

**Third Amendment to
Emergency Agreement between the City and County of San Francisco
and
SF Americania LLC
Americania Hotel**

THIS THIRD AMENDMENT (this “Amendment”) is made as of _____, 2021, in San Francisco, California, by and between **SF Americania LLC** (“**Hotel**” or “**Contractor**”), and the **City and County of San Francisco**, a municipal corporation (“**City**”).

WHEREAS, City and Hotel have entered into an emergency services contract, dated March 24 2020, (the “**Original Agreement**”) subsequently amended by the “**First Amendment**” dated June 11, 2020, and the “**Second Amendment**” dated March 22, 2021 (the Original Agreement and First Amendment and Second Amendment are collectively, the “**Agreement**”), for Rooms and Services at the property commonly known as the **Americania Hotel** located at 121 7th Street, San Francisco, CA 94103, 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 as supplemented from time to time, including the Thirty-Fifth Supplemental Declaration dated February 19, 2021, authorizing the extension of COVID-19-related contracts; and

WHEREAS, City and Hotel desire to modify the Agreement on the terms and conditions set forth herein to extend the Booking Period; and

WHEREAS, the City’s Board of Supervisors approved this Agreement by Resolution Number _____ on _____; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Hotel and City agree that the Agreement is hereby amended as follows:

1. **Defined Terms**. Capitalized terms not defined in this Agreement shall have the meaning set forth in the Agreement.
2. **Replace Section 2.1**. Section 2.1 is hereby deleted from the Agreement, and the following is hereby added in its place and fully incorporated into the Agreement:

2.1 Term. The term of this Agreement commences on March 24, 2020 and will expire of its own accord on October 9, 2022 (the last night will be October 8, 2022) (the “**Booking Period**”), unless earlier terminated as otherwise provided herein. City may terminate this Agreement by providing at least thirty (30) days written notice to Hotel of such termination. Notwithstanding, City agrees to use commercially reasonable efforts to provide more advanced notice to the extent it is practical or able to do so.

3. **Amendment to Article 3.3.1 Payment**. The following sentence from Section 3.3.1 is hereby deleted from the Agreement:

“In no event shall the amount of this Agreement exceed **Nine Million Seven Hundred Fifty Nine Thousand, Four Hundred and Fifty Dollars \$9,759,450.**”; and

The following sentence is hereby added in its place and fully incorporated into the Agreement:

“In no event shall the amount of this Agreement exceed **Sixteen Million Four Hundred Thirty Thousand, One Hundred Sixty-Four Dollars (\$16,430,164).**”

4. **Replace Article 3.3.3 Deposit.** Section 3.3.3 is hereby deleted from the Agreement, and the following is hereby added in its place and fully incorporated into the Agreement

3.3.3 **Deposit.** Upon execution of this Agreement, the City shall deposit with the Hotel the amount of \$429,240 by wire transfer to an account designated by the Hotel, which amount is equal to one month of Compensation, or alternatively, along with its first payment of Compensation, City may elect to request Hotel to invoice for prepayment of last month’s Compensation. The Hotel may use any and all of the Deposit to pay for the repair of any damage that may be caused to the Property by the City or any of its Guests. In addition, throughout the Booking Period the Hotel may invoice the City for its reasonable costs to pay for the repair of such damage, payable from the “Not-to-Exceed Reimbursable Amount” (contingency funds) in Appendix B below. The Hotel hereby reserves all other rights and remedies available to it under this Agreement, at law or in equity for damage to the Property caused by the City or any of its Guests. City and Hotel acknowledge and agree that neither this paragraph, any not to exceed maximum amount of this Agreement, nor the allocation of amounts set forth in Appendix B shall limit or restrict City’s obligation ~~to repair or restore the Property as required by this Agreement~~ ~~nor~~ for costs incurred by Hotel to repair or restore the Property as required by this Agreement. The Deposit will be held by the Hotel and may be commingled with other funds; any interest earned on the Deposit, if any, shall be the property of the Hotel.

5. **Amend Appendix B.** The following amounts within Section 1 of Appendix B Calculation of Charges are hereby amended, increased, and fully incorporated into the Agreement:

- a. **Total Not-to-Exceed Compensation - \$ 16,430,164**
- b. **Not-to-Exceed Compensation for Room Nights - \$ 13,144,131**
- c. **Not-to-Exceed Reimbursable Amount - \$ 3,286,033**

6. **Full Force and Effect.** Except as specifically amended in this Amendment, the terms and conditions of the Agreement, as amended by this Amendment, shall remain unchanged and in full force and effect. In the event of any conflict between the terms and conditions of the Agreement and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall control.

7. **Counterparts.** This Amendment may be executed in two or more counterparts, and by electronic or PDF signature, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

HOTEL
SF AMERICANIA LLC,
A Delaware limited liability company

Trent Rhorer
Executive Director
Human Services Agency

John W. Rutledge
Authorized Signatory

City Supplier number: 0000042406

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
David K. Ries
Deputy City Attorney

Approved:

Sailja Kurella
Acting Director of the Office of Contract
Administration, and Purchaser

By: _____