

**City and County of San Francisco**  
**Human Services Agency**  
**Second Amendment to the Emergency Agreement**  
**with**  
**1231 Market Street Owner, L.P.**

THIS AMENDMENT (this “Amendment”) is made as of July 27, 2020, in San Francisco, California, by and between 1231 Market Street Owner L.P. (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Human Services Agency.

**Recitals**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, the Agreement is an emergency services contract awarded pursuant to procedures applicable under the Local Emergency declared by Mayor London Breed on Tuesday, February 25, 2020, and Chapter 21 of the San Francisco Administrative Code;

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to increase the contract amount and to increase the maximum value of the food service program; and

NOW, THEREFORE, Contractor and the City agree as follows:

**Article 1      Definitions**

The following definitions shall apply to this Amendment:

1.1                    **Agreement.** The term “Agreement” shall mean the Agreement dated April 4, 2020 between Contractor and City, as amended by the:

First amendment,                    dated May 15, 2020.

1.2                    **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**Article 2      Modifications to the Agreement.**

The Agreement is hereby modified as follows:

2.1                    **Payment.** *Section 3.3.1 of the Agreement currently reads as follows:*

3.3.1 Payment. The flat monthly rate for the Rooms and Services is \$1,460,950.50. At the beginning of each month of the Booking Period, Hotel shall provide an invoice to the City for the

monthly rate due under this Agreement for the Rooms and Services for such month (“Compensation”) and any additional charges and reimbursement payable by City under this Agreement for the immediately preceding month, unless a different schedule is set out in Appendix B, “Calculation of Charges.” Payment of the Compensation shall be made within 10 calendar days after receipt of the invoice, and payment for all other charges shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Hotel that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed Nine Million Six Hundred Seventy-Five Thousand Three Hundred Seventy-Two Dollars (\$9,675,372). The breakdown of charges associated with this Agreement appears in Appendix B, “Calculation of Charges,” attached hereto and incorporated by reference as though fully set forth herein. In the event that the Hotel incurs any additional costs or expenses for additional services provided at the Property in order to accommodate special requests of the City to assist it in handling the COVID-19 pandemic at the Hotel and agreed upon in writing by the City and Hotel, which such additional services are not included in the Services, then the City shall reimburse Hotel for all such actual and reasonable additional costs and expenses.

*Such section is hereby amended in its entirety to read as follows:*

3.3.1 Payment. The flat monthly rate for the Rooms and Services is \$1,460,950.50. At the beginning of each month of the Booking Period, Hotel shall provide an invoice to the City for the monthly rate due under this Agreement for the Rooms and Services for such month (“Compensation”) and any additional charges and reimbursement payable by City under this Agreement for the immediately preceding month, unless a different schedule is set out in Appendix B, “Calculation of Charges.” Payment of the Compensation shall be made within 10 calendar days after receipt of the invoice, and payment for all other charges shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Hotel that a dispute as to the invoice exists. **In no event shall the amount of this Agreement exceed Nine Million Nine Hundred Ninety Thousand Dollars (\$9,990,000).** The breakdown of charges associated with this Agreement appears in Appendix B, “Calculation of Charges,” attached hereto and incorporated by reference as though fully set forth herein. In the event that the Hotel incurs any additional costs or expenses for additional services provided at the Property in order to accommodate special requests of the City to assist it in handling the COVID-19 pandemic at the Hotel and agreed upon in writing by the City and Hotel, which such additional services are not included in the Services, then the City shall reimburse Hotel for all such actual and reasonable additional costs and expenses.

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

*a. Total Not-to-Exceed Compensation - \$9,990,000*

*e. Not-to-Exceed Reimbursable Amount for Food Service (Appendix D) - \$3,314,627.70*

2.3 **Food Service by Hotel.** *Appendix D of the Agreement currently reads as follows:*

The Hotel and City are working in good faith to develop and incorporate a food service program to not exceed the greater of \$65 per room night and/or \$3,000,000 (see Appendix B). The terms and conditions of such program, if and when mutually approved by Hotel and City, shall be attached hereto as Appendix D.

*Such section is hereby amended in its entirety to read as follows:*

The Hotel and City are working in good faith to develop and incorporate a food service program to not exceed the greater of \$65 per room night and/or \$3,314,627.70 (see Appendix B).

**Article 3 Effective Date**

Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

**Article 4 Legal Effect**

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.

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

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

CONTRACTOR

1231 Market Street Owner L.P.

DocuSigned by:  
*Trent Rhorer*  
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*Benjamin Davison*

Trent Rhorer  
Executive Director  
Human Services Agency

Benjamin Davison  
Authorized Signatory

City Supplier number: 0000039802

Approved as to Form:

Dennis J. Herrera  
City Attorney

By: *David Ries*  
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David K. Ries  
Deputy City Attorney