

# NOVATO FINANCING AUTHORITY

75 Rowland Way #200, Novato, CA 94945-5054  
415/899-8900 • FAX 415/899-8213

**BOARD OF DIRECTORS  
DELEGATION AGREEMENT WORKSHOP  
Monday, August 23, 2010 – 6:30 P.M.  
Marin Valley Mobile Country Club  
FIRESIDE ROOM  
100 Marin Valley Drive**

## AGENDA and NOTICE

- A. CALL TO ORDER
- B. APPROVAL OF FINAL AGENDA
- C. PUBLIC COMMENT
- D. WORKSHOP ON DELEGATION AGREEMENT

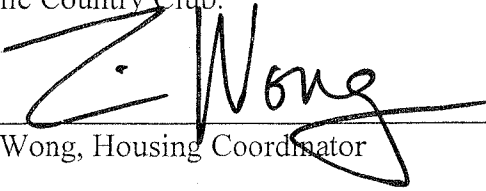
Receive staff presentation and hear resident input on the Delegation Agreement and upcoming negotiations (Attachment)

- E. BOARD/STAFF COMMENTS

E-1: Confirm next meeting date: September 20, 2010

### AFFADAVIT OF POSTING

I, Tim Wong, certify that on August 18, 2010, caused to be posted the agenda of the August 23, 2010 meeting of the Novato Finance Authority of the City of Novato, California on the City of Novato Community Service Board in the Police Department and City Hall and the Marin Valley Mobile Country Club.

  
\_\_\_\_\_  
Tim Wong, Housing Coordinator



THE CITY OF  
**NOVATO**  
CALIFORNIA

75 Rowland Way, #200  
Novato, CA 94945-3232  
415/899-8900  
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[www.ci.novato.ca.us](http://www.ci.novato.ca.us)

Mayor  
Jeanne MacLeamy  
Mayor Pro Tem  
Carole Dillon-Knutson  
Councilmembers  
Denise Athas  
Pat Eklund  
Madeline Kellner

City Manager  
Michael S. Frank

## Notice of Resident Workshop

Monday, August 23, 2010 – 6:30 P.M.  
Marin Valley Mobile Country Club  
FIRESIDE ROOM  
100 Marin Valley Drive

This fall, the Novato Financing Authority (NFA) and the Park Acquisition Corporation (PAC) will be entering negotiations on the Delegation Agreement – a key legal document that sets the governing parameters for how the Marin Valley Mobile Country Club (MVMCC) is managed. The current term of the Delegation Agreement began on March 1, 1997 and has been subject to automatic annual renewal each year thereafter. Pursuant to Section 4.02 of the Agreement, renegotiation of the Agreement is to take place at particularly scheduled intervals set as October 1, 2010 and October 1, 2025. During the period between October 1, 2010 and January 31, 2011, the PAC and the NFA agree to meet in order to review the Delegation Agreement and, if necessary renegotiate one or more of its terms. The current Delegation Agreement will expire on January 31, 2011.

In light of this, the Novato Financing Authority would like to invite residents to provide input on the Delegation Agreement through a variety of ways.

Resident Workshop – Monday, August 23, 2010 @ 6:30 p.m.

The Novato Financing Authority (NFA) will be holding a “Resident Workshop” at your Marin Valley Mobile Country Club (MVMCC) community center. Residents are invited to provide verbal comments and feedback regarding the Delegation Agreement and the Park Acquisition Corporation (PAC) as a day-to-day administrator of the park. This workshop is the beginning of the negotiation process for the renewal of the Delegation Agreement. The NFA will not be making any comments or decisions during the August 23<sup>rd</sup> workshop; however all the comments and suggestions from residents will be considered as part of the public input process for the negotiations related to the Delegation Agreement.

Written Comments

Residents may also send written comments via e-mail or letter to the following addresses:

*Novato Financing Authority  
c/o Tim Wong, Housing Coordinator  
75 Rowland Way, Suite 200  
Novato, CA 94945  
Email address – [twong@cityofnovato.org](mailto:twong@cityofnovato.org)*

Verbal Comments

City staff is happy to meet in person or take comments verbally over the phone. If you are more comfortable providing comments in this manner, please contact Tim Wong, Housing Coordinator, 899-8257, who can take your comments or arrange for an in-person meeting.

Below is a summary of the main points of the Delegation Agreement

- Scope: The Delegation Agreement outlines parameters for and delegates day-to-day park management responsibilities to the Park Acquisition Corporation (PAC) from the Novato Financing Authority (NFA).
- Parties: The parties to the Agreement are the NFA, as the Owner of the mobile home park, and the PAC. (The NFA is a joint powers agency formed between the City of Novato and the Novato Redevelopment Agency.)
- Operation of the Park: The Delegation Agreement assigns the day-to-day park management responsibilities to the PAC. Some of those PAC responsibilities include:
  - Hiring of a park management company. Frei Real Estate is the park manager. The Management Agreement between PAC and Frei Real Estate is also being reviewed and renegotiated at this time.
  - Preparing an Annual Budget sufficient to cover payments to the NFA, annual operating costs, capital needs, and accumulating funds for long term maintenance and repair projects.
  - Submitting required financials report to the NFA.

The Delegation Agreement and the Management Agreement are posted on the PAC web site for your review. Below are the locations.

Delegation Agreement, <http://www.mvmcc.com/pdfs/Delegation%20Agreement.pdf>

Management Agreement, <http://www.mvmcc.com/pdfs/Frei-management-Agreement.pdf>

At the June 21, 2010 NFA meeting, the NFA Board decided on the following timeline for the renegotiation process.

Date / Time	Action / Event
Monday, June 21 10:00 a.m.	NFA Regular Meeting -- Provide overview of information on the Delegation Agreement and gain initial input on process for renegotiation.
Monday, August 23 6:30 p.m.	NFA Special Meeting -- Workshop for resident input (evening session).
Monday, September 20 10:00 a.m.	NFA Regular Meeting -- NFA Board to provide direction to staff regarding negotiation of the Delegation Agreement.
October 1	Window opens for negotiations.
Monday, January 18 10:00 a.m.	NFA Regular Meeting -- Action on the Delegation Agreement
January 31	Deadline for an Agreement to be negotiated and approved.

If you have any questions regarding this letter or the renegotiation process, please contact Tim Wong, Housing Coordinator, at 899-8257. If you have any comments or suggestions, you may also send him an email at [twong@cityofnovato.org](mailto:twong@cityofnovato.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Cathy Capriola', written in a cursive style.

Cathy Capriola  
Staff, Novato Financing Authority  
Assistant City Manager, City of Novato

## MEMORANDUM

### MEETING

DATE: June 21, 2010

TO: Chair MacLeamy and Board Members

FROM: Cathy Capriola, Assistant Agency Executive Director  
Veronica A. F. Nebb, Agency Counsel  
Tim Wong, Housing Coordinator

SUBJECT: Direction Regarding Process and Negotiation Timeline for Renegotiation of and Description of the Major Provisions of the Marin Valley Mobile Country Club Park Delegation Agreement

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### REQUEST

Consider providing direction to staff regarding a process for public input and overall negotiations approach relating to consideration of renegotiation of the Marin Valley Mobile Country Club Park Delegation Agreement.

### DISCUSSION

Pursuant to the terms of the Marin Valley Mobile Country Club Park Delegation Agreement (Agreement), the Agreement is subject to periodic renegotiation at certain specified periods. The first such specified period begins on October 1, 2010 and ends on January 31, 2011. During this period, NFA and PAC representatives are to meet to review the agreement and, if necessary, to renegotiate one or more of the terms thereof. If the NFA and PAC agree to modifications of the Delegation Agreement, then the modifications become incorporated as amendments. The modifications require written approval of the Financial Security firm also.

Prior to the start of the negotiation period, the NFA Board will need to understand the terms of the Agreement and provide any necessary direction to staff. In order to gain input from residents and direction from the NFA Board, staff is recommending a process for input and discussion prior to the start of negotiations.

### PROCESS AND TIMELINE

The renegotiation of the Delegation Agreement must comply with the Brown Act with as much transparency as allowable for the confidence of residents and the public. Staff recommends that the process include the following components – education and information; input and feedback by residents; direction by the NFA; negotiation; and finally agreement on any modifications to

the Delegation Agreement. The goal is to gain input and direction in August and September, negotiate in October through December, and finalize the Agreement for consideration and approval in January.

Staff recommends that the NFA Board provide direction to staff regarding negotiations on the Delegation Agreement in open session on September 20. The actual negotiations between NFA staff and the PAC will be held in private meetings. Staff proposes that would an ad-hoc sub-committee (2 members) of the NFA be appointed to be available for staff to review negotiations ideas or proposals with prior to bringing back to the full NFA Board. Staff recommends that the Chair of the NFA be one of the two Ad-Hoc committee members. In addition, staff also recommends that the PAC appoint two members to serve on the ad-hoc committee to negotiate directly with staff.

Below is a draft approach and timeline for consideration by the NFA.

<b>Date</b>	<b>Responsible Party</b>	<b>Action / Event</b>
June 21	NFA Staff	NFA Regular Meeting -- Provide overview of information on the Delegation Agreement and gain initial input on process for renegotiation.
August 23	NFA Workshop	NFA Special Meeting -- Hold workshop for resident input (evening session).
September 20	NFA Meeting	Regular Meeting – NFA Board to provide direction to staff regarding negotiation of the Delegation Agreement.
October 1	NFA & PAC	Window opens for negotiations.
January 18	NFA meeting	Regular meeting – Action on the Delegation Agreement
January 31	NFA & PAC	Deadline for an Agreement to be negotiated and approved.

**MAJOR PROVISIONS OF EXISTING AGREEMENT**

The Delegation Agreement (Agreement) is the agreement by which the Novato Financing Authority (NFA) delegates to the Park Acquisition Corporation (PAC) the responsibility for the day to day operation and control of the Park. The Agreement provides basic direction to the PAC regarding operation and control of the park in order to be in keeping with the bond financing documents. In addition the Agreement provides that the PAC must retain and maintain the services of a professional management company, which company shall actually manage the park. The Delegation Agreement includes as an attachment the terms of the required Management Agreement.

The Delegation Agreement and the Management Agreement are posted on the PAC web site for easy access. Below are the locations.

- Delegation Agreement, <http://www.mvmcc.com/pdfs/Delegation%20Agreement.pdf>
- Management Agreement, <http://www.mvmcc.com/pdfs/Frei-management-Agreement.pdf>

The following are the major points of the Marin Valley Mobile Country Club Park Delegation Agreement.

- Parties: The current parties to the Agreement are the NFA, as the Owner of the mobile home park, and the Park Acquisition Corporation (PAC).
- Current Term: The current term of the Agreement expired on December 31, 1997 and has been subject to automatic annual renewal each year thereafter. Automatic annual renewal ceases upon the occurrence of any one of the following events: a) the occurrence of an event of default under the Trust Indenture, this Agreement or a Trigger event exists; b) either party gives written notice to the other party of its intent to not extend the term of the Agreement (note that in order for the PAC to terminate it must have the consent of FSA, NFA termination requires no such consent); or c) the parties can not reach an agreement at one of the Periodic Renegotiation stages (see below)
- Obligations on Termination: Upon the termination of the Agreement, the PAC will no longer manage the park and the NFA will assume the duties currently being performed by the PAC pursuant to the Loan Documents, including the obligation to enter into an agreement with a Property Manager. The PAC is obligated to cooperate with the NFA regarding effecting the termination and turning over all documents and records to the NFA.
- Periodic Renegotiation: As noted above, pursuant to Section 4.02 of the Agreement, periodic renegotiation of the Agreement is to take place at particularly scheduled intervals set as October 1, 2010 and October 1, 2025. During the period between October 1 and January 31 of the following year, the parties agree to meet in order to review the Agreement and, if necessary renegotiate one or more of its terms. If the parties agree to the modifications and if FSA, the bond insurer consents to such modifications, the modifications shall be incorporated into the Agreement by amendment. If the parties do not, after good faith negotiations, agree to the modifications, the Agreement shall terminate on January 31.
- Operation of the Park: The Agreement provides that the park shall be operated in accordance with the all of the Mortgage Loan Documents and that the PAC is obligation to retain a Property Manager at all times and have in effect a Management Agreement in substantially the form as the current Management Agreement.
- Financial Reporting: The Agreement provides that a Profit and Loss Statement, Cash Flow Statement, Balance Sheet and Budget Control Report shall be provided by the PAC to the NFA and FSA monthly and requires an annual audit.
- Indemnification and Insurance: The PAC must indemnify, defend and hold harmless the NFA, FSA, CLGFA and the Trustee relating to the operation and control of the park and the activities of the PAC and cause the Property Manager to maintain insurance coverage.

- Default: The following actions constitute an event of default and breach of the Agreement:
  - PAC being denied any license legally required to operate a mobilehome park or PAC ceasing to operate the park.
  - Failure of PAC to make any payments due under any of the Mortgage Loan Documents.
  - A general assignment or general arrangement for the benefit of creditors, petition of bankruptcy or reorganization is made by the PAC or there is a trustee or receiver appointed or attachment of assets relating to the PAC.
  - Any representations or warranties of the PAC shall prove to be untrue or incorrect in any material respect as of the date made or deemed to be made.
  - A continuing violation or breach of any covenant or material term of the Agreement or the Mortgage Loan Documents to which PAC is a party.
  - Failure of the PAC to have a property manager.
  - Failure of the PAC to respond in a timely manner to any written inquiry of the NFA or FSA pertaining to any reports required pursuant to the Management Agreement.
  - Any event of default pursuant to the Management Agreement has occurred.
  - An event of default has occurred under any agreement pertaining to the park into which the PAC or the Property Manager have entered.
  - Required insurance is not procured or maintained.

### **RECOMMENDATION**

Provide direction to staff on the process and timeline for renegotiation of the Delegation Agreement. Request any additional information or research to be completed.

### **ATTACHMENTS**

Draft Process and Timeline

Current Delegation Agreement

Current Maintenance Agreement