



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** October 4, 2021

Approved

Date

10/08/21

**SUBJECT: FIRST AMENDMENT TO CONSULTANT MASTER AGREEMENT  
AMENDMENT WITH SMARTWAVE TECHNOLOGIES LLC AND  
INFINITY COMMUNICATIONS & CONSULTING, INC. FOR ESUHSD  
COMMUNITY WIFI**

## **RECOMMENDATION**

Approve the First Amendment to the Master Consultant Agreements with:

- (a) SmartWave Technologies, LLC, to increase the amount of compensation by \$400,000 for a total amount not to exceed \$1,400,000, for projects funded by Community Development Block Grant Fund; and
- (b) Infinity Communications & Consulting, Inc. to decrease the amount of compensation by \$400,000 for a total amount not to exceed \$200,000 for projects funded by Community Development Block Grant Fund.

## **OUTCOME**

Council approval of the First Amendment to the Master Consultant Agreements with SmartWave Technologies, LLC and Infinity Communications & Consulting allows the City to proceed with consultant services that are necessary to complete the ESUHSD Community WiFi access design.

## **BACKGROUND**

To reduce the time to design each Community WiFi network, the City sought to retain multiple consultants to complete the work. The design work for Independence High School and Oak Grove High School areas were originally planned to be completed between two (2) consultants, SmartWave and Infinity. On November 17, 2020, the first Master Consultant Agreement with SmartWave was approved by Council for \$1,000,000 to provide WiFi network design, power

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distribution design, creation of bid package, support services during bidding and construction, and project closeout for both Independence High School and Oak Grove High School. On Feb 2, 2021, the second Master Agreement with Infinity was approved for \$600,000 to provide power distribution design, creation of bid package, support services during bidding and construction, and project closeout for Oak Grove High School. The total of these Master Consultant Agreements for SmartWave and Infinity was approved for \$1,600,000 combined, funded by the Community Development Block Grant (CDBG).

On August 6, 2021, Infinity declined the service order work to be completed for Oak Grove High School. As a result, SmartWave will need to complete the full design package for Oak Grove High School. During the design process, SmartWave also determined it was necessary to expand the coverage areas, increasing cost for the additional network design.

The original budget set for the Master Agreement with SmartWave was \$1,000,000 and funded by CDBG. Two service orders have been issued to date, totaling \$950,350. A summary of the service orders is presented below:

<b>SO</b>	<b>Major Tasks</b>	<b>SO amount</b>
1	Independence: network design, power distribution design, creation of bid package, support services during bidding and construction, and project closeout	\$ 688,675.00
2	Oak Grove: network design, support services during bidding and construction, and project closeout	\$ 261,675.00
	<b>Total Encumbered Amount</b>	<b>\$ 950,350.00</b>
	<b>Unencumbered Balance</b>	<b>\$ 49,650.00</b>

**ANALYSIS**

Currently, there is only \$49,650 remaining in the SmartWave bid package for the Oak Grove High School area. Due to the unanticipated extra work that will be required from Infinity declining the service order work, it is necessary to shift \$400,000 from the Infinity Communications agreement to the SmartWave agreement to complete the power distribution design and additional network design, in order to expand the coverage areas for Oak Grove High School. Approval of the amendment will allow SmartWave to proceed with the necessary services to complete the remaining tasks set forth in the Agreement.

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The revised funding sources and award amounts are as follows:

<b>Firm Name</b>	<b>Original Award Amount for CDBG Funded Project</b>	<b>Amended Award Amount for CDBG Funded Project</b>
SmartWave	\$1,000,000	\$1,400,000
Infinity	\$600,000	\$200,000
<b>Total:</b>	<b>\$1,600,000</b>	<b>\$1,600,000</b>

### **CONCLUSION**

This First Amendment to the SmartWave Master Consultant Agreement will increase the amount of compensation for engineering consultant services by \$400,000, for a total agreement not to exceed \$1,400,000. Similarly, the First Amendment to the Infinity Communications & Consulting will decrease the amount of compensation for engineering consultant services by \$400,000, for a total agreement not to exceed \$200,000. The amendments will provide necessary budget for the Consultants to complete the remaining tasks for ESUHSD Community WiFi projects.

### **EVALUATION AND FOLLOW-UP**

Service orders under the master agreements will be approved by the Director of Public Works. No additional follow-up action with the City Council is expected at this time.

### **CLIMATE SMART SAN JOSE**

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

### **PUBLIC OUTREACH**

This memorandum will be posted on the City’s Council Agenda website for the October 19, 2021 City Council meeting.

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### **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**

No commission recommendation or input is associated with this action.

### **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**

Shifting the contract compensation from Infinity Communications & Consulting to SmartWave Technologies, LLC will have no impact on operating or maintenance costs to the City. The \$1,600,000 for the CDBG funded design work will remain unchanged though the amounts per the Master Agreements will change.

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### **BUDGET REFERENCE**

The table below identifies the fund and appropriations to shift funding for the contract recommended as part of this memorandum. Any budget adjustment necessary to increase/decrease the CDBG allocation will be brought forward in the budget process.

Fund #	Appn #	Appn Name	Current Total Appn	Amt for Contract	2021-2022 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
441	7483	Public Works Neighborhood Infrastructure Improvements	\$1,200,000	\$400,000**	N/A	08/17/2021, 30629

\* The 2021-2022 Adopted Operating Budget was approved on June 15, 2021 and adopted on June 22, 2021 by the City Council.

\*\*Amount for contract represents the recommended amendment amount that has not been encumbered to the appropriation and will be subject to the appropriation of funds.

### **CEQA**

Statutorily Exempt, File No. PP17 001, CEQA Guidelines Section 15262, Feasibility and Planning Studies.

/s/  
MATT CANO  
Director of Public Works

For questions, please contact Mathew Nguyen, Deputy Director, Public Works Department at (408) 535-8384.