



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Jill Bourne

SUBJECT: SEE BELOW

DATE: December 13, 2021

Approved

Date

12/16/2021

COUNCIL DISTRICT: 2, 7

**SUBJECT: ACTIONS RELATED TO THE CONSTRUCTION CONTRACT FOR THE
ANDREW P. HILL COMMUNITY WIFI INFRASTRUCTURE AND
DIGITAL INCLUSION PROGRAM**

RECOMMENDATION

Adopt a resolution authorizing the Director of Public Works to:

- (a) Award and execute a contract for the construction of 9766 Andrew P. Hill Project, to the lowest responsive, responsible bidder in an amount not to exceed \$1,500,000;
- (b) 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
- (c) 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 will allow for the award and construction of the East Side Union High School District (ESUHSD) Andrew P. Hill Community Wi-Fi Infrastructure Project. 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 guidance related to the education of the City’s youth, recognizing the importance of educational attainment to the prosperity of our communities, while not supplanting the good and necessary work of the schools. The policy also articulates the value of internet and communications plans and services that should actively consider children and families as a primary beneficiary of 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 aggregated 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 digital inclusion priority index identified geographic areas in several high school attendance areas in the ESUHSD, including James Lick, Yerba Buena, Overfelt, Independence, Andrew P. Hill, 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.

To address the urgent needs of students and residents experiencing hardship accessing distance learning and critical services due to the impacts of the COVID-19 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.

In June 2020, Council approved a funding strategy for proposed connectivity investments, utilizing the General Fund, Community Development Block Grant (CDBG) and the Coronavirus Relief Fund for projects that provide broadband services and connectivity devices for unconnected and under-connected San José residents. 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 allocate resources to digital equity projects, including the implementation of Community WiFi networks in partnership with ESUHSD.

ANALYSIS

The City publicly advertised for bids to construct the Andrew P. Hill Community WiFi network project on September 29, 2021 and the City opened bids on December 2, 2021. The City made minor technical changes to the project specifications during the advertising period and extended the time for contractors to respond to increase the likelihood of receiving multiple bids.

The original procurement resulted in two bids. Each bid had irregularities, resulting in the City deeming them non-responsive. The first low bidder did not meet the specified State contractor licensing classification. The second low bidder did not meet the bidder’s experience requirement and listed a subcontractor that did not meet the requirement of being listed in the Department of Industrial Relations registration.

The project was readvertised on December 15, 2021. The results for the re-bid will be opened on January 13, 2022 and the protest period will close on or around January 20, 2022. The delegation of authority to the Public Works Director will allow the project to move forward and mitigate further delays.

The original estimate of this project was \$1,250,000 covering 200 access points. Prior to the bid opening, the estimated project cost for the network area was \$2.2 million. Cost increases are a direct result of escalating costs for equipment and labor.

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.

Below is the current project schedule. The current project schedule assumes a construction start in February or March 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	Dec 2021	March 2022	April-May 2022*	July 2022*
Andrew P. Hill	Completed	Jan 2022	Feb-March 2022*	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***	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

CONCLUSION

Approval of the recommendation will facilitate moving forward with the construction of the Community WiFi project in the Andrew P. Hill attendance area.

Construction of the project 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 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 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 use Biddingo to conduct 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. In addition, this memorandum will be posted on the City's website for the January 11, 2022 City Council agenda.

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 Budget 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 Andrew P. Hill 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	\$ 187,399
Consultant	\$ 561,675
Construction - <i>Engineer’s Estimate</i>	\$ 1,300,000
Contingency 10%	\$ 130,000
City Furnished Equipment - Fiber Material	\$ 48,440
TOTAL PROJECT COSTS	\$ 2,227,514
Prior Year Expenditures and Encumbrances	\$ 373,514
REMAINING PROJECT COSTS	\$ 1,854,000

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

3. SOURCE OF FUNDING: The 2021-2022 Adopted Operating Budget includes a \$1.25 million allocation from the General Fund for the construction of the Andrew P. Hill Community WiFi area. In addition, 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. A portion of these funds will be used for this project.

4. FISCAL IMPACT: The operations and maintenance, technology refresh, and PG&E costs for the Andrew P. Hill 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.)
001	212S	Digital Divide	\$1,852,000	TBD	Page 884	10/19/2021, 30682
402	220J	Digital Equity – Community WiFi	\$2,250,000	TBD	N/A	11/30/2021, 30693

CEQA

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

/s/
MATT CANO
Director of Public Works

/s/
JILL BOURNE
Library Director

For questions, please contact Mathew Nguyen, Deputy Director, Public Works Department at (408) 535-8300 or Ann Grabowski, Library Division Manager – Digital Equity, at ann.grabowski@sjlibrary.org.