

**MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN  
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
AND  
THE CITY OF SAN PABLO  
TO COOPERATE WITH EACH OTHER TO EXPAND INTERNET ACCESS TO  
STUDENTS AND FAMILIES WITHIN THE PARTIES' BOUNDARIES**

This Memorandum of Understanding (“**MOU**”) is entered into this 24 day of March, 2021, by and between the West Contra Costa Unified School District, a California public school district (the “**District**”), and the City of San Pablo, a municipal corporation of the State of California (the “**City**”). The District and the City are referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

**RECITALS**

- A. WHEREAS, on March 13, 2020, the District’s Governing Board passed Resolution No. 20-2021, whereby the District acknowledged that more than 25,000 residents of West Contra Costa County are without reliable wireless internet, and the District committed to work together with City and state leaders to: (1) ensure that every District student has access to technology to support online learning; (2) expand internet access to include all families located within the District’s geographical boundaries; and (3) develop relationships with local and state leaders to expand internet access within municipalities in order to close the digital divide within District boundaries; and
- B. WHEREAS, in furtherance of Resolution No. 20-21, the District intends to develop and deploy facilities for wireless internet access to students and WCCUSD personnel within the District’s boundaries for educational purposes (“**WCC EdConnect Wireless Project**”); and
- C. WHEREAS, in furtherance of the WCC EdConnect Wireless Project, the District is currently in the process of prequalifying manufacturers to provide equipment for the proof of concept phase of the WCC EdConnect Wireless Project (“**Proof of Concept**”); and
- D. WHEREAS, the Proof of Concept will assist the District in determining the technical and design specifications for the deployment of the WCC EdConnect Wireless Project, and to determine whether full deployment of the WCC EdConnect Wireless Project is feasible; and
- E. WHEREAS, the City adopted a revised workplan for fiscal years 2019-2021 through the City Council’s adoption of Resolution No. 2019-029, as revised as of October 2020, whereby the City set policy goals for the implementation of the City’s San Pablo Environment for Everything Digital (“**SPEED**”) that included: (1) identifying and pursuing public or private models to develop fiber optic and/or wireless network projects to foster community-wide educational and other societal benefits; (2) bridging the digital divide for

local businesses and low-income residents within the City with access to high speed internet and wireless infrastructure; and (3) ensuring that local school facilities have Wi-Fi access and support via the creation of Wi-Fi “hot spots” near or adjacent to schools in the City to support distance learning for local school children and families, especially during the COVID-19 pandemic; and

- F. WHEREAS, the Parties share the common goal of achieving digital inclusion and bridging the digital divide by providing greater access to high-speed internet for students and residents within the geographic boundaries of the District and the City; and
- G. WHEREAS, the City has existing fiber infrastructure which spans the District’s boundaries, which could be used by the District to efficiently and economically expand the District’s fiber infrastructure (“**City Infrastructure**”); and
- H. WHEREAS, in implementing the WCC EdConnect Wireless Project, the District intends to expand its fiber infrastructure throughout the City’s boundaries and such infrastructure could also be used by the City to efficiently and economically expand the City’s fiber infrastructure (“**District Infrastructure**”); and
- I. WHEREAS, both Parties have existing assets and facilities (*e.g.*, light poles, traffic signals, towers, community centers, school sites) (“**Facilities**”) which may be used by the other Party to densify its existing wireless networks; and
- J. WHEREAS, the Parties agree to cooperate with each other in furtherance of the Parties’ goals to: (1) strengthen student achievement; (2) provide students with research, career, and advanced educational opportunities, and to foster student safety; (3) provide residents with greater access to wireless internet services; (4) and overall to bridge the digital divide;
- K. WHEREAS, the Parties agree to revisit this MOU following the Proof of Concept to further define the agreements as needed.

NOW THEREFORE, in consideration of the mutual agreements, covenants, and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### **AGREEMENT**

1. Purpose. The purpose of this MOU is to set forth the general parameters and commitments of each Party to assist with the District’s initial Proof of Concept, which may then lead to each Party’s establishment of community-wide internet access. This MOU shall serve as the basis of the Parties’ future written agreement(s) related to any deployment beyond the Proof of Concept for each Party’s use of the other Party’s Infrastructure or Facilities.
2. Mutual Cooperation. The Parties agree to cooperate with one another to provide all reasonable efforts to assist each other with the District’s Proof of Concept before the establishment of

community-wide internet access. The Parties will negotiate any future agreements related to a broader deployment after the District's Proof of Concept and use of City Infrastructure/District Infrastructure or Facilities in good faith, but each Party shall not be bound by any of the agreements until approved by each Party's respective governing board.

3. Term.

3.1. The term of this MOU shall commence on the date the MOU is fully executed by the Parties and, unless terminated sooner pursuant to the terms hereof, shall expire two (2) years from its date of execution ("**Term**").

3.2. The Term may be extended for an additional two (2) year period upon mutual written agreement of the Parties.

3.3. This MOU may be terminated at any time by either Party upon thirty (30) days' written notice of a Party's intent to terminate.

4. Establishment of WCC EdConnect Wireless Project / Further Agreements.

4.1. Proof of Concept Phase. The Parties acknowledge that the first phase of the District's WCC EdConnect Wireless Project is the Proof of Concept. It may be beneficial for the District to use City Infrastructure or Facilities for implementation of the Proof of Concept. If the District determines that City Infrastructure or Facilities are necessary for the Proof of Concept, the Parties will negotiate a written agreement which will allow the District to enter upon and use available City Infrastructure or Facilities for the installation of fiber optics and other equipment pursuant to the plans and specifications developed for the Proof of Concept. District's use of City Infrastructure or Facilities shall be:

4.1.1. At no rental cost to the District for access to the City infrastructure or facilities, but the Parties understand that there may be permitting, inspection, utility or other City costs;

4.1.2. Reviewed and approved by the City prior to installation. The Parties understand that the City has complete discretion to approve a location, with the understanding that if the District proposes a location that is unacceptable to the City that the City will work with the District to identify an alternate location;

4.1.3. Constructed in accordance with Federal, State, and Local regulations, including but not limited to the District and its contractor being responsible for Underground Service Alert (USA) notifications and markings;

4.1.4. Installed, maintained, or operated in a manner that does not interfere with or diminish the City's existing wireless services, wire services, and basic infrastructure including but not limited to street lighting, traffic signals, water, sanitary sewer, and stormwater facilities and with the East Bay Regional Communication System Authority (EBRCSA) wireless and facility network;

4.1.5. Completed under an encroachment permit or master license agreement applied for by the District and issued by the City or some other agreement, which includes the terms and conditions set forth herein and any additional terms and conditions

mutually agreed upon by the Parties, including, land use and zoning, building and public works requirements; insurance requirements; site access rules; standard construction provisions; and indemnity obligations

4.1.6. For a term concurrent with the duration of the Proof of Concept phase but not to exceed the term of this MOU;

4.1.7. Only for the provision of free Internet services to WCCUSD students and employees for educational purposes; and

4.2. Community Connectivity Wi-Fi Deployment Phase. Upon successful completion of the Proof of Concept, the District intends to deploy the WCC EdConnect Wireless Project as developed from the Proof of Concept and as approved by the District's Governing Board (the "**Deployment Phase**").

4.2.1. During the Deployment Phase, the Parties will cooperate with each other to negotiate a written agreement for each Party's use of available Infrastructure or Facilities of the other Party.

4.2.2. The Parties recognize that Community Connectivity Wi-Fi shall be implemented and deployed in a manner that will not adversely affect any tax-exempt bonds issued by or on behalf of (i) the District to finance or refinance the District Infrastructure or Facilities, or (ii) the City to finance or refinance the City Infrastructure or Facilities. The Parties acknowledge that an opinion of bond counsel may be required in the process and that they will work together to understand the impact of this restriction.

5. Installation, Operations and Maintenance; Funding.

5.1. During the course of the Proof of Concept, the District will conduct a survey of the Wi-Fi coverage within its boundaries and finalize its Wi-Fi network design to identify and establish the City Infrastructure and/or Facilities that may be required for developing, designing, and deploying the WCC EdConnect Wireless Project. The District will provide all plans and specifications for the District's proposed use of City Infrastructure and/or Facilities to the City for review and approval following the conclusion of the Proof of Concept and prior to the commencement of the Deployment Phase to allow development of a subsequent agreement related to the Deployment Phase.

5.2. The District shall be responsible for engineering, designing, managing, furnishing, installing, operating, and maintaining any fiber optics or any other equipment utilized by the District in developing and deploying the Proof of Concept and WCC EdConnect Wireless Project, including, without limitation, any City Infrastructure and/or Facilities proposed to be used by the District. The District will provide all labor, materials, tools, equipment, software, transportation, hauling and stockpiling, and incidentals required to perform all operations necessary to furnish and install the Proof of Concept and the WCC EdConnect Wireless Project. District shall not enter or alter any City Infrastructure or Facilities without prior approval. If any maintenance or repair obligation is expected to interfere with or disrupt City's Wi-Fi services or the use of any City Infrastructure or Facilities, the District shall give the City forty-eight (48) hours' prior written notice. City reserves the right to refuse access.

- 5.3. Except as otherwise set forth in this Agreement or subsequent agreement, the District shall be responsible for all costs directly associated with its Proof of Concept and WCC EdConnect Wireless Project; and the City shall be responsible for all costs associated with expanding or developing its existing Wi-Fi to the extent the City so chooses.
- 5.4. The Parties agree that any construction or design performed in furtherance of the Proof of Concept, WCC EdConnect Wireless Project, or the City’s use of the District’s Infrastructure shall be performed in a workmanlike manner and consistent with industry standard and any then-existing laws, rules, and regulations governing the work.
- 6. Publicity. Marketing, advertising, promotional materials, press releases or other public announcements regarding this MOU, the activities hereunder, or any agreement executed pursuant hereto, shall be made only after receiving prior written consent of the other Party, except as required by law, in which case the other Party shall be consulted to the extent reasonably practicable as to the content and timing of such release, announcement or statement. Notwithstanding the foregoing, each Party may generally disclose the collaborative nature of the relationship with the other Party regarding the subject matter of this MOU and as required to comply with open government laws such as the Brown Act and the Public Records Act.
- 7. Notices.
  - 7.1. Any notice required or permitted to be given under this MOU shall be deemed to have been given, served, and received if given in writing and either personally delivered, sent by overnight delivery service or emailed, addressed as follows:

<p><b><u>District</u></b>          West Contra Costa Unified School District          1400 Marina Way South          Richmond, CA 94804          Email:          ATTN: Dr. Tony Wold</p>	<p><b><u>City</u></b>          _____          _____          _____, CA _____          Email:          ATTN: _____</p>
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Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by email shall be effective when the recipient, by an email sent to the email address for the sender stated in this section acknowledges having received that email, with an automatic “read receipt” not constituting acknowledgment of an email for purposes of this section.

- 13. Integration/Entire Agreement of Parties. This MOU constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This MOU may be amended or modified only by a written instrument executed by the Parties.

14. Signature Authority. Each Party has the full power and authority to enter into and perform this MOU, and the person signing this MOU on behalf of each Party has been properly authorized and empowered to enter into this MOU.

15. Electronic Signatures. Each Party agrees that this MOU and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this MOU or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

16. Counterparts. This MOU and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

**IN WITNESS WHEREOF,** the Parties hereto have executed this MOU on the date indicated below.

Dated: 3-24, 2021

Dated: \_\_\_\_\_, 20\_\_

**West Contra Costa Unified School District**

**City of San Pablo**

By: Tony Wald  
Print Name: Tony Wald, Ed.  
Print Title: Associate Superintendent

By: \_\_\_\_\_  
Print Name:  
Print Title:

Attest:

By: \_\_\_\_\_  
City Clerk

Approved as to form:

By: \_\_\_\_\_  
City Attorney