

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

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TO: Board of Supervisors
FROM: Budget and Legislative Analyst 
SUBJECT: June 9, 2020 Full Board of Supervisors Meeting

TABLE OF CONTENTS

Item	File	Page
34	20-0600 Concurring in Actions to Meet Local Emergency - Coronavirus Response	1

<p>Item 34 Files 20-0060</p>	<p>Department: Emergency Management, Human Resources, San Francisco Municipal Transportation Agency, Mayor’s Office of Housing & Community Development</p>
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed motion would concur in actions taken by the Mayor in the Sixteenth Supplement to the Proclamation of Emergency, which was released on May 29, 2020, to meet the ongoing local emergency related to COVID-19.

Key Points

- The Sixteenth Supplement to the Mayor’s Emergency Proclamation (i) provides for the City to set up temporary shelter for individuals experiencing homelessness on property under the jurisdiction of the Mayor’s Office of Housing and Community Development (MOHCD); (ii) extends existing paid leave for City employees under guidelines established by the Department of Human Resources (DHR); (iii) allows DHR and the San Francisco Municipal Transportation Agency (SFMTA) to temporarily waive limits set in the Charter for limited-term employees and employees hired to backfill for leave; and (iv) sets the terms for City commissions, boards, and advisory bodies to meet remotely.

Fiscal Impact

- MOHCD currently uses 730 Stanyan Street as a “Safe Sleeping” site for individuals experiencing homelessness. Two other potential MOHCD properties that could be used as Safe Sleeping sites are 967 Mission Street and 1515 South Van Ness Avenue. The estimated cost to set up a Safe Sleeping site is \$150,000 for fencing, electricity, water, and other basic requirements, and estimated operating cost of a Safe Sleeping site is approximately \$85 per person per night to provide food, toilets and handwashing facilities, site attendants and security, garbage collection, and other operating requirements. Safe Sleeping site costs are General Fund costs not reimbursed by the Federal Emergency Management Agency (FEMA).
- The City established a paid leave policy for individuals who are available to work but not able to work due to the Stay Safe at Home Order, which are extended to June 30, 2020 through the Sixteenth Supplement. According to DHR, 2,115 City employees have been paid approximately \$5.5 million in Emergency Sick Leave and Family Medical Leave Act (FMLA) pay as of May 29, 2020.

Recommendations

- The Board of Supervisors should request a report from the Director of the Department of Emergency Management on the total Safe Sleeping Site costs at the end of the emergency.
- Approval of the proposed motion is a policy decision for the Board of Supervisors.

MANDATE STATEMENT

California Government Code Sections 8550 et seq., San Francisco Charter Section 3.100(14), and Chapter 7 of the San Francisco Administrative Code empower the Mayor to proclaim the existence of a local emergency, subject to concurrence by the Board of Supervisors as provided in the Charter, in the case of an emergency threatening the lives, property, or welfare of the City and County or its citizens. During a declared emergency, San Francisco Charter Section 3.100(14) vests the Mayor with the power to direct the personnel and resources of any department, command the aid of other persons, and do whatever else the Mayor may deem necessary to meet the emergency, subject to concurrence by the Board of Supervisors.

BACKGROUND

On February 25, 2020, the Mayor issued a Proclamation declaring a local emergency to exist in connection with the imminent spread of a novel coronavirus, COVID-19, within San Francisco. On March 3, 2020, the Board of Supervisors concurred in the Mayor's Proclamation and in the actions taken by the Mayor to meet the emergency. On March 4, 2020, the Governor of California proclaimed a state of emergency to exist within California due to the threat posed by COVID-19. On March 6, 2020, the San Francisco Local Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code. The Board of Supervisors concurred in the local health emergency declaration on March 10, 2020. Since the Mayor's initial Proclamation declaring a local emergency on February 25, 2020, the Mayor has issued thirteen Supplements to the Proclamation containing additional orders and actions.

Under San Francisco Charter Section 3.100(14), the actions taken by the Mayor to meet the declared emergency are subject to concurrence by the Board of Supervisors. The Charter requires that the Mayor seek the concurrence of the Board of Supervisors "as soon as reasonably possible," but according to a March 24, 2020 memorandum from the City Attorney's Office ("Process for Board of Supervisors Action on Emergency Orders"), neither state nor local law establishes a deadline by which the Board of Supervisors must act. An order issued by the Mayor under a declaration of emergency remains in effect until the Board of Supervisors acts, by motion, to either concur or reject.

The March 24, 2020 memorandum from the City Attorney's Office specifies that when considering a mayoral order where the Mayor has included more than one action, the Board may concur in or reject each of the actions taken. If the Board concurs in some of the actions and rejects others, the Board's action changes the substance of the order, similar to an amendment of the whole order. However, the Charter does not authorize the Board to revise the order to modify the actions or include different or additional actions. Therefore, if the Board wishes to change an action ordered by the Mayor, it must reject the action in its entirety. The Mayor may then decide to submit a new order with changes that are acceptable to the Board. Alternatively, the Board may pursue its policy goal through an emergency ordinance using its legislative power.

DETAILS OF PROPOSED MOTION

The proposed motion would concur in actions taken by the Mayor in the Sixteenth Supplement to the Proclamation of Emergency, which was released on May 29, 2020, to meet the ongoing local emergency related to COVID-19.

Safe Sleeping Sites

The Stay Safe at Home order issued by the City's Public Health Officer on March 16, 2020, provides that individuals experiencing homelessness should to the extent possible maintain 12 foot x 12 foot distancing when placing their tents, and that the City should provide restrooms and handwashing stations for these individuals. According to the Sixteenth Supplement, the City should provide space for individuals to set up tents in order to comply with the Stay Safe at Home order.

The Sixteenth Supplement authorizes the Department of Emergency Management and the Mayor's Office of Housing and Community Development (MOHCD) to use any MOHCD property for temporary shelter and services to individuals experiencing homelessness. This provision waives Planning Code, permitting, and other requirements defining the use of MOHCD property.

According to MOHCD staff, two MOHCD properties are currently in use: 600 Seventh Street, which is used as a COVID-19 testing site, and 730 Stanyan Street, which is used as a Safe Sleeping Site. Other potential MOHCD properties that could be used as Safe Sleeping Sites are 967 Mission Street and 1515 South Van Ness Avenue.

Paid Leave for City Employees

The City established a paid leave policy for individuals who are available to work but not able to work due to the Stay Safe at Home Order. Paid leave provisions detailed on the Department of Human Resources website are summarized below:

- City employees who are not able to work due to exposure to COVID-19, who have COVID-19 symptoms, or who are isolated or quarantined by a healthcare provider are granted 80 hours of emergency sick leave, capped at \$511 per day. Employees with workplace exposure to COVID-19 are paid administrative leave after the 80 hours of emergency sick leave is used. Other employees may use sick leave and other paid leave after the 80 hours of emergency sick leave is used.
- City employees who are not able to work due to childcare needs or who are caring for an individual exposed to or with symptoms of COVID-19 are granted 80 hours emergency sick leave, capped at \$200 per day. Other employees may use sick leave and other paid leave after the 80 hours of emergency sick leave is used.
- City employees who are not able to work because their work site is closed are paid administrative leave (paid furlough). This provision applies to San Francisco Municipal Transportation Agency (SFMTA) workers defined as "service critical".

The Sixteenth Supplement extends this provision through June 30, 2020.

Extension of Temporary and Provisional Assignments

Charter Sections 10.104 (17) and 10.104 (18) limit the number of years of employment for individuals who are hired (i) to backfill positions of City employees on leave, and (ii) as limited term to provide project or professional services. The Sixteenth Supplement allows the Director of Human Resources to temporarily waive these Charter provisions, and the Director of Transportation to temporarily waive these Charter provisions for service critical appointments.

Commission, Board, and Advisory Committee Meetings

The Third Supplement to the Emergency Proclamation prohibited City boards, commissions, and advisory bodies from meeting without Mayor or Board of Supervisors approval. The Sixteenth Supplement states that given the ongoing public health concern, closure of City buildings, and restrictions and recommendations in the Stay Safe at Home order, continued limitations on meetings are necessary. According to the Sixteenth Supplement, the Governor and Mayor have issued emergency orders allowing public meetings to occur remotely. The Sixteenth Supplement sets the terms for City commissions, boards, and advisory committees to meet, including (i) meetings are to be held by teleconference or other electronic means, and (ii) actions for public health, safety, and essential government functions must be prioritized. Commissions, boards, and advisory committees not established in the Charter must confer with the respective departments to ensure that department staff time that would otherwise be assigned to respond to the COVID-19 emergency is not used for meeting support.

FISCAL IMPACT

As of May 15, 2020, the City had spent \$53.7 million and encumbered \$121.2 million to respond to the COVID-19 emergency.

Safe Sleeping Sites

According to discussions with City staff, the base cost to set up a Safe Sleeping site is \$150,000 for fencing, electricity, water, and other basic requirements. The actual cost of site set up varies by the size of the site and existing facilities. The estimated operating cost of a Safe Sleeping site is approximately \$85 per person per night to provide food, toilets and handwashing facilities, site attendants and security, garbage collection, and other operating requirements. The total costs would depend on the number of individuals staying at the Safe Sleeping site and the length that the site is open.

Safe Sleeping site costs are General Fund costs not reimbursed by the Federal Emergency Management Agency (FEMA). Safe Sleeping site expenditures are not currently reported on the City's COVID-19 Data and Reports. To better understand the City's General Fund costs for responding to the COVID-19 emergency, the Board of Supervisors should request a report from the Director of the Department of Emergency Management on the total Safe Sleeping Site costs at the end of the emergency.

Paid Leave

According to the Department of Human Resources, 2,115 City employees have been paid approximately \$5.5 million in Emergency Sick Leave and Family Medical Leave Act (FMLA) pay as of May 29, 2020.

RECOMMENDATIONS

1. The Board of Supervisors should request a report from the Director of the Department of Emergency Management on the total Safe Sleeping Site costs at the end of the emergency.
2. Approval of the proposed motion is a policy decision for the Board of Supervisors.