

1. Meeting Agenda

Documents:

[CC220324\\_AGENDA.PDF](#)

2. Item 1A

Alternative Sleeping Location (ASL) Recommendation

Documents:

[CC220324\\_ITEM 1A.PDF](#)

**This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to AB 361 and the County of Los Angeles Public Health Officer's Order (revised March 3, 2022). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.**

**HOW TO VIEW THE MEETING:** No physical location from which members of the public may observe the meeting and offer public comment will be provided. The meeting will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

**HOW TO PARTICIPATE BEFORE THE MEETING:** Members of the public are encouraged to submit email correspondence to [citycouncil@malibucity.org](mailto:citycouncil@malibucity.org) before the meeting begins.

**HOW TO PARTICIPATE DURING THE MEETING:** Members of the public may also speak during the meeting through the Zoom application. The City requests that you sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

**Malibu City Council**  
**Special Meeting Agenda**  
**(to be held during COVID-19 emergency)**

**Thursday, March 24, 2022**

**6:00 P.M. – SPECIAL CITY COUNCIL MEETING**

**Various Teleconference Locations**

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT

**[MALIBUCITY.ORG/VIDEO](https://malibucity.org/video)**

**Six p.m.**      **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – March 18, 2022

**1. New Business**

**A. Alternative Sleeping Location (ASL) Recommendation**

Recommended Action: 1) Review the proposed Alternative Sleeping Location (ASL) Recommended Action Plan developed by the Homelessness Task Force; and 2) Provide direction to the Homelessness Task Force and/or staff.

Staff Contact: Public Safety Manager Dueñas, 456-2489, ext. 313

**Adjournment**

**Future Meetings**

Monday, March 28, 2022	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, April 11, 2022	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, April 25, 2022	6:30 p.m.	Regular City Council Meeting	Location TBD

**Guide to the City Council Proceedings**

**As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, State of California, and a federal emergency declared by the President of the United States. In order to reduce the risk of spreading COVID-19, the City Council meeting will be open and public but conducted virtually because meeting in person would present imminent risks to the health or safety of attendees. This way, the public, the staff, and the Council will not be physically in the same place.**

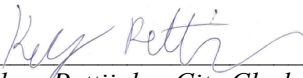
**Items in New Business** are appearing for the first time for formal action. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. The City requests that you sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized. Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

*City Council meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City’s website at [www.malibucity.org/video](http://www.malibucity.org/video). Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk and available upon request by emailing [cityclerk@malibucity.org](mailto:cityclerk@malibucity.org).*

*The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].*

*Requests to show an audio or video presentation during a Council meeting should be directed to Alex Montano at (310) 456-2489, ext. 227 or [amontano@malibucity.org](mailto:amontano@malibucity.org). Material must be submitted by 12:00 p.m. on the meeting day.*

*I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 18<sup>th</sup> day of March 2022 at 4:00 p.m.*

  
\_\_\_\_\_  
Kelsey Pettijohn, City Clerk



# Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Luis Flores, Public Safety Liaison

Reviewed by: Susan Dueñas, Public Safety Manager

Approved by: Steve McClary, Interim City Manager

Date prepared: March 18, 2022 Meeting date: March 24, 2022

Subject: Alternative Sleeping Location (ASL) Recommendation

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**RECOMMENDED ACTION:** 1) Review the proposed Alternative Sleeping Location (ASL) Recommended Action Plan developed by the Homelessness Task Force; and 2) Provide direction to the Homelessness Task Force and/or staff.

**FISCAL IMPACT:** Funding for an ASL was not included in the Adopted Budget for Fiscal Year 2021-2022. It is anticipated that the establishment and operation of a ASL will have a significant fiscal impact. However, the estimated costs are unknown at this time. The costs associated with an ASL will depend upon several factors, including but not limited to the location(s) identified; the number of beds to be provided; required staffing levels; and, whether the ASL facility is purchased or leased. There may be external funding sources available to help offset the costs associated with the establishment and operation of an ASL, such as Measure H. However, staff has not evaluated these potential funding sources at this time.

**WORK PLAN:** This item was included in Item #1.k. (Homelessness Outreach and Services) and Item #1.l. (Homelessness Shelter and Safe Parking Program (SPP) – Identify Site) of the Adopted Work Plan for Fiscal Year 2021-2022.

**DISCUSSION:** In July 2021, the City Council established the HTF with a charter that included a review of the concept, need and possible implementation of an ASL in response to growing concern regarding homelessness in the City. The concept of an ASL is meant to address concerns about our ability to enforce the City's camping ordinance stemming from the 2018 Ninth Circuit Court of Appeals ruling in the Martin vs. Boise case that "bars

a city from prosecuting people criminally for sleeping outside on public property when those people have no home or other shelter to go to.”

At its Regular meeting on October 19, 2021, the HTF formed the Emergency and Temporary Services Ad Hoc Committee (Ad Hoc Committee) to investigate what would be required to establish an ASL, then report back to the full Task Force with a recommendation for the City Council on the feasibility of establishing an ASL within or near the City. After reviewing publicly available information derived from many sources, discussions with subject matter experts, and site visits to existing ASLs implemented by other jurisdictions, the Ad Hoc Committee compiled its findings into an ASL Recommended Action Plan (Action Plan) (Attachment 1) that provides a consensus of the group’s collective ideas. The Action Plan was reviewed and approved by the Task Force during its special meeting on February 1, 2022 and is designed as a guide to implement a primary, secondary, or tertiary plan. Those three plan options are described below:

### Primary Plan

The Primary Plan recommends that an ASL be established outside the Malibu city limits and within approximately 20 miles of the Los Angeles County Sheriff’s Department (LASD) Lost Hills Station. The HTF believes this is the maximum distance from the City that would still enable LASD to enforce the City’s camping ordinance. The ASL would provide short-term sleeping arrangements and transitional support services to those who agree to, and continue to abide by, required behavioral standards. The HTF proposes that the beds could be in one larger facility or distributed across one or more residential modules, with either option having unique advantages.

According to the Action Plan, the advantages of the one or more residential module option include:

1. Utilizing existing single-family dwelling (SFD) units, may reduce or eliminate the need for permitting or additional municipal or community approvals.
2. Scalability of bed quantity by bringing additional modules online.
3. The City may be able to implement at least one or two modules (and thus have available beds) within 60 to 90 days of approval.
4. A relatively low-cost threshold for initial implementation if units are rented or leased.
5. Improving access to services as the modules can also be strategically placed in areas that are transit-friendly to Social Security or mental and medical health facilities, as well as to jobs, shopping, and other basic life services.

The advantages of the one larger facility option include, without limitation:

1. A lower per bed cost of staffing and operating.

2. Scalability of other fixed costs.
3. Greater efficiency in managing and administering services, including meals.
4. The increased ability to monitor participant compliance and prevent illicit behaviors, particularly if an open plan structure is used.

### Secondary Plan

The Secondary Plan recommends that an ASL be established within the Malibu city limits if, and only if, the Primary Plan of establishing an ASL outside the City is determined to be unfeasible. If the ASL were to be established within Malibu, the HTF recommends establishing restrictions and covenants, including a maximum bed count, a “zero-tolerance” zone, prohibition of loitering, and more. The zero-tolerance zone is to be within a substantial radius of the ASL with enhanced security and enforcement to prevent the sale or use of drugs, loitering, camping, smoking (unless in safe, designated areas), and violation of nuisance laws.

### Tertiary Plan

The Tertiary Plan recommends the City explore opportunities to utilize beds at one or more existing facilities outside the Malibu city limits, provided that the City would provide reasonable transportation to the facilities and confirm that the arrangement would enable LASD to enforce Malibu’s ordinances that regulate public space. Any contract with a service provider for this purpose would be contingent on whether they can reserve a specific number of beds exclusively for the City’s use.

### Additional Considerations

The options presented in the Action Plan each have fiscal and administrative advantages and disadvantages that must be taken into careful consideration upon deciding. In addition, staff recommends considering the following points:

1. The primary service providers for people experiencing homelessness are all located outside of Malibu.
2. Establishing an ASL within the City would likely result in greater financial support from Los Angeles County, Los Angeles Homeless Service Authority (LAHSA), and other sources of funding allocated specifically for homelessness services.
3. Establishing an ASL outside the City will likely be more successful if the City can partner with the host city through an agreement or formation of a housing trust.
4. Establishing an ASL outside of Malibu city limits can lead to significant pushback from the host community and potentially lead to legal action if a proper partnership is not pursued.
5. Providing a sleeping location where homeless individuals can reside safely contributes to the City’s overall public safety and improves the hazardous living

conditions of those encamped within the creek, canyon, and beach areas in Malibu.

6. Many grants and other potential sources of funding are contingent upon the Los Angeles County Service Planning Area (SPA) in which they are established, indicating differing financial support if an ASL is established outside of Malibu's respective SPA (SPA 5).
7. Solutions that require less outside financial support from county, state or federal sources will increase the City's control over operations. Conversely, the more county, state or federal support that is used, the less control the City will have due to the rules and regulations that come with grants.

Staff recognizes that there are many factors to consider, and more information may be needed to determine next steps and therefore recommends that the City Council review the Action Plan and provide further direction to the HTF and/or staff.

ATTACHMENTS: ASL Recommended Action Plan



## RECOMMENDED ACTION PLAN

DATE: [to be added]  
TO: THE MALIBU CITY COUNCIL  
FROM: TASK FORCE ON HOMELESSNESS  
RE: ALTERNATIVE SLEEPING LOCATION(S)

### TASK FORCE CHARTER

On July 21<sup>st</sup>, 2021, the City of Malibu (the “City”) created the Task Force on Homelessness (“HTF”), with an initial charter (“Charter”) as follows:

- 1. Review the draft updated goals and objectives of the Homelessness Strategic Plan.**
- 2. Review the concept, need and possible implementation of an Alternative Sleeping Location (ASL).**
- 3. Develop a plan to mitigate public safety and environmental impacts, particularly fires, related to homeless encampments.**
- 4. Explore new ideas to address homelessness, research strategies used by other jurisdictions, and identify best practices that could be implemented in Malibu.**
- 5. Develop a robust public engagement and outreach plan to obtain community input on proposed strategies to protect the health, safety, and welfare of the community from the dangers of homelessness and provide assistance to Malibu residents experiencing homelessness.**
- 6. Make recommendations to the City Council on all of the above.**

### EXECUTIVE SUMMARY

It is in the spirit of this Charter that the HTF submits the following Recommendations (the “Report”), which will be discussed in greater detail below.

- Establish an Alternative Sleeping Location (“ASL”) of up to thirty (30) beds for individuals experiencing homeless.

- Such ASL will provide a limited number of overnight-only “emergency” beds for LASD referrals to allow full enforcement of no-camping and similar ordinances throughout the City as well as a certain number of additional beds accompanied by appropriate supportive services to help ASL participants transition expeditiously to sustainable housing solutions.
- Provide appropriate transportation to such ASL, as needed.
- Work with organizers of existing meal programs to redirect their efforts towards supporting the ASL program.

This Report reflects, as best as possible, the opinions and recommendations of a majority of the HTF. It is the result of a review of work products provided by various HTF Ad Hoc committees, open discussions at HTF Public Meetings and publicly available information derived from many sources, including without limitation, the Homelessness Working Group.

It is important to note that this Report does not perfectly reflect 100% of every viewpoint, opinion, priority or verbiage of any one HTF member, but rather is a general consensus of the majority and includes many compromises of individual ideas and opinions. The City Council is urged to take all the viewpoints presented herein into consideration when deciding on future courses of action.

The HTF shall continue to work on the above Charter unless or until such time as the City Council moves to terminate its existence, or modifies its objectives.

## INTRODUCTION

The number of individuals living without homes has continued to grow in California and in many municipalities across the United States. Malibu residents have a wide variety of opinions on why this is occurring, just as there are equally diverse opinions on how to resolve and/or deal with this problem. These varying viewpoints range from minor or semantic in nature to very divergent, emotionally charged and polarizing.

This Report puts forth an action plan that the City can adopt to begin reducing the number of unhoused individuals within the City and to increase the entire community’s safety from health, fire, crime and other issues which have been exacerbated by individuals residing on the streets, sidewalks, parks, brush and in other public spaces.

While there may be divergent and controversial issues surrounding homelessness, including its causes, effects and solutions, there are several things that the HTF believes would be agreed upon by the vast majority of Malibu’s citizens:

1. Homelessness continues to be an extensive problem.
2. Previous efforts have yielded measurable results, but further decisive action is clearly needed.
3. Hand-outs are rarely as effective as hand-ups, so any actions the City takes should always be geared towards prioritizing helping those who are ready, willing and able to put in personal effort to regain—not only housing—but dignity, productivity, self-esteem and independence.

4. There continues to be a substantial subset of unhoused individuals who are resistant to housing solutions—especially when such solutions require structure, potential behavioral modification and expectations that such individuals seek (or be willing to accept) suitable employment and substance abuse/mental health treatment (if and when applicable).

5. A variety of court rulings have limited law enforcement’s ability to displace individuals experiencing homelessness and/or their encampments from public spaces without other conditions being met—specifically the existence of viable alternative sleeping location(s).

6. Malibu, with its small population and limited resources and services, is simply not able to facilitate shelter for everyone who may happen, at any given time, to be within the City limits—and a vast majority of the transient/homeless population (especially those without a reasonable nexus to the City) will not be able to secure long term housing within the City.

7. The rights of the entire community to live, work, visit, and peacefully and safely enjoy the City should outweigh unreasonable expectations of the few who may choose to remain unhoused, unemployed and/or untreated.

8. While the City should continue efforts to assist as many individuals experiencing homelessness to become “housed” as may be willing and able as well as practical (within the resources available) the primary objective of the City Council must be to ensure the health, safety and welfare of the entire community and no homeless initiative(s) should be implemented that violate, disregard or diminish the primary objective.

9. Malibu is located in a State Mapped Very High Fire Hazard Severity Zone (VHFHSZ) and has experienced a significant increase in homeless-related arson fires. These threaten the environment, property, businesses, and more importantly—the lives of citizens, unhoused individuals, firefighters and other first responders, thus increasing the urgency of solutions to reducing the homeless population.

10. DOING NOTHING AND HOPING THAT THINGS WILL IMPROVE IS NOT A VIABLE OPTION.

## TERMINOLOGY

Words and their meanings are important, however, sometimes discussions on issues can become hindered by varying interpretations of what certain words or phrases actually mean. It is the hope of the HTF that semantics will not prohibit active and healthy discussion, compromise and action. The City Council is urged to request clarification of any term or phrase used herein where such term or phrase causes confusion or any unintended or adverse consequence.

A relevant example of this is often the use of the word “homeless” or “homelessness” which can invoke feelings that range from sympathy and concern to fear and resentment. Nothing in this Report should be construed as implying that “homeless” people as a class are lesser human beings or the sole cause of society’s ills. Often HTF members may have used words or phrases that may be offensive to some—that was clearly never the goal of the HTF or any of its members. The true goal was to facilitate open dialogue, encourage diverse ideas, while not “missing the forest for the trees” when discussing this issue within the HTF. The HTF is focused on assisting those individuals who

are willing to receive transitional support services and work towards greater self-reliance, while protecting the community from the adverse impacts created and exacerbated by individuals “occupying, camping and/or temporarily residing” in public spaces.

While it is not a crime to be homeless, and there are those who are unhoused through external circumstances beyond their reasonable control, it is not fair for an unhoused individual: (i) to resist qualified mental health or substance abuse treatment (if diagnosed needed and available), (ii) to refuse to seek or maintain employment (commensurate with such individual’s present abilities), (iii) to disclaim being subject to the same laws and boundaries society imposes on itself, (iv) to select *any* public place they want to camp and/or reside despite the adverse effects on themselves and others, and (v) to believe that they should be exempt from all of the work, sacrifices and financial compromises that all others have to contend with when choosing a place to live.

“Alternative Sleeping Location” or “ASL” – this term may be used as a singular or plural term, but the actual number of beds and/or location(s) may vary as the context below implies. For the purposes of this Report, an ASL would include additional transitional services to participants.

“Bed” – this term simply means something to sleep on; it may be a mattress on a frame, a cot, a bivouac sac, an inflatable bed or some other form of sleeping mat.

“Emergency Bed” – while any beds technically fall under the term “ASL,” for the purposes of this Report “Emergency Beds” refers to an overnight solution exclusive of meals or transitional services that would be offered to “fully-enrolled” ASL participants. These exist only to provide a night’s “shelter” for those who otherwise may sleeping outside. This would be utilized mainly by law enforcement to allow LASD to compel individuals to move from where they have encamped. Such individuals will still be expected to observe the behavioral conduct “Rules” established for such temporary shelter for the safety of law enforcement, staff, other participants and themselves, and may be considered for full enrollment in an ASL program subject to availability and the conditions of full enrollment.

“Homeless” – the population of unhoused individuals is not a homogenous group. There is a broad range of how, why and where such individuals are present in the City, why they are currently without a physical “home” and there are often divergent goals of such individuals to seek housing, employment and (when applicable) substance abuse treatment and mental health services. Within the homeless population, there is a spectrum of individuals, ranging from those who are ready, willing and able to do anything it takes to “rejoin” the ranks of the “employed and housed,” to those who currently are unwilling to do so.

The HTF is very sensitive to interpretations of terms such as “choice,” “ability” and “willingness” when used in connection with unhoused individuals. When used herein, these should not be construed as being condescending, judgmental or having negative connotations. We recognize that individuals who suffer from mental health issues, struggle with substance addiction and/or who have experienced severe trauma (exacerbated by living on the streets for extended periods of time), may have inhibited capacity to make better “choices” without appropriate assistance, support and treatment.

The terms “homeless,” “unhoused,” or “transient” may be used, seemingly interchangeably, however, the HTF recognizes that these terms may have different connotations and we urge the City Council to not dwell on the “form” of these phrases, or other terms often used in discussions involving homelessness, but rather the “substance” of the entire Report.

## RECOMMENDATIONS

### I. IDENTIFY AND/OR CREATE A VIABLE ASL.

The HTF firmly recommends that the City Council take immediate steps to establish an Alternative Sleeping Location (“ASL”) to help willing individuals experiencing homelessness transition to sustainable housing solutions and greater self-reliance. The ASL would provide short-term sleeping arrangements and transitional support services to those who agree to (and continue to abide by) certain basic behavioral standards and demonstrate continuing efforts to become sustainably housed and increasingly self-reliant (to the extent of their capacity to do so). ASL participants would be expected to engage during the day in certain activities furthering that objective. The ASL would also provide certain overnight-only “emergency beds” (as discussed below) that will allow LASD to enforce no-camping and similar ordinances throughout the entirety of the City.

Noting the current homeless count of approximately 140 individuals, the experience of other cities, and the advice of local experts regarding the Malibu homeless population, the HTF firmly recommends that the City Council take immediate steps to identify and/or facilitate an Alternate Sleeping Location (“ASL”) that can accommodate at least six (6) and up to a maximum of thirty (30) beds. The HTF believes this range of beds will be sufficient to accommodate those individuals who would accept assistance and be willing to abide by the conditions for participation.

The HTF is well aware that the choice of location(s) for any ASL has always been one of the most challenging and potentially contentious of issues. No location would be without unique challenges and the HTF has weighed many factors, including without limitation, speed of implementation, Community support (or opposition), practicality, where the participants “go” when they are not in the ASL and an ASL’s proximity to the following (in no particular order):

- (i) Public transportation.
- (ii) Hospital and Other Medical Facilities.
- (iii) Treatment Services (Mental Health and/or Substance Abuse Facilities).
- (iv) General Life Services (food, laundry, etc.).
- (v) Potential Employment Opportunities & Affordable Housing.
- (vi) Continuing Education/Vocational Training.
- (vi) Residences, schools, and other more vulnerable areas (including, without limitation, fire hazard zones).

**A. LOCATION.** Based upon the above criteria, which is driven by proximity of an ASL, it seems that it would be better for individuals experiencing homelessness to have an ASL located outside the City if such a location would provide more ready access to medical, mental health and addiction treatment options, employment and associated affordable housing opportunities and so forth. The HTF recommends that the primary location (“Primary Location”) for an ASL should be outside the City of Malibu and within approximately twenty (20) miles of the LASD Lost Hills Station or the Malibu Substation (when such substation comes online). The HTF also recommends that some

form(s) of transportation be offered/provided (as discussed further below). Prior to choosing any specific location(s) outside of Malibu, the City should take the necessary steps to verify that such location(s) would permit full LASD enforcement of the City’s no-camping and similar ordinances.

The HTF recommends that if, and only if, the Primary Location (i.e. locating an ASL outside the City) is found to be untenable, economically unfeasible *or* that it can be demonstrated that, after applying all reasonable legal efforts, the Primary Location cannot satisfy the need for the enforcement discussed herein, then, and only then, would the HTF recommend that the City Council consider establishing an ASL inside the City.

### **Pros of an ASL located outside the City:**

**(i) Proximity to the Above Services.** It may be better for individuals experiencing homelessness to have an ASL located outside the City if such a location would provide more ready access to public transportation, medical, mental health and addiction treatment options, employment and associated affordable housing opportunities. The HTF believes that Malibuites are generally very caring and compassionate about the plights of individuals experiencing homelessness and want to see as many of these individuals get better and become employed and housed, and this would be a beneficial way to achieve that objective.

**(ii) Short Term “Fix” vs Long Term “Solution.”** The HTF believes that while there would be certain expedient advantages of establishing an ASL within the City limits, it would not be to the advantage of individuals experiencing homelessness as the ultimate goal is to assist them to obtain long term housing and employment, reconnect them with families and other supportive services, restore self-confidence and dignity and thus ending the cycle of despair and homelessness. Given the City’s limited services, employment opportunities and affordable housing, providing “beds” in Malibu may provide an extremely temporary “sleeping accommodation” but may actually result in prolonging the homeless experience of these individuals.

Though the recommendation is for a location outside the City, the following are presented as some advantages of a location inside the City:

**(iii) Transportation.** Any ASL, whether outside or within the City, will likely necessitate providing some form of transportation to the ASLs. That said, locations outside the City may involve greater transportation-related costs.

**(iv) LASD Enforcement.** The HTF has used the best feedback available to it when concluding that an ASL outside the City may allow for LASD enforcement. While no individual’s opinion on this matter is “gospel,” we have taken into consideration the recent comments made by LASD representatives in public and private meetings. Our interpretation of these dialogues has been that the LASD is willing to enforce as long as there is some ASL, “somewhere” and that if it is, indeed, outside the City, its proximity should be “reasonable.” The HTF is also aware that terms like “reasonable” are highly subjective, and may require additional adjudication - please refer to the section entitled “Legal Clarity” below. Nonetheless, it is believed that a location within the City would mitigate that subjectivity in the context of the County’s (and thus LASD’s) evaluation of whether the ASL’s location will satisfy criteria adjudicated in Martin v Boise.

**(v) Mentor Support, Meals & Other Services.** With a locally situated ASL, meal services provided by local charitable groups may be redirected to the ASL, reducing the cost of operating the ASL and ending the current provision of meals to the homeless population at large. In



addition, a locally situated ASL would facilitate Malibu residents serving as volunteers and mentors to ASL participants (similar to Big Brother/Big Sister programs), providing much-needed emotional support and other services to participants, greatly facilitating their transition to sustainable housing.

**(vi) Self-Governance.** Management of a location within the City may be simpler from a governance perspective. Managing an ASL in another jurisdiction may subject the ASL to policies and statutes beyond the City’s control, and may present conditions, procedures and requirements that would render the ASL more costly to run, less adaptable to changes in conditions and less effective in its mission.

**B. NUMBER OF BEDS.** The HTF recommends an ASL of at least six (6) and up to thirty (30) beds, PROVIDED THAT, if feasible, the City should commence with the smaller number and scale up to the maximum only as needed. Should an ASL be situated inside the City, it should have a Maximum Bed Count (“Cap”) of thirty (30) beds established by a City ordinance or statute. Given limited availability of services, municipal property and local zoning ordinances, the HTF believes that this Cap is the maximum that could be feasibly supported within the City. Should more beds be required, they would, by ordinance or statute, have to be located outside the City.

**C. FACILITIES.** Regardless of location, an ASL should adhere to the following minimal standards/characteristics:

**(i) ASL vs Housing.** The ASL is not intended to be housing. It is, as its name implies, an alternative sleeping location. As such, it should be “communal” in nature, and it should never deploy individual tents, “tiny homes,” pallet houses, pods or similar forms of shelter—the HTF believes that progress in all of its forms is better accomplished with fellowship rather than isolation. It should be clean and dignified, but never viewed as a long-term solution or preferable to being employed and obtaining true “housing.”

**(ii) Temporary & Mobile.** It should be as “temporary” and “mobile” in nature as zoning, construction, space and other constraints allow. The main reason is for speed of implementation, but the second reason is that the City may need to dismantle or relocate this ASL should it not solve issues of enforcement or, worse, create more problems than it is intended to resolve.

**(iii) As “Unobtrusive” as Possible.** It should be located in such a way as to not be readily visible from main streets, offices, residences, retail businesses or other commonly used public spaces.

**(iv) Green Zone/Zero Tolerance.** A “Zero Tolerance” zone should be established within a substantial radius of the ASL which will have enhanced security and enforcement of other drug sales (or use), loitering, camping, smoking (unless in safe, designated areas) and nuisance laws.

**(v) No Loitering.** It should prohibit, to the maximum extent possible, loitering. One of the greatest concerns that the HTF has, and it believes may be shared by Malibu residents (especially those who live or work near where such an ASL might be located) is that many of the ASL’s participants will loiter all day long in or near the businesses, parks, bus stations, sidewalks and/or residences near the ASL, and with so much “idle” time, will potentially participate in negative actions detrimental to themselves, as well as the community. In order to alleviate this concern of the community, any local ASL must have some combination of mandatory participation in employment,

treatment and/or counseling services during the day so the ASL's participants have some "obligation" to work on becoming sustainably housed and/or "give" something back to the community in return for the community's helping them.

**D. SINGLE FACILITY vs "MULTIPLE UNIT" MODEL.** The HTF has discussed various ways to create the number of beds it believes necessary to accomplish the goals set forth in its Charter as well as taking into consideration previous goals and objectives established by the City regarding reducing homelessness.

An option that was considered involved implementing one or more "modules" (each accommodating a maximum of six (6) individuals) within residential settings, inside or proximate to the City, via a series of contiguous or closely proximate single-family dwellings ("SFDs"). The HTF tasked a special ad hoc to review some of the legal issues that such an option could create. After reviewing their findings, which contained substantive legal concerns, and after considering other ethical and economic challenges, the HTF has determined not to recommend this option.

**E. LEVELS OF ASSISTANCE.** The HTF has also considered the level of assistance an ASL should provide and/or facilitate. The HTF recommends that the ASL include both (i) a small number of Emergency Beds and additional beds with some form of transitional services for those individuals who agree to participate and abide by the conditions for such assistance (discussed further below under the section entitled, "Rules").

The HTF recommends that the transitional services be contingent upon an individual's: (i) willingness to participate in the ASL's self-improvement programs, (ii) continued efforts towards increasing self-reliance, and (iii) continued compliance with the Rules (described below) of the ASL. Priority for these transitional beds should be given to those individuals who can demonstrate a "nexus" to the City.

**(i) Emergency Beds.** These would be the most basic, "no-frills" cot, bivouac sac or sleeping mat in a communal space. There would be access to simple lavatory facilities, (possibly porta-potties) and no evening meals would be offered. Individuals will: (i) have to vacate each morning, (ii) only be able to bring into the ASL personal items that they can carry, (iii) not be able to store belongings, and (iv) be subject to all of the Rules discussed below. These emergency beds are also for use by law enforcement as a means to relocate individuals from unsafe, unsanitary and inappropriate locations by giving them this alternative sleeping option.

**(ii) Transitional Services.** While emergency-only beds provide a necessary and humane function, they do little to create sustainable housing opportunities. The net result of which may be that over time the numbers of unhoused individuals will simply continue to grow, arguably necessitating and ever-growing number of emergency beds. Transitional Services are geared toward assisting individuals in their pursuit of employment, housing and substance abuse and mental health treatments. Only those individuals who qualify for and are willing to abide by the terms for participation in the ASL may be enrolled in Transitional Services.

It is understandable that an individual who has spent an extended length of time sleeping on sidewalks, under overpasses or in the brush may not immediately be able to start seeking employment and housing opportunities with success. This is generally even more true if such individual has mental health, trauma or substance abuse issues. The beginnings of transition living must begin the process of substance detox, trauma treatment, treatment of acute medical needs (i.e. lacerations, wounds, mites, etc.), improved body, hair and nail hygiene, haircuts, clean change of clothes, nourishment,



sense of safety, reconnection with family and friends or the establishment of other trusted relationships, mental health services and/or identifying proper medications, etc.

Continued effort and compliance on their part will allow them to enter the next phase, which would have individuals working more closely with outreach professionals to identify and improve skill sets (including life skills, personal financial management skills and employment skills), create viable career and housing goals, while continuing to work on medical, mental health and substance issues. The “final” transitional level should contain the highest amount of focus on the next steps in terms of housing and employment and other governmental or private social services available. Participants at this level should enjoy the maximum privileges and “trust” and should be encouraged to consider assisting those who have recently “arrived.”

**F. RULES FOR PARTICIPANTS.** Rules, requirements and/or responsibilities (collectively “Rules”) are things that all members of the community adhere to, and the unhoused population should not be an exception, especially within the ASL—this is for their well-being and safety as well as for the well-being and safety of all staff and other participants. Any and all Rules will be administered with dignity and consistency, and with the ultimate goal of giving such individuals a far better chance of re-entering permanent housing than they currently have when they are sleeping in random public spaces. The HTF recommends that the City Council (utilizing the City Attorney) should carefully review the ASL’s Rules so as not to run afoul of the Ninth Circuit’s Ruling in Martin v. Boise, other relevant statutes as well as simple common sense.

It is recommended that the ASL review and adapt rules and policies that have been used successfully by other jurisdictions with ASLs, but at a minimum, the following should be adopted by the ASL (subject to appropriate vetting by the City Attorney):

**(i) Registration.** Any and all individuals who spend even one night in the ASL should be expected to “register.” Such registration is not intended to be overwhelming or, in and of itself, an impediment to providing access to the ASL. It will also serve as the beginnings of an “intake” of such individual to see whether they are ready, willing and able to make changes and work towards “normalizing” their lives.

**(ii) Curfews & Hours of Access.** To maintain the ASLs ability to function effectively and safely, there should be a reasonable curfew, so as not to have individuals coming and going after hours, which is not fair to the staff or other participants. In addition, the ASL must not become a place to “hang out all day,” and thus participants must be utilizing their time during the day either working at existing employment, finding employment or working with staff on developing life skills, personal financial management skills, employment skills or other housing and health related issues.

**(iii) General Department.** While subjective in nature, all staff and participants must maintain themselves at all times in a civil manner and refrain from actions that are detrimental to others who are either working/volunteering at the ASL or are participants who are trying to work towards housing and employment goals. Offensive and vulgar language, harassment or intimidation of others, smoking (unless in designated areas), excessively loud noises or criminal behaviors should not be tolerated and, after warning (if applicable), should result in expulsion from the ASL. The ASL should have the ability to remove or deny entry to any individual who is, or who in the past, has demonstrated behaviors that make them a danger to themselves or others.

**(iv) Drug Use.** Not all participants in the ASL have substance abuse issues (whether from illegal drugs or an abuse of “legal” pharmaceuticals), but those that do must be willing to accept substance abuse treatment and consider alternatives to continued substance abuse. That said, it is simply not possible for the ASL to make abstinence (away from the ASL) a requirement, PROVIDED HOWEVER, that there must be a zero-tolerance policy of substance use or possession inside the ASL or its surrounding “Green Zone.” Participants must consent to having their persons and/or belongings searched to ensure that they are in compliance with this policy. In addition, the ASL should have the right to deny entry to any person who appears to be intoxicated and/or “under the influence” when such appearance is accompanied by behaviors that may be unsafe for staff and other participants. The HTF understands that this may require a “judgment call” by a staff member, and some protocols should be put in place to ensure that this is meted out fairly, and in such a way as to not place the ASL or any of its staff in actual danger or other legal jeopardy.

**(v) Participation in Services.** As discussed above, the ASL isn’t intended to be housing, but rather, a temporary place for an individual experiencing homelessness to sleep and obtain services that will allow such individual to become sustainably “housed.” Remaining homeless without putting in any effort to becoming sustainably housed, employed and healthier is not an option for participants in the ASL. They must work a program with their assigned staff member or outreach worker in order to stay in the ASL.

**(vi) Maintaining Cleanliness of the ASL.** All participants in the ASL must share in the general safety, security and cleanliness of the entire ASL including the surrounding area. The ASL’s staff is not there to clean up after participants, but rather must meet out tasks in a fair and consistent manner, and not as punitive measures. Specific accommodations may be made for those individuals with physical or psychological handicaps as appropriate, but all participants must do something to pitch in commensurate with their abilities.

**G. TRANSPORTATION.** Malibu is a small city in terms of population, but is extensive in terms of its land area and unique topography. As mentioned elsewhere, there are point-to-point distances within the City that are farther from each other than certain of the above external locations are from the center of Malibu. Even if an ASL were to be located inside the City, it is possible that an unhoused individual being asked to “move” might claim an inability to get to an ASL, and thus the City might theoretically be obligated to provide some “intra-city” transportation. It is envisioned that this transportation will have limited hours of operation.

Preliminary estimates are that an operational van (if needed, regardless of who owns and operates it) may cost approximately \$100,000 to \$200,000 per year depending on ASL location, excluding the initial cost to purchase or lease the vehicle, but including the costs of drivers, maintenance, gas, insurance, cleaning, parking/garaging, etc. The HTF encourages the City to also explore other options, including without limitation, “vouchers” for ride-shares or other third-party transportation.

The HTF is aware that there are legal, liability and logistical issues relating to transportation, however, we are also aware that other municipalities have dealt successfully with this issue and the City should review carefully what those other jurisdictions did to mitigate these issues.

**H. MANAGEMENT.** The HTF is acutely aware of the need to have any ASL run safely, cost-effectively and constructively. To that end, the HTF recommends that the City appoint a “board of directors” or some other management/oversight committee to oversee the operation of the ASL, to ensure both the high-quality operation of the ASL and operational compliance with the “hand up”

philosophy discussed below. The board’s oversight would include selecting, reviewing, and overseeing third parties who may be contracted to run and/or provide services for the ASL and its participants.

The following aspects of ASL management should be considered:

**(i) Philosophy.** The operator of the ASL should be committed (including explicitly by contract) to a “hand-up” rather than a “hand out” approach. This means emphasizing self-reliance to the extent of an individual’s capacity, on a case-by-case basis, with all activities of the ASL designed to further that goal. Each ASL participant should agree to, and the ASL operator should proactively promote, constructive employment as the intended primary means of such individual’s support, to the extent of such individual’s capacity, family support as a secondary means, and reliance on government and other third-party support only as a tertiary measure to provide for necessities in excess of what the individual and/or their family is able to provide.

In furtherance of this philosophy, the ASL should offer resources designed to give each individual (1) purpose, whether through employment, service opportunities or other means, (2) whole education, including life skills, employment skills and personal financial management skills, and (3) real friendship, for example through a mentorship program that connects ASL participants with established members of the local community (in a safe environment). The HTF believes these three “human needs” to be critical to an individual’s success in being sustainably housed.

**(ii) Execution.** In both the selection and the ongoing evaluation and retention of an operator, the City should diligently evaluate such operator’s expertise, experience and capacity to enact a successful program consistent with the above philosophy. In addition to the diligent work of City staff in this regard, a board of directors comprised of knowledgeable and engaged citizens should be established to work with the City in overseeing successful operations. Historical results of the ASL operator, both in respect of its ongoing contract with the City and in respect of its work elsewhere, should be evaluated, including such periodic metrics as: (i) the number of people housed, (ii) the number of people remaining housed after one year and three years, (iii) the number of people reunited with friends and/or family, (iv) the number of people achieving gainful employment, and (v) the number of people retaining gainful employment after one year and three years.

In assisting ASL participants, a coordinated care model should be followed, in which all elements of each participant’s transition are evaluated in periodic (e.g. weekly) case conferences. Such conferences should include providers of the various aspects of support, so that all such elements of support work in unity to ensure the proper type and amount of support throughout the participant’s progression. Such support should be tailored to each individual based on such individual’s specific strengths and needs, subject to core fundamental principles of self-reliance, compassion, and accountability. Key elements of successful operation would include case management, clinical case management, housing coordination, program management, and redundant 24/7 staffing adequately trained in conflict management, de-escalation and emergency procedures. Services may be provided by the ASL operator directly, by third-party contract, by subcontract, or by local individual or group volunteers.

**I. LEGAL ISSUES.** The HTF recommends that the City Council direct the City Attorney’s Office to analyze certain legal issues that may arise relating to the ASL, including its impact on the full enforceability of the City’s no-camping and similar ordinances, avoiding tenancy issues, or matters such as accessibility, liability and the enforceability of ASL rules. In addition, the HTF recommends that the City Council task the City Attorney with analyzing the various and optimal “ownership structures” of such an ASL, i.e. whether it is directly owned, leased and/or managed by

the City, or whether it is owned, leased and/or run by a third-party (i.e. a non-Profit) which has contracted with the City for its beds and other services.

Should concerns arise about immediate enforcement of Malibu’s existing laws and whether an ASL outside the City satisfies legal concerns, the HTF recommends that the City Council consider some additional proactive course (such as the filing of a Motion for Declaratory Judgment or similar action) to give better judicial clarity and allow for more robust enforcement.

**II. IDENTIFY “BEDS” AT EXISTING SHELTERS.** As a non-mutually exclusive option, the City should also immediately explore opportunities to “acquire” rights to utilize beds which may be available in one or more existing facilities proximate to the City, PROVIDED THAT: (i) the City is willing to provide, at the City’s expense, reasonable transportation to such facilities, (ii) such facility operates in a manner consistent with the philosophy described above, and (iii) providing access (and transportation) to such beds would pass legal “muster” for law enforcement to enforce Malibu’s “no-camping” related ordinances. This option, if viable, would most likely require the City to make financial contributions to such facilities (in an amount as yet undetermined) in order to have such beds “reserved” exclusively for the City’s use. An advantage of this option, besides expediency and scalability, is that these would be owned and operated by others (contracted by other jurisdictions) and the City would have no management responsibilities.

The HTF is currently unaware of any specific viable options in other existing facilities, however, should they be identified *and* should they pass legal “muster” *and* be contractually available in sufficient quantities *and* be cost-feasible, the HTF would recommend that the City consider this option as part of a long-term solution, even possibly in lieu of some of the other recommended actions discussed above.

**III. EXISTING SERVICES & MEAL PROGRAMS.**

**A. EVALUATION OF EXISTING PROVIDERS.** With the implementation of an ASL, the HTF recommends that the City should evaluate the current “homeless” services contracted by the City to determine whether those contracts such services can be effectively performed by or in concert with the ASL and, accordingly, whether those contracts should be renewed, cancelled or modified in their scope and cost. The latter may allow the City’s resources to be better allocated when implementing the plan(s) referenced herein.

**B. MEAL PROGRAMS.** Few Good Samaritan efforts get more support or vehement opposition than local meal programs. There are many within the Malibu community who have great compassion yet view these programs as counter-productive, creating continued dependency and of attracting more individuals experiencing homelessness to Malibu (who then simply elect to remain here). Those who organize these meal programs would respond that they are also compassionate people who truly want to help in conjunction with alternative services as part of a larger outreach, specifically by: (i) helping establish trusting relationships, (ii) identifying and determining real needs that can be addressed, and (iii) providing invaluable aid in the next steps with appropriate homeless service providers.

The establishment of an ASL (in or near the City) offers the organizers and volunteers of these meal programs to continue their good work while mitigating the perceived unintended consequences. The HTF has received commitments from several meal program sponsors, upon the establishment of

an ASL, to re-direct their activities towards assisting those individuals who are participating in an ASL, rather than to the homeless population at large, provided the location of the ASL is reasonably accessible. Accomplishing this would be a potential win-win for the meal program organizers, for the entire community *and* for the individuals participating in the ASL's program(s) who are earnestly working hard to constructively change their lives.

#### **IV. PUBLIC SAFETY.**

While the establishment of a viable ASL may be an integral part of increasing the enforcement of local “camping/loitering/vagrancy” laws, the HTF strongly recommends that the City continue its efforts to ensure that these existing laws are enforced by the LASD. In addition, the City should encourage the Office of the Los Angeles County District Attorney to prosecute crimes by repeat offenders, and even first offenses that directly or indirectly threaten the health and safety of Malibu’s residents (including the unhoused), guests, employees and visitors.

#### **V. FURTHER CITY COUNCIL ACTIONS.**

The HTF recommends that City Council adopt these recommendations and instruct City staff to conduct such analysis and review as may be prerequisite, and develop a plan to implement such recommendations as soon as practicable.

Furthermore, the HTF would request that if the City Council elects to pursue establishing an ASL, and gives clearer guidance on the location as recommended above, that the City tasks the HTF to proceed forward, working closely with City staff, to further identify and evaluate specific potential locations within the “chosen” area(s).

### **ADDITIONAL COMMENTS**

As pointed out in the Executive Summary, while the above Report reflects the opinions and recommendations of a majority of HTF members, it should not be construed as representing unanimity. The following are several key areas where a minority of HTF members expressed a dissenting or alternate opinion:

A. NO ASL. One HTF member was opposed to the creation of an ASL, regardless of location, size or make-up.

B. LOCATION. Two HTF members believed that the City should consider locations inside the City first. While the remainder (except for the individual referenced in “A” above) were supportive of a location inside the City (as a secondary option), all expressed concerns about where such a Malibu ASL might be located. They highlighted the need for limitations on size and that the challenges of a local ASL must be offset by a commensurate increase in enforcement of the laws intended to provide for the health, safety and well-being of the entire community.

C. MODULARIZED MODEL. One HTF member believed that the option discussed above in Section I.D (SINGLE FACILITY vs “MULTIPLE UNIT” MODEL) was not only viable, but a better solution than the single “centralized” facility recommended above.

**END OF REPORT**

The Task Force thanks the City Council in advance for its thoughtful consideration of this RECOMMENDED ACTION PLAN and invites the Council to request anything from the HTF that it believes would further assist it in its analysis and/or implementation of the above.

Respectfully,

Task Force on Homelessness