



# AGENDA REPORT

**TO:** Steven Falk  
Interim City Administrator

**FROM:** Estelle Clemons  
Interim Director, Human  
Services

**SUBJECT:** Ordinance Authorizing Emergency  
Shelter Leases

**DATE:** April 17, 2023

City Administrator Approval

Date: May 2, 2023

## RECOMMENDATION

**Staff Recommends That The City Council Adopt An Ordinance:**

**1) Authorizing The City Administrator To Negotiate And Execute Amendments To One Lease Agreement And One License Agreement, Each For An Additional Term Of Up To Three Years, At No Monthly Rent In Exchange For Emergency Shelter And Services, On The City-Owned Home Base Lot At 633 Hegenberger Road, With Lessee Youth Spirit Artworks And Licensee Housing Consortium Of The East Bay; And 2) Adopting CEQA Exemption Findings.**

## EXECUTIVE SUMMARY

The City's Shelter Crisis Ordinance ([Ordinance No. 13662 C.M.S.](#)) authorizes the City Administrator, or his 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.

This Ordinance would authorize the extension of an existing three-year license with Housing Consortium of the East Bay (HCEB) and an existing three-year lease with Youth Spirit Artworks of portions of the City-owned property at 633 Hegenberger Road in East Oakland (Property), otherwise known as the Home Base lot. Each agreement would be extended for up to an additional three years and would otherwise expire in April and May of this year, respectively. The license amendment would additionally allow an expansion of HCEB's program to provide shelter and services to an additional 20 unsheltered people on the Property.

## **BACKGROUND / LEGISLATIVE HISTORY**

The most recent data available from the [February 2022 Point-In-Time \(PIT\) Homeless Count and Survey](#) estimated that there were 5,055 people experiencing homelessness in Oakland on a given night. This represents an increase of 984 individuals (24%) from 2019. Of the 5,055 people experiencing homelessness in Oakland, 3,337 were unsheltered with 32% in tents, 31% in cars or vans, 27% in RVs, 9% on the street, and 1% in abandoned buildings. With each Point-In-Time Count since 2015, the number of people experiencing homelessness is increasing.

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.](#), and again on September 21, 2021 via [Ordinance 13662 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.

On July 31, 2020, the City Council approved [Ordinance No. 13592](#), authorizing a three-year lease, at no monthly rent, between the City and Youth Spirit Artworks, a California nonprofit corporation, allowing the construction of Emergency Housing Facilities for unsheltered residents on a an approximately 94,000 -square foot portion of the Property. The City Administrator entered into the authorized lease with a term beginning June 1, 2020 and expiring May 31, 2023 (YSA Lease).

Pursuant to [OMC Section 8.50.050](#), the City Administrator issued an Emergency Order authorizing administrative authority to enter into licenses for the sole purpose of addressing the COVID-19 crisis, including providing temporary shelter to unsheltered residents or to set up isolation facilities to prevent the spread of COVID-19. Such licenses must terminate within ninety (90) days from the date the City Council terminates the local emergency unless the procedures of [O.M.C. Chapter 2.42](#) are followed within said 90-day window. Pursuant to this Emergency Order, the City Administrator entered into a three-year license with Housing Consortium of the East Bay for a 182,600-square foot portion of the Property, beginning on April 15, 2020 and expiring on April 14, 2023 (HCEB License).

## **ANALYSIS AND POLICY ALTERNATIVES**

Oakland Municipal Code [Chapter 2.42](#) governs the disposition of real property by the City by sale or lease. Unless a lease or license 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 or licenses of City-owned real property be authorized by an ordinance. The ordinance may authorize a specific lease or license of a specific City property, or general leasing or licensing of City property by the City Administrator under parameters provided for in the ordinance.

Staff recommends that the City Council authorize extensions of both the YSA Lease and the HCEB License. Each agreement would be extended up to three years, or until the expiration of the Declaration of Shelter Crisis, whichever comes first. Additionally, HCEB has requested an expansion of the premises to include an additional 28,362-square foot portion that was previously used by Covenant House but is now vacant. This additional area would allow HCEB to provide shelter and services to an additional 20 unsheltered people .

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 and the increasing shelter crisis, staff recommends that the City Council find that extensions of the YSA Lease and HCEB License at no cost to enable continued provision of emergency shelter on City-owned Property is in the City's best interests and would provide benefits to the City and the community at large.

Concurrently with this ordinance, staff is proposing that City Council adopt a resolution awarding professional services agreements with Youth Spirit Artworks and Housing Consortium of the East Bay for continued operation of the programs on the Property.

The provision of City-owned land for use by organizations that offer shelter and services to unhoused community members addresses several Citywide priorities:

- **Holistic community safety** is addressed by ensuring that those community members who are most vulnerable and unsheltered have access to appropriate shelter and services.
- **Housing, economic, and cultural security** is also a focus of the use of this parcel of land as those who are living outside are provided temporarily shelter and are offered the resources and tools to obtain permanent housing.
- **Responsive, trustworthy government** is what the City exemplifies when it works to provide resources to the most vulnerable members of our community, particularly the unhoused members of our community. The provision of rent-free space will greatly assist our unsheltered neighbors and move us one step closer to ending homelessness in our community.

### **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.

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**

According to the [2022-23 City of Oakland Budget Priorities Survey](#) conducted by FM3 Research, homelessness remains the most-urgent problem to address in the budget as seen by residents.

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**

Coordination has occurred between the Human Services Department, City Administrators Office, Office of the City Attorney, Budget Bureau, Economic & Workforce Development Department - Real Estate Asset Management Division in the preparation of this report and legislation.

### **PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

Housing Consortium of the East Bay (HCEB) operates the HomeBase program at site B on the 633 Hegenberger parcel. The City has determined that it is necessary for HomeBase to expand to encompass the now unoccupied trailers on site A. HomeBase is an emergency shelter program which provides safe housing as well as stability, safety, and linkages to critical services to approximately 132 homeless individuals who are at high risk of serious illness or death due to COVID-19. The program is designed to serve clients who can live in mobile trailers. The target population for this program is Oakland residents who are over the age of 60, or medically fragile, high risk with a variety of health conditions. HomeBase is a City-funded program that has been in operation at the site since FY 20-21. In FY 21-22 there were 180 clients enrolled in the program, 139 of whom were Black. During the fiscal year, 94 participants obtained permanent housing, 76 of whom were black. The FY 22-23 agreement for HomeBase is for \$1,250,000 (\$800,000 ESG-CV) (\$450,000 Measure Q).

Youth Spirit Artworks (YSA) operates the Tiny Homes Village (THV) transitional housing program for youth (ages 18-25) at site C on the 633 Hegenberger parcel. The Tiny Homes Village serves 22 young adults at any point in time, and approximately 30-40 young adults per

year. Services include supporting participants with increasing income, case management, and acquiring permanent housing. In FY 21-22 the program served 40 young adults, 19 of whom were Black. Of those 19 Black young adults, seven obtained permanent housing and three went to temporary housing. A total of 16 program participants obtained permanent housing, seven of whom were Black. An additional 13 young adults went to transitional housing, three of whom were Black. Program participants may remain at Tiny Homes Villages for a maximum of two years. YSA has undergone considerable changes in FY 22-23. The long-time Executive Director and Founder of the organization retired. There were other staffing changes as well, including the onboarding of a new Village Manager, Case Manager, and Operations Director. The City of Oakland monitored YSA last summer and made significant program improvement requirements. YSA then also made substantial program improvements. YSA has phased out their live/work staff, merged their Resident Advisor (RA) with their Leadership Council program to be more in alignment with their program goals. YSA rewrote the participant agreement and program manual. There was new lighting installed on site in an effort to improve security. YSA has established a Memorandum of Understanding with Telecare to work with youth with severe mental health issues and get them connected to services. Telecare will operate as a triage-like program – they will work with youth who need the mental health interventions for six months and will then link them to services. YSA is also reframing the site messaging with a focus on accepting all homeless youth and a goal to transition participants to permanent housing. The City provided a technical assistance consultant and YSA was selected as a winning proposal in the Oakland City Challenge. Staff expects to see more accurate reporting and increased positive outcomes from YSA now that they have made program and administrative changes. YSA's FY 22-23 agreement is for \$503,337 (HHAP-1).

## **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:*** In Oakland, the drivers of homelessness fall most squarely on the backs of the African American community who, due to long standing structurally racist practices such as red lining and employment discrimination, are most vulnerable to losing their homes. Ending homelessness in Oakland must be defined by what works for African Americans first and foremost in order to reduce the racial disparities. These drivers of homelessness include:

- Structural racism
- Insufficient controls on the rental housing market that create vulnerability and housing instability for tenants
- Insufficient housing units that are affordable to households with the lowest incomes, including particularly those whose incomes are below 20 percent of Area Median Income (AMI)

- Systematic barriers that often prevent residents who are returning home from incarceration from living with family members and/or accessing both public and private rental housing and employment opportunities
- Inadequate pay and benefits for many of the jobs that are available in the community, and insufficient access to quality employment opportunities that pay wages that meet the cost of housing

One of the goals of Oakland's Permanent Access to Housing (PATH) Plan is to eliminate racial disparities in the rates at which people experience homelessness, and in exits to stable housing. The City utilizes data from the Homeless Management Information System (HMIS) to track client demographics and outcomes.

Black or African American Oakland residents are disproportionately over-represented in the homeless population. According to the 2022 PIT count, 60 percent of the population experiencing homelessness in Oakland identifies as Black or African American; however, this demographic is only 24 percent (24%) of the general population. The programs and services funded through this legislation will primarily serve African American clients.

#### **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 Negotiate And Execute Amendments To One Lease Agreement And One License Agreement, Each For An Additional Term Of Up To Three Years, At No Monthly Rent In Exchange For Emergency Shelter And Services, On The City-Owned Home Base Lot At 633 Hegenberger Road, With Lessee Youth Spirit Artworks And Licensee Housing Consortium Of The East Bay; And 2) Adopting CEQA Exemption Findings.

For questions regarding this report, please contact C'Mone Falls, Acting Manager, Community Homelessness Services, at 510.238.6186.

Respectfully submitted,



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