



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand
Jim Shannon

SUBJECT: SEE BELOW

DATE: February 24, 2023

Approved

Date

2/24/2023

COUNCIL DISTRICT: 2

SUBJECT: CITY INITIATIVES ROADMAP – EMERGENCY HOUSING SYSTEM EXPANSION: ACTIONS RELATED TO THE HOMEKEY PROGRAM ROUND 2 FUNDS FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR INTERIM HOUSING LOCATED AT BRANHAM LANE AND MONTEREY ROAD

RECOMMENDATION

- (a) Adopt a resolution:
 - (1) Authorizing the Director of Housing to renegotiate the terms of an agreement with LifeMoves to accept and receive an award of \$51,552,800 in HomeKey Program Round 2 funds from the California Department of Housing and Community Development to address the housing needs of individuals and families experiencing homelessness or at risk of experiencing homelessness through the construction and operations at an interim housing community on City-owned property located at Branham Lane and Monterey Road;
 - (2) Approving an increase to the existing City Council-approved grant commitment to LifeMoves by \$2,000,000; and
 - (3) Authorizing the existing City Council-approved grant of \$10,000,000 for the installation of kitchenettes to be allocated towards general construction costs of the Project including, but not limited to, the construction of kitchenettes in each unit.
- (b) Adopt the following 2022-2023 Appropriation Ordinance Amendments in the General Fund:
 - (1) Decrease the Measure E – 40% Extremely Low-Income Households Reserve by \$2,000,000; and
 - (2) Increase the Measure E – Project HomeKey 2.0 (40% ELI) appropriation to the Housing Department by \$2,000,000.
- (c) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:
 - (1) Decrease the Estimate for Revenue from the State of California by \$29,847,200; and
 - (2) Decrease the Project HomeKey 2.0 appropriation to the Housing Department by \$29,847,200.

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SUMMARY AND OUTCOME

The City Council approved a previous action on November 1, 2022 for an interim housing community that indicated the City would receive \$51.6 million in Housing and Community Development (HCD) Homekey Program Round 2 grant funding for the project. However, HCD is sending the funds directly to LifeMoves. City Council approval of these actions will allow LifeMoves to accept \$51.6 million in HCD Homekey Program Round 2 grant funding directly. It will also increase the total City grant for the project from \$10.0 million to a total of \$12.0 million. The Homekey award and City grant will fund the construction of an interim housing community providing 204 new interim housing units located at Branham Lane and Monterey Road and support the operations of the facility to serve extremely low-income unhoused individuals.

BACKGROUND

Homekey is a state grant program under HCD that provides grant funding to eligible applicants to quickly acquire, rehabilitate, or master lease a variety of housing types to provide interim or permanent housing options for individuals experiencing homelessness and who are also at risk of COVID-19. On September 9, 2021, HCD released its Notice of Funding Availability (NOFA) to announce the availability of approximately \$1.45 billion of Homekey grant funding through its second round NOFA.

On October 5, 2021, the City Council approved actions authorizing the City Manager to apply for a Homekey award for the City-owned property located at the intersection of Branham Lane and Monterey Road. On August 24, 2022, HCD announced that the City and LifeMoves had been awarded a Homekey award in the amount of \$51,552,800.

On November 1, 2022, City Council approved a resolution to accept an award of \$51,552,800 in Homekey Program Round 2 funds and negotiate and execute a California Department of Housing and Community Development Standard Agreement and all other necessary related documents to accept \$51,552,800 in construction funding and operating subsidy. The City Council memorandum indicated that the HCD funds would be received by the City and expended through a construction grant agreement and an operating grant agreement with LifeMoves.

On December 12, 2022, the City and LifeMoves, collectively named as grantees to the Standard Agreement, executed the HCD Standard Agreement naming LifeMoves as the Designated Payee of the funds.

ANALYSIS

The grant application to HCD names the City and LifeMoves as co-grantees. However, when the state released the Standard Agreement, which is the grant agreement, only one entity could receive the funds and be Designated as the Payee. Naming LifeMoves as the Designated Payee allows LifeMoves to directly receive HCD funds, but causes a discrepancy with what had been disclosed and approved by the City Council on November 1, 2022, which had designated the City as the recipient of HCD Funds. In order to resolve the discrepancy, staff recommends that City Council formally authorize LifeMoves to be the Designated Payee to the Standard Agreement and to authorize the Director of Housing to negotiate and execute new modified terms with LifeMoves.

Upon receipt of funds from HCD, LifeMoves will:

- Deposit \$22.7 million into a LifeMoves Homekey Account in Bank of America for capital expenditures and construction,
- Set up a separate reserve account entitled the “Homekey Reserve Account” at Bank of America in the amount of \$18 million; LifeMoves will have access to these funds after July 1, 2023, and
- Wire back to the City, \$10,852,800 that will be held by the City until the site is completed. These operating funds will be released, in full once the site receives a Certificate of Occupancy and an operations agreement has been executed by LifeMoves and the City.

Other key provisions of the new terms provide additional protections that allow the City to monitor the accounts and prevent additional funds from being spent if there is a breach in one of the agreements. Staff will have the ability to view and receive monthly bank statements for both the Homekey Reserve Account and the LifeMoves Homekey Account. This will allow the City to monitor the expenditures on both accounts. In addition, LifeMoves will not access the Homekey Reserve Account funds if the City issues a written notice to LifeMoves, prior to July 1, 2023, certifying that: (1) There is an active claim filed by HCD against LifeMoves or the City related to the project; or (2) LifeMoves has materially breached the Ground Lease and/or Grant Agreements.

LifeMoves has also agreed to invoice the City for expenses related to the project only after they have expended all the HCD funds, and a \$5.0 million grant received from the Sobrato Foundation. The City Council’s original approval contemplated that \$10 million of Measure E funds would be used solely for the kitchenettes. However, in order to allow for the City funds to be paid last into the project, the \$10 million must be allocated towards general construction costs. This will provide greater flexibility on how the existing City Council-approved grant of \$10 million are spent, as kitchenettes will be included as part of the overall construction budget.

The City has agreed to pay for reasonable and necessary cost overruns for the project as the original budget did not include a reserve. An additional cost of \$900,000 that was not anticipated

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in the project are costs associated with widening the units to meet code in order to accommodate the kitchenettes. In order to cover these costs and potential additional cost overruns, staff is recommending a \$2.0 million increase in the grant agreement for a total of \$12 million in funding to provide for a contingency fund to cover these costs.

Climate Smart San José Analysis

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals. The recommendation furthers the goals of Climate Smart by facilitating the creation of low-income housing close to jobs and transit, which would reduce vehicle miles traveled and greenhouse gas emissions.

EVALUATION AND FOLLOW-UP

The Housing Department produces quarterly information memoranda regarding the use of the Director of Housing’s Delegation of Authority under the Municipal Code; therefore, final loan business terms will be summarized in those memoranda. In addition, the Housing Department posts periodic reports on the status of its affordable properties undergoing rehabilitation or construction to its website, www.sjhousing.org. If the recommended actions are approved and the three developments successfully close construction financing, it would be included in these periodic reports.

COST SUMMARY/IMPLICATIONS

The recommended actions recognize the shift in how HCD funds will be received between the City and LifeMoves for the construction of 204 new interim housing units with kitchenettes at the City-owned property located at Branham Lane and Monterey Road and increase the supplemental funding from the City to support the cost of kitchenettes. Recommended actions include:

- Reducing HCD revenue that will be received by the City in 2022-2023 – along with a corresponding reduction of expenditures – in the Multi-Source Housing Fund by \$29.8 million, from \$40.7 million to \$10.9 million, to reflect LifeMoves as the initial recipient of HCD funds, with \$10.9 million to be wired from LifeMoves to the City for final disbursement upon project completion¹; and
- Increasing the City’s commitment of General Fund Measure E – 40% Extremely Low-Income funding by \$2.0 million, from \$10.0 million to \$12.0 million.

¹ The total Project HomeKey award of \$51.6 million included approximately \$10.9 million in operating funds that would have otherwise been recognized by the City in subsequent fiscal years. As a result, only \$40.7 million of the full \$51.6 million was recognized and appropriated at the November 1, 2022 City Council meeting.

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BUDGET REFERENCE

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

Fund #	Appn #	Appn. Name	Total Appn	Rec. Budget Action	Amt. for Contract	2022-2023 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	8744	Measure E – 40% Extremely Low-Income Households Reserve	\$36,999,655	(\$2,000,000)	N/A	941	2/14/2023, Ord. No. 30883
001	224R	Measure E – Project HomeKey 2.0 (40% ELI)	\$36,613,686	\$2,000,000	\$12,000,000	N/A	12/13/2022, Ord. No. 30869
448	R100	Revenue from the State of California	\$68,023,452	(\$29,847,200)	N/A	1023	11/1/2022, Ord. No. 80747
448	224K	Project HomeKey 2.0	\$65,938,236	(\$29,847,200)	N/A	N/A	11/1/2022, Ord. No. 30842

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 February 28, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

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CEQA

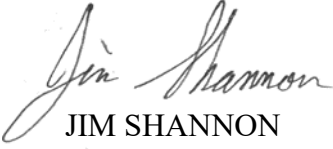
Statutorily Exempt, File No. ER21-261, CEQA Guidelines Section 15268, Ministerial Projects.

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/

JACKY MORALES-FERRAND
Director, Housing Department


JIM SHANNON
Budget Director

For questions, please contact Kemit Mawakana, Residential Development Division Manager at kemit.mawakana@sanjoseca.gov or (408) 784-0678.