


BOARD of SUPERVISORS



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MEMORANDUM

TO: John Rahaim, Director, Planning Department
Mohammed Nuru, Director, Public Works
Jeff Kositsky, Director, Department of Homelessness and Supportive Housing
Barbara A. Garcia, Director, Department of Public Health

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: January 19, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Acting Mayor Breed on January 9, 2018:

File No. 180032

Ordinance authorizing Public Works, the Department of Homelessness and Supportive Housing, and the Department of Public Health to enter into contracts without adhering to the Administrative Code or Environment Code provisions regarding competitive bidding and other requirements for construction work, procurement, and personal services relating to identified Shelter Crisis Sites (1601 Quesada Avenue; 149-6th Street; 125 Bayshore Boulevard; 13th Street and South Van Ness Avenue, southwest corner; 5th Street and Bryant Street, northwest corner; Caltrans Emergency Shelter Properties; and existing City Navigation Centers and Shelters) that will provide emergency shelter or transitional housing to persons experiencing homelessness; authorizing the Director of Property to enter into and amend leases or licenses for the Shelter Crisis Sites without adherence to certain provisions of the Administrative Code; authorizing the Director of Public Works to add sites to the list of Shelter Crisis Sites subject to expedited processing, procurement, and leasing upon written notice to the Board of Supervisors, and compliance with conditions

relating to environmental review and neighborhood notice; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have 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 or by email at: alisa.somera@sfgov.org.

c: Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department
David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Emily Cohen, 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

1 [Shelter and Transitional Housing During Shelter Crisis - Selection of Sites; Waiver of Certain
2 Requirements Regarding Contracting]

3 **Ordinance authorizing Public Works, the Department of Homelessness and Supportive**
4 **Housing, and the Department of Public Health to enter into contracts without adhering**
5 **to the Administrative Code or Environment Code provisions regarding competitive**
6 **bidding and other requirements for construction work, procurement, and personal**
7 **services relating to identified Shelter Crisis Sites (1601 Quesada Avenue; 149-6th**
8 **Street; 125 Bayshore Boulevard; 13th Street and South Van Ness Avenue, southwest**
9 **corner; 5th Street and Bryant Street, northwest corner; Caltrans Emergency Shelter**
10 **Properties; and existing City Navigation Centers and Shelters) that will provide**
11 **emergency shelter or transitional housing to persons experiencing homelessness;**
12 **authorizing the Director of Property to enter into and amend leases or licenses for the**
13 **Shelter Crisis Sites without adherence to certain provisions of the Administrative**
14 **Code; authorizing the Director of Public Works to add sites to the list of Shelter Crisis**
15 **Sites subject to expedited processing, procurement, and leasing upon written notice to**
16 **the Board of Supervisors, and compliance with conditions relating to environmental**
17 **review and neighborhood notice; affirming the Planning Department's determination**
18 **under the California Environmental Quality Act; and making findings of consistency**
19 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

20
21 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
24 **Board amendment additions** are in double-underlined Arial font.
25 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

2
3 Section 1. Environmental and Land Use Findings.

4 (a) The Planning Department has determined that the actions contemplated in this
5 ordinance comply with the California Environmental Quality Act (California Public Resources
6 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
7 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
8 determination.

9 (b) The Planning Department has determined that the actions contemplated in this
10 ordinance are consistent, on balance, with the City's General Plan and eight priority policies of
11 Planning Code Section 101.1. The Board adopts these findings as its own. A copy of this
12 determination is on file with the Clerk of the Board of Supervisors in File No. _____, and
13 is incorporated herein by reference.

14
15 Section 2. Background and General Findings.

16 (a) California Government Code Sections 8698 through 8698.2 authorize the
17 governing body of a political subdivision, including the Board of Supervisors, to declare the
18 existence of a shelter crisis upon a finding by the governing body that a significant number of
19 persons within the jurisdiction are without the ability to obtain shelter, and that the situation
20 has resulted in a threat to the health and safety of those persons. These Government Code
21 provisions authorize the City and County of San Francisco (the "City") to suspend state or
22 local statutes, ordinances, and regulations setting housing, health, or safety standards for new
23 public facilities opened to homeless persons in response to the shelter crisis, to the extent that
24 strict compliance would prevent, hinder, or delay the mitigation of the shelter crisis, and allow
25 the City to enact its own standards for the shelters that ensure basic public health and safety.

1 (b) In Ordinance No. 57-16, enacted on April 22, 2016, the Board of Supervisors
2 found that a significant number of persons within the City lack the ability to obtain shelter,
3 which has resulted in a threat to their health and safety. For that reason, and based on
4 factual findings set forth in that ordinance, the Board of Supervisors declared the existence of
5 a shelter crisis in the City in accordance with California Government Code Sections 8698
6 through 8698.2.

7 (c) Consistent with California Streets and Highways Code Section 104.16, enacted
8 on October 15, 2017, and effective on January 1, 2018, any airspace adjacent to or under a
9 freeway, or real property acquired for highway purposes in the City that is not excess property
10 (“Caltrans Emergency Shelter Property”), shall be offered for lease on a right of refusal by the
11 California Department of Transportation (“Caltrans”) to the City for purposes of an emergency
12 shelter, with a lease amount of \$1 per month, provided the City follows all applicable health,
13 environmental, safety, design, and engineering standards.

14 (d) According to the January 2017 Point in Time Homeless Count administered by
15 the Department of Homelessness and Supportive Housing, there were approximately 7,499
16 people experiencing homelessness in San Francisco on a single night. Of those persons,
17 58% were unsheltered, 21% were under the age of 25 years, 33% identified as female, and
18 32% were over the age of 51 years with attendant deteriorating physical and mental health.

19 (e) On November 28, 2017, Mayor Lee declared a goal of transitioning 1,000 people
20 off the streets of San Francisco before the end of winter. The City’s ability to meet this goal,
21 which will require the rapid execution of construction contracts, is threatened by current
22 market conditions for construction projects. The Bay Area is experiencing an unprecedented
23 construction boom. As a result, contractors may have the ability to forgo government projects
24 if they have extensive and prolonged administrative requirements. In addition, the tragic
25

wildfires that occurred in Northern California in October 2017 have increased the demand for, and limited the availability of, many construction contractors.

(f) The unique challenge of erecting temporary shelters presents contracting challenges that are not present in other contexts. For example, some items to be procured, such as large tents, are only available from one vendor, and that vendor requires that its specially trained staff or subcontractors erect the tents.

(g) City departments have identified sites where potential temporary shelters, including emergency shelters, navigation centers, transitional housing, and stabilization rooms may be located, constructed, or expanded (“the Shelter Crisis Sites”). The Shelter Crisis Sites are:

(1) Jelani House, a transitional housing site located at 1601 Quesada Avenue, which has the potential to provide temporary housing to 25 women experiencing homelessness, with priority given to pregnant and medically vulnerable women;

(2) The Minna Lee Hotel, a single room occupancy hotel located at 149 6th Street, which has the potential to provide temporary supportive housing to up to 70 persons;

(3) A commercial property located at 125 Bayshore Boulevard, which has the potential for use as a shelter or navigation center for up to 125 persons experiencing homelessness;

(4) A lot owned by Caltrans, located under the freeway at the southwest corner of 13th Street and South Van Ness Avenue, which has the potential for use as a shelter or navigation center for up to 125 persons experiencing homelessness;

(5) A lot owned by Caltrans, located under the freeway at the northeast corner of 5th and Bryant Streets, which has the potential to provide shelter to up to 88 persons experiencing homelessness, including designated spaces for women;

(6) Caltrans Emergency Shelter Properties; and

1 (7) The sites of existing Navigation Centers, as defined in Chapter 106 of the
2 Administrative Code, and Shelters, as defined in Article XIII of Chapter 20 of the
3 Administrative Code. A list of existing Navigation Centers and Shelters is included in Board
4 File No. _____.

5 (h) In light of the state and local findings of a continuing and worsening shelter
6 crisis, the large and increasing number of unsheltered individuals who often occupy public
7 spaces and streets, and the continuing and worsening threats to the health and safety of
8 those persons affected by the crisis, the Board of Supervisors finds that the City must
9 continue to establish a citywide network of homeless services and sites to offer services,
10 including homeless shelters, navigation centers, and transitional housing, in order to
11 expeditiously offer resources to individuals experiencing homelessness, and that such
12 services should be offered in locations and at levels that meet the needs that exist throughout
13 the City. Further, in light of the urgency of the shelter crisis, the immediate availability of
14 several sites on which emergency shelter and transitional housing could be constructed, and
15 the challenging market conditions that limit the availability of construction contractors, the
16 Board of Supervisors finds that the Shelter Crisis Sites qualify as public facilities per California
17 Government Code 8698(c) and that the City must take steps to facilitate the expeditious
18 award of contracts to complete repairs, improvements, or expansions of the Shelter Crisis
19 Sites to provide shelter to homeless persons, and to procure goods and services relating to
20 such properties.

21
22 Section 3. Contracting Authority; Waiver of Certain Municipal Code Requirements.

23 (a) Notwithstanding any provision of the Municipal Code, the Department of Public
24 Works, the Department of Public Health, and the Department of Homelessness and
25 Supportive Housing may enter into contracts, including grants, to provide professional and

1 other services to assist the City in the repair or improvement of the Shelter Crisis Sites, and
2 contracts, including grants, to provide services or to procure goods or materials relating to the
3 operation of those sites, or to meet the needs of individuals housed at the Shelter Crisis Sites,
4 without competitive bidding or adherence to the requirements of Administrative Code
5 Chapters 6, 12B, 14B, and 21, and the Environment Code. Once having entered into such
6 contracts, the City department shall also have the authority to enter into such contract
7 additions or amendments that it determines are in the best interests of the City and are
8 necessary or advisable to effectuate the intent of this ordinance. This authority under this
9 ordinance to enter into or add to or amend contracts shall expire on March 1, 2019.

10 (b) To the extent not previously authorized by the Board of Supervisors, the Director
11 of Property shall have the authority to enter into and amend leases or licenses for the Shelter
12 Crisis Sites without adherence to the requirements of Administrative Code Chapters 12B,
13 14B, and 23, provided that the Director of Property determines that the terms are reasonable
14 and the lease or license term does not extend for more than 12 months. This authority under
15 this ordinance to enter into and amend leases or licenses shall expire on March 1, 2019.

16 (c) Nothing in this ordinance is intended to reduce or limit the existing contracting
17 authority of any City department or official.

18
19 Section 4. Additional Shelter Crisis Sites.

20 (a) The provisions of Section 3 of this ordinance apply to the Shelter Crisis Sites
21 identified in Section 2. The Director of Public Works, in consultation with the Director of the
22 Department of Homelessness and Supportive Housing, the Director of Property, and other
23 City officials, may identify additional Shelter Crisis Sites that shall be subject to the provisions
24 of Section 3 of this ordinance, provided that:

1 (1) The Director of Public Works provides written notice to the Board of
2 Supervisors of the proposed site, which notice shall include whether the site is City-owned or
3 owned by another person or entity;

4 (2) If the site is not owned by the City, then the notice to the Board shall
5 include the name of the owner and the proposed lease or license terms for the City's use of
6 the site;

7 (3) The Director of Public Works confirms that the site can be used to provide
8 temporary shelter for up to one year for persons experiencing homelessness, and the Director
9 of Property confirms that the proposed lease or license terms (if applicable) are reasonable;

10 (4) The Planning Department determines that any required environmental
11 review has been completed and made available for review by the Director of Public Works,
12 and that the use of the site as contemplated is in conformance with the City's General Plan
13 and the Eight Priority Policies of Planning Code Section 101.1; and

14 (5) The City has complied with the requirements of Administrative Code
15 Chapter 79 (Citizens' Right-to-Know Act of 1998) and Chapter 79A and has engaged in a
16 thorough community outreach process that includes, at a minimum, written notice to
17 neighbors located within 300 feet of the Shelter Crisis Site, information about how neighbors
18 may provide input into the proposed programming at the Shelter Crisis Site, and the hosting of
19 one community meeting, and no contract for the use of the site is entered into for 30 days
20 following the posting of the required notice on the site.

21 (b) Upon satisfaction of the conditions in subsection (a):

22 (1) The Department of Public Works, the Department of Public Health, and
23 the Department of Homelessness and Supportive Housing may enter into and amend
24 contracts as set forth in Section 3(a) of this ordinance with respect to the Shelter Crisis Site;
25 and

1
2 (2) The Director of Property may enter into and amend leases or licenses as
3 set forth in Section 3(b) of this ordinance with respect to the Shelter Crisis Site.
4

5 Section 5. Implementation.

6 (a) Before opening a shelter, Navigation Center, transitional housing program, or
7 stabilization rooms at a Shelter Crisis Site, the Director of the Department of Homelessness
8 and Supportive Housing, or his or her designee, in consultation with the member of the Board
9 of Supervisors who represents the district in which the Shelter Crisis Site is located, shall
10 conduct a thorough community outreach process that includes, at a minimum, written notice to
11 neighbors located within 300 feet of the Shelter Crisis Site, information about how neighbors
12 may provide input into the proposed programming at the Shelter Crisis Site, and the hosting of
13 one community meeting.

14 (b) Before opening a shelter, Navigation Center, transitional housing program, or
15 stabilization rooms at a Shelter Crisis Site, the Director of the Department of Homelessness
16 and Supportive Housing, or his or her designee, shall adopt a site-specific Health, Sanitation,
17 and Security Plan that will adequately address: 1) the outreach efforts that will be made to
18 persons experiencing homelessness in the area surrounding the Shelter Crisis Site; 2) the
19 steps that will be taken to ensure that the area surrounding the Shelter Crisis Site remains
20 clean and sanitary; and 3) the steps that will be taken to protect the safety of persons and
21 properties located near the Shelter Crisis Site.

22 (c) By no later than February 28, 2019, the Director of the Department of
23 Homelessness and Supportive Housing, or his or her designee, shall submit to the Mayor and
24 the Board of Supervisors a report that describes the number of persons that were served by
25

1 programs at the Shelter Crisis Sites between the enactment of this ordinance and the date of
2 the report.

3 (d) Section 5 shall expire by operation of law on March 1, 2019.

4
5 Section 6. Severability.

6 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
7 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
8 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
9 remaining portions or applications of the ordinance. The Board of Supervisors hereby
10 declares that it would have passed this ordinance and each and every section, subsection,
11 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
12 whether any other portion of this ordinance or application thereof would be subsequently
13 declared invalid or unconstitutional.

14
15 Section 7. Promotion of the General Welfare.

16 In enacting and implementing this ordinance, the City is assuming an undertaking only
17 to promote the general welfare. It is not assuming, nor is it imposing on its officers and
18 employees, an obligation for breach of which it is liable in money damages to any person who
19 claims that such breach proximately caused injury.

20
21 Section 8. Effective Date; Retroactive Operation; Ratification of Prior Acts.

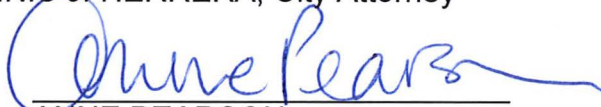
22 (a) This ordinance shall become effective 30 days after enactment. Enactment
23 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
24 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
25 overrides the Mayor's veto of the ordinance.

1 (b) This ordinance shall apply retroactively to all actions taken by City officials or
2 City agencies or entities in connection with the procurement of construction and/or
3 professional services at the Shelter Crisis Sites since January 1, 2018.

4 (c) The Board of Supervisors hereby ratifies and confirms all actions taken by City
5 officials or City agencies in connection with the procurement of construction and/or
6 professional services at the Shelter Crisis Sites.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By:


11 ANNE PEARSON
Deputy City Attorney

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LEGISLATIVE DIGEST

[Shelter and Transitional Housing During Shelter Crisis - Selection of Sites; Waiver of Certain Requirements Regarding Contracting]

Ordinance authorizing Public Works, the Department of Homelessness and Supportive Housing, and the Department of Public Health to enter into contracts without adhering to the Administrative Code or Environment Code provisions regarding competitive bidding and other requirements for construction work, procurement, and personal services relating to identified Shelter Crisis Sites (1601 Quesada Avenue; 149-6th Street; 125 Bayshore Boulevard; 13th Street and South Van Ness Avenue, southwest corner; 5th Street and Bryant Street, northwest corner; Caltrans Emergency Shelter Properties; and existing City Navigation Centers and Shelters) that will provide emergency shelter or transitional housing to persons experiencing homelessness; authorizing the Director of Property to enter into and amend leases or licenses for the Shelter Crisis Sites without adherence to certain provisions of the Administrative Code; authorizing the Director of Public Works to add sites to the list of Shelter Crisis Sites subject to expedited processing, procurement, and leasing upon written notice to the Board of Supervisors, and compliance with conditions relating to environmental review and neighborhood notice; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

California law authorizes the Board of Supervisors to declare the existence of a shelter crisis based on a finding that a significant number of people in the City lack shelter, and that the situation has resulted in a threat to their health and safety. The law authorizes the City to suspend state or local laws setting housing, health, or safety standards for new homeless shelter facilities in response to the shelter crisis, to the extent that strict compliance would prevent, hinder, or delay the mitigation of the shelter crisis. In Ordinance No. 57-16, enacted on April 22, 2016, the Board of Supervisors declared the existence of a shelter crisis in the City and County of San Francisco, permitting the City to take necessary steps to facilitate temporary homeless housing without strict compliance with housing, health or safety laws.

As of January 1, 2018, state law authorizes the California Department of Transportation ("Caltrans") to lease property located underneath highways to the City for use as an emergency shelter, provided the City follows all applicable health, environmental, safety, design, and engineering standards.

Local Law generally requires City departments to use a competitive bidding process and follow other contracting requirements for personal services, procurement, and construction contracts, subject to exceptions.

Administrative Code Chapter 23 requires the Board of Supervisors to approve by resolution all leases made by the Director of Property on behalf of the City as tenant, except where the lease is on a year-to-year or shorter tenancy with a rent of no more than \$15,000 per month, or where the lease will not exceed 31 days.

Amendments to Current Law

The proposed ordinance would reaffirm the Board of Supervisors' declaration of a shelter crisis, and would expedite the City's construction, repair, and expansion of properties at select sites where potential temporary shelters, including emergency shelters, navigation centers, transitional housing and stabilization rooms, may be located ("the Shelter Crisis Sites").

The Shelter Crisis Sites include:

- Jelani House, a transitional housing site located at 1601 Quesada Avenue, which has the potential to provide temporary housing to 25 women experiencing homelessness, with priority given to pregnant and medically vulnerable women;
- The Minna Lee Hotel, a single room occupancy hotel located at 149 6th Street, which has the potential to provide temporary supportive housing to up to 70 persons;
- A commercial property located at 125 Bayshore Boulevard, which has the potential for use as a shelter or navigation center for up to 125 persons experiencing homelessness;
- A lot owned by Caltrans, located under the freeway at the southwest corner of 13th Street and South Van Ness Avenue, which has the potential for use as a shelter or navigation center for up to 125 persons experiencing homelessness;
- A lot owned by Caltrans, located under the freeway at the northeast corner of 5th and Bryant Streets, which has the potential to provide shelter to up to 88 persons experiencing homelessness, including designated spaces for women;
- Properties owned by Caltrans that are located under highways; and
- The sites of existing Navigation Centers and Shelters.

The ordinance would allow Public Works ("PW"), the Department of Public Health ("DPH"), and Department of Homelessness and Supportive Housing ("DHS") to enter into contracts to prepare and manage the Shelter Crisis Sites without using a competitive bidding process, provided the contracts are entered into or amended prior to March 1, 2019.

The ordinance would authorize the Director of Property to enter and amend leases for Shelter Crisis Sites without adherence to provisions of the Administrative Code provided that the

lease terms are reasonable, the term of the lease does not exceed 12 months, and the lease is entered into or amended prior to March 1, 2019.

The ordinance would allow the Director of PW, in consultation with the Director of the DSHS, the Director of Property, and other City officials, to identify new Shelter Crisis Sites that would be subject to the expedited contracting and leasing provisions of the ordinance, provided that the Director of PW provides written notice to the Board of Supervisors of the proposed site, confirms that the Planning Department has determined that any required environmental review has been completed, and confirms that the City has complied with the Citizens' Right-to-Know Act.

Before opening a program on a Shelter Crisis Site, and before identifying a new Shelter Crisis Site, the ordinance would require the Director of DSHS, or his or her designee, to:

- conduct a thorough community outreach process that includes, at a minimum, written notice to neighbors located within 300 feet of the Shelter Crisis Site, information about how neighbors may provide input into the proposed programming at the Shelter Crisis Site, and the hosting of one community meeting; and
- develop a site-specific Health, Sanitation, and Security Plan that will adequately address: 1) the outreach efforts that will be made to persons experiencing homelessness in the area surrounding the Shelter Crisis Site; 2) the steps that will be taken to ensure that the area surrounding the Shelter Crisis Site remains clean and sanitary; and 3) the steps that will be taken to protect the safety of persons and properties located near the Shelter Crisis Site.

Lastly, the ordinance would require the Director of DSHS, or his or her designee, to submit to the Mayor and the Board of Supervisors by no later than February 28, 2019, a report that describes the number of persons that were served by programs at the Shelter Crisis Sites.

Background Information

According to the January 2017 Point in Time Homeless Count administered by the Department of Homelessness and Supportive Housing, there were approximately 7,499 people experiencing homelessness in San Francisco on a single night. Of those persons, 58% were unsheltered, 21% were under the age of 25 years, 33% identified as female, and 32% were over the age of 51 years with attendant deteriorating physical and mental health.

On November 28, 2017, Mayor Lee declared a goal of transitioning 1,000 people off the streets of San Francisco before the end of winter. The City's ability to meet this goal, which will require the rapid execution of construction contracts, is threatened by current market conditions for construction projects. The Bay Area is experiencing an unprecedented construction boom. As a result, contractors may have the ability to forgo government projects if they require extensive, and prolonged administrative requirements. In addition, the tragic

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wildfires that occurred in Northern California in October 2017 have increased the demand for, and limited the availability of, many construction contractors.

The unique challenge of erecting temporary shelters presents contracting challenges that are not present in other contexts. For example, some items to be procured, such as large tents, are only available from one vendor, and that vendor requires that its specially trained staff or subcontractors erect the tents.

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