

AGREEMENT FOR CODE ENFORCEMENT SERVICES

This agreement for Code Enforcement Services ("Agreement") is entered into on the 15th day of December, 2015 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, City desires the County to provide zoning code enforcement services within the City through the San Mateo County Planning and Building Department ("Planning Department"), as set forth herein; and

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

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

1. EXHIBITS

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

- a. 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.
- b. 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

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

4. TERM

- a. This agreement shall be in full force and effect from December 15, 2015 through December 14, 2020, subject to termination as set forth in Section 5.

5. RIGHT OF TERMINATION

- a. Either party may terminate this Agreement with or without cause by written notice sent at least ninety (90) days prior to the termination.
- b. In the event of termination, each party shall fully discharge all obligations owed to the other 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.
- c. Notwithstanding any provision herein, the City may terminate this Agreement effective immediately based on the City's unavailability of funds, by providing written notice to County as soon as it is reasonably possible after the City learns of said unavailability of funding.
- d. 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

- a. City shall indemnify and hold harmless County from and against all actions which in any way arise out from, result from, or are connected 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.
- b. 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.
- c. 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.
- d. As used in this section, "County" means the County, its officers, agents, employees and servants.
- e. As used in this section, "City" means the City, its officers, councilmembers, agents, employees and servants.
- f. 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 the City and County, or damage to property of any kind whatsoever and to whomsoever belonging.
- g. 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

- a. 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.
 - i. **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.
 - ii. **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 below.
- b. Such insurance shall include:
 - Comprehensive General Liability **\$5,000,000**
 - Motor Vehicle Liability Insurance **\$5,000,000**
- c. The County may self-insure all or part of the insurance requirements of this provision.

8. NON-DISCRIMINATION AND OTHER REQUIREMENTS

- a. **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 individuals 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.

- b. **General non-discrimination.** No person shall, on the grounds of race, color, religion, ancestry, gender, age, 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.
- c. **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.
- d. **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.
- e. **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.
- f. **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

- a. Each party agrees to provide to the other party, to any federal and 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.
- b. 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

- a. This agreement, including the attached Exhibits, 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

- a. The validity of this Agreement and 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

- a. 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

- a. Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

| | |
|-------------|--|
| Name/Title: | Lisa Aozasa/Deputy Director |
| Address: | 455 County Center, 2 nd Floor, Redwood City, CA 94063 |
| Telephone: | 650-363-4852 |
| Email: | laozasa@smcgov.org |

In the case of City, to:

Name/Title: Christopher Valley / Building Official
Address: 600 Elm Street, San Carlos, CA 94070
Telephone: 650-802-4262
Email: cvalley@cityofsancarlos.org

14. ELECTRONIC SIGNATURE

- a. If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☒ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☒ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

* * *

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF SAN CARLOS

Dated: 11-24-15



Jeff Maltbie, City Manager

ATTEST:

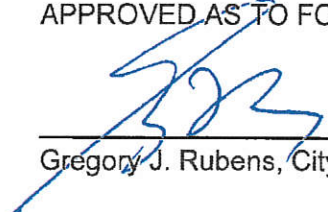
Dated: 11-24-15



Yvette Hall, Acting City Clerk

APPROVED AS TO FORM

Dated: 11/24/15



Gregory J. Rubens, City Attorney

CONSULTANT

Dated: _____

County of San Mateo

Exhibit A - Services

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

1. CODE ENFORCEMENT SERVICES

- a. 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 Lead Code Compliance Officer and the Deputy Director of the Planning Department.
- b. 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.
- c. The County shall inspect the 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.
- d. If the County determines that no municipal or zoning violation exists, the County will inform the Building Official of 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.
- e. 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.
- f. 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

- a. 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.
- b. 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.

- c. 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

- a. 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 City at its own cost and expense.

Exhibit B – Rates / Payments

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

1. CHARGES FOR SERVICES

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

2. INVOICING / BILLING

- a. On a quarterly basis, the Planning Department shall submit to City an invoice for services rendered during the preceding quarter.
- b. Payments and questions regarding invoicing shall be directed to the Planning Department.

3. PAYMENTS

- a. The County shall charge an hourly rate of \$72.24 for all services rendered pursuant to this agreement.
- b. Charges will not exceed the indicated totals below.
- c. City payments shall be due to the County within 30 days of the date of invoice.

| Year | Maximum Charges |
|-----------------------------|------------------------|
| 1 | \$54,100 |
| 2 | \$55,723 |
| 3 | \$57,394 |
| 4 | \$59,116 |
| 5 | \$60,890 |
| Total Contract Value | \$287,223 |

County of San Mateo ~ 3-Year Waiver Request NEW CONTRACT

DATE: 11/12/2015

TO: Contract Compliance Committee

FROM: Heather Hardy

DEPARTMENT: Planning & Building

Contractor Name: City of San Carlos

Contract Number: TBD

Contract Start Date: 12/15/2015

Contract End Date: 12/14/2020

Contract Dollar Amount: \$287,223

Describe the open, fair and competitive selection process used:

☐

3 Quotes

☐

Request for Proposals

☐

Sole Source

☒

Other Selection Process (explain):

Explain the Funding Source (for the full term of the contract): This is a reverse contract whereby the County will provide code enforcement services to the City of San Carlos.

It is in the best interest of the County to execute this contract for more than three years for the following reason(s):

☐

Necessary in order to respond to an emergency

☒

Sole Source (no other provider offers this service)

☐

No compliant contractors are capable of providing the goods/service

☐

Grant, subvention or agreement with a public agency

☐

This is part of a Cooperative or Joint Purchasing Agreement

☐

Better cost/value from service provider with longer contract term

☐

This is a temporary extension until an RFP can be completed

☐

Other:

Explain in more detail why it is in the best interest of the County to execute this contract for more than three years: The County and the City of San Carlos are currently both satisfied by this ongoing arrangement. The City and the Department Head have requested that we extend the new contract to 5 years in order to save time in the future. The contract does include a 90-day cancellation clause, with or without cause.

BELOW THIS LINE FOR CONTRACT COMPLIANCE COMMITTEE ONLY

☒

APPROVED

☐

NOT APPROVED

Joanne M. Ward

Digitally signed by Joanne M. Ward
DN: cn=Joanne M. Ward, o=Human Resources,
Procurement Division, ou=County of San Mateo,
email=jmward@smcgov.org, c=US
Date: 2015.11.13 13:12:57 -08'00'

Contract Compliance Committee

Joanne Ward, Countywide Contracts Administrator

DATE: 11/13/2015