



OFFICE OF THE GOVERNOR

August 18, 2022

Via Electronic Mail

bjparker@oaklandcityattorney.org

Hon. Barbara Parker, City Attorney
City of Oakland
1 Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612

RE: Local Government Responsibility for Providing Shelter and Housing Assistance to Homeless Individuals

Dear Ms. Parker:

Under state law, providing shelter and housing assistance to homeless individuals – including those residing on a state right-of-way within a city's boundaries – is the responsibility of local government. We write today out of concern that the City of Oakland is aiming to avoid responsibility for providing shelter and housing assistance to individuals at the dangerous encampment commonly known as “Wood Street,” despite significant state funding the City has received, and is receiving, for this purpose over the last two years.

The State has taken extraordinary steps to support local governments in responding to the homelessness crisis. Since the pandemic began, the State has provided \$15 billion to cities and counties across the State to house and serve homeless Californians. This includes \$300 million total to the City of Oakland and Alameda County, including \$4.7 million explicitly for rehousing activities at the Wood Street encampment.

Considering all of this, our office is increasingly concerned about a novel legal position taken by the City of Oakland that it has no responsibility to provide services to individuals residing on state property that is clearly within the boundaries of the City. To be clear, there is no such thing as a “resident of Caltrans,” as the City's position suggests. The recent fires underscore the significant risk to the traveling public, the encamped individuals, and residents of Oakland caused by the Wood Street encampment, and the City's position seeking to shirk its responsibility risks further delays

to address this dangerous situation.

To the extent the City maintains its current position that it has no responsibility to provide shelter to individuals camping on Caltrans' rights-of-way within the City's boundaries, our office intends to direct the departments and agencies responsible for administering the billions in dollars of discretionary state homelessness funding that have been appropriated to instead direct that funding to other local governments that are willing and able to serve the residents of Oakland in fulfillment of clear responsibilities outlined in state law.

State & Local Partnership

The Newsom Administration has made unsheltered homelessness a priority and worked to develop fruitful, collaborative partnerships between the State and cities and counties. This positive work is undergirded by Article XI of the California Constitution, which proscribes the allocation of powers and responsibilities between the State and local governments.

The State Legislature has generally reserved to local governments responsibility and authority over responding to homeless encampments and providing shelter and rehousing services to homeless individuals. Caltrans is a transportation agency, responsible for the safety of the traveling public and maintaining the state right-of-way, with no authority to directly provide housing or sheltering services to the public. Nor is another state agency charged by the Legislature with this authority or responsibility. In short, there is no general law through which the State has displaced this tradition municipal function.

Funding

The State's role is one of funding and coordination. And that has occurred at truly historic levels. Recognizing the seriousness of the problem, Governor Newsom has advanced through his budget proposals unprecedented investments to support locals in providing services, shelter, and housing for homeless individuals and to address the acute shortage of affordable housing. The Legislature has enacted various proposals over the last three years that provide billions of dollars to locals, including hundreds of millions of dollars that have been provided to Oakland and Alameda County specifically targeted to shelter homeless individuals.

Below is a summary of state funding provided to the City, Alameda County, and the regional Continuum of Care (CoC) through direct emergency aid, Homekey, and other homeless response programs included in the 2021-22 budget.

	Oakland	Alameda County	CoC
HEAP	\$ 8,671,117	\$ -	\$ 16,192,049
HHAP 1	\$ 19,697,548	\$ 8,754,709	\$ 9,449,958
HHAP 2	\$ 9,311,568	\$ 4,002,153	\$ 4,471,378
HHAP 3	\$ 24,066,823	\$ 11,206,029	\$ 12,006,459
ERF-1	\$ 4,731,300	\$ -	\$ -
Family Challenge Grant	\$ 2,001,152	\$ -	\$ -
Total Flexible Local Aid	\$ 68,479,508	\$ 23,962,891	\$ 42,119,844
	Oakland	Alameda County	CoC
Homekey	\$ 22,400,878	\$ 29,546,000	\$ -
Homekey 2.0	\$ 31,526,276	\$ -	\$ -
Total Homekey	\$ 53,927,154	\$ 29,546,000	\$ -
FY 2021-22	Oakland	Alameda County	CoC
HDAP	\$ -	\$ 15,500,000	\$ -
Project Roomkey	\$ -	\$ 12,000,000	\$ -
CalWORKs Housing Support Program	\$ -	\$ 9,100,000	\$ -
Homesafe	\$ -	\$ 3,300,000	\$ -
Bringing Families Home	\$ -	\$ 2,700,000	\$ -
No Place Like Home	\$ -	\$ 82,018,769	\$ -
HCD Emergency Solutions Grants	\$ -	\$ -	\$ 395,117
Total Other Discretionary	\$ -	\$ 124,618,769	\$ 395,117
TOTAL State Homelessness Funding	\$ 122,406,662	\$ 178,127,660	\$ 42,514,961

The State is continuing these investments through the recently enacted 2022-23 budget, including the following key programs:

- Oakland and Alameda County are eligible to receive a share of \$2 billion in Homeless Housing, Assistance and Prevention (HHAP) 4 and HHAP 5 grants, which are flexible funds that require local entities to engage in goal-setting and regional collaboration to reduce homelessness.
- Oakland and Alameda County will be able to apply for grants from the pot of \$700 million in Encampment Resolution Funds, which are dedicated to assist individuals living in unsheltered situations and help them transition to permanent housing with supportive services.
- Alameda County will also be eligible to receive funds from the pot of \$1.5 billion approved for Behavioral Health Bridge Housing, which will support clinically

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enhanced interim housing settings to meet the unique needs of people experiencing homelessness who have complex behavioral health conditions.

- Alameda County will further benefit from the \$1 billion approved for helping participating entities implement CalAIM Path, including the development of capacity for housing transition navigation services, housing deposits, and housing tenancy and sustaining services.

Next Steps

In light of the above, the City's suggestion that it is not responsible for people camped on Caltrans property is inaccurate. Even though these individuals currently reside within the City's geographic boundaries, the idea that the City can properly focus only on the people who are on actual city property – and can ignore individuals on rights-of-ways of other government entities that do not provide housing and related services – is contrary to the basic structure of state governance. In fact, the allocations for HHAP funding are based on the point-in-time homeless counts, under which any individuals camped on this Caltrans property would be included in the City's count, and thus generate state funding for the City under those programs.

The City's suggestion that it has no responsibility for homeless individuals on state property unless there is a specific earmark is simply unacceptable. Under state law, working with homeless individuals to identify housing or shelter alternatives is a local, not a state, responsibility.

Accordingly, our office expects the City to take steps consistent with its responsibility, including offering temporary shelter for individuals in the Wood Street encampment. Failure to do so may result in the redirection of discretionary funding sources, as described earlier.

I look forward to your response and request that you provide one by close of business on Friday, August 19, 2022. I understand your office finally confirmed a meeting time with Caltrans attorneys to discuss the City's role, and we are hopeful the City is prepared to meaningfully address the above concerns. Please do not hesitate to contact me in the meantime if you have questions or would like to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'ANN PATTERSON', with a large, sweeping flourish extending to the right.

ANN PATTERSON
Legal Affairs Secretary