



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** June 7, 2016

Approved

*D. D. S. y L*

Date

6/17/16

**SUBJECT: UPDATE ON PILOT SANCTIONED ENCAMPMENT PROGRAM**

## RECOMMENDATION

Accept the staff report providing an update on the City's efforts to implement a pilot sanctioned encampment program and other unconventional housing projects.

## OUTCOME

The City Council's acceptance of this report provides the Council with information on the ongoing efforts with the County to explore the feasibility, site selection, cost, and timeline for implementing one or more programs using unconventional structures, including sanctioned encampments. If the City Council approves this action, then City staff will continue to pursue opportunities identified in this report to provide immediate housing for unsheltered homeless individuals.

## BACKGROUND

The City of San José and its partners, such as the County of Santa Clara and the Housing Authority of Santa Clara County, have made significant strides in reducing homelessness in our community. Since the 2013 Homeless Census and Survey, homelessness in San José decreased by 15%. However, meeting the immediate housing needs of homeless men, women, and children remains a challenge. The 2015 Homeless Census and Survey found that there were still 4,063 homeless individuals in San José on a given night. Over sixty-nine percent (69%) of the homeless individuals, or 2,810, were unsheltered. The challenge of homelessness in Santa Clara County is exacerbated by one of the most expensive housing markets in the country. According to the National Low Income Housing Coalition's Out of Reach 2015 report, Santa Clara County is the fifth most expensive county in the United States, requiring a wage of \$34.79/hour to afford

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fair market housing. Rental vacancy rates are low and there is not nearly enough affordable housing to meet the need.

Ultimately, the solution to homelessness is more affordable housing with a prioritization for the poorest and most vulnerable residents who are disproportionately impacted by the lack of affordable housing. San José needs affordable housing, including permanent supportive housing and rapid rehousing options; however, it will take years to develop the thousands of apartments that are needed. In the short term, expanding shelters and/or bridge housing could enable some people who are living on the streets to move to safer, more stable conditions until permanent housing is available. Use of shelters and transitional housing as bridge housing can also be an effective tool for individuals and families who have housing subsidies, but have not yet secured a permanent home.

Over the past year, the Housing Department has recommended a range of interim housing options to respond to the immediate need for housing the City's unsheltered homeless population. The City Council has approved a variety of programs and concepts, which have resulted in over 500 shelter and interim opportunities to house such homeless individuals. These more immediate solutions include:

- Providing inclement weather shelter for over 300 individuals people at City-owned facilities and churches throughout San José;
- Purchasing and renovating underutilized hotels/motels to create 100 apartments and SROs of interim housing;
- Developing a pilot safe parking program to offer 20 nightly vehicle spaces for people living in their vehicles;
- Creating an interim housing community for over 100 homeless individuals to provide bridge housing and support as they transition off the streets.

Beyond the interim measures, the department has identified 475 new permanent supportive housing opportunities at seven developments throughout San José. Within the next month, staff also plans to release a \$40 million supportive housing notice of funding availability to fund new construction.

On December 8, 2015, the City Council directed staff to continue to explore the operation of a sanctioned encampment pilot to meet the immediate needs of unsheltered homeless people in the community. Specifically, City Council directed staff to follow a plan of action that included:

1. *Identify an operator* – Council agreed that the first step to moving forward with a sanctioned encampment is identifying an operator to make sure that the pilot project was both well-structured and well-managed.
2. *Partner with the County* – Council directed staff to send a letter of support to the County Board of Supervisors that extended the City's support of the County's efforts to explore

unconventional housing and shelter models, while also emphasizing the importance of specifically investigating a sanctioned encampment model.

3. *Locate sites* – Once an operator is selected, Council discussed the importance of identifying a number of viable sites in each Council district. Housing staff committed to publishing a list of potential City-owned sites in all districts once an operator had been identified.

As a result, the Housing Department began to coordinate immediately with the County Office of Supportive Housing (OSH) to identify potential operators and concepts for a sanctioned encampment pilot program. Last September, the County Board of Supervisors approved funding for an implementation plan to implement the County of Santa Clara's Housing Task Force recommendations to address the immediate needs of homeless individuals in Santa Clara County.

The County's approval of the Housing Task Force recommendations included the allocation of \$200,000 to help determine the feasibility of unconventional shelter and housing programs - including sanctioned encampments and tiny homes. The Mayor, Vice-Mayor, and several Councilmembers also drafted a letter of support to the County Board of Supervisors in support of a joint collaboration on the County's efforts, focusing on the exploration of a sanctioned encampment pilot (See Attachment A). As a result, a representative from the Housing Department was invited to participate on a committee to review all applications for funding.

## ANALYSIS

On January 5, the County released a Request for Proposals (RFP) for potential operators and concepts for a sanctioned encampment pilot program with proposals due on February 18. The solicitation notice was distributed to all current grantees of the County, the City, and all agencies currently engaged in the Santa Clara County Continuum of Care. The RFP required proposals to provide solutions to address potential zoning, building code, and compliance issues; identify services and programming methodology; and include all other elements needed to successfully fund, develop, and operate a pilot program.

Following the conclusion of the RFP bid period, the rank and review committee selected two applicants to receive funding to develop more detailed plans as developers and operators for unconventional shelter and housing programs. Below is a brief synopsis of each of the awarded proposals:

- **Abode Services** – The County awarded Abode Services \$200,000 to complete two plans no later than October 31, 2016. The first plan involves the use of modular buildings to provide interim housing for homeless persons who are participating in permanent supportive or rapid rehousing programs. The proposed project site is six acres of City-owned land on Evans Lane. This would be a collaboration with the County and the City, and could result in housing for approximately 100 persons by spring 2017.

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Abode's second deliverable is a comprehensive program model and plan for developing, siting and operating small dwelling units that would meet building codes and could be permitted under existing land-use requirements. The "tiny homes" would be approximately 200 - 250 square-feet and house one or two individuals. Abode did not identify a specific site for this model

- **Gilroy Compassion Center** – The County also awarded Gilroy Compassion Center (GCC) \$41,180. No later than October 31, 2016, GCC will develop a plan for developing, siting and operating a comprehensive interim housing program – a "Compassion Park" – using one or more of the following sleeping options: micro housing on wheels, U Dome, and tiny home. GCC would also develop a comprehensive Safe Parking Program Plan with up to 30 spaces, in which clients reside in their own vehicle and access basic needs services from a shared community facility. No sites were identified by the organization, but GCC indicated an initial focus for locations in South County.

Over the next six months, both of the successful applicants will develop comprehensive plans to move forward with potential implementation of the proposed program models. The creation of these plans will include extensive review of regulatory barriers, development and operational funding considerations, potential siting options, as well as any additional analysis needed to allow a pilot project to proceed.

It should be noted that neither of the selected applicants proposed a sanctioned encampment program in their grant applications. While both of the proposals offer intriguing strategies to create more immediate housing options for homeless individuals, the models proposed do not represent the sanctioned encampment model that Council originally directed staff to explore. Therefore, staff is unable to continue to move forward with the plan of action originally directed by Council at this time.

Given the projects described by the successful County applicants, however, two clear opportunities are now available to continue to support the City Council's original intent to provide immediate housing solutions:

### **Interim Housing Community**

At the September 22, 2015 City Council meeting, Council accepted a report from staff to explore implementation of a pilot interim housing community. Such communities can provide interim housing options for homeless program participants and serve to address the demand for a more economical way to house people quickly. In the memo, staff recommended that the pilot would serve a minimum of 100 individuals in manufactured housing units that contained private bedrooms and shared kitchen and bathroom facilities. Staff recommended that the structures should meet the California Building Code to overcome the numerous legal, funding, and regulatory barriers. It was also concluded that the structures should include energy efficiency

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features, insulation, heating, and weatherproofing to provide a comfortable living environment both in the winter and the summer. In this model, each room would have a locking door to ensure privacy and security. The interior space would include storage and convertible or modular furniture to accommodate multiple needs.

In order to further explore this model, the Housing Department issued a separate RFP in January 2016, to solicit and identify proposals describing how such a program could be developed, implemented, and operated. The Housing Department also identified a City-owned property at Evans Lane as a site that could be potentially utilized for such a project.

RFP responses were due on March 4, 2016. One proposal for the development component and two proposals for the operator component of the project were received. A review panel comprised of City and County representatives, as well as a community stakeholder, reviewed and evaluated each proposal individually. Abode Services received the highest scores for both the development and operator components described in the RFP.

During the RFP process, in recognition of the urgency in developing potential interim housing opportunities for homeless individuals as quickly as possible, the Housing Department also initiated the process of revising the land use designation of the Property, correcting the earlier error. In March 2016, the Housing Department submitted a General Plan Amendment to modify the Property's land use designation from Neighborhood/Community Commercial to Mixed Use Neighborhood. On May 4, 2016, the Planning Commission recommended supporting the General Plan Amendment to Council. The City Council will hear this item on June 28, 2016.

If Council approves the General Plan amendment, staff will continue working with the County and Abode to develop funding for both the development and ongoing services and operations of an interim housing community at Evans Lane. This action could leverage the initial planning supporting grant issued through the County RFP process, as well as allowing for a multi-agency partnership to fully implement the concept explored and approved by Council in 2015. Currently, this options provides the most expedient route to creating housing for unsheltered populations in the City.

### **AB 2176 – Modernization of the Shelter Crisis Act**

Beyond the proposed interim community model at Evans Lane, staff is aware of the need to develop other innovative solutions to address the immediate needs of thousands of unsheltered residents. The Shelter Crisis Act currently allows a city, county, or other political subdivision to declare a shelter crisis, and provides that upon such declaration the political subdivision's liability for the provision of emergency housing is limited. It also provides that the entity may allow homeless persons to occupy designated public facilities for the duration of the state of emergency and that state and local housing, health or safety standards are suspended for additional public facilities open to the homeless to the extent that strict compliance would in any way hinder the mitigation of the shelter crisis. The City declared a Shelter Crisis for the first time last year, allowing it to provide overnight warming shelters in certain City facilities.

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Emergency housing is typically provided as shelter beds allowing an overnight stay. The person must vacate the premises every morning and may need to re-apply for shelter each night. While this function served the City well to open overnight warming locations to respond to inclement weather this past winter, studies across the nation have shown that this transient shelter bed model is not effective for transitioning people into permanent housing. Because the current version of the Shelter Crisis Act does not provide protection from habitability rules and their impact on landlord tenant law, the City could potentially incur liability in providing anything beyond transient shelter beds in facilities designated under the current law

Under AB 2176, the City of San José would have the authority to develop local building, housing, health, habitability, or safety standards, in lieu of such state laws, for the development of emergency bridge housing. Staff recommends that the facilities that are most needed are those that provide privacy and are designed to serve the homeless population, as opposed to simply providing dorm beds in an unused existing building. The opportunity to conduct a pilot program providing small private spaces served by communal facilities would give the City another tool to address the needs of hundreds of unsheltered individuals in San José. Unlike models that propose to put people without dedicated resources into environments not meant for long-term habitation such as campgrounds, this new proposed model is a preferred alternative because it would provide better protection than a tent, and the availability of heat, light, and ventilation would allow for longer and safer stays at a potential site. A pilot program implemented under this revised law would allow the City to try innovative, cost effective methods to provide bridge housing while the City moves forward with continuing to build a robust pipeline of permanent supportive housing developments.

On April 12, 2016, City Council moved to adopt a support position of this bill. The bill was heard before the California State Assembly Housing and Community Development Committee and was passed unanimously. If the bill were to be signed into law, it would be in effect beginning January 2017, providing the City with a much greater range of options for developing and operating interim housing for homeless individuals considering the authority and flexibility authorized through the bill.

## **NEXT STEPS**

Considering the results of the County RFP, staff believes the most viable option to address the immediate needs of homeless individuals is the proposed interim housing community at the Evans Lane site. Both the City and the County solicitation processes have allowed Abode to define a path to implementation that addresses the numerous regulatory and legal barriers that create such a challenge when considering other more unconventional program models. Further, with the potential for a City and County partnership in this effort, there exists a possibility for multiple funding sources and extensive collaboration to ensure the success of such a project.

Aside from the model described above, the County RFP did not identify any successful applicants that have adequately provided solutions for the regulatory obstacles addressed in previous staff memorandums on the feasibility of sanctioned encampments. That being said, Staff will continue to monitor both Abode and the Gilroy Compassion Center as the organizations continue to develop their respective programs with the County over the next six months. Furthermore, if AB 2176 is signed into law, a number of new opportunities for immediate housing could be considered given the new flexibility and authority provided to the City under the proposed legislation. This includes the promising, unconventional models described in the applicants' proposal.

### **EVALUATION AND FOLLOW-UP**

Staff will report back to Council with the results of the final full proposals in by October 2016 and will continue to provide updates on the progress of AB 2176.

### **POLICY ALTERNATIVES**

**Alternative:** *Issue a new RFP to identify a sanctioned encampment operator*

**Pros:** A new RFP could potentially identify an operator, allowing staff to continue to develop and implement plans for a sanctioned encampment pilot program.

**Cons:** No organization was identified to operate a sanctioned encampment model in the initial County RFP released in January 2016. Issuing a new RFP will require additional limited staff resources to develop and release the solicitation, as well as time to evaluate all of the proposals received.

**Reason for not recommending:** Given Council's direction to provide solutions as quickly as possible to meet the needs of unsheltered individuals, issuing another RFP is not time or cost effective. Further, the interim housing community model described in detail above provides an operator, a location, and a funding source, while also clearly addressing all of the regulatory and safety barriers that make the sanctioned encampments model less viable. As such, the interim housing community provides a chance for continued partnership with the County and a much more immediate and replicable solution than any other model investigated to date.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the June 28, 2016 City Council meeting.

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**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the Budget Office.

**CEQA**

Not a Project. File No. PP10-069(a). City Organizational and Administrative Activities, Staff Report Update.

/s/

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For questions, please contact Ray Bramson, Division Manager, at (408) 535-8234.