



REPORT to the MAYOR and MEMBERS of the CITY COUNCIL
From the CITY MANAGER

DATE: May 10, 2022

SUBJECT: PROPOSED MEMORANDUM OF UNDERSTANDING
FOR HOMELESSNESS SERVICES

DESCRIPTION: A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF LA MESA APPROVING A MEMORANDUM OF
UNDERSTANDING AMONG THE CITIES OF
EL CAJON, LA MESA, LEMON GROVE, SANTEE, AND
THE COUNTY OF SAN DIEGO FOR HOMELESSNESS
SERVICES

ISSUING DEPARTMENT: City Manager's Office

SUMMARY:

Issues:

Should the City Council authorize the City Manager to sign a Memorandum of Understanding to enable the County along with the cities of El Cajon, La Mesa, Lemon Grove, and Santee to explore regional housing opportunities to house the homeless?

Recommendation:

The City Council should adopt a Resolution approving a Memorandum of Understanding between cities in east San Diego County and the County of San Diego, and authorize the City Manager to execute said Memorandum of Understanding or other instrument substantially in the form as presented, with such changes as may be approved by the City Manager.

Fiscal Impact:

There is no immediate fiscal impact associated with the recommended action. Subject to approval of the MOU, the County and cities would cooperatively identify potential sites and negotiate the pro-rata share of one-time capital costs

and ongoing operating costs. Any potential developments with a direct fiscal impact would be brought back to City Council for budget consideration.

City's Strategic Goals:

- Continue to improve high quality municipal services
- Ensure safe and affordable homes for La Mesa's current and future residents

BACKGROUND:

In 2019, the City Council created the La Mesa Citizen Task Force on Homelessness (CTFH). Members of CTFH worked with staff to identify options for viable programs to address homelessness and related housing solutions. In February 2021, the La Mesa City Council unanimously adopted the recommendations provided by the CTFH which are encapsulated in the 2021-2026 Homeless Action Plan. The Homeless Action Plan established programs designed to prevent homeless and housing insecurity, provide comprehensive outreach and mental health services, and address future transitional and permanent supportive housing needs in East San Diego County. Along with adopting a Housing-First approach to housing the homeless, the four guiding principles of the Homeless Action Plan are as follows:



1. Enhance the City's public communication and coordination related to the homeless.



2. Improve the City's ability to prevent homelessness, provide direct outreach to the homeless population, address public safety, and respond to nonemergency calls for service.



3. Expand the City's ability to connect homeless residents to transitional and permanent housing opportunities.



4. Identify viable one-time and ongoing grant funding opportunities

The Homeless Outreach and Mobile Engagement (HOME) team along with continued efforts to provide rental assistance to La Mesa residents at risk of becoming homeless are examples of programs resulting from the Homeless Action Plan. The City's homeless services do not rely on General Fund dollars; the City received over \$1.1 million in funding from the State of California to provide outreach services and leverages Federal funding for the rental assistance program.

Martin v. Boise

In 2009, six homeless residents from the City of Boise alleged they were repeatedly cited by Boise police for violating two local ordinances. The *Martin v. Boise* case challenged the City of Boise's enforcement of its Camping and Disorderly Conduct Ordinances against persons experiencing homelessness. The first ordinance made it a misdemeanor to use "any of the streets, sidewalks, parks, or public places as a camping place at any time." The Camping Ordinance defined "camping" as "the use of public property as a temporary or permanent place of dwelling, lodging, or residence." The second ordinance banned occupying, lodging, or sleeping in any building, structure, or public place, whether public or private without the permission of the property owner.

In 2018, the United States Court of Appeals for the Ninth Circuit (which includes Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington) ruled that cities cannot enforce anti-camping ordinances if these do not have sufficient homeless shelter beds available for their homeless population. The 9th Circuit panel held that *"as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."* The ruling, however, does not prohibit local jurisdictions from enforcing other criminal violations.

The Court's decision was based on its interpretation of the Eight Amendment. The Court found that citations against homeless individuals without access to shelter met the criteria for cruel and unusual punishment. An anti-camping ordinance violates the Eight Amendment¹ if it imposes criminal sanctions against homeless individuals for sleeping outdoors on public property when no alternative shelter is available. Therefore, it is imperative for local jurisdictions to provide shelter to enforce anti-camping ordinances. In 2019, the U.S. Supreme Court declined to hear an appeal of the case, leaving the precedent intact in the nine Western states under the jurisdiction of the Ninth Circuit.

DISCUSSION:

The Homeless Action Plan recommends identifying regional opportunities for transitional and permanent supportive housing. Historically, the East County region has not had a significant number of locations where homeless individuals or families can be housed. Given limited housing opportunities in the region, staff from the cities of El Cajon, La Mesa, Lemon Grove, Santee, and the County met to develop an appropriate agreement by which to establish a multi-jurisdictional approach to homelessness. The parties agreed that non-congregate emergency housing that provides individuals or

¹ *The Eighth Amendment to the United States Constitution states: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."*

families with their own personal space would be the best approach to housing in East County. The parties further agreed that a Memorandum of Understanding (MOU) would provide a way to clearly establish roles and responsibilities to provide a regional approach to housing.

Memorandum of Understanding

For several years, efforts to address homelessness through the creation of housing options have been limited to individualized efforts by the County and cities. To date, these efforts have not created bed space to adequately accommodate the homeless population in East San Diego County. The proposed MOU establishes the foundation for a working partnership between the County and the East County cities to develop a regional network of housing options that would benefit all parties.

The proposed MOU does not create an obligation for any single party to site and build a project; rather it creates options for the parties to collectively evaluate potential sites and discuss shared bed space opportunities. The proposed MOU was reviewed by representatives of the County and each of the four cities. The proposed five-year MOU enables cooperation regarding the following activities:

1. Identify potential locations for the siting of low-barrier emergency housing and facilities for associated on-site services.
2. Seek out the establishment of permanent, and permanent supportive, housing within each city in sufficient numbers to house persons identified as experiencing unsheltered or sheltered homelessness.

All projects, programs, efforts, budgeting, and entitlement actions are subject to the final approval or concurrence of the La Mesa City Council. As a result, no party or group of parties can obligate another to any course of action, location of facilities, commitment of funds, or otherwise remove a jurisdiction's control over the program.

Roles and Responsibilities

As a significant provider of regional services, the County has agreed to take a leadership position on this issue. The proposed MOU creates the following obligations for the County of San Diego:

1. Identify potential locations for the siting of low-barrier emergency housing and facilities for associated on-site services.

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2. Seek out the establishment of permanent and permanent supportive housing in sufficient number to house persons identified as experiencing unsheltered or sheltered homelessness.
3. Coordinate with other parties on determining the equitable financial share of any joint costs to develop services and housing through appropriate contracts with consultants based on formula of persons experiencing homelessness in each jurisdiction, availability of external state/federal resources, and other non-monetary contributions.
4. Collaborate on homeless outreach and social work street outreach services by engaging, connecting, and referring persons experiencing homelessness for the purpose of providing assessment, support, and housing appropriate for the individual's needs.
5. Work collaboratively with parties to the MOU to identify behavioral health service needs for those experiencing homelessness.
6. Administer federal, state, and local funded housing programs that are awarded to the County, throughout the region as dictated by each funding source in a manner consistent with the MOU.
7. Consider making surplus property in the unincorporated area available for the production of low-barrier emergency housing and facilities and consider means to streamline processes for zoning and/or General Plan Amendment(s) when possible.

The Cities collectively agree to undertake the following:

1. Support the siting of low-barrier housing and related facilities, including participating in a Request for Proposals process to identify a qualified operator.
2. Participate in ongoing data collection efforts; the information would assist the parties in making collective decisions regarding housing and service needs.
3. Identify potential sites suitable for emergency housing and facilities for associated onsite services. Site approval, along with any required entitlement actions, shall be subject to the final approval or concurrence from the La Mesa City Council.
4. Seek the establishment of permanent and permanent supportive housing within the City's boundaries in sufficient number to house persons experiencing

homelessness in La Mesa and provide a projection of future housing needs based on available data.

The MOU would enable the County and cities to more effectively address joint plans, share resources, and develop separate agreements to fund and operate facilities.

CONCLUSION:

At this time, staff recommends the City Council authorize the City Manager to sign the proposed MOU. As noted, the MOU does not create specific obligations for the City to site and build a facility. The purpose of the MOU is to establish a cooperative regional framework that would leverage resources to provide non-congregate housing acceptable to the host jurisdiction. The MOU would further provide each jurisdiction with the ability to secure bed space for its homeless population.

Reviewed by:



Greg Humora
City Manager

Respectfully submitted by:



Carlo Tomaino
Assistant City Manager

Attachments:

- A: Memorandum of Understanding
- B: City Council Resolution 2022-XX