

**SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF SAN JOSE  
AND CALIFORNIA EMERGING TECHNOLOGY FUND FOR THE DIGITAL  
INCLUSION PARTNERSHIP GRANT PROGRAM**

This Second Amendment to the Agreement between the City of San José (“City”), a municipal corporation, and the California Emerging Technology Fund (“CETF”), a California non-profit corporation, for the Digital Inclusion Partnership Grant Program, is entered into and effective on June 30, 2022 (“Effective Date”).

**RECITALS**

**WHEREAS**, the City entered into an Agreement with CETF on May 14, 2019, for CETF to act as the fiscal agent for the City in the administration of the Digital Inclusion Fund; and

**WHEREAS**, on February 25, 2020, the City Council authorized the City Manager to negotiate and execute an amendment to the City’s agreement with CETF to clarify the administration of the first round of digital inclusion grant awards; and

**WHEREAS**, the City awarded and CETF distributed the first round of grant money to grantees in March of 2020 to advance digital inclusion; and

**WHEREAS**, in 2020, the COVID-19 virus became widespread and, as a result of the Nationwide Declaration, State Executive Orders, County Order, and City Proclamation of Local Emergency in response to COVID-19, the City raised funds to address the digital divide that was exacerbated by the impacts of COVID-19; and

**WHEREAS**, on July 13, 2020, the City and CETF executed the First Amendment to the Agreement with CETF to clarify the administration of the first round of digital inclusion grant awards, to separately account for donations made to the DIF for digital connectivity during the pandemic, and to allow for more rapid and efficient award and expenditure of the specially raised funds to relieve the impacts of COVID-19 on the digital divide; and

**WHEREAS**, the donations made specifically for digital connectivity during the pandemic have been accounted for and distributed, and no new donations relating to digital connectivity during the pandemic are being received; and

**WHEREAS**, on April 19, 2022, the City Council authorized the City Manager or their designee to negotiate and execute a Second Amendment to the Agreement between the City and CETF to allow a one-time payment of \$20,000 by July 2022 to CETF for the separate administration of digital inclusion grants to schools that supported the City’s COVID-19 emergency response, and a one-time payment of up to \$72,500 by June 2023 to support the City’s digital inclusion program assessment and change management.

**NOW, THEREFORE,** the parties agree to amend the Agreement as follows:

**SECTION 1.** Subsection B of SECTION 1 “AUTHORITY AND STATUS OF FISCAL AGENT” is amended in its entirety to read as follows:

B. The City Manager or his or her designee ("City's Director") will advise CETF in writing to disburse the grant awards and will advise CETF in writing of the conditions or exclusions, if any, to be attached as a condition of each grant award.

**SECTION 2.** SECTION 3 “Scope of Services” is amended to add the following subsections “V” and “W”:

V. Notwithstanding any other requirement herein, CETF will coordinate, cooperate, and contribute to the City’s comprehensive Program Assessment of the Digital Inclusion Fund and Grant Program in 2022-2023, as requested by the City’s Director. The City Manager’s Office and Library Department will co-lead the Program Assessment with support from CETF. The Program Assessment will be completed by June 30, 2023.

W. If requested by the City’s Director in an amendment signed by both parties, CETF will submit to the City a three-month (3-month) Transition Plan and Schedule, within 20 calendar days of the request, for review and approval to coordinate the conclusion of this Agreement. CETF will begin carrying out the Transition Plan and Schedule within 10 calendar days of the City’s written approval. The purpose of the Transition Plan and Schedule will be to ensure a smooth, successful, and timely transition of services described in this Agreement from CETF to another vendor under contract with the City. The Transition Plan and Schedule must describe all necessary actions for CETF to take to ensure the full transition of services described in this Agreement with minimal disruption to the City and the Grant Program. As part of the Transition Plan and Schedule, CETF will attend meetings as necessary, provide necessary reports and data, respond to questions and requests for additional information, and provide support during the three-month transition.

**SECTION 3.** Subsection C. of SECTION 4 “EXPENDITURE OF CITY FUND” is amended in its entirety to read as follows:

C. Outside of grants, eligible expenditures include:

- (1) The one-time payment of Twenty Thousand (\$20,000) Dollars to CETF by June 30, 2019, to cover an administrative fee to CETF;
- (2) The one-time payment of Twenty Thousand (\$20,000) Dollars to CETF by August 31, 2022, in consideration for the scope of services described in Section 3.U., as amended;
- (3) The one-time payment of Twenty-five Thousand (\$25,000) Dollars to CETF by August 31, 2022, in consideration for supporting the City's digital inclusion program assessment as described in Section 3.V, as amended;
- (4) The one-time payment of \$47,500 in consideration for the performance of scope described in Section 3.W, if such performance is required pursuant to an amendment signed by both parties; and
- (5) An annual One Hundred and Ninety Thousand (\$190,000) Dollars annual fee to CETF by August 31 of each fiscal year during this Agreement to support the Digital Inclusion Fund Program Director and all other eligible expenditures, including by way of example to compensate for dedicated time of CETF existing personnel; compensation, benefit costs, and related payroll taxes for the Digital Inclusion Fund Program Director; travel and other expense reimbursements for the Program Director; reasonable costs related to community outreach and meetings with Grantees, if sufficient funds are available for such purposes; marketing materials and design for print and digital media for promotion of the San Jose Digital Inclusion Fund; reasonable accounting and auditing costs for the account; banking fees and costs of checks; and reimbursement to CETF of any funds advanced to the separate account for purposes including, but not limited to, marketing, website, and collateral materials.

The total maximum compensation for this Agreement is up to Two Million Twelve Thousand and Five Hundred Dollars (\$2,012,500).

**SECTION 4.** All the terms and conditions of the Agreement not specifically modified by this Second Amendment shall remain in full force and effect.

**SECTION 5.** Use of Electronic Signatures: Unless otherwise prohibited by law or CITY policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a writing as set forth in Evidence Code Section 1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the CITY.

**WITNESS THE EXECUTION HEREOF** on the day and year first written above.



**Approved as to Form:**

Attorney  
Diana Yuan

Deputy City Attorney III

Email: diana.yuan@sanjoseca.gov

Date Signed: 06/30/2022 GMT-07:00

CITY OF SAN JOSE, a municipal corporation

Email: sarah.zarate@sanjoseca.gov

06/30/2022 GMT-07:00

CALIFORNIA EMERGING  
TECHNOLOGY FUND (CETF), a  
California non-profit corporation

Email: sunne.mcpeak@cetfund.org

Date Signed: 06/30/2022 GMT-07:00

