TO:       HONORABLE CITY COUNCIL
FROM:     CITY MANAGER  DEPARTMENT: PLANNING AND
          COMMUNITY ENVIRONMENT
DATE:     JUNE 20, 2005       CMR:296:05
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 $130,000 FOR FISCAL YEAR 2005-06 AND $135,000
         FOR FISCAL YEAR 2006-07

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 2005–06 and
2006–07 in the amount of $130,000 for the 2005-06 fiscal year and $135,000 for the 2006-07
fiscal year.

BACKGROUND
Under contract to the City, PAHC has administered the BMR housing program since its inception
in the mid-1970s. Services provided by PAHC include administering the sales and resales of new
and existing BMR owner units; 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 related
to the home ownership component of the BMR program, especially the coordination of the sales of
new and existing BMR units, however ongoing monitoring of a few of the BMR rental properties
does take a significant amount of time. While PAHC performs most tasks required for the ongoing
administrative of the BMR home ownership and rental components of the program, City staff also
devotes considerable time to the BMR program focusing on BMR negotiations and contract
preparation.

There are presently 169 BMR owner units in the BMR program with 22 new BMR owner units
scheduled for completion over the two years of this contract (10 units in the 800 High Street
condos and 12 townhouse condos at the Trumark project on East Meadow). For the home
ownership program, PAHC maintains and annually updates a waiting list of interested potential
buyers. At this time, there are almost 450 households on the waiting list to buy BMR units. PAHC
also coordinates the sale of newly built BMR units and the resale of existing units. The 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
and lender; 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. As part of the BMR Update Study currently underway, the BMR owner
database has been expanded so that more information will be available about the units and the
projects in which they are located.

The owner BMR units require periodic monitoring of occupancy and title, which PAHC handles in
conjunction with Planning staff and the City Attorney’s Office. As the program goes on,
monitoring and enforcement of the recorded deed restrictions has become a critical task that
consumes more of PAHC and City staff time. Monitoring activities include reviewing online
assessor’s records to detect transfers in title or ownership and periodic letters to owners to
confirm continued their residency in the unit. 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 and the City Attorney, if legal action is required. Situations with
seven units have required litigation or significant legal efforts to preserve them in the program,
with five of those cases in the last six years. A key component of the BMR Update Study is the
development of improved deed restrictions and associated recorded enforcement documents to
prevent future problems related to occupancy and financing.

During the last two-year contract, PAHC initiated information workshops for current BMR unit
owners and for prospective buyers on the waiting list. PAHC and the housing counseling staff
from Project Sentinel jointly conducted the three workshops. The workshops were well received
by the over 120 persons who attended. Additional workshops will be conducted over the next two
years.

There are currently 101 BMR rental units in five different projects with 43 additional rental units
being converted from market rate to BMR occupancy at Stanford West Apartments, as the
adjoining senior condominiums are sold this year. Completion and occupancy of 12 BMR assisted
living rentals in the Sunrise Assisted Living development is also anticipated during the term of this
contract. PAHC’s primary tasks for the BMR rental program include ongoing training of the on-
site property management personnel for the individual projects and reviewing tenant qualifications
and rents. PAHC collects and reviews the applicants’ certification documentation and determines
their eligibility under the BMR rental 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 at most of the projects, PAHC finds it
necessary to devote considerable time and effort to explaining the BMR program rules and
procedures to new personnel.

DISCUSSION
Agreement for BMR Administration for Fiscal Years 2005-06 and 2006-07: 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 $130,000 for the first year and $135,000 for the second fiscal year. The
current FY 2004-05 contract is for $105,500, so the estimated maximum costs for the next two
years represent projected increases of $24,500 and $29,500 respectively, or 23 to 28 percent.
About $15,000 of the increase for each year is due to the following factors: $2,000 for insurance,
$3,000 for increases in salary rates and benefit costs for PAHC staff, and $10,000 based on
average total billable hours for the past two years. PAHC’s billable work during each of the two years of the current contract has exceeded the contract budget limits by about $10,000 per year and was thus uncompensated. The remaining $10,000 to $15,000 per year of the respective increases represents the projected acceleration in the program workload as described below.

**Workload:** The proposed funding level assumes that PAHC’s workload administering the BMR program will increase substantially over the next two years. Staff believes that resale activity will remain steady or possibly increase due to turnover from aging owners and as a result of strategies to reduce title and occupancy violations identified as part of the BMR Study. Marketing and sales of the 22 new BMR owner units also represents a significant increase in workload. It has been over 20 years since so many new owner units have been added to the program inventory within a two-year period. Qualifying the 12 BMR residents in the Sunrise project adds to the expected workload, as does auditing the records for the 43 new BMR residents at Stanford West. PAHC will also be assisting the City in the remaining work on the BMR Study and its implementation. The scope of services also provides for a continuation of the successful workshops for owners and potential buyers.

**Insurance Coverage:** Beginning in January 2003, to protect both the City and its own assets, PAHC secured a separate liability insurance policy providing specific coverage for its activities administering the BMR program. This policy cost PAHC $13,500 for 2004-05 and was reimbursed as an eligible cost under the contract by the City. Insurance premiums for all types of home ownership related work and services continue to escalate. This year, PAHC’s Board felt it prudent to add an errors and omissions rider to its policy that, together with the liability coverage, has now brought the annual insurance costs for BMR activities to $15,500 per year.

As in preceding years, this agreement is a sole source contract. From the City’s perspective, there is no other entity that provides, or is capable of providing, the services required by the City for this agreement. While a few of the services, such as the review of income certifications for buyers and tenants, are provided locally by the Santa Clara County Housing Authority for a few other inclusionary housing programs, the bulk of PAHC’s services are unavailable from any other source. In addition, there is great value in the historical and institutional knowledge that PAHC staff and its Board members have developed over their years of involvement with the program. If the City were to provide these same services, an estimated two full time staff positions would be needed.

**RESOURCE IMPACT**

**Agreement for Fiscal Years 2005-06 and 2006-07:** The $265,000 total cost for PAHC’s contract services for the next two fiscal years is budgeted in the Residential Housing Fund. The Residential Fund is expected to have an available balance at the end of this fiscal year of approximately $750,000. The Residential Housing Fund is a special revenue fund created to support all types of affordable housing programs, including the administrative costs of running the BMR program. 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). Fee payments are typically permitted when less than one full BMR unit is owed or when the housing being built is of a product type in which the City has determined it is preferable to not include BMR units, e.g., it is extremely luxurious and expensive housing.
POLICY IMPLICATIONS
The recommendation in this staff report does not represent any change to City policies.

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 2005-06 and 2006-07)
B. Chart Titled: Below Market Rate (BMR) Program Contract Costs, Services and Accomplishments

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CITY MANAGER APPROVAL: ________________________________
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cc: Palo Alto Housing Corporation