



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Lee Wilcox

**SUBJECT:** SEE BELOW

**DATE:** June 26, 2020

Approved

Date

6/29/2020

**SUBJECT: ACTION RELATED TO THE AGREEMENT WITH WITT O'BRIEN'S, LLC FOR PROVIDING COVID-19 RELATED PUBLIC HEALTH, PLANNING AND CRISIS COMMUNICATIONS CONSULTING SUPPORT**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement between the City of San José and Witt O'Brien's, LLC (Houston, TX) to provide Expert Public Health, Planning and Crisis Communications Consulting Support for the City of San José COVID-19 emergency response, with the maximum compensation not to exceed the amount of \$730,000 with no extension of the initial term or option periods.

## OUTCOME

An amendment to the Agreement ("Agreement") between the City of San José and Witt O'Brien's, LLC to provide Expert Public Health, Planning and Crisis Communications Consulting Support will optimize the City's emergency response efforts to the COVID-19 Pandemic, including assisting the City with strategic planning for acquisition and retention of federal financial support such as the Coronavirus Aid, Relief, and Economic Security ("CARES") Act and expedited Federal Emergency Management Agency ("FEMA") funding, as well as technical guidance with prudent risk mitigation protocols such as social distancing and other safe behavioral practices.

## BACKGROUND

In response to the novel coronavirus COVID-19 ("COVID-19") pandemic, the County, City, State, and Nation have declared states of emergency. Santa Clara County proclaimed a local state of emergency on February 10, 2020. The State of California declared a State of Emergency on March 4, 2020. The City of San José ("City") ratified the City Director of Emergency Services Proclamation of a State of Emergency on March 10, 2020 and extended it on May 5, 2020 and

again on June 23, 2020. The President declared a National Emergency on March 13, 2020. The County of Santa Clara issued a Shelter-In-Place Order on March 16, 2020, which has been extended through subsequent Orders and is currently in place indefinitely.

The City mobilized an immediate response to the COVID-19 pandemic, by activating its Emergency Operations Center ("EOC") and contracting on an emergency and exigent basis with Witt O'Brien's, LLC to provide expert consulting support regarding COVID-19. The initial terms of the Agreement, as executed on March 18, 2020, limited the period of performance to one hundred eighty (180) days from execution ("Period of Performance"), with two (2) options to extend for a period of three (3) months each. The initial Agreement capped total compensation at \$175,000. Concurrent with contract execution, the City planned to initiate a competitive procurement to replace the Agreement within the initial sixty (60) days' period of performance.

Since execution of the Agreement, Witt O'Brien has supported the City with continuity and logistics planning for essential services, technical guidance regarding essential worker safety and use of personal protective equipment ("PPE"), review and interpretation of the frequent federal, state and local pronouncements on COVID-19, expedited FEMA reimbursement applications for food distribution and PPE, and substantial strategic assistance on identifying, implementing, monitoring and evaluating City community mitigation factors, such as healthy hygiene and physical distancing, related to epidemiology, healthcare capacity, social services, and public health. The public health expertise regarding COVID-19 has been the most significant and complex of the services provided by Witt O'Brien and requires subject matter experts with an exceptionally specialized skillset to respond to City needs. Given this need, the City executed an amendment to the original Agreement effective May 1, 2020, increasing the not-to-exceed value of the contract to \$320,000 under the City Manager's contract authority, with no extension of the initial term or option periods.

## **ANALYSIS**

The City recently has begun shifting its focus from response to recovery and moved into Stage 6 *Initial Reopening – No Vaccine* of its COVID-19 Recovery Plan ("Recovery Plan"). While still under the June 5, 2020 Shelter-In-Place County of Santa Clara Public Health Order, the City has begun a limited re-opening of less- and non-essential services previously shut down on March 17, 2020. Transitioning to Stage 6 results in a significant number of City staff currently assigned to the EOC response team returning to their pre-pandemic positions and responsibilities. A core EOC staff will continue to guide the City through the remaining stages of its Recovery Plan to resilience.

Remaining EOC staff will need expert professional services and staff support for the deployment of effective operations resumption plans, including further development of safety and screening protocols, the thoughtful unwinding of certain special initiatives, such as food distribution, and strategizing access to and retention of previously requested and additional FEMA moneys

designated for COVID-19 disaster cost recovery. In addition, the City will be utilizing Witt O'Brien, LLC consultant services to assure transparency and accountability in its disaster cost recovery efforts, as presented at the June 24, 2020 Joint Meeting for the Rules and Open Government Committee and Committee of the Whole, *Item G.2, Relief Funds Transparency and Accountability*<sup>1</sup>.

Given the increased City staff workload from these additional recovery and resiliency activities, the persistent rapidly evolving public health and funding guidelines, and the familiarity and expertise Witt O'Brien has with the City's current COVID-19 related initiatives, functions and activities, the City has determined that continued procurement through noncompetitive proposal is warranted in accordance with 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*<sup>2</sup>. The Administration is proposing a contract amendment to increase the current not-to-exceed amount of \$320,000 by \$410,000 to \$730,000, with no extension of the initial term or option periods.

The increased costs are related to the extension of the term and are focused on supporting the Emergency Operations Center (EOC) in the following categories:

1. Consulting support regarding COVID-19 and public health
2. Planning support for continuity of essential services
3. Assistance with the development and/or review of operational implementation plans
4. Crisis communications advice
5. Assistance obtaining funding from FEMA and other federal agencies

## **CONCLUSION**

The Amendment to the Witt O'Brien's, LLC Agreement will advance the City's priorities regarding optimization of COVID-19 disaster cost recovery and safe implementation of reopening activities, by continuing those efforts without pause or delay with the support of expert professional services.

## **EVALUATION AND FOLLOW-UP**

The Administration will update the City Council through Information Memoranda, financial reports and audits to the Joint Meeting for the Rules and Open Government Committee and Committee of the Whole and/or City Council.

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<sup>1</sup> <https://www.sanjoseca.gov/home/showdocument?id=60973>

<sup>2</sup> [https://www.fema.gov/media-library-data/1584457999950-7186ffa29ace3e6faf2ca2f764357013/Procurement\\_Under\\_EE\\_Circumstances\\_Memo\\_final\\_508AB.pdf](https://www.fema.gov/media-library-data/1584457999950-7186ffa29ace3e6faf2ca2f764357013/Procurement_Under_EE_Circumstances_Memo_final_508AB.pdf)

**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 June 30, 2020 Council Meeting.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the Finance Department and the City Manager's Budget Office.

**COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

**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	2019-2020 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
401	210M	Consulting and Planning Support	\$1,000,000	\$730,000	N/A	06/23/2020 Ord. No. 30437

**COST SUMMARY/IMPLICATIONS**

The agreement between the City of San José and Witt O'Brien in the amount not to exceed \$730,000 with \$730,000 funded from the Coronavirus Relief Fund, with potential partial reimbursement the FEMA.

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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.

/s/

LEE WILCOX

Chief of Staff, City Manager's Office

For questions, please contact Luz Cofresí-Howe, Assistant Director, Finance at (408) 535-7041.