



# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Joe DeVries  
Assistant to the City  
Administrator

**SUBJECT:** Ordinance Authorizing Emergency  
Shelter Leases

**DATE:** March 9, 2020

City Administrator Approval

Date:

3/11/2020

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt 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 California Environmental Quality Act (CEQA) Exemption Findings.**

## **EXECUTIVE SUMMARY**

The City's Shelter Crisis Ordinance (Ordinance No. 13564 C.M.S.) authorizes the City Administrator or her designee to allow persons unable to obtain housing to occupy designated City facilities or facilities leased by the City as shelters, but does not waive the requirements of Oakland Municipal Code (OMC) Chapters 2.41 or 2.42 (Real Estate Ordinance). The City directly provides emergency shelters in some circumstances and is presently seeking additional resources and partnerships to increase shelter options through leases and professional service agreements for the provision of shelter and services on City property.

Staff has created an application and approval process to enable outside applicants to provide emergency shelter interventions. Proposals are reviewed and supported by an interdepartmental working group with representation from the City Administrator's Office, Human Services Department, Risk Management, Fire Department, Building Bureau, Real

CED Committee  
March 24, 2020

Estate Division and the Office of the City Attorney. Proposals must include a plan for on-site services, electricity, sanitation and governance.

To date, staff have reviewed three applications for the use of public property to provide shelter and services for unsheltered Oakland residents. Staff recommends the execution of interim public land use leases with these applicants, free of charge and offered for terms of up to three years, and requests City Council authorization to offer, negotiate, and execute these agreements with three current applicants: Covenant House, Roots Community Health Center, and Youth Spirit Artworks. The City Charter and the Real Estate Ordinance requires that the City Council authorize by Ordinance leases that are for more than one year or below market value, which is the case with all three of these proposals.

Relatedly, this Ordinance would authorize, with a waiver of the City's competitive bidding process, an award of Professional Services Agreements to the three homeless service providers discussed further below. They would provide homeless services and emergency shelter improvements on specific City-owned and operated property at no monetary cost to the City, in exchange for those providers' use of City property for the same duration as the underlying leases at no monetary cost. OMC Chapter 2.04 allows provides the City Council authority to waive the City's competitive bidding requirements upon a finding that it is in the best interests of the City to do so.

## **BACKGROUND / LEGISLATIVE HISTORY**

The 2019 point-in-time homelessness count found 4,071 individuals experiencing homelessness in Oakland, an increase of 1,310 individuals (+47 percent) from 2017, with the largest growth amongst people living in their RVs and cars. The shelter crisis affects Oakland's citizens disproportionately and inequitably, with more African American, Latino and elderly individuals experiencing homelessness.

Adopted in December 2018 via Resolution No. 87483 C.M.S., the City's Public Lands Policy prioritizes the use of public land for affordable housing development, and prioritizes emergency shelter interventions as an interim use. The process to fund, permit, and construct new affordable housing units can take many years, during which time land may be unused or offered for a short-term lease.

The City of Oakland declared a shelter crisis on October 3, 2017, and renewed this declaration on October 1, 2019 via Ordinance No. 13564 C.M.S. The declaration of shelter crisis extends for two years from the date of adoption, unless renewed again. As authorized by California Government Code Section 8698.4, the City Council has also adopted emergency shelter building standards (Ordinance No. 13576 C.M.S.) to facilitate interventions that increase the health and safety of homeless residents; and has declared that urgent and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards. These emergency housing facilities may include recreational vehicles (RVs), emergency sleeping cabins, membrane structures, and other emergency housing on property owned or leased by the City of Oakland.

On June 4, 2019, upon recommendation from the City of Oakland 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.

OMC Chapter 2.41 contains existing City policy governing the acquisition of real property by the City by purchase or lease. Chapter 2.42 governs the disposition of real property by the City by sale or lease. Unless a lease meets specific criteria, including that the term is less than one year or that the property is less than 2,000 square feet of leasable space, the City Charter requires leases of City-owned real property to be authorized by an ordinance. The ordinance may authorize a specific lease of a specific City property, or general leasing of City property by the City Administrator under parameters provided for in the ordinance.

OMC Section 2.04.051.B. provides in part, "Upon a finding by the City Council or its designee that it is in the best interests of the City, the City Council may waive [the] Request For Proposals/Qualifications requirements for [professional services] contracts in any amount."

### **ANALYSIS AND POLICY ALTERNATIVES**

The City currently operates six (6) Community Cabin sites and three (3) Safe RV Parking Sites. However, these established non-profits have indicated an interest in operating additional emergency interventions beyond those two models. Below are descriptions of the interventions and activities that each non-profit is proposing to operate on City-owned or leased land.

#### ***Roots Community Health Center***

Roots Community Health Center (Roots) plans to operate a trailer site providing transitional workforce development support coupled with transitional shelter for unhoused families on the grounds of the former Home Base site in East Oakland (633 Hegenberger Road, see **Exhibit B** of the proposed Ordinance). This site will initially accommodate nine families (9-18 adults and up to 45 children), who will be provided with a clean and safe space; workforce development activities including resume development, job search assistance, interview preparation; on-the-job paid apprenticeship; educational and career development support; matched savings; and linkages and transportation to needed services in the community. The goal of the program is to successfully engage unsheltered residents in employment and/or education, facilitating their path to self-sufficiency, and ultimately ending homelessness for each of the individuals and families served. The City is providing nine (9) of the 15 Federal Emergency Management Agency (FEMA) trailers donated by the State earlier this year. The City will also be funding site preparation work at this location. If additional funding becomes available, the site can be expanded to accommodate many more trailers and expand the number of families served.

#### ***Covenant House***

Using the remaining six (6) of the 15 FEMA trailers the State awarded to the City of Oakland, Covenant House will provide 30 beds for transition-aged youth (18-24 years old) experiencing homelessness on a Caltrans parcel located between Jackson and Madison Streets, adjacent to 5<sup>th</sup> Street, in the Jack London Area (see **Exhibit A** of the proposed Ordinance). This parcel is just five (5) blocks from Covenant House's Headquarters which makes it a favorable location. The shelter program will be open 24/7 with on-site housing navigation and wrap-around services to help transition the youth from homelessness to permanent housing in 6 months or fewer. The site will offer accommodations for pets and possessions, and a common area for congregation and meals. Along with the trailers, the City will conduct site preparation at this location.

**Youth Spirit Artwork**

Youth Spirit Artwork (YSA) works directly with transitional age youth, many of whom are homeless. They plan to open a unique Emergency Sleeping Cabin model, also at 633 Hegenberger Road, that will provide shelter, case management, job training, and other support services to 26 youth at a time. The cabins have been built mostly by volunteers and meet the City's Emergency Building Standards for sleeping cabins and will house the youth and residential managers to ensure a 24/7 security presence. The goal is to move the youth to self-sufficiency and permanent housing. YSA will provide additional on-sight facilities including a kitchen and a common meeting area.

Because most of the funding to operate these facilities will come from private donors or other sources outside the City of Oakland to the non-profit organizations, executing lease agreements along with in-kind professional services agreements will enable the City to apply performance standards to the organizations and ensure that the facilities are qualified under Government Code section 8698.4, which authorizes these uses as discussed above.

A summary of lease terms is attached to the proposed Ordinance as **Exhibit C**. These lease terms will apply to property, such as the Home Base site, that is owned by the City. Subleases of property that is leased by the City from entities such as Caltrans will be required to conform to the terms of the master lease.

The related and concurrent professional services agreements with the homeless services providers are anticipated to be consistent with the City's standard Professional Services Agreement, except for the absence of monetary exchange between the City and the providers. Again, the providers are able to use the designated property free of charge in exchange for providing homeless services, also free of charge to the City.

The City Administrator only has delegated authority to grant use of City property in limited circumstances, including for undeveloped property less than 5,000 square feet and for terms of one year or less.

Under OMC Section 2.42.110, City-controlled real property must be leased for a rent or fee, payable in cash or other consideration, equal to or exceeding the property's fair market rental value, unless the City Council has made a finding and determination that the lease of real property for less than fair market rental value is in the best interests of the City. Given the demand for flexible additional shelter solutions, staff recommends that the City Council find that a no cost lease enabling provision of emergency shelter is in the City's best interests.

Staff also recommends that the City Council find that the temporary use of the FEMA trailers by Roots Community Health Center and Covenant House, for less than fair market value, is in the City's best interests.

Finally, staff recommends that the City Council find that a waiver of competitive bidding and requests for qualifications procedures for homeless services provided on public property leased to these nonprofit organizations, and to award three-year professional services agreements to those entities to run concurrently with the underlying leases, is in the City's best interests because it 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.

### **FISCAL IMPACT**

By offering these leases at no cost and without an administrative processing fee, the City will not be reimbursed for the value of staff time spent reviewing and processing the lease, nor will the City be able to offer short-term leases at market value to other uses. While the market value of each site is variable, the demand for and value of short-term leases on City-owned land are generally low. These three applications are currently the only ones received for use of public land for emergency shelter.

Staff have determined that charging a lease rate to service providers would result in higher funding needs, diverting valuable resources from the primary mission of providing emergency shelter. The value of the shelter and services to be provided exceeds the value of a short-term lease of the land at market rate. By offering public land and a streamlined process, the City will facilitate more private contributions from local residents and organizations towards providing emergency shelter interventions as well as ease collaboration with other public entities to provide resources for unsheltered residents.

### **PUBLIC OUTREACH / INTEREST**

Community members at public workshops have expressed a desire for emergency shelters to be distributed throughout Oakland and not concentrated in a single neighborhood. Should a specific public land parcel be identified for future emergency shelter use, local community engagement would be required in coordination with the Office of the City Councilmember for the district in which the site is located. In addition, if the City Administrator authorizes an emergency shelter operation on a parcel, the amended Planning Code requires the City Administrator to report the use to the Planning Commission and the City Council in an informational report. Additional City Council authorization would be required for additional City-owned properties to be leased for more than one year or for below market rate.

### **COORDINATION**

The development of this report and legislation has been coordinated with the City Administrator's Office, Office of the City Attorney, Economic and Workforce Development Department including the Real Estate Division, Oakland Fire Department, Building Bureau of the Planning & Building Department and Human Services Department.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Allowing interim use of public land for emergency shelters does not preclude the land from being developed for other economic priorities, including permanent affordable housing. It may prevent the use of land for pop-up markets or other temporary commercial activities. Upgrading shelter for homeless residents can increase their ability to access services, including workforce development and job training, and to exit homelessness.

***Environmental:*** Enabling the creation of more shelters consistent with the City's emergency building codes will reduce many of the risks associated with unregulated encampments and create a healthier living environment.

***Race & Equity:*** Oakland's unsheltered residents are diverse, but a disproportionate number are Black/African American compared with the city's overall demographics. The City should prioritize resources and services to increase the economic security of this population.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Staff has determined that the actions authorized by this Ordinance are exempt from further CEQA review 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. The leases, site improvements, and service agreements are also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4). Each of the foregoing provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt 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 California Environmental Quality Act (CEQA) Exemption Findings.

For questions regarding this report, please contact Joe DeVries, Assistant to the City Administrator, at 510-238-6230.

Respectfully submitted,



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