



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: May 23, 2022

Approved

Date

06/01/22

SUBJECT: AGREEMENT WITH MGT OF AMERICA CONSULTING LLC FOR A CITYWIDE DISPARITY STUDY

RECOMMENDATION

Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with MGT of America Consulting, LLC (Tampa, FL) for a Citywide disparity study and related services, for an initial term retroactively beginning on or about May 10, 2022 and ending June 30, 2023 with a total maximum compensation not to exceed \$410,470, subject to the appropriation of funds;
- (b) Exercise up to one one-year options to extend the term of the agreement with the last option ending on or about June 30, 2024 with total compensation not to exceed \$500,000, subject to the appropriation of funds; and
- (c) Negotiate and execute amendments and change orders as required for any unanticipated changes for a contingency amount not to exceed \$89,530 during the term of the agreement, subject to the appropriation of funds.

OUTCOME

Production a Citywide disparity study report to help the City of San José (City) help assess its efforts to encourage participation of disadvantaged businesses in the City procurement and contracting processes and provide recommendations and refinements the City may take to increase the participation of disadvantaged businesses.

BACKGROUND

A disparity study is used to determine if businesses – typically minority, women, and veteran-owned – face any barriers in the respective entity’s procurement and contracting processes. The City’ disparity study would assess City efforts to encourage participation and provide policy/procedure recommendations and refinements the City may take to increase participation of these groups. This specialized work effort includes a review of City procurement and contracting programs, data gathering for statistical and econometric analysis, vendor and community outreach, and a final report.

The City’s Attorney’s Office will review any programmatic changes the City desires to make as a result of the consultant’s final report and recommendations, as any changes must comply with the 1996 State of California approved Proposition 209¹, which added the following language to the California Constitution:

The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

At the January 12, 2021 City Council meeting, the Department of Public Works was directed to submit information through the Fiscal Year 2021-22 budget process for funding and resources for a City disparity study. Staff reviewed the scope and cost of disparity studies conducted by multiple jurisdictions within California over the past few years. The following three cities have performed recent, similar in size and scope disparity studies:

Report Year	Entity	Study Cost
2015	San Francisco Municipal Transportation Agency	\$450,000
2017	City of Oakland	\$490,875
2020	City of San Diego	\$477,000

As part of the City Council-approved Mayor’s June Budget Message for Fiscal Year 2021-2022, \$50,000 was allocated for this project, and the Administration submitted information through the Fiscal Year 2022-23 budget process for additional funding in the amount of \$400,000.

In February 2022, the City learned that the County of Santa Clara (County) executed an agreement with MGT of America Consulting LLC (MGT) to conduct a County-wide disparity study, as a result of the County’s competitive request for proposal (RFP). The City Manager subsequently sent a letter to the County Executive to discuss a possible partnership with the County on this work effort. While the City did not receive a response to this inquiry, the City did

¹ California Proposition 209:

[https://ballotpedia.org/California Proposition 209, Affirmative Action Initiative \(1996\)](https://ballotpedia.org/California_Proposition_209,_Affirmative_Action_Initiative_(1996))

receive copies of the County's RFP, which included the requisite public agency purchase language, also known as piggyback language, which allows the City to leverage the County procurement and enter into a contract directly with MGT.

The City's Fiscal Year 2022-23 Proposed Budget was released in May 2022 and included an additional \$400,000 in funding for this initiative, pending City Council's approval and adoption in June 2022. An additional funding of \$50,000 is anticipated to be provided by Silicon Valley Community Foundation, a non-governmental organization, to help offset the cost of this project, which will be brought forward for approval and appropriation as part of a future budget process once details are finalized². The Departments of Finance and Public Works staff subsequently reached out to MGT to commence discussions for a separate City contract.

ANALYSIS

The City will be leveraging the County's *Request for Proposals for Consulting Services for Disparity Study* (RFP # eRFP-PRC-FY22-0005), pursuant to San José Municipal Code Chapter 4.12.225B.3 *Public agency purchases*. The City's Chief Purchasing Officer determined leveraging the County's RFP is appropriate for the following reasons:

- The County's RFP included language that named the City of San José either specifically or categorically as a third-party beneficiary of the competitive procurement process, pursuant to San José Municipal Code;
- A review of the County's procurement process indicated that is substantially complied with the City's procurement procedures, pursuant to San José Municipal Code;
- The County's scope mirrored the City's desired scope of services;
- The County's procurement and contract included recent, up-to-date pricing, as the RFP was released in July 2021 with the contract executed in January 2022; and
- The County's total cost was in-line with costs incurred by other public agencies and the City's expected budget.

Staff recommends award of contract to MGT to conduct a disparity study for the City. MGT's proposal is favorable in the following key areas:

- Extensive experience conducting disparity studies for other public agencies over 30 years;
- Thorough project approach and project schedule;
- Offers synergies with the current MGT disparity study work with the County, particularly with regards to conducting vendor outreach and surveys, to minimize or avoid "survey fatigue" among the business community;
- Fair and reasonable pricing compared to costs incurred by other public agencies.

² See page 791 of the 2022-2023 Proposed Operating Budget:

<https://www.sanjoseca.gov/home/showpublisheddocument/85284/637879526584500000>

Additionally, the City holds several other consulting contracts with MGT for other types of consulting services; the City's experience with MGT in those capacities have been positive.

The Finance Department will lead this project, in collaboration with the Department of Public Works and the City Manager's Office. The project would include a review of all Finance-, Public Works-, and department-led procurements.

Summary of Proposed Agreement: The agreement with MGT will be in accordance with the City's standard terms and conditions and include the following provisions:

- A detailed scope of work to ensure that the implemented solution complies with the City's requirements;
- A preliminary project implementation plan that meets the City's requirements for project completion;
- A compensation schedule that includes holdback for vendor payment until after final acceptance of all milestones and project deliverables;
- Fixed pricing for the initial one-year term of the agreement;
- One one-year option to extend the agreement, if more time is necessary to complete the project.

CONCLUSION

Approval of this recommendation will produce a Citywide disparity study report to help the City help assess its efforts to encourage participation of disadvantaged business in the City procurement and contracting process and provide recommendations and refinements that the City may take to increase the participation of disadvantaged businesses.

EVALUATION AND FOLLOW-UP

This memorandum will not require any follow-up from staff.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This item will be posted on the City's website for the June 14, 2022 City Council meeting.

COORDINATION

This memorandum has been coordinated with the Department of Public Works, the City Attorney’s Office, and the City Manager’s Budget Office.

COMMISSION RECOMMENDATION

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City’s 2022-2023 Proposed Operating Budget strategy to consider equity and inclusion in the City’s programs and service delivery.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION (one-year initial term) **\$410,470**

2. COST ELEMENTS:

One-Time Implementation Services (Year 1)

- Project Initiation	\$7,520
- Legal Review	2,560
- Procurement and Program Policy Review	14,200
- Data Assessment, Collection, and Preparation	48,920
- Relevant Geographic Market and Product Market Area	18,220
- Utilization Analysis	11,620
- Availability Analysis	115,520
- Public Sector Disparity Analysis	7,740
- Private Market Disparity and Non-Goal Analysis	9,700
- Regression Analysis	7,100
- Anecdotal Data Collection and Analysis	131,410
- Recommendations	9,980
- Goal Setting	9,640
- Develop Draft and Final Report	<u>16,340</u>

CONTRACT NOT-TO-EXCEED TOTAL (one-year initial term) **\$410,470**

Contingency (subject to an executed change order or amendment) 89,530

GRAND TOTAL NOT TO EXCEED **\$500,000**

3. SOURCE OF FUNDING: City-wide General Fund (001) appropriation (\$450,000), and \$50,000 from a non-governmental organization, Silicon Valley Community Foundation.

4. FISCAL IMPACT: The City of San José disparity study will be funded from a City-wide General Fund (001) appropriation. An additional funding of \$50,000 is anticipated to be provided by a non-

May 23, 2022

Subject: Agreement with MGT of America Consulting LLC for a Citywide Disparity Study

Page 6

governmental organization, Silicon Valley Community Foundation, to help offset the cost of this project, which will be brought forward for approval and appropriation as part of a future budget process once details are finalized.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Contract*	2021-2022 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	216L	City of San José Disparity Study	\$50,000	\$50,000	1081	06/22/2021 30621
Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Contract*	2022-2023 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)*
001	216L	City of San José Disparity Study	\$400,000	\$400,000	803	N/A

* The 2020-2021 Proposed Operating Budget was released on May 4, 2022 is scheduled to be reviewed on June 14, 2022 and adopted on June 21, 2022 by the City Council.

CEQA

Not a Project, Public Project No. PP17-002. Consultant services for design, study, inspection, or other professional services with no commitment to future action.

/s/
JULIA H. COOPER
 Director of Finance

For questions, please contact Jennifer Cheng, Deputy Director of Finance, at jennifer.cheng@sanjoseca.gov.