

RESOLUTION NO. 2017-123
RESOLUTION NO. 2017-04 (PPSC-NPC)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AND THE BOARD OF DIRECTORS OF THE PRESTON PARK SUSTAINABLE COMMUNITY NON-PROFIT CORPORATION APPROVING THE AMENDMENT #2 TO THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MARINA AND ALLIANCE RESIDENTIAL COMPANY INC. FOR PRESTON PARK AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENT SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, In September 2015, the City of Marina purchased Preston Park from the Fort Ord Reuse Authority. In taking ownership of the property, the City signed an Assignment and Assumption of Services Contract and accepted the Property Management Services Contract with Alliance Communities Inc.; and

WHEREAS, On December 15, 2015, the City Council adopted Resolution No. 2015-145 and Resolution No. 2016-03 (PPSC-NPC), approving the Management Agreement between City of Marina, and Alliance Communities Inc., for Preston Park Housing Area expiring December 31, 2016; and

WHEREAS, On December 15, 2016 the City Council adopted Resolution No. 2016-156 and Resolution No. 2016-01 (PPSC-NPC) approving Amendment # 1 to the Management Agreement between City of Marina, and Alliance Communities Inc., for Preston Park Housing Area expiring December 31, 2017; and

WHEREAS, Staff is proposing the contract with Alliance Communities Inc. be extended through December 31, 2018 for the management of Preston Park. The contract has modified slightly to be consistent with the contract which the City has with Alliance Communities Inc. for the management of Abrams Park ("Exhibit A"); and

WHEREAS, Under the contract, Alliance Communities Inc. is to keep the City property informed through regular contact and periodic formal meetings as to the current status of all operations so that the City may make proper and timely decisions on all strategic matters, and:

WHEREAS, If Council does not extend the contract, there will be no legal entity empowered to collect rents and administer the property on and after January 1, 2018; and

WHEREAS, the proposed contract does not change the compensation to Alliance Communities Inc. under the Management Agreement and rental revenue will continue to be collected on and after January 1, 2018.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Marina and the Board of Directors of the Preston Park Sustainable Community Non-Profit Corporation does hereby:

1. Approving Amendment # 2 to the Management Agreement between City of Marina, and Alliance Communities Inc., for Preston Park Housing Area expiring December 31, 2018; and
2. Authorize City Manager to execute Agreement on behalf of the City and the Non-Profit Corporation subject to final review and approval by the City Attorney/Non-Profit Corporation Legal Counsel.
3. Direct the City Manager to conduct a performance review of the management of the property and report back to the City Council by June 30, 2018.

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PASSED AND ADOPTED by the City Council of the City of Marina and the Board of Director of the Preston Park Sustainable Community Nonprofit Corporation at a regular meeting duly held on the 19th day of December 2017 by the following vote:

AYES: COUNCIL/BOARD MEMBERS: Amadeo, Morton, Brown, Delgado
NOES: COUNCIL/BOARD MEMBERS: None
ABSENT: COUNCIL/BOARD MEMBERS: O'Connell
ABSTAIN: COUNCIL/BOARD MEMBERS: None

ATTEST:

Bruce C. Delgado, Mayor/President

Anita Sharp, Deputy City Clerk/Secretary

RESOLUTION NO. 2017-122
RESOLUTION NO. 2017-04 (NPC)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING
AMENDMENT NO. 11 TO MANAGEMENT AGREEMENT BETWEEN THE CITY OF
MARINA, CITY OF MARINA ABRAMS B NON-PROFIT CORPORATION AND ALLIANCE
COMMUNITIES INC., FOR ABRAMS B HOUSING AREA, SUBJECT TO FINAL APPROVAL
BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, AUTHORIZING CITY
MANAGER TO EXECUTE AMENDMENT NO. 11 TO MANAGEMENT AGREEMENT ON
BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY
ATTORNEY

WHEREAS, at a regular meeting of October 16, 2007, the City Council adopted Resolution No. 2007-249 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2007-01 (NPC) approving the Management Agreement with Alliance Residential LLC (which became Alliance Communities Inc. in May 2009) for management of the Abrams B housing area, and the term of the Agreement was for three (3) years, from January 1, 2008 to December 31, 2011, and;

WHEREAS, on December 27, 2007, Amendment No. 1 to the Management Agreement for Abrams Park was executed by the City Manager on behalf of the City and the Executive Officer on behalf of the Abrams B Non-Profit Corporation and the Amendment modified the term of the Agreement to two (2) years to December 31, 2010, with an option for extension of an additional one-year term from January 1, 2011 to December 31, 2011, and added an early termination clause, and;

WHEREAS, at a regular meeting of July 7, 2010, the City Council adopted Resolution No. 2010-199 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2010-1 (NPC) which approved Amendment No. 2 to the Management Agreement for Abrams B, which was requested by the Finance Director to amend the audit requirements to permit a two (2) year audit instead of an annual audit, resulting in cost savings, and;

WHEREAS, at a special meeting on December 14, 2010, the City Council adopted Resolution No. 2010-199 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2010-05 (NPC) which approved Amendment No. 3 to the Management Agreement, which exercised the option provided by Amendment No. 1 and extended the term of the Agreement from January 1, 2011 to December 31, 2011, and;

WHEREAS, at a regular meeting of February 15, 2011, the City Council adopted Resolution No. 2011-27 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2011-01 (NPC) which approved Amendment No. 4 to the Management Agreement, which deleted the Incentive Fee clause, amended the Capital Improvements Management Fee, revised record keeping and monthly reporting requirements, defined affordable rents, revised the requirements for bank accounts and their signatories, updated the priority preferences for resident selection, amended the Grievance Procedure, and;

WHEREAS, at a regular meeting of December 6, 2011, the City Council adopted Resolution No. 2011-206 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2011-10 (NPC) which approved Amendment No. 5 to the Management Agreement, which extended the term of the Management Agreement from January 1, 2012 to December 31, 2012, and;

WHEREAS, at a regular meeting of December 4, 2012, the City Council adopted Resolution No. 2012-184 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2012-15 (NPC) which approved Amendment No.6 to the Management Agreement. Amendment No. 6 extended the term of the Agreement from December 31, 2012 to December 31, 2013.

WHEREAS, at a regular meeting of December 17, 2013, the City Council adopted Resolution No. 2013-191 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2013-08 (NPC) which approved Amendment No. 7 to the Management Agreement. Amendment No. 7 extended the term of the Agreement from December 31, 2013 to December 31, 2014.

WHEREAS, at a regular meeting of December 16, 2014, the City Council adopted Resolution No. 2014-130 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2015-04 (NPC) with approved Amendment No. 8 to the Management Agreement. Amendment No. 8 extended the term of the Agreement from December 31, 2014 to December 31, 2015.

WHEREAS, at a regular meeting of December 15, 2015, the City Council adopted Resolution No. 2015-144 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2015-03 (NPC) with approved Amendment No. 9 to the Management Agreement. Amendment No. 9 extended the term of the Agreement from December 31, 2015 to December 31, 2016.

WHEREAS, pursuant to the Assignment Agreement, the Management Agreement may not be terminated or amended without the prior written consent of the Federal National Mortgage Association ("Fannie Mae"), and;

WHEREAS, the current Management Agreement terminates on December 31, 2017, and;

WHEREAS, Item 10 in the Scope of Services of the Abrams Park Management Agreement states that Alliance is required to make periodic reports to the City "through regular contact and formal meetings as to the current status of all operations so that the Agent City may make proper and timely decisions on all strategic matters," and while Item 10 of the Scope of Services of the Abrams Park Management Agreement states that the City may review Alliance's performance at any time, the City Council may direct staff to conduct a performance review within a specific timeframe, and;

WHEREAS, Staff is proposing the contract with Alliance Communities Inc. be extended through December 31, 2018 for the management of Abrams Park. The contract has modified slightly to be consistent with the contract which the City has with Alliance Communities Inc. for the management of Abrams Park ("Exhibit A"); and

WHEREAS, Amendment No. 11 does not change the compensation to Alliance under the Management Agreement and rental revenue would continue to be collected on and after January 1, 2017 until December 31, 2018.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby:

1. Approve Amendment No. 11 to the Management Agreement between the City of Marina, the City of Marina Abrams B Non-Profit Corporation and Alliance Communities Inc. for Abrams B Housing Area (Exhibit A) extending the term of the Management Agreement to December 31, 2017, subject to final approval by the Federal National Mortgage Association, and;

2. Authorize the City Manager to execute Amendment No. 11 to the Management Agreement for Abrams B on behalf of the City, subject to final review and approval by Fannie Mae and the City Attorney.
3. Direct the City Manager to conduct a performance review of the management of the property and report back to the City Council by June 30, 2017.

PASSED AND ADOPTED by the City Council at a regular meeting duly held on the 19th day of December 2017, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Morton, Brown, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: O'Connell

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

December 15, 2016

Item No. **8g(2)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of December 19, 2017

Honorable Chair and Members
of the Abrams B and Preston Park
Sustainable Community Non-Profit Corporation Boards

Abrams B NPC Meeting
of December 19, 2017

CITY COUNCIL, BOARD OF ABRAMS B NON-PROFIT, AND BOARD OF PRESTON PARK SUSTAINABLE COMMUNITY NON-PROFIT CONSIDER ADOPTING RESOLUTION NO. 2017- AND RESOLUTION NO. 2017- (NPC), APPROVING AMENDMENT NO. 11 TO MANAGEMENT AGREEMENT BETWEEN CITY OF MARINA, CITY OF MARINA ABRAMS B NON-PROFIT CORPORATION, AND ALLIANCE COMMUNITIES INC., FOR ABRAMS B HOUSING AREA, SUBJECT TO APPROVAL BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION; AND RESOLUTION NO. 2017 AND RESOLUTION NO. 2017 – (NPC) APPROVING AMENDMENT NO. 2 TO MANAGEMENT AGREEMENT BETWEEN CITY OF MARINA, CITY OF MARINA PRESTON PARK SUSTAINABLE COMMUNITY NON-PROFIT, AND ALLIANCE COMMUNITIES IN., FOR PRESTON PARK HOUSING AREA AUTHORIZING CITY MANAGER /EXECUTIVE DIRECTOR TO EXECUTE AMENDMENT NO. 11 AND AMENDMENT NO. 2 TO MANAGEMENT AGREEMENTS ON BEHALF OF THE CITY AND THE NON-PROFIT CORPORATIONS SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY/NON-PROFIT CORPORATION LEGAL COUNSEL

REQUEST:

It is requested that the City Council, Board of Directors Abrams B Non-Profit Corporation, and Board of Directors Preston Park Sustainable Community Non-Profit Corporation consider:

- (1) Adopting Resolution No. 2017- and Resolution No. 2017- (NPC), approving Amendment No. 11 to Management Agreement Between City of Marina, City of Marina Abrams B Non-Profit Corporation, and Alliance Communities Inc., for Abrams B Housing Area, subject to approval by the Federal National Mortgage Association, and
- (2) Authorizing City Manager/Executive Director to execute Amendment No. 11 to Management Agreement on Behalf of the City and the Non-Profit Corporation subject to final review and approval by the City Attorney/Non-Profit Corporation Legal Counsel.
- (3) Adopting Resolution No. 2017 – and Resolution No. 2017 – (NPC), approving Amendment No. 2 to the Management Agreement Between City of Marina, City of Marina Preston Park Sustainable Community Non-Profit Corporation, and Alliance Communities Inc., for Preston Park Housing Area, and
- (4) Authorizing City Manager/Executive Director to execute Amendment No. 2 to Management Agreement on Behalf of the City and the Non-Profit Corporation subject to final review and approval by the City Attorney/Non-Profit Corporation Legal Counsel.

BACKGROUND:

The City is the owner of the Abrams B housing area and the Abrams B Non-Profit Corporation is the lessee of the property. In 2006, in connection with financing arrangement for Abrams B housing, the Non-Profit Corporation was required by the Federal National Mortgage Association ("Fannie Mae"), acting as the credit enhancer for the financing arrangement, to enter into a conditional assignment of the Management Agreement whereby in the event of a default in the financing arrangement the Management Agreement would be assigned to Fannie Mae. Any termination and all subsequent amendments to the Management Agreement are subject to the prior written approval of Fannie Mae. Fannie Mae approved the Management Agreement with Alliance Communities, Inc., and all amendments to date to the Management Agreement.

At a regular meeting of October 16, 2007, the City Council adopted Resolution No. 2007-249 and the Non-Profit Corporation Board adopted Resolution No. 2007-01 (NPC) approving the Management Agreement with Alliance Residential LLC (which became Alliance Communities Inc. in May 2009) for management of the Abrams housing area. The term of the Agreement was for three (3) years, from January 1, 2008 to December 31, 2011.

On December 27, 2007, Amendment No. 1 to the Management Agreement for Abrams Park was executed by the City Manager on behalf of the City and the Executive Officer on behalf of the Abrams B Non-Profit Corporation. The Amendment modified the term of the Agreement to two (2) years, to December 31, 2010, with an option for extension of an additional one-year term from January 1, 2011 to December 31, 2011, and added an early termination clause.

At a regular meeting of July 7, 2010, the City Council adopted Resolution No. 2010-108 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2010-1 (NPC) which approved Amendment No. 2 to the Management Agreement. Requested by the Finance Director, Amendment No. 2 amended the audit requirements to permit a two (2) year audit instead of an annual audit, resulting in cost savings.

At a special meeting on December 14, 2010, the City Council adopted Resolution No. 2010-199 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2010-05 (NPC) which approved Amendment No. 3 to the Management Agreement. Amendment No. 3 exercised the option provided in Amendment No. 1 and extended the term of the Agreement from December 31, 2010 to December 31, 2011.

At a regular meeting of February 15, 2011, the City Council adopted Resolution No. 2011-27 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2011-01 (NPC) which approved Amendment No. 4 to the Management Agreement. Amendment No. 4 deleted the Incentive Fee clause, amended the Capital Improvements Management Fee, revised record keeping and monthly reporting requirements, defined affordable rents, revised the requirements for bank accounts and their signatories, updated the priority preferences for resident selection, and amended the Grievance Procedure.

At a regular meeting of December 4, 2011, the City Council adopted Resolution No. 2011- 206 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2011-10 (NPC) which approved Amendment No. 5 to the Management Agreement. Amendment No. 5 extended the term of the Agreement from December 31, 2011 to December 31, 2012.

At a regular meeting of December 4, 2012, the City Council adopted Resolution No. 2012-184 and the Abrams B Non-Profit Corporation Boar adopted Resolution No. 2012-15 (NPC) which

approved Amendment No.6 to the Management Agreement. Amendment No. 6 extended the term of the Agreement from December 31, 2012 to December 31, 2013.

At a regular meeting of December 17, 2013, the City Council adopted Resolution No. 2013-191 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2013-08 (NPC) which approved Amendment No. 7 to the Management Agreement. Amendment No. 7 extended the term of the Agreement from December 31, 2013 to December 31, 2014.

At a regular meeting of December 16, 2014, the City Council adopted Resolution No. 2014-130 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2014-04 (NPC) with approved Amendment No. 8 to the Management Agreement. Amendment No. 8 extended the term of the Agreement from December 31, 2014 to December 31, 2015.

At a regular meeting of December 15, 2015, the City Council adopted Resolution No. 2015-144 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2015-03 (NPC) with approved Amendment No. 9 to the Management Agreement. Amendment No. 9 extended the term of the Agreement from December 31, 2015 to December 31, 2016.

At the regular meeting of December 12, 2016, the City Council adopted Resolution No. 2016-155 and the Abrams B Non-Profit Corporation Board adopted Resolution No. 2016-156 (NPC) with approved Amendment No. 10 to the Management Agreement. Amendment No. 10 extended the term of the Agreement from December 31, 2016 to December 31, 2017.

The current Management Agreement terminates on December 31, 2017. As proposed, Amendment No. 11 would extend the term of the Management Agreement to December 31, 2018 (**“EXHIBIT A”**).

Additionally, the City of Marina purchased Preston Park from the Fort Ord Reuse Authority in September 2015 and approved Amendment No. 1 to the Management Agreement between the City of Marina and Alliance Communities Inc., for the Preston Park Housing Area. This agreement expires December 31, 2017. As proposed, Amendment No. 2 would extend the term of the Management Agreement to December 31, 2018 (**EXHIBIT B**).

ANALYSIS:

Staff is proposing that both Amendment No. 11 for Abrams Park and Amendment No. 2 for Preston Park be approved which will extend the term from December 31, 2017 to December 31, 2018 for both agreements.

At the direction of the City Council, staff conducted a major review of the existing agreements with input from Council members Morton and O’Connell and the Tenants Association. The proposed changes are highlighted in the agreements. Most of the changes are cleanup or clarification in nature.

Previously the City Council had questions regarding the Capital Improvement Management Fee of 6% under Section 3.4. Typically construction management fees range in the 10% range, staff believes 6% is a reasonable fee. However, the agreement does not obligate the City to using Alliance for the management of Capital Improvement Projects. The City has the ability to hire any outside contractor to perform this service or can use existing city staff.

The Council also had questions regarding ARTICLE V Section 5.2 (j) leasing bonus and other incentive compensation payments. In reviewing this Section with Alliance, they have agreed to

eliminate the bonus and incentive program for employees. As they are midway through the budget year, this program will continue through June 30, 2018 but will be eliminated beginning July 1, 2018.

Staff will continue to work with Alliance regarding a performance review of the management of the property and has developed the following criteria to be included in the review, this is not an all inclusive list:

- Revenue vs. expenses vs. budget performance
- Maintenance of the property
- Relationship/communication with residents
- Community appearance
- Capital improvement projects; status of current and recommended for the future
- Resident complaints
- Responses to service requests
- Suggestions from tenants association

Additionally, staff is working with Alliance regarding updating the Regulatory Agreement particularly regarding below market housing restrictions and will be bringing this back to the Council for consideration in the near future.

If the term is not extended beyond December 31, 2017, there will be no legal entity empowered to collect rents and administer the property on and after January 1, 2018.

FISCAL IMPACT:

Should the City Council, Abrams B Non-Profit Corporation Board, and Preston Park Sustainable Community Non-Profit Corporation Board approve the request, Amendment No. 11 and Amendment No. 2 does not change the compensation to Alliance under the Management Agreement and rental revenue would continue to be collected on and after January 1, 2017 until December 31, 2018.

CONCLUSION:

This request is submitted for City Council and Non-Profit Corporation Boards consideration and possible action.

Respectfully submitted,

Layne P. Long
City Manager
City of Marina