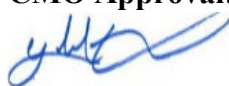


CITY COUNCIL ACTION REQUEST

Department(s): Finance	CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.	Coordination: City Attorney's Office and City Manager's Budget Office	Dept. Approval: /s/ Julia H. Cooper
Council District(s): Citywide			CMO Approval:  01/18/23

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 Fourth 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 \$260,000 for a revised amount not-to-exceed \$1,500,000 and extend the contract term to June 30, 2023.

Desired Outcome: Approval of this recommendation allows the City to optimize its 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 County of Santa Clara (County), City of San José (City), State of California (California), 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 California'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, 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, 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. The Third Amendment was approved by City Council on September 20, 2022, increasing compensation to a not-to-exceed amount of \$1,240,000, and extending the Agreement term from September 30, 2022 to January 31, 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 (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 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.

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.

The staff recommendation is to 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 June 30, 2023.

Climate Smart San Jose: 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 2022-2023 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:

The 2022-2023 Modified Budget includes \$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. The Administration will continue to evaluate funding needs and recommend future budget action to City Council, as warranted.

FOR QUESTIONS CONTACT: Luz Cofresí-Howe, Assistant Director of Finance, at luz.cofresi-howe@sanjoseca.gov