

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) FINDING THAT THE AWARD OF THE PROPOSED DESIGN-BUILD CONTRACT FOR THE 10233 - BUILDING: EMERGENCY INTERIM SHELTER RUE FERRARI EXPANSION PROJECT (“PROJECT”) WILL RESULT IN LOWER COSTS AND/OR FASTER PROJECT COMPLETION THAN IF THE CITY USED THE DESIGN-BID-BUILD METHOD OF PROJECT DELIVERY; (2) AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO NEGOTIATE A DESIGN-BUILD CONTRACT FOR THE PROJECT; (3) AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO: (I) AWARD AND EXECUTE THE DESIGN-BUILD CONTRACT FOR THE PROJECT IN AN AMOUNT NOT TO EXCEED \$25,000,000 WITH THE DESIGN-BUILD ENTITY WITH WHOM THE CITY HAS SUCCESSFULLY COMPLETED NEGOTIATIONS, (II) DECIDE ANY TIMELY BID PROTEST(S) AND MAKE THE CITY’S FINAL DETERMINATION AS TO THE FINAL RANKINGS OF DESIGN-BUILD ENTITIES THAT RESPONDED TO THE REQUEST FOR PROPOSALS FOR THE PROJECT, AND (III) NEGOTIATE AND EXECUTE TASK ORDERS UP TO THE CONTRACT NOT-TO-EXCEED AMOUNT AS NECESSARY TO MEET PROJECT COMPLETION; (4) APPROVING A CONTINGENCY IN THE AMOUNT OF 10% OF THE NEGOTIATED DESIGN-BUILD CONTRACT NOT-TO-EXCEED AMOUNT FOR CITY-APPROVED CHANGES TO THE DESIGN SCOPE AND UNFORESEEN CONDITIONS THAT MIGHT ARISE IN THE CONSTRUCTION; AND (5) APPROVING THE PROJECT AS A “COMMITTED ADDITION” TO THE 2024-2025 BASE BUDGET, CERTIFYING THAT ALL OPERATING AND MAINTENANCE COSTS ASSOCIATED WITH THE PROJECT WILL BE INCLUDED IN FUTURE FIVE-YEAR GENERAL FUND FORECASTS, BEGINNING WITH THE 2025-2029 FORECAST

WHEREAS, the Rue Ferrari Emergency Interim Shelter (“EIH”), located at 5898 Rue Ferrari, San José, was built in 2020 and includes 82 units, with a maximum capacity for participants of up to 124 individuals; and

WHEREAS, the existing EIH site was reviewed by City staff and deemed a viable choice for expansion based off its existing use and availability of vacant land to grow and increase the number of individuals who can participate in this program; and

WHEREAS, on June 21, 2022, the City Council approved the existing EIH site for expansion and directed staff to further develop the site to allow up to 100 additional units/beds; and

WHEREAS, the 10233 - Building: Emergency Interim Shelter Rue Ferrari Expansion Project (“Project”) aims to increase the capacity of the current EIH site, adding approximately 134 beds, dependent on the completed design; and

WHEREAS, Section 1217(c)(2) of the City Charter and Chapter 27.14 of the San José Municipal Code authorize the City to procure, negotiate and award a design-build (“DB”) contract under the following conditions: (1) the contract exceeds \$1,000,000; and (2) the City Council finds that using the DB procurement and project delivery method would save money or result in faster project completion than the traditional design-bid-build process; and

WHEREAS, prior to initiating the procurement for the Project, City staff analyzed the potential impacts and determined that utilizing the DB delivery method will expedite project delivery and reduce the overall project duration by approximately 80 working days, when compared to the design-bid-build method; and

WHEREAS, the design process will be more efficient because the contractor can be involved in the design stages to help maintain cost consistency and provide support for constructability issues; and, more significantly, a DB contract will allow the contractor to have greater flexibility and control over the timeline to procure products that have

historically had long lead times, such as the prefabricated buildings, thereby allowing for greater efficiencies and overlapping processes during the design phase; and

WHEREAS, on May 24, 2023, City staff issued a Request for Qualifications (“RFQ”) and received four Statements of Qualifications from prospective DB teams, three of which were determined by the procurement staff to meet the minimum requirements set forth in the RFQ (“DB Entities”); and

WHEREAS, on July 28, 2023, the City issued a Notice of Determination listing the ranking order of each responsive DB Entity and indicated that all three responsive firms were “shortlisted” to advance to the second step in the procurement process; and

WHEREAS, on September 8, 2023, staff issued a Request for Proposals to the three shortlisted DB Entities from the RFQ process; and

WHEREAS, on November 13, 2023, the City issued a Notice of Final Rankings, listing the ranking order of each DB Entity and indicating that it intends to enter negotiations with Level 10 Construction LP as the DB Entity whose proposal was determined to provide the best value to the City; and

WHEREAS, the City desires to proceed with the proposed DB delivery method to streamline the design and construction process in order to expedite completion of the Project, and to stay on track with the goal to provide 1,000 EIH units/beds in 2025; and

WHEREAS, the City desires to authorize the Director of Public Works to negotiate, award and execute a Design-Build Contract for the Project in order to enable final design work to begin in January 2024 and allow the expansion to the existing EIH site to be completed by Fall 2024; and

WHEREAS, San Jose Municipal Code Section 27.04.050 provides for a standard contingency of 10% on all public works contracts except those involving the renovation of a building or buildings, and the City desires to approve a 10% contingency in order to provide funding for any unanticipated work necessary for the proper completion or construction of the Project; and

WHEREAS, in accordance with past City Council direction, when the City Council approves a contract to move forward with development of a new interim housing site or expansion of an existing interim housing site, the City Council will also include the ongoing costs for that site as a Committed Addition to the Base Budget and future Five-Year Forecasts; and

WHEREAS, the City desires to approve the Project as a “Committed Addition” to the 2024-2025 Base Budget in order to align and prioritize the financial resources to build, operate, and maintain the facilities implemented by the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. In compliance with the requirements of Section 1217(c)(2) of the City Charter and Chapter 27.14 of the San José Municipal Code:

A. The City Council hereby finds that:

1. The estimated cost of the Design-Build Contract for the Project is \$25,000,000;
2. The expected time savings to be achieved from using the Design-Build project delivery method is approximately 80 working days.

B. Based on the above facts, the City Council hereby makes the following findings:

1. The cost of the proposed Design-Build Contract for the Project exceeds \$1,000,000; and
2. The delivery of the Project by Design-Build will result in lower costs and/or faster Project completion than if the City used the Design-Bid-Build method of project delivery.

C. Based on the above findings, the City Council hereby determines that the requirements of Section 1217(c)(2) of the City Charter and Chapter 27.14 of the San José Municipal Code are satisfied.

SECTION 2. The Director of Public Works is hereby authorized to:

A. Negotiate a Design-Build Contract for the 10233 - Building: Emergency Interim Shelter Rue Ferrari Expansion Project as follows:

1. Begin negotiating with the highest ranked Design-Build Entity, Level 10 Construction LP;
2. Begin negotiating with the next highest Design-Build Entity, if, having negotiated with Level 10 Construction LP, the Director of Public Works determines that the City's interests are best served by beginning negotiations with the next highest ranked Design-Build Entity; and
3. Begin negotiating with each of the other Design-Build Entities in order of their ranking as the Director of Public Works deems appropriate.

- B. Award and execute the Design-Build Contract for the 10233 - Building: Emergency Interim Shelter Rue Ferrari Expansion Project in an amount not to exceed \$25,000,000 with the Design-Build Entity with whom the City has successfully completed negotiations;
- C. Decide any timely bid protest(s) and make the City's final determination as to the final rankings of Design-Build Entities that responded to the Request for Proposals for the Project; and
- D. Negotiate and execute Task Orders up to the Contract not-to-exceed amount as necessary to meet Project completion.

SECTION 3. A contingency in the amount of 10% of the negotiated Design-Build Contract not-to-exceed amount for City-approved changes to the design scope and unforeseen conditions that might arise in the construction is hereby approved.

SECTION 4. The City Council hereby approves the 10233 - Building: Emergency Interim Shelter Rue Ferrari Expansion Project as a "Committed Addition" to the 2024-2025 Base Budget, certifying that all operating and maintenance costs associated with the Project will be included in future Five-Year General Fund Forecasts, beginning with the 2025-2029 Forecast.

ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk