TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

DATE: JUNE 11, 2007

CMR: 271:07

SUBJECT: AGREEMENT BETWEEN PAHC HOUSING SERVICES, LLC AND THE CITY OF PALO ALTO FOR ADMINISTRATION AND CONSULTING SERVICES FOR THE BELOW MARKET RATE HOUSING PROGRAM IN THE AMOUNT OF $145,000 FOR FISCAL YEAR 2007–08 AND $140,000 FOR FISCAL YEAR 2008-09

RECOMMENDATION

Staff recommends that the City Council approve and authorize the Mayor to execute the attached agreement with PAHC Housing Services, LLC (PAHC) for administration and consulting services for the Below Market Rate (BMR) housing program for the two-year period of 2007–08 and 2008–09 in the amount of $145,000 for the 2007-08 fiscal year and $140,000 for the 2008-09 fiscal year.

BACKGROUND

Under contract to the City, PAHC has administered the BMR housing program since its inception in the mid-1970s. Examples of some of the services provided by PAHC include: administering the sales and resales of new and existing BMR owner units; maintaining the home purchase waiting list; monitoring occupancy of BMR rental units; providing advice and consultation to the City regarding negotiations of BMR agreements with developers; and addressing special issues related to the program as a whole. Most of PAHC’s workload is involved with the home ownership component of the BMR program, and this workload continues to grow due to issues with the older BMR housing stock and the volume of new unit sales tied to the recent housing development boom. While PAHC performs most tasks required for the ongoing administration of the home ownership and rental components of the BMR program, City Planning staff also devotes considerable time to the BMR program, primarily on BMR negotiations and agreements and program improvements. City Real Property staff handles maintenance evaluation and the determination of credits for capital improvements when units come up for resale.

There are presently 179 BMR owner units in the BMR program with 67 new BMR owner units scheduled for completion and sale over the two years of this contract (34 units in Arbor Real, 12 units in the Vantage project, 11 units in the Echelon project on East Meadow, and 10 units in the Classics project on West Bayshore). PAHC maintains and annually updates a waiting list of interested potential buyers of BMR units. At this time, there are over 500 households on this waiting list with about ninety percent qualifying for the live and / or work in Palo Alto preference. PAHC
coordinates the sale of both newly built BMR units and the resale of existing units. Sales activities include: establishing the resale price, marketing units to the waiting list, scheduling open houses, qualifying and selecting the buyers, coordinating the transaction between the buyer, seller, lender and escrow, and explaining the requirements of the BMR deed restrictions. PAHC maintains a database on all units and keeps statistics on the number and characteristics of the households served by the program.

The owner BMR units require periodic monitoring of occupancy and title, which PAHC handles in cooperation with Planning staff and the City Attorney’s Office. Monitoring and enforcement of the recorded deed restrictions has become a critical task requiring more of PAHC and City staff time. Monitoring activities include reviewing online assessor’s records to detect transfers in title or ownership and an annual letter to owners to remind them of program rules and provide updates on procedural changes. When a violation of the deed restrictions is discovered, PAHC undertakes initial attempts to remedy the situation. More complex enforcement matters are referred to Planning or to the City Attorney, if legal action is required. Since the inception of the program, eight units have been involved in litigation or significant legal efforts to retain them in the program, with six of those cases in the last seven years.

Information workshops for prospective buyers on the waiting list are conducted quarterly by PAHC together with housing counseling staff from Project Sentinel. These workshops focus on preparation for homeownership, understanding credit and mortgage financing and the rules of the BMR program. The workshops have been well received, with about 120 persons attending each year. The waiting list workshops will be continued over the next two years.

There are currently 155 BMR rental units in six different projects. PAHC’s primary tasks with the BMR rental program are ongoing training of the on-site property management personnel and reviewing tenant qualifications and BMR rents. PAHC collects and reviews applicants’ certification documentation and determines eligibility under the program rules; recertification of existing tenants is also conducted. PAHC also monitors each complex’s waiting list and tenant selection process. Due to the frequent turnover of apartment management staff, PAHC must devote considerable time and effort to explaining the BMR program rules and procedures to new personnel each year.

**DISCUSSION**

**Workload Changes:** The proposed funding level assumes that PAHC’s workload administering the BMR program will increase substantially over the next two years, since an unprecedented number of newly built owner units must be marketed and sold. A slightly higher workload is expected in the first year, because most of the new unit sales are likely to occur that year. Staff believes that resale activity will remain steady at about five to eight units per year due to continued turnover from aging owners, but resale levels are very hard to predict. Marketing and sales of the 67 newly built owner units represent an unprecedented level of new sales in the BMR program’s history. Changes made to handle this anticipated workload include making the BMR administrator position full-time, having PAHC property managers assist with income certifications, and having the developer’s sales staff handle the selected BMR buyers once they are ready to enter into a purchase contract. PAHC’s executive director will also be more involved during the first contract year in advising the City on implementation of the recently completed study of the BMR program by Keyser Marston Associates.
As in preceding years, this agreement is a sole source contract. There is no other entity that provides, or is capable of providing, the total package of services required by the City for the BMR program. A few services, such as income certifications of buyers and tenants, are provided by the Santa Clara County Housing Authority for other local inclusionary housing programs. A new entity has been formed, Bay Area Home Buyer Agency (BAHBA), offering BMR unit marketing, sales and portfolio management services. BAHBA has a limited track record at this time and cannot offer a local office or staff presence; its approach seems best suited to developers that must find buyers for affordable units in localities with newly established BMR programs. In addition, there is great value in the historical and institutional knowledge that PAHC staff and its Board members have developed over its years of involvement with the program. If the City were to provide these same services in-house, City staffing levels would have to be increased by at least two full time positions.

**Contract Costs:** PAHC has submitted a proposal to continue providing the City with BMR administration services on a time and materials basis for the next two years at hourly billing rates shown in the attached Exhibit B, with a maximum budget of $145,000 for the first year and $140,000 for the second year. Total costs for the next two years represent an increase of about eight percent over the previous two years’ contract costs. PAHC was able to secure liability and other insurance coverage for its BMR program activities at a lower cost last year, which helped limit the growth in the cost of its services. In addition, staff is considering charging fees to developers, owners and applicants to defray costs. For example, last year, an annual $15 waiting list fee was instituted to help cover printing and mailing costs of BMR sales information; this fee has brought in about $8,000.

**RESOURCE IMPACT**
PAHC’s administration of the BMR program has historically been funded from the Residential Housing Fund, which is a special revenue fund created to support all types of affordable housing programs. Revenue for the Residential Fund is primarily from BMR in-lieu fees collected from developers of residential projects that are allowed to pay in-lieu fees (instead of providing BMR units or in return for providing fewer units). Fee payments are permitted for very small projects when less than one full BMR unit is owed or when the housing product type is extremely luxurious and expensive, such as the typical single family detached home.

The Residential Housing Fund includes a budget for the $285,000 total cost for PAHC’s contract services over the next two fiscal years. The Residential Fund’s available balance is currently about $2.4 million. This is an unusually high balance for this Fund due to two large deposits this year; $450,000 came from the sale of a surplus, City-owned residential parcel on High Street, and about $1.8 million was from BMR in-lieu fees on the sale of 11 homes on Wilkie Way, as part of the Arbor Real BMR agreement.

**POLICY IMPLICATIONS**
The recommendation in this staff report does not represent any change to City policies. Staff will bring proposals for various policy changes to Council resulting from the report on the recently completed BMR Study later this summer.

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**ENVIRONMENTAL REVIEW**
The approval of an agreement for administrative and consulting services is not an action subject to environmental review under the California Environmental Quality Act.

**ATTACHMENTS**

A. Agreement Between the City of Palo Alto and the Palo Alto Housing Corporation For Below Market Rate Housing Program Administrative Services (for Fiscal Years 2007-08 and 2008-09)

B. Chart Titled: Below Market Rate (BMR) Program Contract Costs, Services and Accomplishments

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cc: Palo Alto Housing Corporation