


CITY COUNCIL ACTION REQUEST

Department(s): Finance	CEQA: Not a Project, File No. PP17-008,	Coordination: CAO, CMO - Budget, and OEM	Dept. Approval: /s/ Julia H. Cooper
Council District(s): Citywide	Agreements/Contracts (New or Amended) resulting in no physical changes to the environment)		CMO Approval:  3/17/22

SUBJECT: CITY ROADMAP - BUDGETING, ACCOUNTABILITY AND PERFORMANCE: AMENDMENT TO THE AGREEMENT WITH ERNST & YOUNG, LLP FOR COVID-19 CONSULTING SUPPORT

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to negotiate and execute the Second Amendment to the Agreement with Ernst & Young, LLP (E&Y) (San José, California) for consulting support to assist the City in strategic management of COVID-19 funding sources and provide technical guidance related to a comprehensive disaster cost recovery model, to extend the Agreement from March 31, 2022 to September 30, 2022 with no increase in compensation.

Desired Outcome: Optimize City emergency response and recovery efforts to the COVID-19 pandemic, including assisting the City with strategic management of COVID-19 funding, maximizing City reimbursements from all available sources, and providing technical guidance related to a comprehensive disaster cost recovery model.

BASIS FOR RECOMMENDATION:

In March 2020, the City, County of Santa Clara, State of California, and the United States declared respective states of emergency in response to the novel coronavirus COVID-19 pandemic. Those states of emergency have been extended indefinitely. The City mobilized an immediate response to the COVID-19 pandemic by activating its Emergency Operations Center.

Consequently, the City received significant external, restricted-in-use monies to address COVID-19 disaster response and recovery efforts, with approximately \$808.1 million appropriated and/or advanced through February 28, 2022 from federal, state, and local sources. The City sole sourced a contract (agreement) with E&Y on an exigent basis for expert consulting services to assist City staff in managing these new funds under San José Municipal Code Section 4.12.220. The Agreement, as retroactively executed under City Manager authority on August 6, 2020, was effective with options to August 1, 2021 for a total compensation of \$300,000. The First Amendment to the Agreement was approved by the City Council on March 30, 2021¹, increasing compensation to a not-to-exceed amount of \$990,000, and extending the Agreement from February 2, 2021 to March 31, 2022, subject to appropriation of funds.

Since execution of the Agreement, E&Y has supported the City with extensive knowledge and technical competence in disaster grants management, rules and regulations for multiple COVID-19 related sources, including but not limited to Federal Emergency Management Agency (FEMA) and Coronavirus Aid, Relief, and Economic Security Act monies; provided guidance regarding expenditure eligibility, duplication of benefits risk and avoidance, documentation requirements and improvements in current City grants management and administration processes; and performed pre-audit activities to identify and resolve

¹ <https://sanjose.legistar.com/View.ashx?M=F&ID=9268447&GUID=2DA5E219-2607-45FD-8E6D-1D8096EF3CF0>

documentation and process gaps in preparation for future City Auditor, federal single, and Office of Inspector General audits. E&Y also is conducting an in-depth review of existing policies, procedures, authorities, contract templates, training materials, and tools related to procurement during a disaster. The E&Y team has substantial and substantive subject matter expertise in comprehensive disaster grants management and administration, brings specific technical knowledge regarding the various funding sources already appropriated to the City as well as those coming to the City through the recently enacted H. R. 1319 American Rescue Plan Act of 2021, and is cognizant of ongoing City COVID-19 related recovery and resiliency activities.

To date, the City has determined that continued procurement through noncompetitive proposal for these consulting services was warranted in accordance with San José Municipal Code, Section 4.12.235 for sole sourcing of unique services, Federal procurement standards pursuant to 2 CFR §200.320(f)(2) and 2 CFR §200.320(f)(3), FEMA 44 CFR §13.36(d)(4), and the FEMA March 17, 2020 Memorandum on *Procurement Under Grants Conducted Under Emergency or Exigent Circumstances for COVID-19*. Given the intractability of COVID-19 and its myriad variants, and the additional federal and state allocations of COVID-19 related funds the City has continued to receive since June 30, 2021, the City has opted to issue a request for proposal (RFP) to continue to have access to external expertise in grants management and administration, ensure the City preserves all its claims on COVID-19 related funds, and mitigate the extraordinary pressure on the City General Fund to meet disaster response efforts.

The staff recommendation is to ensure the consulting services currently provided by E&Y remain in place while the City completes the RFP process and awards a contract, which will be brought to City Council for consideration and approval no later than September 30, 2022.

Climate Smart San José: No proposed changes to service delivery, programs or staffing that has significant community/resource impacts, including any negative impact on Climate Smart San José energy, water, or mobility goals.

Commission Recommendation/Input: There is no commission recommendation or input associated with this action.

This Council item is consistent with the City's 2021-2022 Adopted Operating Budget City Service Area Strategic Support Delivery Framework: "Sound Fiscal Management that Facilitates Meeting the Needs of the Community".

COST AND FUNDING SOURCE:

No increase in compensation is being recommended. Sufficient funding for the current E&Y contract was approved by City Council in the March 30, 2021 appropriation action.

FOR QUESTIONS CONTACT: Rick Bruneau, Deputy Director of Finance – Accounting,
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