



**City of Palo Alto
City Council Staff Report**

(ID # 7527)

Report Type: Consent Calendar

Meeting Date: 12/12/2016

Summary Title: Amendment to County Weed Abatement Agreement

Title: Approval of Amendment Number Nine to the Agreement With the County of Santa Clara for Abatement of Weeds to Change the Method for Setting Abatement Fees and Costs

From: City Manager

Lead Department: Fire

Recommendation

Staff recommends that the Council approve and authorize the City Manager to execute Amendment Nine to the Agreement between the County of Santa Clara and the City of Palo Alto for the abatement of weeds to change the method by which weed abatement charges are collected.

Executive Summary

If approved, the attached amendment (Attachment A) would require the City to pay the County for any shortfall for weed abatement in its jurisdiction within sixty days of demand by the County.

Background

The Santa Clara County Department provides weed abatement services to a number of cities in the County, including Palo Alto. Through the program, the County Department of Agriculture identifies properties in Palo Alto with hazardous vegetation that represent a fire and/or health hazard. Following notice to property owners and public hearings as required in Chapter 8.08 of the Palo Alto Municipal Code, the hazardous vegetation on these properties is abated by the County if property owners fail to do it themselves. The cost for County abatement is then considered a special assessment on each property.

Discussion

The current agreement for weed abatement between the County of Santa Clara and the City of Palo Alto was adopted in April 1977. Since then, the agreement has been amended several times to modify the charge for the County’s program costs to administer the Hazardous Vegetation Management Program. These charges pay for the full cost of the Hazardous Vegetation Management Program and are paid for by the owners of properties where

hazardous vegetation has been identified.

Abatement costs under the current agreement are 150% of the weed abatement contractor's fees, which covers the cost of abatement and the County's administrative costs. Amendment Nine will require the City to pay the County for any shortfall for weed abatement in the City's jurisdiction within sixty days of demand by County.

Shortfalls are infrequent, and occur primarily when the majority of properties inspected choose to comply in response to their abatement warnings. The County's recently amended fee schedule, which includes an inspection fee, should significantly reduce the risk of shortfall.

The County weed abatement contract is a standard agreement governing several jurisdictions. Covering shortfalls will ensure the County's ability to continue to provide weed abatement services for the City in the future.

Resource Impact

The Santa Clara County Department of Agriculture expenses are recovered through the Weed Abatement Program administrative fees charged to property owners. Fees for weed abatement services are included as a special assessment on bills for property taxes levied against the respective lots and parcels of land, which are considered liens on these properties. The only fiscal impact to the City of Palo Alto would be in the event that the amount recovered by County was inadequate to cover its operational costs. In this event the City would pay the County for any shortfall for weed abatement in its jurisdiction within sixty days of demand by County. These shortfalls are typically on the order of hundreds to thousands of dollars.

Policy Implications

This procedure is consistent with existing City policies and Municipal Code Chapter 8.08.

Environmental Review

Santa Clara County has determined the Weed Abatement Program to be Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines Sections 15308.

Attachments:

- Attachment A: 9th Amendment (DOCX)
- Attachment B: 1977 Agreement (PDF)

**NINTH AMENDMENT TO THE AGREEMENT BETWEEN
THE COUNTY OF SANTA CLARA AND THE CITY OF PALO
ALTO FOR ABATEMENT OF WEEDS**

The Agreement for the Abatement of Weeds (AGREEMENT) between the County of Santa Clara (COUNTY) and the City of Palo Alto (CITY) previously entered into on April 18, 1977, as amended on November 5, 1979, November 20, 1981, February 15, 1983, January 14, 1997, August 18, 1998, October 12, 1999, January 12, 2001 and March 2, 2010 is hereby amended to modify the charge for the COUNTY's program costs to administer the Hazardous Vegetation Management Program.

IT IS AGREED between the parties as follows:

1. Statement of Costs

Section 6 of the AGREEMENT shall be amended to read as follows:

A. In December of each calendar year, COUNTY shall deliver to CITY a list of all reasonable and necessary fees and costs approved and adopted by County's Board of Supervisors for all administrative, enforcement, and abatement services to be provided under this AGREEMENT. All fees and costs in said list shall be recovered by COUNTY pursuant to Section 7 of this AGREEMENT unless at a public hearing held within sixty (60) days of COUNTY's delivery of said itemized statement to the CITY's governing body expressly declines to accept any fee or cost in said list. In the event CITY's governing body does decline to accept any fee or cost in said list, COUNTY shall be relieved of any and all obligations to provide any services under this AGREEMENT for the weed abatement season for which said itemized statement is submitted to CITY. If the amount recovered by COUNTY is inadequate to cover its operational costs, CITY agrees to pay COUNTY for any shortfall for weed abatement in its jurisdiction within sixty (60) days of demand by COUNTY, which will be accompanied by a statement of COUNTY's weed-abatement costs.

Thereafter, on or before the 10th day of August of each year, COUNTY shall render to CITY an itemized statement or report of the reasonable and necessary fees and cost of the administrative, enforcement, and abatement services performed for the respective parcels of land in the CITY. The itemized statement or report shall include a description of the lots and parcels of land for which services were performed, and verification by signature of the COUNTY official administering the Hazardous Vegetation Management Program.

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2. Except as modified herein, all other terms and conditions of the AGREEMENT remain the same.

COUNTY OF SANTA CLARA

CITY OF PALO ALTO

Amy Brown, Director
Consumer and Environmental
Protection Agency

James Keene, City Manager
City of Palo Alto

Date

Date

Approved as to form and legality:

Michael L. Rossi
Lead Deputy County Counsel

Senior Deputy City Attorney

Sylvia Gallegos
Deputy County Executive

Contractor's Contract

Contract No. 3820
Amd. No. 50-579-329
For Abatement of Weeds by
County of Santa Clara
Contractor City of Santa Clara
Expiration Date _____

AGREEMENT FOR THE ABATEMENT OF WEEDS
BY COUNTY OF SANTA CLARA
FOR THE CITY OF PALO ALTO

THE FOLLOWING is an Agreement between COUNTY OF SANTA CLARA, State of California, hereinafter called "County," and CITY OF PALO ALTO, Santa Clara County, California, hereinafter called "City," both of whom understand and agree as follows:

WHEREAS, City has the power to conduct weed abatement under Government Code of the State of California §39500, et seq.; and

WHEREAS, City has home rule authority to adopt ordinances for public health, safety and welfare, including weed abatement procedures; and

WHEREAS, City has exercised this power by adoption of Chapters 8.08 and 9.56 of the Palo Alto Municipal Code for the Abatement of Weeds; and

WHEREAS, County, under provisions of the Health and Safety Code of the State of California and under its ordinances has the power to enforce the abatement of hazardous weeds; and

WHEREAS, the Board of Supervisors of Santa Clara County, by resolution has exercised the power granted to County pursuant to the Health and Safety Code of the State of California, commencing at §14875; and

WHEREAS, the parties hereto have the power to enforce weed abatement within their corporate limits; and

WHEREAS, County and City are desirous of contracting for the services of the County Fire Marshal to perform the actual services of abatement of weeds; and

WHEREAS, County is agreeable to rendering such services and City is agreeable to have such services rendered under the terms and conditions hereinafter set forth for the reason of efficiency and mutual benefit of both parties;

NOW, THEREFORE, it is hereby agreed as follows:

1. Purpose of Agreement. The purpose of this Agreement is to promote the efficiency and economy of operations in the abatement of weeds by City and County. This Agreement shall provide for the performance by County of functions relating to weed abatement in territory within the City at the same time that County is working in the Urban Service Area of City. The functions to be performed by County for City shall be hereinafter set forth.

2. Joint Cooperation. County shall prepare Assessor's parcel maps and lists of parcels owned by the City and of vacant privately owned parcels within the City of Palo Alto requiring abatement of weeds and transmit said maps and lists to the City for review and approval of processing. County shall further provide to City proposed annual schedules for the performance of weed abatement functions by the County in the Urban Service Area of the City. Upon receipt of the final lists of parcels requiring abatement of weeds and Assessor's parcel maps thereof, the City shall commence and expeditiously proceed with procedures for ordering abatement of weeds on said properties pursuant to Chapter 8.08 and/or 9.56 of the Palo Alto Municipal Code.

Copies to: City of Palo Alto, Fire Marshal, County Counsel, and Finance

3. Notice. County shall prepare all notices and other documents relating to the weed abatement proceedings required by Chapters 8.08 and 9.56 of the Palo Alto Municipal Code, including but not limited to Notice To Destroy Weeds and Notice Of Hearing On Report And Assessment For Weed Abatement, in form required by the Palo Alto Municipal Code or state law, and shall cause the posting and/or publishing of said notices and documents as required by said Code or state law. County shall also cause such notices to be mailed to the record owners of affected parcels. Any failure to mail such notice, or any failure on the property owner to receive it, shall not affect the validity of the weed abatement proceedings, or any lien for the cost of such abatement.

4. Hearing by Council. The Council of the City shall conduct public hearings on the proposed removal of weeds pursuant to the provisions of the Palo Alto Municipal Code at such times as the County Fire Marshal shall notify the City of the County's intention to proceed with weed abatement activities. The Fire Marshal shall at that time present the City such appropriate resolutions or orders as may be necessary for adoption by the Council in order to commence abatement proceedings. Such resolutions and orders shall be presented to City staff for review and recommendation to City Council. Upon adoption by the Council of a resolution or order declaring the weeds on the respective parcels of land to be nuisances as provided by Chapter 8.08 and/or 9.56 of the Palo Alto Municipal Code and the determination to proceed with the abatement of weeds, such resolution and determination shall be deemed to authorize the performance of the service of removal of weeds by the County in accordance with this Agreement unless otherwise specified.

5. County Responsibilities. After action is taken at each stage by the Council, County, through the Fire Marshal, shall cause the abatement of weeds in the following matter, to-wit: Upon proper authorization by City to County, the Fire Marshal shall remove the weeds on the designated properties, where the need for weed abatement still exists because owners have failed to so remove said weeds through voluntary abatement or by contract with the County for such abatement.

6. Statement of Costs. The Fire Marshal shall render to the City an itemized statement or report of the cost of the weed abatement services performed for the respective parcels of land in the City on or before the twentieth of July of each year, which shall include the County's administrative cost of 25% of the cost for parcels in the City of weed abatement services of the weed abatement contractor for the respective parcels. The statement shall include the description of the lots and parcels of land for which weed abatement services were performed, and verification by signature of the County Fire Marshal. County shall, at least 30 days prior to the hearing provided for in Section 8.08.080 of the Palo Alto Municipal Code, bill each affected record property owner for his weed abatement cost (including the County's administrative cost). The failure to send such bill, or the failure of any property owner to receive it, shall not affect the validity of the weed abatement proceedings or any lien for the cost of such abatement.

7. Inclusion of Assessment on County Tax Bill. Subsequent to the performance of services specified in Paragraph 5 hereof, Council of the City shall commence and expeditiously proceed with the actions specified and required by Chapter 8.08 and/or 9.56 of

the Palo Alto Municipal Code to assess the costs of the weed abatement services performed for the City upon the respective property owners. Subsequent to appropriate notice and public hearing, if the same be determined proper and warranted, the City shall require the County Tax Collector to include said costs for the current year as a special assessment on bills for taxes levied against the respective lots and parcels of land. Such special assessments shall be liens on the respective properties.

8. Time and Manner of Collection. The amounts of the assessments shall be collected at the same time and in the same manner as county taxes are collected, and are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes.

9. Remittance of Costs. The cost of weed abatement shall be advanced by County and reimbursed to County as and when collected by County Tax Collector.

10. Liability. City shall assume no liability for the payment of salary, wages, or other compensation to officers, agents, employees, or contractors of County in performing services hereunder.

City shall not be liable for compensation or indemnity to County officers, agents, employees, contractors, or to third persons for injury, sickness, or damages arising out of the weed abatement operations under this Agreement excluding any damages or injury arising out of any dangerous or defective condition of public property owned by the City.

County agrees to and shall indemnify and hold City harmless from all damages, liabilities, obligations, or claims thereof of whatsoever nature arising in any manner out of the performance of or failure to perform any services or obligations pursuant to this agreement by the County, its agents, officers, employees, or contractors.

11. Records. Each officer or department of County performing any service pursuant to this Agreement shall keep itemized and detailed work or job records covering the cost of all services performed.

12. Independent Contractors. It is agreed that this Agreement is by and between independent contractors, and it is not intended nor shall it be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between County and City.

13. Duration of Agreement. This Agreement shall become effective on date of execution and shall run until the governing body of City or County shall exercise the right to terminate this Agreement as of the first day of September of any year, by giving notice to the other party not less than ten (10) days prior to the date of termination.

14. Time of Compliance. All services or actions required to be performed or taken by the parties hereto shall be performed or taken in an expeditious and timely manner. In particular, any actions shall be performed in such manner as to allow compliance with any deadlines or schedules set forth by applicable provisions

of state, county, or city codes, ordinances, resolutions or regulations. Each party shall notify the other of any such deadlines or schedules of which it is aware and of any other schedules proposed to be followed by said parties.

15. Use of Herbicides. Neither County nor any of its contractors shall use any herbicides in the performance of services hereunder.

16. Project Coordination. The City Manager shall be representative of City for all purposes under this agreement. ROBERT ARCULARIUS is designated as the Project Manager for the City Manager, and he shall supervise the progress and execution of this agreement. ALAN B. CARDER, Fire Marshal, is hereby designated as the Project Director for County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of APR 18 1977

ATTEST:

Donald M. Rains
DONALD M. RAINS, Clerk
Board of Supervisors

COUNTY OF SANTA CLARA

William J. Clary
Chairman
Board of Supervisors

APPROVED AS TO FORM:

James T. Rohner
JAMES T. ROHNER,
Deputy County Counsel

ATTEST:

Ann J. Lanner
City Clerk

CITY OF PALO ALTO

Stanley D. Morley
Mayor

APPROVED AS TO FORM:

Louis B. Green
Assistant City Attorney

APPROVED:

Bill Syed
City Manager

Bernard L. Pawloski
Director of Public Works