



Contra
Costa
County

To: Board of Supervisors
From: Monica Nino, County Administrator
Date: May 16, 2023

Subject: CONTRACT AMENDMENT WITH ERNST & YOUNG LLP

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Administrator, or designee, to enter into a contract amendment with Ernst and Young, LLP, increasing the payment limit by \$500,000, from \$1,500,000 to an amount not to exceed \$2,000,000, for COVID-19 cost recovery consulting services for the period June 2, 2020 through June 30, 2024.

FISCAL IMPACT:

Up to an additional \$500,000 for a total payment limit of \$2,000,000. All fees are 100% eligible for FEMA Category Z reimbursement; however, initial payments to the vendor come from the General Fund. The County has been invoiced \$1,444,378.50 by Ernst & Young LLP for services rendered through March 31, 2023; however, the County continues to develop FEMA reimbursement claims and respond to constant Requests for Information (RFIs) for COVID-19 related expenditures. Average monthly invoices from Ernst & Young LLP will soon exhaust the current contract payment limit.

BACKGROUND:

Federal Disaster Relief Actions

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **05/16/2023** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Ken Carlson, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 16, 2023

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Timothy Ewell, (925)
655-2043

By: June McHuen, Deputy

On Friday, March 13, 2020, President Trump declared a nationwide emergency in response to the growing COVID-19 pandemic pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”). That action provides access to the Federal Emergency Management Agency (FEMA) Public Assistance program, which allows for a 75% federal cost share on certain emergency protective measures taken at the direction or guidance of public health officials in response to the COVID-19 pandemic. Qualifying expenditures are those that are not supported by the authorities of another federal agency (i.e. reimbursement for response activities funded by another federal agency grant program). Examples of reimbursable activities include the activation of Emergency Operations Centers, National Guard costs, law enforcement and other measures necessary to protect public health and safety.

The Governor's Office of Emergency Services (CalOES) is facilitating the collection of FEMA Requests for Public Assistance (RPA) from agencies (public and private) impacted by the COVID-19 pandemic. CalOES advised that RPA documents, which do not include a specific dollar amount of public assistance being requested, be filed no later than April 17, 2020. Filing of this document allows agencies, including the County, to be on record stating that costs have been incurred as part of the response effort and allows for a request to FEMA that a portion of those costs be reimbursed in the future. In addition, CalOES

requested that impacted agencies adopt required Project Assurances for federal Assistance and a resolution designating agents that can act on behalf of the impacted agency.

BACKGROUND: (CONT'D)

On March 31, 2020, the Board of Supervisors took action to adopt Resolution No. 2020/112 authorizing the County Administrator to submit the RPA documents discussed above to CalOES to ensure the opportunity for Federal cost reimbursement. The County subsequently filed its RPA with FEMA, which was approved on April 17, 2020.

State Disaster Request and Presidential Authorization

Following the President's action, Governor Newsom requested that the federal government declare a major disaster in California due to COVID-19. The President approved the State's request on Sunday, March 22, 2020, which activated additional federal resources directed to assist California, including deployment of mobile hospital units and a U.S. Navy hospital ship, among other things. Contra Costa County was a recipient of mobile field hospital equipment and took delivery of those resources at the Craneway Pavilion in Richmond, which served as a 250-bed alternate care site supporting the capacity of the County's hospital and clinic system.

Contract with Ernst & Young, LLP

On June 2, 2020, the Board of Supervisors authorized the County Administrator to execute an agreement with Ernst & Young, LLP, a well-known and respected accounting and financial services firm, for assistance with cost recovery operations related to the COVID-19 pandemic. At that time, there was significant financial relief legislation being passed, such as the CARES Act, and varying guidance coming from FEMA as to what local costs may be eligible for the FEMA Public Assistance program reimbursement under the Stafford Act (discussed above). It was imperative for the County to secure financial advisory services before there was a rush by other jurisdictions to secure the same services and to begin strategizing how the County would weather the financial impacts of the pandemic, while attempting to align all of the varying revenue sources properly to maximize cost recovery. The California Association of Public Hospitals and Health Systems Association (CAPH) was conducting a process to identify a vendor to provide similar advice for the benefit of statewide public hospital systems generally - Ernst & Young LLC was chosen to provide those services to CAPH. Since Contra Costa County is one of a small amount of counties in the State to operate a public hospital and clinic system, it was determined that relying on the CAPH process and contracting with Ernst & Young LLP would create potential synergies and maximize cost recovery coordination efforts.

On October 19, 2021, the Board authorized an increase to the contract payment limit with Ernst & Young, LLP by \$700,000 from \$300,000 to \$1,000,000 and an extension of the contract period through December 31, 2022 (Agenda Item No. C.34). This provided for continuity of consultancy services related to FEMA-claiming activity through calendar year 2022. Since that time, the federal government had directed all entities seeking FEMA Public Assistance program funds to file claims for COVID-19 related response costs through July

1, 2022 by December 31, 2022. In addition, CalOES requested that those claims be submitted no later than September 30, 2022, in advance of the FEMA date above. Stafford Act reimbursement claims must first flow through and be approved by States prior to release to the federal government for review and processing.

On September 13, 2022, the Board authorized an increase to the contract payment limit with Ernst & Young, LLP by \$500,000, from \$1,000,000 to \$1,500,000 and an extension of the contract period through June 30, 2023 (Agenda Item No. C.69). This allowed the County to continue processing FEMA claims for expenditures through July 1, 2022, which were due for submission by December 31, 2022. COVID-19 related expenditures incurred from July 1, 2022 forward are still eligible for FEMA reimbursement, but at a 90% Federal / 10% Local cost share (down from 100% Federal). The County continues to finalize three, post-July 1, 2022 claims primarily related to reimbursement for employee testing programs, the costs for which have been incurred by the General Fund through the Risk Management department. In addition, the County is seeing a significant increase in the amount of Requests for Information (RFIs) related to already submitted reimbursement claims, which require a significant amount of coordination and accounting work. To date, the County estimates \$78.4 million of FEMA eligible expenditures related to COVID-19 response efforts and has submitted \$76.5 million of those costs to FEMA for reimbursement. FEMA has obligated \$7.7 million of the reimbursement amount submitted and paid the entire \$7.7 million of the obligated amount.

Today's action would increase the payment limit of the County's existing contract with Ernst & Young, LLP by \$500,000, from \$1,500,000 to \$2,000,000 and extends the termination date of the contract through June 30, 2024. All costs paid to Ernst & Young, LLP for these services are eligible for reimbursement from FEMA as Category Z management fee claims; however, the County General Fund incurs those costs prior to reimbursement similar to other COVID-19, FEMA eligible expenditures. Category Z management fees are typically claimed at the end of the incident claiming period and, in the case of the COVID-19 disaster, FEMA has advised that management expenditures can be incurred through May 11, 2025.

CONSEQUENCE OF NEGATIVE ACTION:

The payment limit on the existing contract with Ernst & Young, LLP is projected to be exhausted prior to development and completion of post-July 1, 2022 FEMA cost reimbursement claims and while the County is actively responding to follow up FEMA RFIs related to submitted already claims. Should the contract not be amended, the firm will not be able to assist the County to develop its final claims for reimbursement and in responding to FEMA Public Assistance program claims already submitted.

CLERK'S ADDENDUM

Speaker: Caller 6770