



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rosalynn Hughey
Jim Shannon

SUBJECT: SEE BELOW

DATE: November 15, 2023

Approved

Date

11/16/23

COUNCIL DISTRICT: 6

**SUBJECT: AGREEMENTS WITH SANTA CLARA COUNTY HOUSING
AUTHORITY FOR SERVICES AT FIRST STREET INTERIM HOUSING
AND ASSUMPTION OF HOMEKEY OBLIGATIONS**

RECOMMENDATION

(a) Adopt a resolution:

- (1) Approving the sale of the City-owned property, First Street Interim Housing, located at 1488 North First Street, to the Santa Clara County Housing Authority, or its affiliated entity North First Gish Holding LLC for \$1;
- (2) Authorizing the City Manager, or her designee, to negotiate and execute the Purchase and Sale Agreement, the deed, and all other documents necessary to complete the transaction;
- (3) Authorizing the Director of Housing, Acting Director of Housing, or their designee, to negotiate and execute a performance based conditional Rehabilitation Grant agreement and related documents with Santa Clara County Housing Authority, or a related entity, in an amount of up to \$4,000,000 of Measure E funds for capital repair needs for 72 interim housing units at First Street Interim Housing, located at 1488 North First Street;
- (4) Authorizing the Director of Housing, Acting Director of Housing, or their designee, to negotiate and execute an Operations Grant agreement and all necessary amendments for support services, asset and property management services beginning retroactively October 1, 2023 through June 30, 2024 for the Fiscal Year 2023-2024 with two one-year options to extend, subject to the appropriation of funds, for a total grant award in an amount up to \$9,000,000 with Santa Clara County Housing Authority, or a related entity, for First Street Interim Housing;
- (5) Authorizing the Director of Housing, Acting Director of Housing, or their designee, to negotiate and execute an amendment to the agreement with the State Department of Housing and Community Development to add Santa Clara County Housing Authority, or its affiliated entity North First Gish Holding LLC, to the standard agreement; and

- (6) Authorizing the Director of Housing, Acting Director of Housing, or their designee, to negotiate and execute an agreement with Santa Clara County Housing Authority, or a related entity, to clarify roles and responsibilities related to First Street Interim Housing and authority to negotiate and enter into any other related amendments or agreements necessary to complete the transfer of the project.

- (b) Adopt the following Fiscal Year 2023-2024 Appropriation Ordinance Amendments in the General Fund:
 - (1) Decrease the Measure E – Interim Housing Construction and Operations Reserve (15% HSP) by \$2,500,000; and
 - (2) Increase the Measure E – Interim Housing Construction and Operations - SureStay Operations (15% HSP) appropriation to the Housing Department by \$2,500,000.

SUMMARY AND OUTCOME

Adoption of this resolution will allow the City to negotiate and execute the Purchase and Sale Agreement and all other associated documents related to the sale of First Street Interim Housing (formerly known as the SureStay Hotel by Best Western¹), to the Santa Clara County Housing Authority (SCCHA), or its affiliated entity North First Gish Holdings LLC. The sale of First Street Interim Housing (FSIH) will shift the responsibility of developing and managing FSIH to the SCCHA and its affiliated entity.²

Approval of the staff recommendation will allow the City to negotiate and execute grant agreements with the SCCHA or an affiliated entity, to provide rehabilitation funds and operations funds at FSIH (Property). Negotiating and executing the Rehabilitation Grant and the Operations Grant agreement will allow the SCCHA to make necessary capital repairs at the Property and provide property management and supportive services as the City transitions FSIH to the SCCHA. These actions are expected to increase the quality of life for the program participants living at FSIH.

Authorization to negotiate and execute a Memorandum of Understanding (MOU) Agreement and related Standard Agreement amendment, and authorization to negotiate and enter into any other related amendments or agreements necessary to complete the transfer of the project will help facilitate and shift the responsibility of developing and managing the Property to the SCCHA.

¹ Best Western Hotel group has requested the City and SCCHA no longer use the proprietary business name “SureStay” in reference to this property. All references to this property will now be “First Street Interim Housing.”

² The September 27, 2022 City Council approval of the property transfer to SCCHA did not include authority to transfer to any SCCHA affiliated entity.

BACKGROUND

After successfully securing an award of funding from the State Department of Housing and Development (HCD) Homekey Program (Homekey), the City purchased the 76-unit former hotel in October 2020. The Homekey grant amount was \$12,230,477.

In December 2021, the City issued a Request for Proposals for housing developers to submit development applications for six City-owned sites, including the FSIH site. Proposals for the SCCHA and Jamboree Housing Corporation were selected for the FSIH site.

On March 28, 2023, City Council authorized the Housing Department to negotiate and execute:

- A conditional construction grant agreement and related documents with Jamboree Housing Corporation in an amount of up to \$4,000,000 of Measure E funds for immediate capital repair needs;
- An amendment to the current Operations Grant agreement with LifeMoves to increase the amount by \$367,100 of Measure E funds and extend the term of the subcontractor (Jamboree), for a total grant award not to exceed \$1,700,000 for property management and supportive services through June 30, 2023; and
- An Operations Grant agreement beginning in Fiscal Year 2023-2024 with three one-year options to extend, for a grand total not to exceed \$9,000,000 of Measure E funds with Jamboree Housing Corporation.

The SCCHA plans to use the City's Rehabilitation Grant to make immediate repairs at FSIH to address habitability and safety issues. On September 7, 2023, the SCCHA Board of Supervisors took action to transfer the FSIH site from the City to the SCCHA and approved the sale and transfer and related Standard Agreement amendment. See the attachment accompanying this memorandum for a more detailed summary of previous City Council actions regarding FSIH.

ANALYSIS

Property Details

FSIH is a City-owned, 76-unit, two-story hotel located at 1488 North First Street identified as Assessor's parcel number 235-02-034. The Property is approximately 65,981 square feet in size and currently includes two buildings that consist of a 76-unit hotel and a lobby building. The hotel building includes a two-bedroom unrestricted manager's unit, three unrestricted units for service providers, and 72 restricted units of interim supportive housing. Each hotel room is fully furnished and includes a bed, table, chair, microwave, private bathroom, and compact refrigerator.

FSIH is currently operating as an interim housing site for homeless individuals and couples. As of the date of this memorandum, there are 41 participants living at the FSIH site.

Homekey Requirements and HCD Standard Agreement

As a condition of receiving Homekey Round 1 funds from HCD, the City was required to enter into a HCD Standard Agreement and abide by all Homekey programmatic requirements. As part of the Standard Agreement, and under programmatic requirements, the City agreed that FSIH would meet certain occupancy and timeline milestones, which HCD has interpreted to mean 90% occupancy of the project. Housing staff contested this requirement, and HCD has waived it. Under the Standard Agreement, the City shall remain liable to HCD for performance and compliance thereunder regardless of any HCD-approved transfer or assignment of interest. Among its potential remedies for violation of the Standard Agreement, HCD may require the City to return the entirety of the Homekey Round 1 funds received, and the City may be disallowed from participating in future rounds of Homekey funding.

Status of Property Transfer from the City of San José to SCCHA

The City and SCCHA have collaborated to provide quality housing for FSIH program participants. This plan includes the transfer of ownership and funding for support services and renovation of the existing FSIH buildings.

The City's operating grant agreement with LifeMoves for services at FSIH expired on June 30, 2023. In order to prevent the contract from expiring without an agreement in place, LifeMoves agreed to a second amendment, which extended the agreement three months at no cost. Pursuant to Article 4 of the Municipal Code, the City executed the three-month extension on July 14, 2023; this extension expired on September 30, 2023.

In preparation of the sale and transfer of FSIH, the SCCHA took over operations of the Property beginning October 1, 2023 when the City's contract with LifeMoves expired. The SCCHA selected HomeFirst of Santa Clara County as the onsite service provider and Domus Management Company as the onsite property manager. As of October 1, 2023, both HomeFirst of Santa Clara County and Domus Management Company have been on site at Property providing program participant and property management services. The SCCHA is currently operating the site without a contract with the City and without any ownership interest in FSIH. Consequently, in order to formalize the parties' relationship and protect the City from any unnecessary liability, it is important that the transfer of FSIH is effectuated as soon as is practicable. The City and SCCHA are finalizing the due diligence documents with HCD and anticipate the sale of the Property will be complete in early 2024.

Renovations Funding

Staff recommendation will not require any new or additional City funds for renovations at the Property. Staff is seeking to assign the previously City Council-approved \$4,000,000 of Measure E funds for immediate capital repairs at FSIH to the SCCHA. The SCCHA intends to use the funds to address the immediate renovation needs at the Property based on a City-approved scope of work.

Operations Funding

Staff recommends City Council approval to negotiate and execute an operating agreement with the SCCHA to provide services onsite at FSIH; staff recommendation will not require any new or additional City funds for operations. While the Housing Department received City Council authority in March 2023 to enter into an operating agreement for Fiscal Year 2023-2024 with Jamboree Housing Corporation, staff is now requesting authority to allow the SCCHA to assume these funds and manage services at the Property. The previously approved total grant award not to exceed \$9,000,000 will be disbursed to the SCCHA or an affiliated entity based on approved budgets submitted by the service provider, HomeFirst of Santa Clara County, subject to the appropriation of funds, and is to apply retroactively to cover the SCCHA's operations of the FSIH site beginning on October 1, 2023. The anticipated annual operating costs for FSIH is \$3,000,000 per year based on costs from previous years.

MOU with SCCHA

Staff is seeking authority from City Council to negotiate and execute a MOU agreement and related HCD Standard Agreement Amendment with SCCHA and any other related agreements necessary to complete the transfer of the Property. The Standard Agreement Amendment would add the SCCHA to the Standard Agreement between the City and HCD as a Co-Grantee.

Despite the transfer of the Property to the SCCHA, without further action, the City will continue to be obligated under the HCD Standard Agreement and Amendment. HCD declined the City's request to release the City from the Standard Agreement. This means that HCD can still look to the City for recovery of the entirety of Homekey Round 1 funds should FSIH or the SCCHA fail to meet the requirements of the HCD Standard Agreement even after transfer, when the City no longer owns the land or controls the project. Consequently, staff is seeking authority to enter into a MOU with the SCCHA. The MOU with SCCHA would be evidence of the City entering into an agreement with the SCCHA or its affiliate to manage, maintain, and operate the Property. This would include the respective roles and responsibilities of the City, SCCHA, and its affiliate. SCCHA would serve as the co-applicant developer and would be responsible for development and management for the duration of, and monitoring of, the covenant and restrictions that will be recorded on the project, and meeting the obligations set forth in the HCD Standard Agreement. HCD is also requiring an agreement to this effect as a condition to its approval of the Property transfer.

Climate Smart San José Analysis

The staff recommendation in this memorandum furthers the goal of Climate Smart San José by facilitating the creation of low-income housing close to jobs and transit, which would reduce vehicle miles traveled and greenhouse gas emissions. The site is located 0.3 miles from the light-rail stop at Gish Station.

EVALUATION AND FOLLOW-UP

The Housing Department produces periodic information memoranda regarding the use of the Director of Housing's Delegation of Authority under the San José Municipal Code; therefore, any additional actions related to this Property would be summarized in those memoranda. In addition, the Housing Department posts periodic reports on the status of its affordable residential properties undergoing rehabilitation or construction on its website, www.sjhousing.org. If the recommended actions are approved, they would also be included in the Housing Department's periodic production reports.

COST SUMMARY/IMPLICATIONS

The staff recommendations in this memorandum include budget actions to increase the Measure E – Interim Housing Construction and Operations – SureStay Operations appropriation by \$2.5 million, from \$500,000 to \$3.0 million, offset by a reduction to the Measure E – Interim Housing and Construction and Operations Reserve, to pay for the first of three years of operating costs for the FSIH site. An original \$500,000 was budgeted to be available for immediate property management needs, to be addressed by LifeMoves and their subcontractor Jamboree Housing Corporation, while an agreement with the SCCHA was negotiated. However, as this \$500,000 has not been expended against, the full \$3.0 million is available for 2023-2024 operating expenses in an agreement with the SCCHA or its affiliated entity. Payments for the second and third year of the agreement will be brought forward for City Council approval in Fiscal Year 2024-2025 and Fiscal Year 2025-2026, respectively, during a future budget process. Payments in the future may again be from Measure E allocations in the General Fund, or another eligible source, including grant funds, as appropriate.

The \$4.0 million for capital repair needs is already included in the Fiscal Year 2023-2024 Modified Budget.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the grant agreements recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Total Appn.	Rec. Budget Action	Amt. for Contract	2023-2024 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	226G	Measure E – SureStay Hotel Repairs (40% ELI)	\$4,000,000	\$0	\$4,000,000	896	6/20/2023 30933
001	8786	Measure E – Interim Housing Construction and Operations Reserve (15% HSP)	\$10,021,952	(\$2,500,000)	\$0	934	10/17/2023 30966
001	227O	Measure E – Interim Housing Construction and Operations – SureStay Operations (15% HSP)	\$500,000	\$2,500,000	\$3,000,000	886	6/20/2023 30933

COORDINATION

This memorandum has been coordinated with the City Attorney’s Office.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the November 28, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

November 15, 2023

Subject: Agreements with Santa Clara County Housing Authority for Services at First Street Interim Housing and Assumption of Homekey Obligations

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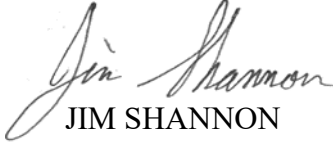
CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; Categorical Exempt, File No. ER23-252, CEQA Guidelines Section 15301, Existing Facilities.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
ROSALYNN HUGHEY
Deputy City Manager and
Acting Housing Director


JIM SHANNON
Budget Director

The principal author of this memorandum is Michael Reynolds, Senior Development Officer, Residential Development Division, Housing Department. For questions, please contact Kemit Mawakana, Division Manager, Residential Development Division, Housing Department at (408) 784-0678 or kemit.mawakana@sanjoseca.gov.

Attachment: Summary of City Council Actions Regarding First Street Interim Housing

ATTACHMENT

SUMMARY OF PREVIOUS CITY COUNCIL ACTIONS REGARDING FIRST STREET INTERIM HOUSING

June 2020: The California Department of Housing and Community Development (HCD) announced the availability of \$600 million in the first round of Homekey grant funding. The City submitted a grant application for the purchase of First Street Interim Housing (formerly the SureStay Hotel) on August 10, 2020. In September 2020, HCD announced the first round of Homekey grant awards, which included \$12,230,477 in funding for the City to acquire the property.

City Council Agenda October 20, 2020¹: Ratification of the submission of the Homekey application and provided authorization to the City Manager to negotiate and execute the HCD Standard Agreement for \$10,868,000 in acquisition funding and up to \$1,362,477 in operating subsidy totaling \$12,230,477 from HCD in Homekey funds. This action also authorized the City Manager to negotiate and execute a Purchase and Sale Agreement with San José Hospitality, Inc., for the Housing Department to purchase First Street Interim Housing for \$14,136,000.

In order to provide a smooth transition of services at the property, the initial memorandum to City Council also included a request to authorize the Director of Housing to negotiate and execute a Property Management Agreement with San José Hospitality, Inc., for the purposes of providing property management services upon acquisition for the duration of 120 days in the amount of \$400,000. During that time, the City issued a Request for Proposals, and Abode Services was selected as the onsite property manager and participant service provider.

City Council Agenda September 27, 2022² – Abode provided property management and participant services at First Street Interim Housing from February 1, 2021 until they transitioned out of these roles in October 2022. The City issued a Request for Qualifications for qualified property managers and service providers, and LifeMoves was selected and transitioned into the property in January 2023.

In 2021, the City also began to explore options for selling the property to an experienced organization with a shared vision of supporting participants transitioning out of homelessness that could enhance property management services and provide quality participant services. Housing published a Request for Proposals in December 2021 for housing developers to submit development applications for six City-owned sites, including the First Street Interim Housing. The Santa Clara County Housing Authority (SCCHA) and Jamboree proposal were the only responses submitted for First Street Interim Housing site and were selected from the process.

¹ October 20, 2020 City Council Memorandum:

<https://www.sanjoseca.gov/home/showpublisheddocument/65261/637378549550030000>

² September 27, 2022 City Council Memorandum:

<https://sanjose.legistar.com/View.ashx?M=F&ID=11246501&GUID=40ACC8D4-7D52-4DF2-A9A1-3AD9B26043E4>

Jamboree, operating as First Street Interim Housing Asset Manager selected Domus Management, an experienced and competent property management team, to operate as the onsite third-party property and facility management service provider. In September 2022, the Housing Department began negotiating with SCCHA to sell First Street Interim Housing to them. The second memorandum taken to City Council declared the First Street Interim Housing “exempt surplus land” pursuant to California Government Code §54221(f)(1)(D) and San José Municipal Code Section 4.20.080; as such, the City Council approved the sale of the site to SCCHA for \$1. The City Council’s action also authorized the City Manager, or her designee, to negotiate and execute the Purchase and Sale Agreement, the deed, and all other documents necessary to complete the sale transaction. The PSA has been drafted and approved by the SCCHA Board of Directors.

In this second memorandum, onsite operations was also addressed. The Housing Department received authorization to negotiate and execute an operations agreement with LifeMoves, not to exceed \$1,700,000 of Measure E funds from October 1, 2022 to June 30, 2023 for property management and participant supportive services at First Street Interim Housing³. This agreement was structured in a way that allowed for LifeMoves and Jamboree to provide onsite operations services.

As part of this agreement, LifeMoves, as Primary Grantee, served as program manager at the First Street Interim Housing and was responsible for developing detailed policies and procedures and providing supportive services to participants. Jamboree, as a sub-consultant in the agreement, served as the Asset Manager of the property by providing accounting services and financial reporting. Additionally, Jamboree, as Asset Manager, was responsible for hiring a management company to oversee the day-to-day operations of the property; Jamboree hired Domus Management to operate and manage First Street Interim Housing. The term of the initial operating agreement with LifeMoves was from December 9, 2022 to June 30, 2023.

The property management portion of this agreement was originally terminated on February 28, 2023. As described below, on March 28, 2023 the City Council authorized an amendment to the agreement to extend the property management services provided by Jamboree and Domus until June 30, 2023.

City Council Agenda March 28, 2023⁴ – Over the course of negotiations with SCCHA and Jamboree to sell the property it became apparent that First Street Interim Housing had immediate repair needs that were critical to address for operations to continue efficiently onsite. The Housing Department made a financial commitment to address these needs and committed to ongoing financial support by providing three years of operations funding.

³Link to City Council Memorandum: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://sanjose.legistar.com/View.ashx?M=F&ID=11246501&GUID=40ACC8D4-7D52-4DF2-A9A1-3AD9B26043E4>

⁴ March 28, 2023 City Council Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=11785683&GUID=E8B52E15-32C0-4807-BA46-22F63AEBECE>

The most recent memorandum taken to City Council sought approval to address the immediate repair needs to the building and onsite grounds and requested approval to enter into an operating agreement with Jamboree for asset management and resident services. The Housing Department coordinated with Jamboree to develop a budget and scope of work to address the immediate repair needs onsite to enhance functionality and living conditions for program participants and staff working onsite. In March 2023, City Council adopted a resolution authorizing the Director of Housing or their designee to negotiate and execute a conditional construction grant agreement and related documents with Jamboree Housing Corporation in an amount of up to \$4,000,000 of Measure E funds to address the repair needs.

Also in March 2023, the Housing Department also sought approval on two actions to address property management and services. The first action sought authorization for an amendment to the current operations grant agreement with LifeMoves to increase the amount by \$367,100 of Measure E funds and extend the term of the sub-contractor (Jamboree) for a total grant award not to exceed \$1,700,000 for property management and supportive services at First Street Interim Housing as necessary to include property management services provided by Domas Management team into the operations agreement and align the termination date of the agreement.

In addition to the \$4M in rehabilitation funds, Housing also made a commitment to provide \$9M in operations funding over three years to Jamboree. The memorandum requested approval to negotiate and execute an operations grant agreement beginning in Fiscal Year 2023-2024 with three one-year options to extend, for a grand total not to exceed \$9,000,000 of Measure E funds with Jamboree⁵. It was anticipated at the time that the property would transfer to SCCHA in spring 2023 and Jamboree and SCCHA would enter into a ground lease and Memorandum of Understanding to operate at First Street Interim Housing. The intent at this time was to ensure that Jamboree had the vital ongoing operations funding they needed to continue to provide quality services onsite. It was originally planned that LifeMoves and Jamboree would both remain onsite during the sale and transfer of the property and once the agreements between SCCHA and Jamboree were executed LifeMoves would transition out as the participant services provider.

⁵ Link to City Council Memorandum: <chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://sanjose.legistar.com/View.ashx?M=F&ID=11785683&GUID=E8B52E15-32C0-4807-BA46-22F63AEBECE>