TO:        HONORABLE CITY COUNCIL

FROM:      CITY MANAGER DEPARTMENT: PLANNING & COMMUNITY ENVIRONMENT

DATE:      AUGUST 2, 2004 CMR: 369:04

SUBJECT:  APPROVAL OF CONTRACT WITH KEYSER MARSTON ASSOCIATES, INC. IN THE AMOUNT OF $137,085 FOR ANALYSES TO SUPPORT THE CITY OF PALO ALTO’S BELOW MARKET RATE (BMR) HOUSING PROGRAM

RECOMMENDATION
Staff recommends that the City Council approve the attached contract with Keyser Marston Associates, Inc., in collaboration with Anderson and Associates, in the amount of $137,085 for analyses to update the City of Palo Alto’s Below Market Rate Housing Program; and authorize the Mayor to execute the contract.

BACKGROUND
The City founded its Below Market Rate (BMR) Housing Program in 1974, making it one of the first established in the U.S. Over the past 30 years, the City and Palo Alto Housing Corporation (PAHC), a private non-profit corporation under contract to the City as the program administrator, have acquired significant expertise in developing, marketing, selling, maintaining and reselling BMR units, as well as enforcing deed restrictions relating to occupancy, rental and transfers.

Over time, however, various administrative issues have arisen regarding implementation of the program due, to a large degree, to the unforeseen escalating values in the Palo Alto housing market resulting in unanticipated long-term ownership of many of the BMR units. Deed restrictions and appreciation formulae of the BMR Program vary with individual projects and should be re-evaluated. In addition, Program H-37 of the City’s recently adopted 2002 Housing Element, which calls for adoption of an ordinance codifying the BMR Program, needs to be implemented. In adopting the 2002 Housing Element, the Council gave general direction for an overall re-evaluation and update of the BMR Program.
Staff, working closely with PAHC, developed a work program for the update process. The intent of the update is to evaluate opportunities for improving the program that will further the City’s goal of producing and retaining affordable housing, in addition to dealing with the aforementioned administrative issues. The update analysis would provide data for the City Council to assess the future direction of the program with a focus on increasing effectiveness and efficiency in the BMR Program.

After outlining tasks and identifying principal work products and the type of expertise needed, staff evaluated cost-effective ways to supplement the limited staff time and resources that could be dedicated to the update effort. A contract planner was hired in July 2003 to manage the overall update process. In early June 2004 a graduate student was hired for research tasks and database preparation to supplement the consultant and contract planner work.

**DISCUSSION**

**Scope of Services Description**

The scope of work to be performed under the proposed contract is for a range of analyses to support the BMR Program. Please see Attachment B for the complete scope of services. Major tasks in the scope include:

- *Background, Housing Inventory and Related Analyses:* Comment on inventory database and owner survey instrument
- *BMR Unit Value and Maintenance:* Examine initial sales prices of new units, appreciation schedule, maintenance and treatment of capital improvements, special assessments
- *Deed Restrictions:* review impact of deed restrictions on buyer financing, enforcement of program requirements and implementation of new deed restrictions
- *Administrative Procedures Manual:* examine waiting list administration and resale process and procedures
- *Program Implementation Policy Analysis:* evaluate in-lieu fee formula, increasing supply of BMR units, program’s history vs. current needs, qualitative and quantitative policy analysis of economic costs and benefits of program and rental vs. ownership
- *Public Meetings:* study session with Planning and Transportation Commission (PTC) and City Council and public hearings with both Council and PTC on the draft recommendations

The update process will involve participation by both City staff as well as the consultant team to complete the overall effort. In conjunction with the consultant contract, the City’s contract planner will prepare a revised BMR Procedures and Policies Manual for administrative use and a BMR owner handbook as well as update the BMR inventory.
database of housing stock. The City Attorney’s Office will prepare the BMR Ordinance and new legal documents for enforcement of the revised deed restrictions. City staff will be working in full partnership with PAHC in the update process. Attached is a summary of the principal work products and responsibilities for completion of the update (Attachment C).

Summary of Solicitation Process

<table>
<thead>
<tr>
<th>Proposal Description/Number</th>
<th>Analyses to Support the city of Palo Alto’s Below Market Rate (BMR) Housing Program/ 105048</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Length of Project</td>
<td>12 months</td>
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<tr>
<td>Number of Proposals Mailed</td>
<td>9</td>
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<tr>
<td>Total Days to Respond to Proposal</td>
<td>28</td>
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<tr>
<td>Pre-proposal Meeting Date</td>
<td>None</td>
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<tr>
<td>Number of Proposals Received:</td>
<td>2</td>
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<tr>
<td>Company Name</td>
<td>Location (City, State)</td>
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<tr>
<td>1. Keyser Marston Associates, Inc.</td>
<td>San Francisco, CA</td>
</tr>
<tr>
<td>2. Vernazza/Wolfe Associates</td>
<td>Oakland, CA</td>
</tr>
<tr>
<td>Range of Proposal Amounts Submitted</td>
<td>$87,000 to $137,085</td>
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</tbody>
</table>

A Request for Proposals (RFP) to select a consultant team to prepare the bulk of the analyses for the BMR Program update process was distributed to nine consultants in February of 2004. Two proposals were received. One proposal was from Keyser Marston Associates, Inc. (KMA) for $137,085 and the other was from Vernazza/Wolfe Associates for $87,000.

An evaluation committee consisting of representatives from the Department of Planning and Community Environment, the City Attorney’s Office and Palo Alto Housing Corporation reviewed the proposals. The committee carefully reviewed each firm's qualifications and submittal in response to the criteria identified in the RFP including: completeness of response and evidence of understanding the purpose, objectives and requirements of the project; composition of the consultant team and project manager and their direct experience and expertise with administration of inclusionary housing programs; flexibility and availability to accommodate meetings and public consultation; experience and skill in public presentations and facilitating meetings; demonstrated experience and familiarity with legal aspects of real estate/title deed documents; and contract cost.
The results of the selection committee were unanimous; all members of the selection committee favored the KMA team because it offered the best approach to the analyses and the team included Anderson and Associates, who had hands-on experience in developing and implementing below market rate programs. Although the Vernazza/Wolfe Associates (VWA) proposal was less costly, the committee considered the KMA proposal to be more focused on the relevant issues for the study, primarily the deed restrictions, the appreciation schedule and maintenance and treatment of capital improvements in the units. Janet Anderson’s extensive experience in administering as well as developing below market rate programs was a critical factor in the selection of the KMA team.

**RESOURCE IMPACT**
Funds for the update were appropriated from the Residential Housing In-Lieu Fund’s FY2003-04 budget for contract and consultant services, with unspent funds carried over to FY04/05. Funding allocated to the update consists of an overall budget of approximately $205,000 including $137,085 for the consultant contract, $50,000 for the contract planner, $8,000 for the intern and $10,000 for contract legal assistance.

**POLICY IMPLICATIONS**
Preparation of a comprehensive update to the BMR Program is consistent with the overall goals of the Housing Element of the Comprehensive Plan and specifically with policies H-36 and H-37 that pertain to the BMR Program.

**ENVIRONMENTAL REVIEW**
The approval of an agreement for consulting services is statutorily exempt (Section 15262) from the California Environmental Quality Act.

**ATTACHMENTS**
Attachment A: Contract
Attachment B: Scope of Services
Attachment C: BMR Update Overall Work Program