



SAN DIEGO
HOUSING
COMMISSION

REPORT TO THE CITY COUNCIL AND HOUSING AUTHORITY

DATE ISSUED: May 27, 2011

REPORT NO: HAR11-034

ATTENTION: Council President and Members of the Housing Authority
For the Agenda of June 27, 2011

SUBJECT: Renewal and Revision of Memorandum of Understanding between City and
Housing Commission for Provision of Homeless Shelter Services

COUNCIL DISTRICT: Citywide

REQUESTED ACTION:

Housing Authority and City Council approval for renewal and revision of the Homeless Shelter Services Memorandum of Understanding (MOU) between the City and Housing Commission.

SUMMARY:

On June 29, 2010, the Housing Authority and City Council approved an MOU between the City and Housing Commission transferring responsibility to administer the City's homeless shelter services from the City to the Housing Commission.

Although the MOU is an effective agreement, a few provisions either were unclear, cumbersome, or inadvertently omitted. Staff recommends the following changes at this time:

Mutual Indemnification, Hold Harmless

A mutual indemnification and "hold harmless" provision was inadvertently omitted from the original MOU. Staff recommends the following addition:

To the fullest extent provided by law, City and Commission agree to indemnify, protect, and hold harmless one another, including their elected officials, departments, representatives, agents, officers or employees, from and against any and all claims, demands, actions, proceedings, suits, liabilities, damages, costs (including reasonable attorneys' fees) or expenses for, including damage to property, the loss or use thereof, or injury or death to any person, caused by, arising out of, or related to the performance of services under this MOU by City and/or Commission, their elected officials, officers, agents, representatives, departments, subcontractors and employees. The City's and Commission's duty to indemnify and hold harmless one another shall not include any claim or liability arising from the established active sole or willful misconduct of the other, or its elected officials, officers, agents, representatives, departments, subcontractors, and employees.

Frequency of Renewal

The original MOU requires renewal by the end of each fiscal year; the original term of the MOU is two years. The proposed First Amendment -- extending the term from July 1, 2012 to June 30, 2014



SAN DIEGO
HOUSING
COMMISSION

(Attachment 2) -- specifies that renewals must occur by the end of the fiscal year preceding expiration of the then-current term, rather than each fiscal year.

Clarifications

The amount of the Commission's annual contribution to the program, the specificity of the program elements, and how program changes would be dealt with were unclear in the original MOU and require clarification. Attachment 2 incorporates clarifications about these matters.

FISCAL CONSIDERATIONS:

No fiscal effects are anticipated beyond amounts included within the FY2012 Housing Commission Budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The item is scheduled to be heard by the Housing Commission Board at the June 10, 2011 meeting. Staff will be available to report on the outcomes of that meeting.

ENVIRONMENTAL REVIEW:

This activity is not a project pursuant to Section 15060(c)(3) of the State of California Environmental Quality Act Guidelines. Processing under the National Environmental Policy Act is not required as no federal funds are involved in the action.

Respectfully submitted,

Cissy Fisher
Vice President
Special Housing Initiatives

Approved by,

Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

- Attachment: 1. Memorandum of Understanding (MOU)
2. Proposed First Amendment to MOU

Hard copies are available for review during business hours in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials on the San Diego Housing Commission website at www.sdhc.org.

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN DIEGO
AND
SAN DIEGO HOUSING COMMISSION
FOR THE PROVISION OF HOMELESS SHELTER AND SERVICES**

This Memorandum of Understanding (MOU) between the SAN DIEGO HOUSING COMMISSION, a public agency (Commission) and the CITY OF SAN DIEGO, a municipal corporation (City), shall become effective upon signature of both parties.

The term of this MOU is two fiscal years, beginning July 1, 2010 and ending June 30, 2012; the MOU must be renewed one year prior to the end of each fiscal year to ensure availability and allocation of funding. This MOU shall terminate on June 30, 2012 unless extended by the Commission and the City no later than June 30, 2011.

RECITALS

WHEREAS, The City's Consolidated Plan estimates there are 6,500 homeless persons located within the City's jurisdictional limits; and

WHEREAS, The City's Homeless Programs included in the Consolidated Plan, seek to continue to expand the involvement of nonprofit entities in the provision of shelter and services to the homeless and further recognizes the need to increase the availability of shelter beds to effectively serve homeless persons with special needs in an efficient and effective manner; and

WHEREAS, pursuant to the City's Consolidated Plan, the City has provided temporary shelter and services for homeless persons (e.g., Emergency Winter Shelter, Cortez Hill Family Shelter, Neil Good Day Center, Homeless Data Management referred to as "Shelter and Service Programs") through a series of contractual arrangements with shelter and service providers; and

WHEREAS, the City desires to transfer the management of the contracts for operation of the Shelter and Service Programs;

NOW, THEREFORE, the Commission and the City agree as follows:

1. On July 1, 2010, the Commission will take responsibility for the management and oversight of the City's contracts for provision of shelter and services for homeless persons as awarded by the City prior to July 1, 2010 and as awarded by the Housing Commission and/or Housing Authority for the remaining term of this MOU.
2. To provide temporary shelter, services and assistance to alleviate homelessness:
 - The Housing Commission will use City appropriated funds (and other sources as available) to support the shelter program.

- The Housing Commission will manage the contracts to operate the Neil Good Day Center as awarded by the City to provide walk-in and referral services for homeless.
 - The Housing Commission will continue to fund data management services through the Regional Task Force on the Homeless at current level (\$45,000/year) if services and funding are deemed necessary.
 - To assist families with access to transitional housing, case management, and support services: the Housing Commission will use Emergency Shelter Grant (ESG), Community Development Block Grant (CDBG) and any other funds available to support assistance to a minimum of 100 families through the Cortez Hill Family Center.
 - The City staff will facilitate utility hook ups for shelter tent operations (Facilities Maintenance, Water, Streets). Commission will be responsible for payment of service hook ups, utility payments, and costs associated with set-up/tear down of shelter program(s).
3. Sources of Funds: the City will dedicate 100% of funds received from the HUD ESG and will dedicate CDBG funding in accordance with Council Policy 700-02 to shelter and service programs during the term of the MOU. City and Housing Commission acknowledge that the current rate of City funding does not cover the entire cost of the shelter program and is contingent upon the ESG entitlement amount, other funding sources confirmed, and Council approval during the CDBG Application process. It is expressly understood that the Commission may terminate this MOU, upon ninety (90) days written notice to the City, if regular funding sources adequate to cover the provision of a tent and social services at a level of service equal or greater than that provided by the City's winter shelter program in FY2010 are not made available.
 4. To ensure the Commission's ability to manage the operational contracts, the City agrees to work with the Commission and HUD to facilitate the Commission's ability to directly access the ESG funds through the Integrated Disbursement and Information System (IDIS). It is understood that this MOU will not be effective until arrangements have been completed to ensure the Commission can directly access ESG funds.
 5. The Commission shall ensure compliance with CDBG, ESG, and/or other federal regulations and requirements with regard to administration and utilization of the CDBG and ESG funds and ensure all subcontract compliance through monitoring reviews are conducted by Commission staff and documented.
 6. Funding available through CDBG will be subject to the City's reimbursement process. Prior to July 1, 2010 the City will provide a detailed description of the documentation that will be required from the Commission for the reimbursement of funds provided through CDBG. The City agrees reimbursement requests from the Commission will be paid within 30 days of receipt, provided said documentation is included with the reimbursement request.

7. Commission shall, in a timely manner, provide City with all ESG and CDBG data and narrative as requested to complete the Annual Action Plan , Consolidated Annual Performance Evaluation Report, and monitoring reports, and any other reports and documents required by the CDBG Program office
8. The City agrees to store, at no cost, up to two sprung tent structures used for the purpose of the Winter Shelter Program at the City's General Services storage facility located at 1950 B Street, San Diego, CA 92102 or alternative location if deemed necessary by the City. The Housing Commission and City will enter into an agreement with the San Diego Unified Port District for storage and use of the sprung tent structures.
9. In no event shall the Housing Commission's financial contribution for the programs and services covered by the MOU exceed a total of \$400,000 in any fiscal year during the term of this MOU.

Either the Commission or the City may terminate this MOU for any reason by providing 90 days written notice to the other.

SAN DIEGO HOUSING COMMISSION

CITY OF SAN DIEGO

BY: 

BY: 

DATE: 11/29/10

DATE: 12-6-10

APPROVED:

CHRISTENSEN & SPATH LLP


A California Limited Liability Partnership

BY: 

General Counsel

San Diego Housing Commission

OFFICE OF THE CITY ATTORNEY

Andrea Dixon Contreras 

BY: 

City Attorney

City of San Diego

12.7.10

**FIRST AMENDMENT
TO
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN DIEGO
AND
SAN DIEGO HOUSING COMMISSION**

FOR THE PROVISION OF HOMELESS SHELTER AND SERVICES

This First Amendment to the Memorandum of Understanding (MOU) between the SAN DIEGO HOUSING COMMISSION, a public agency (Commission) and the CITY OF SAN DIEGO, a municipal corporation (City), shall become effective upon signature of both parties.

RECITALS

WHEREAS, on June 29, 2010, by Resolution No. R-305962, the San Diego City Council authorized the execution of an MOU transferring responsibility for operation of the City's Shelter and Services Programs for Homeless Persons from the City to the Commission, effective July 1, 2010 through June 30, 2012 (Original MOU); and

WHEREAS, the Original MOU requires renewal of its term annually, starting no less than one fiscal year prior to the end of the then-current expiration date; and

WHEREAS, a mutual indemnification clause was unintentionally omitted from the Original MOU; and

WHEREAS, the Commission and City agree to clarify certain other provisions of the Original MOU;

NOW, THEREFORE, the Commission and the City agree as follows:

1. This First Amendment to the MOU shall extend the term of the Original MOU one fiscal year, beginning July 1, 2012 (the expiration date of the Original MOU) and ending June 30, 2013. In order to ensure availability and allocation of funding, all future amendments renewing the Original MOU must be approved no less than one fiscal year prior to the expiration of the then-current term or extension. In addition, for so long as the only change to the Original MOU is an amendment renewing the Original MOU, that renewal may be executed by the Mayor of the City of San Diego and the Chief Executive

Officer of the Commission, or their designees. Should either party propose additional changes, those changes shall be subject to approval of the San Diego City Council and the San Diego Housing Authority.

2. Section 2 of the MOU is deleted in its entirety and replaced with the following language:

“The Commission shall oversee and manage those City programs which provide temporary shelter, services and assistance to alleviate homelessness including, but not limited to, the following elements of the City’s Shelter and Service Program:

- A winter shelter and ancillary services for 200 homeless adults, operating at least from December 1 of each year through March 31 of the following year;
- A winter shelter and ancillary services for 150 veterans, operating during the same time period as above;
- Set-up and tear-down of the above shelters when sprung structures are used;
- City-facilitated utility hook-ups for shelter operations;
- Assistance for a minimum of 100 families through the Cortez Hill Family Center;
- Operation of the Neil Good Day Center, providing walk-in and referral services for homeless families;
- Funding for County’s hotel/motel voucher program for homeless families; and
- Commission funding of \$45,000 per year to the Regional Task Force on the Homeless for data management services, if such services and funding are deemed necessary.

3. Section 3 of the MOU, “Sources of Funds”, is hereby amended to read in its entirety as follows:

“The City will dedicate 100% of funds received from the HUD ESG program and will dedicate CDBG funds in accordance with Council Policy 700-02 to the shelter and service programs itemized herein during the term of this MOU. City and Housing Commission acknowledge that the current rate of City funding does not cover the entire cost of the shelter and service program as currently constituted and is contingent upon the ESG entitlement amount, confirmation of other funding sources, and City Council approval during the CDBG application process. It is expressly understood the Commission may

terminate this MOU upon ninety (90) days written notice to the City, if regular fundings sources adequate to cover the provision of a sprung structure and social services at a level of service equal or greater than that provided by the City's winter shelter program in FY2010 are not made available. It is expressly understood that the City will endeavor to make funds available for each Fiscal Year that this MOU is in place at a level no less than that of the previous Fiscal Year. However, if the specified level of funding is not available and/or if program elements are changed, Commission's responsibilities under the MOU will be changed accordingly as mutually agreed to by the parties in writing.

Commission's financial contribution for the programs and services covered by the MOU shall not exceed \$400,000, in addition to the \$45,000 previously referenced in Section 2, during any fiscal year during the term of this MOU. This financial contribution is intended to be separate and apart from the one-time \$500,000 contribution the Commission has agreed to make to the City for the operation of the Neil Good Day Center for Fiscal Year 2012."

4. Section 10 is added to read as follows:

Indemnification To the fullest extent provided by law, City and Commission agree to indemnify, protect, and hold harmless one another, including their elected officials, departments, representatives, agents, officers or employees, from and against any and all claims, demands, actions, proceedings, suits, liabilities, damages, costs (including reasonable attorneys' fees) or expenses for, including damage to property, the loss or use thereof, or injury or death to any person, caused by, arising out of, or related to the performance of services under this MOU by City and/or Commission, their elected officials, officers, agents, representatives, departments, subcontractors and employees. The City's and Commission's duty to indemnify and hold harmless one another shall not include any claimor liability arising from the established sole negligence or willful misconduct of the other, or its elected officials, officers agents, representatives, departments, subcontractors, and employees.

SAN DIEGO HOUSING COMMISSION

CITY OF SAN DIEGO

By: _____
Carrol Vaughan
Executive Vice President and Chief
Operating Officer

By: _____
Jay Goldstone
Chief Operating Officer

Date: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY:

OFFICE OF THE CITY ATTORNEY

Jan I. Goldsmith

CHRISTENSEN & SPATH LLP

A California Limited Liability Partnership

By: _____

Andrea Contreras Dixon

Deputy City Attorney

By: _____

Charles Christensen

General Counsel

Date: _____

Date: _____