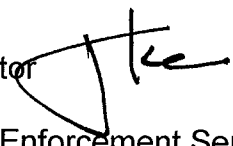




COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building Department



DATE: October 31, 2011
BOARD MEETING DATE: November 15, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: Jim Eggemeyer, Community Development Director 
SUBJECT: Agreement with the City of San Carlos for Code Enforcement Services

RECOMMENDATION:

Adopt a Resolution authorizing the President of the Board to execute an Agreement between the County of San Mateo and the City of San Carlos for the provision of code enforcement services in the incorporated City of San Carlos in return for payment not to exceed \$50,000 per twelve-month period between November 15, 2011 and November 14, 2013.

BACKGROUND:

The City of San Carlos issued a Request for Proposals for Municipal Code Enforcement Services on June 8, 2011. A shared services proposal was submitted by the Planning and Building Department, and on September 12, 2011, the San Carlos City Council authorized the City Manager to enter into an agreement with San Mateo County to provide these services.

DISCUSSION:

The proposed agreement establishes a two-year period under which the County will assist the City of San Carlos Building Official with the enforcement of municipal and zoning codes. This will involve responding to complaints about violations of City regulations regarding weeds, over-grown shrubbery, blighted vacant homes, and illegal signs. Investigations and enforcement actions will be provided by a Planning and Building Department code compliance officer, under the direction of the Department's Code Compliance Supervisor and Deputy Director, and in collaboration with the City's Building Official.

The City of San Carlos will cover the Department's cost of providing these services at an hourly rate of \$55.72, and a total amount not to exceed \$50,000 over each of the twelve-month periods that comprise the two-year contract. This will allow the Department to provide the City with an average of seventeen hours of service per week. In combination with the funding for a half time code compliance officer provided in this

year's budget, this will allow the Department to fill a current code compliance officer vacancy. If the proposed agreement is approved, the new officer will work approximately half time on San Carlos enforcement issues, and half time on enforcement issues in the unincorporated areas of the County.

County Counsel has reviewed the Resolution and Agreement as to form.

The Agreement contributes to the Shared Vision outcome of a Livable Community by promoting interagency collaboration on the efficient and effective enforcement of municipal codes that protect the public's health, safety, and welfare.

Performance Measure:

Measure	FY 2011-12 Estimated	FY 2012-13 Projected
Percent of complaints investigated and pursued in accordance with the agreed upon schedules and procedures.	90%	90%

FISCAL IMPACT:

The Agreement allows the County to be reimbursed by the City of San Carlos for the costs of providing code compliance services. Estimated revenue for FY 2012 is \$35,660 which has been included in the Planning and Building budget.

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

*** * * * ***

**RESOLUTION AUTHORIZING THE PRESIDENT OF THE BOARD TO
EXECUTE AN AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
THE CITY OF SAN CARLOS FOR THE PROVISION OF CODE ENFORCEMENT
SERVICES IN THE INCORPORATED CITY OF SAN CARLOS IN RETURN FOR
PAYMENT NOT TO EXCEED \$50,000 PER TWELVE-MONTH PERIOD BETWEEN
NOVEMBER 15, 2011 AND NOVEMBER 14, 2013**

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

WHEREAS, there has been presented to this Board of Supervisors for its consideration and acceptance an Agreement, reference to which is hereby made for further particulars, whereby the City of San Carlos will reimburse the County of San Mateo for the provision of code enforcement services related to the enforcement of municipal and zoning codes; and

WHEREAS, both parties now wish to enter into an Agreement whereby the City of San Carlos shall provide funding in an amount not to exceed \$50,000 in any twelve-month period between November 15, 2011 and November 14, 2013; and

WHEREAS, this Board has been presented with a form of said Agreement and said Board has examined and approved same as to both form and content and desires to enter into same.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be, and 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

- **CODE ENFORCEMENT SERVICES** - **BETWEEN THE COUNTY OF SAN MATEO AND THE CITY OF SAN CARLOS**

THIS AGREEMENT for Code Enforcement Services ("Agreement") is entered into on the 15th day of November, 2011 by and between the **CITY OF SAN CARLOS**, a general law city in the County of San Mateo, State of California ("City") and the **COUNTY OF SAN MATEO**, a political subdivision of the State of California ("County").

WITNESSETH

WHEREAS, pursuant to Government Code §§51300, et seq. County may contract with City for the performance by County of City functions; and

WHEREAS, County presented City with a Proposal to provide the San Carlos community with Code Enforcement Services; and

WHEREAS, City desires the County to provide zoning code enforcement services within the City through the San Mateo County Planning Department ("Planning Department"), as set forth herein; and

WHEREAS, County is willing to provide code enforcement services within the City as set forth herein:

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

1. EXHIBITS.

- 1.1 The following exhibits are included hereto and incorporated by reference herein:
- Exhibit A - Services
 - Exhibit B - Rates / Payments

2. SERVICES TO BE PERFORMED BY COUNTY.

- 2.1 In consideration of the payments set forth herein and in Exhibit B, County shall provide zoning code enforcement services within City. Said services are described in Exhibit A.
- 2.2 The City may request any additional services not set forth in Exhibit A in the field of zoning code enforcement, building code enforcement, building inspections, or related fields within the expertise of the Planning Department to provide, and the Planning Department may provide such services at the rates set forth in Exhibit B. Such additional services may be reflected as amendments to Exhibit A.

3. PAYMENTS.

- 3.1 City shall pay County for the Services actually provided under the terms of this Agreement at the rates set forth in Exhibit B ("Rates").

4. TERM.

- 4.1 This Agreement shall be in full force and effect from November 15, 2011 to November 14, 2013. If approval of this Agreement is delayed past the commencement date due to extenuating circumstances, this Agreement shall take effect on the date services by Planning Department commence within the territorial limits of the City. In the event a party does not provide notice of termination at least ninety (90) days prior to termination, the agreement shall automatically renew for an additional one year term, subject to the right of termination in Article 5.

5. RIGHT OF TERMINATION.

- 5.1 Either party may terminate this Agreement with or without cause by written notice sent at least ninety (90) days prior to the termination.
- 5.2 In the event of termination, each party shall fully discharge all obligations owed to the other party accruing prior to the effective date of such termination, and, except as otherwise provided herein, each party shall be released from all obligations which would otherwise accrue subsequent to the date of termination.
- 5.3 Notwithstanding any provision herein, the City may terminate this Agreement effective immediately based upon City's unavailability of funds, by providing written notice to County as soon as is reasonably possible after the City learns of said unavailability of funding.
- 5.4 If the City terminates for unavailability of funds, City shall pay County for: (1) the Services actually performed, on or before the effective date of the termination; and (2) reasonable costs and expenses that County must necessarily incur as a direct result of early termination of the Agreement.

6. HOLD HARMLESS.

- 6.1 City shall indemnify and hold harmless County from and against all actions which in any way arise out of, result from, or are connected in any way with City's negligent or intentional acts in performing services under this agreement, except any action which arises solely and exclusively out of the negligent or intentional acts of County, and which occur prior to the effective date of this Agreement.
- 6.2 County shall indemnify and hold harmless City from and against any and all actions which in any way arise out of, result from, or are connected in any way with the County's negligent or intentional acts in performing services under this agreement, except any action which arises solely and exclusively out of the negligent or intentional acts of City, and which occur after the effective date of this agreement and before the effective date of termination.

- 6.3 If an action arises out of the concurrent negligence of City and County, then liability for any damage in that action shall be apportioned between City and County in accordance with the California law of comparative negligence.
- 6.4 As used in this section, "County" means the County, its officers, agents, employees and servants.
- 6.5 As used in this section, "City" means the City, its officers, councilmembers, agents, employees and servants.
- 6.6 As used in this section, "actions" means actions, claims, suits, demands, and liability of every name, kind, and description brought for, or on account of injuries to or death of any person, including City and County, or damage to property of any kind whatsoever and to whomsoever belonging.
- 6.7 The duty of City and County to indemnify and hold harmless as set forth herein shall include the duty to defend as set forth in Civil Code Section 2778.

7. INSURANCE.

- 7.1 Both parties shall maintain sufficient insurance, self-insurance or a combination thereof to comply with the following requirements, and, if requested, each party shall furnish the other party with certificates of insurance evidencing the required coverage. Each party must provide to the other thirty (30) days' notice, in writing, of any pending change in the limits of liability or of any cancellation or modification of the policy.

7.1.1 Worker's Compensation and Employer's Liability Insurance. Both parties shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance for their respective employees, or an acceptable program of self-insurance providing full statutory coverage. In signing this Agreement, parties certify, as required by Section 1861 of the California Labor Code, that they are aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and parties will comply with such provisions before commencing the performance of the work of this Agreement.

7.1.2 Liability Insurance. City and County shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance for services 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 City's and County's operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified on the following page.

Such insurance shall include:

- Comprehensive General Liability \$5,000,000

- Motor Vehicle Liability Insurance \$5,000,000

7.2 The County may self-insure all or part of the insurance requirements of this provision.

8. NON-DISCRIMINATION AND OTHER REQUIREMENTS.

- 8.1 Section 504. City and County shall comply with § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, as amended, which provide that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement, and that reasonable and legally-specified accommodations will be made to serve individuals with disabilities.
- 8.2 General Non-discrimination. No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- 8.3 Equal Employment Opportunity. City and County shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. City's and County's equal employment policies shall be made available to either party upon request.
- 8.4 Violation of Non-discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and may result in termination of this Agreement, and /or legal action to recover any Court-imposed damages incurred as a result of said violation(s). To effectuate the provisions of this section, the County Manager and City Manager may request authorization to examine City's or County's employment records relating to this Agreement, as the case may be with respect to compliance with this paragraph, and City and County shall not unduly withhold authorization.
- 8.5 Other Statutory Compliance. City and County shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5 (a), which is incorporated herein as if fully, set forth. All services to be performed pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended.
- 8.6 Compliance with Contractor Employee Jury Service Ordinance. City and County shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the City, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the City or that the City deduct from the employees regular pay the fees received for jury service.

9. RETENTION OF RECORDS.

- 9.1 Each party agrees to provide to the other party, to any federal or state department having monitoring or reviewing authority, to County's or City's authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to

examine and audit 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.

- 9.2 City and County 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.

10. MERGER CLAUSE.

- 10.1 This Agreement constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications to either Agreement shall be in writing and signed by the parties.

11. CONTROLLING LAW AND VENUE.

- 11.1 The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued in the San Mateo County Superior Court.

12. DISPUTE RESOLUTION.

- 12.1 Should any dispute arise out of this Agreement, the County Manager and the City Manager, or their authorized designees, shall first meet and confer in an attempt to resolve the dispute. Should such efforts fail to resolve the dispute within thirty (30) days, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

13. NOTICES.

- 13.1 Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United States mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:

San Mateo Planning Dept.
455 County Center, 2nd Floor
Redwood City, CA 94063

In the case of City, to:

City of San Carlos
Building Division
600 Elm Street
San Carlos, CA 94070

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO
*A Political Sub-division of the
State of California*

BY: _____
PRESIDENT, BOARD OF SUPERVISORS

DATE: _____

ATTEST:

BY: _____
CLERK OF SAID BOARD

APPROVED AS TO FORM

BY: _____
COUNTY COUNSEL

CITY OF SAN CARLOS

BY: _____
CITY MANAGER

DATE: 11-3-11

ATTEST:

BY: _____
CITY CLERK

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY

EXHIBIT A - SERVICES

Agreement for Code Enforcement Services between the County of San Mateo and City of San Carlos

In consideration of the payments set forth in Exhibit B, County shall provide City with the following services:

1. DESCRIPTION OF SERVICES PROVIDED BY COUNTY.

1.1 CODE ENFORCEMENT SERVICES.

The County agrees to provide code enforcement services within the corporate limits of the City through the San Mateo County Planning and Building Department ("Planning Department") as set forth in this Agreement ("Services"). The services shall be provided by a Code Compliance Officer employed by the County and supervised by the Code Compliance Supervisor and the Deputy Director of the Planning Department.

- 1.1.1 The County shall respond to complaints forwarded by the San Carlos Building Official ("Building official") regarding violations of the San Carlos Municipal and Zoning code involving weeds, over-grown shrubbery, blighted vacant homes, and illegal signs.
- 1.1.2 The County's shall inspect sites that are the subject of the complaints forwarded by the Building Official within seventy-two (72) hours of receiving the complaint unless lawful access cannot be obtained, extenuating circumstances exist, or the Building official agrees to an alternative timeframe.
- 1.1.3 If the County determines that no municipal or zoning violation exists, the County will inform the Building Official the basis of this determination, and where possible, refer the complaining party to other departments, agencies, or services that may be able to provide assistance.
- 1.1.4 In instances where County investigations confirm the presence of a Municipal or Zoning Code violation, the County shall develop and implement a strategy for abating the violation in coordination with the Building Official.
- 1.1.5 Except as otherwise specifically set forth in this Agreement, the Services shall only encompass duties and functions of the type coming within the jurisdiction of and customarily rendered by the Planning Department under the County Charter, the statutes of the State of California, and under the City municipal codes.

2. ADMINISTRATION OF PERSONNEL.

- 2.1 The rendition of the services performed by the Planning Department, the standards of performance, the discipline of personnel, and other matters incident to the performance of such services and the control of personnel so employed shall remain with the County.
- 2.2 All City employees who work in conjunction with the Planning Department pursuant to this Agreement shall remain employees of the City and shall not have any claim or right to employment, civil service protection, salary, or benefits or claims of any kind from the County based on this Agreement.

- 2.3 All County employees who work in conjunction with the City pursuant to this Agreement shall remain employees of the County and shall not have any claim or right to employment, civil service protection, salary, or benefits or claims of any kind from the City based on this Agreement.

3. CITY OBLIGATIONS.

- 3.1 In all instances where special supplies, stationery, notices, forms, and the like must be issued in the name of City, the same shall be supplied by said City at its own cost and expense.

EXHIBIT B

RATES / PAYMENTS

Agreement for Code Enforcement Services between the
County of San Mateo and City of San Carlos

In consideration of the services described in Exhibit A, City shall pay as follows:

1. CHARGES FOR SERVICES.

- 1.1 City shall pay County for Services described in this Agreement as calculated below.
- 1.2

2. INVOICING / BILLING.

- 2.1 On a quarterly basis, Planning Department shall submit to City an invoice at the end of each quarter.
- 2.2 Payments and questions regarding invoicing shall be directed to the Planning Department.

3. PAYMENTS.

- 3.1 The County shall charge an hourly rate of \$55.72 for all services rendered pursuant to this agreement.
- 3.2 Total charges for the twelve month period beginning at the execution of this contract shall not exceed \$50,000. Total charges for the following twelve month period , ending on the contract termination date, shall not exceed \$50,000.
 -
- 3.3 City payments shall be due to the County within 30 days of the date of invoice.