

**City of San Jose
Grant Application
and Agreement with the
Santa Clara County Office of Education and
Santa Clara Unified School District to Expand Resident Access to Broadband
Connectivity**

Grant Number: 1752845-15

Amount: 25

Date: October 20, 2020

Grantee Name: Santa Clara County Office of Education ("SCCOE") and Santa Clara Unified School District (Local Education Agency; "LEA")

City of San Jose: Amanda Otte
Literacy Program Specialist
San Jose Public Library
150 E San Fernando St.
San Jose, CA 95112
Email: amanda.otte@silibrary.org
Phone: (408) 808-2115

LEA Contact: Dr. Stella Kemp
Superintendent
1889 Lawrence Road
Santa Clara, CA 95051
Email: ske mp@scus d.net
Phone Number: (408) 423-2005

SCCOE Grant Staff: Abby Almerido
Academic Technology Specialist
Santa Clara County Office of Education
1290 Ridder Park Dr.
San Jose, CA 95131
Email: aalmerido@sccoe.org
Phone: (408) 453-6763

Grant Purpose: To provide response efforts for SCCOE and LEA in addressing the digital access divide experienced across the county and further amplified as a result of distance learning implementation during COVID-19. Use of Grant Fund Devices (defined below) made available under this Grant Application and Agreement are limited to providing access Broadband Connectivity

for students who are City residents to participate in distance learning.

Grant Period: September 24, 2020 to July 31, 2021

Grant Eligibility: SCCOE and LEA are eligible based on high need for student connectivity and devices. In addition to demonstrating these needs, LEA must also have a distance learning plan in place and have taken action to bridge the digital divide.

Whereas, on March 4, 2020, the Governor of California proclaimed a State of Emergency (Executive Order N-25-20) to exist in California as a result of the threat of Coronavirus Disease (COVID-19); and

Whereas, on March 10, 2020, the City of San Jose ("City") ratified the Director of Emergency Services' Proclamation of Local Emergency finding that the existence and threat of COVID-19 in the community give rise to conditions of extreme peril to the safety and health of persons within the City; and

Whereas, access to digital connectivity has become an essential service for City residents and the negative impacts due to the lack of internet access have been exacerbated by the COVID-19 public health emergency; and

Whereas, the City's pandemic response includes the provision of hotspot devices and a one-year data plan to provide broadband internet access for San Jose residents to facilitate distance learning while in person learning is unavailable or limited due to COVID-19 and state and local public health orders: and

Whereas, on June 23, 2020, the City authorized the City Manager to negotiate and execute an agreement to obtain high quality hotspot devices to expand resident access to broadband connectivity and address the impacts of COVID-19 specifically with distance learning (the "Original Broadband Agreement");

Whereas, on September 22, 2020, the City Council ratified an amendment to the Original Broadband Agreement to obtain additional high-quality hotspot devices to expand resident access to broadband connectivity and address the impacts of COVID-19 specifically with distance learning;

Whereas, the City has established a grant program to implement its goal of expanding resident access to broadband connectivity through the donation of hotspot devices to SCCOE and LEA ("Grant");

Whereas, LEA and SCCOE (each a "Grantee"; together the "Grantees") desire to apply to the City for a grant to provide high quality hotspot devices to unconnected and under connected households in the City to expand resident access to broadband connectivity for the purpose of using the grant to address the impacts COVID-19, specifically distance learning, on students in the LEA;

Whereas, SCCOE and LEA will be responsible for the distribution of Grant Fund Devices to residents and students to facilitate distance learning by providing access to the necessary tools to continue to learn and develop regardless of their socioeconomic standing or other barriers that may or otherwise impact their ability to achieve educationally;

Whereas, this document serves as both the application for a grant award and as the Agreement between City, SCCOE, and LEA (each a "Party" and together the "Parties") governing the disbursement and use of any grant awards that may be granted;

Now, therefore, the Parties agree as follows:

General Terms

This Application is hereby made by the Grantees to City for a grant . The City shall determine the number of hotspot devices ("Grant Fund Devices") to be awarded pursuant to the Grant. By applying for a grant, Grantees agree to be bound by the terms and conditions stated herein.

This application shall act as the Grant Agreement ("Agreement") between the City, SCCOE and LEA. This Agreement is considered binding upon any affiliate of any Party. For purposes of this Agreement, "affiliate" means any entity or person that is directly or indirectly controlled by or under common control with any Party.

Grant Purpose

To provide response efforts for SCCOE and LEA in addressing the digital access divide experienced across Santa Clara county and further amplified as a result of distance learning implementation during COVID-19. Use of Grant Fund Devices is limited to providing access for LEA students to participate in distance learning.

Special Conditions

1. Supplantation: Grant Fund Devices are intended to provide supplemental support, not supplant federal, state, or private resources.

Use of Grant Fund Devices and Grant Funds

1. Restricted to Grant Purposes: Grant Fund Devices shall be used to achieve the Grant Purpose as set forth above, including: (1) Grantees shall distribute hotspot devices for the purpose of distance learning . Grantees shall remain subject to the Documentation and Reporting Requirements as set forth below.

2. Use of Grant Fund Devices: Hot spot devices must be provided to students for the use of distance learning and may not be distributed to teachers, sold, or repurposed for other uses.
3. Additional Grant Fund Devices: If additional grants become available, the Grantees and City may execute a written amendment to this Agreement to distribute additional Grant Fund Devices or Grant Funds to Grantees for additional activities aligned with the Grant Purpose.
4. No Pledge: This Agreement shall not be interpreted to create any pledge or any commitment by the City to make any other or further grants, donations, or contributions to Grantees or any other person or entity for this or any other project.
5. Indirect Costs: The Grant does not include any funding for any administrative fee or indirect costs.
6. Unused Grant Fund Devices: At the conclusion of the grant period, Grantees agree to return any unexpended or unaccounted for Grant Fund Devices to the City, or to submit a written request for an extension of the grant period. Grantees agree to return all Grant Fund Devices if (1) those Grant Fund Devices were not used for the purpose of this grant, or (2) were used inconsistent with the purpose of this grant, or (3) if the activities of the grant are materially incomplete at the conclusion of the grant period. These Grant Fund Devices must be returned to City no later than July 31, 2021. Grantees are jointly and severally liable for returning unused Grant Fund Devices.
7. Claw-back of Grant Fund Devices: City may require Grantees to return any Grant Fund Devices that have not been distributed in compliance with this Agreement, including compliance with any and all documentation and reporting requirements. In the event that Grant Fund Devices are clawed-back and the LEA has distributed the Grant Fund Devices, Grantees shall pay the City of the documented monetary value of that device. Grantees are jointly and severally liable for returning clawed-back Grant Fund Devices.
8. SCCOE will determine the allocation of Grant Fund Devices to the LEA and notify City of the allocation. City will deliver the allocated Grant Fund Devices to LEA. All Grant Fund Devices become the property of the receiving LEA, subject to any return-of-funds or claw-back provisions provided herein. SCCOE and LEA will, as part of their grant program and activities, distribute those devices to individual families for use during the academic school year. The LEA or the SCCOE may enter into agreements with recipients regarding the use and ownership of the Grant Fund Device in accordance with this Agreement. The LEA or SCCOE may also request that families return the device at the end of the academic year for refurbishment and redistribution.

Documentation and Reporting Requirements

The City requires a written report by August 1, 2021 on grant activities and expenditures. Please note that future Grants or Grant Fund Devices will not be awarded or considered if Grantee has failed to submit a required report.

LEA will maintain individual records of students who are provided Grant Fund Devices, including the following information:

- a. Identifying information of the student user(s), including Student Name, ID, and Contact Information (This information will be collected and maintained by the LEA, but not reported)
- b. Number of student users if multi-student household to allow for accurate accounting of students served
- c. Information about the school site of the student user(s), including CDS code and type (e.g., Elementary or High School; Charter or Non-Charter)
- d. Grade(s) of student user(s) (K-12)
- e. Zip code(s) of student users

LEA will also maintain individual records about the demographics and school records of students who are provided Grant Fund Devices, which will only be reported in the aggregate, including the following information:

- f. Race/Ethnicity of student user(s)
- g. Whether the student user participates in the Free and Reduced Lunch Program
- h. Whether student user is identified as an English learner, foster youth, homeless, or having a disability
- i. Student user attendance data and other relevant engagement information. These metrics are to be identified in coordination with SCCOE and LEA.

The City will provide a record keeping template to SCCOE and LEA. On behalf of LEAs, SCCOE will provide an end of year report with aggregate data to City, provided that data does not create an identifying record (e.g., if sample sizes of particular student groups is below the appropriate threshold). This report will not identify individual student users or use at the LEA level.

SCCOE will retain records on individual student user of a Grant Fund Device in the case of an audit of the City's use of the CARES Act funding. SCCOE will only provide individual-level data that has been anonymized of specific personally identifiable information if requested for the purposes of an audit.

Record Maintenance and Inspection

Grantees must maintain records of receipts, distributions, and expenditures consistent with generally accepted equipment donation practices and accounting practices and make books and records available to the City for inspection at reasonable times. The City may monitor and conduct an evaluation of operations under this Agreement, which may include meeting with

City personnel to discuss the program with personnel, and review Grantee's records and materials connected with the activities and programs supported by the Grant Fund Devices. Grantees agree to retain such records for at least five (5) years after the conclusion of the grant period.

Hold Harmless

Grantees hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of San Jose, its officers, directors, trustees, employees, and agents from and against any and all claims, liabilities, losses and expenses (including reasonable attorney's fees) directly, indirectly, wholly or partially arising from or in connection with the grant, the use of Grant Fund Devices furnished pursuant to this Agreement, the program or project funded or financed by the Grant Funds or in any way relating to the subject of this Agreement .

This "Hold Harmless" provision shall survive the termination of this Agreement.

Public Acknowledgement of Grant Funds and Grant Fund Devices

Grantee will notify the City of any press releases, publications, or other materials resulting from the award Grant Fund Devices no later than five (5) business days in advance of distribution or publication . Please acknowledge the City's support of Grantees' program in publications such as newsletters, program activity announcements, and in all media coverage . SCCOE may include information about LEA and its activities in its own reports and may distribute such information to third parties.

NOTICES

A. Any communication or notice which any party is required to send to another party shall be in writing and shall be either personally delivered or mailed in the United States mail, postage prepaid, or by electronic mail confirmed as received by the addressee, to the respective parties addressed as referenced on the first page of this Agreement.

B. Any party may change its address by sending written notice of the new address to the other parties pursuant to this provision.

Authority: The person(s) signing this Agreement on behalf of each Party represents and warrants that he or she has the requisite legal authority and power to execute this Agreement on behalf of his/her respective Party and to bind said Party to the obligations contained herein.

DocuSigned by:

Stella M. Kemp, Ed. D.

10/20/2020 | 3:09 PM PDT

D499A9E03B0041F
Dr. Stella Kemp

Date

Superintendent, Santa Clara Unified School District

DocuSigned by:

Dr. Mary Ann Dewan

10/20/2020 | 3:21 PM PDT

72890FED1F52493
Dr. Mary Ann Dewan

Date

Santa Clara County Superintendent of Schools



11/30/2020

Leland Wilcox

Date

Chief of Staff, City Manager's Office

Approved as to Form:

jannie quinn
jannie quinn (Oct 27, 2020 10:17 PDT)

10/27/2020

Jannie L. Quinn

Date

Sr. Deputy City Attorney

Memorandum

TO: Leland Wilcox,
Chief of Staff
Office of the City Manager

FROM: Jill Bourne
City Librarian

SUBJECT: Approval of Retroactivity

DATE: 12/11/2020

Approved



Date

12/12/2020

**SUBJECT: APPROVAL OF RETROACTIVITY IN THE AGREEMENT FOR
HOTSPOT DEVICES WITH LOCAL SCHOOLS**

In June 2013, the City Auditor released an audit report entitled "Consulting Agreements: Better Enforcement of Procurement Rules, Monitoring, and Transparency is Needed." (City Audit Report No. 13-06.) Recommendation No. 4 (Audit Report pages 16-17) involves limiting retroactive agreements to situations where contract execution is in process. The audit report states that when a City employee informally authorizes work before execution of the agreement, the employee commits City funds not within his/her authority to commit.

The Library Department is seeking authorization for the retroactive provision in the following agreement.

A no-cost agreement between the City of San José, Santa Clara County Office of Education, and the local schools listed below for access to hotspot devices and expanding resident access to broadband connectivity as part of the SJ Access program. Local schools which have entered into agreements for hotspot devices are:

- Alpha Public Schools,
- Alum Rock Union School District,
- Berryessa Union School District,
- Cambrian School District,
- Campbell Union School District,
- Campbell Union High School District,
- Cupertino Union School District,
- Downtown College Prep,
- Discovery Charter Schools,
- Escuela Popular,
- East Side Union High School District,

December 11, 2020

Approval of Retroactivity in the Agreement of HotSpot Devices with Local Schools

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- Evergreen Elementary School District,
- Franklin-McKinley School District,
- Fremont Union High School District,
- KIPP Public Schools – Northern California,
- Luther Burbank School District,
- Moreland School District,
- Morgan Hill Unified School District,
- Mount Pleasant Elementary School District,
- Oak Grove School District,
- Orchard School District,
- Perseverance Preparatory,
- San Jose Conservation Corps & Charter School,
- San Jose Unified School District,
- Santa Clara Unified School District,
- Santa Clara County Office of Education,
- Summit Public Schools,
- Sunrise Middle School,
- Union School District,
- University Preparatory Academy, and
- Voices College Bound Language Academies.

The Library Department understands that retroactive agreements are to be avoided. However, due to the COVID-19 Shelter in Place, it was not possible to execute this document prior to the termination date. The Library Department requests an exception be made and the agreement detailed in this memorandum be allowed to proceed with retroactive clauses.

/s/
Jill Bourne
City Librarian

For questions please contact Ann Grabowski, Chief of Staff, at Ann.Grabowski@sjlibrary.org



City of San José Contract/Agreement Transmittal Form

Route Order

Attached / Completed

Electronically Signed

- TO: City Attorney
 City Manager
 City Clerk **OR** Return to
 Dept. (circle one)

- Insurance Certificates / Waivers Electronically Signed: Yes
Business Tax Certificate Audit Trail Attached (if applicable)
 Contacted Clerk re: Form 700 Scanned Signature Authorization
 Supplemental Memorandums (if applicable): Select One

Type of Document: New Contract

Type of Contract: Grant Applications/Agreements

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # 666505-000

Contractor: Santa Clara County Office of Education and Santa Clara Unified School District

Address: 1889 Lawrence Road Santa Clara, CA 95051

Phone: 408-423-2005

Email: skemp@scusd.net

Contract Description: No-cost SJ Access Hotspot Grant Agreement.

Term Start Date: September 24, 2020 Term End Date: July 31, 2021 Extension: Select one

Method of Procurement: Select one RFB, RFP or RFQ No.: _____ Date Conducted: _____

Agenda Date (if applicable): _____ Agenda Item No.: _____

Resolution No.: _____ Ordinance No.: _____

Original Contract Amount: _____ Amount of Increase/Decrease: _____

Option #: _____ of _____ Option Amount: _____ NTE/Updated Contract Amount: _____

Fund/Appropriation: _____

Form 700 Required (Selection mandatory for processing): No Revenue Agreement: No

Tax Certificate No.: _____ Expiration Date: _____

Department: Multiple Depts (See Notes Below)

Department Contact: Ann Grabowski Customer (Finance Only): _____

Notes: EOC Digital Inclusion Branch

Department Director Signature: _____



11-30-2020

Date

Office of the City Manager Signature: Jessica Lowry 11/30/2020

Date