



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: August 29, 2022

Approved

Date

9/7/2022

SUBJECT: THIRD 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 Third 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 \$250,000 for a revised amount not-to-exceed \$1,240,000 and extend the contract term to January 31, 2023.

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.

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 County, State, and federal declaration of emergencies are still in effect as of the date of this memorandum. The City's state of emergency, which is tied to State's declaration, is in place until conditions warrant termination. 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 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, 2021¹, increasing compensation to a not-to-exceed amount of \$990,000, and extending the Agreement term from February 2, 2021 to March 31, 2022, subject to appropriation of funds. The Second Amendment was approved by City Council on March 15, 2022, extending the Agreement term from March 31, 2022 to September 30, 2022.

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, 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 received, the City has opted to issue 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.

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

CONCLUSION

Approval of the recommendation will ensure the consulting services currently provided by E&Y remain in place while the City completes the request for proposals process and awards a contract, which will be brought to City Council for consideration and approval no later than January 31, 2023.

EVALUATION AND FOLLOW-UP

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

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 memorandum will be posted on the City's Council agenda website for the September 20, 2022, City Council meeting

COORDINATION

The content of this memorandum has been coordinated with the City Manager's Budget Office and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This City Council item is consistent with the City's 2022-2023 Adopted Operating Budget City Service Area Strategic Support Delivery Framework: Sound Fiscal Management that Facilitates Meeting the Needs of the Community.

COST SUMMARY/IMPLICATIONS

The 2022-2023 Adopted Budget includes an allocation of \$1.0 million in the Recovery Foundation and Drive to Digital – Recovery Management, Coordination and Compliance appropriation for consultant and planning support of the City’s pandemic response in the American Rescue Plan Fund. This available appropriation balance is sufficient to encumber costs associated with this agreement.

BUDGET REFERENCE

Fund #	Appn #	Appn Name	Total Appn	Amt. for Contract	2022-2023 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
402	221A	Recovery Foundation and Drive to Digital - Recovery Management, Coordination and Compliance	\$1,762,000	\$250,000	840	06/21/2022 Ord. No. 30790

*The 2021-2022 Adopted Operating Budget was approved by City Council on June 14, 2022 and adopted on June 21, 2022 by City Council.

CEQA

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

/s/
JULIA H. COOPER
Director of Finance

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