

**FIFTH AMENDMENT
TO EMERGENCY AGREEMENT
SHIN INTERNATIONAL, INC.
COVA HOTEL**

THIS FIFTH AMENDMENT TO EMERGENCY AGREEMENT (this “*Amendment*”), dated as of August 31, 2023, for reference purposes, is entered into by and between Shin International, Inc., a California Corporation (“*Contractor*” or “*Hotel*”), and the City and County of San Francisco, a municipal corporation (“*City*”), acting by and through its Department of Homelessness and Supportive Housing (“*HSH*”), and with reference to the following facts and circumstances:

RECITALS

A. City and Contractor are parties to that certain Emergency Agreement, dated as of May 15, 2020 (the “*Emergency Agreement*”), pursuant to which Hotel granted City the right to use that certain real property and the improvements thereon consisting of a Ninety-Five (95) room hotel located at 655 Ellis Street, in the City and County of San Francisco, commonly known as the “Cova Hotel” (the “*Improvements*”), to further the public health and safety in connection with City’s response to the Local Emergency declared by Mayor London Breed on Tuesday, February 25, 2020.

B. The Emergency Agreement was amended pursuant to that certain First Amendment to Emergency Agreement by and between City and Hotel, dated as of March 22, 2021 (the “*First Amendment*”), as further amended by that certain Second Amendment to Emergency Agreement by and between City and Hotel, dated as of March 1, 2022 (the “*Second Amendment*”), as further amended by that certain Third Amendment to Emergency Agreement by and between City and Hotel, dated as of September 1, 2022 (the “*Third Amendment*”), and as further amended by that certain Fourth Amendment to Emergency Agreement by and between City and Hotel, dated as of September 1, 2022 (the “*Fourth Amendment*”), and together with the Emergency Agreement, the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment (the “*Agreement*”).

C. The San Francisco Board of Supervisors adopted Ordinance No. _____ on _____ and effective as of _____ (the “*Ordinance*”, attached hereto), to authorize the extension of the Booking Period from August 31, 2023, to August 31, 2024, and to increase the Compensation under the Agreement by Two Million, Nine Hundred Eighteen Thousand, Nine Hundred Forty-Two Dollars (\$2,918,942), from Eleven Million, Three Hundred Eighty-Five Thousand, Three Hundred Eleven Dollars (\$11,385,311), to Fourteen Million, Three Hundred Four Thousand, Two Hundred Fifty-Three Dollars (\$14,304,253).

D. City and Contractor now desire to enter into this Amendment to, among other things, (a) extend the Booking Period from August 31, 2023 to August 31, 2024, and (b) increase the Compensation in accordance with the Ordinance and on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are incorporated into this Amendment by this reference, the mutual covenants and obligations of the parties contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Hotel and the City hereby agree as follows:

Section 1. Definitions. Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

Section 2. Amendment of Agreement. The Agreement is hereby amended as follows:

(a) **Amendment of Appendix A.** *Appendix A is amended as follows:*

“**Hotel Scope of Service**”, section h. (“**Guest Room Maintenance**”) is amended and restated in its entirety to read as follows:

“Hotel to provide room maintenance upon request for both occupied and unoccupied rooms. Before performing work, Guests will temporarily vacate room where repairs are to occur. There is no requirement for Guests to remove personal belongings prior to maintenance work.”

(b) Amendment of Appendix B. *The following amounts within Section 1 of Appendix B “Maximum Not-to-Exceed Compensation” are hereby amended and fully incorporated into the Agreement:*

Maximum Not-to-Exceed Amount of Agreement:

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| a. Total Not-to-Exceed Compensation: | \$14,304,253 |
| b. Not-to-Exceed Compensation without Reimbursable Amount:
<i>(95 x \$79 x 766) + (95 x \$73 x 792)</i> | \$11,241,350 |
| c. Not-to-Exceed Reimbursable Amount:
<i>(Contingency, 15% of b.)
Surcharge of \$2.83 per room / day (e.g., \$2.83 x 95 x 730 nights) for the period commencing on September 1, 2022, through the earlier of (a) August 31, 2024, or (b) date of termination, to be paid from Contingency.</i> | \$1,686,203 |
| d. Not-to-Exceed Reimbursable Amount (Food Service in Appendix E)
<i>(terminated 12/22/20)</i> | \$1,376,700 |

Section 3. Effective Date. Each of the amendments set forth in Section 2 above shall be effective retroactively as of the date of this Amendment.

Section 4. Reference. No reference to this Amendment is necessary in any instrument or document at any time referring to the Agreement. Any future reference to the Agreement will be deemed a reference to the Agreement, as amended by this Amendment.

Section 5. No Other Amendment; Entire Agreement. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect. The Agreement as amended by this Amendment constitutes the entire agreement between City and Hotel with respect to the subject matter of the Agreement and supersedes and cancels any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment will control.

Section 6. Reserved.

Section 7. Applicable Law. This Amendment will be governed by, construed, and enforced in accordance with the laws of the State of California and City’s Charter. Any legal suit, action, or proceeding arising out of or relating to this Amendment shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Amendment has been brought in an inconvenient forum. The

Parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to Federal Court.

Section 8. Further Instruments. The parties to the Agreement and this Amendment agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this Amendment.

Section 9. Counterparts; Electronic Signature. This Amendment may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument. The Parties may execute this Amendment by electronic signature.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

HOTEL

SHIN INTERNATIONAL, INC.,
a California corporation

Shireen McSpadden
Executive Director
Homelessness and Supportive Housing

Simon Sin
GM & Owner
655 Ellis Street
San Francisco, CA 94109

Approved as to Form:

Supplier ID: **0000043408**

David Chiu,
City Attorney

By: _____
Adam Radtke
Deputy City Attorney