



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Jill Bourne

SUBJECT: SEE BELOW

DATE: February 14, 2022

Approved

Date

2/18/2022

COUNCIL DISTRICT: 2

**SUBJECT: ACTIONS RELATED TO THE CONSTRUCTION CONTRACT FOR THE
ESUHSD OAK GROVE COMMUNITY WI-FI INFRASTRUCTURE AND
DIGITAL INCLUSION PROGRAM**

RECOMMENDATION

Adopt a resolution authorizing the Director of Public Works to:

- (1) Award and execute a contract for the construction of the ESUHSD Oak Grove Community Wi-Fi Infrastructure Project, to the lowest responsive, responsible bidder in an amount not to exceed \$2,000,000;
- (2) Decide any timely bid protest(s) and make the City's final determination as to the lowest responsive bidder that is responsible as needed to award the contract; and
- (3) Establish a construction contingency of up to 10% percent of the amount of the construction contract for the Project.

OUTCOME

Adoption of the recommendation in this memorandum allows for the award and construction of the ESUHSD Oak Grove Community Wi-Fi Infrastructure Project. Approval of a ten percent contingency provides 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 (DI) 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 Fund and the Coronavirus Relief Fund 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 DI 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 February 2, 2022, the City advertised for bids for the ESUHSD Oak Grove Community Wi-Fi Infrastructure project. The City plans to open bids on February 24, 2022. The delegation of

authority to the Public Works Director will allow the project to move forward and keep it from being further delayed.

The Engineer’s Estimate for constructing this project is \$1,540,860 covering 243 access points.

San José 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 without Council approval. Staff recommends a ten percent contingency, which should be sufficient to account for unforeseen conditions that might arise in the construction.

The current project schedule assumes a construction start in April or May 2022, contingent upon when equipment and materials can be acquired. The network is expected to be available for public use in July 2022.

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

A project labor agreement is not applicable to this project as the Engineer’s Estimate is under \$3 million.

CONCLUSION

The award of this construction contract will be in line 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

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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 mid-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 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 use Biddingo and local minority newspapers to conduct outreach to local and small business enterprises. Chapter 4.12 of the San José 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.

COORDINATION

This memorandum has been coordinated with the EOC Digital Inclusion Branch, Transportation, and Information Technology 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 Oak Grove 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 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	\$ 285,578
Consultant	\$ 370,875
Construction - <i>Engineer’s Estimate</i>	\$ 1,540,860
Contingency 10%	\$ 154,086
City Furnished Equipment - Fiber Material	\$ 47,436
TOTAL PROJECT COSTS	\$ 2,398,835
Prior Year Expenditures and Encumbrances	\$ 567,009
REMAINING PROJECT COSTS	\$ 1,831,826

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

3. SOURCE OF FUNDING: The City will utilize \$728,086 in Community Development Block Grant funding and \$1,588,865 in American Rescue Plan funding to support the Oak Grove project. In addition, funding currently allocated in the General Fund in the amount of \$82,000 will be used to support project costs.

On November 30, 2021, the City Council approved an additional appropriation of \$1.5 million in American Rescue Plan Funds for Community WiFi network construction due to increased costs for equipment and labor shortages at Andrew P. Hill, Oak Grove, and Independence High School. In addition to the \$2.4 million identified above, a portion of these funds will be used for this project should the lowest bid come in higher than the Engineer’s Estimate.

4. FISCAL IMPACT: The operations and maintenance, technology refresh, and PG&E costs for the Oak Grove 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

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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.)
001	212S	Digital Divide	\$1,852,000	TBD	Page 884	10/19/2021, 30682
441	7483	Public Works Neighborhood Infrastructure Improvements	\$1,200,000	TBD	N/A	08/17/2021, 30629
402	220J	Digital Equity – Community WiFi	\$3,250,000	TBD	N/A	2/08/2022, 30717

CEQA

Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies with no commitment to future actions.

/s/
MATT CANO
Director of Public Works

/s/
JILL BOURNE
Library Director

For questions, please contact Mathew Nguyen, Deputy Director, Public Works Department at mathew.nguyen@sanjoseca.gov or Ann Grabowski, Library Division Manager – Digital Equity, at ann.grabowski@sjlibrary.org.