

RESOLUTION NO. 2015-133\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
AUTHORIZING THE CITY MANAGER TO MAKE A RATE LOCK DEPOSIT ON BEHALF  
OF THE PRESTON PARK SUSTAINABLE COMMUNITY NONPROFIT CORPORATION,  
AMENDING THE FISCAL YEAR 15-16 APPROPRIATIONS, AND AUTHORIZING THE  
FINANCE DIRECTOR TO MAKE ANY NECESSARY BUDGET AND ACCOUNTING  
ENTRIES AND TO TAKE SUCH OTHER ACTIONS AS ARE NECESSARY TO  
CONSUMMATE THE LOAN

WHEREAS, the City of Marina, California (the "City") owns a residential facility located in the City commonly known as the Preston Park Housing Project (the "Property");

WHEREAS, the City has leased the Property to the Preston Park Sustainable Community Nonprofit Corporation ("Nonprofit") pursuant to that certain Ground Lease between the City and the Nonprofit ("Ground Lease"); and

WHEREAS, the Nonprofit has determined that refinancing the current loan used to acquire the Property is in the best interests of the Nonprofit and will result in significant debt service savings; and

WHEREAS, the Nonprofit has obtained a loan commitment for a maximum amount of \$38,500,000 from Berkeley Point Capital ("Loan Commitment") which loan will be secured by a leasehold deed of trust on the residential portions of Preston Park; and

WHEREAS, the City has determined that it is in the best interest of the City for the Nonprofit to accept the Loan Commitment which will result in reduced debt service payment and increased rent payments to the City pursuant to the Ground Lease; and

WHEREAS, in order to obtain the most favorable loan terms including the lowest interest rate, the City has determined that it is in the best interest of the City and the Preston Park Sustainable Community Nonprofit Corporation to lock the interest rate on the loan; and; and

WHEREAS, the lender requires a rate lock deposit equal to 2% of the loan amount or a maximum amount of \$770,000 ("Rate Lock Deposit") in order to lock the interest rate; and

WHEREAS, after considering the benefits of the deposit in light of the risks of making the deposit the City Council deems it to be in the best interest of the City and the Nonprofit to authorize the City Manager to make the Rate Lock Deposit; and

WHEREAS, the City Council deems it to be in the best interest of the City to amend the Fiscal Year 15-16 appropriation to authorize the Rate Lock Deposit to be made from the City General Fund and to authorize the Finance Director to make the appropriate budgetary and accounting entries.

WHEREAS, the lender providing the Loan Commitment requires as a term of the Loan that the City execute a joinder to the deed of trust securing the loan and subordinate its fee interest in the Property to the loan; and

WHEREAS, after considering the risks of the lender requirements that the City execute a joinder to the deed of trust and subordinate its fee interest in the Property to the loan, the City Council deems it in the best interest of the City agree to execute a joinder to the deed of trust and to subordinate its fee interest in the Property to the loan.

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

1. Authorize the City Manager to make a Rate Lock Deposit for the loan to be obtained by the Preston Park Sustainable Community Nonprofit Corporation to refinance the existing acquisition loan in an amount not to exceed \$770,000.
2. Authorize the City Manager to execute a commitment letter for a loan in an amount not to exceed \$38,500,000 as the key principal with a ten year term at a fixed interest rate not to exceed 4.35% with debt service payments limited to interest only for the term of the loan.
3. Authorize amendment to the Fiscal Year 15-16 appropriations for the Rate Lock Deposit and authorizes the Finance Director to make the appropriate and necessary budgetary and accounting entries to make the Rate Lock Deposit upon approval of the Rate Lock Deposit by the City Manager.
4. Approve the City entering into a joinder of the deed of trust securing the loan and subordinating its fee interest in the Property to the lender.
5. Authorize the City Manager to take such other actions as are necessary to meet the conditions of the loan commitment including executing such documents as are required by the lender, including but not limited to loan agreements, deeds of trusts, security agreements, assignments, and lease amendments.

PASSED AND ADOPTED by the City Council of the City of Marina at a special meeting duly held on November 24, 2015 by the following votes:

AYES, COUNCIL MEMBERS: Amadeo, Morton, Delgado

NOES, COUNCIL MEMBERS: O'Connell

ABSENT, COUNCIL MEMBERS: Brown

ABSTAIN, COUNCIL MEMBERS: None

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Bruce Delgado Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

RESOLUTION NO. 2015-02 (PPSC-NPC)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE PRESTON PARK  
SUSTAINABLE COMMUNITY NONPROFIT CORPORATION  
AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A COMMITMENT LETTER  
FOR A LOAN TO REFINANCE THE ACQUISITION LOAN IN AN AMOUNT NOT TO  
EXCEED \$38,500,000, TO EXECUTE A RATE LOCK AUTHORIZATION AND TO TAKE  
SUCH OTHER ACTIONS AS ARE NECESSARY TO CONSUMMATE THE LOAN

WHEREAS, the City of Marina, California (the “City”) owns a residential facility located in the City commonly known as the Preston Park Housing Project (the “Property”);

WHEREAS, the City has leased the Property to the Preston Park Sustainable Community Nonprofit Corporation (“Nonprofit”) pursuant to that certain Ground Lease between the City and the Nonprofit (“Ground Lease”); and

WHEREAS, the Nonprofit acquired the leasehold interest by obtaining a an acquisition loan from Western Alliance; and

WHEREAS, the Nonprofit has determined that refinancing the current loan used to acquire the Property is in the best interests of the Nonprofit and will result in significant debt service savings; and

WHEREAS, the Nonprofit has obtained a loan commitment for a maximum amount of \$38,500,000 from Berkeley Point Capital (“Loan Commitment”) which loan will be secured by a leasehold deed of trust on the residential portions of Preston Park; and

WHEREAS, the Nonprofit has determined that it is in the best interest of the Nonprofit to accept the Loan Commitment which will result in reduced debt service payment;; and

WHEREAS, in order to obtain the most favorable loan terms including the lowest interest rate, the Nonprofit has determined that it is in the best interest of the Nonprofit to lock the interest rate on the loan and execute a rate lock authorization; and;

WHEREAS, the lender requires a rate lock deposit equal to 2% of the loan amount or a maximum amount of \$770,000 (“Rate Lock Deposit”) in order to lock the interest rate; and

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

1. Authorize the Executive Director to execute a commitment letter for a loan in an amount not to exceed \$38,500,000 with a ten year term at a fixed interest rate not to exceed 4.35% with debt service payments limited to interest only for the term of the loan.
2. Authorize the Executive Director to make a Rate Lock Authorization for the loan to be obtained by the Nonprofit to refinance the existing acquisition loan.
3. Authorize Executive Director to take such other actions as are necessary to meet the conditions of the loan commitment including executing such documents as are required by the lender, including but not limited to loan agreements, deeds of trusts, security agreements, assignments, and lease amendments.

Resolution No. 2015-02 (PPSC-NPC)

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PASSED AND ADOPTED by the Board of Directors of the Preston Park Sustainable Community Nonprofit Corporation at a special meeting duly held on November 24, 2015 by the following votes:

AYES, BOARD MEMBERS: Amadeo, Morton, Delgado

NOES, BOARD MEMBERS: O'Connell

ABSENT, BOARD MEMBERS: Brown

ABSTAIN, BOARD MEMBERS: None

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Bruce Delgado Chair

ATTEST:

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Anita Sharp, Secretary

November 20, 2015

Item No. **4a**

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of November 23, 2015

Board Members, Preston Park  
Sustainable Community Nonprofit

Board Meeting of  
of November 23, 2015

**RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2015-, OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING THE CITY MANAGER TO MAKE A RATE LOCK DEPOSIT ON BEHALF OF PRESTON PARK SUSTAINABLE COMMUNITY NONPROFIT CORPORATION, AUTHORIZING THE EXECUTION OF A LOAN COMMITMENT LETTER AMENDING THE FISCAL YEAR 15-16 APPROPRIATIONS AND AUTHORIZING THE FINANCE DIRECTOR TO MAKE ANY NECESSARY BUDGET AND ACCOUNTING ENTRIES AND TO TAKE SUCH OTHER ACTIONS AS ARE NECESSARY TO CONSUMATE THE LOAN**

**RECOMMENDATION TO CONSIDER ADOPTING A RESOLUTION 2015- (PPSC-NPC), OF THE BOARD OF DIRECTORS OF THE PRESTON PARK SUSTAINABLE COMMUNITY NONPROFIT CORPORATION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A COMMITMENT LETTER FOR A LOAN TO REFINANCE THE ACQUISITION LOAN IN AN AMOUNT NOT TO EXCEED \$38,500,000, TO EXECUTE A RATE LOCK AUTHORIZATION AND TO TAKE SUCH OTHER ACTIONS AS ARE NECESSARY TO CONSUMATE THE LOAN**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Consider adopting Resolution No. 2015-, authorizing the City Manager to make a Rate Lock Deposit on behalf of the Preston Park Sustainable Community Nonprofit Corporation, authorizing the City Manager to sign a loan commitment for an interest only loan for Preston Park, amending the Fiscal Year 14-15 appropriations and authorizing the Finance Director to make any necessary budgetary and accounting entries and authorizing such other actions as are necessary to consummate the loan.

It is recommended that the Board of Directors of the Preston Park Sustainable Community Nonprofit Corporation:

1. Consider adopting Resolution 2015- (PPSC-NPC), of the Board of Directors of the Preston Park Sustainable Community Nonprofit Corporation authorizing the Executive Director to execute a commitment letter for a loan to refinance the acquisition loan in an amount not to exceed \$38,500,000, to execute a rate lock authorization and to take such other actions as are necessary to consummate the loan.

**BACKGROUND:**

### Preston Park Refinancing:

City Staff has been pursuing refinancing the acquisition loan that was obtained to pay the purchase price for the Preston Park property. At the time that the City acquired the property, Preston Park Sustainable Community Nonprofit Corporation (the "Nonprofit") obtained a loan from Western Alliance. The Western Alliance loan is a variable rate, "interest only" loan for the first five years and then becomes fully amortizing. The Western Alliance loan was the most favorable option for the City and the Nonprofit given the timeframe that City had to meet in the purchase and sale agreement.

The Nonprofit is now interested in refinancing the Western Alliance Loan with a Fannie Mae loan that would be a fixed rate, "interest only" loan for the entire 10 year term of the loan. The interest only option allows the Nonprofit to reduce the debt service payments owed in years 6 through 10 which will provide greater net revenues in those years and the fixed interest rate eliminates interest rate risk over the 10-year term. The increased net revenue will provide more funds to meet capital needs at Preston Park and also generate greater revenues to the City general fund, which receives as ground rent from the Nonprofit, the net operating revenues generated by the Property.

Berkeley Point Capital has provided the Nonprofit with a commitment letter for a Fannie Mae loan. The Commitment Letter would require that the loan must be closed by December 31, 2015. The Commitment letter provides the Nonprofit with the option to obtain a rate lock on the interest rate but the rate must be locked by November 30, 2015. In order to lock the interest rate, the City will need to deposit with the lender a Rate Lock deposit equal to 2% of the total loan amount of \$770,000 if the maximum loan amount of \$38,500,000 is necessary. The deposit would be refunded at loan closing, but if for any reason the loan did not close the deposit would be forfeited. The lender is also requiring that the City sign a joinder on the Deed of Trust securing the loan that would allow the lender to foreclose on both the Nonprofit's leasehold interest in the property as well as the City's fee interest in the property.

At the City Council meeting of October 20, 2015 the council adopted Resolution No. 2015-124, authorizing the City Manager to execute a rate lock with Berkeley Point Capital and to provide 30 day written notice to Western Alliance for prepayment of the of the loan with them (**"EXHIBIT A"**).

The purpose of the meeting today is to authorize the City Manager to execute a commitment letter for a loan to refinance the acquisition loan in an amount not to exceed \$38,500,000 and authorize the City Manager to make a rate lock deposit.

### ANALYSIS:

The City obtained title to Preston Park in September of this year and immediately leased the residential portion of the property to the Nonprofit pursuant to a 55 year ground lease. The acquisition of the property was financed by a loan from Western Alliance that required interest only payments for the first five years of the loan and then interest and principal payments for the remaining five years of the loan. At the time of acquisition of the property, the City and the Nonprofit were interested in obtaining Fannie Mae financing for the acquisition but the Fannie Mae lender could not meet the City's timeline for acquisition.

The Nonprofit has submitted a loan application to obtain Fannie Mae financing for the acquisition and has been working with the lender to obtain a loan commitment. The lender has provided the Nonprofit with a loan commitment. Under the terms of the loan commitment, the Nonprofit and the City, as the key principal under the loan, must sign the commitment by

November 30, 2015 and if the Nonprofit wants a rate lock, a rate lock deposit must be made by November 30, 2015. The rate lock deposit is equal to 2% of the total loan amount or \$770,000 if the maximum amount of the loan commitment is necessary. The rate lock deposit would be returned upon closing of the loan. However, if the loan failed to close for any reason other than the lender's gross negligence or willful misconduct, the rate lock deposit would be forfeited. The loan would be required to close by December 31, 2015.

In order to prepay Western Alliance the Nonprofit has to give Western Alliance a 30 day notice of prepayment. Western Alliance takes the position that if a 30-day prepayment notice is given and then the prepayment does not occur the borrower is in default. Although the loan documents are ambiguous on this point, the Nonprofit does not want to give Western Alliance a prepayment notice until most of the contingencies to closing are resolved. Once the prepayment letter is given to Western Alliance, the Fannie Mae loan cannot close for 30 days. During that 30 day period it is possible that interest rates could increase resulting in a reduction in the benefits of the refinancing. Because of this as well as the strong possibility that the Federal Reserve will increase interest rates in mid-December a rate lock would be beneficial and is a requirement of the Fannie Mae financing.

Paying the rate lock deposit is not without risks. Although Fannie Mae has completed its underwriting of the property and many of the issues have been worked out with the lender, there could be circumstances that would result in the loan not closing in which case the Rate Lock deposit would be forfeited.

The City Manager/Executive Director is also asking for authorization to execute a loan commitment for the loan. Current interest rates for the loan are expected to be in the range of 4.10 to 4.25%. The loan term would be for 10 years at a fixed interest rate. The debt service payments would be interest only for the entire term of the loan. Assuming a rate of 4.25%, the annual debt service for the interest only loan would mean that the City of Marina would continue to receive the same amount it receives from Preston Park net operating revenues currently plus an additional \$230,000 annually. The interest only loan provides additional revenues which may be necessary to address capital improvements or other issues that may come up regarding the property. The above numbers are approximations based on current interest rates and are subject to change based on interest rate changes.

The Fannie Mae lender is requiring that the City sign a joinder on the deed of trust that would put the City's fee interest in the property at risk if there was a default on the loan. If the Nonprofit failed to make required payments under the loan or defaulted in some other way, the lender would be able to foreclose on the City's interest in the property as well as the Nonprofit's leasehold. It should be noted that the debt service coverage ratio on the loan is high so revenues from the property would have to decrease significantly before the Nonprofit would be unable to make the required payments.

The attached resolution also amends the Fiscal year 15-16 appropriations to allow for the rate lock deposit and authorizes the Finance Director to make the necessary budgetary and accounting entries for the deposit.

**FISCAL IMPACT:**

The Rate Lock Deposit is a maximum of \$770,000. These funds would be paid from the City's general fund. Upon close of the loan, the deposit would be returned to the general fund, however, if the loan does not close, the funds would be forfeited.

The Loan would reduce debt service payments and result in an increase in net revenue that would provide additional funds for capital improvements for Preston Park and additional general fund revenues.

**CONCLUSION:**

This request is submitted for City Council and the Nonprofit Board consideration and possible action.

Respectfully submitted,

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Layne Long  
City Manager  
City of Marina