



24-4782

**DATE:** April 16, 2024 (Item No. {{item.number}})

**TO:** Board of Supervisors

**FROM:** Margaret Olaiya, Director, Finance Agency

**SUBJECT:** Approve Fifth Amendment to Agreement with AG Witt, LLC

### **RECOMMENDED ACTION**

Approve Fifth Amendment to Agreement with A.G. Witt, LLC, relating to providing disaster cost recovery advisory, consulting services, and cost recovery auditing services, increasing the maximum contract amount by \$2,000,000 from \$7,389,100 to \$9,389,100, and extending the agreement for a 12-month period through June 30, 2025, that has been reviewed and approved by County Counsel as to form and legality. (LA-1)

### **FISCAL IMPLICATIONS**

The cost of the recommended action is \$2,000,000 for the remainder of the contract term through June 30, 2025. The actual contract spend from inception to date is \$6.4 million. The use of temporary contract services is 100 percent cost reimbursable by FEMA.

This one-time budget appropriation of \$2,000,000 will be considered through the FY2024-25 Recommended Budget process.

### **CONTRACT HISTORY**

#### **Master Agreement**

On May 1, 2020, Finance Agency issued a Request for Statement of Qualifications (RFSQ) for Disaster Cost Recovery and Financial Advisory Services in response to the COVID-19 pandemic. Four vendors were awarded a three-year Master Agreement for Disaster Cost Recovery and Financial Advisory Services expiring on June 30, 2024. The master agreement is being reviewed by the Director of Procurement for extension through June 30, 2025.

#### **Work Order Proposal Request**

On June 18, 2020, a Work Order Proposal Request (WOPR) for Disaster Cost Recovery Advisory and Consulting Services as well as Cost Recovery Auditing Services for the COVID-19 event was issued to the vendor pool of the RFSQ awards.

On July 9, 2020, the WOPR award was made to AG Witt, LLC (Contractor) for Disaster Cost Recovery Advisory, Consulting Services, and Cost Recovery Auditing Services for one year with a Maximum Financial Obligation (MFO) of \$924,100. The Director of Emergency

Services executed the agreement as the County Authorized Representative under the Proclamation of Local Emergency.

On May 1, 2021, the Director of Emergency Services executed the first amendment, extended the agreement for one year and increased the MFO by \$1,000,000. On January 28, 2022, the Director of Emergency Services executed the second amendment and increased the MFO by \$705,000. On May 27, 2022, the Director of Emergency Services executed the third amendment, extended the agreement for one year and increased the MFO by \$2,160,000. On June 6, 2023, the Board of Supervisors executed the fourth amendment, extended the agreement for one year and increased the MFO by \$2,600,000.

## **REASONS FOR RECOMMENDATION AND BACKGROUND**

A one-time appropriation of \$2 million is required for the contractor to continue to develop and submit reimbursable disaster cost recovery work projects performed by the County to manage the COVID-19 pandemic response. This action amends the agreement with the contractor for one year through June 30, 2025. The County invested and expended over \$1.3 billion for the pandemic response. To date, the contractor has reviewed and developed reimbursable claims of \$490 million incurred by the County through May 11, 2023 when the Federal COVID-19 public health emergency declaration ended. As of this reporting, the County has received reimbursement of \$55.9 million.

The contractor has expertise in disaster cost recovery and experience in managing relationships with FEMA. The contractor will continue to work with the County, California Office of Emergency Services (Cal OES), and FEMA to assist the County in responding to Requests for Information (RFI) from FEMA for claims submitted in order to move forward for FEMA's final approval and obligation of funds; attending meetings with FEMA; and advocating on behalf of the County to obtain reimbursement as soon as possible.

The Board's approval of additional staffing in the Controller-Treasurer Department for countywide cost-tracking has enabled the department to take on increased reimbursement claim work in-house this fiscal year due to the countywide impact and the duration of the pandemic. As a result, the contractor has been redirected to respond to FEMA's RFIs, ongoing project review processes, and preparing for close outs. This is the first time Administration has utilized the services of a contractor due to the countywide impact of the pandemic.

Cost reimbursement through FEMA is a complicated, time-consuming, labor-intensive, multi-step process. The application and interpretation of FEMA rules are further complicated due to frequently changing directions to recipients on claimable costs. These FEMA actions result in changes to projects submitted by the County. To initiate the reimbursement process, the County must first submit the project to Cal OES for an initial review of eligibility. If a project is deemed to be eligible by Cal OES, the State forwards the reimbursement request to FEMA, where the lengthy review process begins. This review process involves many stages, and the County has no visibility into the timing of FEMA's historically slow processes.

Due to the nationwide nature of the COVID-19 pandemic, FEMA has been overwhelmed with requests for reimbursement, which will only extend their timelines further. When a

project is finally determined to have met all of FEMA’s eligibility criteria, it becomes obligated, or approved for payment. FEMA will then issue a notice of obligation of funds to the County and notify Cal OES to initiate the state’s funds disbursement and close-out procedures. These separate procedures are equally lengthy and time-consuming.

The County currently has 89 projects submitted for reimbursement totaling \$490.1 million. To date, the County has been obligated \$65.5 million in FEMA reimbursements, of which \$55.9 million has been received. FEMA may not approve all projects, and of the projects that FEMA does approve, the County may not be reimbursed for the full amount of the claim.

As previously reported to the Finance and Government Operations Committee, the County, its contractor, Cal OES, and FEMA continue to perform reviews of all projects submitted to FEMA to ensure required documentation is included to support the County’s assertion that costs should be deemed eligible by FEMA. Staff meet bi-weekly with FEMA and Cal OES staff to ensure timely review, resolution, and processing of RFIs.

For work completed and costs incurred through July 1, 2022, the eligible reimbursement rate was 100%. On July 2, 2022, the effective cost-share basis changed to FEMA providing 90% of eligible costs. Cal OES notified the County that there would be no State share-funding under COVID-19. Unless the State changes its direction, the County-share will be 10% for work performed under the pandemic from July 2, 2022, through May 11, 2023. In prior disasters where FEMA’s reimbursement rate was 75%, the State reimbursed its entities 75% of the 25% not covered by FEMA.

While there are no guarantees that the County will receive reimbursement of all the claims, Administration remains optimistic that it will recover a significant portion due to the thorough detailed work of staff and contractor, the increased involvement of the County’s delegates at state and federal levels, and the higher reimbursement rates (normally 75% for other disasters).

### **CHILD IMPACT**

The recommended action will have no impact on children and youth.

### **SENIOR IMPACT**

The recommended action will have no impact on seniors.

### **SUSTAINABILITY IMPLICATIONS**

The recommended action will have no sustainability implications.

### **STEPS FOLLOWING APPROVAL**

Upon execution of the attached agreement, the Clerk will send an electronic copy to AG Witt, LLC., Attn: Rod Sweetman at rod.sweetman@wittpartners.com, and a notification to Martina Dillon in the Controller-Treasurer Department.

### **ATTACHMENTS:**

- Service Agreement Amendment
- Levine Act Form for AG Witt LLC