

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: August 20, 2020 Government Audit and Oversight Committee Meeting

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Item 3
File 20-0819

Department: Human Service Agency

EXECUTIVE SUMMARY

Legislative Objectives

The Board of Supervisors is requested to review and approve an amendment to the existing agreement with the owners of Whitcomb Hotel to extend the terms of the agreement for an additional 327 days to provide shelter to San Francisco homeless residents as part of the City emergency response to the COVID-19 pandemic.

Key Points

- Resolution 200819 will approve a third amendment to an existing agreement between the Human Services Agency (HSA) and 1231 Market L.P. authorizing the Agency to extend the term of the current agreement from 122 to 449 days to secure continued use of 459 hotel rooms as part of the City's Alternative Housing program set up to provide shelter to the City's homeless residents during the COVID-19 epidemic.
- There are no changes to unit room costs or the daily not-to-exceed per room amounts allocated for linen and food costs, though additional costs will be incurred compared to the original agreement since the term of the agreement will be extended from 122 to 449 days.
- The agreement will expire on its own accord on July 1st, 2021

Fiscal Impact

- The primary modification is the length of the contract, which if approved as drafted, will be extend by a term of 327 additional days, from 122 days in the original agreement, to 449 days and hence involves an increase in total not-to-exceed costs of \$25,618,542 to \$35,608,542 from \$9,900,000 as established in the previously approved second amendment to the agreement.
- The Department is anticipating that the majority of costs will be covered by federal reimbursements through Federal Emergency Management Agency, prior Congressional authorization of funds as part of the CARES Act, some addition funding through HUD, and additional supplemental from the state. There are uncertainties regarding the availability and continuation of federal funding commitments, and these political contingencies could potentially affect the level of federal reimbursements.

Recommendations

1. Approve the resolution to amend the existing agreement between the City and 1231 Market L.P.
2. Require HSA to report back to the Board of Supervisors in six weeks as to the current status of the Alternative Housing program. In particular, the Agency should report on progress made in improving the utilization rate of current units, identifying and removing barriers to insuring that more homeless San Franciscans are being quickly housed, and progress is being made in securing additional units and expediting the process of bringing these units into active service

MANDATE STATEMENT

Section 9.118 of the City Charter requires the Board of Supervisors to approve the proposed third amendment to the existing agreement between the City and 1231 Market L.P.

BACKGROUND

On February 25, 2020, Mayor London Breed declared a state of emergency in order to address threats to public health and safety engendered by the COVID-19 pandemic. The Board of Supervisors concurred the following March 3rd with the mayoral declaration and the exercise of the statutory powers granted to the Mayor under Section 3.100 of the City Charter.¹

On March 6, 2020, the San Francisco Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code. The Board of Supervisors concurred on the local health emergency declaration on March 10, 2020. On the following March 16th, the County Health Officer issued Order no. C19-07, which was subsequently amended and replaced by Order no. C19-07b on March 31, 2020 that directed all San Francisco residents to remain in their homes and to observe social distancing measures. Given the large number of unsheltered persons in San Francisco, concerns developed over how to best protect the health and safety of San Francisco's homeless population. These concerns were exacerbated by the fact that Order no. C19-07b did not provide for any additional shelter to assist homeless persons in complying with the Executive Order. Nor did the Order specifically mandate minimum spacing requirements for congregate temporary homeless shelters.

To address the special health care and housing needs of unsheltered persons in San Francisco, on April 14, the Board of Supervisors passed, by unanimous vote, Ordinance 69-20 that required the City to secure and make available 8,250 rooms in hotels and motels to provide emergency shelter for homeless individuals by April 26, 2020. The ordinance specifically mandated that 7,000 rooms be made available to persons currently residing in temporary City shelters, Navigation Centers, SROs, persons without any shelter, and unhoused persons released from jail, with special provisions to prioritize elderly persons and those with existing health conditions that rendered them particularly vulnerable to complications or death from COVID-19. The Board also mandated the City to procure 500 rooms for people being discharged from hospitals that had tested positive for COVID-19 and who lacked the ability to self-quarantine. In addition, the

¹ 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.

ordinance required that 750 rooms would be made available to front-line responders. The ordinance waived the requirement of Charter section 9.118 that the Board of Supervisors approve the service agreements required for the procurement of such rooms but required the Department of Emergency Management to submit daily reports as to the progress to date in securing the required 8,250 rooms. If the City was not able to meet the Board mandate by April 26, 2020, the ordinance urged the Mayor to utilize the grant of authority under section 3.100(14) of the City Charter to commandeer all necessary public and private resources as needed to insure the protection and safety of the resident population of San Francisco.

Ordinance 69-20 was to expire unless reauthorized in 60 days from the time of passage, or on June 13, 2020. On that date, when the ordinance expired, the capacity of the City's emergency response to address the shelter needs of San Francisco's homeless population through the City program designated as C19AH, or the Alternative Housing program, was well below the 8,250 room requirement established by the Board of Supervisors in Ordinance 69-20. As shown below, only 2,614 hotel rooms have been procured as of August 7, 2020, and not all of those were occupied.

Progress to date

The City currently operates shelter programs targeting four sub-groups within the homeless population:

- COVID-19 positive and persons under investigation: individuals diagnosed with COVID-19 or "under investigation" without space to safely isolate and self-quarantine
- COVID-19 Negative: COVID-negative individuals experiencing homelessness, many of whom are designated as members of "vulnerable" populations due to age and underlying health issues
- COVID-19 Recovered: Individuals who have recovered from COVID-19 and who require a safe space to shelter in place
- Front-line workers: Front-line City workers and City-contracted workers.²

Exhibit 1 shows the City's current number of shelter rooms secured through the Alternative Housing program as of August 7th, 2020, and utilization data for the various categories of homeless persons served.

As seen in Exhibit 1, a total of 2,239 of all 3,003 active rooms or units were occupied as of August 10, 2020, and 764 were unoccupied, resulting in a 74.6 percent utilization rate. Active rooms refers to rooms currently under City contract, and which should be ready to accept additional placements, subject to any delays due to cleaning and repair undertaken in the event rooms become vacant. HSA representatives have stated it is the policy of the City to maintain around 10 percent of program hotel rooms vacant on any given day due to the need for repairs, safety

² See Open Data, <https://data.sfgov.org/stories/s/COVID-19-Alternative-Housing/4nah-suat/>

concerns, cleaning, and to allow for relocation of existing residents. In addition, some spare capacity is reserved to respond to “surges” in COVID-19 cases. However, the 74.6 percent utilization rate represents rooms or units unoccupied in excess of the number needed to leave 10 percent intentionally unoccupied for unit repairs, safety concerns, and to accommodate the transfer of existing residents.

Exhibit 1: Active units secured under C19AH Alternative Housing Programs as of 8/10/2020

	COVID-19 positive	COVID-19 recovered congregate	COVID-19 negative	Vulnerable sub-groups	Total
Active rooms or units (total)	228	111	365	2,299	3,003
Occupied	65	72	275	1,827	2,239
Unoccupied	163	39	90	472	764
Utilization	28.5%	64.9%	75.3%	79.5%	74.6%

Source: City Data, accessed on 8/10/2020

Based on the City’s stated criteria, existing unit capacity (or “active rooms”) is being underutilized within the Alternative Housing program. Approximately 20.5 percent of units allocated for persons designated as “vulnerable” were reported as unoccupied as of August 7, 2020 and 79.5 percent were occupied. For people designed as COVID-19-negative and who were not in high-risk groups, the utilization rate of existing units was 75.3 percent.

Exhibit 2 shows the total number of units procured to date through Alternative Housing program contracts in three housing categories: 1) recreational vehicles, 2) congregate units, and 3) hotel rooms. It further breaks out the number of units in active service and those in preparation for use. As of August 7, 2020, of the total 2,614 reported hotel rooms currently under contractual agreement with the City, 2,407 of these units, or 92.1 percent, were in active service – i.e., rooms under contract that are available for use, and which may or may not be currently occupied. (As shown in Exhibit 1, many units available for use are currently unoccupied due to the current 75 percent utilization rate). The difference of 207 represents units under contract and in preparation but not yet ready to accept resident placements.

All RV units were available for active service. The City had 476 congregate units secured under the Alternative Housing program as of August 7, 2020, with an additional 394 congregate units in preparation, As seen in Exhibit 2, the projected increase in near term capacity for the various categories of the Alternative Housing programs is 0 percent for RVs, 46.3 percent for congregate units, and 7.9 percent for hotel rooms. Even with these increases, the number of total units available will continue to fall well below the 8,250 hotel rooms required by Ordinance 69-20.

Exhibit 2: Active units and units in preparation

	RVs	Congregate	Hotel	All units
Total units available for service	120	476	2,407	3,003
Total units in preparation	0	394	207	601
Total units	120	870	2,614	3,604
% Increase in capacity	0%	46.3%	7.9%	16.7%

Source: Data provided by HSA, through 8/7/2020

Data provided to our office does not report utilization, or occupancy, by unit type – RV, congregate, and hotel. Hence, there is no way to determine how many of the 2,407 hotel rooms reported as being in active service in Exhibit 2 were occupied as of August 7, 2020. Nor has data been provided on the number of congregate units that are currently occupied, or the number of persons per congregate unit. Based on the reported utilization of units reported by categories of homeless residents (shown above in Exhibit 1), utilization for all categories of units currently appears to be below the City’s stated utilization target.

Exhibit 3 shows the total estimated cost of operations for the City’s Alternative Housing Program for FY 2019-20, while Exhibit 4 shows estimates cost reimbursements for the same period. The vast majority of the costs of the City’s Alternative Housing program in FY 2019-20 have been covered through reimbursements from the federal government – FEMA reimbursements and funding appropriated by Congress as part of the CARES Coronavirus Relief Fund. In addition, State funding has provided the City with an additional revenue source.

Exhibit 3: HSA Alternative Housing Program Estimated Operations Costs, FY 2019-2020

First Responder Sites – including lease and food costs	\$7,918,965
Hotel – Shelter in place/Isolation and Quarantine including food at sites providing their own food for homeless	22,926,139
Security	9,690,160
Hotel food for sites not providing their own food	2,635,565
Cleaning/Janitorial	380,865
Laundry	342,892
RVs site set-up plus \$0.5 m for RV purchases	2,112,832
Congregate Sites	3,153,613
Supplies (includes PPE)	2,213,578
Staffing*	515,456
Total	\$51,890,065

Source: HSA

* Staffing costs refers to site monitors and sites leads. HSA provided some initial staffing through use of City workers, Staffing costs reported in Exhibit 3 represent the costs of additional staffing produced through a contract with Goodwill Industries. HSA will be contracting will be contracting with non-profit organizations to provide site staffing for existing and future units

HSA expects FEMA to reimburse around 56 percent of the total program costs shown in Exhibit 3. This is lower than the standard 75 percent reimbursement rate generally provided with the expectation that localities will contribute 25 percent in matching funds from other sources. The lower expected reimbursement rate reflects current City policy to place certain individuals into units that do not conform to FEMA eligibility criteria for federal reimbursement.³ For example, San Francisco currently seeks to place all homeless persons 60 years and over into units within the Alternative Housing program. Some of these people are not eligible for reimbursement under current FEMA guidelines. The balance will be covered through \$22.678 million made available

³. As stated by HSA, “FEMA will reimburse certain costs of the emergency operation, in line with their specific criteria. For example, they will only cover costs at the alternative housing sites for 3 groups of people (COVID+, Persons Under Investigation, or individuals who are homeless and meet the CDC criteria for vulnerability or are age 65 or over), and only for the costs deemed necessary for health and safety.”

through CARES Coronavirus Relief Funding, and a combination of state reimbursements from the Homeless Housing, Assistance and Prevention (HHAP) and California Department of Social Services (CDSS) Project Room Key funding, which together will provide a \$4.3 million in state subventions to the City.

Exhibit 4: Cost Reimbursements for SF’s Alternative Housing Program, FY 2019-20

Total Costs: Alternative Housing Program	\$51,890,065
Estimated FEMA Revenues	\$24,911,920
State HHAP Funding	\$3,100,000
State CDSS Project Room Key	\$1,200,000
Estimated Balance to be covered by CARES Coronavirus Relief Fund	\$22,678,145

Source: HSA

Moreover, utilization data indicates there is room for scaling up and accelerating procurement. HSA representatives have indicated the primary cause for the inability of the City to meet its own targeted utilization rates is placement bottlenecks related to on-site staffing requirements. Site monitors and site leads must be available to insure buildings are property managed, and to accommodate the needs of hotel residents. Initial staffing was provided through the designation of City employees as Disaster Service Workers/First Responders, with additional staffing provided through a staffing contact with Goodwill Industries. The City is currently moving to outsource all site management to non-profit providers. The Department claims that the costs and time required for securing trained and qualified on-site staff, and the fact that some persons placed into units may have more intensive need for supportive services, are the primary reasons for sub-par utilization of currently available units.

The City has fallen short of the targets set by the Board of Supervisors emergency shelter ordinance 69-20. HSA informed our office that the City has to date largely exhausted the hotels that responded to the City’s initial Request for Qualifications (RFQ) to secure sites for Alternative Hosing placements. HSA confirmed that the City currently has a large number of hotel rooms that remain vacant. To date, the Mayor has not exercised emergency power provided through Section 3.100 (14) of the City Charter to requisition additional rooms to allow for increased capacity for placements.

DETAILS OF PROPOSED RESOLUTION

The proposed resolution would approve an amendment between the City and 1231 Market Street L.P., one of the hotels providing housing as part of the Alternative Housing Program. The current agreement between these two parties would be modified primarily by extending the term of the agreement and providing for adjustments to total project costs. Under the terms of the proposed 3rd amendment, the City will extend its agreement with 1231 Market Street L.P. from a term of 122 days under the original agreement to a term of 449 days to rent rooms and to pay for services at the Whitcomb Hotel at 1231 Market Street. The terms of the agreement amendment are retroactive, and commence on April 8, 2020. The contract will expire on its own accord on July 1, 2021.

The revised daily flat rate for rooms is \$45,441 for the 449 day contract period. The daily room rate of \$99 is unchanged from the original agreement. A total of 459 units will be made available as per the terms of the original agreement. The City will also agree to cover costs to provide linen and food services for the additional term of the contract. The contract also includes a 15 percent contingency rate to allow the City to request the hotel to provide additional services and initiate repair of certain damages.

As seen in Exhibit 5, the total amount 1231 Market St L.P. may charge the City over the entire term of the revised agreement for all rooms and services shall not exceed \$35,608,542. Of this amount, \$20,403,009 is the fixed cost of procurement of the 459 rooms for 459 nights, regardless of whether the rooms are filled or not, for the entire contract term of 449 days at a \$99 daily rate. The 15 percent add-on contingency rate applied to the room charges is fixed at \$3,060,451 (15 percent of \$20,403,009). Other variable not-to-exceed caps on itemized costs are \$1,104,098 for linen cleaning services, and \$11,040,984 for food, both charged only for occupied rooms.

Exhibit 5: Not-to-Exceed Total Contract Costs

	Total	Per day*
Room	\$20,403,009	\$99.00
Linen	\$1,104,098	\$5.36
Food	\$11,040,984	\$53.57
Other (15 % reimbursement)	\$3,060,451	\$14.85
Total	\$35,608,542	\$172.78

Source: 3rd Amendment to agreement between HSA and 1231 Market L.P.

Exhibit 5 also shows the breakdown of Not-to-Exceed total costs into per day per unit costs under the assumption that all rooms are fully occupied over the entire length of the service contract.

The fixed daily costs of securing the lodging and services are based on a daily rate of \$99 in room costs and the fixed contingency allotment that adds an additional \$14.85, or 15 percent, to the daily per room cost. Variable costs, assuming all rooms are fully occupied, would be \$5.36 for linens and \$53.57 for food service per pay per occupied room. The Board of Supervisors should note that the units will have a vacancy rate of at least 10 percent (as per HSA policy), and possibly higher based on program performance to date, and that food and linen costs will be billed based on actual levels of service provided, as opposed to the flat rate for rooms and the 15 percent contingency fee.

The key differences between the terms of the original agreement and the 3rd Amendment the Board of Supervisors is being asked to approve are shown in Exhibit 6. The room rate remains unchanged at \$99 per night and the contingency fee remains 15 percent of the room rate. There is no change in per unit per day rates for linen and food costs. The primary modification in the third amendment is the term of the agreement which, if approved as drafted, will be extended by 327 additional days, and hence allows for an increase in total not-to-exceed costs of \$25,618,542 to \$35,608,542 compared to the most recent not-to-exceed amount of \$9,990,000, established in the previously approved 2nd amendment to the agreement.

Exhibit 6 Key Changes between Original Agreement between City and 1231 Market L.P., 2nd Amendment, and Proposed 3rd Amendment to Agreement

	Original Agreement	3rd Amendment	Change	Unit Cost
# Rooms	459	459	0	n.a.
# Nights	122	449	327	n.a.
Daily Room Rate	\$99	\$99	0	\$99
Term	122 nights	449 nights	327	n.a.
Room costs	\$5,543,802	\$20,403,009	\$14,859,207	\$99
Food costs	\$3,000,000	\$11,040,984	\$8,040,984	\$53.57
Linens costs	\$300,000	\$1,104,098	\$804,098	\$5.36
15% contingency (applied to room costs only)	\$831,570	\$3,060,451	\$2,228,881	\$14.85
Total	\$9,675,372	\$35,608,542	\$25,932,284	\$157.93
Agreement Maximum (after 2 nd Amendment)	\$9,990,000	\$35,608,542	\$25,618,542	n.a.

The hotel owners will continue to be responsible for complying with all additional health and public safety measures as required by the County Health Officer, as per the terms of the 1st Amendment to the agreement. In addition, the hotel is required to abide by all relevant FEMA laws and requirements, as specified in the 1st contract amendment Appendix E.

Fiscal Impact

As shown above in Exhibit 4, nearly 100 percent of the cost of procurement of rooms and services for FY 2019-2020 has been covered by a combination of FEMA reimbursements, the CARES Coronavirus Relief Fund, and supplemental State funding sources. Funding for the Whitcomb agreement between the City and 1231 Market St L.P. has been appropriated in the Mayor's interim budget in effect until September 1st, 2020. According to HSA representatives, the City will continue to rely on federal sources to cover the majority of the costs of providing Alternative Housing units, with expectations that funding will continue to be available from FEMA reimbursements, as well as monies still available in the CARES Coronavirus Relief Fund. In addition, HSA reports that some additional funding is anticipated to be provided by HUD. Anticipated amounts are sufficient to cover the cost of unit procurement and supplemental services for FY 2020-21 though the final budget for the year has not yet been adopted by the Board of Supervisors.

Provided HSA's expectation are satisfied, the proposed agreement should have negligible fiscal impact. However, there are uncertainties regarding the availability and continuation of federal funding commitments, and these political contingencies could potentially affect the level of federal reimbursements.

RECOMMENDATIONS

1. Approve the resolution to amend the existing agreement between the City and 1231 Market L.P.
2. Require HSA to report back to the Board of Supervisors in six weeks as to the current status of the Alternative Housing program. In particular, the Department should report on progress made in improving the utilization rate of current units, identifying and removing barriers to insuring that more homeless San Franciscans are being quickly housed, and progress is being made in securing additional units and expediting the process of bringing these units into active service.