

MEMORANDUM OF UNDERSTANDING

BETWEEN CITY OF SONORA

AND

GIVE SOMEONE A CHANCE

THIS MEMORANDUM OF UNDERSTANDING ("Agreement") is made and entered into this 19th day of August, 2019, by and between the City of Sonora, a California municipal corporation ("City") and Give Someone A Chance, a non-profit organization organized as a 501(c)(3) ("Charity"), (each individually a "Party" and collectively the "Parties"). There are no other parties to this Agreement.

RECITALS

- A. Many of the City's homeless population reside at a camp located on Stockton Road on property located in the County of Tuolumne, just outside the City limits, as described and depicted on the map attached hereto and incorporated by this reference as "Exhibit A" ("Camp").
- B. The City seeks to protect and promote the health, safety and general welfare of its homeless population by providing funding for portable toilets at the Camp ("Project").
- C. Charity is a non-profit organization organized as a 501(c)(3) that works to improve the lives of the City's homeless population.
- D. In order to improve the lives of the City's homeless population, Charity seeks to provide portable toilets at the Camp.
- E. The City and Charity seek to cooperate in an effort to provide portable toilets at the Camp through the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants set forth below, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above ("Recitals") are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Sections 1 through 15 of this Agreement, Sections 1 through 15 shall prevail.

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Section 2. Term. The term of this Agreement shall be for a period of one (1) year from the effective date of this Agreement ("Term"), unless the Parties mutually agree in writing to terminate the Agreement earlier or extend the Term pursuant to this Agreement.

Section 3. Effective Date. This Agreement shall become effective once all of the Parties have executed the Agreement (the "Effective Date").

Section 4. Funding by City for the Project. The City shall provide funding in an amount not to exceed one thousand seven hundred and fifty dollars (\$1,750) to Charity for the Project, provided that Charity contributes matching funds to the Project. The City's funding shall also be contingent upon Charity securing additional funding sources for the Project.

Section 5. Provision of Portable Toilets at the Camp. Upon receiving the City's funding for the Project, Charity shall, at its sole cost and expense, furnish all facilities, equipment, materials, information, personnel and administrative assistance, which may be required for the Project.

Section 6. No Conflict of Interest. Charity represents that no conflict of interest will be created under state or federal law by entering into or in carrying out this Agreement.

Section 7. Conformity with Federal, State and Local Law. Each Party shall comply and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances, applicable to the work and services to be performed under this Agreement.

Section 8. No Third-Party Beneficiaries. Nothing in this Agreement, expressed or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns, any rights or remedies under or by virtue of this Agreement.

Section 9. Termination. City shall have the right to terminate this Agreement at any time for its convenience by giving thirty (30) days written notice of such termination to Charity.

Section 10. Indemnification by Charity. Charity shall defend, indemnify and hold harmless the City and its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of Charity or its subcontractors), expense and liability of every kind, nature and description that arise out of, pertain to or relate to, acts or omissions of Charity, or any direct or indirect subcontractor, employee, contractor, representative or agent of Charity, or anyone that Charity controls (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify City and its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives, shall not apply to the extent that such Liabilities are caused in whole by the sole negligence, active negligence, or willful misconduct of City or its elected and appointed councils, commissions, directors, officers, employees, agents, and

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With courtesy copies to: City of Sonora
Attention: City Administrator
94 Washington Street
Sonora, CA, 95370
Phone: (209) 532-4541
Fax: (209) 532-2738

and Churchwell White LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.
Tel: (916) 468-0950
Fax: (916) 468-0951

If to Charity: Give Someone A Chance
P.O. Box 272
Jamestown, CA 95327
Tel: (209) 588-8377

Section 15. General Provisions.

15.1. Modification. No alteration, amendment, or modification of this Agreement shall be valid unless made in writing and executed by all of the Parties to this Agreement.

15.2 Assignment. No Party to this Agreement shall assign, transfer, or otherwise dispose of this Agreement, in whole or in part, to any individual, firm, or corporation, without the prior written consent of the other Party. Subject to the forgoing provisions, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the Parties hereto.

15.3 Authority. All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by state or federal law in order to enter into the Agreement have been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

15.4 Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of this Agreement.

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Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

15.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of California.

15.6 Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Tuolumne.

15.7 Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

15.8 Counterparts. This Agreement may be executed simultaneously, and in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

15.9 Entire Agreement. This Agreement, together with its specific references, attachments and exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

15.10 Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, or representations whether, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

15.11 Attorney's Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been entered into by and between City and Charity as of the Effective Date.

CITY:

City of Sonora, a California municipal corporation

By: _____
Timothy A. Miller, City Administrator

Date Signed: _____

CHARITY:

Give Someone A Chance, a non-profit organization organized as a 501(c)(3)

By: _____

Title _____

Date Signed: _____

Resolution No.: 08-19-2019-A

Approved as to Form:

By: _____
Douglas L. White, City Attorney

Attest:

By: _____
Colette Such, City Clerk

EXHIBIT A

Map of Camp

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