



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: 3

**SUBJECT: ACTIONS RELATED TO THE 10338 - 1300 BERRYESSA SUPPORTIVE
PARKING PROJECT**

RECOMMENDATION

(a) Adopt a resolution:

- (1) Authorizing the Director of Public Works to approve the Initial Study/Mitigated Negative Declaration prepared for the RV Safe Parking Project at 1300 Berryessa Road (Planning File No. ER23-081) in compliance with the California Environmental Quality Act and implement the related Mitigation Monitoring and Reporting Program.
- (2) Authorizing the Director of Public Works to:
 - (i) Award and execute a contract for the construction of the 10338 – 1300 Berryessa Supportive Parking Project to the lowest responsive, responsible bidder in an amount not to exceed \$15,000,000;
 - (ii) Decide any timely bid protest(s) and make the City’s final determination as to the lowest responsive bidder that is responsible as needed to award the contract; and
 - (iii) Approve a contingency in the amount of 15% of the contract amount.
- (3) Approve the 1300 Berryessa Supportive Parking 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 the 2025-2029 Forecast.

- (b) Adopt the following Fiscal Year 2023-2024 Appropriation Ordinance Amendments in the General Fund:
- (1) Decrease Measure E – Interim Housing Constructions and Operations Reserve (15% HSP) by \$450,000; and
 - (2) Increase the Measure E – Supportive Parking Site Berryessa Road (15% HSP) City-Wide Expenses appropriation to the Housing Department by \$450,000.

SUMMARY AND OUTCOME

Approval of the resolution authorizing the Director of Public Works to approve the Initial Study/Mitigated Negative Declaration and implement the Mitigation Monitoring and Reporting Program and award and execute a construction contract for the 10338-1300 Berryessa Supportive Parking Project (Project) accelerates the construction contract award process to meet the aggressive completion timeline of fall 2024. Approval of a 15% 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

As part of its diverse portfolio of homelessness interventions, the City of San José introduced supportive parking programs, creating a designated and secure place for car and Recreational Vehicle (RV) dwellers to park, sleep and access services. Supportive parking programs are one type of crisis response program designed to address the immediate needs unsheltered individuals and families pursue while they seek other transitional or permanent housing. Supportive parking sites allow people who live in vehicles to park in a designated and secure lot without being subjected to potential citation and/or towing as they would be if parked on public streets.

Since December 2022, staff have worked to locate sites large enough to provide temporary shelter spaces and supportive parking opportunities for individuals experiencing homelessness. With the assistance of real estate firm, Newmark Knight Frank, staff identified an approximately 6-acre parcel of land located at 1300 Berryessa Road in San José that was suitable for the City's intended uses. On June 6, 2023¹, the City Council approved a resolution authorizing the City Manager, or her designee, to negotiate and execute a lease agreement between Terreno Berryessa LLC and the City of San José for the use of the 1300 Berryessa Road site for the development of supportive parking, storage and/or other emergency interim housing programs. (See **Attachment – Location Map – 10338 – 1300 Berryessa Supportive Parking Project**). At the same June 2023

¹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=6215309&GUID=617A4D09-0195-4CF2-BC51-C7E48F709B35&Options=&Search=>

City Council meeting, the City Council directed staff to pursue the 1300 Berryessa Road site for a new Recreational Vehicles Communities Supportive Parking Program project. Staff completed several scoping and site analysis exercises, including a health risk assessment, to ensure feasibility of the site for a supportive parking program. On June 15, 2023, the lease agreement was executed with an effective start date of June 30, 2023 for an initial term of 122 months (ending August 31, 2033).

The Project will develop a parking lot for up to 85 occupied RVs and 46 standard vehicles, plus additional space for storage or parking. The Project also includes installation of four prefabricated support buildings (kitchen, laundry, restrooms and office space), storage units, designated outdoor spaces including a dog run and community garden, site security lighting, landscaping, new sanitary sewer piping and connections, drainage enhancements, utilities, and other site improvements.

ANALYSIS

In coordination with the City Manager's Office and the City Council Office, staff is pursuing an aggressive project delivery schedule and aims to provide participant move-in as early as fall 2024.

Several steps have already been taken to capitalize on parallel processes and accelerate project delivery much quicker than a typical capital improvement project. On October 17, 2023, the City Council adopted a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of the California Government Code section 8698 *et seq.* and proclaiming a local emergency pursuant to, and in accordance with, the provisions of California Government Code sections 8558 and 8630, the San José City Charter, and San José Municipal Code caused by threatened conditions of the homeless in the City of San José. The City Council also approved an ordinance amending Title 5 of the San José Municipal Code to add Chapter 5.12 adopting reasonable local standards for the design, site development and operation of homeless shelters for emergency housing. This Project will be the first City project taking advantage of the recent shelter crisis resolution and ordinance, implementing State law on homeless shelters.

To streamline the California Environmental Quality Act (CEQA) process, staff is seeking authority for the Director of Public Works to approve the Initial Study/Mitigated Negative Declaration and implement related mitigations for this Project. Generally, the environmental documents are completed before City staff would bring forward the proposed CEQA documents and construction contract for Council review and approval. As explained in detail below in the CEQA section of this memorandum, the Planning Division of the Department of Planning, Building, and Code Enforcement have completed the environmental documents but under CEQA, the environmental documents must be circulated for public review and comments. If the

delegation of authority to award is approved, the Director of Public Works will work with the Planning Division to address any public comments, approve the Initial Study/Mitigated Negative Declaration, and implement the related mitigations without further City Council approval². The mitigations will be part of the specifications for the construction contract.

In addition to streamlining the CEQA process, the Department of Public Works staff worked in tandem with partner department staff (Departments of Planning, Building and Code Enforcement and Environmental Services) as early as February 2023 to begin key site analysis work (including a soils report and health risk assessment) while beginning to develop the conceptual site plan, all during lease agreement negotiations. The City's Real Estate staff accelerated lease agreement negotiations and included a due diligence period with abated rent, to allow for the completion of site analysis and project feasibility work. Shortly after the lease agreement was executed and full access to the site was permitted, staff continued with site surveying and utility mapping while coordinating with the City Manager's Office and partner department staff to finalize project scope and initiate critical CEQA work. Staff anticipates these reports and design completion by end of fall 2023, allowing for the project to advertise in late December.

Approval of the recommendations in this memo will allow staff to continue capitalizing on opportunities to accelerate project delivery and award a contract for the construction of the Project in early 2024.

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.

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. For this project, a contingency of 15% is being recommended due to the higher potential to encounter unforeseen conditions during construction. The funds budgeted for this project are sufficient for the recommended contingency.

EVALUATION AND FOLLOW-UP

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

² The City Council will be the decision-maker for any CEQA appeal for this Project under Title 21 of the Municipal Code.

COST SUMMARY/IMPLICATIONS

The 1300 Berryessa site's estimated onsite service costs are approximately \$5 million per year. The Housing Department plans to piggyback on the County of Santa Clara's Request for Qualified Service providers that was issued in Summer 2023 to select the onsite operator for the Berryessa site. The City is leasing the site from a private owner and the annual rent for Fiscal Year 2024-2025 is approximately \$1.7 million, of which \$1.45 million is currently budgeted. Budget actions are included to increase the Measure E – Supportive Parking Site Berryessa Road (15% Homeless Support Programs (HSP)) appropriation by \$450,000 to align the budget with the lease cost (\$250,000) and for a one-time security deposit (\$200,000).

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 General Fund Five-Year 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 the Project and the Emergency Interim Shelter Rue Ferrari Expansion Project also on this City Council 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 sites also move forward for construction, the 2024-2025 General Fund contribution would be approximately \$38 million to support the addition of all five sites to the interim housing portfolio 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 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*	\$2,100,000
Construction (Engineer's Estimate)**	\$15,000,000
Contingency	\$2,250,000
Total Project Costs	<u>\$19,350,000</u>
Prior Year Expenditures	\$0
Remaining Project Costs	\$19,350,000

* Project delivery includes \$500,000 for design services and \$1,600,000 for construction management and inspection services.

** Based off prior bids received, current stage of design phase, as well as the volatility of the current bidding climate, staff expects that bids could be as high as \$15 million. As described below, sufficient resources are available for the requested \$15 million authorization.

2. COST ELEMENTS OF ENGINEER'S ESTIMATE:

Mobilization and General Conditions	\$2,800,000
Demolition, Site Preparation and Earthwork	\$1,000,000
Utilities	\$1,300,000
Concrete, Metals and Finishes	\$1,200,000
Equipment and Specialties	\$150,000
Modular Units	\$3,000,000
Electrical and Communications	\$1,600,000
Exterior Improvements	<u>\$3,950,000</u>
TOTAL AGREEMENT/CONTRACT AMOUNT	\$15,000,000

BUDGET REFERENCE

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

Fund #	Appn #	Appn Name	Total Appn	Rec. Budget Action	Amt. for Project	2023-2024 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	224B	Emergency Interim Housing Construction and Operation	\$29,847,000	\$0	\$19,350,000	918	10/17/2023 30966
001	8786	Measure E – Interim Housing Constructions and Operations Reserve (15% HSP)	\$10,021,952	(\$450,000)	\$0	959	10/17/2023 30966
001	226W	Measure E – Supportive Parking Site Berryessa Road (15% HSP)	\$1,450,000	\$450,000	\$450,000	915	6/20/2023 30933

COORDINATION

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

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

A Draft Mitigated Negative Declaration and supporting Initial Study is in preparation for the RV Safe Parking Project at 1300 Berryessa Road (Planning File No. ER23-081) in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Draft Mitigated Negative Declaration and Initial Study was published for public review on November 21, 2023. The public comment period will be 20 days and end on December 11, 2023. Responses to any comments received on the Draft Mitigated Negative Declaration and Initial Study will be prepared and published on the City's website for this project at www.sanjoseca.gov/negativedeclarations/. Should any comments identify any new issues not analyzed in the Initial Study, the document will be revised and recirculated for public review. A Mitigated Negative Declaration was prepared because the analysis in the Initial Study showed that the impacts of the project would be mitigable.

Mitigation measures were developed to lessen the following impacts to less than significant levels: protection of unknown subsurface Tribal cultural resources and human remains, and exposure of construction workers to residual contamination from chemicals in the soil. A Mitigation Monitoring and Reporting Program will be prepared for the project.

Standard Conditions are also required to ensure that impacts do not occur during construction and operation of the project. These Standard Conditions include best management practices for construction related air quality impacts, protection of unknown subsurface archaeological resources, human remains, and paleontological resources, compliance with the California Building Code for seismic safety, prevention of soil erosion, and prevention of water quality impacts during construction.

At the conclusion of the CEQA review process, the Director of Public Works will review all documentation in the record prior to approving the Mitigated Negative Declaration on behalf of the City.

HONORABLE MAYOR AND CITY COUNCIL

November 30, 2023

Subject: Actions Related to the 10338 – 1300 Berryessa Supportive Parking Project

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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

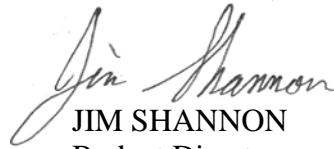
Director of Public Works

/s/

ROSALYNN HUGHEY

Deputy City Manager

Acting Housing Director

A handwritten signature in black ink, appearing to read "Jim Shannon".

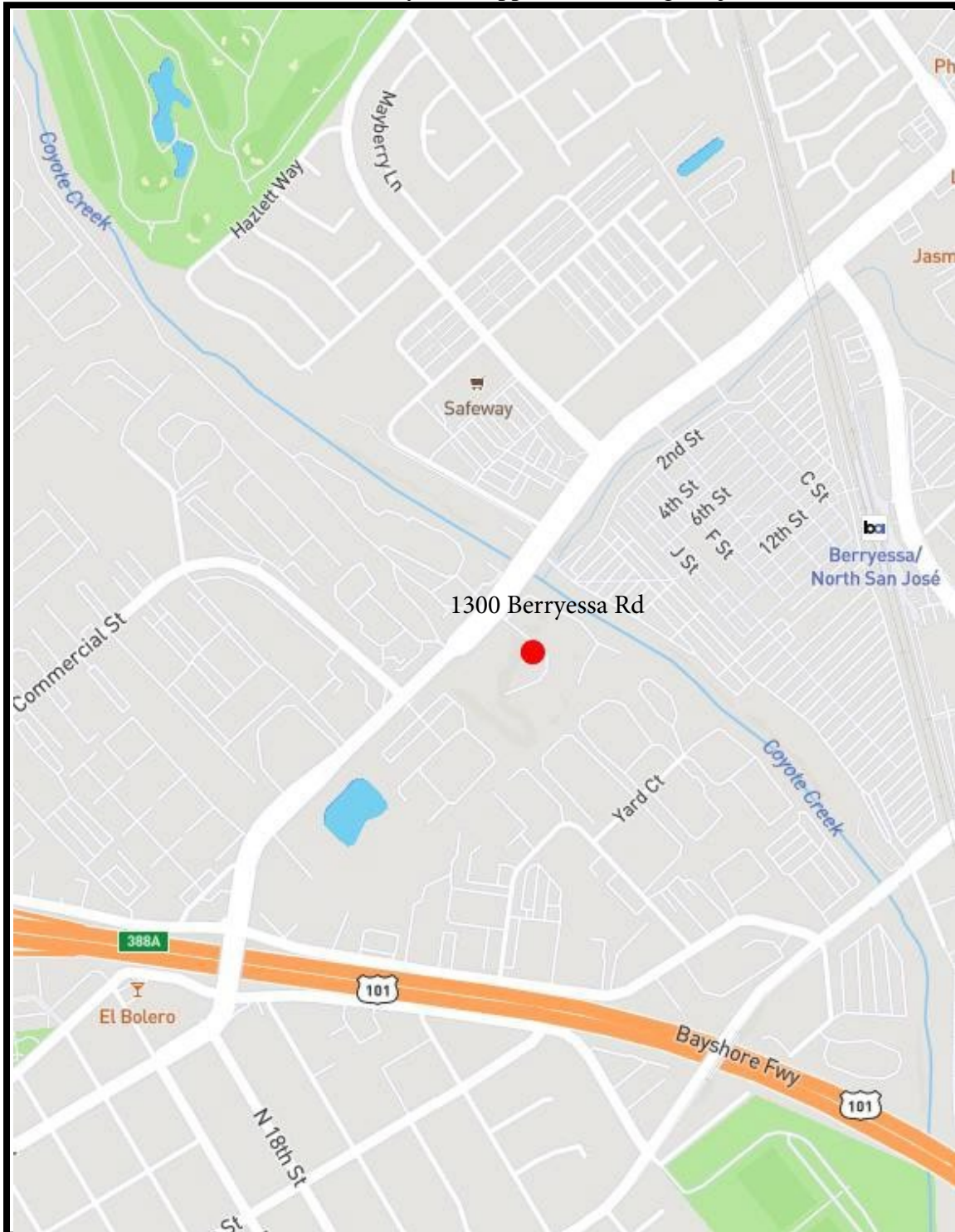
JIM SHANNON

Budget Director

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

ATTACHMENT – Location Map – 10338 – 1300 Berryessa Supportive Parking Project

Attachment –Location Map
10338- 1300 Berryessa Supportive Parking Project



**1300 BERRYESSA
SUPPORTIVE PARKING
LOCATION MAP**
NOT TO SCALE

