

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF EMERYVILLE
AND
THE CITY OF OAKLAND
FOR WINTER SHELTER SERVICES
FY 2016/17**

1. Background

The City of Emeryville has allocated a total of \$30,000 towards the operation of a traditional 75-bed winter shelter located at The Society of St. Vincent de Paul (SVdP) at 675 23rd Street Oakland, California as part of the North County Winter Shelter program.

2. Purpose of Memorandum of Understanding

The purpose of this MOU is to identify the services to be provided by the City of Oakland and the responsibilities of the City of Oakland and the City of Emeryville pursuant to the Winter Shelter program funded under this MOU.

3. Scope of Services

The City of Oakland will perform or arrange for the performance of services under this MOU in the manner and time provided herein as described in Exhibit A attached hereto.

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

4. Budget

The Budget and Terms and Conditions of Payment is attached hereto as Exhibit B and incorporated herein as part of this MOU. All budget modifications require the prior written approval of the City of Emeryville and the City of Oakland. Budget modifications shall not alter: 1) The basic scope of services required to be performed under this MOU; 2) the time period for the services to be performed under this MOU; or, 3) the total amount of the authorized budget of this MOU (see Exhibit B), unless set forth in a written amendment to this MOU signed by the City of Oakland and the City of Emeryville.

5. Method of Payment

The City of Emeryville has allocated an amount not to exceed \$30,000 to be expended for the services to be provided by the City of Oakland as described in this MOU. Payment shall be made pursuant to the terms and conditions set forth in Exhibit B. Sums not so paid shall be retained by the City of Emeryville.

6. Indemnity and Insurance

The City of Oakland shall indemnify, defend and hold harmless the City of Emeryville, its officers and employees, against any and all liability for injury or damage caused by any negligent or willful act or omission of the City of Oakland or any of its employees or volunteers in the performance of the duties specified in this MOU. The City of Emeryville shall likewise indemnify, defend and hold harmless the City of Oakland, its Councilmembers, officers and employees against any and all liability for injury or damages caused by the negligent or willful act or omission of the City of Emeryville, its employees or volunteers in the performance of its duties as specified in this MOU.

The City of Oakland shall provide evidence of self-insurance.

The City of Oakland shall ensure that service providers administering the winter shelter program likewise indemnify, defend and hold harmless the City of Emeryville. In addition, the City of Oakland shall ensure that the providers have General Liability, Workers' Compensation, Automobile, and Professional Liability Insurance coverage as required and appropriate. The City of Oakland shall ensure that the City of Emeryville is named as an additional insured on the service providers' general liability and automobile liability insurance policies. Proof of coverage will be provided upon request of the City of Emeryville.

7. Fiscal Administration, Record Keeping and Reporting

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

B. The City of Oakland 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 of Oakland must provide for the accurate and timely recordation of the receipt of funds, expenditures, and unexpended balances.

The City of Oakland agrees that the City of Emeryville will have the right to review, obtain, and copy all records pertaining to performance under this MOU. The City of Oakland agrees to provide the City of Emeryville with any relevant information requested and shall permit the City of Emeryville to access 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. The City of Oakland further agrees to maintain such records for a period of three (3) years after final payment under this MOU.

8. Compliance with Regulations

The City of Oakland agrees and will ensure that providers agree to comply with all applicable laws, statutes and regulations applicable to the delivery of the provider's services.

9. Term

The term of this MOU is November 1, 2016 through June 30, 2017.

10. 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 either party to enforce at any time the provisions of this MOU or to require at any time performance by the other party 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 a party 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, 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 of Oakland shall notify the City of Emeryville immediately of any claim or action undertaken by or against it, which affects or may affect this MOU or the City of Emeryville and shall take such action with response to the claim or action as is consistent with the terms of the MOU.

11. Drug-Free Workplace

By signing this MOU, the City of Oakland hereby certifies that the City and all subcontractors 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 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.

12. Termination of this MOU

The City of Emeryville may terminate this MOU immediately for cause, which shall include as an example but not as a limitation:

- A. Material failure, for any reason, of the City of Oakland 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. Material failure to meet the performance standards contained in other sections of this MOU; and
- C. Improper use or reporting of funds provided under this MOU.

13. 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 ____ day of _____, 2016.

CITY OF EMERYVILLE

CITY OF OAKLAND

BY: _____
Carolyn Lehr
City Manager

BY:  _____
Sabrina B. Landreth
City Administrator

Date: _____

Date: 10/3/16

Approved as to form:

Administering Agency Approval
For Forwarding:

BY:  _____
Michael Guina
City Attorney

BY:  _____
Sara Bedford, Director
Human Services Department

Date: 10.11.16

Date: 10/3/16

Approved As To Form and Legality:

BY:  _____
Deputy City Attorney

Date: 9/29/14

Exhibit A
Scope of Services

Winter Shelter

1. The funding provided to the City of Oakland pursuant to this MOU shall be used for a Seventy-Five (75) bed winter shelter at The Society of St. Vincent de Paul (SVdP) located at 675 23rd Street Oakland, California 94612. The 75 beds at SVdP will be accessible to participants through a referral process from various City of Oakland agencies and City of Emeryville agencies to address needs of homeless and vulnerable persons. Referring agencies will instruct clients to arrive at SVdP at a specific time and beds will be held for those referred individuals up until that time. Beds that remain unpopulated by referral curfew will be filled based on a first come first serve basis. The SVdP Shelter shall be open from the early evening, no later than 6:00 p.m., until the following morning, approximately 8:00 a.m., and shall provide a hot evening snack, a light breakfast, and bathroom facilities. Bay Area Community Services (BACS) will provide general case management and vulnerability assessment services to shelter clients. City of Emeryville referring agencies will have up-to ten beds held for their referred clients.

2. Operation of the winter shelter site identified above shall include the following:

- A. The site must meet all applicable federal, state, and local codes, as appropriate;
- B. The site will provide reasonable security to the personnel and residents of the shelter;
- C. The site will be ADA accessible to the homeless individuals referred for shelter; and,
- D. The site will have an agency with sufficient staff and funds under contract with the City of Oakland to operate the site.

3. The City of Oakland shall submit a report within sixty (60) days after the end of the MOU period, in a format approved by the City of Emeryville, which shall include the total number of unduplicated Emeryville homeless residents who sheltered at Saint Vincent de Paul each night that the Winter Shelter was in operation. The city will implement a broad definition of 'homeless residents' to best capture the total number of unduplicated Emeryville homeless served (e.g. did they lose their housing in Emeryville, did they sleep in Emeryville last night, do they frequently spend the day in Emeryville, do they work or go to school in Emeryville?). The report will include the total number of unduplicated Emeryville homeless served, bed nights used, and basic demographic information (age, gender, race, ethnicity, and income).

Exhibit B
Budget and Terms and Conditions of Payment

1. A maximum of \$30,000 is available from the City of Emeryville under this MOU for the services identified in Exhibit A.
2. City of Oakland shall invoice the City of Emeryville for the total amount of funds provided by this MOU in a single letter invoice. An invoice must be submitted before June 30, 2017, unless an extension is approved in writing by the City of Emeryville.
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 City of Emeryville. 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 City of Emeryville.