

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

\_\_\_\_\_  
CITY ATTORNEY’S OFFICE

# OAKLAND CITY COUNCIL

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

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**AN ORDINANCE 1) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO THREE-YEAR LEASES, EACH AT NO MONTHLY RENT, WITH COVENANT HOUSE ON CALTRANS PROPERTY LEASED BY THE CITY, ROOTS COMMUNITY HEALTH CENTER ON THE CITY-OWNED HOME BASE LOT, AND YOUTH SPIRIT ARTWORKS ON THE HOME BASE LOT IN EXCHANGE FOR THE FOREGOING ENTITIES AGREEMENT TO PROVIDE EMERGENCY SHELTER AND SERVICES TO OAKLAND RESIDENTS; 2) AWARDING AGREEMENTS FOR PROFESSIONAL SERVICES, AT NO COST TO THE CITY, TO COVENANT HOUSE, ROOTS COMMUNITY HEALTH CENTER, AND YOUTH SPIRIT ARTWORKS FOR THE PROVISION OF EMERGENCY SHELTER AND SERVICES TO OAKLAND RESIDENTS; 3) WAIVING THE COMPETITIVE BIDDING PROCESS; AND 4) ADOPTING CEQA EXEMPTION FINDINGS.**

**WHEREAS**, the City of Oakland (“City”) acknowledges that it is facing a serious affordable housing crisis with thousands of residents living in unhoused or in substandard housing conditions; and

**WHEREAS**, the number of homeless persons in the City continues to increase, with the latest 2019 point-in-time count of 4,071 individuals experiencing homelessness in Oakland, an increase of 1,310 individuals (+47%) from 2017, with the largest growth in people living in their RVs and cars, and this number is likely to increase given the substantial upward pressure of residential rents; and

**WHEREAS**, this shelter crisis affects City’s citizens disproportionately with more African American, Latino and elderly individuals experiencing homelessness; and

**WHEREAS**, the current number of homeless individuals in the City far outpaces the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

**WHEREAS**, unauthorized homelessness encampments have increased substantially across Oakland, within the public right of way, thus exposing homeless individuals to traffic hazards, increased

vulnerability to crime, risk of death and injury, exposure to inclement weather, lack of adequate sanitation and debris services and other conditions that are detrimental to their health and safety; and

**WHEREAS**, analysis and evidence have demonstrated that providing decent, safe and stable housing combined with crucial support services are two primary components of successful transition from homelessness to a safer and healthier way of living; and

**WHEREAS**, California Government Code Section 8698.2 provides that, upon a declaration of a shelter crisis, cities and counties may allow persons unable to obtain housing to occupy designated public facilities (including leased facilities) during the duration of the crisis; and

**WHEREAS**, California Government Code Section 8698.4 provides that, upon a declaration of a shelter crisis, the City may, in lieu of otherwise applicable laws and standards, apply reasonable local standards and procedures for the design, site development, and operation of homeless shelters and emergency housing that the City adopts by an ordinance reviewed and approved by the State Department of Housing and Community Development (“**HCD**”); and

**WHEREAS**, pursuant to Ordinance No. 13564 C.M.S., the City has declared a shelter crisis on October 3, 2017 and renewed the declaration of a shelter crisis on October 1, 2019 for another two-year period (“**Declaration of Shelter Crisis**”); and

**WHEREAS**, on December 11, 2018, the City Council adopted Resolution No. 87483 C.M.S directing the City Administrator to prioritize the interim use of public lands for emergency shelter interventions; and

**WHEREAS**, on June 4, 2019, upon recommendation from the City’s Planning Commission, the City Council adopted Ordinance No. 13537 C.M.S. amending the Oakland Planning Code to allow “Emergency Shelter Residential Activities” and “Emergency Housing Facilities,” including recreational vehicles and other emergency housing, on property designated by the City Administrator and owned or leased by the City during the Declaration of Shelter Crisis; and

**WHEREAS**, on December 10, 2019, after review and approval by HCD, the City Council adopted Appendix O to the 2019 California Building Code (O.M.C. § 15.04.3.2.0950) (“**Emergency Housing Standards**”), that incorporated emergency building standards for emergency housing, including health and safety standards for recreational vehicles, emergency sleeping cabins, membrane structures, and other emergency housing on property owned or leased by the City; and

**WHEREAS**, the City Council determined in the Declaration of Shelter Crisis that urgent and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards, and that flexibility and broad-based approaches are essential to increase capacity, particularly given the funding and staff resources that have been committed; and

**WHEREAS**, the Declaration of Shelter Crisis authorized the City Administrator to designate sites appropriate for emergency housing activities and facilities on properties owned or leased by the City; and

**WHEREAS**, the City Administrator has identified property owned by Caltrans, located ~~on 5<sup>th</sup> Street between Madison at 3rd Street and Jackson Peralta Street~~, depicted on **Exhibit A** attached hereto and incorporated herein (the “**Caltrans Property**”), as a suitable site for operation of emergency shelter, and will enter into a lease with Caltrans for such use pursuant to the City Administrator’s delegated authority under Section 2.41.050 of the Oakland Municipal Code (“**OMC**”); and

**WHEREAS**, the City Administrator has identified the City-owned lot at 633 Hegenberger Road in East Oakland, depicted on Exhibit B, attached hereto and incorporated herein (the “**HomeBase Lot**”) as a suitable location for operation of emergency shelter and services; and

**WHEREAS**, the City wishes to facilitate the ability of external organizations to contribute to resolving the homelessness crisis by providing emergency shelter interventions and services to unsheltered residents pursuant to Government Code section 8698.4 on City-owned or leased properties; and

**WHEREAS**, ~~on January 8, 2020, the Governor of California issued Executive Order N 23-20, which authorized the use of 100 State-owned travel~~the City owns trailers (“**Travel Trailers**”) ~~that have been donated by the State Department of General Services~~ as an immediate temporary shelter solution for people experiencing homelessness; and

~~**WHEREAS**, the State Department of General Services confirmed that fifteen of these Travel Trailers would be transferred to the City pursuant to Resolution No. 87906 C.M.S., authorizing the City Administrator to accept donations not exceeding one million dollars; and~~

**WHEREAS**, the Human Services Department, the Economic and Workforce Development Department, and the Real Estate Division have worked with several nonprofit organizations interested in developing programs to shelter and provide services to unsheltered families and/or transitional aged homeless youth on land owned or leased by the City; and

**WHEREAS**, the City Administrator desires to enter into a three-year sublease, at no monthly rent, with Covenant House, a nonprofit organization, for the Caltrans Property and the use of ~~six~~ TravelCity-owned trailers, for the operation of a City program to provide services and shelter to homeless youth; and

**WHEREAS**, the City Administrator desires to enter into a three-year lease, at no monthly rent, with Roots Community Health Center, a nonprofit organization, for ~~the~~ portion of the HomeBase Lot ~~depicted on Exhibit B~~ and ~~the~~ use of ~~nine~~ TravelCity-owned trailers, for the operation of a City program to provide services and shelter to unsheltered families ready to enter into the workforce; and

**WHEREAS**, the City Administrator desires to enter into a three-year lease, at no monthly rent, with Youth Spirit Artworks, a nonprofit organization, for ~~the~~ portion of the HomeBase Lot ~~depicted on Exhibit B~~, for the operation of a City program to provide services and shelter to homeless youth; and

**WHEREAS**, the City Administrator also desires to enter into Professional Services Agreements with Covenant House, Roots Community Health Center, and Youth Spirit Artworks for the provision of such homeless services and emergency shelter improvements on the Caltrans Property and the HomeBase Lot as described in the City Administrator’s report accompanying this Ordinance, in exchange for the use of said properties at no cost; and

**WHEREAS**, the City Administrator has prepared a Summary of Lease Terms, attached hereto as Exhibit C and incorporated herein, for the proposed leases for shelter and services to unsheltered residents on various City-owned or City-leased property (the “**Summary of Lease Terms**”); and

**WHEREAS**, City Charter Section 219(6) and OMC Section 2.42.100.B require leases or licenses of real property longer than one year to be authorized by an ordinance; and

**WHEREAS**, OMC Section 2.42.110 (a) authorizes the City to enter into a lease or license of real property for consideration less than the property's fair market value if the City Council makes a finding and determination that the lease of the property for less than its fair market value is in the best interests of the City and (b) provides that the City Council may consider the value of in-kind services to the City or the community at large, including social and cultural benefits to the community, in making the required finding and determination; and

**WHEREAS**, OMC Chapter 2.04 sets out purchasing and competitive bidding requirements for the provision of services on behalf of the City, which requirements may be waived upon a City Council finding that entering into service agreements without bidding is in the best interests of the City; and

**WHEREAS**, given the increasing shelter crisis in the City, the shelter and services for unsheltered residents that would be provided under the terms of the proposed leases offered on public land would provide benefits to the City and the community at large; and

**WHEREAS**, waiver of competitive bidding and requests for qualifications procedures for homeless services provided on public property leased to nonprofit organizations will allow the City Administrator to more efficiently combine proprietary interests in City land with homeless services provided on those properties, resulting in more oversight of such programs on City land; and

**WHEREAS**, staff has determined that, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4);

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council's decision.

**SECTION 2.** The City Council finds and determines the actions authorized by this Ordinance comply with CEQA, and rely on the Previous CEQA Documents. No further environmental review is required under CEQA Guidelines sections 15162 and 15163. Further, the Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under Government Code section 8698.4(a)(4). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**SECTION 3.** The City Administrator is hereby authorized to (a) negotiate, enter into, and execute a sublease~~license~~ for the use of ~~the~~ Caltrans Property and the use of ~~six TravelCity-owned~~ trailers by Covenant House, for a maximum of three years, at no monthly rent, on substantially the same terms as described on Exhibit C, and (b) to allow improvements to and use of the ~~leased~~ premises in compliance with the Emergency Housing Standards, in order to serve unsheltered residents.

**SECTION 4.** The City Administrator is hereby authorized to (a) negotiate, enter into, and execute a lease or license for use of a portion of the HomeBase Lot and the use of ~~nine TravelCity-owned~~ trailers by Roots Community Health Center, for a maximum of three years, at no monthly rent, on substantially the same terms as described on Exhibit C, and (b) to allow improvements to and use of the ~~leased~~-premises in compliance with the Emergency Housing Standards, in order to serve unsheltered residents.

**SECTION 5.** The City Administrator is hereby authorized to (a) negotiate, enter into, and execute a lease or license for use of a portion of the HomeBase Lot by Youth Spirit Artworks, for a maximum of three years, at no monthly rent, on substantially the same terms as described on Exhibit C, and (b) to allow improvements to and use of the ~~leased~~-premises in compliance with the Emergency Housing Standards, in order to serve unsheltered residents.

**SECTION 6.** Pursuant to OMC Section 2.42.110, and based on the value of the services discussed above and in the City Administrator's report accompanying this Ordinance, the City Council hereby finds and determines that offering public land for interim emergency shelter and services for unsheltered residents for less than fair market rental value is in the best interests of the City.

**SECTION 7.** Pursuant to OMC Section 2.04.050, the City Council hereby finds and determines that the waiver of competitive bidding and requests for qualifications procedures for homeless services provided on public property leased to nonprofit organizations is in the best interests of the City.

**SECTION 8.** The City Council awards to and authorizes the City Administrator to enter into three-year professional services agreements (that are consistent with the initial and subsequent term periods of the sub/leases as specified in Exhibit B) with Covenant House, Roots Community Health Center, and Youth Spirit Artworks, with the City allowing those entities to use the Caltrans Property and the HomeBase Lot property (and the personal property on those sites) leased and owned by the City, in exchange for those entities' provision of homeless services to and emergency shelter improvements, at no cost to the City, for Oakland residents on said properties.

**SECTION 9.** The City Council directs the Environmental Review Officer, or designee, to cause to be filed a Notice of Exemption with the appropriate agencies.

**SECTION 10.** The City Administrator, or his or her designee, is authorized and directed to execute any and all documents, consistent with the terms and conditions of this Ordinance.

**SECTION 11.** All documents shall be approved as to form and legality by the Office of the City Attorney.

**SECTION 12.** The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

**SECTION 13.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,  
THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of  
Oakland, California

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

**AN ORDINANCE 1) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO THREE-YEAR LEASES, EACH AT NO MONTHLY RENT, WITH COVENANT HOUSE ON CALTRANS PROPERTY LEASED BY THE CITY, ROOTS COMMUNITY HEALTH CENTER ON THE CITY-OWNED HOME BASE LOT, AND YOUTH SPIRIT ARTWORKS ON THE HOME BASE LOT IN EXCHANGE FOR THE FOREGOING ENTITIES AGREEMENT TO PROVIDE EMERGENCY SHELTER AND SERVICES TO OAKLAND RESIDENTS; 2) AWARDING AGREEMENTS FOR PROFESSIONAL SERVICES, AT NO COST TO THE CITY, TO COVENANT HOUSE, ROOTS COMMUNITY HEALTH CENTER, AND YOUTH SPIRIT ARTWORKS FOR THE PROVISION OF EMERGENCY SHELTER AND SERVICES TO OAKLAND RESIDENTS; 3) WAIVING THE COMPETITIVE BIDDING PROCESS; AND 4) ADOPTING CEQA EXEMPTION FINDINGS.**

This Ordinance would authorize the City Administrator to negotiate, enter into, and execute three-year leases, at no monthly rent, on Caltrans property leased by the City and on the City-owned HomeBase lot on Hegenberger Road, or other sites designated by the City Administrator, to nonprofit organizations providing shelter and services to unsheltered Oakland residents. This Ordinance also waives competitive bidding procedures for entering into Professional Service Agreements with such nonprofit organizations operating homeless programs on public land.