

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION: A) FINDING, PURSUANT TO SECTION 22050 OF THE PUBLIC CONTRACT CODE, THAT THERE EXISTS A CONTINUING NEED TO LET AN AGREEMENT FOR DESIGN AND CONSTRUCTION OF THE NAVIGATION CENTER PROJECT WITHOUT COMPETITIVE SOLICITATION OF PROPOSALS IN ORDER TO ADDRESS THE EXISTING COVID-19 PUBLIC HEALTH EMERGENCY AND SHELTER CRISIS; AND

B) FINDING THAT SOLICITING COMPETITIVE PROPOSALS FOR THE NAVIGATION CENTER PROJECT WOULD BE UNAVAILING AND WOULD NOT PRODUCE AN ADVANTAGE, AND THAT ADVERTISING FOR COMPETITIVE PROPOSALS WOULD BE UNDESIRABLE, IMPRACTICABLE, OR IMPOSSIBLE; AND

C) AUTHORIZING AND DIRECTING THE COUNTY MANAGER, OR DESIGNEE, TO PREPARE AND EXECUTE AN AMENDMENT OR AMENDMENTS TO THE AGREEMENT WITH XL CONSTRUCTION FOR DESIGN AND CONSTRUCTION SERVICES FOR THE NAVIGATION CENTER PROJECT FOR AN AMOUNT NOT TO EXCEED \$51,250,000; AND

D) AUTHORIZING THE DIRECTOR OF THE PROJECT DEVELOPMENT UNIT, OR DESIGNEE, TO ISSUE CHANGE ORDERS TO THE DESIGN-BUILD AGREEMENT FOR THE NAVIGATION CENTER PROJECT THAT INCREASE THE COUNTY'S MAXIMUM OBLIGATION UNDER THE AGREEMENT BY NO MORE THAN TEN PERCENT IN THE AGGREGATE, SUCH THAT THE MAXIMUM AMOUNT EXPENDED UNDER THE AGREEMENT SHALL NOT EXCEED \$56,375,000; AND

E) ESTABLISHING A BUDGET OF \$57,000,000 FOR THE NAVIGATION CENTER PROJECT; AND

F) AUTHORIZING THE COUNTY MANAGER, OR DESIGNEE, OR THE DIRECTOR OF THE PROJECT DEVELOPMENT UNIT, OR DESIGNEE, TO TAKE ALL ACTIONS THAT ARE CONSISTENT WITH AND/OR NECESSARY TO IMPLEMENT AND CARRY OUT THE INTENT OF THIS RESOLUTION, INCLUDING EXECUTION OF ADDITIONAL AGREEMENTS

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, San Mateo County continues to face an unprecedented and growing shelter crisis, with homelessness experienced disproportionately by members minority groups and, in response to this continuing crisis, on January 25, 2022, this Board renewed its declaration finding that a shelter crisis exists in the County and

authorized the County Manager to take immediate and sustained action to address the crisis; and

WHEREAS, in March 2020, the Governor declared a state of emergency in response to the COVID-19 pandemic and this State-wide declaration remains in effect; and

WHEREAS, also in March 2020, the San Mateo County Health Officer and the San Mateo County Director of Emergency Services, respectively, proclaimed a local health emergency and declared a local state of emergency in the County, and this Board ratified and extended the proclamation of local health emergency and declaration of local state of emergency, both of which remain in effect; and

WHEREAS, the COVID-19 public health emergency remains a significant threat to the County and its residents, with the County continuing to experience a high level of community transmission; this threat has been exacerbated by the County's homeless crisis; and the pandemic has strained existing shelter capacity and increased the number of County residents who are, or who are at risk of, experiencing homelessness; and

WHEREAS, the County's Functional Zero Vision for ending homelessness has, as a goal, ensures that every County resident experiencing homelessness can be sheltered in an emergency shelter or in temporary or permanent housing and, in spite of significant efforts to address this crisis, the County still lacks sufficient beds to address the need; and

WHEREAS, the largest number of unsheltered individuals in the County are in the Redwood City area and a substantial number of these individuals reside in tents and

in the street, and face daily challenges that place them at heightened risk of contracting and experiencing serious effects from COVID-19; and

WHEREAS, the County of San Mateo has continued working to address the dual crisis of COVID-19 and homelessness by, among other things, recently acquiring from the City of Redwood City a 2.5 acre parcel of real property located at 275 Blomquist Street, in Redwood City, and the County intends to construct a low barrier navigation center on the site (Navigation Center), and the Navigation Center will incorporate an array of prefabricated modular buildings, including 240 studio shelter units, a dining area, community center, kitchen, programming space for on-site counseling, vocational training and other services, and shared open space (collectively, the Navigation Center Project); and

WHEREAS, on October 5, 2021, this Board adopted Resolution No. 078469, which approved proceeding with the Navigation Center Project, finding that it would qualify as a low barrier navigation center within the meaning of applicable California law, and that the project is therefore categorically exempt from the California Environmental Quality Act; and

WHEREAS, the target budget for the Navigation Center Project is \$57,000,000 and will be drawn from a combination of state, County, and philanthropic funds; the County has been awarded \$46,091,860 in State Project Homekey funds for the capital project, as well as a \$9,230,400 in operating subsidy through Project Homekey 2.0; Mr. John Sobrato has generously donated \$5,000,000 toward the project; and the County has initially allocated \$2,571,802 of additional funds for the project and will allocate additional funds necessary to complete the project within the approved budget; and

WHEREAS, pursuant to the grant terms governing Project Homekey 2.0 funds, such funds allocated for the Navigation Center Project must be expended within eight months of the date of award, project construction must be completed within twelve months of the award of the grant, and ninety-percent occupancy must be achieved within fifteen months of the award; and

WHEREAS, design-build project procurement is a project delivery method in which both the design and construction of the project are procured from a single entity and County staff has recommended to this Board that the design-build project acquisition method is appropriate for the Navigation Center Project due to the particular design requirements and the need for expedited delivery of a reliable, achievable and coordinated project schedule, early certainty regarding project cost, and a single point of accountability for construction and accelerated design; and

WHEREAS, in light of the above-described COVID-19 public health emergency and shelter crisis, the County entered into an agreement with XL Construction dated June 7, 2021 to undertake services related to the construction of the Navigation Center Project, and this agreement was subsequently amended pursuant to board authorized action within the Board authorized maximum amount of \$7,793,616; and

WHEREAS, the County now has additional information regarding the circumstances applicable to the Navigation Center Project and the County now intends to pursue further design and construction work for the Navigation Center Project; and

WHEREAS, in light of the ongoing COVID-19 public health emergency and shelter crisis, County staff has recommended that this Board authorize an amendment(s) to the agreement with XL Construction for such design-build services for

the Navigation Center Project up to a revised total amount not to exceed \$51,250,000, without compliance with otherwise applicable competitive project procurement processes; and

WHEREAS, Section 22050 of the Public Contract Code provides that “in the case of an emergency, a public agency, pursuant to four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts;” and

WHEREAS, in light of the existing COVID-19 public health emergency and shelter crisis and for the reasons set forth at length in the staff report accompanying this resolution, this Board finds that the Navigation Center Project is necessary to respond to the COVID-19 public health emergency and the shelter crisis and that these emergency circumstances are so acute that they will not permit a delay resulting from a competitive solicitation for proposals to do the work, and this Board waives, pursuant to Section 22050 of the Public Contract Code, the competitive proposal requirements otherwise applicable to design-build contracts and the provision of services and procurement of materials for the Navigation Center Project; and

WHEREAS, California law recognizes an exception to otherwise-applicable competitive bidding requirements where competitive proposals would be unavailing or would not produce an advantage, and the advertising for competitive bids would thus be undesirable, impractical, or impossible (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal. App. 3d 635-636), and this Board concludes that competitive proposals for the Navigation Center Project, under the existing circumstances would be unavailing and produce no advantage and that advertising for competitive proposals would be

undesirable or impractical, as the Navigation Center is urgently needed to address the COVID-19 public health emergency and the shelter crisis and to access available state funds; and

WHEREAS, this Board finds that it would not be possible to meet the aggressive project timelines imposed by Homekey 2.0 requirements, or to otherwise address the underlying emergency circumstances while adhering to the otherwise applicable competitive processes for design-build contracts and expending the time necessary to meet those requirements would likely result in the County failing to meet the mandated timelines applicable to the Navigation Center Project; and

WHEREAS, XL Construction and its architect have unique experience successfully designing and building similar navigation center projects to address homelessness in neighboring jurisdictions, including their recent highly successful completion of a prefabricated modular-based navigation center in Mountain View; and

WHEREAS, the XL Construction cost estimates for the additional work on the Navigation Center Project are consistent with the County's internal estimates for the project and with rates charged in previous competitively priced proposals, and County staff, working with independent cost estimating consultants, have reviewed the XL Construction cost proposals and estimates and confirmed their reasonableness; and

WHEREAS, based on the foregoing, this Board concludes that the County may and should waive the competitive procurement process for the instant additional design-build and other work for the Navigation Center Project, and this Board desires to delegate to the County Manager or delegee the authority to enter into an amendment or amendments to the agreement with XL Construction for this additional design-build

work, in a form reviewed and approved by the County Counsel, for an amount not to exceed \$51,250,000.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that this Board of Supervisors finds that there exists a continuing need, pursuant to Section 22050 of the Public Contract Code, to let an agreement for the design and construction of the Navigation Center Project without competitive solicitation of proposals to address the existing COVID-19 public health emergency and the shelter crisis.

BE IT FURTHER RESOLVED that this Board of Supervisors finds that soliciting competitive proposals for the Navigation Center Project would be unavailing and would not produce an advantage and that the advertising for competitive proposals would be undesirable, impractical, or impossible.

BE IT FURTHER RESOLVED that the County Manager, or designee, is authorized and directed to execute an amendment or amendments to the agreement with XL Construction for design-build services for the Navigation Center Project, provided that the agreement, as amended, shall be for an amount not to exceed \$51,250,000 and in a form reviewed and approved by the County Counsel.

BE IT FURTHER RESOLVED that the Director of the Project Development Unit, or designee, is authorized to issue change orders to the agreement with XL Construction for the Navigation Center Project that increase the County's maximum fiscal obligation by no more than ten percent (10%), in the aggregate, such that the maximum amount authorized to be expended under the design-build agreement, with such change orders, shall not exceed \$56,375,000.

BE IT FURTHER RESOLVED that a project budget of \$57,000,000 is hereby established for the Navigation Center Project.

BE IT FURTHER RESOLVED that the County Manager, or designee, and the Director of the Project Development Unit, or designee, are hereby authorized to take all actions that are consistent with and/or necessary to implement the intent of this resolution, including amending existing agreements or executing additional agreements.

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