

SAN MATEO COUNTY

Environmental Services Agency

Date: November 9, 2001

Hearing Date: November 20, 2001

TO: The Honorable Board of Supervisors

FROM: Marcia Raines, Director, Environmental Services Agency 

SUBJECT: APPROVAL OF AN AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY HISTORICAL ASSOCIATION FOR OPERATION AND MAINTENANCE OF THE COUNTY MUSEUM AND TWO HISTORICAL SITES IN 2001/02

RECOMMENDATIONS:

Approve a resolution authorizing the President of the Board of Supervisors to execute an agreement for \$111,000 between the County and the San Mateo County Historical Association to maintain the San Mateo County Historical Museum, the Woodside Store and Sanchez Adobe Historical Sites and provide appropriate professional curatorial assistance for all three museums.

BACKGROUND:

For many years the County has contracted with the Historical Association for operation of the Historical Museum and the historical sites. This contract provides that the Association:

- Maintain the San Mateo County Historical Museum and keep it open to the public for at least one-half day, five days a week.
- Provide interpretive programs at the Sanchez Adobe and Woodside Store Historical Sites and ensure that the Woodside Store is open to the public at least 20 hours a week and the Sanchez Adobe is open to the public at least 26 hours a week.
- Provide information to the public concerning the history, growth, and development of the County.
- Provide appropriate professional curatorial assistance at all three museums.

DISCUSSION:

The contract for fiscal year 2001/02 services retains the same provisions and levels of service as last year.

FISCAL IMPACT:

The total amount of the contract is \$111,000. This amount has been budgeted in the Parks and Recreation Division's FY 2001/02 budget.

REVIEW BY OTHERS:

The County Counsel's Office has reviewed the resolution and finds it in order.

Resolution No. _____

**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE
COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY HISTORICAL
ASSOCIATION FOR PERFORMANCE OF SERVICES – FY 2001/02**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that;

WHEREAS, the Board of Supervisors believes the San Mateo County Historical Association agrees to perform certain county-wide services to maintain a museum and two County owned historical sites for the benefit of the citizens of the community;

WHEREAS, the Agreement between the County of San Mateo and the San Mateo County Historical Association for Operation and Maintenance of County Museum and Two Historical Sites in 2001/02 has been presented to this Board of Supervisors for its consideration and acceptance an agreement;

WHEREAS, the Board has been presented with the Agreement and the Board has examined and approved same as to both form and content and desires to enter into same; and

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of the Board of Supervisors be, and he is hereby, authorized and directed to execute said agreement for and on behalf of the County of San Mateo and the Clerk of this Board shall attest the President's signature thereto.

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY
HISTORICAL ASSOCIATION FOR OPERATIONS AND MAINTENANCE OF COUNTY MUSEUM
AND TWO HISTORICAL SITES IN 2001/02

This Agreement, made and entered into this _____ day of _____,
2001, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California,
(hereinafter, "County"), and the SAN MATEO COUNTY HISTORICAL ASSOCIATION, a non-profit
corporation, (hereinafter "Association"):

WITNESSETH

WHEREAS, pursuant to Government Code Section 31000, the County of San Mateo may retain
independent contractors to perform special services to or for the County or any department thereof; and

WHEREAS, the Association has for many years maintained a museum and two County owned
and maintained historical sites concerning the history of the County of San Mateo which has contributed
in significant and substantial ways to the public interest of the citizens of this County; and

WHEREAS, for many years County has contracted for the services of the Association in
maintaining said and museum two County owned and maintained historical sites for the benefit of the
citizens of the community, and it is now the desire of this Board to again enter into an agreement with the
Association for said services for fiscal year 2001/02;

NOW, THEREFORE, in consideration of the terms and conditions and mutual covenants herein
contained, IT IS HEREBY AGREED by and between the parties hereto as follows:

SECTION 1. TERM. This Agreement shall be in full force and effect upon execution by both
parties. This Agreement shall terminate on June 30, 2002. The parties acknowledge that Association has
performed under this Agreement since July 1, 2001 in anticipation of the execution of this Agreement.
Funds to be provided by the County under Section 3A. Obligations of County are provided in

consideration of Association's performance from July 1, 2001 to June 30, 2002. However, that either party at any time may terminate the Agreement by giving written notice of such termination at least thirty (30) days in advance of the effective date of such termination as provided by Section 12. Any such termination shall be effective for all purposes except as to obligations acquired prior to the effective date thereof.

SECTION 2. OBLIGATIONS OF ASSOCIATION. In meeting its obligations under this Agreement, the Association shall:

- A. Maintain and operate a museum of the history of the County of San Mateo in substantially the same manner in which it has in the past; and in connection therewith, the Association shall keep said museum open to the public for at least one-half day for five days a week.
- B. Maintain and operate the docent program to keep the Woodside Store historical site open to the public 20 hours a week and the Sanchez Adobe site open to the public 26 hours a week.
- C. Collect, catalog, and file records, photographs, maps, articles of the news media and periodicals, mementos, and any and all other appropriate materials relevant to the history of San Mateo County and shall give counsel and editorial assistance in connection therewith to all citizens of the county.
- D. Promote through meetings, speakers, and any and all other appropriate methods the dissemination of information to the public concerning the history growth, and development of the County of San Mateo.
- E. Continue to publish and make available to the public its quarterly journal of county history, La Peninsula, and shall continue to operate a lending service of any and all materials in the custody of the Association that may be appropriately loaned and circulated to members of the public.

- F. Provide appropriate curatorial assistance at all three museum sites.

SECTION 3. OBLIGATIONS OF COUNTY.

- A. In consideration of the services described herein, County shall pay to the Association during fiscal year 2001/02 the sum of \$111,000 which sum shall be payable upon execution of this agreement.
- B. It is understood and agreed that the said sum is the full compensation to be paid to the Association under the terms of this Agreement and that any expenses whatsoever incurred by the Association in complying with the terms of this Agreement including but not limited to the employment of supplementary staff, cost of supplies and equipment, maintenance, space, and travel expenses, shall be at the Association's own expense.

SECTION 4. HOLD HARMLESS AND INDEMNIFICATION. The Association shall indemnify and save harmless the County, its officers, agents, employees and servants from all claims, suits and actions of every name, kind and description, brought for, or on account of injuries to or death of any person including but not limited to Association or its members, employees, and volunteers, or damage to property of any kind whatsoever and to whomsoever belonging including but not limited to injuries and damages attributable to the concurrent active or passive negligence of the County, officers, agents, or employees and servants resulting from the performance of this Agreement by Association, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct. The duty of Association to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

SECTION 5. INSURANCE. The Association shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by

the Parks and Recreation Division. The Association shall furnish the Parks and Recreation Division with certificates of insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending the Association coverage to include the contractual liability assumed by the Association pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to the Parks and Recreation Division of any pending change in the limits of liability or of nonrenewal, cancellation, or modification of the policy.

(a) Workers' Compensation and Employer's Liability Insurance:

The Association shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Association makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

(b) Liability Insurance: The Association shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect Association while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from the Association operations under this Agreement, whether such operations be by Association or by any sub-contractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be One Million Dollars (\$1,000,000) combined single limit bodily injury and property damage for each occurrence. County and its officers, agents, employees

and servants shall be named as additional insureds on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, or its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County, or its officers and employees, have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only. In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the Parks and Recreation Division, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement, suspend all further work pursuant to this Agreement and terminate Agreement per Section 12.

SECTION 6. FIDELITY BOND. Association shall submit to County, certification that all individuals handling or having access to funds provided under this Agreement other than petty cash not exceeding Fifty Dollars (\$50), or who are authorized to sign or counter-sign checks, are covered by a blanket fidelity bond, for the life of the Agreement in the equivalent amount of twenty percent (20%) of the total contract amount. County shall be named as an additional insured on said bond. Failure to comply will be a breach of this Agreement and may result in the withholding of funds or in termination by County.

SECTION 7. TIME. Time is of the essence of this Agreement.

SECTION 8. ENTIRE CONTRACT. It is expressly agreed between the parties that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties and no oral understanding or agreement not incorporated herein shall be binding on the parties hereto.

SECTION 9. INDEPENDENT CONTRACTOR. It is expressly understood that this is an agreement between two (2) independent contractors and that no agency, employee, partnership, joint venture or other relationship is established by this Agreement. The intent by both County and Association is to create an independent contractor relationship. Association expressly acknowledges and accepts his/her tax status and the tax consequences of an independent contractor. Further, as an independent contractor, Association expressly acknowledges and accepts that he/she has no rights, benefits, privileges and/or claims in any form whatsoever under, from through and/or pursuant to the San Mateo County Civil Service Rules.

SECTION 10. ASSIGNABILITY. Without the written consent of the County this Agreement is not assignable in whole or in part.

SECTION 11. NOTICES. All notices required hereunder shall be served upon the Parks and Recreation Division.

Notices will be sent to the County at:

Director, San Mateo County Parks and Recreation Division
455 County Center, 4th Floor
Redwood City, CA 94063

Notices will be sent to the Association at:

San Mateo County Historical Association
777 Hamilton Street
Redwood City, CA 94063

SECTION 12. TERMINATION.

A. Either party at any time may, without cause, terminate this Agreement by giving written

notice of such termination at least thirty (30) days in advance of the effective date of such termination. Any such termination shall be effective for all purposes except as to obligations acquired prior to the effective date thereof.

- B. Further, should Association fail to perform any covenant contained herein, County may immediately terminate this Agreement. Termination by County shall be effective upon the mailing, return receipt requested, of notice thereof. Thereafter, County may take whatever action it deems proper to cure such failure to perform.
- C. In the event of such termination under this Section 12, Association shall immediately remit to County, in an amount proportionate to the remaining term of this Agreement, all funds previously advanced by the County under Section 3A of this Agreement.

SECTION 13. Non-Discrimination - General. No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, marital status, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Association shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject Association to penalties, to be determined by the County Manager, including by not limited to: i) termination of this Agreement; ii) disqualification of the Association from bidding on or being awarded a County contract for a period of up to 3 years; iii) liquidated damages of \$2,500 per violation; iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to: I) examine Associations employment records with respect to compliance with this paragraph; ii) set off all or any portion of the amount described in this paragraph against amounts due Association under the

Agreement or any other contract between Association and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Association that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstances. Association shall provide County with a copy of its response to the Complaint when filed.

SECTION 14. Equal Benefits. With respect to the provision of employee benefits, Association shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

SECTION 15. Records.

- A. Association agrees to provide to County, to any federal or state department having monitoring or reviewing authority, to County's authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit all records and documents necessary to determine compliance with relevant federal, state and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.
- B. Association shall maintain and preserve all financial records relating to this Agreement for a period of four (4) years from the termination date of this Agreement, or until audit findings are resolved, whichever is greater.

SECTION 16. Compliance with Applicable Laws. All services to be performed by Association pursuant to this Agreement shall be performed in accordance with all applicable federal, state, county and

municipal laws, including, but not limited to, the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment I, which prohibits discrimination on the basis of handicap in programs and activities receiving any federal or county financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality or records, and applicable quality assurance regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
the _____ day of _____, 20_____.

COUNTY OF SAN MATEO

BY _____
President, Board of Supervisors

ATTEST:

Clerk of Said Board

SAN MATEO COUNTY HISTORICAL ASSOCIATION
BY  _____
Director

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

I Vendor Identification

Name of Contractor: San Mateo County Historical Association
Contact Person: Mitch Postel
Address: 777 Hamilton Street
Redwood City, CA 94063
Phone Number: 650-299-0104
Fax Number: 650-299-0141

II Employees

Does the Contractor have any employees? [X] Yes [] No

Does the Contractor provide benefits to spouses of employees? [X] Yes [] No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check one)

- [X] Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
[] Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
[] No, the Contractor does not comply.
[] The Contractor is under a collective bargaining agreement which began on (date) and expires on (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this 5th day of November, 2001 at Redwood City, CA (City)

(State) [Signature]
Signature

Mitchell Postel
Name (Please Print)

Executive Director
Title

23-7186194
Contractor Tax Identification Number



SAN MATEO COUNTY FREQUENTLY ASKED QUESTIONS EQUAL BENEFITS ORDINANCE

WHO is affected by this law?

Contractors: Any contractor entering into or amending an existing Agreement with San Mateo County after July 1, 2001 for public works, consulting, or other services, or for the purchase of supplies, material, or equipment in excess of \$5,000 must offer equal benefits to their employees.

Subcontractors: Subcontractors are not required to comply with this Ordinance. (Note: Per 2.93.020 (b) 6. A contract may be terminated if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

WHO is the "Contracting Awarding Authority"?

The Contract Awarding Authority is the San Mateo County Board of Supervisors or the individual authorized by the Board of Supervisors to enter into contracts on behalf of the County.

WHAT benefits are included?

The law applies to all benefits, other than pension benefits, that a contractor provides to employees because they have a spouse (e.g., sick leave to care for a spouse) and all benefits offered directly to such spouses (e.g. medical insurance). The law requires that an equivalent benefits package be offered to employees with domestic partners. In some circumstances, equivalent but different (e.g. cash) benefits may be substituted.

Benefits include but are not limited to: bereavement leave; disability; life and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees.

WHAT is a domestic partner?

A domestic partner means any person who is registered as a domestic partner with the Secretary of State, State of California registry, or the registry of the state in which the employee is a resident.

A domestic partner shares a common residence, is jointly responsible for each other's basic living expenses, is not married or a member of another domestic partnership, is not related by blood in a way that would prevent us from being married to each other in this state, is over 18 years of age, and is capable of consenting to a domestic partnership.

WHAT if a contractor is unable to offer benefits equally?

A contractor can comply if it pays a cash equivalent equal to the contractor's cost of providing the benefit to an employee's spouse.

If the contractor's actual cost of providing a benefit for a domestic partner exceeds the cost of providing the benefit for a spouse, under the ordinance, the employee with the domestic partner may pay the excess cost.

WHAT if a contractor does not comply with the Equal Benefits Ordinance?

If the contractor does not comply the San Mateo County Board of Supervisors can impose sanctions, including but not limited to:

Disqualification of the contractor from bidding on or being awarded a County contract for a period of up to 5 years; and

Contractual remedies, including, but not limited to termination of contract;

Liquidated damages in the amount of \$2,500.

WHAT is the jurisdiction of the Ordinance in terms of the location of a contractor's operations?

The Ordinance applies to those portions of a Contractor's operations that occur within the County; on real property outside the County if the property is owned by the County or the County has the right to occupy the property, and if the contractor's presence at that location is connected to a contract with the County; and elsewhere in the United States where work related to a County Contract is being performed.

WHEN does compliance begin if the contractor has a collective bargaining agreement?

If the contract is awarded or amended after July 1, 2001, and the contractor is under a collective bargaining agreement, the Equal Benefits Ordinance will apply to any contract awarded or amended after the effective date of the next collective bargaining agreement.

WHEN may the requirements of the Equal Benefits Ordinance be waived?

The Board of Supervisors may waive the requirements of this Ordinance when it determines that it is in the best interests of the County. The County Manager may waive the requirements for contracts not needing the approval of the Board of Supervisors where the waiver would be in the best interest of the County for such reasons as, but not limited to:

The award of a Contract or amendment is necessary to respond to an emergency.

The contractor is the sole source.

No compliant contractors are capable of providing goods or services that respond to the County's requirements

The requirements are inconsistent with a grant, subvention or agreement with a public Agency.

The County is purchasing through a cooperative or joint purchasing agreement.

WHERE do I file a complaint if my employer does not comply with the Equal Benefits Ordinance?

If you wish to file a complaint against your employer, contact: County Counsel, 400 County Center 3rd. Floor, Redwood City, CA . 650-363-4250.



**SAN MATEO COUNTY
EQUAL BENEFITS
PROGRAM
FREQUENTLY ASKED
QUESTIONS**

On February 13, 2001, the Board of Supervisors of San Mateo County passed Ordinance NO. 04026, an Ordinance adding Chapter 2.93 to the San Mateo Ordinance Code to provide for non-discrimination by County contractors in the provision of employee benefits. Employee benefits routinely comprise a significant proportion of total employee compensation, and discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay. This Ordinance mandates that contractors provide to employees with domestic partners benefits equal to those provided to employees with spouses.