



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: November 5, 2020

Approved

Date

11/5/2020

**SUBJECT: MASTER AGREEMENTS WITH SMARTWAVE TECHNOLOGIES LLC,
INFINITY COMMUNICATIONS & CONSULTING, INC., AND STUDIO
151, LLC TO SUPPORT COMMUNITY WIFI PROGRAM**

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute the following master agreements for the design and support of WiFi infrastructure:

1. SmartWAVE Technologies LLC from the date of execution to December 31, 2023 in an amount not to exceed \$1,000,000 for projects funded by Community Development Block Grant ("CDBG") funds;
2. Infinity Communications & Consulting, Inc. from the date of execution to December 31, 2023, in an amount not to exceed \$600,000 for projects funded by CDBG funds;
3. SmartWAVE Technologies LLC from the date of execution to December 31, 2023 in an amount not to exceed \$1,500,000 for projects funded by the General Fund;
4. Infinity Communications & Consulting, Inc. from the date of execution to December 31, 2023, in an amount not to exceed \$600,000 for projects funded by the General Fund; and
5. Studio 151, LLC, from the date of execution to December 31, 2023, in an amount not to exceed \$600,000 for projects funded by the General Fund.

OUTCOME

The execution of the master agreements will enable the City to obtain the consultant services necessary to prepare the WiFi infrastructure design so that equipment can be deployed to unconnected and under-connected residents in and around the ESUHSD school attendance area.

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 General Funds and Coronavirus Relief Funds for projects that provide broadband services and connectivity devices for unconnected and under-connected San Jose 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 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, San Jose 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. Currently, the City has identified funding sources to support the design and deployment of community WiFi in several ESUHSd attendance and residential areas as shown below.

- Independence and Oak Grove attendance areas and adjacent: funded by the Community Development Block Grant (CDBG) and General Fund;
- Andrew P Hills attendance area: funded by the General fund;

- Mt. Pleasant and Silver Creek attendance areas and adjacent communities: funding will be provided solely by the ESUHSD and East Side Alliance. Work will commence once the City and ESUHSD finalize and approve a funding agreement (estimated by November 2020).

While City staff have the ability to manage these projects, the in-house expertise to perform the radio network design does not exist within the City. The City conducted two different procurements to obtain the consultant services necessary to provide the City with the design and construction management services. This was required due to distinctive federal funding requirements and in order to be qualified for the use of CDBG funding for Independence and Oak Grove attendance areas.

Both ESUHSD and City are committed to expedite many of these projects due to connectivity needs within the community due to COVID pandemic. Currently, City staff anticipate to complete full build out of three attendance areas that are fully funded (Independence, Andrew P. Hill and Oak Grove) by September 2022. City staff recommends the procurement of multiple design consultants who have network design and construction expertise in facilitating the full buildout of Community WiFi in areas most impacted within City of San Jose to help expedite the schedule. Once master agreements are approved by Council, City staff and consultants will reevaluate all the schedules for the future buildout of all five (5) attendance areas and provide an update to Council in early 2021.

ANALYSIS

On July 30, 2020, the Department of Public Works advertised two Request for Qualifications (RFQ) to solicit professional firms to provide WiFi design services to the City using City's general fund and CDBG fund, respectively. Two separate procurements were necessary because while the City-funded projects could be procured according to the City's standard consultant procurement process, use of CDBG funding requires additional procurement outreach and contractual obligations.

1. CDBG Funded RFQ

The City received responsive Statements of Qualifications (SOQs) by the September 2, 2020 submittal deadline from two firms:

- SmartWAVE Technologies, LLC (SmartWAVE)
- Infinity Communications and Consulting, Inc. (Infinity)

A Technical Evaluation Panel (TEP) was formed with individuals from the Department of Public Works and the Information Technology Departments to evaluate the SOQs following procedures outlined in the RFQ. Each TEP member evaluated the SOQs using a consistent scoring matrix

based on the firm's expertise, experience, and approach. These firms were evaluated and ranked based on their previous experience with WiFi system design and ability to support during the deployment of WiFi equipment projects.

Chapter 4.12 of the San José Municipal Code provides a preference for Local and Small Businesses in the procurement of goods and services that are not specifically precluded from these preferences. In order to comply with federal procurement requirements, the City did not apply a Local and Small Business Preference to the CDBG-funded RFQ scores.

Interviews were held and scored following procedures outlined in the RFQ.

Consultant	Expertise	Experience	Approach	Interview	Total
SmartWAVE	9	26.50	25.17	25.25	85.92
Infinity	6.75	17.50	18	19.00	61.25

2. City Funded RFQ (Re-Advertisement)

The City initially issued the City Funded RFQ on July 31, 2020 and received no responsive submittals by the August 21, 2020 submittal deadline. Staff made adjustments to the RFQ and re-advertised it on September 16, 2020. Three responsive SOQs were received by the October 1, 2020 submittal deadline:

- SmartWAVE
- Infinity
- Studio 151, LLC (Studio 151)

As with the CDBG funded RFQ, a TEP was formed with individuals from the Department of Public Works and the Information Technology Department to evaluate the SOQs using the same scoring matrix, with the addition of a Local and Small Business preference. Interviews were deemed to be unnecessary and were not held.

Consultant	Expertise	Experience	Approach	Local/Small Business Preference	Total
SmartWAVE	9	36	35	10	90
Studio 151	8.67	25.33	25	0	59
Infinity	7.33	22.67	23.67	0	53.67

As a Local Business, SmartWAVE received a preference of 5 percent. It received an additional 5 percent preference for also being a Small Business.

Award Recommendation

SmartWAVE has demonstrated a history of providing the services the City requires for these projects, having worked with the City on several similar WiFi projects and with other school districts across the country. Infinity and Studio 151 are also qualified, although with less experience than SmartWAVE. Due to the need to have multiple projects being delivered in an expeditious manner, City staff recommends negotiating and executing master agreements with all three consultants in order to give the City the necessary capacity to deliver these projects under tight deadlines.

In order to ensure all current and future projects will be promptly supported and based on the qualifications and past experience, each firm will be awarded based on the anticipated workload and availability of funding sources as follows:

Firm Name	Award Amount for CDBG Funded Project	Award Amount for City Funded Project
SmartWAVE	\$1,000,000	\$1,500,000
Infinity	\$600,000	\$600,000
Studio 151		\$600,000

The award amount shown for each firm is higher than the current need to provide the City the flexibility to utilize these master agreements to support future projects promptly.

Master agreements will be administered with individual Service Orders. Each service order will specify the scope of services that these firms must perform and the compensation to which the consultant would be entitled upon delivery of all specified services. Funding will not be encumbered or expended unless a funding source is clearly identified before the issuance of each service order.

The Department of Public Works will issue service orders to the various consultants in accordance with its written Issuance of Service Orders Policy.

CONCLUSION

Staff recommends the award and execute of these master agreements to support the buildout of free WiFi in various City communities within the ESUHSD school attendance areas and beyond. The award of these master agreements 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

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

These master agreements will provide staff with the ability to engage the design and other support services from these firms, thereby enabling the deployment of WiFi equipment in unconnected and under-connected areas in the City. 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

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 notices to 5,439 vendors for each solicitation.

- CDBG-funded: Documents were downloaded by 22 vendors, approximately 6 of which were located within Santa Clara County and therefore local. Although federal funding requirements prohibit applying a small and/or local preference to the scores, SmartWAVE is a local and a small business. Additional outreach required per CDBG funding included advertisement in the San Jose Mercury News, the Asian Journal, El Observador, Vietnam Daily Newspaper, and World Journal. Further, the Office of Equality Assurance provided a list of approximately 1,000 women and minority owned business that received notices from Procurement staff.
- City-funded: Documents were downloaded by 16 vendors, approximately 3 of which were located within Santa Clara County and therefore local. SmartWAVE is a local and a small business.

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

The Master Agreements recommended in this memorandum will be used to obtain the design and construction management services from the consultant to build and deploy Community WiFi in the City including the five high school attendance areas specified. The total cost to design and install the Community WiFi is estimated to be \$1,250,000 per attendance area plus an estimated \$650,000 for the operating and maintenance costs to support the network in each attendance area over a five-year period. The Administration has identified full funding for the design and installation for Independence, Oak Grove, and Andrew P. Hill High Schools attendance areas. Funding for the buildout of Silver Creek and Mt. Pleasant High Schools attendance areas still need to be resolved. Per Council approval of the digital inclusion expenditure plan on June 23, 2020, it was noted that the future costs for ongoing operations and maintenance, and replacement of the technology will be funded by ESUHSD and the East Side Alliance (ESA) (which includes Alum Rock Union School District, Berryessa Union School District, Evergreen Elementary School District, Franklin- McKinley School District, Mount Pleasant Elementary School District, Oak Grove School District, and Orchard School District). Currently, ESUHSD and ESA partners are working together on a memorandum of understanding to develop a cost sharing

agreement to support the one-time and ongoing needs of the community Wi-Fi network in the various attendance areas within ESUHSD.

Council also approved on June 23, 2020 an additional \$500,000 for supplemental wireless access nodes in the attendance areas that are not built out or do not have completed network design. The additional nodes would be deployed as needed to ensure that the attendance areas will have sufficient, robust coverage to support the digital access needs of residents. The operating and maintenance costs associated with the additional access nodes will also need to be part of the funding discussions with ESUHSD and ESA. These costs need to be refined and are in addition to the estimated \$650,000 needed per attendance area.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Agreement with SmartWAVE (not to exceed)	\$2,500,000
Agreement with Infinity (not to exceed)	\$1,200,000
Agreement with Studio 151 (not to exceed)	\$600,000
<u>TOTAL</u>	<u>\$4,300,000</u>

2. COST ELEMENTS OF AGREEMENT: The master agreement's consultant services are reimbursed based on an hourly rate schedule in the master agreement for the involved consultant personnel.
3. SOURCE OF FUNDING: Community Development Block Grant (Fund 441) and the General Fund (Fund 001).
4. FISCAL IMPACT: ESUHSD and ESA are working with the City currently to develop a new funding agreement as well as amending existing agreements that will support the operating and maintenance costs and future replacement of technology costs for the attendance areas. The cost to operate and maintain each attendance area is estimated to be \$650,000 over a five-year period and is expected to be paid by ESUHSD and the ESA. This estimate also does not factor in the ongoing costs for operating and maintaining the additional access nodes. Staff does not expect the project to have any significant adverse impact on the General Fund once the project is completed.

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	2020-2021 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	212S	Digital Divide	\$2,500,000	\$2,700,000*	N/A	6/23/2020, 30437
441	7483	Public Works Neighborhood Infrastructure Improvements	\$2,100,000	\$1,600,000	IX - 17	08/11/2020, 30456

* The 2020-2021 Proposed Operating Budget was approved by City Council on June 16, 2020 and adopted on June 23, 2020.

** The total amount for the contracts is higher than the funding available and what is currently needed in order to provide the City the flexibility to utilize these master agreements to support future projects promptly. The budget will be adjusted to support future projects subject to the appropriation of funds.

CEQA

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

/s/

MATT CANO

Director of Public Works

For questions, please contact Michael O'Connell, Deputy Director, Public Works Department at Michael.oconnell@sanjoseca.gov