

1 DAVID CHIU, State Bar #189542  
 City Attorney  
 2 YVONNE R. MERÉ, State Bar #173594  
 Chief Deputy City Attorney  
 3 WAYNE SNODGRASS, State Bar #148137  
 Deputy City Attorney  
 4 MEREDITH B. OSBORN, State Bar # 250467  
 Chief Trial Deputy  
 5 JAMES M. EMERY, State Bar #153630  
 EDMUND T. WANG, State Bar #278755  
 6 Deputy City Attorneys  
 City Hall, Room 234  
 7 1 Dr. Carlton B. Goodlett Place  
 San Francisco, California 94102-4682  
 8 Telephone: (415) 554-4628 (Emery)  
 (415) 554-3857 (Wang)  
 9 Facsimile: (415) 554-4699  
 E-mail: jim.emery@sfcityatty.org  
 10 edmund.wang@sfcityatty.org

11 Attorneys for Defendants  
 12 CITY AND COUNTY OF SAN FRANCISCO, et al.

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA

15 COALITION ON HOMELESSNESS; TORO  
 16 CASTAÑO; SARAH CRONK; JOSHUA  
 17 DONOHOE; MOLIQUE FRANK; DAVID  
 MARTINEZ; TERESA SANDOVAL;  
 NATHANIEL VAUGHN,

18 Plaintiffs,

19 vs.

20 CITY AND COUNTY OF SAN  
 21 FRANCISCO; SAN FRANCISCO POLICE  
 DEPARTMENT; SAN FRANCISCO  
 22 DEPARTMENT OF PUBLIC WORKS; SAN  
 FRANCISCO DEPARTMENT OF  
 23 HOMELESSNESS AND SUPPORTIVE  
 HOUSING; SAN FRANCISCO FIRE  
 24 DEPARTMENT; SAN FRANCISCO  
 DEPARTMENT OF EMERGENCY  
 25 MANAGEMENT; LONDON BREED, in her  
 official capacity as Mayor; and SAM DODGE,  
 26 in his official capacity as Director of the  
 Healthy Streets Operation Center (HSOC),

27 Defendants.

Case No. 4:22-cv-05502-DMR

**ADMINISTRATIVE MOTION FOR  
 CLARIFICATION OF PRELIMINARY  
 INJUNCTION ORDER, AND IN THE  
 ALTERNATIVE FOR EXPEDITED BRIEFING**

Hearing Date: N/A  
 Time: N/A  
 Place: Hon. Donna M. Ryu

Trial Date: None set.

## INTRODUCTION

1  
2 San Francisco<sup>1</sup> finds itself in an untenable situation. The City expends extraordinary efforts to  
3 reach and provide services and shelter to persons experiencing homelessness. Now, two separate  
4 federal court orders impose potentially conflicting obligations on San Francisco. In its December 23,  
5 2022 Order, Dkt #65 (“the Order”), this Court restricted enforcement of sit/lie/sleep laws against the  
6 “involuntarily homeless.” By contrast, the stipulated federal injunction in *Hastings College of the Law*  
7 *v. City & County of San Francisco*, N.D. Cal. Case No. 4:20-cv-03033-JST, Dkt #71, mandates  
8 enhanced enforcement in the Tenderloin against individuals who have refused shelter offers, to  
9 prevent re-encampment. Emery Decln., filed herewith, Exh. A §2 (“the *Hastings* Injunction”). If a  
10 person who refuses an adequate shelter offer is still “involuntarily homeless” within the meaning of  
11 the Order, then it is impossible for San Francisco to comply with both injunctions.

12 Plaintiffs maintain all unsheltered people experiencing homelessness (4,397 persons according  
13 to the 2022 Point-in-Time Count) are “involuntarily homeless” under the Order, regardless of whether  
14 they have received an adequate shelter offer, and therefore the City may not enforce sit/lie/sleep laws  
15 against any unhoused person anywhere in San Francisco. But *Johnson v. City of Grants Pass*, 50 F.4th  
16 787 (9th Cir. 2022), and *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019) establish a person is not  
17 “involuntarily homeless” if the person has been offered adequate temporary shelter. These cases  
18 require an individualized determination, allowing enforcement if a person has refused an adequate  
19 shelter offer. San Francisco’s interpretation of the Order follows controlling Ninth Circuit precedent,  
20 harmonizes San Francisco’s obligations with the *Hastings* Injunction, recognizes the Eighth  
21 Amendment’s role in protecting individual rights, and avoids unwarranted economic burdens, years of  
22 delay, and practical difficulties in verifying compliance.

23 For these reasons, set forth more fully below, San Francisco brings this motion for clarification  
24 under Local Civil Rules 6-3 and 7-11 asking this Court to clarify that a particular individual is not  
25 “involuntarily homeless” where San Francisco has offered that individual adequate temporary shelter.  
26 In the alternative, should the Court wish amplified briefing on this question, San Francisco asks for an  
27 expedited briefing and hearing schedule for this motion for clarification.

28 <sup>1</sup> This motion refers to defendants collectively as “San Francisco” and/or the “City.”

## BACKGROUND

1 The Order prohibits San Francisco from threatening to enforce sit/lie/sleep laws against  
 2 “involuntarily homeless individuals,” so long as the number of homeless people exceeds the number of  
 3 available shelter beds.

4 Defendants are preliminarily enjoined from enforcing or threatening to enforce,  
 5 or using California Penal Code section 148(a) to enforce or threaten to enforce,  
 6 the following laws and ordinances to prohibit involuntarily homeless individuals  
 from sitting, lying, or sleeping on public property:

- 7 • California Penal Code section 647(e)
- 8 • California Penal Code section 370
- 9 • California Penal Code section 372
- 10 • San Francisco Police Code section 168
- 11 • San Francisco Police Code section 169

This preliminary injunction shall remain effective as long as there are more  
 homeless individuals in San Francisco than there are shelter beds available.

12 Order at 50. The Order also requires San Francisco to comply with its bag and tag policy.

13 On May 4, 2020, Hastings Law School, business owners in the Tenderloin neighborhood,  
 14 workers, and residents sued San Francisco, asserting the City’s policies allowed proliferation of  
 15 homeless encampments in the Tenderloin, violating the plaintiffs’ constitutional and statutory rights.  
 16 *Hastings*, Complaint, filed May 4, 2020, Dkt #1. As part of the settlement, San Francisco consented to  
 17 a stipulated injunction, which the Court entered June 30, 2020. The *Hastings* Injunction requires San  
 18 Francisco to resolve encampments and prevent re-encampments by individuals who decline shelter  
 19 offers in the Tenderloin.

20 The City agrees that it shall cause seventy percent (70%) of the number of tents  
 21 as counted on June 5, 2020 to be removed along with all other encamping  
 materials and related personal property, and their occupants relocated to a hotel  
 room, safe sleeping site, off-street sites, or other placement by July 20, 2020.

22 The City will take action to prevent re-encampment. After July 20, 2020, the  
 23 City will make all reasonable efforts to achieve the shared goal of permanently  
 reducing the number of tents, along with all other encamping materials and  
 related personal property, to zero.

24 *Hastings* Injunction §2. Further, “[t]he City is hopeful that most people offered an alternative location  
 25 will be willing to accept it, but *if necessary to comply with this stipulated injunction the City will*  
 26 *employ enforcement measures for those who do not accept an offer of shelter or safe sleeping sites to*  
 27 *prevent re-encampment.”* *Id.* (emphasis supplied). The *Hastings* Injunction remains in force.

1 At a December 29 telephonic meet and confer session, Plaintiffs’ counsel confirmed their  
 2 interpretation that the Order prohibits all enforcement of sit/lie/sleep laws until San Francisco’s  
 3 available shelter beds exceed the total number of unsheltered homeless. San Francisco’s counsel  
 4 explained Ninth Circuit precedent does not support Plaintiffs’ interpretation, and Plaintiffs’  
 5 interpretation would conflict with San Francisco’s obligations under the *Hastings* Injunction. Emery  
 6 Decl., ¶ 2. San Francisco submits this motion to clarify its obligations under the Order and resolve the  
 7 parties’ conflicting interpretations.

## 8 ARGUMENT

### 9 **I. San Francisco Cannot Comply with Its Court-Ordered Obligations Without Clarification.**

10 As described above, the *Hastings* Injunction requires San Francisco to enforce sit/lie/sleep laws  
 11 against individuals in the Tenderloin who refuse shelter offers. See *Hastings* Injunction § 2. If  
 12 Plaintiffs’ interpretation prevails, then the *Hastings* Injunction and the Order impose conflicting  
 13 obligations on San Francisco. Simply put, one order would prevent San Francisco from enforcing  
 14 sit/lie/sleeping laws “as long as there are more homeless individuals in San Francisco than there are  
 15 shelter beds available,” while the other mandates “enforcement measures for those who do not accept  
 16 an offer of shelter or safe sleeping sites.” The only way for San Francisco to comply with its  
 17 obligations is for this Court to clarify the Order’s definition of “involuntarily homeless.”

### 18 **II. A Particular Individual is not “Involuntarily Homeless” if the Individual Refuses an Offer of Adequate Shelter.**

19 The Ninth Circuit in *Martin* and *Johnson* defined “involuntarily homeless” as a person who  
 20 lacks access to “adequate temporary shelter.”

21 Persons are involuntarily homeless if they do not “have access to adequate  
 22 temporary shelter, whether because they have the means to pay for it or because  
 it is realistically available to them for free.”

23 *Johnson*, 50 F.4th at 793 n.2 (9th Cir. 2022) (quoting *Martin*, 920 F.3d at 617 n.8 (9th Cir. 2019);  
 24 citations omitted). The Ninth Circuit specified *Martin* does not apply to individuals who have access  
 25 to adequate temporary shelter, “but who choose not to use it.” *Martin*, 920 F.3d at 617 n.8. Thus,  
 26 whether a person is “involuntarily homeless” requires San Francisco to make individualized  
 27 determinations when it attempts to resolve encampments. As the Ninth Circuit explained, “concerns  
 28 regarding individualized determinations are best made when the City attempts to enforce its

1 ordinances. If it is determined at the enforcement stage that a homeless individual has access to  
2 shelter, then they do not benefit from the injunction and may be cited or prosecuted under the anti-  
3 camping ordinances.” *Id.* at 805 n.23 (citation omitted). “A person with access to temporary shelter is  
4 not involuntarily homeless unless and until they no longer have access to shelter.” *Id.* at 805 n.24.

5 A recent order from the federal District Court in Phoenix likewise recognizes the need for  
6 individualized determinations to assess whether a person is “involuntarily” homeless. Because “the  
7 unsheltered outnumber available beds,” the court required the City of Phoenix to “inquir[e] as to  
8 whether individuals can practically obtain shelter” before enforcing Phoenix’s camping and sleeping  
9 bans. *Fund for Empowerment v. City of Phoenix*, Case No. CV-22-02041-PHX-GMS (D. Ariz. Dec.  
10 16, 2022), Slip Op., at 15. Plaintiffs submitted the *Phoenix* Order to the Court. See Dkt #57-1.

11 The requirement for individualized determinations follows necessarily here because the Eighth  
12 Amendment protects only individual rights. The Eighth Amendment provides a “constitutional  
13 guarantee[ ] of individual rights.” *Haines v. Kerner*, 492 F.2d 937, 942 (7th Cir. 1974). Compliance  
14 with the Eighth Amendment must hinge on whether the *individual* has access to adequate shelter. But  
15 Plaintiffs’ expansive definition of “involuntarily homeless” would mean San Francisco’s compliance  
16 with one person’s Eighth Amendment right would depend on availability of shelter beds for all other  
17 unhoused persons in the City, regardless of their interest or willingness to occupy those beds.  
18 Plaintiffs’ interpretation would transform an individual Eighth Amendment right into a collective  
19 right.

20 San Francisco briefed and argued a narrower interpretation of *Martin* and *Johnson*. Yet, the  
21 Court did not decide whether San Francisco’s “reading of *Martin* and *Johnson* is correct,” because the  
22 Court determined Plaintiffs had shown a likelihood of success under either party’s interpretation of the  
23 controlling Ninth Circuit case law. See Order at 41. San Francisco now needs this question answered  
24 so it may assure it complies with both the Order and the *Hastings* Injunction. It strains reality and  
25 reason to require that San Francisco have shelter for *all* persons experiencing homelessness in San  
26 Francisco before San Francisco may enforce sit/lie/sleep laws against any person, even after that  
27 individual has refused adequate shelter and even when San Francisco has sufficient shelter beds for all  
28 unhoused persons in a particular encampment. If this were the legal threshold, it would take years to

1 build the requisite shelter beds and cost City taxpayers at least \$1.45 billion *more* than San Francisco  
2 has already appropriated for homeless services. Emery Decl., Exh. B at 17-18. It could sadly result in  
3 unused shelter beds going empty every night, to the extent individuals refuse shelter offers. Also, this  
4 interpretation could disrupt the housing first policies that San Francisco has previously championed,  
5 leaving the City with the difficult choice of prioritizing shelter over more permanent housing in order  
6 to comply with this Court’s Order. And compliance would be uncertain and unverifiable, since a  
7 reliable real-time count of homeless individuals in a jurisdiction is not possible to maintain. E.g.,  
8 *Johnson*, 50 F.4th at 796 n.7 (“PIT counts [performed only biennially] routinely undercount homeless  
9 persons”).

### 10 **III. Alternative Request for Expedited Briefing.**

11 If the Court determines San Francisco’s motion for clarification is not amenable to an  
12 administrative motion under Local Civil Rule 7-11, then San Francisco requests in the alternative an  
13 order shortening time and imposing page limits. San Francisco proposes Plaintiffs serve and file an  
14 opposition brief not exceeding five pages on or before January 9, 2023; and San Francisco file its  
15 Reply not exceeding two pages on January 10. Under this proposed schedule, this motion for  
16 clarification will be fully briefed in advance of the January 12, 2023 case management conference.

### 17 **CONCLUSION**

18 For these reasons, San Francisco asks this Court to clarify that an individual is not  
19 “involuntarily homeless,” within the meaning of the Order, if San Francisco makes an adequate,  
20 individual shelter offer.  
21  
22  
23  
24  
25  
26  
27  
28

Dated: January 3, 2023

DAVID CHIU  
City Attorney  
YVONNE R. MERÉ  
WAYNE SNODGRASS  
MEREDITH B. OSBORN  
JAMES M. EMERY  
EDMUND T. WANG  
Deputy City Attorneys

By:           /s/James M. Emery            
JAMES M. EMERY

Attorneys for Defendants  
CITY AND COUNTY OF SAN FRANCISCO; SAN  
FRANCISCO POLICE DEPARTMENT; SAN  
FRANCISCO DEPARTMENT OF PUBLIC WORKS;  
SAN FRANCISCO DEPARTMENT OF  
HOMELESSNESS AND SUPPORTIVE HOUSING;  
SAN FRANCISCO FIRE DEPARTMENT; SAN  
FRANCISCO DEPARTMENT OF EMERGENCY  
MANAGEMENT; MAYOR LONDON BREED; SAM  
DODGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 DAVID CHIU, State Bar #189542  
 City Attorney  
 2 YVONNE R. MERÉ, State Bar #173594  
 Chief Deputy City Attorney  
 3 WAYNE SNODGRASS, State Bar #148137  
 Deputy City Attorney  
 4 MEREDITH B. OSBORN, State Bar # 250467  
 Chief Trial Deputy  
 5 JAMES M. EMERY, State Bar #153630  
 EDMUND T. WANG, State Bar #278755  
 6 Deputy City Attorneys  
 City Hall, Room 234  
 7 1 Dr. Carlton B. Goodlett Place  
 San Francisco, California 94102-4682  
 8 Telephone: (415) 554-4628 (Emery)  
 (415) 554-3857 (Wang)  
 9 Facsimile: (415) 554-4699  
 E-mail: jim.emery@sfcityatty.org  
 10 edmund.wang@sfcityatty.org

11 Attorneys for Defendants  
 12 CITY AND COUNTY OF SAN FRANCISCO, et al.

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA

15 COALITION ON HOMELESSNESS; TORO  
 16 CASTAÑO; SARAH CRONK; JOSHUA  
 17 DONOHOE; MOLIQUE FRANK; DAVID  
 MARTINEZ; TERESA SANDOVAL;  
 NATHANIEL VAUGHN,

18 Plaintiffs,

19 vs.

20 CITY AND COUNTY OF SAN  
 FRANCISCO; SAN FRANCISCO POLICE  
 21 DEPARTMENT; SAN FRANCISCO  
 DEPARTMENT OF PUBLIC WORKS; SAN  
 22 FRANCISCO DEPARTMENT OF  
 HOMELESSNESS AND SUPPORTIVE  
 23 HOUSING; SAN FRANCISCO FIRE  
 DEPARTMENT; SAN FRANCISCO  
 24 DEPARTMENT OF EMERGENCY  
 MANAGEMENT; LONDON BREED, in her  
 25 official capacity as Mayor; and SAM DODGE,  
 26 in his official capacity as Director of the  
 Healthy Streets Operation Center (HSOC),

27 Defendants.

Case No. 4:22-cv-05502-DMR

**DECLARATION OF JAMES M. EMERY IN  
 SUPPORT OF ADMINISTRATIVE MOTION  
 FOR CLARIFICATION OF PRELIMINARY  
 INJUNCTION ORDER, AND IN THE  
 ALTERNATIVE FOR EXPEDITED BRIEFING**

Hearing Date: N/A  
 Time: N/A  
 Place: Hon. Donna M. Ryu

Trial Date: None set.

Attachments: Exhibits A and B



1 I, James M. Emery, hereby declare:

2 1. I am a member of the bar of the state of California and counsel of record for defendants  
3 in this action (collectively, "San Francisco "). I submit this declaration to support San Francisco's  
4 Administrative Motion for Clarification of Preliminary Injunction Order, and in the Alternative for  
5 Expedited Briefing. If called as a witness, I could and would testify competently to the matters set  
6 forth herein.

7 2. At a December 29, 2022 telephonic meet and confer session, Plaintiffs' counsel  
8 confirmed their interpretation that the Order prohibits all enforcement of sit/lie/sleep laws until San  
9 Francisco's available shelter beds exceed the number of unsheltered homeless. San Francisco's  
10 counsel explained Ninth Circuit precedent does not support Plaintiffs' interpretation, and Plaintiffs'  
11 interpretation would conflict with San Francisco's obligations under the injunction entered June 30,  
12 2020, in *Hastings College of the Law v. City & County of San Francisco*, N.D. Cal. Case No. 4:20-cv-  
13 03033-JST, Dkt #71. Plaintiffs' counsel stated they would oppose San Francisco's motion for  
14 clarification.

15 3. Also at the December 29, 2022 telephonic meet and confer session, the parties  
16 discussed whether to submit San Francisco's request for clarification through an administrative  
17 motion, a noticed motion with expedited briefing and reduced page limits, or through some other  
18 procedure. Specifically, San Francisco suggested that on January 3, 2023, it file an administrative  
19 motion for clarification or a noticed motion accompanied by a stipulated administrative motion for  
20 expedited briefing with page limits. San Francisco suggested Plaintiffs file their opposition to a  
21 noticed motion on January 6 or January 9, and that San Francisco file its reply within two court days  
22 after Plaintiffs' opposition. San Francisco's counsel proposed page limits of 5, 7, or 10 pages.  
23 Counsel for Plaintiffs did not agree that clarification should be presented through an administrative  
24 motion, and did not agree to any expedited briefing schedule or specific page limits. Instead,  
25 Plaintiffs' counsel proposed the parties submit San Francisco's clarification question through a joint  
26 submission. The joint submission proposal was not acceptable to San Francisco, because the  
27 submission date would then depend on when Plaintiffs completed their portion of the joint submission,  
28



**EXHIBIT A**

**TO**

**DECLARATION OF JAMES M. EMERY IN SUPPORT OF ADMINISTRATIVE  
MOTION FOR CLARIFICATION OF PRELIMINARY INJUNCTION ORDER, AND IN  
THE ALTERNATIVE FOR EXPEDITED BRIEFING**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HASTINGS COLLEGE OF THE  
LAW, a public trust and  
institution of higher education  
duly organized under the laws  
and the Constitution of the  
State of California;  
FALLON VICTORIA, an  
individual;  
RENE DENIS, an individual;  
TENDERLOIN MERCHANTS  
AND PROPERTY  
ASSOCIATION, a business  
association;  
RANDY HUGHES, an individual;  
and  
KRISTEN VILLALOBOS, an  
individual,

Plaintiffs,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, a municipal  
entity,

Defendant.

Case No. 4:20-cv-03033-JST

**STIPULATED INJUNCTION**

SECTION I. The parties share the goal of improving living conditions in the Tenderloin neighborhood, and of making the streets and sidewalks clear and safe for the use of persons in the Tenderloin, including residents, the unhoused, visitors, employees, employers, shoppers, and persons with disabilities. The parties wish to help businesses and all persons in the Tenderloin thrive and enjoy the safety and opportunity that are expected in any San Francisco Neighborhood. The problems

1 facing the Tenderloin are substantial and are not easily solved and have been  
2 exacerbated by the COVID-19 crisis. As the parties recognize that the COVID-19  
3 crisis creates additional challenges to improving the Tenderloin neighborhood, this  
4 injunction is intended to address the current situation. Ultimately the City's goal is  
5 to be able to provide sufficient access to shelters and navigation centers so that no  
6 resident of San Francisco must resort to sleeping in a tent on the street or sidewalk.  
7 The City is committed to making all reasonable efforts to achieve this goal.

8 SECTION II. During the COVID-19 emergency<sup>1</sup>, the City will reduce the  
9 number of tents and other encamping materials and related personal property on  
10 sidewalks and streets in the Tenderloin by offering alternatives to people living in  
11 those tents including the following:

12 First, the City will offer shelter-in-place hotel rooms to people  
13 facing heightened health risks from COVID-19. The City estimates that  
14 approximately thirty-percent of people currently living in tents in the  
15 Tenderloin will be eligible for an SIP hotel room. To ensure that rooms  
16 are available for all eligible people currently in the Tenderloin, the City  
17 will prioritize access to hotel rooms for unsheltered persons currently  
18 living in the Tenderloin.

19 Second, the City will establish safe sleeping villages outside the  
20 Tenderloin to which people can relocate. Safe sleeping villages are  
21 staffed areas that offer access to social services, restrooms, garbage  
22 service, power, water, and hand sanitizer. The City will ensure that  
23 safe sleeping villages comply with and are maintained consistent with  
24 guidelines from the San Francisco Department of Public Health.

25 Third, the City will make available some off-street sites in the  
26

---

27 <sup>1</sup> The end of the COVID-19 emergency is defined for purposes of this injunction as the  
28 date the Mayor lifts the San Francisco emergency order.

1 Tenderloin (such as parking lots) to which tents can be moved so they  
2 are no longer on sidewalks or streets or blocking sidewalks or entrances  
3 to businesses and homes. The City agrees that this option will only be  
4 available for a maximum of 50-70 tents because of existing structures in  
5 the Tenderloin. These off-street sites will be permanently removed  
6 within three months after the end of the COVID-19 emergency, defined  
7 as the time the Mayor lifts the emergency declaration.

8 Because the implementation of this stipulated injunction may have the effect  
9 of encouraging additional people to come to the Tenderloin in the hope of securing a  
10 hotel room or placement at a safe sleeping site, during this process the City will  
11 discourage additional people from erecting tents in the neighborhood. The City  
12 intends to continue to assist unsheltered persons in other areas of the City.

13 The parties recognize that it will take time to make additional sites available  
14 in and out of the Tenderloin. The City is hopeful that most people offered an  
15 alternative location will be willing to accept it, but if necessary to comply with this  
16 stipulated injunction the City will employ enforcement measures for those who do not  
17 accept an offer of shelter or safe sleeping sites to prevent re-encampment.

18 The City agrees that it shall cause seventy percent (70%) of the number of  
19 tents as counted on June 5, 2020 to be removed along with all other encamping  
20 materials and related personal property, and their occupants relocated to a hotel  
21 room, safe sleeping site, off-street sites, or other placement by July 20, 2020. The  
22 City will take action to prevent re-encampment. After July 20, 2020, the City will  
23 make all reasonable efforts to achieve the shared goal of permanently reducing the  
24 number of tents, along with all other encamping materials and related personal  
25 property, to zero.

26 All parties shall respect the legal rights of the unhoused of the Tenderloin in  
27 all manners, including in relation to relocating and removing the unhoused, the  
28 tents, the other encamping materials and other personal property.

1 SECTION III. The City will continue to offer COVID-19 testing in the  
2 Tenderloin. The facility will offer free testing to all persons in the Tenderloin. The  
3 City shall reach out to unhoused people to offer such testing. A mobile testing facility  
4 may eventually have to be relocated to other areas of the City, but the City will also  
5 work to establish a long-term testing site in the Tenderloin for the duration of the  
6 COVID-19 emergency.

7 SECTION IV. During the time when the City is working toward removing at  
8 least 70% of the tents from the Tenderloin as described above, it will advise  
9 unsheltered persons in the Tenderloin of the following requirements:

- 10 • Tents and structures cannot block a doorway, exit, fire escape or come  
11 within 5 feet of a fire hydrant.
- 12 • Tents and structures cannot make sidewalks impassable or impede traffic.

13 While the City does not believe it can feasibly enforce these requirements  
14 immediately and universally throughout the Tenderloin, it will increase its  
15 enforcement efforts as the total number of tents is reduced and tents can more  
16 readily be relocated. In addition, the City will discourage persons from erecting tents  
17 within 6 feet of a doorway to a business, residence or transit stop.

18 SECTION V. Narcotic sales and trafficking law violations shall be enforced by  
19 the SFPD consistently across the City.

20 SECTION VI. The parties recognize that the current crisis is unprecedented.  
21 The Parties agree that if either party believes the other party to be in breach of the  
22 stipulated injunction, the parties will meet and confer within one business day of a  
23 dispute being raised. If the parties are unable to reach a resolution, the dispute will  
24 be submitted to Magistrate Judge Corley who will hold a settlement conference  
25 within 2 business days of receiving notice of a dispute. If Magistrate Judge Corley is  
26 unable to negotiate a resolution, the dispute will be submitted to Judge Tigar. Judge  
27 Tigar will remain able to consult with Judge Corley under the parameters agreed to  
28 by the parties at the first Case Management Conference.

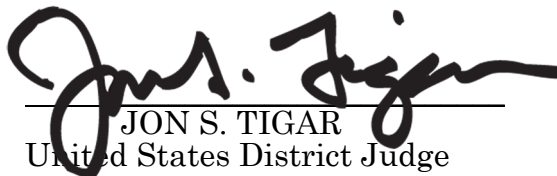
1 SECTION VII. After the COVID-19 emergency, the City will have options to  
2 help improve living conditions in the Tenderloin neighborhood that currently are not  
3 available due to constraints caused by the pandemic. The parties agree to work  
4 together to improve living conditions in the Tenderloin neighborhood for the long  
5 term.

6 SECTION VIII: Plaintiffs agree to seek no attorneys' fees for work done up to  
7 date of this order. Other than as stated herein, no party is waiving any rights, claims  
8 or defenses by entering this stipulated injunction. The litigation is stayed pending  
9 approval of this stipulated injunction by the Board of Supervisors. If the Board does  
10 not approve this stipulated injunction, then the litigation will be resumed. After  
11 approval by the Board this action will be dismissed, but the court will retain  
12 continuing jurisdiction to enforce this injunction.

13 SECTION IX: The City will immediately begin fulfilling the terms of this  
14 stipulated injunction. This stipulated injunction, however, is ultimately subject to  
15 approval by the Board of Supervisors. If the Board does not approve the stipulated  
16 injunction within three months of the date of this stipulated injunction, Plaintiffs  
17 reserve the right to ask the Court to lift the stay of the litigation.

18 **IT IS SO ORDERED,**

19 Dated: June 30 2020

20  
21   
22 JON S. TIGAR  
United States District Judge



**EXHIBIT B**

**TO**

**DECLARATION OF JAMES M. EMERY IN SUPPORT OF ADMINISTRATIVE  
MOTION FOR CLARIFICATION OF PRELIMINARY INJUNCTION ORDER, AND IN  
THE ALTERNATIVE FOR EXPEDITED BRIEFING**

## A PLACE FOR ALL REPORT CITY AND COUNTY OF SAN FRANCISCO

### EXECUTIVE SUMMARY

As mandated by Local Ordinance 220281, the Department of Homelessness and Supportive Housing (HSH) has prepared this A Place for All report to describe the resources needed to scale up temporary shelter, permanent housing, and homelessness prevention interventions in order to eliminate unsheltered homelessness in San Francisco within three years.

An equitable homelessness response system that has the continuous capacity to shelter or house people can only be achieved through a packaged investment in permanent housing, temporary shelter, *and* homelessness prevention resources. This specific mix of interventions must be appropriately scaled and sized for the system to be able to respond in an equitable and timely way to the urgent and diverse needs of people suffering in unsheltered living conditions.

An equitable homelessness response system that decreases unsheltered homelessness over time includes the following critical components. The system:

- prevents people from re-entering homelessness or becoming homeless for the first time;
- provides accessible and safe temporary shelter options;
- re-houses people in a variety of permanent housing options that are matched to the needs of each household; and
- provides the tailored support services needed to help people maintain their housing.

When permanent housing is not immediately available, the system should offer available low-barrier and housing-focused temporary shelter options and continue to assist people to resolve their homelessness.

These key interventions are inter-dependent. The system modeling projections described in this report require a mix of prevention, housing, and shelter to achieve the projected outcomes. In addition, other key considerations include the following:

- Adding a mix of homelessness prevention, shelter, and permanent housing ensures there is flow through the system rather than stagnation; as new people face homelessness, some are prevented from entering the system, and those who become homeless are assisted to move through the system and back into permanent housing as rapidly as possible.
- Increasing shelter beds alone will not achieve a sustained elimination of unsheltered homelessness. Without an addition of permanent housing along with shelter, additional temporary accommodations would need to be added in perpetuity to maintain low rates of



*A Place for All Report*

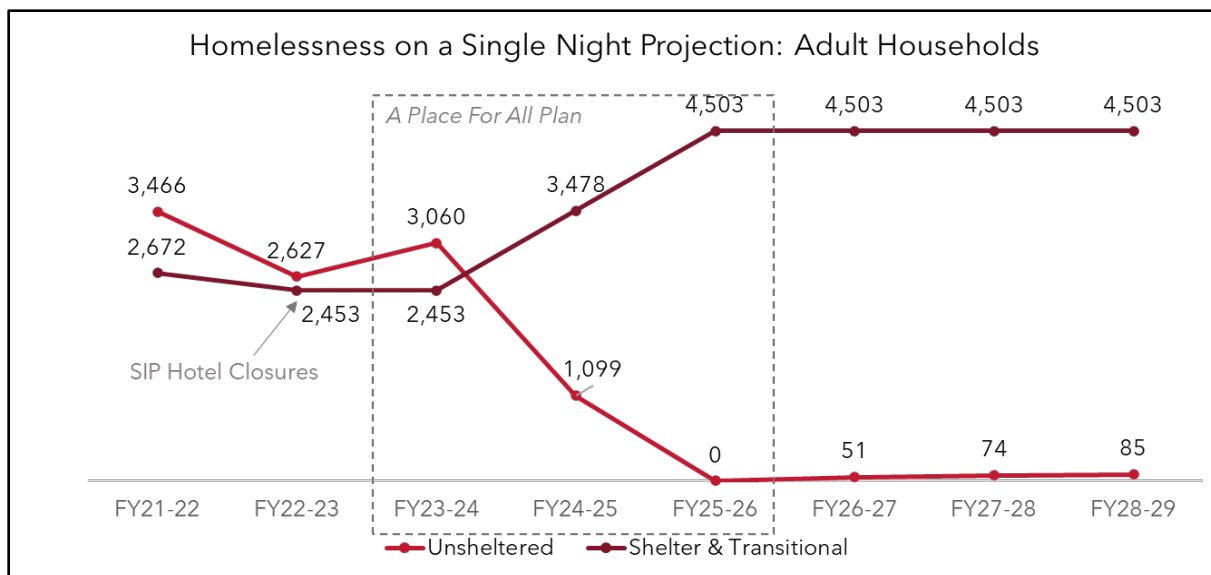
unsheltered homelessness. Overall rates of homelessness would likely increase as the number of people entering homelessness and staying in temporary shelters increased.

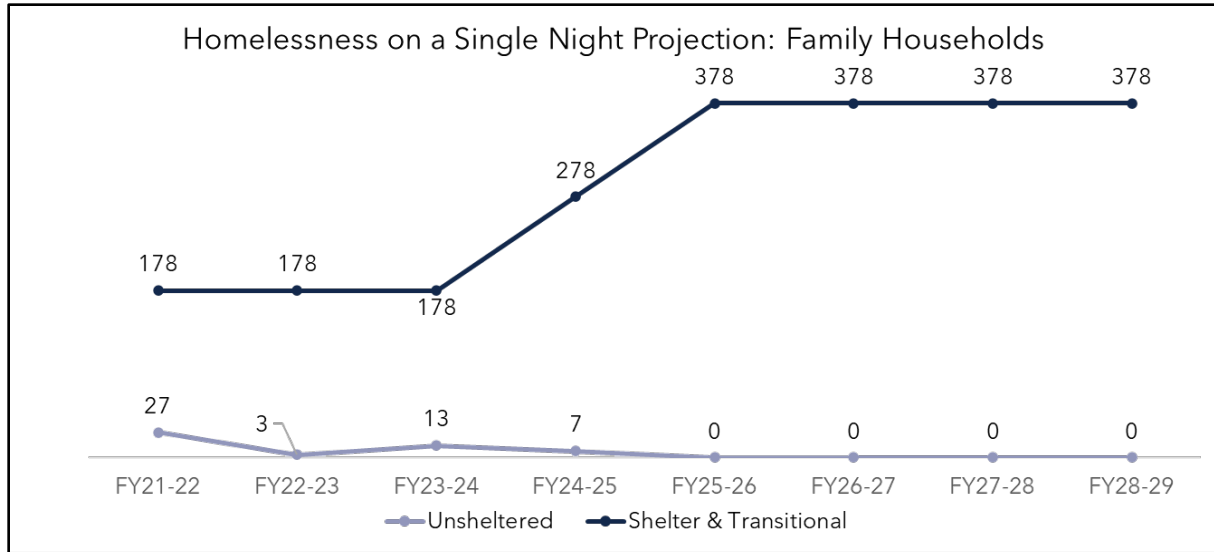
- To advance racial equity and avoid the pitfall of furthering racial and other existing inequities, a central priority of this effort must be to include people with lived experience of homelessness and BIPOC-led providers in the design of a homeless system that works to eliminate disparities. The system must employ targeted equity strategies and set equity goals that are continuously evaluated while also measuring for overall decreases in unsheltered homelessness.

The A Place for All report provides a modeled scenario for adding sufficient permanent housing, shelter, and prevention resources to provide every unsheltered person in San Francisco a place to stay indoors.

- Modeling conducted for the development of this report indicates that creating enough shelter and housing to eliminate unsheltered homelessness within three years **requires adding approximately 3,810 permanent housing and 2,250 shelter units** in addition to those units already in the pipeline.
- It would also require a **significant expansion in homelessness prevention services and financial assistance**, including dramatically increasing prevention services targeted to households without children.
- The cost to develop and operate these additional programs **is an estimated \$1.45 billion over three years**, on top of the City’s existing investments in permanent housing and shelter.
- **Ongoing annual costs**, beginning in FY26 – 27, to continue operating programs that would be added in Years 1 - 3 is estimated at \$410,901,000, on top of HSH’s existing budget.

Projected changes to rates of homelessness among adult and family households, resulting from adding permanent housing, shelter, and prevention services at the levels described in this report, are illustrated below.



*A Place for All Report*

With additional estimated investments of \$1.45 billion into permanent housing, shelter, and homelessness prevention services, and taking into consideration that new people become homeless over time and flow into the homelessness response system:

- Adult homelessness at a point in time is projected to decrease overall by 27% (from 6,138 in FY21-22 to 4,503 in FY25-26)
- Family homelessness is projected to increase overall by 84% (from 205 in FY21-22 to 378 in FY25-26)

As indicated in the projections for adult households, additional investments into new programs would be needed beyond the 3-year timeframe to respond to future inflows into homelessness, retain the capacity of the system built through A Place for All, and maintain a zero rate of unsheltered homelessness.

Additional details on the costs associated with the start-up and ongoing operations of new programs are included in this report. The outcomes for different program types and a discussion on cost effectiveness are also included. Cost comparisons are provided within program types (shelter models to other shelter models) but not across program types because the outcomes of the different interventions are so different in intent and impact that they cannot readily be compared, and because the system requires all three to achieve the desired impact. It is also important to note, that there are numerous, incalculable social benefits to assisting people to access and retain permanent housing that do not figure into quantifiable cost benefits.

It is critically important to note that the ability to scale permanent housing and shelter opportunities and achieve the end of unsheltered homelessness is not only constrained by the present gap in financial resources. Other constraints include the difficulty of identifying and securing sites, the delays that consistently occur in leasing and development activities, and the need to build the nonprofit and City department capacity to scale up interventions, support an expanded system of housing, shelter, and prevention programs, and take the necessary steps to identify and respond to racial disparities or risk



*A Place for All Report*

deepening those inequities. More information on these additional considerations for bringing online new programs are included in the following A Place for All report.



## A PLACE FOR ALL REPORT CITY AND COUNTY OF SAN FRANCISCO

---

### BACKGROUND

In June 2022, the Board of Supervisors unanimously supported, and Mayor Breed approved, Ordinance 220281 requiring the Department of Homelessness and Supportive Housing (HSH) to submit a plan and cost estimate to implement a program to provide all unsheltered<sup>1</sup> households in San Francisco with access to emergency shelter or permanent housing within three years. The ordinance establishes a policy “to offer every person experiencing homelessness in San Francisco a safe place to sleep.” To achieve this goal, would establish a program, hereinafter referred to as A Place for All, expanding options for permanent housing and temporary accommodations through a variety of effective housing and sheltering models. In addition, the ordinance requires implementing a telephone registration system for shelter beds and units, coordinated by HSH<sup>2</sup>.

The A Place for All report describes the permanent housing and temporary shelter interventions, along with expanded homelessness prevention services, that would be needed to end unsheltered homelessness in San Francisco within a 3-year timeframe<sup>3</sup>. Estimates of the financial resources required to develop and operate these interventions are also included.

Achieving a sustainable end to unsheltered homelessness is a central and urgent priority for the City of San Francisco. Substantial new financial investments are necessary to develop and operate the additional prevention, shelter, and housing interventions identified as needed to reach this goal; however, other factors will also impact the City’s ability to scale up service and housing interventions successfully.

---

<sup>1</sup> For the purpose of this report, unsheltered homelessness follows the Federal definition used during Point-in-Time counts and refers to households sleeping outside (including in tents or vehicles), or other places not meant for human habitation. Based on this definition, households staying in Safe Sleep and Safe Parking programs qualify as unsheltered.

<sup>2</sup> Currently, people experiencing homelessness in San Francisco may self-refer to shelter by calling a phone line and requesting follow-up from the Homeless Outreach Team (HOT), which makes placements to shelter. HSH is planning for the resumption of shelter placement through the City’s 311 system beginning in 2023.

<sup>3</sup> Other types of programs exist and are needed for a robust homelessness response system but are not included in estimates in this report. For example, street outreach programs provide access to basic needs and connect unsheltered people to shelter and housing opportunities. Problem-solving strategies are used to help people who are currently homeless trouble-shoot their living situation and identify options for places to stay outside of the formal homelessness response system. These programs should be scaled as part of an optimized system to get the best and quickest utilization of the existing and additional programs proposed. However, only those program types specified in Ordinance 220281 are modeled for in the A Place for All report.



*A Place for All Report*

- First, developing new housing in the community requires identifying buildings or land on which to site projects. Viable properties are difficult to secure both because of a lack of available sites within city limits and lack of community support, which can slow or halt the development process. This limits opportunities to expand some permanent housing and shelter options.
- Second, adding new services, interventions, or programs operated by local nonprofit service providers will require additional administrative and operational capacity, which will take time to build. HSH must also expand its administrative capacity to successfully plan, procure, execute, and manage a significantly expanded number of contracts to provide additional shelter and housing options, in addition to managing the associated site leasing, development, and rehab activities.
- Third, while additional prevention resources represent a critical intervention that may reduce the number of people losing their housing and entering the homeless response system, most instances of new homelessness will not be prevented.
- Finally, with new households experiencing homelessness annually, unless additional resources are continually invested to expand the capacity of shelter and housing providers, modeling indicates that unsheltered homelessness is likely to increase again after the initial 3-year timeframe. Current estimates reveal that for every homeless household in San Francisco that accesses permanent housing through the homelessness response system, four new households become homeless<sup>4</sup>. The continued housing needs of the people experiencing homelessness that are still residing in shelters at the end of the three years would also need to be addressed.

Based on these factors and limitations, it is not feasible for HSH to scale up the amount of housing, shelter, and prevention programming needed within the 3-year timeframe to end unsheltered homelessness. However, significantly decreasing unsheltered homelessness in the next few years *is* possible and every attempt to do so must be made given the unacceptability of the status quo.

## UNSHeltered Homelessness in San Francisco

Homelessness, including unsheltered homelessness, has been a persistent concern of City leaders since the 1980's. Homelessness is primarily the result of decades of federal disinvestment in affordable housing, the ever-increasing cost of housing, stagnating wages, as well as structural racism in housing policy and access. A 2020 analysis by the Government Accountability Office found communities see about a 9% increase in estimated rates of homelessness for every \$100 increase in median rent<sup>5</sup>. San Francisco and surrounding areas consistently report some of the highest rents in the nation, making

<sup>4</sup> Applied Survey Research. *San Francisco Homeless County and Survey: 2022 Comprehensive Report*. 2022. Accessed November 21, 2022. <https://hsh.sfgov.org/wp-content/uploads/2022/08/2022-PIT-Count-Report-San-Francisco-Updated-8.19.22.pdf>

<sup>5</sup> United States Government Accountability Office. *Report to the Chairwoman, Committee on Financial Services, House of Representatives, July, 2020: Homelessness: Better HUD Oversight of Data Collection Could Improve Estimates of Homeless Population*. <https://www.gao.gov/assets/gao-20-433.pdf>



*A Place for All Report*

securing housing without rental assistance or a permanent subsidy impossible for many households. The failure of wages to keep up with the growth in housing costs is an exacerbating factor.

During the 2022 Point-in-Time Count, 7,754 people were counted who were experiencing homelessness in San Francisco on a single night in February:

- Almost 57% of people (4,397) identified were sleeping in unsheltered locations.
- San Francisco has made strategic and targeted investments into housing and shelter in recent years, which has contributed to decreasing rates of homelessness. Between 2019 and 2022, homelessness in the city decreased by around 3.5% and unsheltered homelessness decreased by 15%.
- A substantial part of the decrease in unsheltered homelessness can be attributed to increases in shelter options. Overall, sheltered homelessness increased by 18% between 2019 and 2022 as expanded shelter options enabled more people to sleep inside. However, a significant portion of the new shelter capacity brought online between 2019 and 2022 was temporary capacity associated with the city's pandemic response, which has since been demobilized and not fully replaced.
- An estimated 4,144 unsheltered individuals are currently in need of shelter or permanent housing placement<sup>6</sup>.

San Francisco's homelessness response system significantly relies on evidence-based Housing First interventions – the system is housing-focused and designed to assist households to access and retain permanent housing. San Francisco is commonly looked to as a leader in providing permanent supportive housing (PSH) for people experiencing homelessness. San Francisco is also the birthplace of innovative sheltering models, including Navigation Centers, that provide greater access to shelter by lowering barriers and assisting people to secure permanent housing by offering supportive services on site and pathways to housing. Even with notable investments and innovations in San Francisco's response to homelessness, and recent declines in the overall homeless count, homelessness (and specifically unsheltered homelessness) remains a persistent social and humanitarian issue in the City.

Homelessness does not impact people in San Francisco or San Francisco neighborhoods equitably:

- Black people make up less than 6% of the city's population<sup>7</sup> but 35% of those experiencing homelessness.
- Latin(e)(x) people showed a dramatic 55% growth in homelessness in the last PIT count, now accounting for 30% of the homeless population as compared to 16% of the total population.
- As of the 2022 Point in Time Count, District 6, which included the Tenderloin, had the highest concentration of homeless residents and accounts for 43% of unsheltered homelessness in the

<sup>6</sup> Reflects the estimated number of unsheltered individuals who were not enrolled in a housing program and awaiting placement at the time modeling was conducted.

<sup>7</sup> United States Census Bureau. *QuickFacts: San Francisco County, California*. Accessed November 21, 2022. <https://www.census.gov/quickfacts/sanfranciscocountycalifornia>





*A Place for All Report*

city. In addition, many permanent supportive housing and single room occupancy units are located in this district. Shelters are less concentrated in the Tenderloin but are largely in the downtown and nearby areas and not spread throughout the city. In 2022, the San Francisco supervisorial district boundaries were updated, and the Tenderloin shifted from District 6 to District 5.

As the City considers how to expand the capacity of shelter and housing programs, it will be important to give consideration to geographic equity by ensuring that projects are not concentrated in the Tenderloin and that shelters are not exclusively located in largely Black and Latin(e)(x) neighborhoods, including Bayview Hunter's Point and the Mission District.

## METHODOLOGY FOR ESTIMATING RESOURCE NEEDS

The A Place for All report utilizes modeling scenarios developed by Focus Strategies, a national consulting and technical assistance firm dedicated to assisting communities to reduce homelessness. System modeling uses information about the current system and anticipated resources to estimate how the number of people experiencing homelessness in the city may grow or shrink as changes are made to the homelessness response system. The model incorporates the following measurements:

- Inflow into the system; in other words, the number of people newly homeless or returning to homelessness after being housed
- The current population of people experiencing homelessness
- Average lengths of stay in programs or lengths of time experiencing homelessness
- Where people go after leaving a program (for example, moving into permanent supportive housing or returning to homelessness).

Data used in the model are from the Point-in-Time Count, the ONE System (San Francisco's Homeless Management Information System [HMIS]), the Housing Inventory Count, and the City's development pipeline. The Point-in-Time Count is recognized as an undercount of the true rate of homelessness in a community, due to the difficulty in locating and counting every individual experiencing homelessness on a specific day. The modeling scenario used in this report relies on a multiplier to the Point-in-Time Count figures for unsheltered homelessness to account for households experiencing homelessness and not counted during the Point-in-Time<sup>8</sup>.

## SCENARIO TO ELIMINATE UNSHELTERED HOMELESSNESS IN THREE YEARS

---

<sup>8</sup> Glynn, Christopher, and Emily B. Fox. "Dynamics of Homelessness in Urban America." *The Annals of Applied Statistics* 13, no. 1 (2019): 573-605.



*A Place for All Report*

Ordinance 220281 requires HSH to provide an estimate of the resources needed to eliminate unsheltered homelessness in three years. The modeling scenario presented here, outlining this outcome, runs from FY23-24 to FY25-26 and would achieve the goal of ensuring that San Francisco's homelessness response system would have the capacity to shelter or permanently house every person experiencing homelessness. Some individuals may remain unsheltered and unhoused, and other components of the system (e.g., outreach) would work to actively engage people and provide access to the shelter and housing options available.

We note that the modeling for this scenario is focused exclusively on identifying the gap in resources to theoretically meet the three-year time frame. Following the model is an additional discussion about gaps other than needed financial resources that make this timeframe unlikely to be feasible even were financial resources to be made available.

Several key assumptions inform the modeling scenario:

- This scenario involves increasing prevention, permanent housing, and shelter resources in a 4:2:1 ratio. This ratio was specified in All Home's 2021 report "A Call to Action from the Regional Impact Council," signed on by Mayor Breed and cited in Ordinance 220281. Prevention is required to stem inflow and reduce the number of people entering the homelessness response system. Shelter is needed to provide temporary accommodations for people waiting to access permanent housing. Permanent housing is required to ensure people can move out of unsheltered and sheltered homelessness.
- The 4:2:1 ratio takes into consideration that for all homelessness to be reduced, people must eventually leave shelter for housing. Building an effective and efficient homelessness response system requires adding permanent housing, which includes building or acquiring new units as well as a variety of rental subsidy programs and prevention resources, in addition to shelter.
- By adding only shelter, overall rates of homelessness would likely increase as people will have no place to move to when they exit the shelter and be forced to return to the street because housing resources aren't scaling to meet those needs.
- The City currently has new construction housing units in the development pipeline and other funded shelter and housing sites that are planned to come online during the Place for All three-year implementation timeline. The model includes these planned additions and assumes that current inventory will be sustained. Additional permanent housing and shelter units beyond those already in the pipeline needed to achieve an end to unsheltered homelessness are added only in years 2 and 3 of A Place for All, given that opening new facilities will require time for acquisition, rehabilitation, and development to occur.
- Prevention services can expand more rapidly as they do not require securing and developing property. Therefore, the model assumes prevention resources can be increased in all three years.
- Congregate and non-congregate shelter slots are assumed to be added in equal proportions.
- Scattered-site permanent supportive housing, single-site permanent supportive housing, and rapid re-housing slots are assumed to be added in equal proportions when considering permanent housing units in the pipeline as well as new units added through A Place for All.



*A Place for All Report*

- Finally, some people leave homelessness on their own without ongoing assistance (for example, a household who never seeks aid from the homelessness response system and regains housing without any formal assistance). The modeling scenario assumes this “self-resolution” rate will remain steady across all three years.

Because programs for adult-only households and families with children are generally distinct and the population sizes are different, resources needed to eliminate unsheltered homelessness were calculated separately for the two household types. For the purposes of this modeling scenario, transition-aged youth (TAY) without children are considered within the adult-only population and parenting TAY are considered in the family population. Additional information on the permanent housing, shelter, and prevention resources estimated as needed is included in the following sections.

### A. Estimated permanent housing resources needed

---

To end someone’s homelessness, they must have permanent housing – that is, housing without a limit on the length of time they may live there. Three forms of permanent housing are included in this report.

1. Single-site permanent supportive housing provides site-based subsidized housing for people moving out of homelessness.
2. Scattered-site permanent supportive housing provides people experiencing homelessness with a portable voucher or subsidy that they can use to rent units on the private rental market.
3. Rapid rehousing provides 1–3-year time-limited rental subsidies and services to rent units in the private rental market, after which time period most households are expected to assume the full rent. Some households may require continued shallow subsidies to maintain their housing after their rapid rehousing subsidy expires given the high cost of housing in San Francisco.

All forms of permanent housing offer supportive services to households to ensure they are connected to the resources and support required to maintain their housing. The types and duration of services provided will depend on the needs of the tenant households.

#### Permanent Housing Needed

To achieve the projected reduction in unsheltered homelessness, over 11,400 adult households and about 3,200 families will need to move out of homelessness and into permanent housing within the homelessness response system between FY23-24 and FY25-26. Some of these housing placements will be accommodated through turnover of permanent housing units within the homelessness response system; however, turnover is not enough as fewer than 14% of units for adults and only 3% of units for families turn over annually. **Reaching zero unsheltered homelessness would require adding an estimated 3,750 permanent housing units for adults and 60 permanent housing units for families over three years, in addition to those units already in the pipeline.** Additional permanent housing units would need to be added after FY25-26 to sustain progress made during the three years of implementation of A Place for All.

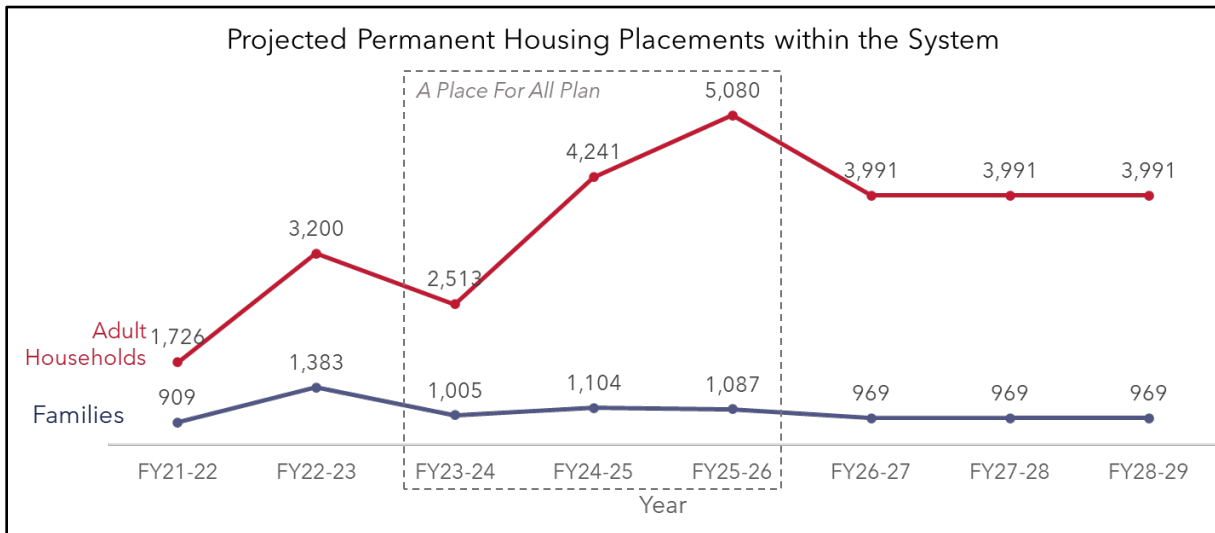


*A Place for All Report*

- By the end of FY22-23, given resources already operating or under development, San Francisco’s homelessness response system will include 12,813 permanent housing units/slots for adult households and 2,947 units for families with children.
- In addition, there are approximately 350 units for adults and 340 units for families in the pipeline for the 3-year timeframe from FY23-24 to FY25-26.
- Including units in the pipeline as well as new units created under A Place for All, 4,100 units of permanent housing for adults and 400 units for families are needed over the 3-year timeframe from FY23-24 to FY25-26 to meet projections.

Figure 1 illustrates the permanent housing placements required for adults and families to eliminate unsheltered homelessness.

**Figure 1: Projected Permanent Housing Placements within the System**



Permanent Housing Costs

- Total start-up costs to acquire or lease existing sites for new permanent housing units under A Place for All are estimated at \$723,506,000.
- Annual operating costs for the adult permanent housing resources added under A Place for All are estimated at \$204,094,000, beginning in FY26-27.
- Estimated annual operating costs for the family permanent housing resources added are \$11,011,000, beginning in FY26-27.
- The average annual cost for operations and supportive services per permanent housing slot ranges from \$39,000 to \$63,300, depending on the type of housing, the population served, and service levels.



*A Place for All Report*

Annual operating and service expenses only encompass the costs required to continue the housing program once it is developed and operating at full capacity. Additional one-time costs to create new housing programs are required. Some permanent housing programs operate as voucher or rental assistance programs in which households use vouchers or rental subsidies to rent from private landlords. These programs require fewer upfront resources to launch. However, identifying units to rent with housing vouchers is difficult, and vouchers or rental assistance may go unused without strong outreach to landlords or additional incentives to encourage landlords to accept housing vouchers. Significant expansion of vouchers also increases competition for the limited number of units available, creating longer search times and potentially driving up costs.

Some permanent housing programs funded by HSH are units or buildings master leased by non-profits from private landlords and sub-leased to people experiencing homelessness. This program structure also requires fewer upfront costs to launch or expand than new affordable housing construction as it involves accessing existing housing units in the City.

Another option for expanding permanent housing inventory involves constructing new subsidized units. This program structure ensures there are affordable units dedicated over the long term for people requiring permanent subsidies rather than relying on vacancies in the private rental market. Expanding these permanent housing programs requires substantial upfront investment and a longer timeline to develop as compared to other permanent housing or permanent supportive housing program models. However, in the long run these investments pay off with permanently affordable units that the City and its nonprofit partners' control.

While permanent housing resources can be added to the homelessness response system through leasing units on the private rental market and acquiring existing buildings, creating a sustainable housing system also requires adding new housing units for extremely low-income households in the community. According to analyses conducted by the National Low Income Housing Coalition, in the San Francisco/Oakland/Hayward metropolitan area, there are only 33 affordable and available rental units for every 100 households qualifying as extremely low income (0 – 30% of area median income)<sup>9</sup>. Long-term, sustained progress in reducing homelessness will require expanding the number of units available at the lowest income levels through additional development in addition to subsidizing existing rental units for this population.

## B. Estimated shelter resources required

---

The role of shelters in a homeless response system is to provide for immediate safety and basic needs while facilitating a household's pathway to permanent housing as rapidly as possible<sup>10</sup>. It is important to note that people are still considered homeless when residing in temporary shelter. Shelters are not a final destination but should serve as part of the process of accessing permanent housing and services.

<sup>9</sup> National Low Income Housing Coalition, "The Gap: California," Accessed November 18, 2022, <https://nlihc.org/gap/state/ca>.

<sup>10</sup> National Alliance to End Homelessness, "Emergency Shelter Learning Series," Accessed December 20, 2022, <https://endhomelessness.org/resource/emergency-shelter/>



*A Place for All Report*

Shelters must be resourced to provide temporary and safe places for people to stay while they are supported to obtain permanent housing.

San Francisco provides a variety of shelter options for individuals and families. Congregate shelters provide a place to sleep off the street in communal or shared spaces. Many congregate shelters operate as Navigation Centers, a nationally recognized low-barrier shelter model developed in San Francisco. Navigation Centers are designed to accommodate the needs of unsheltered adults, including allowing individuals to bring partners, pets, and possessions with them. The City also funds non-congregate and semi-congregate shelters, which provide private or semi-private rooms for people, especially families and those with health needs, often in converted hotels or SROs. Other non-congregate temporary settings include small cabin sites and trailer and RV parks. These programs are a good fit for people who struggle to stay in congregate spaces.

Effective shelters are housing-focused and provide services to connect people to permanent housing and other critical resources. All shelters are expected to assist people in enrolling in coordinated entry by connecting them with an appropriate Access Point or ensuring they have already been assessed for housing needs through the coordinated entry system.

To be effective, shelters should strive to provide low-barrier and housing-focused case management services for guests. Effective case management involves working with shelter guests to identify current needs, develop a housing plan, and assist the household in meeting their needs, including through making referrals to other local providers. Case management plans can address a household's housing, medical, behavioral health, employment and income, and social needs.

Shelter Beds Needed

**The model estimates that eliminating unsheltered homelessness will require adding 2,050 shelter beds for adults and 200 shelter units for families over the 3-year timespan.** This scenario assumes adding congregate and non-congregate shelter slots, in equal proportions, to the homelessness response system.

Shelter Costs

- The estimated start-up costs to bring online the 2,250 shelter slots added through A Place for All are \$57,807,000.
- The estimated annual operating costs for the adult shelter units added under A Place for All are \$155,146,000, beginning in FY26-27.
- The estimated annual operating costs for the family shelter units added are \$16,769,000, beginning in FY26-27.
- The estimated annual operating and services cost per shelter bed ranges from \$58,400 to \$70,800 depending on the type of shelter slot (congregate or non-congregate) and the population served.



*A Place for All Report***C. Estimated prevention assistance required**

---

Homelessness prevention is an umbrella term covering a variety of strategies designed to help low-income households retain their housing or identify another safe place to which they may move before housing is lost. For households facing eviction, homelessness prevention may come in the form of legal representation and/or financial assistance to pay back rent or other costs. Homelessness prevention providers may also offer mediation between tenants and landlords to resolve issues that could lead to evictions.

In some cases, relocation is a viable option for households. Relocation involves identifying friends or family members with whom someone can live, coordinating with the friends or family members to ensure they are prepared for and committed to providing a safe and stable place for the household, and arranging for transportation to assist the household to move to the new location.

When considering investments in prevention, it is important to consider the difficulty in accurately targeting and delivering prevention services. Many households who successfully access prevention services would be able to avoid homelessness without assistance, even if they do not retain their current housing. Others who are at risk may not be reached at the right time to benefit from assistance.

- Research indicates prevention programs must serve a large number of households to reach even a portion of people who would become homeless without assistance.
- It is estimated that for every 100 adult-only households served with prevention resources, approximately four households that would have entered the homelessness response system will be prevented from experiencing homelessness<sup>11</sup>.
- Similarly, for every 100 families served with prevention resources, around 10 families will be prevented from experiencing homelessness<sup>12</sup>.
- It is important to note that prevention services can yield other positive outcomes for households by reducing housing instability and housing moves, even when the household served may not have fallen into homelessness without the assistance.
- San Francisco is completing an evaluation of its prevention programs over the last two years that could aid in more accurate and equitable targeting and contribute to reducing racial disparities of people flowing into the homelessness response system.

---

<sup>11</sup> Andrew Greer, Marybeth Shinn, Jonathan Kwon, and Sara Zuiderveen. “Targeting Services to Individuals Most Likely to Enter Shelter: Evaluating the Efficiency of Homelessness Prevention,” *Social Service Review* 90, no. 1 (2016): 130 – 155.

<sup>12</sup> Andrew Greer, Marybeth Shinn, Jonathan Kwon, and Sara Zuiderveen. “Targeting Services to Individuals Most Likely to Enter Shelter: Evaluating the Efficiency of Homelessness Prevention,” *Social Service Review* 90, no. 1 (2016): 130 – 155.



*A Place for All Report*Prevention Services Needed

Last fiscal year, approximately 2,300 households contacted HSH seeking homelessness prevention assistance. Of those households, HSH provided prevention assistance to 1,184 households. Some households were not provided with prevention assistance as they were deemed to be not eligible, could not be contacted after the initial interaction, or could not provide necessary documents to receive prevention assistance. **For prevention to have a demonstrable impact on rates of homelessness in this scenario, it would require serving an additional 8,200 adult households and an additional 800 family households beyond the number currently served per year.** As around 50% of all prevention assistance applications would be accepted, an estimated additional 16,400 adult households and 1,600 family households would need to apply for prevention assistance under this scenario.

Prevention Assistance Costs

- The estimated annual operating costs of the prevention services added through A Place for All are \$21,763,000 for adult households and \$2,117,000 for families, beginning in FY26-27.
- The current average cost per household served with prevention assistance is \$6,524.

D. Outcomes of the scenario

Figure 2 summarizes the resources required to increase the capacity of the homelessness response system to eliminate unsheltered homelessness in a 3-year timeframe. Resources are broken down by the type of intervention, whether added units/slots are accounted for in the current pipeline or would be new under A Place for All, and the type of household served.

**Figure 2. Resources required to implement A Place for All**

		FY23-24		FY24-25		FY25-26	
		Adults	Families	Adults	Families	Adults	Families
<b>Permanent housing</b>	<b>Units in the pipeline</b>	+237	+82	+34	+148	+77	+108
	<b>New units under APFA</b>	0	0	+1,898	+31	+1,854	+31
<b>Shelter/transitional housing</b>	<b>Units in the pipeline</b>	0	0	0	0	0	0
	<b>New units under APFA</b>	0	0	+1,025	+100	+1,025	+100
<b>Prevention</b>	<b>Units in the pipeline</b>	0	0	0	0	0	0
	<b>New units under APFA</b>	+2,734	+266	+2,733	+267	+2,733	+267

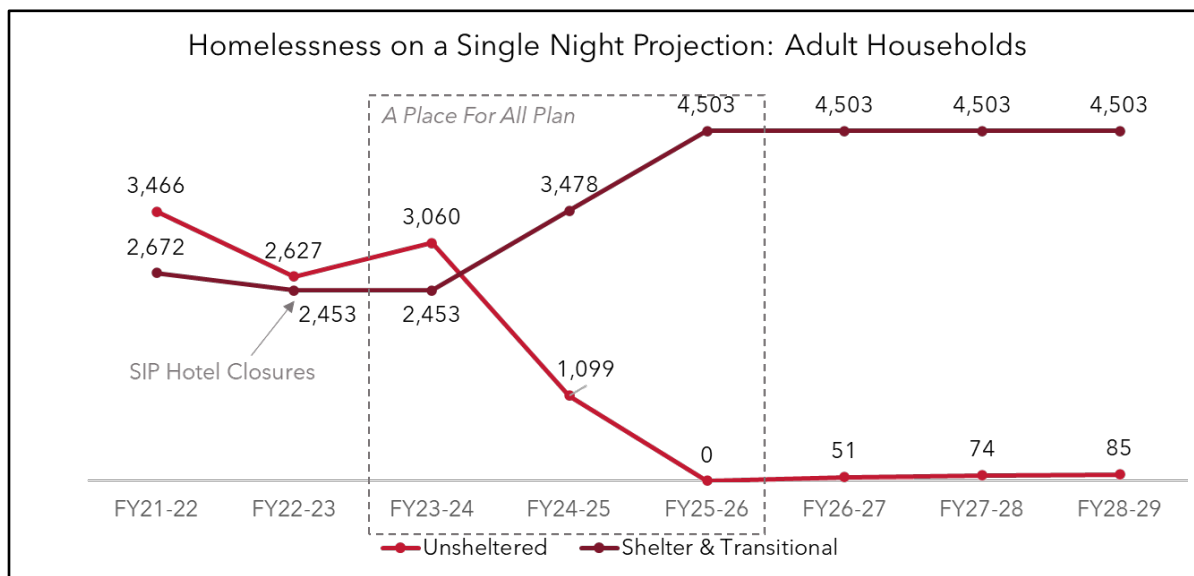




*A Place for All Report*

Figure 3 illustrates the projected outcomes of investing resources in housing, shelter, and prevention in a 4:2:1 (prevention : permanent housing : shelter) ratio to build the capacity of the homelessness response system to house or shelter every adult household experiencing unsheltered homelessness. It extends from last fiscal year (FY21-22) through FY28-29 to capture expected changes in resources leading up to the 3-year timeframe as well as expected changes to rates of homelessness after the 3-year timeframe.

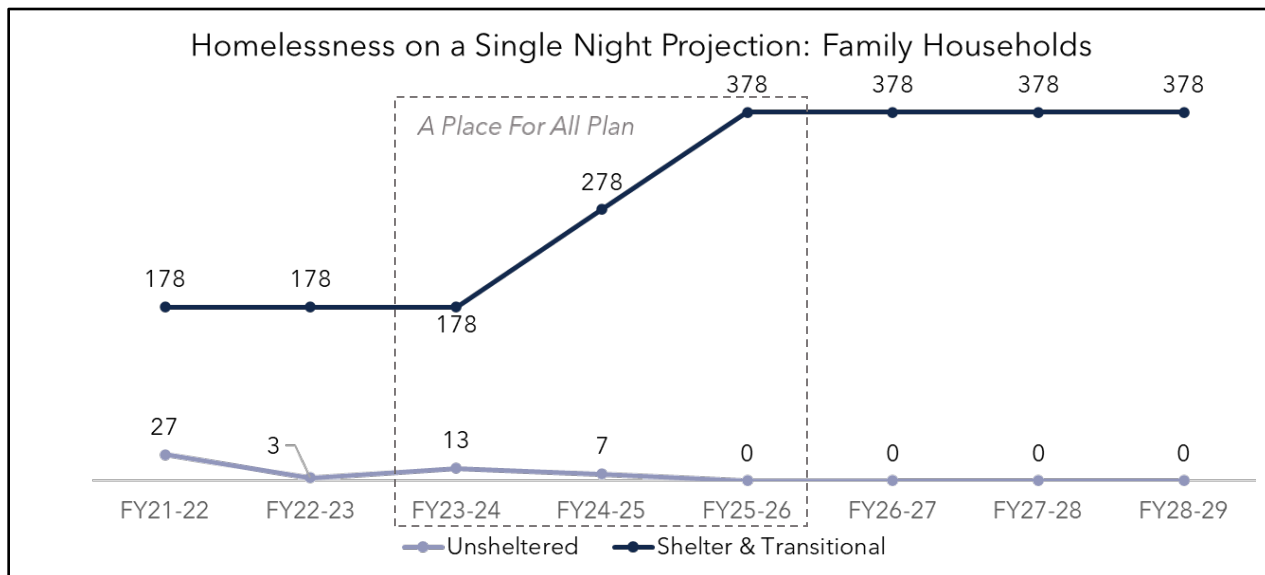
**Figure 3: Homelessness on a Single Night Projection: Adult Households**



- The scenario illustrated in Figure 3 results in zero unsheltered homelessness among adults at the end of three years and a 69% increase in adults in shelter and transitional housing (from 2,672 people to 4,503 people) between FY21-22 and FY25-26.
- Overall, homelessness among adults is expected to decrease by 27% in this scenario (from 6,138 people to 4,503 people) between FY21-22 and FY25-26.
- The increase in sheltered homelessness is attributed to the additional shelter units brought online and operating in years 2 and 3.
- With no additional resources allocated after year 3, the rate of homelessness and rate of unsheltered homelessness, specifically, is projected to increase after year 3. This is a result of new people entering homelessness and the homelessness response system lacking the capacity to address their shelter and housing needs.

Figure 4 illustrates changing rates of homelessness among families with children from FY21-22 to FY28-29.



*A Place for All Report***Figure 4: Homelessness on a Single Night Projection: Family Households**

- In the modeling scenario, family homelessness is estimated to increase by 84% (from 205 families in FY21-22 to 378 families in FY25-26) by the end of 3-year timeframe due to increased shelter unit availability in the homelessness response system.
- Families who have lost their housing often resort to staying with others, resulting in doubled-up or overcrowded living situations. By adding shelter units and providing more safe places to sleep, some families who otherwise would not have entered the formal homelessness response system may now be able to do so, contributing to an estimated increase in family homelessness, which would be reflected in future Point-in-Time Counts.
- Assisting all households in shelter to move into permanent housing would require additional housing resources beyond what are described in this report.

### E. Costs, cost effectiveness, and fiscal plan for implementation and operations

For the 36-month timespan of FY23-24 to FY25-26, **the total estimated cost of implementing A Place for All is \$1,453,287,000.** Implementation costs include expenses related to developing and launching new programs or expanding existing programs as well as ongoing operations during the 3-year timeframe. The projection also includes estimated expenses to expand the administrative capacity of HSH to manage, provide oversight to and support the contracted programs (at the rate of 15% of estimated annual operating costs).

- Initial start-up and development costs for new permanent housing and shelter programs added under A Place For All total \$781,312,000.
- Ongoing annual operating costs for the housing, shelter, and prevention programs added under A Place for All is estimated at \$410,901,000.



*A Place for All Report*

- The total estimated cost of implementing A Place for All (\$1.45 billion) is not accounted for in current appropriations. All costs would require new appropriations beyond the funding already appropriated to HSH.

Costs and Cost Effectiveness of Program Types

Effectively and efficiently reducing unsheltered homelessness requires investing in a combination of permanent housing, shelter, and prevention assistance. Prevention assistance is required to ensure that, when possible, households can retain their housing and avoid entering the homelessness response system. Shelter is necessary to provide safe indoor spaces for people to stay temporarily. Permanent housing is critical to ensure the homelessness response system has through-flow and people who have become homeless and are staying in shelters have a place to move on to.

Given each program type serves a different function in the homelessness response system and all are needed to develop an effective system, comparing costs, or assessing for cost effectiveness across program types is not recommended. The estimated costs included in this section are intended to provide additional information on the resources required for each program type, that when taken in combination with the other program types, can result in a homelessness response system with the capacity to shelter or house every unsheltered San Franciscan.

Figures 5 and 6 provide cost and outcome data on different permanent housing and shelter models. Figures are based on the estimated operating costs for the current fiscal year (FY22-23).

Figure 5 includes the annual operating costs per unit/slot and outcomes of permanent housing, including both permanent supportive housing and rapid rehousing.

**Figure 5: Annual Costs Per Unit/Slot of Permanent Housing**

Permanent Supportive Housing (ongoing subsidy)		
Housing Model	FY22-23 Annual Cost per Slot	Annual Retention Rate
<b>Adult</b>		
Project-Based Permanent Housing	\$ 39,000	86%
Scattered-Site Permanent Housing	\$ 41,535	86%
<b>Family</b>		
Project-Based Permanent Housing	\$ 63,300	97%
Scattered-Site Permanent Housing	\$ 57,608	97%
Rapid Rehousing (time limited subsidy)		
Household Type	FY22-23 Annual Cost per Slot	Permanent Housing Exit Rate
<b>Adult</b>	\$ 41,535	91%
<b>Family</b>	\$ 57,608	84%



*A Place for All Report*

- The annual retention rate for permanent supportive housing is defined as the opposite of the turnover rate. For permanent supportive housing, approximately 86% of adults and 97% of families participating in permanent supportive housing programs retain their housing each year.
- The permanent housing exit rate for rapid rehousing is defined as the rate of participants who exit the program into permanent housing. Frequently, this means a household exits from the rapid rehousing program (and no longer receives rental assistance or supportive services through the program) and is able to stay in their current housing unit by assuming the full rental payment on their own. The exit rate is a point in time measure that does not capture housing stability/retention over time.

Figure 6 includes the annual operating costs per unit/slot of shelter and the average number of households served per year in each slot.

**Figure 6: Annual Costs Per Unit/Slot of Shelter**

Shelter Model	FY22-23 Annual Cost per Slot	Average Households Served per Year
<b>Adult</b>		
Non-congregate Shelter	\$ 62,050	1.2
Cabins <sup>13</sup>	\$ 67,700	-
Congregate Shelter	\$ 58,400	3.5
Safe Sleep	\$ 87,600	1.4
<b>Family</b>		
Non-congregate Shelter	\$ 70,829	2.2
Congregate Shelter	\$ 62,617	9.6

- San Francisco's homelessness response system includes both non-congregate and congregate shelters.
- Safe Sleep programs are also included in Figure 6 to illustrate the cost of this program model compared to shelter options. People in Safe Sleep programs do not qualify as sheltered, according to Department of Housing and Urban Development definitions, given individuals are still staying outside in tents in unsheltered locations. Therefore, additional Safe Sleep programs were not added in A Place for All; only congregate and non-congregate (including cabins) shelter slots were added.

---

<sup>13</sup> There are not enough data from the cabins shelter model to calculate the average number of households served for this program type.



*A Place for All Report*

- The Shelter-In-Place (SIP) Hotels, provided through COVID relief funding, were a form of non-congregate shelter.
- Many families move out of congregate shelter units and into non-congregate shelter units as an interim step before exiting the shelter system entirely. Households typically stay for shorter lengths of time in congregate shelter settings (ensuring more families per year can use that shelter slot) before moving to non-congregate shelters, permanent housing, or other accommodations.
- Generally, annual costs for a unit of shelter are higher than those for permanent housing.

**F. Additional implementation requirements**

Timeline for implementation

Implementation of A Place for All under the modeled scenario would span all three years. Some elements of the program could be implemented and fully operational quickly. Implementation of other elements, including new permanent housing units, will require more time to develop or bring online and could not be operational until at least the end of the 3-year time period. In addition, as noted in the timeline below, San Francisco will lose 219 shelter units in FY22 – 23 with the closure of the SIP Hotel Program, which was designed to be a temporary program to serve those most vulnerable to COVID-19. An estimated timeline for implementation of this scenario is included below as Figure 7.

**Figure 7: Approximate timeline for implementation**

				A Place for All Implementation		
Changes in capacity in homelessness response system	Initial Capacity (FY21-22)	Planned Capacity Changes (FY22-23)		FY23-24	FY24-25	FY25-26
<b>Permanent housing</b>	13,812	+1,948	<b>Units in the pipeline</b>	+319	+182	+185
			<b>New units under APFA</b>	0	+1,929	+1,885
<b>Shelter/transitional housing</b>	2,850	-219 <sup>14</sup>	<b>Units in the pipeline</b>	0	0	0
			<b>New units under APFA</b>	0	+1,125	+1,125
<b>Prevention</b>	1,184	0	<b>In the pipeline</b>	0	0	0
			<b>New under APFA</b>	+3,000	+3,000	+3,000

<sup>14</sup> This reduction in shelter units/slots reflects SIP Hotels closing, as planned, during FY22-23.



*A Place for All Report*Contracting and procurement

Implementing A Place for All would require contracting with local providers for services. Through Emergency Ordinance 61-19, which sunsets in Spring 2024, HSH currently holds the authority to enter into contracts with organizations to provide homelessness prevention, shelter, housing, and other social services under a more relaxed set of contracting guidelines. HSH maintains a list of qualified providers identified through a comprehensive Request for Qualifications released in 2021. To implement A Place for All, the provisions of Ordinance 61-19 would need to be extended and HSH would rely heavily on contracting with previously identified providers or expanding current contracts to expedite the implementation of A Place for All. When deemed necessary, HSH would release competitive Requests for Proposals to solicit providers for specific projects.

Considerations for geographic equity

As indicated in the 2022 Point-in-Time Count and illustrated in Figure 8, households experiencing homelessness live throughout the City. Shelters should be placed so as to provide easy access to safe places to sleep for people currently sleeping in unsheltered locations. In addition, permanent housing should be created throughout the City to reduce the impact of siting services on any one neighborhood and to provide greater personal choice for people moving into housing. When people have the ability to choose where they reside, instead of having restricted options, it can improve households' likelihood of successfully retaining their housing.

**Figure 8: Proportion of 2022 Point-in-Time population by district and shelter status<sup>15</sup>**

District	% Total of Sheltered Population	% Total of Unsheltered Population
1	< 1%	4%
2	1%	2%
3	6%	4%
4	< 1%	2%
5	11%	8%
6	58%	43%
7	< 1%	4%
8	3%	4%

<sup>15</sup> District boundaries in place during the 2022 Point-in-Time Count have since been redrawn; Applied Survey Research. *San Francisco Homeless County and Survey: 2022 Comprehensive Report*. 2022. Accessed November 21, 2022. <https://hsh.sfgov.org/wp-content/uploads/2022/08/2022-PIT-Count-Report-San-Francisco-Updated-8.19.22.pdf>



*A Place for All Report*

<b>9</b>	4%	12%
<b>10</b>	13%	16%
<b>11</b>	0%	1%
<b>Confidential/ Scattered Site Locations</b>	2%	-

Ultimately, expanding the capacity of San Francisco’s homelessness response system at the levels outlined in this report requires utilizing available land and properties throughout the City. Limiting the placement of permanent housing or shelters to those neighborhoods in which these programs are already concentrated will impede the City’s progress toward reducing unsheltered homelessness and undermine the goals of client choice and geographic equity.

Other considerations for implementation

Other factors impact HSH’s ability to implement the modeled A Place for All program in a 3-year timeframe.

- As previously noted, expanding programs, or developing new programs requires organizations to build their administrative and operational capacity to support additional staff and additional funding.
- For local nonprofit service providers, many who are already experiencing staff shortages and/or resource gaps, additional time may be needed to scale up capacity to support program additions.
- To support a large expansion of housing, shelter, and prevention, HSH will also require significant additional administrative capacity to plan and design program expansions, select providers, execute contracts, identify, and acquire sites, monitor contracted services, etc.
- The design must be driven by an intentional equity strategy to eliminate racial disparities which takes time to include voices of people with lived experience of homelessness.

A second substantial consideration for implementation relates to the time required to develop new shelter or housing units.

- Land or appropriate properties are in short supply within city limits.
- In addition, new shelter and subsidized housing developments may face community opposition which can complicate and slow the implementation process.

Given these considerations, even if all financial resources were secured and available for use at the beginning of the 3-year timeframe, it will require a longer timeframe to implement and fully operate the A Place for All program.



## CONCLUSION

The A Place for All report provides estimates of the permanent housing, shelter, and prevention resources required to ensure that every unsheltered person can be sheltered and/or housed within three years. Substantial financial resources are required to implement and continue operations of this plan. However, even with adequate financial resources, other barriers exist that will impede the City's ability to implement this plan in the three-year timeframe.

Building an equitable homelessness response system with the capacity to end unsheltered homelessness is possible and the City should develop an ambitious but feasible pathway to this goal. A packaged investment into permanent housing, shelter, and homelessness prevention is needed to build this system. With adequate time and financial resources and intentional equity strategies, programs can be scaled to create an effective, efficient, and sustainable response to unsheltered homelessness in San Francisco.





1 DAVID CHIU, State Bar #189542  
 City Attorney  
 2 YVONNE R. MERÉ, State Bar #173594  
 Chief Deputy City Attorney  
 3 WAYNE SNODGRASS, State Bar #148137  
 Deputy City Attorney  
 4 MEREDITH B. OSBORN, State Bar # 250467  
 Chief Trial Deputy  
 5 JAMES M. EMERY, State Bar #153630  
 EDMUND T. WANG, State Bar #278755  
 6 Deputy City Attorneys  
 City Hall, Room 234  
 7 1 Dr. Carlton B. Goodlett Place  
 San Francisco, California 94102-4682  
 8 Telephone: (415) 554-4628 (Emery)  
 (415) 554-3857 (Wang)  
 9 Facsimile: (415) 554-4699  
 E-mail: jim.emery@sfcityatty.org  
 10 edmund.wang@sfcityatty.org

11 Attorneys for Defendants  
 CITY AND COUNTY OF SAN FRANCISCO, et al.

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 COALITION ON HOMELESSNESS; TORO  
 15 CASTAÑO; SARAH CRONK; JOSHUA  
 16 DONOHOE; MOLIQUE FRANK; DAVID  
 17 MARTINEZ; TERESA SANDOVAL;  
 NATHANIEL VAUGHN,

18 Plaintiffs,

19 vs.

20 CITY AND COUNTY OF SAN  
 FRANCISCO; SAN FRANCISCO POLICE  
 21 DEPARTMENT; SAN FRANCISCO  
 DEPARTMENT OF PUBLIC WORKS; SAN  
 22 FRANCISCO DEPARTMENT OF  
 HOMELESSNESS AND SUPPORTIVE  
 23 HOUSING; SAN FRANCISCO FIRE  
 DEPARTMENT; SAN FRANCISCO  
 24 DEPARTMENT OF EMERGENCY  
 MANAGEMENT; LONDON BREED, in her  
 25 official capacity as Mayor; and SAM DODGE,  
 26 in his official capacity as Director of the  
 Healthy Streets Operation Center (HSOC),

27 Defendants.

Case No. 4:22-cv-05502-DMR

**[PROPOSED] ORDER GRANTING  
 DEFENDANTS' ADMINISTRATIVE MOTION  
 FOR CLARIFICATION OF PRELIMINARY  
 INJUNCTION ORDER, AND IN THE  
 ALTERNATIVE FOR EXPEDITED BRIEFING**

1 Good cause appearing therefore, IT IS ORDERED THAT:

2 To ascertain whether a person is “involuntarily homeless,” within the meaning of the Court’s  
3 December 23, 2022 Order on Motion for Preliminary Injunction, Docket #65, until the number of  
4 homeless individuals in San Francisco no longer exceeds the number of shelter beds available, San  
5 Francisco must make an individualized determination whether the person has received an offer of  
6 adequate temporary shelter. See *Johnson v. City of Grants Pass*, 50 F.4th 78, 793 n.2 (9th Cir. 2022);  
7 *Martin v. City of Boise*, 920 F.3d 584, 617 n.8 (9th Cir. 2019).

8 IT IS SO ORDERED.

9 Dated: \_\_\_\_\_

10 \_\_\_\_\_  
11 UNITED STATES MAGISTRATE JUDGE  
12 DONNA M. RYU  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28