

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Trent Rhorer, Executive Director, Human Services Agency  
Shireen McSpadden, Executive Director, Department of Homelessness  
and Supportive Housing  
Dr. Grant Colfax, Director, Department of Public Health  
Sandra Eng, Executive Officer, Civil Service Commission

FROM: Brent Jalipa, Assistant Clerk, Budget and Finance Committee

DATE: June 14, 2022

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Mayor London Breed:

**File No. 220703**

**Ordinance authorizing the Human Services Agency (HSA) to amend certain hotel booking agreements that were executed on or before February 10, 2022, to provide non-congregate shelter to people experiencing homelessness by extending the terms beyond August 31, 2022, through August 31, 2023; waiving for said agreements certain requirements in the Administrative and Environment Codes; approving certain agreements with anticipated expenditures in excess of \$10 million under Charter, Section 9.118; and authorizing HSA to enter into modifications of such agreements that do not increase the obligations or liabilities to the City and are necessary to effectuate the purposes of the agreement.**

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Elizabeth LaBarre, Human Services Agency  
Louise Rainey, Human Services Agency  
Dylan Schneider, Department of Homelessness and Supportive Housing  
Emily Cohen, Department of Homelessness and Supportive Housing  
Bridget Badasow, Department of Homelessness and Supportive Housing  
Greg Wagner, Department of Public Health  
Dr. Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health  
Ana Validzic, Department of Public Health  
Elizabeth Aldana, Civil Service Commission

1 [Human Services Agency - Agreements with Hotels Providing Non-Congregate Shelter to  
2 Persons Experiencing Homelessness]

3  
4 **Ordinance authorizing the Human Services Agency (HSA) to amend certain hotel**  
5 **booking agreements that were executed on or before February 10, 2022, to provide**  
6 **non-congregate shelter to people experiencing homelessness by extending the terms**  
7 **beyond August 31, 2022, through August 31, 2023; waiving for said agreements certain**  
8 **requirements in the Administrative and Environment Codes; approving certain**  
9 **agreements with anticipated expenditures in excess of \$10 million under Charter,**  
10 **Section 9.118; and authorizing HSA to enter into modifications of such agreements that**  
11 **do not increase the obligations or liabilities to the City and are necessary to effectuate**  
12 **the purposes of the agreement.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
16 **Board amendment additions** are in double-underlined Arial font.  
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
18 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
19 subsections or parts of tables.

20 Be it ordained by the People of the City and County of San Francisco:

21 Section 1. Background and Findings.

22 (a) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in  
23 response to the COVID-19 pandemic (the "Proclamation"). On March 3, 2020, the Board of  
24 Supervisors concurred in the February 25 Proclamation and in the actions taken by the Mayor  
25 to meet the emergency.

1 (b) On March 13, 2020, the Mayor issued the Second Supplement to the Proclamation,  
2 which found that “it is in the public interest to take steps to ensure that people remain housed  
3 during this public health emergency” and that “there is a severe shortage of affordable rental  
4 housing in the City, people who are evicted are at a risk of homelessness, and homeless  
5 individuals are less equipped to mitigate risks related to COVID-19.”

6 (c) On May 11, 2020, the Mayor issued the Thirteenth Supplement to the  
7 Proclamation, authorizing City departments to enter into COVID-19 related contracts with a  
8 term of one year or less and that exempted departments from following the competitive  
9 solicitation and procurement procedures in the Administrative Code, obtaining approval from  
10 the commission overseeing each department, including contract terms that the department  
11 head determined may impede the City’s ability to obtain state or federal reimbursement, and  
12 Civil Service Commission approval.

13 (d) In Resolution No. 330-20 adopted in July 2020, the Board of Supervisors  
14 expressed its intent that no person experiencing homelessness who has been brought into the  
15 COVID-19 Response System, which includes City or privately-funded hotel rooms,  
16 congregate shelters, and Recreational Vehicles, be discharged to the streets, and that all  
17 people in the COVID-19 Response System receive a “Coordinated Entry Assessment” for  
18 appropriate housing matches. In Resolution No. 330-20, the Board also urged the Department  
19 of Homelessness and Supportive Housing (HSH) to release a comprehensive plan that  
20 outlines anticipated steps to prevent people in Shelter-in-Place (SIP) hotels or other COVID-  
21 19 Response System housing options from being discharged to the streets.

22 (e) Following the first wave of the coronavirus, HSA entered into booking agreements  
23 with 30 hotels to provide rooms for shelter-in-place, isolation and quarantine, and first  
24 responders. As of November 15, 2020, the City was providing temporary shelter in over 2,000  
25

1 rooms to individuals or families in hotels. Pursuant to the Thirteenth Supplement, HSA  
2 waived commission approvals and certain contract terms in the hotel booking agreements.

3 (f) On January 21, 2021, President Joe Biden directed the Federal Emergency  
4 Management Agency (FEMA) to make assistance available to local governments to fund non-  
5 congregate sheltering at 100% of federal cost share until September 30, 2021, in contrast to  
6 the previous policy of making FEMA assistance available at 75% of the federal cost share.

7 (g) On February 19, 2021, in the Thirty-Fifth Supplement to the Proclamation, the  
8 Mayor authorized City departments to extend the COVID-19 related emergency contracts  
9 initially authorized by the Thirteenth Supplement. For contracts executed before February 1,  
10 2021, the Thirty-Fifth Supplement authorized a term extension of up to 12 months. The  
11 Thirty-Fifth Supplement also authorized City departments to execute or amend COVID-19  
12 related contracts on or after February 1, 2021 without complying with competitive solicitation  
13 or commission approval, and without including terms otherwise required by the Administrative  
14 and Environment Codes.

15 (h) Under the authority of the Thirty-Fifth Supplement, HSA extended the term for hotel  
16 booking agreements for an additional 12 months, and waived terms in those agreements that  
17 would otherwise be required by the Administrative and Environment Codes.

18 (i) On February 10, 2022, in the Forty-Fifth Supplement to the Proclamation, the Mayor  
19 authorized the Executive Director of HSA to amend any agreement the agency had in place  
20 as of February 10, 2022 for the use of hotel rooms to house individuals experiencing  
21 homelessness or individuals who are at risk of developing severe COVID-19 to extend the  
22 term of any such agreements up to and including August 31, 2022. The Supplement further  
23 provided that any amendment to extend the term of such agreements beyond August 31,  
24 2022 and to waive applicable restrictions in the Municipal Code, would require approval of the  
25 Board of Supervisors by ordinance.

1 (j) On March 1, 2022, President Biden directed FEMA to extend assistance to local  
2 governments including funding for non-congregate sheltering at 100% federal cost share up to  
3 and including July 1, 2022.

4 (k) This ordinance is necessary to enable HSA to expeditiously amend its hotel  
5 booking agreements to extend the duration of such agreements beyond August 31, 2022 to  
6 maintain stable housing for individuals who might otherwise be discharged to the streets. The  
7 ordinance thereby furthers the interests of the City, by avoiding the inevitable delay and  
8 expenditure of limited staff resources that would be caused by restarting the procurement  
9 process to reacquire hotel rooms. The ordinance will enable the uninterrupted use of hotel  
10 rooms by authorizing HSA to negotiate a term extension quickly to ensure the best use of the  
11 rooms.

12 (l) HSA intends to wind down the majority of hotel booking agreements by December  
13 31, 2022. However, HSA may also assign a limited number of agreements to HSH so that  
14 HSH can continue to operate non-congregate shelters after December 31, 2022 through  
15 August 31, 2023, contingent upon the availability of funding to do so. HSA may also assign a  
16 limited number of agreements to the Department of Public Health (“DPH”) so that DPH can  
17 provide ongoing isolation or quarantine sites. Any future extensions beyond August 31, 2023  
18 would require either further approval of the Board to extend the term of such agreements and  
19 to waive any relevant provisions of the Municipal Code, or inclusion of such Code provisions.

20 (m) The Administrative Code and the Environment Code typically require that new and  
21 amended contracts include provisions requiring the contractor to adhere to various policies  
22 enacted by the Board. Requiring hotels to comply with these requirements as a condition of  
23 extending the agreements would likely impose costs and delays that would further impede  
24 HSA’s ability to provide uninterrupted housing.

1           Section 2. For purposes of Sections 3 and 4 of this ordinance, “Hotel Booking  
2 Agreement” shall mean any hotel booking agreement executed between HSA and a hotel or  
3 motel on or before February 10, 2022 for the use of rooms as isolation and quarantine  
4 facilities, or to house individuals experiencing homelessness and/or who are at risk of  
5 developing severe COVID-19. A list of all Hotel Booking Agreements is on file with the Clerk  
6 of the Board of Supervisors in File No. 220703.

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8           Section 3. Amendment of Existing Contracts to Extend Term; Waiver of Requirements  
9 for Board of Supervisors Approval.

10           (a) HSA may amend a Hotel Booking Agreement to extend the term of the agreement,  
11 or may exercise an option to extend the term of an existing agreement, beyond August 31,  
12 2022 for an additional twelve months up to and including August 31, 2023.

13           (b) Hotel Booking Agreements amended as authorized by Section 3(a), above, shall  
14 continue to be exempt from the requirements of Administrative Code Chapters 12K (Salary  
15 History Ordinance), 12P (Minimum Compensation Ordinance), 12T (Consideration of Criminal  
16 History in Hiring and Employment Decisions), 12Y (Slavery Era Disclosure Ordinance), 14B  
17 (Local Business Enterprise and Non-Discrimination in Contracting Ordinance), 83 (First  
18 Source Hiring Program), and 101 (Sugar-Sweetened Beverage Funding Ban Ordinance), and  
19 Environment Code Chapters 8 (Tropical Hardwood and Virgin Redwood Ban), 13 (Arsenic  
20 Treated Wood Products), 16 (Food Service and Packaging Waste Reduction Ordinance), and  
21 24 (Bottled Water Ordinance).

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23           Section 4. Authorization to Enter into Amendments Pursuant to Charter Section 9.118.

24           (a) Existing Agreements.  
25

1                   (1) On May 7, 2020, HSA entered into an Emergency Hotel Booking Agreement  
2 with Sayana Corporation (operator of the “Adante Hotel”), for an amount not to exceed  
3 \$5,460,053, HSA Contract No. 1000017957. The Adante Hotel Emergency Hotel Booking  
4 Agreement was amended pursuant to the First Amendment to the Adante Hotel Emergency  
5 Hotel Booking Agreement, dated March 23, 2021, and was further amended by the Second  
6 Amendment to the Adante Hotel Emergency Hotel Booking Agreement, dated March 1, 2022.  
7 The First and Second Amendments did not cause the total agreement amount to exceed \$10  
8 million. HSA desires to enter into a Third Amendment (the “Third Adante Amendment”), dated  
9 retroactively to April 18, 2022, to exercise an option to extend the term of the agreement  
10 consistent with Section 3 of this ordinance and to increase the agreement amount by  
11 \$4,918,351 for a new not to exceed amount of \$14,856,866.

12                   (2) On May 23, 2020, HSA entered into an Emergency Hotel Booking  
13 Agreement with KHP II SF Sutter LLC (operator of the “Kimpton Buchanan Hotel”) for an  
14 amount not to exceed \$8,551,713, HSA Contract No. 1000018159. The Kimpton Buchanan  
15 Hotel Emergency Hotel Booking Agreement was amended pursuant to the First Amendment  
16 to the Kimpton Buchanan Hotel Emergency Hotel Booking Agreement, dated as of May 2021,  
17 and was further amended by the Second Amendment to the Kimpton Buchanan Hotel  
18 Emergency Hotel Booking Agreement, dated March 1, 2022. The First and Second  
19 Amendments did not cause the total agreement amount to exceed \$10 million. HSA desires  
20 to enter into a Third Amendment (the “Third Kimpton Amendment”), dated retroactively to April  
21 3, 2022, to exercise an option to extend the term of the agreement consistent with Section 3  
22 of this ordinance and increase the contract amount by \$4,071,617 for a new not to exceed  
23 amount of \$14,064,232.

24                   (3) On April 23, 2020, HSA entered into an Emergency Hotel Booking  
25 Agreement with SF Vertigo LLC (operator of the “Hotel Vertigo”), for an amount not to exceed

1 \$4,571,078, HSA Contract No. 1000017798. The Hotel Vertigo Emergency Hotel Booking  
2 Agreement was amended pursuant to the First Amendment to the Hotel Vertigo Emergency  
3 Hotel Booking Agreement, dated March 22, 2021 and was further amended by the Second  
4 Amendment to the Hotel Vertigo Emergency Hotel Booking Agreement, dated March 1, 2022.  
5 The First and Second Amendments did not cause the agreement amount to exceed \$10  
6 million. HSA desires to enter into a Third Amendment (the "Third Vertigo Amendment"), dated  
7 retroactively to July 3, 2022, to exercise an option to extend the term of the agreement  
8 consistent with Section 3 of this ordinance and increase the contract amount by \$2,279,277  
9 for a new not to exceed amount of \$12,273,030.

10 (4) On July 23, 2020, HSA entered into an Emergency Hotel Booking  
11 Agreement with Lombard Hotel Group (operator of the "Monarch Hotel"), for an amount not to  
12 exceed \$5,871,025, HSA Contract No. 1000019022. The Monarch Hotel Emergency Hotel  
13 Booking Agreement was amended pursuant to the First Amendment to the Monarch Hotel  
14 Emergency Hotel Booking Agreement, dated March 23, 2021 and was further amended by the  
15 Second Amendment to the Monarch Hotel Emergency Hotel Booking Agreement, dated  
16 March 1, 2022. The First and Second Amendments did not cause the agreement amount to  
17 exceed \$ 10 million. HSA desires to enter into a Third Amendment (the "Third Monarch  
18 Amendment"), dated retroactively to May 27, 2022, to exercise an option to extend the term of  
19 the agreement consistent with Section 3 of this ordinance and increase the contract amount  
20 by \$5,019,360 for a new not to exceed amount of \$15,005,460.

21 (5) On May 15, 2020, HSA entered into an Emergency Hotel Booking  
22 Agreement with Shin International, Inc. (operator of the "Cova Hotel"), for an amount not to  
23 exceed \$5,230,724, HSA Contract No. 1000018023. The Cova Emergency Hotel Booking  
24 Agreement was amended pursuant to the First Amendment to the Cova Emergency Hotel  
25 Booking Agreement, dated March 22, 2021 and was further amended by the Second



1 Amendment to the Cova Emergency Hotel Booking Agreement, dated March 1, 2022. The  
2 First and Second Amendments did not cause the agreement amount to exceed \$10 million.  
3 HSA desires to enter into a Third Amendment (the “Third Cova Amendment”), dated  
4 September 1, 2022, to exercise an option to extend the term of the agreement consistent with  
5 Section 3 of this ordinance and increase the contract amount by \$2,870,981 for a new not to  
6 exceed amount of \$11,385,311.

7 (b) Copies of the agreements listed in subsection (a)(1) through (a)(5) are on file with  
8 the Clerk of the Board of Supervisors in File No. 220703.

9 (c) Approval. Charter Section 9.118(b) provides that the agreements entered into by a  
10 department, board, or commission requiring anticipated expenditures by the City and County  
11 of ten million dollars, shall be subject to approval by the Board of Supervisors. Pursuant to  
12 Section 9.118(b), the Board of Supervisors approves the agreements described in Section  
13 4(a) of this ordinance, as follows:

14 (1) The Board of Supervisors hereby approves the Third Adante Amendment to  
15 HSA Contract No. 1000017957 to increase the amount by \$4,918,351 for a new not to exceed  
16 amount of \$14,856,866.

17 (2) The Board of Supervisors hereby approves the Third Kimpton Amendment  
18 to HSA Contract No. 1000018159 to increase the amount by \$4,071,617 for a new not to  
19 exceed amount not of \$14,064,232.

20 (3) The Board of Supervisors hereby approves the Third Vertigo Amendment to  
21 HSA Contract No. 1000017798 to increase the amount by \$2,279,277 for a new not to exceed  
22 amount of \$12,273,030.

23 (4) The Board of Supervisors hereby approves the Third Monarch Amendment  
24 to HSA Contract No. 1000019022 to increase the amount by \$5,019,360 for a new not to  
25 exceed amount of \$15,005,460.

1                   (5) The Board of Supervisors hereby approves the Third Cova Amendment to  
2 HSA Contract No. 1000018023 to increase the amount by \$2,870,981 for a new not to exceed  
3 amount of \$11,385,311.

4                   (d) The Board of Supervisors recognizes and provides retroactive approval of the Third  
5 Adante Amendment, dated April 18, 2022, the Third Kimpton Amendment, dated April 3,  
6 2022, the Third Vertigo Amendment, dated July 3, 2022, and the Third Monarch Amendment,  
7 dated May 27, 2022.

8                   (e) The Board of Supervisors authorizes HSA to enter into any modifications to the  
9 agreements approved pursuant to this Section 4, prior to their final execution by all parties,  
10 that HSA determines, in consultation with the City Attorney, are in the best interest of the City,  
11 do not otherwise materially increase the obligations or liabilities of the City, are necessary or  
12 advisable to effectuate the purposes of the agreement, and are in compliance with all  
13 applicable laws.

14                   (f) Within 30 days of the agreements referenced in Section 4(c), above, being fully  
15 executed by all parties, HSA shall provide the executed agreements to the Clerk of the Board  
16 of Supervisors for inclusion in File No. 220703.

1           Section 5. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor’s veto of the ordinance.

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7 APPROVED AS TO FORM:  
8 DAVID CHIU, City Attorney

9 By:           /s/ Henry L. Lifton            
10       HENRY L. LIFTON  
11       Deputy City Attorney

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## LEGISLATIVE DIGEST

[Human Services Agency - Agreements with Hotels Providing Non-Congregate Shelter to Persons Experiencing Homelessness]

**Ordinance authorizing the Human Services Agency (HSA) to amend certain hotel booking agreements that were executed on or before February 10, 2022 to provide non-congregate shelter to people experiencing homelessness by extending the terms beyond August 31, 2022 to August 31, 2023; waiving for said agreements certain requirements in the Administrative and Environment Codes; approving certain agreements with anticipated expenditures in excess of \$10 million under Charter Section 9.118; and authorizing HSA to enter into modifications of such agreements that do not increase the obligations or liabilities to the City and are necessary to effectuate the purposes of the agreement.**

### Amendments to Current Law

Currently, under the authority of the Forty-Fifth Supplement (described below), HSA is authorized to enter into certain hotel booking agreements up to August 31, 2022. This uncodified Proposed Ordinance would authorize HSA to amend those hotel booking agreements that the agency entered into on or before February 10, 2022 to extend the term of those agreements beyond August 31, 2022 up to and including August 31, 2023. The Proposed Ordinance would also allow HSA to continue to waive certain provisions in the Administrative and Environment Codes that HSA previously waived under the authority of the Mayor's Supplements to the Proclamation (as that term is defined below). Finally, extending the term for five of the hotel booking agreements would increase the not to exceed amounts of those agreements over \$10 million and the Proposed Ordinance would approve those expenditures under the authority of Section 9.118 of the Charter.

### Background Information

On February 25, 2020, Mayor London Breed proclaimed a state of emergency in response to the COVID-19 pandemic (the "Proclamation"). On May 11, 2020, the Mayor issued the Thirteenth Supplement to the Proclamation, authorizing City departments to enter into COVID-19 related contracts with a term of one year or less and that exempted the departments from certain contracting requirements. On February 19, 2021, the Mayor issued the Thirty-Fifth Supplement to the Proclamation authorizing a term extension of up to 12 months for the COVID-19 related emergency contracts initially authorized by the Thirteenth Supplement.

Under the authority of the Thirteenth Supplement, HSA entered into hotel booking agreements with 30 hotels to provide rooms for shelter-in-place, isolation and quarantine, and first responders. Because HSA executed these agreements under the authority of the Thirteenth Supplement, the agency also had the authority to waive certain provisions of the

Administrative and Environment Codes, which it exercised. Then, under the authority of the Thirty-Fifth Supplement, HSA extended the term for existing hotel booking agreements and continued to waive the Administrative and Environment Code provisions.

On February 10, 2022, the Mayor issued the Forty-Fifth Supplement to the Proclamation authorizing HSA to amend any hotel booking agreement the agency had in place as of February 10, 2022 for the use of hotel rooms to house individuals experiencing homelessness or individuals who are at risk of developing severe COVID-19 to extend the term of any such agreements up to and including August 31, 2022. The Supplement also provides that if any such amendment includes an option to further extend the term beyond August 31, 2022, HSA must first obtain approval of the Board of Supervisors by ordinance waiving any applicable restrictions in the Municipal Code before exercising such extension.

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