


CITY COUNCIL ACTION REQUEST

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

SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FIFTH AMENDMENT TO THE AGREEMENT WITH WITT O'BRIEN'S LLC FOR COVID-19 RELATED STRATEGIC PLANNING SUPPORT SERVICES

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to negotiate and execute the Fifth Amendment to the Agreement with Witt O'Brien's LLC for COVID-19 related strategic planning support services, to increase compensation by \$260,000 for a revised total amount not-to-exceed \$990,000, and retroactively extend the Agreement from March 14, 2021 to March 31, 2022, subject to appropriation of funds.

Desired Outcome: Advance the City's priorities regarding optimization of COVID-19 disaster cost recovery and safe implementation of reopening activities without delay .

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 and contracting on an emergency and exigent basis with Witt O'Brien's, LLC ("Witt O'Brien's") to provide consulting support regarding COVID-19. The initial terms of the Agreement, as executed on March 18, 2020, was for one hundred eighty (180) days with two (2) options to extend for a period of three (3) months each. The First Amendment increased compensation from \$175,000 to \$320,000 on May 1, 2020. On June 30, 2020, the City Council authorized the City Manager to negotiate and execute an amendment to the Agreement, increasing compensation to \$730,000, with no extension to the term. A subsequent amendment extended the term to March 14, 2021, with no increase in compensation.

Since execution of the June 30, 2020 amendment, Witt O'Brien has maintained its support of 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 Federal Emergency Management Agency ("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. Public health expertise regarding COVID-19 has been the most significant and complex of Witt O'Brien's services.

A competitive solicitation could interrupt City access to the expertise Witt O'Brien's provides in public health and strategic disaster planning, and Witt O'Brien's deep knowledge of FEMA programs and eligibility. Continued sole sourcing of this service is warranted under San José Municipal Code, Section 4.12.235 for 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 Ernst & Young LLP 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