

REPORT TO THE CITY COUNCIL



DATE: November 5, 2019

TITLE: Stagnant Water Inspection and Abatement Warrant Release, Waiver, and Indemnity Agreement

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Reviewed by: Tuan-Anh Vu, Deputy City Attorney

RECOMMENDATION

Approve the contract entitled, “Stagnant Water Inspection and Abatement Warrant Release, Waiver, and Indemnity Agreement By and Between the City Of Desert Hot Springs and Coachella Valley Mosquito and Vector Control District.”

BACKGROUND

The Coachella Valley Mosquito & Vector Control District (“District”) is a special district formed pursuant to the California Health and Safety Code dedicated to protecting the public health by controlling vectors such as mosquitoes and vector-borne diseases.

The District’s boundaries cover the areas of Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, Rancho Mirage, and unincorporated sections of Riverside County.

In order to abate vectors and vector-borne diseases, the District possesses an inspection and abatement warrant (the “Warrant”) allowing the District officials to enter the exterior of properties within the District boundaries to inspect and treat pools and other bodies of water. The Warrant authorizes the minimal use of force, such as opening or unlocking gates, to access the exterior of properties.

The Warrant also allows “any representative or designee” of the District to execute the Warrant. To date, the District has apparently formed agreements with the cities of Palm Desert and Rancho Mirage to be designees under the Warrant. Such agreements allow representatives of the respective cities, such as code enforcement officers, to use the Warrant to access exterior of properties of their respective jurisdictions, for the purpose of inspecting and abating pools and bodies of water that are conducive to vector activity.

DISCUSSION

The District reached out to staff about adding this City as a designee under the Warrant. In order to add the City as a designee, an indemnity agreement is required. Understandably, there are considerations of liability when multiple public agencies share a warrant and conduct abatement work. The indemnity agreement clarifies the division of risk, liability, and responsibilities. This indemnity agreement may be terminated or suspended at any time without cause.

In particular, the City would assume the risk for any injuries caused or suffered by executing the Warrant. This assumption of risk is no greater than if the City conducted abatement on its own. The City would indemnify the District for losses and damage caused by the City in execution of the Warrant. The District, in turn, would indemnify the City for losses and damages for any breach of the agreement. Further, the District must notify the City whenever the Warrant is terminated or becomes unenforceable, and must indemnify the City for executing the Warrant before receiving notice.

Staff is amenable to this indemnity agreement for several reasons. Currently, in order to access backyards or areas locked behind a gate or fence, staff would need either consent of the property owner, or an inspection warrant. Obtaining warrants on an ad hoc basis could be time consuming, depending on the availability of the courts to review warrant applications.

By being added as a designee under the Warrant, staff may access the exterior of any property in this City if they suspect a pool or body of water that is conducive to breeding mosquitos. As long as the Warrant is effective, staff may conduct abatement work without seeking warrants for each property. This will greatly decrease the time to treat pools and respond to reports of vector activity within the City.

The Warrant requires knocking on doors and requesting consent to enter the property, prior to taking any abatement action. It is not the practice of the District or Staff to surprise anyone, and reasonable efforts will be made to appraise property owners of the Warrant.

FISCAL IMPACT

None.

EXHIBIT

1) Agreement