



# AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING  
Meeting Date: August 15, 2017

Agenda Item 69  
Approvals:  
City Manager ES  
Dept. Head CGD  
Attorney SS  
Finance \_\_\_\_\_

**Department:** Community Development Department  
**Prepared By:** Adam Atamian, Code Compliance Manager 

**Subject:** *THIRD AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ED STEWART AND ASSOCIATES FOR WEED ABATEMENT SERVICES.*

**Fiscal Impact:** Yes. The cost for weed abatement services will be \$140,400.

**Summary:** Staff recommends the City approve the Third Amendment to the Professional Services Agreement (PSA) with Ed Stewart and Associates for weed abatement services for a total of \$140,400. The term of the contract will be until June 30, 2018 with the option for a 180 day extension authorized by the City Manager or until services are deemed no longer necessary.

**Discussion:** The City's current contract with Ed Stewart and Associates was originally approved on March 6, 2007 and was later extended with a First Amendment on March 6, 2012 for an additional five years. On August 18, 2015, a Second Amendment to the contract was approved, increasing the compensation from \$109,754 to \$140,400 annually to cover additional clearings identified by the Fire Authority. In order to continue receiving weed abatement services, it is necessary to extend the contract for an additional year while weed abatement services are currently being assessed within the Code Compliance Division.

The City of San Clemente Code Compliance Division administers the City's Weed Abatement Program. As the City's Weed Abatement Contractor, Ed Stewart and Associates is responsible for carrying out all abatement work to meet the City's program needs. Currently, the contractor administers the destruction and/or removal of noxious and dangerous weeds growing upon the streets, or sidewalks or private property and parkways within the corporate limits of the City of San Clemente. The contractor is also responsible for inspection of all parcels identified in the program and any other necessary work that is outlined in the scope of work.

The Third Amendment to the PSA will allow the contractor to provide services for an additional year and gives the authority to the City Manager to extend the contract for an additional 180 days if needed. The contract will also be amended to require compliance with the prevailing wage provisions of the Labor Code of the State of California.

**Recommended Action:** STAFF RECOMMENDS THAT the City Council approve and authorize the Mayor to execute a Third Amendment to the Professional Services Agreement with Ed Stewart

and Associates in an amount not to exceed \$140,400 for a term to expire June 30, 2018, with an option to extend the contract term for an additional 180 days authorized by the City Manager.

**Attachments:** 1. Third Amendment to the Professional Services Agreement with Ed Stewart and Associates.

**Notification:** None

**THIRD AMENDMENT TO  
PROFESSIONAL SERVICES AGREEMENT FOR  
WEED ABATEMENT**

This Third Amendment to Professional Services Agreement for Weed Abatement, (this "Third Amendment") is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the CITY OF SAN CLEMENTE, a California municipal corporation ("City"), and E. Stewart and Associates, Inc. ("Contractor"),

RECITALS:

- A. City and Contractor entered into that certain Professional Services Agreement for Weed Abatement (the "Original Agreement") on March 6, 2007.
- B. City and Contractor entered into that certain First Amendment to Professional Services Agreement for Weed Abatement (the "First Amendment") on March 6, 2012.
- C. City and Contractor entered into that certain Second Amendment to Professional Services Agreement for a maximum compensation increase from \$109,754 to \$140,400 ("Second Amendment") on August 18, 2015. The Original Agreement, as modified by the First Amendment and the Second Amendment, is hereinafter referred to as the "Agreement".
- D. City and Contractor desire to amend the Agreement in the manner provided herein below.

COVENANTS:

Section 1: Section 3.1 of the Agreement is hereby amended by extending the payment schedule until June 30, 2018 to include the same compensation amount as specified for the period between July 1, 2016 and June 30, 2017, that being \$140,400. The services to be performed by Contractor shall remain the same as referenced in Exhibit A to the Agreement, Exhibit A to the First Amendment, and Exhibit A to the Second Amendment.

Section 2: The following section is hereby added as follows:

1.10 Term.

The term of this Agreement shall commence on the Effective Date, and shall continue and remain in effect, until June 30, 2018, unless terminated earlier pursuant to the terms hereof. Notwithstanding the forgoing, the City Manager or his or her designee shall have

the authority on behalf of the City to administratively approve extensions to the term hereof not to exceed a cumulative total of one hundred eighty (180) days.

Section 3: Section 1.5 is hereby amended in its entirety to read as follows:

1.5 Compliance with Laws.

CONTRACTOR shall comply with all applicable Federal, State and local laws, ordinances and regulations, including without limitation all applicable fair labor standards. CONTRACTOR shall not discriminate against any employee or applicant for employment or any approved subcontractor, agent, supplier or other firm or person providing services to CONTRACTOR in connection with this Agreement on the basis of race, color, creed, ancestry, national origin, religion, sex, sexual orientation, marital status, or mental or physical disability. CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, creed, ancestry, national origin, religion, sex, sexual orientation, marital status, and mental or physical disability. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Prior to execution of this Agreement, CONTRACTOR shall furnish to CITY proof that CONTRACTOR and all of its subcontractors have a current, valid business license issued by CITY.

CONTRACTOR is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, CONTRACTOR agrees to fully comply with such Prevailing Wage Laws. CONTRACTOR shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. CONTRACTOR shall defend, indemnify and hold CITY, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the CONTRACTOR and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and CONTRACTOR shall therefore comply with such Labor Code sections to the fullest extent required by law.

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be duly executed on the respective dates set forth opposite their signatures.

CITY OF SAN CLEMENTE

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

ATTEST:

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:  
BEST BEST & KRIEGER

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Finance Authorization

\_\_\_\_\_  
("CONTRACTOR")

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_