


**CITY COUNCIL ACTION REQUEST**

<b>Department(s):</b> Finance	<b>CEQA:</b> Not a Project, File No. PP17-008,	<b>Coordination:</b> CAO, CMO-Budget, CMO-OEM	<b>Dept. Approval:</b> /s/ Julia H. Cooper
<b>Council District(s):</b> Citywide	Agreements/Contracts (New or Amended) resulting in no physical changes to the environment)		<b>CMO Approval:</b>  03/26/21

**SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FIRST 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 First Amendment to the Agreement with Ernst & Young, LLP (San José, California) for consulting support to assist the City in strategic management of COVID-19 funding sources and provide technical guidance related to a comprehensive disaster cost recovery model, to increase compensation by \$690,000 for a revised total amount not-to-exceed \$990,000, and retroactively extend the Agreement from February 2, 2021 to March 31, 2022, subject to appropriation of funds.

**Desired 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.

**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. Those states of emergency have been extended indefinitely, as has a Shelter-In-Place Order issued by the County on March 16, 2020. The City mobilized an immediate response to the COVID-19 pandemic, by activating its Emergency Operations Center (“EOC”).

Subsequently, the City received significant external, restricted-in-use monies to address COVID-19 disaster recovery efforts, with approximately \$308.2 million appropriated through December 4, 2020 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 executed on August 6, 2020, extended with options to August 1, 2021 for total compensation of \$300,000.

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 Federal Emergency Management Agency (“FEMA”) and Coronavirus Aid, Relief, and Economic Security (“CARES”) 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 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 subject matter expertise in comprehensive disaster grants management and administration, brings specific technical knowledge regarding the various funding sources already appropriated to the City as well as those coming to the City through the recently enacted H. R. 1319 American Rescue Plan Act of 2021, and is cognizant of ongoing City COVID-19 related recovery and resiliency activities.

It is critical the City preserve all its claims on COVID-19 related funds and so mitigate the extraordinary pressure on the City General Fund to meet disaster response efforts. It is also critical the City have immediate and continuing access to the expertise that E&Y provides in grants management and administration, and avoids any delay in accessing this expertise that would result from a competitive solicitation, as COVID-19 related monies rapidly flow to the City under often changing guidelines, restrictive use and implementation timeframes imposed by granting entities. Consequently, the City has determined that continued procurement through noncompetitive proposal is 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*.

Climate Smart San José: 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 2020-2021 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 2020-2021 Modified Budget includes two allocations totaling \$1.02 million for consultant and planning support of the City's pandemic response – \$518,000 in the Coronavirus Relief Fund and \$500,000 in the General Fund – with a combined available balance of approximately \$480,000. This available balance is sufficient to encumber costs associated with this agreement (and the agreement with Witt Obrien's LLC recommended elsewhere in this agenda) for the next several months. The Administration anticipates returning to the City Council within the next two months to reallocate existing emergency relief funding as necessary to continue the City's response and support activities through June 30, 2021, which may also include increasing the amounts available to fully encumber this contract. Any amount from this agreement that is not encumbered in this fiscal year will be encumbered in 2021-2022, and will likely include resources from the federal American Rescue Plan recently signed into law by President Biden.

**FOR QUESTIONS CONTACT:** Luz Cofresí-Howe, Assistant Director of Finance, @ [luz.cofresi-howe@sanjoseca.gov](mailto:luz.cofresi-howe@sanjoseca.gov)