To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Paul Buddenhagen, Director, Health, Housing & Community Services Department
Subject: Memorandum of Understanding for a Winter Relief Program

RECOMMENDATION
Adopt a Resolution authorizing the City Manager to receive funds and execute a memorandum of understanding (MOU) between Alameda County and the City of Berkeley for a new Winter Relief Program which will provide literally homeless people on the streets of Berkeley respite.

FISCAL IMPACTS OF RECOMMENDATION
The County has allocated $21,000 to be spent on Winter Relief Program activities. The funds will be deposited in revenue account 422-7906-361-5010. Funds will be used to purchase nightly lodging in area motels and will be administered by the Mental Health Division in the Health, Housing and Community Services Department. Funds will be appropriated as part of the Second Amendment to the FY 2018 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS
The unsheltered homeless population in Berkeley, Emeryville and Albany exceeds the number of available shelter beds in North County. Alameda County (County) has allocated funding to support winter relief programs across the county. This funding will be used in Berkeley to provide additional temporary housing options (such as motel stays) to literally homeless people identified and prioritized as high need through the North County Coordinated Entry System (“The Hub) between December 1, 2017 and March 31, 2018. It will be used to improve the health and safety of residents who would otherwise remain unsheltered during this winter season. The City’s Homeless Outreach and Treatment Team (HOTT) staff will have access to these funds and place high need and vulnerable homeless people in temporary lodging, allowing them a respite from the streets while support services staff assess needs and develop a long-term housing plan.

BACKGROUND
Annually, the County allocates funding to cities and non-profit agencies to mitigate the impact of inclement weather on people who are literally homeless living on the streets. This funding has been used to leverage existing local resources offered through the
Hub and other homeless programs. This year, the funds will be used by the City’s Homeless Outreach and Treatment Team, to temporarily house high need and vulnerable people, allowing them a respite from the streets while support services staff assess needs and develop a long-term housing plan.

ENVIRONMENTAL SUSTAINABILITY
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
This funding will allow more literally homeless people to quickly move into temporary housing during this winter season while working with housing navigators to move into longer term shelter options.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Jennifer Vasquez, CSSIII, HHCS, Housing & Community Services Division, (510) 981-5431

Attachments:
1. Resolution
2. Memorandum of Understanding
RESOLUTION NO. ##,###-N.S.

MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF ALAMEDA AND THE CITY OF BERKELEY THAT OUTLINES THE SERVICES TO BE PROVIDED AND THE RESPONSIBILITIES OF THE COUNTY AND CITY IN THE WINTER RELIEF PROGRAM

WHEREAS, the County of Alameda ("COUNTY") has allocated a total of $21,000 for respite from the elements for literally homeless people living on the streets of Berkeley during the period of December 1, 2017 through March 31, 2018; and

WHEREAS, the parties acknowledge that there is a lack of available shelter space to provide shelter for the homeless populations of Berkeley, Albany, and Emeryville; and

WHEREAS, the County and the City of Berkeley further acknowledge that funding for motel stays for unsheltered homeless individuals during the typically cold and rainy winter season will improve health and safety outcomes for residents who would otherwise remain unsheltered during inclement weather; and

WHEREAS, the North County Coordinated Entry (The Hub) is funded to engage, assess, prioritize and match high need literally homeless people living in Berkeley, Emeryville and Albany to a range of housing options; and

WHEREAS, the City’s Homeless Outreach and Treatment Team (HOTT) staff will utilize these funds and place high need and vulnerable homeless people in temporary lodging, allowing them a respite from the streets while support services staff assess needs and develop a long-term housing plan; and

WHEREAS, the funds will be deposited in revenue account 422-7906-361-5010.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to receive funds and negotiate and execute a memorandum of understanding (MOU) with the County of Alameda that outlines the services to be provided and the responsibilities of the County and the City in the Winter Shelter Relief Program. A record contract of said MOU and any amendments are on file with the Office of the City Clerk.
MEMORANDUM OF UNDERSTANDING
(PROCUREMENT CONTRACT NO. C-16085 )
BETWEEN
THE COUNTY OF ALAMEDA
AND
CITY OF BERKELEY
FOR WINTER RELIEF PROGRAM
FY 2017/18

1. Background

The County of Alameda ("COUNTY") has allocated a total of $21,000 to shelter 5-6 individuals during the period of December 1, 2017 through March 31, 2018 in the Winter Relief Program (City of Berkeley Winter Relief). These funds will be provided to the City of Berkeley to operate the Winter Relief Program, subject to the terms and conditions of this Memorandum of Understanding ("MOU"). The City of Berkeley ("CITY") will use these funds in accordance with Exhibit A, incorporated herein by reference.

The parties acknowledge that there is a lack of available shelter space to provide shelter for the homeless populations of Berkeley, Albany, and Emeryville. The parties further acknowledge that funding motel stays for unsheltered homeless individuals during the typically cold and rainy winter season will improve health and safety outcomes for residents who would otherwise remain unsheltered during inclement weather.

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 Winter Relief Program 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 are attached hereto as Exhibit A and Exhibit B and incorporated herein by this reference.

COUNTY acknowledges and agrees that CITY may partner with various non-profit agencies to assist in carrying out some responsibilities under this MOU.

4. Budget

A. COUNTY has allocated the sum of $21,000 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. CITY shall not be required to provide services in excess of $21,000.
B. All requested modifications to the Budget in Exhibit B 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 the Alameda County Housing and Community Development Director or designee. 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; and,
   3) The total amount of the authorized budget of this MOU.

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 in 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 Indemnitees.

To the fullest extent permitted by law, COUNTY shall hold harmless, defend and indemnify the CITY, its Council members, officers, officials, employees and agents (collectively "CITY Indemnitee") 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 in 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 Indemnitees.

7. Fiscal Administration, Record Keeping and Reporting

CITY shall 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 to comply with all CITY, COUNTY, State and Federal statutes, laws and regulations applicable to the delivery of the services under this MOU.

9. Nondiscrimination and Equal Opportunity

During the performance of this MOU, CITY 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 (including cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave. CITY shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CITY 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 hereof as if set forth in full.

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, 2017 through March 31, 2018.

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, 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 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 services 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 related to the MOU.

13. Termination of this MOU

COUNTY or CITY may, with or without cause, terminate this MOU upon thirty (30) days written notice to the other party.

In addition, 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, COUNTY, 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.

15. Counterparts

This MOU may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same MOU.
IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed on the day first mentioned above.

COUNTY OF ALAMEDA

BY: 
President
Board of Supervisors

Approved as to form:
Donna R. Ziegler, County Counsel

BY: 
Heather M. Littlejohn
Deputy County Counsel

CITY OF Berkeley

BY: 
Dee Williams-Ridley
City Manager

Approved as to form:

BY: 
City Attorney
Exhibit A

Scope of Services

Winter Relief Program – City of Berkeley
FY 2017/18

1. The City of Berkeley shall provide a Winter Relief Program in the form of vouchers for short-term motel stays for high-needs, unsheltered homeless clients in Berkeley, Albany, and Emeryville. In this role, the CITY shall ensure that the motel is in acceptable condition and that participants are assessed for Coordinated Entry during their motel stay.

2. Up to 5 nights of funding will be available for each motel stay.

3. CITY shall submit monthly reports during the term of the contract and 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.

4. CITY shall not be required to provide services in an amount that exceeds the budget set forth in Exhibit B unless this MOU is amended to add more funding.

REPORTING REQUIREMENTS

SERVICE PROVIDER shall submit monthly reports no later than 15 days after the end of each month during the contract period and a final narrative report within thirty (30) days after the end of the contract period, in a format approved by COUNTY, and other reports as may be required by COUNTY. The report will include a narrative accounting of the progress achieved toward the Scope of Work objectives, and the following client information:

- Types of services rendered to each client.
- Client Characteristics
  - Client number (unduplicated)
  - City of residency (or location of last place stayed prior to coming to warming center)
  - Race/ethnicity
  - Gender
  - Age
  - Number of clients with disabilities
  - Number of clients who are veterans of the U.S. Armed Forces
Exhibit B

Budget and Terms and Conditions of Payment

1. A maximum of $21,000 is available under this MOU for operation of City of Berkeley Winter Relief Program.

2. Allocation of the $21,000 between the budget items set forth in the Program Budget below may be adjusted with written approval of the County Housing and Community Development Department Director with no change in total amount of contract.

3. CITY shall invoice COUNTY for funds in a form approved by the COUNTY. CITY may submit a single invoice or monthly invoices. If a single invoice, CITY shall send to COUNTY monthly reports, in a form acceptable to the COUNTY, regarding use of funds and balances remaining. Final invoice must be submitted by June 15, 2018, unless an extension is approved in writing by the COUNTY.

4. 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 Housing Director.

5. 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.
Exhibit B-1
City of Berkeley Winter Relief Program
Program Budget

For Services Provided December 1, 2017 THROUGH March 31, 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>$2,100</td>
</tr>
<tr>
<td>Motel Payments</td>
<td>$18,900</td>
</tr>
<tr>
<td><strong>Contract Total</strong></td>
<td><strong>$21,000</strong></td>
</tr>
</tbody>
</table>
EXHIBIT C
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE COVERAGE</th>
<th>MINIMUM LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Commercial General Liability Premises Liability, Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability</td>
<td>$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage</td>
</tr>
<tr>
<td>B Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities</td>
<td>$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage</td>
</tr>
<tr>
<td>C Workers’ Compensation (WC) and Employers Liability (EL) Required for all contractors with employees</td>
<td>WC: Statutory Limits EL: $1,000,000 per accident for bodily injury or disease</td>
</tr>
</tbody>
</table>

D Endorsements and Conditions:

1. ADDITIONAL INSURED: All insurance required above with the exception of Commercial or Business Automobile Liability, Workers’ Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 36 04 13.

2. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement. In addition, insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work performed under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.

3. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies, including excess and umbrella insurance policies, shall include an endorsement be primary and non-contributory and will not seek contribution from any other insurance (or self insurance) available to the County. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor’s contractual obligation to indemnify and defend the Indemnified Parties.

4. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor’s insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.

5. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.

6. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
   - Separate insurance policies issued for each individual entity, with each entity included as a “Named Insured” (covered party), or at minimum named as an “Additional Insured” on the other’s policies. Coverage shall be at least as broad as in the ISO Forms named above.
   - Joint insurance program with the association, partnership or other joint business venture included as a “Named Insured”

7. CANCELLATION OF INSURANCE: All insurance shall be required to provide thirty (30) days advance written notice to the County of cancellation.

8. CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notice provision.