



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jill Bourne
Matt Cano
Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 29, 2021

Approved

Date

12/03/21

COUNCIL DISTRICTS: 3, 4, 5

SUBJECT: AWARD OF CONTRACT FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDED 9628 - ESUHSD INDEPENDENCE COMMUNITY WI-FI INFRASTRUCTURE

RECOMMENDATION

Accept the report on bids and award of contract for the ESUHSD Independence Community Wi-Fi Infrastructure to the low bidder, Rosendin Electric, Inc, in the amount of \$2,126,000 and approve a ten percent contingency in the amount of \$212,600.

OUTCOME

Awarding a construction contract to Rosendin Electric, Inc. will enable the ESUHSD Independence Community Wi-Fi Infrastructure Project to proceed. Approval of a ten percent contingency will provide funding for any unanticipated work necessary for the proper completion of the project.

BACKGROUND

In January 2020, the City issued Council Policy 0-30 “the San José Education Initiative” which sets forth the City’s policy related to the education of the City’s youth, recognizing the importance of education to the prosperity of our communities, while not supplanting the good and necessary work of the schools. The policy also includes internet and communications services and plans in the range of City services that should actively consider children and families as a primary group that should benefit from services and support.

In April 2020, the Digital Inclusion branch was activated within the Emergency Operations Center (EOC) to explore numerous potential approaches for expanding access to broadband

connectivity. Staff developed a digital inclusion priority index, which analyzes aggregates demographic datasets at the census tract level and combines the demographic data with geographic school data. The complete dataset is converted to an index with numerical scores to produce a distribution and is then weighted. To identify the areas of most need, staff looked for concentrated areas of kindergarten through 12th grade enrollment, higher poverty rates, households less likely to have computers or internet access, and areas with lower English language proficiency.

The priority index identified high priority areas in several attendance areas including James Lick, Yerba Buena, Overfelt, Independence, Andrew P. Hills, and Oak Grove. Residential areas with the highest priority index scores were found in City Council Districts 3, 4, 5, and 7, followed by Council Districts 1, 2, and 6.

In June 2020, Council approved a funding strategy for proposed connectivity investments through the use of the General Funds and the Coronavirus Relief Funds for projects that provide broadband services and connectivity devices for unconnected and under-connected San José students and residents experiencing hardship accessing distance learning and critical services due to the impacts of the COVID-19 pandemic. Subsequently, in September 2020, Council approved shifting the Digital Inclusion funding from the Coronavirus Relief Funds to the General Fund and increasing the budget.

To address the urgent need due to the COVID pandemic, with strong support from City Council, the EOC Digital Inclusion Branch team worked closely with the Santa Clara County Office of Education, the California Emerging Technology Fund, school districts, the City of San José Housing Department and other key partners to explore a number of opportunities that may increase connectivity for student households and all residents currently lacking internet access.

ANALYSIS

On September 15, 2021, the Department of Public Works (DPW) advertised and received a total of one (1) bid on October 7, 2021 with the following results:

| Contractor | Total Bid | Engineer's Estimate | Variance Amount | Over/(Under) Percent |
|-------------------------|------------------|----------------------------|------------------------|-----------------------------|
| Rosendin Electric, Inc. | \$2,126,000 | \$1,310,000 | \$816,000 | 62% |

The only bid submitted by Rosendin Electric, Inc. is 62% over the Engineer's Estimate. Staff's original Engineer's Estimate was based on a trend of construction costs experienced in previous Community Wi-Fi projects completed by the City. Staff researched the prospective bid, which showed increased, and still increasing, market conditions for equipment. Additionally, a comparison of the bid result to the Engineer's Estimate shows that staff underestimated the amount of labor necessary to install this project.

With only one bidder and the bid coming in over the Engineer's Estimate, staff has evaluated the alternative of rejecting the bid and re-bidding the project with the expectation of attracting additional bidders that might result in a more favorable bid. This investigation showed that while rebidding the project could generate an increase in interest after adjusting the Engineer's Estimate to more accurately reflect the increased cost of equipment and the increased labor hours necessary to perform the work, staff does not feel that re-bidding the project will generate significant savings. Additionally, the volatility in the market and equipment price increases anticipated to occur in January 2022 may result in higher bids.

After significant validation of the proposed costs and several interviews with equipment suppliers, staff considers the bid submitted for this project to be reasonable for the work to be performed and recommends award of the contract to Rosendin Electric, Inc.

Rosendin Electric, Inc. has successfully completed a number of projects and exhibited outstanding performance for the City over the last several years, including James Lick Community Wi-Fi, Overfelt Community Wi-Fi Project, Yerba Buena Community Wi-Fi Project, and DMS Phase II Project.

The original estimate of this project was \$1,250,000 covering 200 access points. Due to the large size and dense vegetation of the Independence area, an additional 140 access points were recommended to ensure effective network performance. Staff utilized the Digital Equity Priority Index map, which identifies areas of highest need for connectivity based on several indicators such as poverty, K-12 student density, and lack of access to at-home computer and internet access to, as well as the required Community Development Block Grant (CDBG) low-moderate income census tracts to determine the most effective and efficient size of the network. In total, the Independence network will host 340 access points. Prior to the bid opening, the estimated project cost for the Independence network area, including City project management and consultant costs, was \$2,720,000. The revised total project cost is \$3,384,514.

San Jose Municipal Code Section 27.04.050 provides that the contingency for all public works contracts (except those involving the renovation of a building or buildings) cannot exceed ten percent of the total contract amount. Staff recommends a ten percent contingency, which should be sufficient to account for unforeseen conditions that might arise in the construction.

The three networks are proceeding on a slightly delayed schedule, and Council action to award construction contracts in these two areas are scheduled for early 2022. The current project schedule is below.

| ESUHSD Attendance Area | Design Completion | Award | Construction Start | Beneficial Use |
|-----------------------------------|--------------------------|--------------|---------------------------|-----------------------|
| Independence | Completed | Dec 2021 | Jan-Feb 2022* | March-April 2022* |
| Oak Grove | Dec 2021 | Feb 2022 | March-April 2022* | June-July 2022* |
| Andrew P. Hill | Completed | Jan 2022 | Feb-March 2022* | June-July 2022* |
| Mt. Pleasant** | Feb 2022 | June 2022 | Aug-Sept 2022* | Oct-Nov 2022 |
| Silver Creek** | May 2022 | Aug 2022 | Oct-Nov 2022* | Jan-Feb 2023 |
| Mt. Pleasant Fiber Pull*** | Nov 2021 | N/A | Nov 2021 | Jan 2022 |

* Pending availability of equipment and materials.

** Project costs paid by ESUHSD.

*** Project costs paid by City and ESUHSD

Project Labor Agreement Applicability

A Project Labor Agreement is not applicable to this project as the Engineer’s Estimate, and construction award are under \$3,000,000.

CONCLUSION

The construction contract is recommended to be awarded to Rosendin Electric, Inc, whose bid is reasonable based on the current bidding environment. This action will allow for the installation of WiFi equipment in the Independence community.

The award of this construction contract aligns with the City’s commitment to addressing equity and ensuring that San José students have access to the necessary tools to continue to learn and develop, regardless of their socioeconomic standing or other barriers that may otherwise impact their ability to achieve educationally. Expansion of these connectivity solutions to all under-connected or marginalized households is the goal.

EVALUATION AND FOLLOW-UP

The project is currently progressing toward beneficial public use in early 2022. No additional action is required to advance the project. Ongoing updates on project delivery will be included in the regular EOC reports to Council and within each Digital Equity Program update to the Neighborhood Services and Education Council Committee.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

Procurement staff used Biddingo to outreach to local and small business enterprises. Chapter 4.12 of the San Jose Municipal Code defines a “local business enterprise” as one with a legitimate business presence in Santa Clara County and “small business enterprise” as a local business enterprise with 35 or fewer employees. Procurement staff sent bid invitations to 8,210 vendors, and documents were downloaded by 18 vendors, approximately 3 of which were located within Santa Clara County and therefore local. The recommended contractor is a local but is not a small business enterprise. None of the listed subcontractors are local or small business enterprises.

Additional outreach, as required by the federal funding source, was done to ensure the opportunity was noticed to small, minority, and local businesses. Newspaper advertisements in multiple languages were placed in the San Jose Mercury News, the Asian Journal, El Observador, Vietnam Daily Newspaper, and World Journal.

COORDINATION

This memorandum has been coordinated with the EOC Digital Inclusion Branch, Transportation, Information Technology and Housing Departments, the City Attorney’s Office, and the City Manager’s Office.

COMMISSION RECOMMENDATION/INPUT

The Library and Education Commission received an update on the Digital Equity Program at the September 15, 2021 regular meeting. The update included information about the Independence Network Area, and the Commission provided positive feedback on the staff direction and approach. No information on the cost increases or proposed bid responses was available for review at that time.

FISCAL/POLICY ALIGNMENT

This action aligns with the City’s existing Broadband and Digital Literacy Strategy, which identifies the current state of unconnected households, and stipulates that the City’s role in closing the digital divide is to provide connectivity solutions and leverage private investment from existing telecommunications companies.

This action also aligns with the City’s Education Policy – Council Policy 0-30. The policy states clearly the City’s position that the educational attainment of San José residents is a critical necessity to several priority City outcomes such as a strong economy, a safe city, and thriving residents. The policy states that wherever possible, City assets should be utilized to reduce barriers to accessing education.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

| | |
|---|---------------------|
| Project Delivery | \$ 179,199 |
| Consultant | \$ 818,275 |
| Construction | \$ 2,126,000 |
| Contingency 10% | \$ 212,600 |
| City Furnished Equipment - Fiber Material | \$ 48,440 |
| TOTAL PROJECT COSTS | \$ 3,384,514 |
| Prior Year Expenditures and Encumbrances | \$ 469,535 |
| REMAINING PROJECT COSTS | \$ 2,914,979 |

2. COST ELEMENTS OF AGREEMENT/CONTRACT: This is a lump sum contract.

3. SOURCE OF FUNDING: Under the CDBG program, the City will receive \$3,134,514 in grant funding to support the Independence project. In addition, funding currently allocated in the General Fund in the amount of \$250,000 will be used to support project costs.

The design and construction of the three remaining Community WiFi areas for which the City has agreed to fund (Independence, Oak Grove, and Andrew P Hill) is now estimated to be \$7.8 million, and has a shortfall of approximately \$700,000. The previously assumed budget of \$7.1 million fully funds the Independence and Andrew Hill projects and partially funds the Oak Grove project. Staff is working to secure the additional funding of \$700,000 for the Oak Grove project to meet the current Engineer’s Estimate of \$7.8 million for all three projects. Council actions to award construction contracts in Oak Grove and Andrew P Hill are scheduled for early 2022.

The source of funding for the \$7.1 million is \$3.8 million from the CDBG Fund, \$1.8 million from the General Fund, and \$1.5 million from the American Rescue Plan Fund (as recommended

by Item 3.6 on the November 30, 2021 City Council meeting agenda). Note that Andrew P. Hill attendance area is not eligible for CDBG funding. If the City is awarded an Emergency Connectivity Fund allocation from the Federal government to provide broadband services to unconnected and under-connected students and members of the public experiencing hardships and significant barriers to access for distance learning and critical services due to the impacts of the COVID-19 emergency, cost savings of approximately \$1 million in the American Rescue Plan allocation for Digital Equity could potentially be used to fully fund Oak Grove project as necessary or be reallocated to other projects or programs. Staff will return to Council with an update on the Community WiFi budget, along with efforts to secure additional CDBG funding and the pending Federal award from the Emergency Connectivity Fund, prior to the end of the fiscal year, with the intention to ensure that the implementation schedule is not impacted.

4. **FISCAL IMPACT:** The operations and maintenance, technology refresh, and PG&E costs for the Independence attendance area for five years will be \$657,385 and reimbursed by ESUHSD. These costs were included in the Funding Agreement between the City and ESUHSD for the Expansion of the Community Wi-Fi approved by Council on June 29, 2021 and will be included in the upcoming budget process.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum, including project delivery, construction, and contingency costs.

| Fund # | Appn # | Appn Name | Current Total Appn | Amt for Contract | 2021-2022 Adopted Operating Budget | Last Budget Action (Date, Ord. No.) |
|--------|--------|---|--------------------|------------------|------------------------------------|-------------------------------------|
| 441 | 212U | Community Wireless Network Infrastructure | \$2,484,920 | \$1,700,000 | Page 943 | 06/22/2021, 30621 |
| 441 | 7483 | Public Works Neighborhood Infrastructure Improvements | \$1,200,000 | \$426,000 | Page 943 | 08/17/2021, 30629 |

HONORABLE MAYOR AND CITY COUNCIL

November 29, 2021

Subject: Award of Contract for the 9628 - ESUHSD Independence Community Wi-Fi Infrastructure CDBG

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CEQA

Statutorily Exempt. File No. PP10-066 (d). CEQA Guidelines Section 15262, Feasibility and Planning Studies.

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/s/
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