



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rick Bruneau

SUBJECT: AMENDMENT TO THE AGREEMENT DATE: May 30, 2023
WITH ERNST & YOUNG, LLP FOR
COVID-19 CONSULTING SUPPORT

Approved

Date

6/8/23

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute the Fifth Amendment to the Agreement with Ernst & Young, LLP (San José, California) for consulting support to assist the City of San José in strategic management of COVID-19 funding sources and provide technical guidance related to a comprehensive disaster cost recovery model, to increase compensation by \$350,000 for a revised amount not-to-exceed \$1,850,000 and extend the contract term to December 31, 2023.

SUMMARY AND OUTCOME

Optimize City emergency response and recovery efforts for 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.

BACKGROUND

In March 2020, the City, County of Santa Clara (County), State of California (State), and the United States declared respective states of emergency in response to the novel coronavirus COVID-19 (COVID-19) pandemic. The City mobilized an immediate response to the COVID-19 pandemic, by activating its Emergency Operations Center. The federal public health emergency ended on May 11, 2023. Both the County and State terminated their respective States of Emergency as of February 28, 2023. The City Council found that emergency conditions had ceased and terminated its proclamation of local emergency on May 16, 2023, as required by law.

Consequently, the City received significant external, restricted-in-use monies to address COVID-19 disaster recovery efforts, with approximately \$763 million appropriated and/or advanced through June 30, 2022 from federal, State, and local sources. The City sole-sourced a contract

with Ernst & Young, LLP (E&Y) on an exigent basis for expert consulting services to assist City staff in managing these new funds (Agreement) 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 through 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, 2021, increasing compensation to a not-to-exceed amount of \$990,000, and extending the Agreement term from February 2, 2021 to March 31, 2022. The Second Amendment was approved by City Council on March 15, 2022, extending the Agreement term from March 31, 2022 to September 30, 2022. The Fourth Amendment was approved by City Council on January 31, 2023, increasing compensation to a not-to-exceed amount of \$1,500,000, and extending the Agreement term from February 1, 2023 to June 30, 2023.

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 the Federal Emergency Management Agency 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 documentation and process gaps in preparation for future City Auditor, Federal Single Audit, 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 and brings specific technical knowledge regarding the various funding sources already appropriated to the City.

ANALYSIS

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, §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 received, the City will be issuing a request for proposals to continue to have access to external expertise in grants management and administration, and 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.

EVALUATION AND FOLLOW-UP

No follow-up action with the City Council is anticipated at this time.

COST SUMMARY/IMPLICATIONS

The 2023-2024 Adopted Budget includes an allocation of \$350,000 in the Finance Non-Personal/Equipment appropriation for consultant and planning support for the City’s response to the COVID-19 pandemic. This available appropriation balance is sufficient to encumber the costs associated with this agreement.

BUDGET REFERENCE

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

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2023-2024 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	0492	Finance Non-Personal/Equipment	\$1,358,792	\$350,000	496	N/A

*The 2023-2024 Proposed Operating Budget was released on May 2, 2023 and is scheduled to be reviewed on June 13, 2023 and adopted on June 20, 2023 by City Council.

COORDINATION

This memorandum has been coordinated with the City Manager’s Budget Office and the City Attorney’s Office.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the June 20, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

May 30, 2023

Subject: Amendment to the Agreement with Ernst & Young, LLP for COVID-19 Consulting Support

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CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
RICK BRUNEAU
Director of Finance

For questions, please contact Luz Cofresi-Howe, Assistant Director of Finance, at luz.cofresi-howe@sanjoseca.gov or (408) 535-7041.