



Legislation Text

File #: 20-0956, **Version:** 1

Chief Administrative Office recommending the Board

- 1) Receive an update on efforts regarding a contract with NEO Connect for Broadband design and engineering work for high density and propriety areas of the County utilizing CAREs Act funding;
- 2) Provide further direction to staff regarding this Broadband design and engineering work through the use of Coronavirus Relief Funds; and
- 3) Receive an update on the status of the grant application to be submitted to Economic Development Administration.

FUNDING: N/A

DISCUSSION / BACKGROUND

On June 30th the Board directed staff to return no later than July 21, 2020 with a contract for approximately \$4.4 million for Broadband design and engineering work for high density and priority areas of the County, using funding from the County allotment of CAREs Act funding. This work would allow the County to move forward with a shovel-ready project for implementation and make the County more competitive for other grants. A contract would need to be fully executed no later than August 3, 2020 in order for the work to be completed by December 30, 2020, as required for reimbursement by the CAREs Act.

Staff is returning today to inform the Board of findings relative to the use of CAREs Act funding for this purpose, and to seek further direction.

The CARES Act legislation provides funding for a variety of different purposes and allowable uses. A portion of the CARES Act funding is designated to expand broadband services. Specifically, the Commerce Department stated "...the funds can be used for broadband deployment for purposes including supporting telehealth and remote learning for job skills." However, the Department of Treasury issued guidance documents, most recently updated on July 8, 2020, relative to the Coronavirus Relief Funds, which is a subset of the CARES Act funding, stating the expenditures to expand rural broadband capacity *"would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments"*.

The FAQs published by the Department of Finance regarding use of CARES Act funding are not clear. Staff reached out to the California Department of Finance for clarification and explained that El Dorado County is seeking to use approximately \$4.4 million in Coronavirus Relief Funds to conduct the required design and engineering in order to expand broadband services to support telehealth and remote learning. The Department of Finance responded stating, *"Per the federal FAQs, the county must be able to prove the broadband expenditures are necessary for the public health emergency. Our interpretation of the full FAQ response is if the scale and scope of the project is needed to support distance learning, telemedicine, and telework for COVID, and it can be completed by*

December 30, 2020, it is generally allowable. If it is unlikely to be completed until after that point, it would be very difficult to meet the test of “necessary”. El Dorado County would need to document how a broadband project comports with federal requirements and the necessity due to COVID. Ultimately, the county needs to base its funding decisions on federal guidance”.

Although the design and engineering of Broadband for priority areas of the County would benefit the community with increased broadband capacity, it is likely that these benefits will not be realized until after the public health emergency has passed. If this is the case, and the County proceeded with the design and engineering efforts, in the event of an audit this would likely be identified as a disallowable cost and the County would be required to return the funds.

David Turch & Associates was contacted last week and is seeking further clarification from the U.S. Treasury Department and advocating for approval to use these funds for design and engineering purposes. At the time of the preparation of this agenda item, the feedback Mr. Turch received is that absent extenuating circumstances the design and engineering is not an allowable use of the Coronavirus Relief Funds. While Mr. Turch is assisting in trying to identify what qualifies as extenuating circumstances, absent any new information, the CAO believes there is too much risk to move forward with a design and engineering contract at this time.

Economic Development Administration Grant

On June 30, 2020 at the request of the Broadband Ad Hoc Committee, the Board also provided direction to staff to work with NEO Connect to apply for a grant from the Economic Development Administration (EDA) for design and engineering and construction of Broadband for priority areas within the County, using designated TOT funds of \$450,000 with a proposed 10% County match. This will fund a project up to \$4.5 million. Staff has determined the priority areas for this grant application, which includes portions of Cool, Garden Valley and Georgetown, and is currently working on the grant application with a goal to have the application submitted no later than July 31, 2020.

This grant, called the CARES Act Recovery Assistance grant (FY20 PWEAANOFO), is a \$1.5B grant in CARES Act funding that was announced in response to the COVID-19 pandemic to provide a range of financial assistance to communities and regions whose businesses and economic situation has been inadvertently impacted by the pandemic. The grant can be used for development of a fiber-optic infrastructure priority project that enhances telework, telemedicine and skilled workforce training, and provides investments that support construction, planning, and technical assistance (including design and engineering) for the implementation of economic development strategies that advance creative approaches to advance economic prosperity in distressed communities. Broadband infrastructure must be in the public right of way and not of private land. Funds can be used for publicly-owned telecommunications equipment, but not for equipment installed within homes and/or businesses. The EDA grant does not require proof of Broadband speed like the other grants that are or will become available.

ALTERNATIVES

N/A

PRIOR BOARD ACTION

16-0006 9/27/16 EDA Grant Acceptance for Feasibility Study
17-0442 4/25/17 RFP Award to NEO Connect
18-0077 1/23/18 Broadband Update

18-0950 6/26/18 Broadband Update
18-1289 9/18/18 Broadband Update
18-1889 12/18/18 Broadband Update-Next Steps
19-1821 12/17/19 Broadband Update-Financing Options
20-0288 3/10/20 NEO Connect Agreement 4555 Amendment #1
20-0307 3/10/20 Resolution 033-2020 to assign authorized representative for Reconnect Grant
20-0835 6/30/20 Broadband Update, EDA Grant Authorization

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION

Receive and file the update and provide direction to staff regarding the use of Coronavirus Relief Funds for design and engineering work. As indicated above, absent additional information and verification from the Department of Treasury the Coronavirus Relief Funds may be used for this purpose, in the event of audit the County would likely have to reimburse the State or the Department of Treasury. The only funding available to provide this level of reimbursement are reserves that are currently designated for other purposes. Therefore, staff does not recommend moving forward at this time.

FINANCIAL IMPACT

This board action does not have a financial impact. The Board has designated \$450,000 in funding to be used for the EDA grant match, from the amount set aside for this purpose in Non-Departmental Expenses from designation for TOT Special Projects. This will fund a project that includes design, engineering and construction of broadband infrastructure in the three priority areas up to \$4.5 million.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Economic Development-Infrastructure to improve and maintain competitiveness
Good Governance-Infrastructure

CONTACT

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