

**FIFTH AMENDMENT
TO EMERGENCY AGREEMENT
LOMBARD HOTEL GROUP
MONARCH HOTEL**

THIS FIFTH AMENDMENT TO EMERGENCY AGREEMENT (this “*Amendment*”), dated as of September 1, 2024, for reference purposes, is entered into by and between LOMBARD HOTEL GROUP, a California general partnership (“*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 July 23, 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 one hundred (100) room hotel located at 1015 Geary Street, in the City and County of San Francisco, commonly known as the “Monarch 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 23, 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 May 27, 2022 (the “*Third Amendment*”), as further amended by that certain Fourth Amendment to Emergency Agreement by and between City and Hotel, dated as of August 31, 2023 (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. 185-24 on July 23, 2024 and effective as of September 1, 2024 (the “*Ordinance*”, attached hereto), to authorize the extension of the Booking Period from September 1, 2024, to March 1, 2025, and to increase the Compensation under the Agreement by Two Million Five Hundred Thirty Three Thousand Five Hundred Forty Dollars (\$2,533,540), from Nineteen Million One Hundred Twenty Seven Thousand Seven Hundred Sixty Dollars (\$19,127,760), to Twenty One Million Six Hundred Sixty One Thousand Three Hundred Dollars (\$21,661,300).

D. City and Contractor now desire to enter into this Amendment to, among other things, (a) extend the Booking Period from September 1, 2024, to March 31, 2025 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 Section 2.1. *Section 2.1 of the Agreement is hereby amended and restated in its entirety and shall hereinafter read as follows:*

2.1 Term.

2.1.1. The term of this Agreement commenced on August 4, 2020, and will expire of its own accord on March 31, 2025 (the “**Booking Period**”), unless earlier terminated as otherwise provided herein. In accordance with Section 8.1.1, City may terminate this Agreement by providing at least thirty (30) days’ written notice to Hotel of such termination.

2.1.2 On the conditions set forth below, City shall have the right to extend the Booking Period on a month to month basis by providing no less than thirty days’ prior written notice to Hotel; provided, that (a) in no event shall any extension of the Booking Period extend beyond March 31, 2025, and (b) any extension of the Booking Period beyond March 31, 2025, shall require the Executive Director of HSH to first obtain the approval of the San Francisco Board of Supervisors by ordinance waiving any applicable restrictions in the Municipal Code.”

(b) Amendment of Section 3.3.1. *The fifth sentence of Section 3.3.1 is hereby amended and restated in its entirety and shall hereinafter read as follows:*

“In no event shall the amount of this Agreement exceed **Twenty One Million Six Hundred Sixty One Thousand Three Hundred Dollars (\$21,661,300).**”

(c) 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: \$21,661,300**
- b. Not-to-Exceed Compensation without Reimbursable Amount: \$12,667,522**
(\$79 x 100 x 696) + (\$70 x 100 x 792) + (\$77.02 x 100 x 211)
- c. Not-to-Exceed Reimbursable Amount** (Contingency, 15% of amount in b.): **\$1,900,128**
- d. Not-to-Exceed Reimbursable Amount (Food Service in Appendix E): \$7,093,650**

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; provided that, this Amendment shall not become effective until the date of the effectiveness of the Ordinance.

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. Exhibits. The Exhibits attached hereto are incorporated into this Amendment by this reference.

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

DocuSigned by:
Shireen McSpadden
CAD7B791896B449...

Shireen McSpadden
Executive Director
Homelessness and Supportive Housing

Approved as to Form:

David Chiu
City Attorney

By: DocuSigned by:
Adam Radtke
1AFBEA6D5F35481...

Adam Radtke
Deputy City Attorney

HOTEL

LOMBARD HOTEL GROUP
a California general partnership

DocuSigned by:
Subhash Patel
4618EAFADB0D476...

SUBHASH L. PATEL

DocuSigned by:
Bhikhu Patel
4E42DC009A7E439...

BHIKHU K. PATEL

DocuSigned by:
Prakash Patel
5875DD2985D74CF...

PRAKASH L. PATEL

Supplier ID: 0000044228

Exhibit A

Appendix E “Food Service By Hotel”

The Hotel and City continue to work in good faith to incorporate food service programs, which will: (i) not exceed \$6,429,000 for the period beginning August 4, 2020 through the night of August 31, 2024; and (ii) not exceed \$30 per room per night beginning September 1, 2024 through the night of March 31, 2025 (105 meals, 211 nights). The total not-to-exceed compensation of \$7,093,650 for the food service program is included in Appendix B.

The parties acknowledge that the City may terminate any food service program by providing at least fourteen (14) days written notice to Hotel of such termination, to be effective immediately upon the date specified in the notice, at no additional cost or termination fee. Notwithstanding, City agrees to use commercially reasonable efforts to provide more advanced notice to the extent it is practical or able to do so. City shall pay Hotel the daily food service rate through the termination date provided in City’s termination notice in accordance with the monthly invoice procedure provided in Appendix B.

Exhibit B
Ordinance
[Attached]

FILE NO. 240634

1 [Amendment to Agreement with Lombard Hotel Group - Monarch Hotel - Not to Exceed
2 \$21,661,300 - Waiver of Certain Administrative, Labor and Employment, and Environment
3 Code Requirements]

4 **Ordinance authorizing the Department of Homelessness and Supportive Housing**
5 **("HSH") to amend the booking agreement with the Lombard Hotel Group, operator of**
6 **the Monarch Hotel, to increase the not-to-exceed amount by \$2,533,5404,189,900 for a**
7 **total amount not to exceed \$21,661,300; to extend the term of the agreement by seven**
8 **months from August 31, 2024, for a new term of August 4, 2020, through March 31,**
9 **2025; waiving for said agreement certain requirements of the Administrative, Labor and**
10 **Employment, and Environment Codes; and authorizing HSH to enter into amendments**
11 **that do not increase the City's obligations or liabilities and are necessary to effectuate**
12 **the purpose of the agreement.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

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

21 Section 1. Background and Findings.

22 (a) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in
23 response to the COVID-19 pandemic (the "Proclamation"). On May 11, 2020, the Mayor
24 issued the Thirteenth Supplement to the Proclamation, authorizing City departments to enter
25 into COVID-19 related contracts with a term of one year or less without following the
competitive solicitation and procurement procedures in the Administrative Code. Under the

1 authority of the Thirteenth Supplement, the Human Services Agency (“HSA”) entered into an
2 Emergency Hotel Booking Agreement with Lombard Hotel Group, operator of the Monarch
3 Hotel (“Monarch Hotel Booking Agreement”), HSA Contract No. 1000019022.

4 (b) On February 19, 2021, the Mayor issued the Thirty-Fifth Supplement to the
5 Proclamation authorizing departments to extend the terms of COVID-19 related emergency
6 contracts up to 12 months, without including terms otherwise required by the Administrative
7 and Environment Codes. Under the Authority of the Thirty-Fifth Supplement, HSA extended
8 the Monarch Hotel Booking Agreement until February 28, 2022, and increased the total not-to-
9 exceed amount to \$8,471,640.

10 (c) On February 10, 2022, the Mayor issued the Forty-Fifth Supplement to the
11 Proclamation, authorizing HSA to amend any emergency hotel booking agreements in place
12 as of February 10, 2022 to extend the term of such agreements to August 31, 2022. The
13 Forty-Fifth Supplement also provided that any further contract extensions would require
14 approval by the Board of Supervisors. Under the authority of the Forty-Fifth Supplement, HSA
15 amended the Monarch Hotel Booking Agreement to extend the term through May 26, 2022,
16 and increased the total not-to-exceed amount to \$9,986,100.

17 (d) In Ordinance No. 167-22, the Board of Supervisors authorized HSA to extend the
18 terms of several booking agreements through August 31, 2023. Under the Authority of Ord.
19 No.167-22, HSA amended the Monarch Hotel Booking Agreement to increase the amount by
20 \$5,019,360 for a new not-to-exceed amount of \$15,005,460, with a term through August 31,
21 2023, and to extend the waiver of the provisions in the Administrative and Environment Codes
22 that HSA previously waived under the authority of the Mayor’s Supplements to the
23 Proclamation.

24 (e) On January 1, 2023, HSA assigned the Monarch Hotel Booking Agreement to the
25 Department of Homelessness and Supportive Housing (“HSH”) for continued use as 100 units

1 of non-congregate shelter for adults experiencing homelessness in order to maintain stable
 2 housing for individuals who might otherwise be discharged to the streets.

3 (f) The Fiscal Year 2023-24 and Fiscal Year 2024-25 budget made critical investments
 4 in new shelter, housing, and prevention as called for in the citywide strategic plan “Home by
 5 the Bay: An Equity-Driven Plan to Prevent and End Homelessness in San Francisco.” The
 6 Plan calls for new investments and strategies to reduce unsheltered homelessness by half
 7 over the next five years. In order to make progress on these goals, it is critical that HSH
 8 maintain existing non-congregate shelter capacity.

9 (g) On July 27, 2023, the City adopted Ordinance No. 147-23 that amended the
 10 Monarch Hotel Booking Agreement to increase the amount by \$4,122,300 for a new not-to-
 11 exceed amount of \$19,127,760, extend the term by 12 months through August 31, 2024, and
 12 extend the waiver of the provisions in the Administrative and Environment Codes that HSA
 13 previously waived under the authority of the Mayor’s Supplements to the Proclamation.

14 (h) The City, through the Director of Property, is in the process of negotiating leases
 15 for potential shelter sites to support the continuation of this emergency bed capacity. This
 16 ordinance extending the term of the Monarch Hotel Booking agreement for an additional
 17 seven months is necessary to enable HSH to maintain its inventory of non-congregate shelter
 18 during this process.

19 (i) The Administrative Code, Labor and Employment Code (which did not exist as a
 20 distinct component of the Municipal Code until recently), and Environment Code typically
 21 require that new and amended contracts include provisions requiring the contractor to adhere
 22 to various City policies. Requiring Lombard Hotel Group to comply with these requirements as
 23 a condition of extending the agreement would likely impose costs and delays that would
 24 further impede HSH’s ability to provide uninterrupted non-congregate shelter units. It is
 25 therefore in the public interest to waive certain of the requirements in those Codes.

1
2 Section 2. Amendment of Existing Contract to Extend Term and Increase Not-To-
3 Exceed Amounts; Continued Waiver of Provisions of the Administrative, Labor and
4 Employment, and Environment Codes.

5 (a) Pursuant to Charter Section 9.118(b), the Board of Supervisors hereby approves
6 the Fifth Amendment to the Monarch Hotel Booking Agreement, to increase the not-to-exceed
7 amount by ~~\$2,533,540,489~~, for a new not-to-exceed amount of \$21,661,300, and to extend
8 the contract term from August 31, 2024 through March 31, 2025.

9 (b) The Board of Supervisors authorizes HSH to amend the Monarch Hotel Booking
10 Agreement without adherence to the requirements of Administrative Code Chapters 12Y
11 (Slavery Era Disclosure Ordinance), 14B (Local Business Enterprise and Non-Discrimination
12 in Contracting Ordinance), 83 (First Source Hiring Program), and 101 (Sugar-Sweetened
13 Beverage Funding Ban Ordinance); Labor and Employment Code Articles 111 (Minimum
14 Compensation), 141 (Salary History), and 142 (Consideration of Criminal History in Hiring and
15 Employment Decisions); and Environment Code Chapters 8 (Tropical Hardwood and Virgin
16 Redwood Ban), 13 (Arsenic Treated Wood Products), 16 (Food Service and Packaging Waste
17 Reduction Ordinance), and 24 (Bottled Water Ordinance).

18 (c) The Board of Supervisors authorizes HSH to enter into any additional amendments
19 to the Monarch Hotel Booking Agreement approved pursuant to this Section 2 that HSH
20 determines, in consultation with the City Attorney, are in the best interest of the City, do not
21 further extend the term of the agreement or increase the not-to-exceed amount stated in this
22 ordinance, do not otherwise materially increase the obligations or liabilities of the City, are
23 necessary or advisable to effectuate the purposes of the agreement, and are in compliance
24 with all applicable laws.
25

1 (d) Within 30 days of the Agreement being fully executed by all parties, HSH shall
2 provide the executed Agreement to the Clerk of the Board of Supervisors for inclusion in File
3 No. 240634.

4
5 Section 3. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10
11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

13 By: /s/
14 ADAM RADTKE
Deputy City Attorney

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City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 240634

Date Passed: July 23, 2024

Ordinance authorizing the Department of Homelessness and Supportive Housing ("HSH") to amend the booking agreement with the Lombard Hotel Group, operator of the Monarch Hotel, to increase the not to exceed amount by \$2,533,540 for a total amount not to exceed \$21,661,300; to extend the term of the agreement by seven months from August 31, 2024, for a new term of August 4, 2020, through March 31, 2025; waiving certain requirements of the Administrative, Labor and Employment, and Environment Codes for said agreement; and authorizing HSH to enter into amendments that do not increase the City's obligations or liabilities and are necessary to effectuate the purpose of the agreement.

July 10, 2024 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 10, 2024 Budget and Finance Committee - RECOMMENDED AS AMENDED

July 16, 2024 Board of Supervisors - PASSED ON FIRST READING

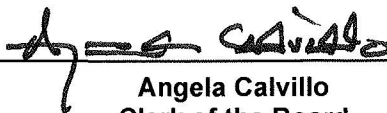
Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton


July 23, 2024 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 240634

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/23/2024 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


London N. Breed
Mayor

7/25/24
Date Approved