

Overview of Approach

With regard to the approach of what the City is asking the voters to approve, it is clear that the total repeal of the 45-foot height limit is not necessary or requested. Therefore the ordinance that would be adopted by the ballot measure would retain the 45-foot height limit in the Residential Estate Zoning District, Residential Single-Family Zoning District and the Overlay District of Altos de Monterey (which is part of the City's hillside area).

As for the remaining Zoning Districts the ordinance will repeal the 45-foot height limit and the maximum height will be set by ordinance adopted through a public process. In order to implement Program 2.n., the ordinance provides that when establishing the maximum height for any residential or mixed use (including residential) building or structure in any Zoning District with a base density in excess of 50 dwelling units per acre, the height limit shall be adopted by ordinance and set at a height limit to achieve the applicable base density. The City Council will be guided by technical studies and/or technical analysis in determining the appropriate height to achieve the allowed base density. Staff has heard from residents in our meetings about the importance of having technical studies to educate what the appropriate height should be as there is not a one-size fits all approach. This flexible approach meets the requirements of the Housing Element to provide for increased density in some areas, while still protecting against excessive building heights in other areas of the City.

The Zoning Districts that contain a base density in excess of 50 dwelling units per acre include

areas set forth in the Downtown Specific Plan, specifically the Mixed Use Core Zone and the Fair Oaks Corridor Zone, and the Mixed Use Overlay Zone, the Housing Opportunity Overlay Zone, certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas.

It should be noted that in addition to density, the City has taken additional steps to ensure that affordable units will be built. The City adopted an Inclusionary Housing Ordinance that requires any project with ten or more units to dedicate a portion of the units as affordable. Accordingly, if such housing is built, affordable units will be part of the unit-mix. Affordability is also a function of market forces, and having more available units on the market—both affordable and market-rate units—typically results in a more stable leasing environment as well providing options for a variety of housing types. We know that this is important to residents as South Pasadena is a community where young people who grew up here want to come back and raise their own families in the schools and programs they attended as children. Also, seniors have a great desire to stay and retire in the City. Last, the goal of our housing programs is to provide the zoning that will also allow for the creation of housing for our middle and working class families.

It is Staff's position that this approach maximizes the City's ability to retain local control over its zoning and land use in that low-density areas will maintain their current height limits and not exceed 45-feet. This includes areas of the City in the hills that have narrow streets and generally no sidewalks wherein development is likely limited to infill with some opportunities for accessory dwelling units. With respect to the areas that have a base density in excess of 50 dwelling units per acre, many of these areas are near transit and commercial services and contribute towards creating a pedestrian-oriented environment where residents can walk to restaurants and businesses and do not have to depend on a car. The creation of housing in these areas also would encourage the onset of new businesses and create new customers for existing local small businesses, which are one of the hallmarks of the City.

Resolution Placing the Question on the Ballot

In terms of logistics, the Elections Code requires the adoption of the attached Resolution (Attachment 4) in order to place this measure before the voters. The Resolution would cause the following title and question to be submitted to the voters:

South Pasadena Neighborhood Preservation, Local Control

"To protect South Pasadena's single-family neighborhoods' residential character; maintain local control over local land use; improve affordable housing opportunities for middle/working class families/individuals/seniors; retain/attract local businesses; shall an ordinance be adopted retaining existing height limits in single-family residential neighborhoods; restricting multi-unit housing in commercial/mixed use corridors/neighborhoods including Downtown, Huntington Drive, Ostrich Farm with publicly-reviewed height limits necessary to implement South Pasadena's Housing Element?"

The Resolution also permits the filing of written arguments in favor or against the measure. Members of the City Council have priority to file an argument in favor, if designated by the City Council, or any individual voter eligible to vote on the measure, a bona fide association of such citizens or any combination thereof may file in compliance with the Elections Code. There is a deadline that will be set by the City Clerk to submit arguments and furthermore the City Attorney will be ordered to prepare an impartial analysis of the measure within 10 days of

the adoption of the Resolution.

The Community Development staff has developed background and educational material with regard to the land use issues related to the ballot measure. On the City's website is a page dedicated to the ballot measure, southpasadenaca.gov/ballot measure, which will be updated as necessary through the election date.

Alternatives (if applicable)
There is no alternative as the City is required to place this measure on the ballot to comply with the Court Order and Program 2.n.

Fiscal Impact
The cost for the Los Angeles County Registrar-Recorder/County Clerk to conduct the election for the City of South Pasadena has yet to be determined. The County provided election cost estimates for one Ballot Measure of $5,629.99 for November 5, 2024. The County estimate is not inclusive of election supplies, advertising, or the estimated total cost of the General Municipal Election and is only an estimate for one Ballot Measure. The City's estimated costs were included in the proposed Fiscal Year 2024-2025 budget under General Ledger account number 101-2020-1022-8170. At this time an appropriation in the amount of $5,630 (rounded up), is necessary and requested to move forward with the Ballot Measure since this was not a budgeted item in the FY 2023-24 budget.

Key Performace Indicators and Strategic Plan
This item aligns with Strategic Plan priority 5, Plan for Affordable Housing to Comply with State Mandates and Respond to Community Needs.

Commission Review and Recommendation
This Item was not reviewed by a commission or board.

Public Notification
The public was made aware of this item through the posting of the City Council Agenda.

Environmental Analysis
An Initial Study in conformity with 14 CCR 15080(c) and an Environmental Assessment (EA) in conformity with 14 CCR 15140, et seq., were prepared for the preparation and adoption of the City's 2021-2029 Housing Element. On May 30, 2023, the City Council approved and adopted the EA, not only for the Housing Element, but also for implementation of the programs identified therein. Based on the analysis presented in the EA, and as more thoroughly described therein, implementation of the Housing Element would result in the following significant and unavoidable impacts after implementation of feasible mitigation measures: Air Quality (Air Quality Management Plan Consistency, Air Quality Standards Violation; Cumulative Air Quality Impacts); Greenhouse Gas Emissions (GHG Emissions); Noise (Direct and Cumulative Construction and Exterior Traffic Noise Standard Violation); and, Population and Housing (Population Growth). EA Table ES-1 presents a summary of significant environmental impacts identified in Sections 3.1 through 3.16 of the Environmental Assessment; Mitigation Measures that reduce any significant impacts; and the level of significance of each impact after mitigation. Significant irreversible environmental changes and growth-inducing impacts are addressed in Section 5.0, Other CEQA Considerations of the Environmental Assessment.

The Housing Element, and the EA analysis, contemplated implementation of Program 2.n. Therefore, the proposed resolution and ordinance to be submitted to the voters is within the scope of the EA, no further CEQA review is required, and is exempt from the California Environmental Quality Act pursuant to Government Code Section 65759.

Attachment:
Attachment No. 1 - 1983 Initiative Measure 1.pdf
Attachment No. 2 - Court Order.pdf
Attachment No. 3- HE Program 2N.pdf
Attachment No. 4 - Resolution - Ballot Measure.pdf

RESOLUTION NO. 5642

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN SAID CITY ON JULY 12, 1983, DECLARING THE RESULT THEREOF AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW.

WHEREAS, a special municipal election was held and conducted in the City of South Pasadena, California, on Tuesday, July 12, 1983, as required by law; and

WHEREAS, notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes cast thereat, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, pursuant to Resolution No. 5625 adopted April 20, 1983, the City Clerk of said City canvassed the returns of said election and has certified the results to this City Council, said results are received, attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That there were eight (8) voting precincts established for the purpose of holding said election consisting of consolidations of the regular election precincts in said City as established for the holding of state and county elections.

SECTION 2. That at said special municipal election, the following measure was submitted to the electors of said City and was voted upon, to wit:

No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five per cent (5%) of the required spaces.

YES_____

NO_____

SECTION 3. That the whole number of votes cast in said City (except absent voter ballots) was 4058.

That the whole number of absent voter ballots cast in said City was 735, making a total of 4793 votes cast in said City.

SECTION 4. That the number of votes given at each precinct and the number of votes given in the City for and against the measure were as listed in Exhibit "A" attached.

SECTION 5. The City Clerk shall enter on the records of the City Council of said City, a statement of the result of said election, showing:

(1) The whole number of votes cast in the city;
(2) The measure voted upon;
(3) The number of votes given at each precinct for and against the measure;
(4) The number of votes given in the city for and against the measure.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of said City; and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of said City, in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED ON July 19, 1983.

Mayor of the City of
South Pasadena, California

ATTEST:

City Clerk of the City of
South Pasadena, California

Vote: Ayes - Councilmembers Knowles, Margrave, Shaw, Mayor Arnold
Noes - None
Absent - Councilmember Montgomery

I, Ruby W. Kerr, City Clerk of the City of South Pasadena, County of Los Angeles, State of California, duly authorized by Resolution No 5625, adopted by the City Council of said City of the 20th day of April, 1983, do hereby certify that I have canvassed the returns of the Special Municipal Election held in said city on the 12th day of July, 1983, and find that the number of votes given at each precinct and the number of votes given in the City for and against Measure 1 were as follows:

Ruby W. Kerr

City Clerk of the City of South Pasadena

Dated July 15, 1983

PRECINCT	YES	NO	TOTAL VOTES CAST AT PRECINCT
1	330	260	590
2	191	186	377
4	377	171	548
9	288	176	464
13	263	248	511
16	277	153	430
19	297	262	559
22	269	310	579
TOTAL	2292	1766	4058
ABSENTEE VOTE	239	496	735
TOTAL VOTES CAST	2531	2262	4793

SETTLEMENT AGREEMENT

(CALIFORNIANS FOR HOMEOWNERSHIP V. CITY OF SOUTH PASADENA, LASC CASE NOS. 22STCP01388 & 22STCP01161)

This Settlement Agreement ("Agreement") is made and entered into by and between Californians for Homeownership, a California nonprofit public benefit corporation ("Californians") and the City of South Pasadena (the "City") (each a "Party" and collectively the "Parties) on the terms and conditions set forth below.

WHEREAS, Californians filed a verified Petition for Writ of Mandate pursuant to California Code of Civil Procedure Section 1085 as Los Angeles County Superior Court Case No. 22STCP01388, entitled Californians for Homeownership vs. City of South Pasadena (the "Writ Petition"), alleging that the City failed to adopt an update to its housing element within the time required by law;

WHEREAS, Californians filed a verified Petition for Writ of Mandate pursuant to California Code of Civil Procedure Section 1085 as Los Angeles County Superior Court Case No. 22STCP01161, entitled Californians for Homeownership vs. City of South Pasadena (the "CPRA Petition"), alleging that the City failed to adequately respond to a request for public records under the California Public Record Act pursuant to Government Code section 6250, et seq., for documents concerning the City's compliance with its update to its housing element;

WHEREAS, the City is taking all reasonable steps to adopt its sixth cycle revision of the housing element and obtain certification of same from the California Department of Housing and Community Development ("HCD"), or adopt findings pursuant to Government Code Section 65585, subdivision (f)(2);

WHEREAS, the timeline on which HCD and the Southern California Association of Governments ("SCAG") allocated the number of housing units the City must accommodate in its sixth revision of the housing element have made it difficult for the City to timely update its housing element;

WHEREAS, the City's ability to adopt an HCD-certified housing element (or one close enough for the City to adopt findings pursuant to Government Code Section 65585, subdivision (f)(2)) depends, in part, on the response, responsiveness and reasonableness of HCD in reviewing the City's updated housing element, factors not within the City's control;

WHEREAS, Government Code Section 65754, subdivision (b), requires any judgment in favor of petitioner, which finds that the housing element does not substantially comply with the requirements of state law, must order the local jurisdiction to bring its housing element into

compliance with those requirements within 120 days and bring its zoning ordinance into consistency with the updated housing element within 120 days after amendment thereof;

WHEREAS, Government Code Section 65759, subdivision (a), provides that, with limited exceptions, CEQA does not apply to any City action necessary to bring its housing element into compliance with a court order or judgment entered under Article 14 of Chapter 3 of Division 1 of Title 7 of the Government Code;

WHEREAS, Government Code Section 65759, subdivision (b), provides that, upon good cause shown, the court can extend the time required for a local jurisdiction to bring its housing element into compliance or extend the time required to bring its zoning ordinance into compliance with the updated housing element by way of two extensions of time, not to exceed a total of 240 days;

WHEREAS, good cause exists to grant the City additional time to meet the requirements of Government Code Section 65754, which additional time is necessary to allow the City to develop a draft housing element that is likely to be certified by HCD and to complete legally appropriate environmental review; and

WHEREAS, the Parties wish to avoid the time and expense of litigation, so as to avoid wasting taxpayer money on unnecessary litigation.

NOW THEREFORE, in consideration of and in exchange for the promises contained herein, the Parties mutually agree as follows:

1. **Payment of Attorney's Fees and Costs**. Within 30 days of entry of the Proposed Judgment attached hereto as Exhibit A, the City shall pay the total sum of $8,500 to Californians for reimbursement of reasonable attorney's fees and costs of both suits. The check shall be payable to Californians for Homeownership, Inc., and delivered to Matthew P. Gelfand, counsel for Californians, at 525 S. Virgil Ave., Los Angeles, CA 90020. Californians shall furnish to counsel for the City an executed W-9 form at least 10 business days prior to the payment of such fees and costs. If payment is made pursuant to this Paragraph and judgment is entered consistent with Paragraph 2, Californians agrees not to make any further application for costs or fees in connection with the Writ Petition and CPRA Petition unless the City fails to comply with the Judgment.

2. **Entry of Judgment**. Within 3 days from the execution of this Agreement, counsel for the Petitioner shall file with the court a Stipulation for Entry of Proposed Judgment seeking entry of the Proposed Judgment in the Writ Petition attached hereto as Exhibit A. In the event that the Court does not adopt the Proposed Judgment in the form requested by the Parties, the Parties mutually agree to cooperate in good faith to make necessary amendments to the Proposed Judgment, to the extent such amendments can be made without substantively altering the bargain described in this Agreement. To the extent that the Court declines to enter judgment in a manner acceptable to the Parties, the Parties agree that the litigation will proceed, the Parties will mutually

seek the setting of a trial date by the Court, this Agreement will be of no further effect, and the City will not be required to make the payment described in Paragraph 1, without prejudice to Californians seeking reasonable attorney's fees and costs of suit at an appropriate time as provided by law.

3. **Actions Required of the City**. If judgment is entered by the Court consistent with Paragraph 2, the City shall act in the manner specified in the judgment and abide by the following constraints with respect to any future draft sixth cycle housing element it submits to the state Department of Housing and Community Development (HCD) and any housing element it subsequently adopts:

i. The City will not identify as a site for housing, whether through rezoning or otherwise, the parcels located at any of the following assessor parcel numbers: 5315004066, 5315004083, 5315004084, 5315004085, 5318004012, 5318004019, 5318004023, 5318015017, 5314026937, 5310018901, 5306006904, 5306006025, 5306006024, 5306006053, 5306006048, 5301028051, 5301028055, 5301028034, 5301028900, 5301028054, 5301028052, 5301028049, 5301028053, 5301028050, 5301028035, 5301028036, 5312016015, 5308027008, 5308027020, 5308027017, 5308027018, 5308027019, 5308021902, 5314016064, 5319031901, 5312016900, 5312016901, 5314006039, 5312016014, 5312017043, 5314016075, 5312017044, 5306006905, 5312017042, 5312017049, 5308027016, 5308032902, 5308034901, and 5308033904.

ii. For any partially or fully City-owned parcel the City identifies as a site for housing, whether through rezoning or otherwise, the City will include in the housing element a program to engage in a request for proposal ("RFP") or similar process, by a date certain of no later than January 1, 2028, to sell the parcel to a housing developer or otherwise ensure its development as housing.

iii. For every non-vacant site identified as a site for housing in the housing element, including sites identified for rezoning, the City will specifically identify, on a parcel-by-parcel basis, the information that it contends satisfies its obligations under 65583.2(g)(1) (for all non-vacant sites) and 65583.2(g)(2) (for non-vacant sites identified to provide lower-income housing).

iv. The housing element will contain (1) a program to seek, through voter approval by December 31, 2024, the repeal of the City's 45-foot height limit as to at least any residential or mixed-use (including residential) project on the parcels for which the housing element anticipates a base density in excess of 50 units/acre; and (2) a program to complete a mid-cycle revision of the City's housing element, reducing all for which the housing element anticipates a base density in excess of 50

units/acre sites to an assumed maximum density of 50 units/acre, within nine months in the event that the proposal is not approved by the City's voters.

4. **Dismissal of CPRA Petition**. Within three (3) days from the entry of judgment in the Writ Petition, counsel for the Petitioner shall file with the court a dismissal with prejudice of the CPRA Petition, each site bearing their own costs in such action.

5. **Entire Agreement**. This Agreement embodies the entire agreement of the Parties hereto and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement; that they have not executed this Agreement in reliance on any representation, inducement, promise, agreements, warranty, fact or circumstances, not expressly set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

Dated: 8/11/2022

MATTHEW P. GELFAND
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

Dated: _____

ARMINÉ CHAPARYAN
CITY MANAGER, CITY OF SOUTH PASADENA

APPROVED AS TO FORM:

Dated: 8/11/2022

MATTHEW P. GELFAND
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

Dated: _____

ANDREW L. JARED, CITY ATTORNEY
CITY OF SOUTH PASADENA

EXHIBIT A

FILED
Superior Court of California
County of Los Angeles

AUG 19 2022

Sherri R. Carter, Executive Officer/Clerk of Cou
By: J. De Luna, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CALIFORNIANS FOR HOMEOWNERSHIP, INC., a California nonprofit public benefit corporation, Petitioner, v. CITY OF SOUTH PASADENA, Respondent.	Case No. 22STCP01388 **[PROPOSED] STIPULATED JUDGMENT** Assigned for all purposes to: Hon. James Chalfant (Dept. 85) Petition Filed: April 18, 2022

Pursuant to the Stipulation for Entry of a Stipulated Judgment submitted by Petitioner CALIFORNIANS FOR HOMEOWNERSHIP, INC ("Californians") and Respondent CITY OF SOUTH PASADENA (the "City"), and pursuant to the Court's power under Code of Civil Procedure Section 664.6:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of Petitioner and against Respondent based on the following findings:

(1) The City did not adopt the sixth cycle update to its housing element by the October 15, 2021 statutory deadline for doing so;

(2) The timeline on which the California Department of Housing and Community Development ("HCD") and the Southern California Association of Governments ("SCAG") allocated the number of housing units the City must accommodate in its sixth cycle revision of the housing

08/22/2022

element has made it difficult for the City to timely update its housing element;

(3) Government Code Section 65754, subdivision (b), requires any judgment in favor of a petitioner, which finds that the housing element does not substantially comply with the requirements of state law, must order the local jurisdiction to bring its housing element into compliance with those requirements within 120 days and bring its zoning ordinance into consistency with the updated housing element within 120 days thereafter;

(4) Government Code Section 65759, subdivision (a), provides that, with limited exceptions, the California Environmental Quality Act does not apply to any action necessary to bring a city's housing element into compliance with a court order or judgment entered under Article 14 of Chapter 3 of Division 1 of Title 7 of the Government Code;

(5) Government Code Section 65759, subdivision (b), provides that, upon good cause shown, the court can extend the time required for a local jurisdiction to bring its housing element into compliance by way of two extensions of time, not to exceed a total of 240 days;

(6) Good cause exists to grant the City additional time to meet the requirements of Government Code Section 65754, which additional time is necessary to allow the City to develop a draft housing element that is likely to be certified by HCD; and

(7) The parties have agreed to the entry of this judgment because they wish to avoid the time and expense of litigation, so as to avoid wasting taxpayer money on unnecessary litigation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

(1) The City shall abide by the following schedule with respect to its housing element:

a. The City shall prepare and submit a revised draft housing element to HCD by September 15, 2022 (the "September Draft").

b. In the event that HCD determines that the September Draft meets the standards of state law and is eligible for certification, or promises certification conditioned on changes agreed to by the City in advance, the City shall adopt its housing element within 30 days after notification by HCD.

c. In the event that HCD determines that the September Draft requires modifications to meet the standards of state law, the City shall prepare and submit a revised draft housing

08/22/2022

element to HCD within 45 days after notification by HCD.

d. In the event that HCD determines that the subsequent draft meets the standards of state law and is eligible for certification, or promises certification conditioned on changes agreed to by the City in advance, the City shall adopt its housing element within 30 days after notification by HCD.

e. In the event that HCD determines that the subsequent draft requires modifications to meet the standards of state law, the City shall prepare and submit a revised draft housing element to HCD within 45 days after notification by HCD.

f. In no event shall the City adopt its updated sixth cycle housing element later than May 31, 2023;

(2) The City shall complete all rezoning of property contemplated in the housing element within 120 days of its adoption of the housing element. For purposes of this section, rezoning of property shall not include any action required to be put the vote of the electorate to consider repeal of the City's 45-foot height limit or any subsequent required action should such measure fail to bring the housing element into compliance;

(3) Consistent with Government Code Section 65759, the City shall be exempt from compliance with CEQA in connection with all of the actions it is required to undertake pursuant to the preceding paragraphs, if it complies with the requirements of Section 65759;

(4) Because the City has not had an adopted sixth cycle housing element, starting on October 15, 2021, the City shall not use the provisions in subdivision (d)(1) or (d)(5) of Government Code Section 65589.5 to disapprove a housing development project that qualifies for approval under subdivision (d) of that section—that is, a project in which either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Health and Safety Code Section 50079.5, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Health and Safety Code Section 50093, or persons and families of middle income, as defined in Government Code Section 65008—or to condition the approval of such a project in a manner that renders it infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards; and

08/22/2022

(5) The Court shall retain jurisdiction over this action and the Parties thereto until the terms of this Judgment are fulfilled.

Dated: 8/19/, 2022

JAMES C. CHALFANT

Respectfully submitted this 15th day of August, 2022

CALIFORNIANS FOR HOMEOWNERSHIP, INC.

Matthew P. Gelfand

Attorneys for Petitioner CALIFORNIANS FOR HOMEOWNERSHIP, INC.

CITY OF SOUTH PASADENA

Andrew L. Jared, City Attorney

Attorneys for Petitioner CITY OF SOUTH PASADENA

08/22/2022

Program 2.n – Citywide Height Limit Ballot Initiative

Consistent with requirements under state law concerning cities placing measures on the ballot, the City will seek through voter approval in a local election, the repeal of the current height limit of 45 feet as to at least any residential or mixed-use (including residential) project on which the housing element anticipates a base density in excess of 50 units/acre. Such measure will be brought to the City Council for consideration prior to being placed on the ballot. The measure may either eliminate the height limit for these parcels entirely, or be replaced by a new height limit localized in the areas of increased density to stated density goals..If the height limit is replaced, the new limit will be no less than 84 feetto achieve the densities identified in the DTSP... In addition, the City will facilitate residential projects that may exceed 45 feet by utilizing the existing options for exceptions to the citywide height limit, including state Density Bonus law. (See also Program 3.n.) If the ballot measure is approved, the City will update development standards throughout the DTSP and zoning code to allow for buildings that can achieve the densities identified in the Housing Element. If the ballot measure is not approved by the voters, the City will complete a mid-cycle revision to the housing element, reducing sites for which the housing element anticipates a base density in excess of 50 units/acre; the City will conduct additional rezoning to address the remaining RHNA on sites allowing densities greater than 50 dwelling units per acre. This will include preparing a mid-cycle Housing Element.

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA ORDERING THAT A MEASURE BE SUBMITTED TO THE VOTERS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS AS NECESSARY TO IMPLEMENT THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT

WHEREAS, Sections 65300 et. seq. of the California Government Code require each city and county to adopt a comprehensive, long-term, General Plan for the physical development of land within its jurisdiction, which must include, among other requirements, a housing element meeting detailed criteria set forth in State law that provides sufficient housing development opportunities to meet existing and projected housing needs for the community;

WHEREAS, Sections 65580 *et. seq.* of the California Government Code require each city and county to periodically prepare and update the housing element of its General Plan;

WHEREAS, the Southern California Association of Government ("SCAG") periodically undertakes a Regional Housing Needs Allocation ("RHNA") process to allocate to the various agencies in the SCAG region the portion of the regional housing needs for which each of the agencies must plan in their respective housing elements. In 2019, the City of South Pasadena (the City) received its RHNA allocation of 2,062 units. The City appealed and received its final RHNA allocation of 2067 units in 2021, and thereafter started to prepare the 2021-2029 (6th Cycle) Housing Element update (hereafter, the "Housing Element" or "2021-2029 Housing Element");

WHEREAS, the City is required by the housing element law to plan for the City's RHNA allocation and the Housing Element contains the necessary programs and strategies to accommodate the RHNA allocation;

WHEREAS, based on input from residents as part of the General Plan adoption process, future units are planned primarily to be located in existing commercial and mixed-use areas and along arterial corridors that have access to shopping, services and public transportation;

WHEREAS, on July 12, 1983, City voters passed a voter-led initiative known as Measure No. 1 with 2,531 voting for the measure and 2,262 voting against the measure ("Measure No. 1"). Measure No. 1 established that in the City "No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45)

feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five percent (5%) of the required spaces.";

WHEREAS, on April 12, 2022, the City of South Pasadena was sued by Californians for Homeownership for non-compliance with State Law for failing to have adopted a compliant housing element by October 15, 2021 (*Californians for Homeownership v. City of South Pasadena), LASC Case Nos. 22STCP01388 & 22STCP01161*);

WHEREAS, on August 15, 2022, the City entered into a settlement agreement with Californians for Homeownership to resolve the lawsuit, and the settlement agreement committed the City to a number of actions, including but not limited to: completing the necessary rezoning to support the Housing Element within 120 days of the adoption of the Housing Element; and addition of a program to seek, through voter approval, the removal of the City's existing 45-foot height limit for at least any parcel identified in the Housing Element for which the base density is anticipated to exceed 50 dwelling units per acre;

WHEREAS, on August 19, 2022, the Court entered a Stipulated Judgment agreed upon by the parties, which committed the City to adopting a housing element certified by or eligible for certification by HCD no later than May 31, 2023. The settlement agreement and Stipulated Judgment shall be referred to collectively as the "Court Order";

WHEREAS, during the 2021-2029 Housing Element process, the California Department of Housing and Community Development ("HCD") identified the 45-foot height limit, as applied to areas with allowable base residential densities in excess of 50 dwelling units per acre, as a potential constraint to housing development in the City;

WHEREAS, to address the height constraint, Housing Element Program 2.n was included in the Housing Element. Program 2.n requires the City to place a ballot measure on the November 2024 election to address the current 45-foot building height limit;

WHEREAS, Program 2.n provides that the City will seek the repeal of the height limit as to at least any residential or mixed-use (including residential) project on parcels for which the Housing Element anticipates a base density in excess of 50 dwelling unit per acre;

WHEREAS, the City undertook the rezoning required by the Housing Element and Court Order to increase zoning densities in multi-family zones, adopted the Downtown Specific Plan and the Mixed-Use Overlay Zone and implemented the Housing Opportunity Overlay Zone (which includes certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas) in an effort to plan for its RHNA obligation as well as provide housing opportunities, including affordable housing, for middle and working class families, individuals and seniors;

WHEREAS, on June 5, 2024 the South Pasadena City Council called a General Municipal Election to be held in the City on November 5, 2024 and requested that the Los Angeles County Board of Supervisors consolidate said election with the Statewide General Election to be held on the same date, through the adoption of Resolution Nos. 7852 and 7853;

WHEREAS, at the said General Municipal Election, the City Council intends to submit an ordinance for consideration by the voters, relating to building height limits in all Zoning Districts, as required for the implementation of the Housing Element;

WHEREAS, the proposed measure retains the 45-foot height limit in the Residential Estate Zoning District, Residential Single-Family Zoning District and the Overlay District of Altos de Monterey and provides that any building or structure shall not exceed 45 feet;

WHEREAS, the proposed measure to repeal the 45-foot height limit as to residential and mixed-used projects on parcels with base densities in excess of 50 dwelling units per acre is not optional because it is a requirement of the Court Order as well as a requirement of the Housing Element;

WHEREAS, the proposed measure provides that if the voters rescind the height limitation as to properties with residential or mixed-use densities in excess of 50 dwelling units per acre and retain the 45-foot maximum height limit for single-family residential areas of the City, the City will set maximum building heights as appropriate to achieve the allowed density through a public process;

WHEREAS, the proposed measure provides that the City will be guided by technical studies and/or technical analysis in determining the appropriate height to achieve the allowed base density for properties with residential or mixed-use densities in excess of 50 dwelling units per acre;

WHEREAS, the areas that contain a base density in excess of 50 dwelling units per acre include areas set forth in the Downtown Specific Plan, specifically the Mixed Use Core Zone and the Fair Oaks Corridor Zone, the Mixed-Use Overlay Zone, and the Housing Opportunity Overlay Zone, which includes certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas;

WHEREAS, many of these areas are near transit and commercial services and as such, create a pedestrian-oriented environment where residents do not have to depend on an automobile to complete their daily trips;

WHEREAS, the proposed measure will help ensure more affordable housing is available for middle class and working class families, individuals and seniors in areas specifically outlined within the Housing Element;

WHEREAS, the proposed measure will allow for additional housing in downtown South Pasadena which will create new customers for local small businesses and encourage the growth of new businesses, therefore bolstering the local economy;

WHEREAS, should additional housing be constructed, developers will be required to pay fees to support South Pasadena schools and improve parks and infrastructure;

WHEREAS, the City has worked diligently to implement the Housing Element, including undertaking the required rezoning actions and on July 29, 2024, the City received HCD certification that the City's Housing Element substantially complies with housing element law ("July 29th Letter");

WHEREAS, if the proposed measure is not passed by the voters, the City must comply with the Court Order and Program 2.n. to allow for increased density across the City to address the City's RHNA requirements, which would likely include increased residential density in single family areas. Pursuant to the Court Order and Program 2.n, the City would be required to complete the mid-cycle housing element revision within nine (9) months;

WHEREAS, pursuant to Government Code Section 65585, HCD has the authority to review cities' actions, or failures to act, for consistency with an adopted housing element. If HCD finds that an action, or failure to act, does not substantially comply with housing element law, HCD has the authority to revoke its findings and certification of the housing element;

WHEREAS, HCD in its July 29th Letter stated that Program 2.n. "is crucial to substantial compliance with State Housing Element Law";

WHEREAS, if the City is found by HCD noncompliant with Program 2.n, HCD may revoke its certification findings. In such case, cities without a certified housing element are subject to the so called "builder's remedy";

WHEREAS, builder's remedy is a legal provision of the State Housing Accountability Act, which takes away local control by limiting a city's ability to deny or condition a housing project. (Government Code Section 65589.5(d)). The builder's remedy allows developers to propose whatever they want even if the project is inconsistent with a community's character and planning standards, such as the City's General Plan, Zoning Code and any voter adopted land use initiatives like Measure 1, and there would be no caps on building heights or density, and cities' ability to deny projects based on the inconsistencies is severely limited;

WHEREAS, the City desires through this proposed measure to maintain local control over housing projects and prevent developers from filing builder's remedy applications that enable housing projects that bypass elements of the City's current zoning standards;

WHEREAS, the proposed measure will ensure the City maintains local control over land use and planning as well as its community character preventing the utilization of "builder's remedy" by developers that would be inconsistent with residents' desires for the community;

WHEREAS, if HCD revokes its certification findings, state law and the courts also have imposed consequences on cities that lack a certified housing element. Those penalties include but are not limited to financial penalties of up to $100,000 a month, loss of the City's permitting authority such as not being able to issue any building permits for business remodels, new businesses or bathroom remodels, and loss of access to grant funding;

WHEREAS, cities have pursued lawsuits against housing mandates and have mostly lost, leaving cities with no reasonable legal pathways to fight against state mandates; and

WHEREAS, the November 2024 election is the only opportunity for South Pasadena voters to consider and adopt a measure that allows the City to implement the Housing Element in compliance with state mandates, or risk losing local control over land use planning;

NOW, THEREFORE, the City Council of the City of South Pasadena hereby finds, determines, orders, and resolves as follows:

Section 1. The facts set forth in the recitals of this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

Section 2. Pursuant to California Elections Code Sections 9222 and 10201, the City Council hereby orders that at the said General Municipal Election, an ordinance be submitted to the voters for consideration. The full text of the proposed ordinance is attached to this Resolution as Exhibit A and incorporated herein by reference. The measure to be submitted to the voters shall be printed on the ballot as follows:

South Pasadena Neighborhood Preservation, Local Control	
To protect South Pasadena's single-family neighborhoods' residential character; maintain local control over local land use; improve affordable housing opportunities for middle/working-class families/individuals/ seniors; retain/attract local businesses; shall an ordinance be adopted retaining existing height limits in single-family residential neighborhoods; restricting multi-unit housing in commercial/mixed-use corridors/neighborhoods including Downtown, Huntington Drive, Ostrich Farm with publicly-reviewed height limits necessary to implement South Pasadena's Housing Element?	YES NO

Section 3. The proposed ordinance shall only take effect if at least a majority (50% +1) of those voting vote in favor of it.

Section 4. The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280.

Section 5. The City Council directs that arguments for and against the measure may be filed in accordance with applicable law, and that all members of the City Council are authorized to file the argument in favor of the measure.

Section 6. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. All persons qualified and registered to vote in the City of South Pasadena as of the date of such election shall be entitled to vote.

Section 7. Notice of the time and place of holding the General Municipal Election is hereby given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in the time, form and manner as required by law, and to publish a synopsis of the measure as required by law.

Section 8. An Initial Study in conformity with 14 CCR 15080(c) and an Environmental Assessment (EA) in conformity with 14 CCR 15140, et seq., were prepared for the preparation and adoption of the City's 2021-2029 Housing Element. On May 30, 2023, the City Council approved and adopted the EA, not only for the Housing Element, but also for implementation of the programs identified therein. Based on the analysis presented in the EA, and as more thoroughly described therein, implementation of the Housing Element would result in the following significant and unavoidable impacts after implementation of feasible mitigation measures: Air Quality (Air Quality Management Plan Consistency, Air Quality Standards Violation; Cumulative Air Quality Impacts); Greenhouse Gas Emissions (GHG Emissions); Noise (Direct and Cumulative Construction and Exterior Traffic Noise Standard Violation); and, Population and Housing (Population Growth). EA Table ES-1 presents a summary of significant environmental impacts identified in Sections 3.1 through 3.16 of the Environmental Assessment; Mitigation Measures that reduce any significant impacts; and the level of significance of each impact after mitigation. Significant irreversible environmental changes and growth-inducing impacts are addressed in Section 5.0, Other CEQA Considerations of the Environmental Assessment. The Housing Element, and the EA analysis, contemplated implementation of Program 2.n., therefore, the proposed ordinance to be submitted to the voters is within the scope of the EA, no further CEQA review is required, and is exempt from the California Environmental Quality Act pursuant to Government Code Section 65759.

Section 9. The City Clerk is hereby directed to submit a complete certified copy of this Resolution to the Los Angeles County Registrar of Voters and to the Los Angeles County Board of Supervisors forthwith.

Section 10. The Mayor shall sign and the City Clerk shall attest to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 31st day of July, 2024.

_____
Evelyn G. Zneimer, Mayor

ATTEST:

_____
Mark Perez, Deputy City Clerk

APPROVED AS TO FORM:

_____
Roxanne Diaz, City Attorney

I HEREBY CERTIFY the foregoing Resolution No._____ was duly adopted by the City Council of the City of South Pasadena, California, at a Special City Council meeting held on the 31st day of July, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mark Perez, Deputy City Clerk

EXHIBIT A

ORDINANCE NO. ___

CITY OF SOUTH PASADENA

ORDINANCE NO._____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF SOUTH PASADENA RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING, FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS IN COMPLIANCE WITH THE UPDATED GENERAL PLAN AND THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT

WHEREAS, Sections 65300 et. seq. of the California Government Code require each city and county to adopt a comprehensive, long-term, General Plan for the physical development of land within its jurisdiction, which must include, among other requirements, a housing element meeting detailed criteria set forth in State law that provides sufficient housing development opportunities to meet existing and projected housing needs for the community;

WHEREAS, Sections 65580 *et. seq.* of the California Government Code require each city and county to periodically prepare and update the housing element of its General Plan;

WHEREAS, the Southern California Association of Government (SCAG) periodically undertakes a Regional Housing Needs Allocation (RHNA) process to allocate to the various agencies in the SCAG region the portion of the regional housing needs for which each of the agencies must plan in their respective housing elements. In 2019, the City of South Pasadena (the City) received its RHNA allocation of 2,062 units. The City appealed and received its final RHNA allocation of 2,067 units in 2021, and thereafter started to prepare the 2021-2029 (6th Cycle) Housing Element update (hereafter, the "Housing Element" or "2021-2029 Housing Element");

WHEREAS, on July 12, 1983, City voters passed a voter-led initiative known as Measure No. 1 with 2,531 voting for the measure and 2,262 voting against the measure ("Measure No. 1"). Measure No. 1 established that in the City "No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five percent (5%) of the required spaces.";

WHEREAS, on April 12, 2022, the City of South Pasadena was sued by Californians for Homeownership for non-compliance with State Law for failing to have adopted a compliant housing element by October 15, 2021 (*Californians for Homeownership v. City of South Pasadena), LASC Case Nos. 22STCP01388 & 22STCP01161*);

WHEREAS, on August 15, 2022, the City entered into a settlement agreement with Californians for Homeownership to resolve the lawsuit, and the settlement agreement committed the City to a number of actions, including but not limited to: completing the necessary rezoning to support the Housing Element within 120 days of the adoption of the Housing Element; and addition of a program to seek, through voter approval, the removal of the City's existing 45-foot height limit for at least any parcel identified in the Housing Element for which the base density is anticipated to exceed 50 dwelling units per acre;

WHEREAS, on August 19, 2022, the Court entered a Stipulated Judgment agreed upon by the parties, which committed the City to adopting a housing element certified by or eligible for certification by HCD no later than May 31, 2023. The settlement agreement and Stipulated Judgment shall be referred to collectively as the "Court Order";

WHEREAS, during the 2021-2029 Housing Element process, the California Department of Housing and Community Development ("HCD") identified the 45-foot height limit, as applied to areas with allowable base residential densities in excess of 50 dwelling units per acre, as a potential constraint to housing development in the City;

WHEREAS, to address the height constraint, Housing Element Program 2.n was included in the Housing Element. Program 2.n requires the City to place a ballot measure on the November 2024 election to address the current 45-foot building height limit;

WHEREAS, Program 2.n provides that the City will seek the repeal of the height limit as to at least any residential or mixed-use (including residential) project on parcels for which the Housing Element anticipates a base density in excess of 50 dwelling unit per acre;

WHEREAS, on May 30, 2023, the City Council held a duly noticed Public Hearing to consider the Draft Housing Element, including the Environmental Assessment ("EA") pursuant to Government Code Section 65759. After hearing public testimony, considering the staff report, staff presentation, and Council discussion, in keeping with the Court Order, the City Council (i) approved and adopted the EA, not only for the Housing Element adoption, but also for implementation of the programs identified therein, and (ii) adopted the Housing Element;

WHEREAS, the City has worked diligently to implement the Housing Element, including undertaking the required rezoning actions, and on July 29, 2024, the City received HCD certification that the City's Housing Element substantially complies with housing element law ("July 29th Letter");

WHEREAS, on April 15, 2024, the City Council held a public meeting to discuss a ballot measure to implement Program 2.n and the various approaches regarding such measure;

WHEREAS, the City Council was informed at the April 15, 2024, public meeting that the placement of the ballot measure to repeal the 45-foot height limit at least as to

residential and mixed-used projects on parcels with base densities in excess of 50 dwelling units per acre was not optional because it is a requirement of the Court Order entered into by the City and Californians for Homeownership as well as a requirement of the Housing Element.;

WHEREAS, if the voters rescind the height limitation as to properties with residential or mixed-use densities in excess of 50 dwelling units per acre and retain the 45-foot maximum height limit for single-family residential areas of the City, the City Council will set maximum building heights as appropriate to achieve the allowed density through a public process;

WHEREAS, when establishing the maximum building heights, the City Council shall be guided by technical studies and/or technical analysis in determining the appropriate height to achieve the allowed base density;

WHEREAS, if the voters retain the 45- foot height limit in the single-family residential areas the City Council will continue to have the authority to set height limits less than or equal to 45 feet;

WHEREAS, if the voters maintain the currently adopted 45-foot height limit for areas with allowed residential and mixed-use density in excess of 50 dwelling units per acre, the Court Order and Program 2.n. requires the City to complete a mid-cycle revision to the Housing Element, which would include additional rezoning to address the City's RHNA requirements, which would likely include increased residential density in single family areas. Pursuant to the Californians for Homeownership Court Order , the City would be required to complete the mid-cycle housing element revision within nine (9) months;

WHEREAS, the voters are not being asked to make revisions to the parking provision set forth in Measure 1;

WHEREAS, pursuant to Government Code Section 65585, HCD has the authority to review cities' actions, or failures to act, for consistency with an adopted housing element. If HCD finds that an action, or failure to act, does not substantially comply with housing element law, HCD has the authority to revoke its findings and certification of the housing element;

WHEREAS, HCD in its July 29th Letter stated that Program 2.n. "is crucial to substantial compliance with State Housing Element Law";

WHEREAS, if HCD revokes its certification findings, the City would be open to the so called "builder's remedy," whereby housing development projects that are inconsistent with general plan land use designations and zoning can be proposed, with the City's authority to deny such proposals significantly constrained pursuant to the State Housing Accountability Act (Government Code Section 65589.5(d));

WHEREAS, if HCD revokes its certification findings, state law and the courts also have imposed consequences to cities that lack a certified housing element. Those penalties include but are not limited to financial penalties of up to $100,000 a month, loss of the City's permitting authority such as not being able to issue any building permits for business remodels, new businesses or bathroom remodels, and loss of access to grant funding; and

WHEREAS, under California law every city has the authority to adopt and amend a zoning code pursuant to a city's general police power, which allows for the orderly division of property within a city's jurisdiction into compatible uses and development standards so as to improve and protect the general welfare;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SOUTH PASADENA DO ORDAIN AS FOLLOWS:

Section 1. Recitals. The facts set forth in the recitals of this Ordinance are true and correct and incorporated herein as if set forth in full.

Section 2. Purpose. The purpose and intent of this Ordinance is to increase housing opportunities in South Pasadena for renters and owners, including affordable housing for middle and working class families, individuals and seniors; to comply with the Court Order; to implement Program 2.n of the Housing Element; to ensure the City maintains local control over its zoning, planning and building; to create opportunities for local businesses to provide shopping and dining experiences along the commercial and mixed-use areas planned for future housing units; ; and to protect South Pasadena's single-family neighborhoods' residential character.

Section 3. Measure No. 1 adopted at a special municipal election held on July 12, 1983 and is attached hereto as Exhibit A and incorporated herein by reference, is hereby repealed in the manner set forth in Exhibit A.

Section 4. The maximum height of a building or structure in the Residential Estate Zoning District, Residential Single-Family Zoning District and the Overlay District of Altos de Monterey, shall not exceed 45 feet, and the City Council shall set by ordinance, adopted through a public process, allowed heights in these areas that are less than or equal to 45 feet.

Section 5. The maximum height of a building or structure in any Zoning District not referenced in Section 4 above shall be set by City Council ordinance adopted through a public process.

Section 6. In order to comply with the Court Order and implement Program 2.n. of the Housing Element, when establishing the maximum height allowed for a residential or mixed-use (including residential) building or structure in any Zoning District with a base density in excess of 50 dwelling units per acre pursuant to Section 5 above, City Council shall set the height limit by ordinance, adopted through a public process, at a height limit to achieve the applicable base density. As of the Effective

Date of this Ordinance, the areas that contain a base density in excess of 50 du/ac include areas set forth in the Downtown Specific Plan, specifically the Mixed Use Core Zone and the Fair Oaks Corridor Zone, the Mixed-Use Overlay Zone, and the Housing Opportunity Overlay Zone, which includes certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas.

Section 7. If any provision of the City Code of the City of South Pasadena ("City Code" but also sometimes referred as the South Pasadena Municipal Code), including the Zoning Code (codified as Chapter 36 of the City Code) in existence as of November 4, 2024 ("November 2024 City Code") conflicts with any provision contained in this Ordinance, including any ordinance adopted by the City Council as provided for in Sections 4 or 5 herein, the provisions of this Ordinance and any further ordinance adopted by the City Council to implement this Ordinance shall supersede any conflicting provisions of the November 2024 City Code.

Section 8. The City of South Pasadena and its City Council are hereby authorized and directed to amend the General Plan, the City Code, Zoning Code, specific plans, and any other City plans, ordinances and policies affected by this Ordinance, including any ordinance adopted by the City Council as provided for in Sections 4 and 5 herein, as soon as possible and periodically thereafter as necessary and in the manner and time required by any applicable state law, to implement the intent of this Ordinance and ensure consistency between this Ordinance, including any ordinance adopted by the City Council as provided for in Sections 4 or 5 herein, and any other sections of the City's General Plan, City Code, Zoning Code, specific plans, and any other City plans, ordinances and policies.

Section 9. Effective Date. If a majority of the voters voting at an election on this measure approves this Ordinance, it shall take effect ten (10) calendar days following the City Council's final certification of the election result, as required by applicable law. Except as provided herein, this Ordinance may be substantively amended or repealed only with the approval of a majority of the voters voting at an election on the proposal.

Section 10. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of South Pasadena hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 11. Environmental Findings. An Initial Study in conformity with 14 CCR 15080(c) and an Environmental Assessment (EA) in conformity with 14 CCR 15140, et seq., were prepared for the preparation and adoption of the City's 2021-2029 (6th Cycle) Housing Element. Based on the analysis presented in the Environmental

Assessment, and as more thoroughly described therein, implementation of the Housing Element would result in the following significant and unavoidable impacts after implementation of feasible mitigation measures: Air Quality (Air Quality Management Plan Consistency, Air Quality Standards Violation; Cumulative Air Quality Impacts); Greenhouse Gas Emissions (GHG Emissions); Noise (Direct and Cumulative Construction and Exterior Traffic Noise Standard Violation); and, Population and Housing (Population Growth). EA Table ES-1 presents a summary of significant environmental impacts identified in Sections 3.1 through 3.16 of the Environmental Assessment; Mitigation Measures that reduce any significant impacts; and the level of significance of each impact after mitigation. Significant irreversible environmental changes and growth-inducing impacts are addressed in Section 5.0, Other CEQA Considerations of the Environmental Assessment. The Housing Element, and the EA analysis, contemplated implementation of Program 2.n., therefore, this action is within the scope of the EA, no further CEQA review is required, and this measure is exempt from the California Environmental Quality Act pursuant to Government Code Section 65759.

Section 12. Execution. The Mayor is hereby directed to attest to the adoption of this Ordinance by signing where indicated below upon certification by the City Clerk that a majority of those electors voting on this Ordinance have voted in the affirmative.

PASSED, APPROVED and ADOPTED by the voters at the general municipal election November 5, 2024. Election results were certified by the South Pasadena City Council on _____, 2024.

_____
Evelyn G. Zneimer, Mayor

ATTEST:

_____
Mark Perez, Deputy City Clerk

EXHIBIT A TO ORDINANCE

MEASURE NO. 1

RESOLUTION NO. 5642

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN SAID CITY ON JULY 12, 1983, DECLARING THE RESULT THEREOF AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW.

WHEREAS, a special municipal election was held and conducted in the City of South Pasadena, California, on Tuesday, July 12, 1983, as required by law; and

WHEREAS, notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes cast thereat, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, pursuant to Resolution No. 5625 adopted April 20, 1983, the City Clerk of said City canvassed the returns of said election and has certified the results to this City Council, said results are received, attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That there were eight (8) voting precincts established for the purpose of holding said election consisting of consolidations of the regular election precincts in said City as established for the holding of state and county elections.

SECTION 2. That at said special municipal election, the following measure was submitted to the electors of said City and was voted upon, to wit:

~~No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that~~ no parking variance shall be granted to exceed five per cent (5%) of the required spaces.

YES_____

NO_____

SECTION 3. That the whole number of votes cast in said City (except absent voter ballots) was 4058.

That the whole number of absent voter ballots cast in said City was 735, making a total of 4793 votes cast in said City.

SECTION 4. That the number of votes given at each precinct and the number of votes given in the City for and against the measure were as listed in Exhibit "A" attached.

SECTION 5. The City Clerk shall enter on the records of the City Council of said City, a statement of the result of said election, showing:

(1) The whole number of votes cast in the city;
(2) The measure voted upon;
(3) The number of votes given at each precinct for and against the measure;
(4) The number of votes given in the city for and against the measure.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of said City; and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of said City, in the minutes of the meeting at which the same is passed and adopted.

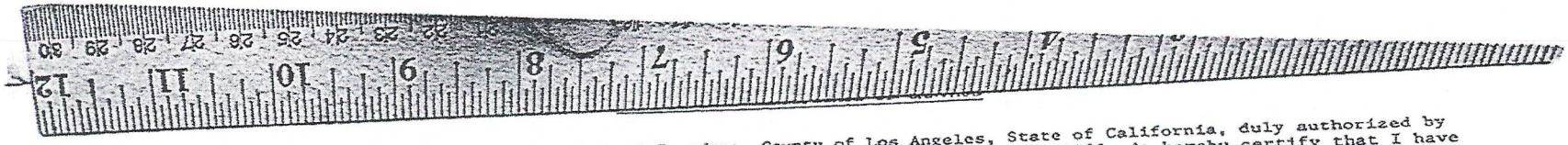
PASSED, APPROVED AND ADOPTED ON July 19, 1983.

Mayor of the City of
South Pasadena, California

ATTEST:

City Clerk of the City of
South Pasadena, California

Vote: Ayes - Councilmembers Knowles, Margrave, Shaw, Mayor Arnold
Noes - None
Absent - Councilmember Montgomery



I, Ruby W. Kerr, City Clerk of the City of South Pasadena, County of Los Angeles, State of California, duly authorized by Resolution No 5625, adopted by the City Council of said City of the 20th day of April, 1983, do hereby certify that I have canvassed the returns of the Special Municipal Election held in said city on the 12th day of July, 1983, and find that the number of votes given at each precinct and the number of votes given in the City for and against Measure 1 were as follows:

Ruby W. Kerr

City Clerk of the City of South Pasadena

Dated July 15, 1983

PRECINCT	YES	NO	TOTAL VOTES CAST AT PRECINCT
1	330	260	590
2	191	186	377
4	377	171	548
9	288	176	464
13	263	248	511
16	277	153	430
19	297	262	559
22	269	310	579
TOTAL	2292	1766	4058
ABSENTEE VOTE	239	496	735
TOTAL VOTES CAST	2531	2262	4793

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