



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Loesch  
Rosalynn Hughey  
Jim Shannon

**SUBJECT:** SEE BELOW

**DATE:** November 30, 2023

Approved

Date

11/30/2023

**COUNCIL DISTRICT: 2**

**SUBJECT: ACTIONS RELATED TO THE 10223-BUILDING: EMERGENCY  
INTERIM SHELTER RUE FERRARI EXPANSION PROJECT**

## RECOMMENDATION

(a) Adopt a resolution:

- (1) Finding that the award of the proposed Design-Build Contract for the 10233-Building: Emergency Interim Shelter Rue Ferrari Expansion 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 10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project as follows:
  - (i) Begin negotiating with the highest ranked Design-Build Entity, Level 10 Construction LP;
  - (ii) Begin negotiating with the next highest Design-Build Entity, if having negotiations 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
  - (iii) Begin negotiating with each of the other Design-Build Entities in order of their ranking as the Director of Public Works deems appropriate.
- (3) Authorizing the Director of Public Works to:
  - (i) 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; and
    - (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;
    - (iii) Negotiate and execute Task Orders up to the contract not-to-exceed amount as necessary to meet Project completion; and
  - (4) Approve 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.
  - (5) Approve the 10233: Building: Emergency Interim Shelter Rue Ferrari Expansion Project as a “Committed Addition” to the 2024-2025 General Fund 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 2025-2029 Forecast.
- (b) Adopt the following Fiscal Year 2023-2024 Appropriation Ordinance Amendments in the Homeless Housing, Assistance, and Prevention Fund:
- (1) Increase the estimate for Revenue from the State of California by \$7,000,000; and
  - (2) Increase the Emergency Shelters appropriation to the Housing Department by \$7,000,000.

### **SUMMARY AND OUTCOME**

Approval of the resolution authorizing the Director of Public Works to negotiate, award and execute a Design-Build (DB) contract for the 10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project (Project) will enable final design work to begin in January 2024 and allow the expansion to the existing Rue Ferrari Emergency Interim Shelter (EIH) to be completed by fall 2024. Approval of a 10 % contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the Project.

The appropriation amendments and committed addition to the General Fund Base Budget will align and prioritize the financial resources to build, operate, and maintain the facilities implemented by the Project.

### **BACKGROUND**

On June 21, 2022, 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.

The Project is located within the existing EIH community at 5898 Rue Ferrari, San José. (See **Attachment** – Location Map - 10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project). The existing EIH community was built in 2020 and includes 82 units. Currently, the maximum capacity for participants at the existing EIH is up to 124 individuals. The existing EIH site was reviewed by staff and deemed a viable choice for expansion based off its existing use, thereby making it a viable site from the standpoint of access, utility connections, etc. It also has available vacant land to expand facilities and therefore increase the number of individuals who can participate in this program.

The Project aims to increase the capacity of the current site, adding approximately 134 beds, though the final bed count will be dependent on the completed design. The Project scope includes the construction of roughly 29 new single-story modular housing buildings, each containing up to four units. Each unit would include a room with a bed, bathroom, and space for personal items. Additionally, this site will include three one-story common use buildings, which includes shared facilities such as a kitchen, dining area, laundry facilities, office area, private case management rooms, storage units, and recreational spaces. Site improvements include wood fencing, on-site parking for residents and staff, outdoor picnic/gathering areas, dog runs, landscaping, additional site lighting, utilities, and other improvements.

If approved, project work is anticipated to begin in early January 2024, with a construction window through fall 2024, though the final delivery schedule will be negotiated with the contractor. During the construction phase, staff will manage the construction scheduling and coordination, to ensure minimum interruption and inconvenience that might occur to the existing facility during the construction work for this Project.

## **ANALYSIS**

### *Design-Build Project Delivery Model*

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 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.

The DB project delivery method allows for a greater collaboration between the designer, the contractor, and the City. This methodology allows for a single procurement phase, early price certainty, and fast tracking which is accomplished by paralleling design and construction activities. This method of project delivery includes one entity (design-builder) and a single

contract with the owner to provide both architectural/engineering design services and construction.

Prior to initiating the procurement, staff analyzed the potential impacts and determined that utilizing the design-build 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. 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. 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. Therefore, staff recommends proceeding with the proposed DB project delivery method to streamline the design and construction process in order to provide much needed additional shelter beds for our community.

#### *Design-Build Contract Procurement*

The process for selecting the DB Entity consists of two steps, consistent with Chapter 27.14 of the San José Municipal Code.

1. The City issues a Request for Qualifications to evaluate and rank submitted Statement of Qualifications from DB entities, to determine the most highly qualified team to deliver the project. The City issues a Notice of Determination listing the ranking order of each DB Entity and indicates how many of the highest-rated Entities may participate in Step 2.
2. The City issues a Request for Proposals for the project to the shortlisted DB entities from Step 1, to evaluate and rank submitted proposals. The City will then award the DB contract to the entity whose proposal is determined to provide the best value to the City, based off an evaluation of objective criteria set forth in the Request for Proposals, such as project approach, price, schedule, and life-cycle costs.

#### *Request for Qualifications*

On May 24, 2023, staff issued a Request for Qualifications 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 Request for Qualifications. A Technical Evaluation Panel comprised of Public Works staff evaluated and ranked the three responsive Statements of Qualifications in accordance with the qualification and evaluation criteria in the Request for Qualifications (listed below) to determine which DB entities were the most highly qualified to deliver the Project.

- Project Experience (45%)
- Key Personnel Experience (45%)
- Financials (10%)

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.

<b>Rank DB Entity</b>	<b>1 Swinerton Builders</b>	<b>2 Level 10 Construction LP</b>	<b>3 ADC Construction Management, Inc.</b>
<b>Evaluation Criteria</b>			
Project Experience	37.67	29.00	24.33
Key Personnel Experience	37.67	30.67	29.33
Financials	10.00	7.00	5.50
<b>Overall Score</b>	<b>85.34</b>	<b>66.67</b>	<b>59.16</b>

Concurrently, staff entered into an agreement with ELS Architecture and Urban Design to develop the Project scope, conduct site planning, and develop 30% design documents that could be transitioned to a DB team for final design and construction.

*Request for Proposals*

On September 8, 2023, staff issued the Request for Proposals to the three shortlisted DB entities from the Request for Qualifications process. All three of the shortlisted DB entities submitted a proposal by the submittal deadline on October 20, 2023. Submitted proposals were scored by the Technical Evaluation Panel in accordance with the qualification and evaluation criteria listed below:

- Project Approach Section (12.5%)
- Design Narrative and Design Renderings (7.5%)
- Schedule and Phasing Section (15%)
- Safety and Security Approach Section (2.5%)
- Subcontracting Plan Section (2.5%)
- SOQ Carry-Over Score (20%)

In total, the Technical Evaluation Panel’s evaluation of the proposals accounted for 60% of each DB Entity’s score. The remaining 40% of each DB Entity’s score was determined after proposals were evaluated:

- Interview (20%)
- Price Proposal (10%)
- Local Business Preference (5%)
- Small Business Preference (5%)

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.

<b>Rank DB Entity</b>	<b>1 Level 10 Construction LP</b>	<b>2 Swinerton Builders</b>	<b>3 ADC Construction Management, Inc.</b>
<b>Evaluation Criteria</b>			
Proposal	32.30	31.30	21.43
SOQ Carry-Over	13.33	17.07	11.83
Oral Interviews	17.17	15.33	11.87
Price	8.50	6.77	10.00
Local/Small Business Preference	5.00	5.00	10.00
<b>Overall Score</b>	<b>76.30</b>	<b>75.47</b>	<b>65.13</b>

Pursuant to the process outlined in the Request for Proposals, the City will enter into contract negotiations with Level 10 Construction LP with consideration given to profit and overhead, general conditions, design fees, project/construction management, construction acceleration concepts, and stakeholder engagement methods. In the event that the Director of Public Works determines that the City and Level 10 Construction LP are not making adequate progress on the negotiations of the contract, the Director of Public Works will begin negotiating with the next highest ranked DB Entity and will continue with each of the other DB Entities in order of their ranking as the Director determines is appropriate in order to reach an agreement.

*Contingency*

San José 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. The standard 10% contingency is appropriate for this Project.

*Wage Theft Prevention Policy Check*

The Department of Public Works Office of Equality Assurance reviewed bidders for compliance with the City’s Wage Theft Prevention Policy on October 20, 2023 and again on November 15, 2023. No wage theft violations were identified.

*Project Labor Agreement Applicability*

The City’s Project Labor Agreement is applicable to this project because the Engineer’s Estimate is over \$1.22 million.

### *Local and Small Business Outreach*

The recommended DB entity is a local, but not a small business enterprise.

### **EVALUATION AND FOLLOW-UP**

No additional follow-up action with City Council is anticipated at this time.

### **COST SUMMARY/IMPLICATIONS**

The State of California awarded \$26,795,466 to the City for Round 4 of the Homeless Housing, Assistance, and Prevention grant. Of this amount, \$13,397,733 has previously been recognized and appropriated. Actions included in this memorandum recognize an additional \$7,000,000 to support the Project. Remaining Homeless Housing, Assistance, and Prevention funds will be recognized in a future budget action for previously approved uses for homeless prevention and support services. In addition to Homeless Housing, Assistance, and Prevention funds, the Project is funded from previous one-time allocations in the General Fund and resources in the Multi-Source Housing Fund.

Once the Project is completed, the annual operating costs of the combined facility – original and expanded footprint – is estimated at approximately \$5.2 million, an increase from the \$3.7 million to operate the existing footprint. However, the Housing Department will publish a Request for Proposals in winter 2024 for new interim housing operators and will negotiate with the selected site operator for permanent operational and maintenance costs. A new agreement will be brought to City Council for approval and the associated expenses will be included in the 2024-2025 budget.

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 General Fund Base Budget and future Five-Year General Fund Forecasts. Typically, inclusions of Committed Additions associated with ongoing costs related to capital projects are accompanied by a certification in accordance with City Council's Budget Principle #8, adopted during the 2008-2009 Budget Process, which states that "funding for the entire project, including operating and maintenance costs, will not require a decrease in existing basic neighborhood services."

While the ongoing cost of the Project will not, by itself, pose a risk to basic neighborhood services, the City's growing portfolio of interim housing sites, the significantly elevated construction costs necessary to ensure that sufficient improvements are implemented to make a site successful, and declining Measure E revenues and external funding sources are putting significantly increased pressure on the General Fund to continue future construction and

operations. Assuming that both this Project and the Berryessa Supportive Parking Project, also on the City Council’s December 12, 2023 agenda, move forward based on a preliminary forecast of costs and available resources for interim housing, a General Fund contribution of approximately \$10 million will be necessary in 2024-2025 to support the interim housing portfolio and will need to steadily increase to \$50 million by 2028-2029. Should the Cerone, Via Del Oro, and Cherry EIH sites also move forward for construction, the 2024-2025 General Fund contribution to support the addition of all five sites to the interim housing portfolio would be approximately \$38 million and increase to \$70 million by 2028-2029.

It is important to note that these figures are preliminary and will be revised prior to the release of the 2025-2029 Five Year General Fund Forecast at the end of February 2024. Staff will also be refining and optimizing operating cost models and continue to pursue additional external funding resources.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT

Project Delivery *	\$3,760,000
Construction (Engineer’s Estimate)**	\$25,000,000
Contingency	\$2,500,000
<b>TOTAL PROJECT COSTS</b>	<b>\$31,260,000</b>
Prior Years’ Expenditures and Encumbrances	\$392,006
<b>TOTAL REMAINING PROJECT COSTS</b>	<b>\$30,867,994</b>

\*Project delivery includes review of request for qualifications and proposals, design and bid/ award services, construction management, and inspection services.

\*\* Based off prior bids received, current stage of design, and the volatility of the current bidding climate, staff expects that the negotiated contract amount could be as high as \$25 million. As outlined below, sufficient resources are available for the requested \$25 million authorization.

**BUDGET REFERENCE**

The table below identifies the fund and appropriation to fund the contract recommended as part of this memorandum and the remaining Project costs, including project delivery, construction, and contingency costs.

HONORABLE MAYOR AND CITY COUNCIL

November 30, 2023

**Subject:** Actions Related to the 10223-Building: Emergency Interim Shelter Rue Ferrari Expansion Project

Page 9

Fund #	Appn #	Appn Name	Total Appn	Rec. Budget Action	Amt. for Project	2023-2024 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
454	R100	Revenue from the State of California	\$47,887,931	\$7,000,000	\$0	1017	10/17/2023 23-361
001	217P	Emergency Housing - Construction and Operation	\$6,479,004	\$0	\$6,000,000	915	10/17/2023 30966
001	224B	Emergency Interim Housing Construction and Operation	\$29,847,000	\$0	\$6,500,000	918	10/17/2023 30966
454	209X	Emergency Shelters	\$21,337,581	\$7,000,000	\$15,867,994	1017	10/17/2023 30966
448	209X	Emergency Shelters	\$3,180,526	\$0	\$2,500,000	1040	10/17/2023 30966

**COORDINATION**

This memorandum has been coordinated with the City Attorney’s Office and the Planning, Building, and Code Enforcement Department.

**PUBLIC OUTREACH**

This memorandum will be posted on the City’s Council Agenda website for the December 12, 2023 City Council Meeting.

**COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

**CEQA**

Determination of Consistency with the Mitigated Negative Declaration for the Emergency Interim Housing Programs Project (Resolution No. 2023-380), File No. ER23-254.

HONORABLE MAYOR AND CITY COUNCIL

November 30, 2023

**Subject:** Actions Related to the 10223-Building: Emergency Interim Shelter Rue Ferrari Expansion Project  
Page 10

**PUBLIC SUBSIDY REPORTING**

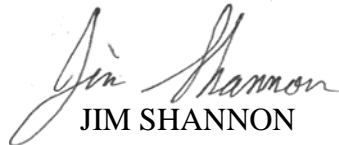
This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

MATT LOESCH  
Director of Public Works

/s/

ROSALYNN HUGHEY  
Deputy City Manager  
Acting Housing Director



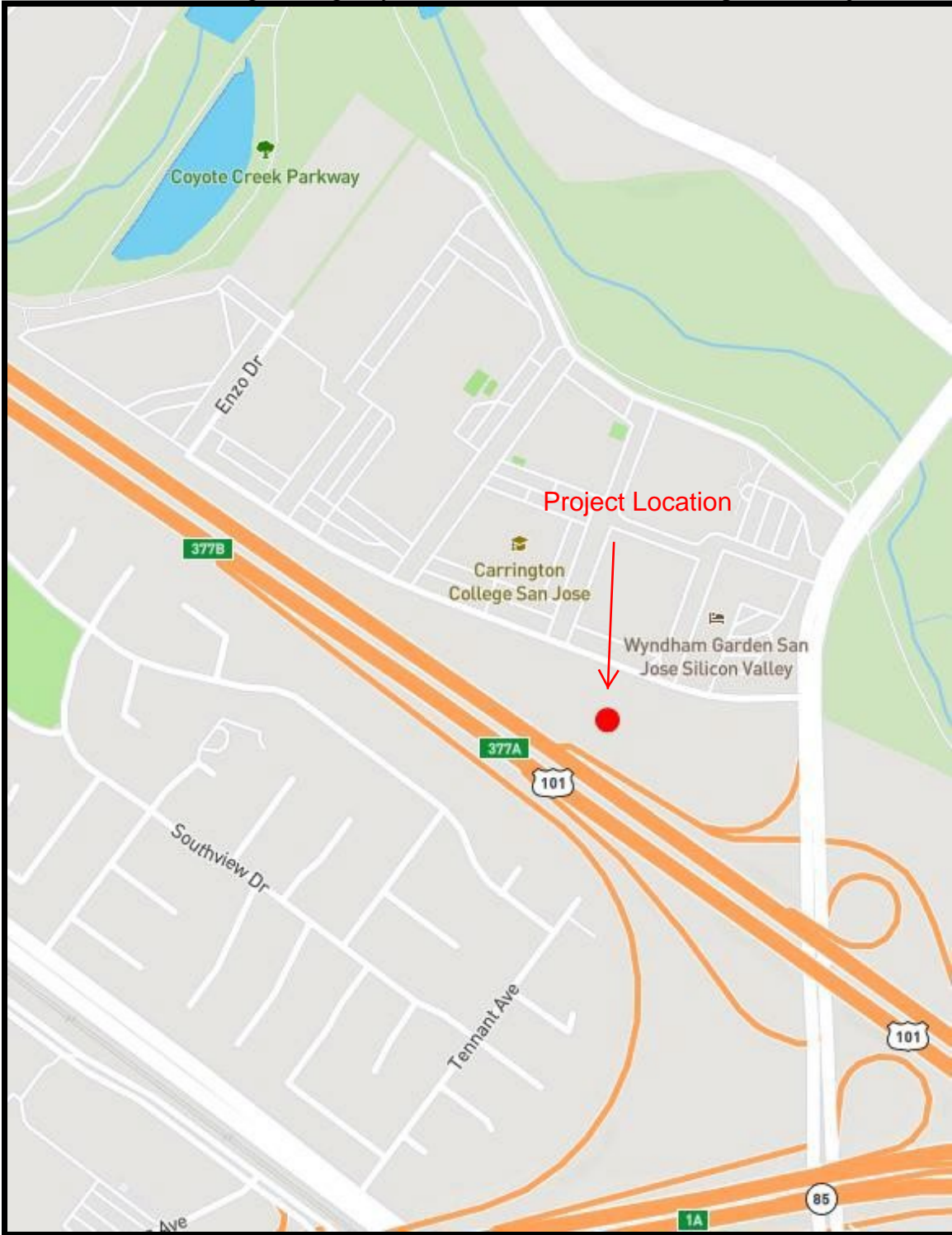
JIM SHANNON  
Budget Director

For questions, please contact Sal Kumar, Public Works Interim Deputy Director, at [Sal.kumar@sanjoseca.gov](mailto:Sal.kumar@sanjoseca.gov) or (408) 793-5307.

**ATTACHMENT** – Location Map - 10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project

**Attachment – Location Map**

10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project



**EMERGENCY INTERIM  
SHELTER RUE FERRARI  
EXPANSION LOCATION MAP**  
NOT TO SCALE

