

File No. 110491

Committee Item No. 8

Board Item No. 4a

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date June 20, 2011

Board of Supervisors Meeting Date June 21, 2011

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Tolling Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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Completed by: Alisa Somera Date June 17, 2011

Completed by: Alisa Somera Date June 20, 2011

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Tolling Agreement - San Mateo County]

2
3 **Resolution approving an agreement between the City and County of San Francisco and**
4 **the County of San Mateo tolling the statute of limitations for an action or claim**
5 **challenging the San Francisco Local Hiring Policy for Construction based on the**
6 **California Environmental Quality Act.**

7
8 WHEREAS, The San Francisco Local Hiring Policy for Construction, Administrative
9 Code subsection 6.22(G) (the "Policy"), establishes mandatory local hiring requirements for
10 certain City public work or improvement projects advertised for bids on or after March 25,
11 2011; and

12 WHEREAS, The Office of Economic and Workforce Development ("OEWD") and the
13 County of San Mateo have negotiated a memorandum of understanding ("MOU") with the
14 County of San Mateo regarding the application of the Policy for construction projects located
15 within San Mateo County, a copy of which is on file with the Clerk of the Board of Supervisors
16 in File No. 110490, which is hereby declared to be part of this resolution as if set forth fully
17 herein; and

18 WHEREAS, The MOU is subject to approval by the Board of Supervisors under a
19 separate resolution; and

20 WHEREAS, During negotiations regarding the MOU, San Mateo County expressed its
21 intent to retain any right to bring a legal challenge to the Policy based on the California
22 Environmental Quality Act ("CEQA Claim"), and while the City denies any validity to the CEQA
23 Claim, to facilitate agreement under the MOU, OEWD was willing to consider providing for
24 San Mateo County to retain such a right under certain circumstances; and

1 WHEREAS, OEWD and the County of San Mateo have negotiated an agreement
2 tolling the statute of limitations for an action or claim challenging the Policy based on the
3 California Environmental Quality Act ("Tolling Agreement"), a copy of which is on file with the
4 Clerk of the Board of Supervisors in File No. 110491, which is hereby declared to be part of
5 this resolution as if set forth fully herein; and

6 WHEREAS, Among other provisions, the Tolling Agreement provides that either party
7 may terminate the Agreement by providing 90 days' written notice to the other party; now,
8 therefore, be it

9 RESOLVED, That the Board of Supervisors hereby approves the Tolling Agreement
10 with the County of San Mateo in substantially the form of the Tolling Agreement on file with
11 the Clerk of the Board of Supervisors.

TOLLING AGREEMENT

The City and County of San Francisco, a municipal corporation ("SF") on the one hand, and the County of San Mateo ("SMC") on the other hand, (collectively the "Parties") enter into this Tolling Agreement ("Agreement") effective as of May 15, 2011.

Recitals

WHEREAS, effective January 23, 2011, Subsection 6.22(G) of the San Francisco Administrative Code, otherwise known as the San Francisco Local Hiring Policy for Construction (the "Local Hiring Ordinance"), was enacted and established mandatory local hiring requirements for certain City public work or improvement projects advertised for bids on or after March 25, 2011, including but not limited to City projects constructed in whole or in part within the boundaries of SMC; and

WHEREAS, the Parties are parties to that certain Memorandum of Understanding regarding the application of the San Francisco Local Hiring Policy for Construction located within San Mateo County (the "MOU") dated June 1, 2011; and

WHEREAS, the SMC wishes to retain its right to challenge the appropriateness of the Local Hiring Ordinance based on the California Environmental Quality Act ("CEQA"), found at California Public Resources Code §§ 21000, et. seq., should SF breach the terms and conditions of the MOU.

NOW THEREFORE, the Parties agree as follows:

1. The parties agree that the statute of limitations for an action or claim challenging the Local Hiring Ordinance based on CEQA is tolled effective as of May 15, 2011. While this Agreement remains in effect, SMC agrees that it will not file any action or claim challenging the Local Hiring Ordinance based on CEQA.

2. This Agreement shall last until May 14, 2015, and shall thereupon renew for another 4 years, and shall continue to renew every four years thereafter,

subject to early termination as follows. Either party may terminate this Agreement at any time by giving 90 days' written notice to the other party.

3. Any notice required or permitted to be given under this Agreement shall be deemed sufficiently given when delivered personally or delivered by United States mail, certified or first class postage prepaid, or when delivered by established courier, addressed as follows:

If to SCM: County Manager
County of San Mateo
400 County Center
Redwood City, CA 94063

With a copy to: County Counsel
County of San Mateo
400 County Center, 6th Floor
Redwood City, CA 94063

If to SF: Director
Office of Economic and Workforce
Development
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 448
San Francisco, CA 94102

With a copy to: Office of the City Attorney
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

4. This Agreement does not constitute any admission or acknowledgement of any fact, conclusion of law, or liability by any Party to this Agreement.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

6. This Agreement shall inure to the benefit of SF and SMC and their successors and assigns.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement is subject to approval by the San Francisco Board of Supervisors by resolution.

COUNTY OF SAN MATEO

Dated: JUNE 2 2011

By: CAROLE GROOM
CAROLE GROOM, PRESIDENT
BOARD OF SUPERVISORS
COUNTY OF SAN MATEO

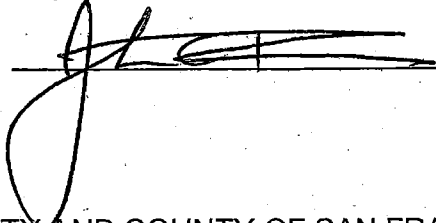
CITY AND COUNTY OF SAN FRANCISCO Dated: _____

By: _____
EDWIN M. LEE, MAYOR
CITY AND COUNTY OF SAN FRANCISCO

APPROVED AS TO FORM:

COUNTY OF SAN MATEO
JOHN C. BEIERS
County Counsel

Dated: 6/2/11



CITY AND COUNTY OF SAN FRANCISCO Dated: _____

DENNIS J. HERRERA
City Attorney

By: _____

Deputy City Attorney

7. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement is subject to approval by the San Francisco Board of Supervisors by resolution.

COUNTY OF SAN MATEO

Dated: _____

By: _____

CAROLE GROOM, PRESIDENT
BOARD OF SUPERVISORS
COUNTY OF SAN MATEO

CITY AND COUNTY OF SAN FRANCISCO

Dated: 6/2/11

By:  _____

EDWIN M. LEE, MAYOR
CITY AND COUNTY OF SAN FRANCISCO

APPROVED AS TO FORM:

COUNTY OF SAN MATEO
JOHN C. BEIERS
County Counsel

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO

Dated: _____

DENNIS J. HERRERA
City Attorney

By:  _____

Deputy City Attorney

