

**OAKLAND CITY COUNCIL**

RESOLUTION NO. \_\_\_\_\_

OFFICE OF THE CLERK  
2004 JAN 29 PM 1:02  
C. M. S.

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

A RESOLUTION AUTHORIZING 1) ACCEPTANCE AND APPROPRIATION OF \$49,458 IN FUNDS ALLOCATED FROM THE COUNTY OF ALAMEDA FOR HOMELESS PROGRAM SERVICES, 2) NEGOTIATION AND EXECUTION OF A MEMORANDUM OF UNDERSTANDING APPROVED BY THE COUNTY OF ALAMEDA BOARD OF SUPERVISORS TO PROVIDE SUCH FUNDS AND 3) THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH KATHIE BARKOW FOR \$49,458 FOR A PERIOD ENDING NO LATER THAN JUNE 30, 2004, FOR CONSULTATION SERVICES TO THE ALAMEDA COUNTY-WIDE CONTINUUM OF CARE COUNCIL

WHEREAS, the City of Oakland is a jurisdictional member of the Alameda County-wide Continuum of Care Council ("Care Council") and contributes annually to the staffing efforts necessary to carry out the work of the Council; and

WHEREAS, the City of Oakland is one of 12 jurisdictional members on the Care Council and its staff has served as co-chair of the Care Council for the last four years; and

WHEREAS, the Care Council staff is housed at the Alameda County Department of Housing and Community Development ("HCD") and they are responsible for the administration and oversight of the staff and program contracts; and

WHEREAS, HCD has asked the City of Oakland for support in administering one of its staff contracts because of the additional work load being faced by its fiscal and administrative staff; and

WHEREAS, the County of Alameda has allocated \$49,458 in funds for the Care Council homeless program services under a Memorandum of Understanding between the County of Alameda and the City of Oakland which has been approved by the County of Alameda Supervisors; and

WHEREAS, the City Council desires to accept and appropriate the HCD funds for contractual services supporting the Care Council; and

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**WHEREAS**, the Care Council has identified the duties to be performed by Kathie Barkow and has allocated funding for the position in the amount \$49,458, all of which will be fully funded by HCD; and

**WHEREAS**, the City Council finds and determines that the services provided pursuant to the contract authorized hereunder are of a professional, scientific or technical nature and are temporary in nature; and

**WHEREAS**, the City Council finds that the contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore be it

**RESOLVED:** That the City Council authorizes acceptance and hereby appropriates funds in the amount \$49,458, allocated to the City from the County of Alameda for coordination support and technical assistance (by Kathie Barkow, Consultant) for the Care Council homeless program services, into Fund 2160 (County of Alameda Grants), Organization 78111, Account 54930, and be it

**FURTHER RESOLVED:** That the City Manager is authorized to negotiate and execute a Memorandum of Understanding with the County of Alameda for the use of the funds, and be it

**FURTHER RESOLVED:** That the City Manager is authorized to enter into a Professional Service Agreement with Kathie Barkow for fundraising and planning activities on behalf of the Care Council through June 30, 2004, for a total contract amount not to exceed \$49,458; and, be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Manager or her designee to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, modifications, payment requests, and related actions that may be necessary in accordance with this Resolution and its basic purpose; and be it

**FURTHER RESOLVED:** That said Agreements shall be reviewed as to form and legality by the Office of the City Attorney and copies will be filed in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

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

CEDA FLOYD

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

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**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF ALAMEDA  
AND  
CITY OF OAKLAND  
FOR CONTINUUM OF CARE COUNCIL ACTIVITIES  
FY 2003/2004**

**1. Background**

The County of Alameda ("County") has allocated a total of \$49,458 to fund coordination support and technical assistance and other activities for the Continuum of Care Council. These funds will be provided to the City of Oakland, as a member of the Continuum of Care Council. The City of Oakland ("City") will use funds in accordance with Exhibit A and incorporated herein by reference.

City shall contract with one or more subcontractors ("Contractor"), approved by the County, to deliver the coordination support and technical assistance.

**2. Purpose of Memorandum of Understanding**

The purpose of this MOU is to identify the services to be provided and the responsibilities of the City and County in the Continuum of Care Council activities funded under this MOU.

**3. Scope of Services**

City will perform or arrange for the performance of the work under this MOU in the manner and time provided herein and in accordance with the budget, the scope of work, and all related documents and provisions attached hereto as Exhibit A.

Any subcontract funded under this MOU shall be subject to the terms and conditions of this MOU.

**4. Budget**

**A.** County has allocated the sum of \$49,458 to be expended as described in this MOU. Unless an amendment to this MOU otherwise provides, that amount shall in no event be exceeded by City, and County shall under no circumstances be required to pay in excess of that amount.

**B.** All requested modifications to the Budget attached to this MOU and incorporated as part of this MOU, shall be reviewed and approved by County. All budget modifications require the prior written approval of County. Budget modifications shall not alter: 1) The basic scope of services required to be performed under this MOU; 2) the time period for

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the services to be performed under this MOU; and, 3) the total amount of the authorized budget of this MOU (see Exhibit B).

**5. Method of Payment**

Payment shall be made pursuant to the terms and conditions set forth in Exhibit B, attached hereto and by this reference made a part hereof. Sums not so paid shall be retained by County.

**6. Hold Harmless/Indemnification**

To the fullest extent permitted by law, City shall hold harmless, defend and indemnify the County, its Board of Supervisors, officers, employees and agents (collectively "Indemnitees") from and against any and all claims, losses, damages, liabilities or expenses, including reasonable attorney fees, incurred in the defense thereof, for the death or injury to any person or persons (including employees of City or County) or damage of any property (including property of City or County) which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are proximately caused solely by the negligence or willful misconduct of any Indemnitee.

City shall ensure that the Contractor (s) administering the Continuum of Care Council activities likewise indemnifies the County. In addition, City shall ensure that the Contractor(s) have General Liability, Workers' Compensation, Automobile, and Professional Insurance coverage as necessary and appropriate to carry out services in this MOU. Proof of coverage will be provided upon request of the County.

**7. Fiscal Administration, Record Keeping and Reporting**

City shall ensure that Contractor(s) maintain on a current basis documentation of services provided, and all related documents and records to assure proper accounting of funds and performance under the terms of this MOU, including A and B below.

A. City agrees to establish and maintain fiscal controls and accounting procedures in accordance with generally accepted accounting principles. City shall ensure that funds under this MOU are properly disbursed, are adequately controlled, and are accounted for separately from all other funds controlled by City.

B. City agrees to keep records that fully disclose the amount, date, purpose, payee, and disposition of the proceeds of the MOU; the total cost of programs supported by funds under this MOU, and the amount and disposition of that portion of the total costs provided by other sources. The procedure developed by the City must provide for the

accurate and timely recordation of the receipt of funds, expenditures, and unexpended balances.

City agrees that County will have the right to review, obtain, and copy all records pertaining to performance under this MOU. City agrees to provide County with any relevant information requested and shall permit County access to its premises upon reasonable notice, during normal business hours for the purpose of inspecting and copying such books, records, accounts, and other material that may be relevant to this MOU. City further agrees to maintain such records for a period of three (3) years after final payment under this MOU.

**8. Compliance with Regulations**

City agrees and will ensure that Contractor(s) agree to comply with all applicable laws, regulations, or requirements which are now, or which may hereafter be, imposed by the County of Alameda and will comply with all statutes and regulations applicable to the delivery of the Contractor's services.

**9. Nondiscrimination and Equal Opportunity**

During the performance of this MOU, City and its Contractor(s) shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave. City and Contractor(s) shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. City and Contractor(s) shall comply with the provisions of the Fair Employment and Housing Act (government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (CA Code of Regulations, title 2, Section 7285.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this MOU by reference and made a part a part hereof as if set forth in full. City shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this MOU.

By signing this MOU, City assures that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

**10. Term**

The term of this MOU is December 1, 2003 through June 30, 2004.

**11. Waivers and Litigation**

A. Waivers: No waiver of any breach of this MOU shall be held to be a waiver of any prior or subsequent breach. The failure of the County to enforce at any time the provisions of this MOU or to require at any time performance by the City of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this MOU or the right of the County to enforce these provisions.

B. Litigation: If any provision of this MOU, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the County, shall not affect any other provisions of this MOU and the remainder of this MOU shall remain in full force and effect. All provisions of this MOU are and shall be deemed severable. The City shall notify the County immediately of any claim or action undertaken by or against it which affects or may affect this MOU or the County and shall take such action with response to the claim or action as is consistent with the terms of the MOU and the interests of the County.

**12. Drug-Free Workplace**

By signing this MOU, City hereby certifies under penalty of perjury under the laws of the State of California that the City and all Contractor(s) will comply with the requirements of the Drug-free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

B. Establish a Drug-Free Awareness Program to inform employees about:

1. The dangers of drug abuse in the workplace;
2. The organization's policy of maintaining a drug-free workplace;
3. Any available counseling, rehabilitation, and employee assistance programs; and
4. Penalties that may be imposed upon employees for drug abuse violations.

C. Every employee who works on the work under this MOU will:

1. Receive a copy of the organization's drug-free workplace policy statement; and
2. Agree to abide by the terms of the organization's statement as a condition of employment on the MOU.

**13. Termination of this MOU**

County may terminate this MOU in whole or in part immediately for cause, which shall include as example but not as a limitation:

- A. Failure, for any reason, of City to fulfill in a timely and proper manner its obligations under this MOU, including compliance with City, State and Federal laws and regulations and applicable directives;
- B. Failure to meet the performance standards contained in other sections of this MOU; and
- C. Improper use of funds provided under this MOU.

**14. Amendments**

This MOU may be amended only with the written agreement of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed this 9<sup>th</sup> day of December, 2003.

COUNTY OF ALAMEDA

CITY OF OAKLAND

BY: *Hail Steele*  
 President  
 Board of Supervisors

BY: \_\_\_\_\_  
 City Manager

Date 12/18/03

Date \_\_\_\_\_

Approved as to form:  
 Richard Winnie, County Counsel

Administering Agency Approval

BY: *[Signature]*  
 Deputy County Counsel

BY: \_\_\_\_\_  
 Director, Dept. of Human Services

Date NOV 24 2003

Date \_\_\_\_\_

Approved As To Form and Legality:

BY: *[Signature]*  
 Deputy City Attorney

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Alameda by a majority vote of the Board on 12/9/03; and that a copy has been delivered to the President as provided by Government Code Section 25103.

Date: 12/19/03

ATTEST:  
 \_\_\_\_\_  
 CRYSTAL K. HISHIDA, Clerk of the Board of Supervisors, County of Alameda, State of California



By *R. Bailey*



**Exhibit A**  
**Scope of Services**

**Continuum of Care Council Activities**

1. The City shall be the lead public jurisdiction to work with the Continuum of Care Council to provide technical assistance in the areas defined below. In this role, the City shall contract with one or more Contractor(s), acceptable to the County, to perform the activities described below. The City shall oversee the work of the Contractor(s) and provide any administrative support necessary to provide the following activities.
2. Coordination support and technical assistance provided to the Continuum of Care Council shall include the following:
  - A. *Work to support planning and research efforts of the Council.*  
Contractor(s) will work to support planning and research efforts established by the Continuum of Care Council, including, but not limited to, work to support the update of the Alameda County Homeless Continuum of Care Plan and ongoing analysis of Homeless Count data.
  - B. *Assist the Continuum of Care Coordinator and the Continuum of Care Council to develop resources for agencies which are part of the Continuum of Care.*  
The Contractor(s) will provide technical assistance to expand the resource base of the Continuum of Care. Contractor(s) will work to collect and disseminate information about successful and innovative collaborative strategies in the County to be used in the development of models for redesigning existing collaborations and assist in developing a plan for increasing resources for agencies in the Alameda County Continuum of Care.
  - C. *Provide general support to the Continuum of Care Council*  
Contractor(s) will attend all Continuum of Care Council meetings as needed. In addition, Contractor(s) will address any emerging issues and activities endorsed and approved by the Continuum of Care Council
3. City shall submit a final narrative report within thirty (30) days after the end of the MOU period, in a format approved by County, and other reports as may be required by County as requested.

**Exhibit B**  
**Budget and Terms and Conditions of Payment**

1. A maximum of \$49,458 is available under this MOU for coordination support and technical assistance activities for the Continuum of Care Council. These funds may be used to pay for one or more contractors to carry out the activities in Exhibit A.
2. City shall invoice County for funds in a form approved by the County. City may submit a single invoice or monthly invoices. Final invoice must be submitted before July 31, 2004, unless an extension is approved in writing by the County Housing Director.
3. An expenditure which is not authorized by this MOU or which cannot be adequately documented shall be disallowed and must be reimbursed to the County. Expenditures for work not described in Exhibit A shall only be deemed authorized if the performance of such work is approved in writing by the County.
4. If requested by County, City shall cause an audit to be performed by a qualified State, local or independent auditor. City shall notify the County of the auditor's name and address immediately after the selection has been made. The contract for audit shall include a clause which permits access by the County or its delegate to the independent auditor's working papers.

**ALAMEDA COUNTY HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 AMENDMENT TO MEMORANDUM OF UNDERSTANDING  
 BETWEEN THE COUNTY OF ALAMEDA AND THE CITY OF OAKLAND  
 FOR CONTINUUM OF CARE ACTIVITIES**

C-2004-311

THIS AMENDMENT modifies the MEMORANDUM OF UNDERSTANDING (#C-2004-272) entered into on the 9th day of December 2003 by and between the COUNTY OF ALAMEDA, a body corporate and politic of the State of California, hereinafter referred to as COUNTY, and CITY OF OAKLAND, hereinafter referred to as CITY.

- Memorandum of Understanding, Page 2; 6. Hold Harmless/Indemnification:  
Add the following paragraph:

“To the fullest extent permitted by law, County shall hold harmless, defend and indemnify the City, its Councilmembers, officers, officials, employees and agents (collectively "City Indemnitees") from and against any and all claims, losses, damages, liabilities or expenses, including reasonable attorney fees, incurred in the defense thereof, for the death or injury to any person or persons (including employees of City or County) or damage of any property (including property of City or County) which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are proximately caused solely by the negligence or willful misconduct of any City Indemnitee.”

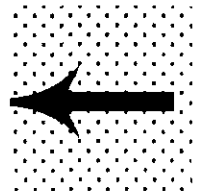
- Memorandum of Understanding, Page 4; 13. Termination of this MOU  
Add the following:

“County or City may, with or without cause, terminate this MOU upon thirty (30) days written notice to the other party.”

IN WITNESS WHEREOF, the parties hereto have executed this amendment.

COUNTY OF ALAMEDA  
 BY: *Hail Stube*  
 President  
 Board of Supervisors

CITY OF OAKLAND  
 BY: \_\_\_\_\_  
 City Manager



Date 1/8/04

Date \_\_\_\_\_

Approved as to form:  
 Richard Winnie, County Counsel  
 BY: *Lorenzo E. Charablis*  
 Senior Deputy County Counsel  
 LORENZO E. CHARABLIS

Administering Agency Approval

BY: \_\_\_\_\_  
 Director, Dept. of Human Services

Date DEC 24 2003

Date \_\_\_\_\_

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Alameda by a majority vote of the Board on 1/6/04; and that a copy has been delivered to the President as provided by Government Code Section 25103.

Date: 1/8/04

ATTEST:

CRYSTAL K. HISHIDA, Clerk of the Board of Supervisors, County of Alameda, State of California

*S-10.18CC*  
**ORA/COUNCIL**  
 FEB 17 2004



By *R. Bandy*