

88. 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) (ID# 24-4782)

**COUNTY OF SANTA CLARA – AMENDMENT TO SERVICE AGREEMENT****This is an amendment to an existing Agreement**

Purchase Order Number:	4300018997	Amendment Number:	5	Effective Date (Will be the date executed by Authorized County Representative):	07/01/2024
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Maximum Financial Obligation (Prior to this Amendment):	\$ 7,389,100.00	Amended Maximum Financial Obligation (If dollar amount is changing):	\$9,389,100.00
Current Agreement End Date:	06/30/2024	New Agreement End Date:	06/30/2025

**For County Use Only – SAP**

	Account Assignment	Plant Number	General Ledger (Expense Code)	Cost Center (Dept Code)	Amount		Internal Order (“PCA” code – optional)
<b>Line 1</b>	H	110	5280000	9908	\$ 924,100	Original- 7/10/2020	103264
<b>Line 2</b>	H	110	5280000	9908	\$ 1,000,000	AMD 1- 7/8/2021	103264
<b>Line 3</b>	H	110	5280000	9908	\$ 705,000	AMD 2- 6/30/2022	103264
<b>Line 4</b>	H	110	5280000	9908	\$ 2,160,000	AMD 3- 6/30/2022	103264
<b>Line 5</b>	H	110	5280000	9008	\$ 2,600,000	AMD 4- 6/30/2023	103264
Line 6	H	110	5280000	- 2113	\$ 2,000,000	AMD 5- 6/30/2024	103264

**Parties to Agreement**

Legal notices and invoices pertaining to this Agreement shall be sent to the appropriate contact person listed below. Notices shall be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows. Notice shall be deemed effective on the date that the notice is personally delivered or, if mailed, three (3) days after deposit in the mail. Either party may designate a different person and/or address for the receipt of notices by sending written notice to the other party, which shall not require an amendment to this Agreement.

**Contractor**

Contractor Name (As Displayed In SAP):	A G WITT, LLC
Contact Person:	Rod Sweetman, COO
Street Address *:	10809 Searcy Building, Executive Center Drive, Plaza 1
City, State, Zip *:	Little Rock, AR, 72111
Telephone Number *:	(501) 920-4765
Email Address *:	rod.sweetman@wittpartners.com
SCC Vendor Number (As Assigned In SAP):	1045984

\* To be completed for Independent Contractors Only – DO NOT COMPLETE FOR DEPENDENT CONTRACTORS

Approved: 04/16/2024

**COUNTY OF SANTA CLARA - AMENDMENT TO SERVICE AGREEMENT**

**This is an amendment to an existing Agreement**

<b>County of Santa Clara</b>	
Agency / Department:	Finance Agency/Controller-Treasur
	Department Number: 110
Program Manager or Contract Monitor Name:	Catherina Tsang
Street Address:	70 W. Hedding St., EW, 2nd Floor
City, State, Zip:	San Jose, CA 95110
Telephone Number:	(408) 299-5216
Fiscal Contact (Accounts Payable Contact):	Annie Tom
Contract Preparer:	Martina Dillon

**Signatures**

Amendment is not valid until signed by Contractor and the County Authorized Representative. The Agreement as amended constitutes the entire agreement of the parties concerning the subject matter herein and supersedes all prior oral and written agreements, representations and understandings concerning such subject matter. By signing below, signatory warrants and represents that he/she executed this Amendment in his/her authorized capacity, that he/she has the authority to bind the entity listed below to contractual obligations and that by his/her signature on this Amendment, the entity on behalf of which he/she acted, executed this Amendment.

Agency/Department Manager:	Maria Oberg	DocuSigned by: <i>Maria Oberg</i>	Date:	2/26/2024
Agency/Department Fiscal Officer:	Annie Tom	DocuSigned by: <i>Annie Tom</i>	Date:	2/26/2024
Contractor:	Rod Sweetman	DocuSigned by: <i>Rod Sweetman</i>	Date:	2/26/2024
County Authorized Representative: <i>(Procurement Department, Board of Supervisors, or Delegated Authority)</i>	<i>Susan Ellenberg</i>	DocuSigned by: <i>Susan Ellenberg</i>	Date:	<b>APR 16 2024</b>
County Counsel: <small>(Signature required when the Standard Provisions language (Section VI) is revised, or for IT Services pursuant to Board Policy 5.3.5.2 (4), or for Board approved contracts, or for contracts with Board delegated authority to agencies/departments.) Please note: Attachments and exhibits that include additional terms and conditions, conflict with County standard provisions, or require risk assessment must be approved by County Counsel.</small>	Robert Fannion	DocuSigned by: <i>Robert Fannion</i>	Date:	2/21/2024
Office of the County Executive: <small>(Signature required when Board approved contract by a Delegation of Authority)</small>			Date:	
Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors	Attest: <i>Curtis Boone</i> Curtis Boone Acting Clerk of the Board of Supervisors <small>(Signature required when Board approved contract)</small>		Date:	<b>APR 16 2024</b>

**COUNTY OF SANTA CLARA - AMENDMENT TO SERVICE AGREEMENT**

**This is an amendment to an existing agreement**

**Reason(s) for Amending the Service Agreement**



**Amend Term of Agreement**

The work order for cost recovery, consulting, and audit services for the COVID-19 event, issued on July 10, 2020 pursuant to the Master Service Agreement executed between the County and Contractor as of June 11, 2020, is extended to expire on June 30, 2025.

Or see Attachment \_\_\_\_\_ as incorporated by this reference



**Amend Contract Specifics**

*Note: A new Agreement should be created if the Scope of Services is significantly modified or expanded.*

Or see Attachment \_\_\_\_\_ as incorporated by this reference



**Amend Maximum Financial Obligation**

A.	Maximum Financial Obligation prior to this Amendment: (Same as on page 1)	\$ 7,389,100.00
B.	Amount of increase or decrease: (Explain below)	\$ 2,000,000.00
C.	Revised Maximum Financial Obligation: (A +/- B will equal C)	\$ 9,389,100.00

**Explanation of increase / decrease (include new payment terms if applicable):**

The increase will cover the expenses accrued during the duration of contract through June 30, 2025.

Or see Attachment \_\_\_\_\_ as incorporated by this reference

**COUNTY OF SANTA CLARA - AMENDMENT TO SERVICE AGREEMENT**

**This is an amendment to an existing agreement**

**Amend Standard Provisions**

Or see Attachment \_\_\_\_\_ as incorporated by this reference  
 Or Section VI. Standard Provisions is replaced in its entirety by Attachment \_\_\_\_\_

**Other (please explain below)**

Or see Attachment \_\_\_\_\_ as incorporated by this reference

**Contract History**

Total financial obligation from prior fiscal year(s):	\$ 7,389.100.00
Financial obligation in current fiscal year:	\$ 2,000,000.00
Cumulative total of all agreements with this Contractor within Budget Unit for same type of services (including this amendment):	\$ 9,389.100.00

**Insurance**

Insurance does not require changes

Insurance Exhibit is replaced by Exhibit B \_\_\_\_\_ attached and incorporated by this reference.



**Levine Act Contractor Form:  
Identification of Subcontractors and Agents**

*Completed form submitted to the County of Santa Clara is a public record.*

<b><i>This Section to be completed by County Staff after Form is completed by Contractor:</i></b>	
Date of Board of Supervisors Meeting When Agreement/Amendment Will Be Considered:	April 16, 2024
Legislative File No.:	24-4782

**Instructions to Contractor for Completion of Form:**

For any contract or grant/sponsorship agreement (including amendments) with the County of Santa Clara (“Agreement”) that will be submitted to the County of Santa Clara Board of Supervisors for consideration, any party entering into the Agreement with the County (“Contractor”) must:

- 1) Fill out Sections A, B, C, and D of this form.
  - a. For Section B, list any subcontractors identified in Contractor’s solicitation/grant proposal and/or in Contractor’s Agreement with the County (“Subcontractor”).
- 2) Provide a separate Levine Act Subcontractor Form: Identification of Agents to each Subcontractor, if any, listed in Section B, and collect a completed form from each Subcontractor.
- 3) Provide this form and each completed Levine Act Subcontractor Form: Identification of Agents to the designated County of Santa Clara contract manager for this Agreement.

*NOTE: This form is for the identification of Contractor’s Subcontractors and agents only. If a Contractor, Subcontractor, or their agents have any campaign contributions they are required to disclose pursuant to the Levine Act, they must separately disclose those contributions. They may make such disclosures online at <https://www.sccgov.org/levineact>.*

**SECTION A – CONTRACTOR AND AGREEMENT INFORMATION**

Contractor Legal Name (include d/b/a if applicable):	AG Witt, LLC
Title or Short Description of Agreement:	Disaster Cost Recovery

**SECTION B – SUBCONTRACTORS FOR THIS AGREEMENT**

Provide list of Contractor’s Subcontractors for this Agreement:

	Name of Subcontractor(s):
1.	iParametrics
2.	
3.	
4.	

If there are more than four Subcontractors, please submit a supplemental form. If attaching a supplemental form, check this box:

If no Subcontractors, check this box:

**(Continue to page 2)**



**Levine Act Contractor Form:  
Identification of Subcontractors and Agents**

*Completed form submitted to the County of Santa Clara is a public record.*

**SECTION C – CONTRACTOR’S AGENTS**

Provide list of Contractor’s Agents (as that term is defined under [Government Code section 84308](#) and [California Code of Regulations section 18438.3<sup>1</sup>](#)) for this Agreement:

	<b>Name of Agent(s):</b>	<b>Name of Agent’s Firm (if applicable):</b>
1.		
2.		
3.		
4.		
5.		
6.		

If no Agents, check this box:

**SECTION D – CONTRACTOR SIGNATURE**

The undersigned declares that they are a representative of Contractor and are empowered to represent, bind, and execute contracts on behalf of the firm or individual. The undersigned declares that all statements in this Form are true and correct.

Rod Sweetman

CEO

Printed Name

Title

*Rod Sweetman*

2/22/24

Contractor’s Authorized Representative Signature

Date

<sup>i</sup> California Code of Regulations section 18438.3 states:

(a) A person is the ‘agent’ of a party to, or a participant in, a pending proceeding involving a license, permit or other entitlement for use only if the person represents that party or participant for compensation and appears before or otherwise communicates with the governmental agency for the purpose of influencing the pending proceeding.

(b) If an individual acting as an agent is also acting as an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are “agents.”

(c) “Communication with the governmental agency for the purpose of influencing the proceeding” does not include:

(1) Drawings or submissions of an architectural, engineering, or similar nature prepared by a person for a client to submit in a proceeding before the agency if:

(A) The work is performed pursuant to the person's profession; and

(B) The person does not make any contact with the agency other than contact with agency staff concerning the process or evaluation of the documents prepared by the official; or

(2) Purely technical data or analysis provided to an agency by a person who does not otherwise engage in direct communication for the purpose of influencing the proceeding.



**Levine Act Subcontractor Form:**  
**Identification of Agents**

*Completed form submitted to the County of Santa Clara is a public record.*

<b><i>This Section to be completed by County Staff after Form is completed by Subcontractor:</i></b>	
Date of Board of Supervisors Meeting When Agreement/Amendment Will Be Considered:	April 16, 2024
Legislative File No.:	24-4782

***Instructions to Subcontractor for Completion of Form:***

For any contract or grant/sponsorship agreement (including amendments) with the County of Santa Clara (“Agreement”) that will be submitted to the County of Santa Clara Board of Supervisors for consideration, this form must be separately filled out by any subcontractor identified in the solicitation/grant/sponsorship proposal or in the Agreement with the County (“Subcontractor”). Upon completion, return this form to the Agreement contractor or grant/sponsorship recipient (“Contractor”) for submission to the County.

*NOTE: This form is for the identification of Subcontractor’s agents only. If a Subcontractor or their agents have any campaign contributions they are required to disclose pursuant to the Levine Act, they must separately disclose those contributions. They may make such disclosures at <https://www.sccgov.org/levineact>.*

Subcontractor Legal Name (include d/b/a if applicable):

Title or Short Description of Agreement:

Provide list of Subcontractor’s Agents (as that term is defined under [Government Code section 84308](#) and [California Code of Regulations section 18438.31](#)) for this Agreement:

	Name of Agent(s):
1.	Northwest Registered Agent, LLC #C3184722
2.	
3.	
4.	

If there are more than four Agents, please submit a supplemental form. If attaching a supplemental form, check this box:

If no Agents, check this box:

The undersigned declares that they are a representative of Subcontractor and are empowered to represent, bind, and execute contracts on behalf of the firm or individual. The undersigned declares that all statements in this Form are true and correct.

Jeffrey Stevens  
\_\_\_\_\_  
Printed Name

Executive Vice President  
\_\_\_\_\_  
Title

DocuSigned by:  
*Jeffrey Stevens*  
\_\_\_\_\_  
Subcontractor’s Authorized Representative Signature

4/11/2024  
\_\_\_\_\_  
Date



**Levine Act Subcontractor Form:**  
**Identification of Agents**

*Completed form submitted to the County of Santa Clara is a public record.*

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(a) A person is the 'agent' of a party to, or a participant in, a pending proceeding involving a license, permit or other entitlement for use only if the person represents that party or participant for compensation and appears before or otherwise communicates with the governmental agency for the purpose of influencing the pending proceeding.

(b) If an individual acting as an agent is also acting as an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are "agents."

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(A) The work is performed pursuant to the person's profession; and

(B) The person does not make any contact with the agency other than contact with agency staff concerning the process or evaluation of the documents prepared by the official; or

(2) Purely technical data or analysis provided to an agency by a person who does not otherwise engage in direct communication for the purpose of influencing the proceeding.



24-4782

**DATE:** April 16, 2024

**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

Approved: 04/16/2024

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