DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

City and County of San Francisco

Human Services Agency

Emergency Agreement between the City and County of San Francisco

and

Shin International, Inc.

Cova Hotel
655 Ellis Street
San Francisco, CA 94109

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Table of Contents

Article 1 Definitions **1**

Article 2 Term of the Agreement **2**

2.1 Term 2

2.2 Booking of Rooms Procedure (Reserved) 2

Article 3 Financial Matters **2**

3.1 Certification of Funds; Budget and Fiscal Provisions. 2

3.2 Guaranteed Maximum Costs. 2

3.3 Compensation. 2

3.4 Getting paid by the City for goods and/or services. 3

3.5 Federal and/or State Funded Contracts. (Reserved) 4

3.6 Contract Amendments. 4

3.7 Audit and Inspection of Records. 4

3.8 Submitting False Claims. 4

Article 4 Services Hotel and City Agrees to Perform. **4**

4.1 Qualified Personnel. (Reserved) 5

4.2 Subcontracting. (Reserved) 5

4.3 Independent Contractor; Payment of Employment Taxes and Other Expenses. (Reserved) 5

4.4 Assignment. 5

4.5 Warranty. 5

4.6 Liquidated Damages. (Reserved) 5

4.7 Bonding Requirements. (Reserved) 5

Article 5 Insurance and Indemnity **5**

5.1 Insurance. 5

5.2 Indemnification. 6

Article 6 Liability of the Parties **7**

6.1 Liability of City. 7

6.2 Liability for Use of Equipment. (Reserved) 7

6.3 Liability of Hotel. 7

Article 7 Payment of Taxes **8**

7.1 Withholding. (Reserved) 8

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Article 8 Termination and Default 8
8.1 Expiration of Local Emergency / Termination for Convenience 9
8.2 Termination for Default; Remedies. 9
8.3 Non-Waiver of Rights. 9
8.4 Rights and Duties upon Termination or Expiration. 10
Article 9 Rights In Deliverables (Reserved) 10
Article 10 Additional Requirements Incorporated by Reference 10
10.1 Laws Incorporated by Reference. 10
10.2 Conflict of Interest. 10
10.3 Prohibition on Use of Public Funds for Political Activity. (Reserved) 10
10.4 Consideration of Salary History. (Reserved) 10
10.5 Nondiscrimination Requirements. 10
10.6 LBE and Non-Discrimination in Contracting Ordinance. (Reserved) 11
10.7 Minimum Compensation Ordinance. (Reserved) 11
10.8 Health Care Accountability Ordinance. 11
10.9 First Source Hiring Program. (Reserved) 11
10.10 Alcohol and Drug-Free Workplace. 11
10.11 Limitations on Contributions. (Reserved) 11
10.12 Slavery Era Disclosure. (Reserved) 11
10.13 Working with Minors. (Reserved) 11
10.14 Consideration of Criminal History in Hiring. (Reserved) 11
10.15 Public Access to Nonprofit Records and Meetings. (Reserved) 11
10.16 Food Service Waste Reduction Requirements. (Reserved) 11
10.17 Distribution of Beverages and Water. (Reserved) 11
10.18 Tropical Hardwood and Virgin Redwood Ban. (Reserved) 11
10.19 Preservative Treated Wood Products. (Reserved) 11
Article 11 General Provisions 11
11.1 Notices to the Parties. 11
11.2 Compliance with Americans with Disabilities Act. 12
11.3 Incorporation of Recitals. 12
11.4 Sunshine Ordinance. 12

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

11.5 Modification of this Agreement. 12
11.6 Dispute Resolution Procedure. 12
11.7 Government Code Claim Requirement. 12
11.8 Health and Human Service Dispute Resolution Procedure. (Reserved) 13
11.9 Agreement Made in California; Venue. 13
11.10 Construction. 13
11.11 Entire Agreement. 13
11.12 Compliance with Laws. 13
11.13 Severability. 13
11.14 Cooperative Drafting. 13
11.15 Order of Precedence. 13
11.16 Notification of Legal Requests. 13
Article 12 Department Specific Terms 14
12.1 Third Party Beneficiaries. 14
12.2 Federal and State Financial Participation (Reserved) 14
Article 13 Data and Security 14
13.1 Nondisclosure of Private, Proprietary or Confidential Information. 14
13.2 Payment Card Industry ("PCI") Requirements. (Reserved) 14
13.3 Protected Health Information. 14
Article 14 Official Actions Relating to the Emergency; FEMA Assistance 14
14.1 Orders of Local, State or Federal Officials. 14
14.2 FEMA Assistance 15
Article 15 MacBride And Signature 15
15.1 MacBride Principles -Northern Ireland. 15

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Preamble

This Agreement is made this 15th day of May, 2020, in the City and County of San Francisco, State of California, by and between Shin International, Inc., a California corporation **("Hotel")**, as the owner of the Cova Hotel, located at 655 Ellis Street, San Francisco, CA 94109 ("**Property**"), and City (as defined below).

Recitals

WHEREAS, this 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; and

WHEREAS, the Human Services Agency ("**Department**") wishes to procure the following emergency services in support of the Local Emergency: provision of hotel rooms and related services in the Property as more particularly described herein and in Appendix A (Rooms and Scope of Services); and,

WHEREAS, City will use the Rooms and Services (as hereinafter defined) to further the public health and safety in connection with its response to the Local Emergency by sheltering and serving persons, including those (a) who have, or might have, come in close contact with a COVID-19 positive individual but have not been tested, or who have been tested and are awaiting results, or (b) who have tested positive for COVID-19 but do not have a medical need to be hospitalized (each of the foregoing, a "**Guest**", and collectively, the "**Group**"), all as further described in Appendix A; and

WHEREAS, the Parties understand and acknowledge that Department will allow persons described in the foregoing recital to use the Rooms and Services, as invitees, for shelter as a necessary response to the Emergency, and such persons will have no right to exclusively occupy the Rooms as tenants under State or local laws, including the City's Rent Ordinance.

Now, **THEREFORE**, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

1.1 **"Agreement**" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements which are specifically incorporated into this Agreement by reference as provided herein.

1.2 "**City**" means the City and County of San Francisco, a municipal corporation, acting by and through the Executive Director of the Human Services Agency.

1.3 "**Hotel**" has the meaning set forth in the Preamble.

1.4 "**Effective Date**" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.5 "**Party**" and "**Parties**" mean the City and Hotel either collectively or individually.

1.6 "**Rooms and Services**" means collectively the hotel rooms and related services to be provided by Hotel as described in Appendix A (Rooms and Scope of Services).

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Article 2 Term of the Agreement

2.1 **Term**.

2.1.1 The term of this Agreement shall be for four months, commencing on May 26, 2020, and expiring of its own accord on September 25, 2020 (the "Booking Period), subject to earlier termination as provided in this Agreement.

2.1.2 City shall have the right to extend the Booking Period on a month-to month basis by providing written notice of same to Hotel not less than thirty (30) days prior to the initial expiration of the Booking Period; provided that in no event shall any extension extend beyond May 25, 2021.

2.2 **Booking of Rooms Procedure (Reserved)**

Article 3 Financial Matters

3.1 **Certification of Funds; Budget and Fiscal Provisions.**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges for the Rooms and Services will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Hotel's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3.2 **Guaranteed Maximum Costs.**

The City's payment obligation to Hotel cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Hotel under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 **Compensation.**

3.3.1 **Payment**. The flat daily rate for the Rooms and Services is $7,505 (based upon a daily rate of $79 per room per night). The flat daily rate is due for each day of the Booking Period and is not adjusted by the actual number of Rooms occupied, except as provided in Section 3.3.2. Hotel shall provide an invoice to the City on a monthly basis for the monthly amount due under this Agreement for the Rooms and Services for the current month ("**Compensation**") and any additional charges and reimbursement payable by City under this Agreement for the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be paid for the

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Rooms and Services identified in the invoice that the Executive Director of the Human Services Agency (**"HSA Director**"), in his or her sole discretion, concludes has been satisfactorily provided. Payment 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 **Five Million Two Hundred Thirty Thousand Seven Hundred and Twenty-Four Dollars ($5,230,724)**. 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. A portion of payment may be withheld until conclusion of the Agreement if agreed to by both parties as retainage, described in Appendix B. In no event shall City be liable for interest or late charges for any late payments.

3.3.2 **Payment Limited to Satisfactory Services.** Hotel is not entitled to any payments from City until the HSA Director confirms that the Rooms and Services have been provided in a manner satisfying all of the requirements of this Agreement. Rooms and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Hotel without delay at no cost to the City.

3.3.3 **Last Month's Rent.** Upon execution of this Agreement, the City shall pay to the Hotel the amount of $232,655 (the "**Last Month's Rent**") by wire transfer or ACH to an account designated by the Hotel, which amount shall be applied to the Compensation payable for the last month of the Booking Period, except as otherwise provided in this Section. If, at any time during or at the end of the Booking Period there is any damage (other than ordinary wear and tear) caused to the Property by the City or any of its Guests ("**Property Damage**"), the City shall promptly repair such Property Damage at its sole cost and expense. If, at the end of the Booking Period, the City has not repaired any Property Damage, and such Property Damage is not repaired within three business (3) days after the end of the Booking Period, the Hotel may use any and all of the Last Month's Rent as necessary to pay for the repair of any Property Damage or any other amounts owed by the City to Hotel. Within 30 days after the end of the Booking Period, Hotel may invoice City for any resulting deficiency in the Compensation for the last month of the Booking Period or any other amounts owed by the City to Hotel under this Agreement. To the extent there is no Property Damage, the Hotel shall apply the Last Month's Rent to any other amounts owed to it by the City, including arising from any breach of this Agreement by the City. The Hotel hereby reserves all other rights and remedies available to it at law or in equity for any Property Damage. The Last Month's Rent will be held by the Hotel and may be commingled with other funds; any interest earned on the Last Month's Rent, if any, shall be the property of the Hotel.

3.3.4 **Withhold Payments.** If Hotel fails to provide Rooms and Services in accordance with Hotel's obligations under this Agreement, following written notice of such failure the City may withhold any and all payments due Hotel until such failure to perform is cured, and Hotel shall not stop performance under this Agreement as a result of City's withholding of payments as provided herein.

3.3.5 **Invoice Format**. Invoices furnished by Hotel under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City as specified in Section 3.4, or in such alternate manner as the Parties have mutually agreed upon in writing.

3.3.6 **LBE Payment and Utilization Tracking System. (Reserved)**

3.4 **Getting paid by the City for goods and/or services.**

3.4.1 All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through, the City's Automated Clearing House (ACH)

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

payments service/provider. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit www.sfgov.org/ach.

3.4.2 The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

3.5 **Federal and/or State Funded Contracts. (Reserved)**

3.6 **Contract Amendments.**

3.6.1 **Formal Contract Amendment**: Except as expressly set forth herein, Hotel shall not be entitled to an increase in the Compensation or an extension of the Booking Period unless the Parties agree to a Formal Amendment in accordance with the San Francisco Administrative Code and Section 11.5 (Modifications of this Agreement).

3.6.2 **City Revisions to Program Budgets (Reserved)**

3.7 **Audit and Inspection of Records.**

Hotel agrees to maintain and make available to the City, during regular business hours and upon twenty four hours advance notice, accurate books and accounting records relating to the Rooms and Services. Hotel will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Hotel shall maintain such data and records in an accessible location and condition for a period of not fewer than five years, unless required for a longer duration due to Federal, State, or local requirements of which the City will notify Hotel in writing, after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Hotel shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.8 **Submitting False Claims.**

The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any entity who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. An entity will be deemed to have submitted a false claim to the City if the entity: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.9 **Payment of Prevailing Wages (Reserved)**

Article 4 Services Hotel and City Agrees to Perform.

Hotel agrees to provide the Rooms and perform the Services provided for in Appendix A, “Rooms and Scope of Services." Officers and employees of the City are not authorized to request, and the City is not

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

required to reimburse the Hotel for, Rooms and Services beyond the Rooms and Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement." Hotel agrees that all hotel rooms and other spaces within the Hotel property that are not included in the Rooms provided to City under this Agreement, including, but not limited to, conference and meeting rooms, shall remain secured and unoccupied during the Booking Period. City shall perform all services set forth in Appendix "A" to be provided by or on behalf of City. Hotel shall have no responsibility to provide the same.

4.1 **Qualified Personnel. (Reserved)**

4.2 **Subcontracting. (Reserved)**

4.3 **Independent Contractor; Payment of Employment Taxes and Other Expenses. (Reserved)**

4.4 **Assignment.**

The Rooms and Services to be provided and performed by Hotel are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by Hotel unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

4.5 **Warranty.**

Hotel warrants to City that any Services to be provided by Hotel in accordance with Appendix A will be performed to a standard that is commercially reasonable for hotel operations during the Local Emergency. Services provided by Hotel are limited as shown upon Appendix A

4.6 **Liquidated Damages. (Reserved)**

4.7 **Bonding Requirements. (Reserved)**

Article 5 Insurance and Indemnity

5.1 **Insurance.**

5.1.1 **Required Coverages.** Without in any way limiting Hotel's liability pursuant to the "Indemnification" Section of this Agreement except as specifically stated below, Hotel must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation ,for its employees but not for the City employees or any City volunteers working at the Hotel in statutory amounts, with Employers' Liability Limits not less than $1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than $5,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) Commercial Automobile Liability Insurance with limits not less than $1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(d) Professional liability insurance **(Reserved)**

(e) Technology Errors and Omissions Liability coverage (**Reserved**)

(f) Cyber and Privacy Insurance **(Reserved)**.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

5.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

5.1.3 Hotel's Commercial General Liability and Commercial Automobile Liability Insurance policies shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement excluding therefrom any and all claims made based upon or arising out of the Covid 19 Virus and related diseases, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

5.1.4 All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.5 Should any of the required insurance be provided under a claims-made form, Hotel shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

5.1.6 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

5.1.7 Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

5.1.8 Before providing any Rooms and Services, Hotel shall furnish to City certificates of insurance with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Hotel's liability hereunder.

5.1.9 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Hotel, its employees, agents and subcontractors.

5.1.10 If Hotel will use any subcontractor(s) to provide Services, Hotel shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Hotel as additional insureds.

5.2 **Indemnification.**

5.2.1 Hotel shall indemnify and hold harmless City and its officers, agents, and employees from, and, if requested, shall immediately defend them from and against, any and all claims, demands, losses, damages, costs, expenses, and liability or potential liability (legal, contractual, or otherwise) arising directly or indirectly in any way from Hotel's performance of this Agreement, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except to the extent such loss, damage, injury, liability or claim was caused by the negligence or willful misconduct of City in which case damages shall be apportioned pro rata under the California doctrine of comparative fault. Hotel's foregoing indemnity and hold harmless obligations shall include, without limitation,

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. Notwithstanding this provision for Indemnity, any claims for damages or losses arising from Covid-19 claims are excluded from this Indemnity and shall be covered by the City indemnity set forth in 5.2.4 below, regardless of whether City might obtain a waiver of COVID-19 from Guests in favor of the City.

5.2.2 In addition to Hotel's obligation to indemnify City, Hotel specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claims, lawsuits, and/or demands of any kind which actually or potentially falls within this indemnification provision, even if the claims, lawsuits, and/or demands of any kind are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Hotel by City and continues at all times thereafter.

5.2.3 Hotel shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret, or any other proprietary right or trademark, and all other intellectual property claims, lawsuits, and/or demands of any kind of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Hotel's Rooms and Services.

5.2.4 City shall indemnify and hold harmless Hotel and its officers, directors, agents, and employees from, and, if requested, shall immediately defend them from and against, any and all claims, demands, losses, damages, costs, expenses, and liability or potential liability (legal, contractual, or otherwise) arising directly or indirectly in any way from City's performance of this Agreement ,including but not limited to any claims from any parties against Hotel or Its Ownership based upon or arising out of COVID-19 except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except to the extent that such loss, damage, injury, liability or claim was caused by the gross negligence or willful misconduct of Hotel, in which case damages shall be apportioned pro rata under the California doctrine of comparative fault. City's foregoing indemnity and hold harmless obligations shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Hotel's costs of investigating any claims against the Hotel.

Article 6 Liability of the Parties

6.1 Liability of City.

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1 and 5.2.4, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE ROOMS AND SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

6.2 Liability for Use of Equipment. (Reserved)

6.3 Liability of Hotel.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL HOTEL BE LIAB/LE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES,

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.
HOTEL'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE ROOMS AND SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT SHALL BE CAPPED IN THE AGGREGATE AT AN AMOUNT NOT TO EXCEED 1.5 TIMES THE AMOUNT FOR THE ROOMS AND SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT. HOTEL'S MAXIMUM LIABILITY LIMIT SET FORTH IN THIS PARAGRAPH SHALL NOT APPLY TO:

(1) DAMAGES CAUSED BY HOTEL'S GROSS NEGLIGENCE (FOR PURPOSES OF THIS SECTION, "GROSS NEGLIGENCE" SHALL MEAN A WANT OF EVEN SCANT CARE OR EXTREME DEPARTURE FROM THE ORDINARY STANDARD OF CONDUCT) OR WILLFUL MISCONDUCT;

(2) HOTEL'S OBLIGATION TO INDEMNIFY AND DEFEND CITY PURSUANT TO THE GENERAL INDEMNIFICATION AND INFRINGEMENT INDEMNIFICATION PROVISIONS HEREIN;

(3) DAMAGES THAT ARISE FROM THE UNAUTHORIZED USE OR DISCLOSURE OR FAILURE TO MAINTAIN CONFIDENTIALITY OF CITY'S INFORMATION IN THE POSSESSION OR CONTROL OF HOTEL (DATA BREACH), INCLUDING ALL OF CITY'S RELATED COSTS OF INVESTIGATION AND NOTIFICATION, AND STATUTORY FINES AND PENALTIES;

(4) WRONGFUL DEATH CAUSED BY HOTEL; AND

(5) CLAIMS COVERED BY THE INSURANCE BUT EXCLUDING ANY COVID -19 RELATED CLAIMS WHICH SHALL BE COVERED BY CITY'S INDEMNITY AND SELF INSURANCE.

.

Article 7 Payment of Taxes

City shall reimburse Hotel for all local sales, hotel and use taxes actually incurred and paid by Hotel in connection with this Agreement; provided sales tax on items provided as part of any food service plan shall be included in the cost of the food service plan. Hotel shall apply for an exemption from the payment of hotel (transient occupancy) taxes with respect to Rooms and Services provided under this Agreement. http://www.sftreasurer.org/sites/default/files/2020-04/Hotel Exemption COVID-19 Form Rev 4.2.2020.pdf. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Hotel. Hotel recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. If taxes are owed by City under this Agreement, then Hotel will specify the amount due independent from any charges for the Rooms and Services.

7.1 **Withholding. (Reserved)**

Article 8 Termination and Default

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

8.1 **Expiration of Local Emergency / Termination for Convenience**

8.1.1 This Agreement shall expire of its own accord on the expiration date set forth in Section 2.1. In addition, City shall have the option, in its sole discretion with not less than 30 days' written notice, to terminate this Agreement, at any time during the term hereof, for convenience. City shall also have the option, in its sole discretion and without penalty of any kind, to terminate this Agreement upon a determination by the City that Hotel is unable to continue to provide the Rooms and Services described in Appendix A or otherwise in this Agreement. In any case, the City shall provide written notice that specifies the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, Hotel shall commence and perform, with diligence, all actions necessary on the part of Hotel to effect the termination of this Agreement on the date specified by City and to minimize the liability of Hotel and City to third parties as a result of termination. All such actions of Hotel shall be subject to the prior approval of City. Within 30 days after the specified termination date, Hotel shall submit to City an invoice. City's payment obligation under this Section shall survive termination of this Agreement.

8.1.3 Upon expiration (or earlier termination) of this Agreement, the City shall peacefully surrender the Property to the Hotel in substantially as good order and condition and repair as when received, except for reasonable, ordinary use and wear thereof. For avoidance of doubt, damage to the Property's furniture, fixtures, equipment, walls, windows, doors, ceilings or floors shall not constitute reasonable, ordinary use and wear. The City shall ensure, at no cost to the Hotel, that all its employees, guests, and invitees have completely vacated the Property prior to the expiration (or earlier termination) of this Agreement, and the City shall thoroughly clean and disinfect all areas of the Rooms and Common Public Areas utilized by City or its employees, guests and invitees during the term of this Agreement, as contemplated in Appendix A. If the City fails to surrender the Property to Hotel (a) on the date required, and (b) in the condition required hereunder, after the expiration of any applicable notice and cure periods the City will be liable for all reasonable out of pocket costs incurred by the Hotel (or third parties under contract with the Hotel) to repair or restore the Property to the required condition to satisfy City's surrender obligations hereunder.

8.1.4

8.2 **Termination for Default; Remedies.**

8.2.1 City may terminate this Agreement for Hotel's default in the event that Hotel fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default is not cured within thirty (30) calendar days after written notice thereof from City to Hotel ("**Event of Default**").

8.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Hotel any Event of Default; Hotel shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Hotel under this Agreement or any other agreement between City and Hotel: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Hotel pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.3 **Non-Waiver of Rights.**

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

The omission by either Party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other Party at the time designated, shall not be a waiver of any such default or right to which the Party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

8.4 **Rights and Duties upon Termination or Expiration.**

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

Article 3	Financial Provisions		11.9	Agreement Made in California; Venue
Article 5	Insurance and Indemnity		11.10	Construction
6.1	Liability of City		11.11	Entire Agreement
6.3	Liability of Hotel		11.12	Compliance with Laws
Article 7	Payment of Taxes		11.13	Severability
Article 8	Termination and Default		Article 13	Data and Security

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect.

Article 9 Rights In Deliverables (Reserved)

Article 10 Additional Requirements Incorporated by Reference

10.1 **Laws Incorporated by Reference.**

The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco_ca/

10.2 **Conflict of Interest.**

By executing this Agreement, Hotel certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

10.3 **Prohibition on Use of Public Funds for Political Activity. (Reserved)**

10.4 **Consideration of Salary History. (Reserved)**

10.5 **Nondiscrimination Requirements.**

In the performance of this Agreement, Hotel covenants and agrees that it will not discriminate against an applicant for employment because of race, color, religion, sex, age, ancestry, national origin, sexual orientation, handicap, veteran's status, medical condition, marital status, or citizenship because of habit, local custom, or otherwise. All applicants for employment and employees are to be treated without regard to their race, color, religion, sex, age, ancestry, and national origin, sexual orientation, handicap, veteran's status, medical condition, marital status, or citizenship. Such equal treatment shall apply, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.6 **LBE and Non-Discrimination in Contracting Ordinance. (Reserved)**

10.7 **Minimum Compensation Ordinance. (Reserved)**

10.8 **Health Care Accountability Ordinance.**

10.9 **First Source Hiring Program. (Reserved)**

10.10 **Alcohol and Drug-Free Workplace.**

City reserves the right to deny access to, or require Hotel to remove from, City facilities personnel of any Hotel or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

10.11 **Limitations on Contributions. (Reserved)**

10.12 **Slavery Era Disclosure. (Reserved)**

10.13 **Working with Minors. (Reserved)**

10.14 **Consideration of Criminal History in Hiring. (Reserved)**

10.15 **Public Access to Nonprofit Records and Meetings. (Reserved)**

10.16 **Food Service Waste Reduction Requirements. (Reserved)**

10.17 **Distribution of Beverages and Water. (Reserved)**

10.18 **Tropical Hardwood and Virgin Redwood Ban. (Reserved)**

10.19 **Preservative Treated Wood Products. (Reserved)**

Article 11 General Provisions

11.1 **Notices to the Parties.**

Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To CITY: Human Services Agency
170 Otis Street
San Francisco, CA 94103
Attn: Robert E. Walsh
e-mail: Robert.walsh@sfgov.org

And: City Attorney's Office
1390 MARKET STREET
7TH FLOOR

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

SAN FRANCISCO, CA 94102 e-mail: <PM e-mail>
ATTN.: HEALTH TEAM

To Hotel: SHIN INTERNATIONAL, INC.
655 ELLIS STREET
SAN FRANCISCO, CA 94109 e-mail: simon@covahotel.com

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 **Compliance with Americans with Disabilities Act.**

Hotel shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 **Incorporation of Recitals.**

The matters recited above are hereby incorporated into and made part of this Agreement.

11.4 **Sunshine Ordinance.**

Hotel acknowledges that this Agreement and all records related to its formation, Hotel's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

11.5 **Modification of this Agreement.**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement.

11.6 **Dispute Resolution Procedure.**

The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Hotel may submit to the Contracting Officer a written request for administrative review and documentation of the Hotel's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Hotel of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Hotel shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

11.7 **Government Code Claim Requirement.**

No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Hotel's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

11.8 Health and Human Service Dispute Resolution Procedure. (Reserved)

11.9 Agreement Made in California; Venue.

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

11.10 Construction.

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

11.11 Entire Agreement.

This contract sets forth the entire Agreement between the Parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, "Modification of this Agreement."

11.12 Compliance with Laws.

Hotel shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

11.13 Severability.

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

11.14 Cooperative Drafting.

This Agreement has been drafted through a cooperative effort of City and Hotel, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

11.15 Order of Precedence.

Hotel agrees to perform the services described below in accordance with the terms and conditions of this Agreement, implementing task orders, and the attached Appendices. If the Appendices to this Agreement include any standard printed terms from the Hotel, Hotel agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the City's terms and Hotel's printed terms attached, the City's terms shall take precedence.

11.16 Notification of Legal Requests.

Hotel shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("Legal Requests") related to all data given to Hotel by City in

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

the performance of this Agreement ("City Data" or "Data"), or which in any way might reasonably require access to City's Data, and in no event later than 24 hours after it receives the request. Hotel shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement.

Article 12 Department Specific Terms

12.1 Third Party Beneficiaries.

No third parties are intended by the parties hereto to be third party beneficiaries under this Agreement, and no action to enforce the terms of this Agreement may be brought against either party by any person who is not a party hereto.

12.2 Federal and State Financial Participation (Reserved)

Article 13 Data and Security

13.1 Nondisclosure of Private, Proprietary or Confidential Information.

13.1.1 **Protection of Private Information.** If this Agreement requires City to disclose "Private Information" to Hotel within the meaning of San Francisco Administrative Code Chapter 12M, Hotel and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Hotel is subject to the enforcement and penalty provisions in Chapter 12M.

13.1.2 **Confidential Information.** In the performance of Services, Hotel may have access to City's proprietary or Confidential Information, the disclosure of which to third parties may damage City. If City discloses proprietary or Confidential Information to Hotel, such information must be held by Hotel in confidence and used only in performing the Agreement. Hotel shall exercise the same standard of care to protect such information as a reasonably prudent Hotel would use to protect its own proprietary or Confidential Information.

13.2 Payment Card Industry ("PCI") Requirements. (Reserved)

13.3 Protected Health Information.

Hotel, all subcontractors, all agents and employees of Hotel and any subcontractor shall comply with all federal and state laws regarding the transmission, storage and protection of all private health information disclosed to Hotel by City in the performance of this Agreement. Hotel agrees that any failure of Hotel to comply with the requirements of federal and/or state and/or local privacy laws shall be a material breach of the Agreement. In the event that City pays a regulatory fine, and/or is assessed civil penalties or damages through private rights of action, based on an impermissible use or disclosure of protected health information given to Hotel or its subcontractors or agents by City, Hotel shall indemnify City for the amount of such fine or penalties or damages, including costs of notification. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Agreement.

Article 14 Official Actions Relating to the Emergency; FEMA Assistance

14.1 Orders of Local, State or Federal Officials.

City and Hotel mutually acknowledge that local, state, or federal authorities may issue official orders related to the COVID-19 epidemic, or take other official actions, subsequent to the execution of this Agreement that Parties to this Agreement cannot presently predict. City and Hotel mutually acknowledge and agree that this Agreement shall be subject to the provisions of any such official action or order ("Official Actions"), as they may be revised and updated. If the

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

provisions of any such Official Actions materially impact the terms of this Agreement, the provisions of those Official Actions shall govern. Hotel shall stay updated on the status of the City Health Officer orders by checking the Department of Public Health website (sfdph.org) regularly. Hotel is strongly encouraged to post a copy of relevant Health Officer orders onsite and to provide a copy to any member of the public asking for a copy.

14.2 **FEMA Assistance**.

This is an acknowledgement that FEMA financial assistance will be requested by City and if provided will be used to fund all or a portion of this Agreement. Hotel shall comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives, including the FEMA Emergency & Exigency Contracts Requirements attached hereto as Appendix D and incorporated herein by reference.

Article 15 MacBride And Signature

15.1 **MacBride Principles -Northern Ireland.**

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Hotel confirms that Hotel has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

DocuSigned by:
By: Trent Rhorer
9758A8870BB74EE...
Trent Rhorer
Executive Director
Human Services Agency

Recommended by:

DocuSigned by:
Andrico Penick
3441150C0387459...
Andrico Q. Penick
Director of Property

Approved as to Form:

Dennis J. Herrera
City Attorney

DocuSigned by:
By: David Ries 5/15/2020
DEF1B6C5BE4204A...
David R. Ries
Deputy City Attorney

HOTEL

SHIN INTERNATIONAL, INC.
a California corporation

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

Supplier ID: [Supplier ID, if available]

Appendices

A: Rooms and Scope of Services
B: Calculation of Charges
C: Invoice (if applicable)
D: FEMA Emergency & Exigency Contracts Requirements
E: Food Service

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Appendix A
Rooms and Scope of Services

[See attached]

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

APPENDIX A – STATEMENT OF WORK
95 ROOMS – ISOLATION SERVICES
COMMON AREA SERVICES (NO IN-ROOM CLEANING REQUIRED)

Summary

The City and County of San Francisco (the "City") is taking aggressive steps to slow the spread of the COVID-19 virus. At the same time, the City is making preparations for the expected increase in the number of affected people in the City and has identified a need to arrange for the use of hotel rooms to further the health and safety of people, including those who have or may have been exposed to COVID-19 and front-line responders, all as further described below.

This need arises against the backdrop of sharply dropping hotel occupancy and, in some cases, closure of hotels and furloughed hotel workforces. The City recognizes the importance of the hospitality industry to San Francisco's economy and eventual recovery and would like to structure this public-private partnership as a win-win-win: responsibly addressing the COVID-19 outbreak, providing participating civic-minded hotels with a revenue stream in excess of what the private market can offer during this time, and ensuring work and wages to the City's hotel labor force to the maximum extent possible.

Populations to be Housed

Hotel will house the following populations during the Term:

1. ☒ **Isolation Rooms (To remain in rooms except limited instances)**: In order to minimize the spread of the COVID-19 virus, the City plans to provide quarantine rooms to individuals whose current housing situation does not allow them to self-quarantine at home (the "Isolation Rooms").
    a. ☒ **Not Positive**: Those residents who have come in close contact with a COVID-19 positive individual but have not been tested, or who have been tested and are awaiting results; and
    b. ☒ **Positive**: Those residents who have been tested positive for COVID-19 but do not have a medical need to be hospitalized.
2. ☒ **Self-Isolation Rooms**:
    c. ☒ **Worker Rooms/Vulnerable Population:** City will use the rooms to further the public health and safety in connection with its response to the Local Emergency by sheltering (a) people within vulnerable populations who have not knowingly tested positive for the Covid-19 virus and are not under medical quarantine; or (b) health care workers and first responders. This group will be encouraged to self-isolate, but will not be quarantined.

Definitions

As used herein, the following terms have the following meanings:

1. **"Contractor"** anyone employed by City to perform under this Agreement.
2. **"Guest"** means a person housed in an Isolation Room or Self-Isolation Room.
3. **"Invitee"** means any person other than a Guest permitted by City to enter the Property.
4. **"Property"** means the interior and exterior of the Hotel property.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

HOTEL SCOPE OF SERVICE

In no event shall the Hotel Services exceed the limits of any applicable collective bargaining agreement with respect to Hotel employees described herein.

a. ☒ **Hotel Contact**	Name: Nathan Fafard Phone Number: 415-771-3000 ext. 148 / 415-400-9431 Email: Nathan.fafard@covahotel.com Emergency Contact: Nathan Fafard
b. ☒ **Guest Rooms**	Hotel shall provide the following number(s) of Guest rooms ☒ Standard Single Occupancy w/full bathroom **90** ☐ Standard Single Occupancy w/out full bathroom_____ ☒ ADA Accessible Single Occupancy w/full bathroom **5** ☐ Smoking permitted ☐ Other _____
c. ☒ **Staff Rooms**	Hotel shall provide the following number(s) of Staff rooms for City's use: ☒ Administrative/Office(s) _____ ☒ Storage Space(s) _____ ☒ Other ___Basement/Semi-private dining space____
d. ☒ **Guest Room Access**	Guest Rooms are accessed by: ☒ Elevator ☒ Stairs ☐ Other _____
e. ☒ **Hotel Staff Guest Room Access**	Hotel on-site staff will have the following access to Guest rooms ☐ **NO ACCESS** ☐ Access For Cleaning ☒ Access For Food Service (delivered outside in corridor) ☒ Access For Emergency Maintenance As-Needed ☐ Other _____
f. ☒ **Utilities**	Hotel to provide: ☐ Air Conditioning – Central ☐ Air Conditioning – In Room

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

	☒ Heating ☒ Ventilation ☒ Cable Television ☒ Internet Access ☐ Refrigerator in room ☒ Inter-Hotel Room Telephone Service (by room number, not guest name) ☒ Inbound calling (by room number, not guest name) ☒ Outbound calling capability (no calls resulting in charges). ☐ Other _____
g. ☒ **Common Area Maintenance**	Hotel to provide exterior, common area, and public restroom maintenance and cleaning ☐ Daily ☒ As needed, at least 3x Weekly, including corridors and pick-up and disposal of trash bagged and/or in receptacles left in public hallway outside Guest rooms and in common areas ☐ Other _____
h. ☒ **Guest Room Maintenance**	Hotel to provide Guest room maintenance upon request. Before performing work, City will vacate and clean room where repairs are to occur. ☐ Other _____
i. ☒ **Service Desk**	Hotel to provide on-site 24/7 Service Desk for public area maintenance and repairs. Maintenance and repairs to occur ASAP within a reasonable time frame. ☐ Other _____
j. ☒ **Room Blocks**	Hotel to provide guestroom keys to be created in group batches and handed to the on-site City representative for check-in and check-out purposes. ☐ Other _____
k. ☒ **Food Service**	Hotel to provide food service as follows: ☐ Restaurant/Common Room Service ☐ In-Room Service ☒ Other Food Service Meal Plan
l. ☒ **Linen Service**	Hotel to provide linen service as follows:

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

	☐ Daily Laundry ☐ In-Room Service ☒ Other As-needed Linen Service for Guest Rooms
m. ☐ **Room Cleaning**	Hotel to provide in-room cleaning service as follows: ☐ Daily ☐ 3x Weekly ☐ Other _____
n. ☒ **Garbage Removal**	☒ Hotel to provide as-needed regular trash removal from the Property
o. ☒ **Supplies**	Hotel to provide access to the following at reasonable levels: ☐ Laundry Facilities and supplies (Note: small washers for staff clothes) ☒ Housekeeping supplies (carts, vacuums, cleaning supplies, guest toiletries) ☐ Other _____
p. ☐ **Guest Amenities**	Hotel to provide Guests with access to the following amenities: ☐ Business Center ☐ Pool ☐ Spa ☐ Fitness Center ☐ Public Restrooms ☐ Grab and Go/Vending Machines ☐ Ice Machines ☐ Storage Facilities ☐ Other _____
q. ☒ **City Staff Amenities**	Hotel to provide City Staff with access to the following amenities: ☐ Business Center ☐ Pool ☐ Spa ☐ Fitness Center ☒ Public Restrooms

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

	☐ Grab and Go/Vending Machines ☒ Ice Machines ☒ Storage Facilities ☐ Other _____
r. ☒ **Security**	☒ Hotel to provide its standard level of Hotel security City shall provide additional security, as appropriate.
s. ☒ **Parking**	☒ Hotel shall provide 5 parking spaces at no cost for City's use. ☒ Other - At the request of City, additional parking shall be provided at $26 for 24 hours per car in and out as desired.
t. ☒ **Room Condition Documentation**	City must notify Hotel in writing of any needed repairs before the initial occupancy of a Guest room and within 48 hours of occupying any other Hotel Space. ☒ Guest Rooms ☐ Kitchen ☐ Spa ☐ Fitness Center ☐ Public Restrooms ☐ Grab and Go/Vending Machines ☐ Ice Machines ☐ Storage Facilities: ☐ Other _____

CITY SCOPE OF SERVICE

a. ☒ **City Site Manager** *With notice, City may change Manager contact information.*	Name: Robert Walsh Phone Number: (415) 271-1201 Email: Robert.walsh@sfgov.org Emergency Contact: Same
b. ☒ **Clinical Manager** *With notice, City may change Manager contact information.*	Name: *[If blank, use Site Manager name]* Phone Number: *[If blank, use Site Manager number]* Email: *[If blank, use Site Manager email]* Emergency Contact: *[If blank, use Site Manager name]*
c. ☒ **Training**	City will provide on-site safety training as appropriate for City staff and Hotel staff

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

d. ☒ **PPE**	City will provide PPE as appropriate for City staff and Hotel staff.
e. ☒ **Staff Dining**	City will provide staff dining, as appropriate (may be included in any meal plan)
f. ☒ **On-Site Staff**	City will provide on-site staff, as appropriate.
g. ☒ **Securit**y	City will provide supplemental on-site security, as appropriate. City acknowledges that Hotel security will be minimal, if any, so City to provide security for its purposes.
h. ☒ **Guest List**	City will maintain a Guest list. As appropriate, City personnel will be responsible for assigning Guest rooms.
i. ☒ **Emergency Plan**	City will develop an emergency evacuation plan and protocol, as appropriate.
j. ☐ **Linens/Towels**	As necessary, City will be responsible for collecting, cleaning and returning all linens, towels and similar products used in the Rooms.
k. ☒ **Third-Party Vendors**	City may contract with the following third-party vendors for the following services: ☐ Hotel Laundry (linens and towels) ☒ Guest Laundry (clothing) ☒ Guest Room Transition Cleaning ☐ Guest Room Daily Garbage Pickup ☒ Food Service ☐ Garbage Disposal ☐ Other _____
l. ☒ **Guest Room Use**	The City will make all determinations, acting in its sole discretion, regarding who may be Guests and appropriate visitation policies.
m. ☒ **Room Cleaning**	Before the end of the Term, City shall, at its sole expense, clean any Guest rooms occupied by City, as deemed appropriate by the City acting in its sole discretion, but in accordance with CDC requirements. City will certify to Hotel in writing or email that such cleaning has occurred.
n. ☐ **Linen Cleaning**	Before the end of the Term, City shall, at its sole expense, clean all linens used by the City, as deemed appropriate by the City acting in its sole discretion.
o. ☒ **Hotel Improvements**	Hotel shall permit City to make improvements as needed to the Property. Any improvements made by City to the Property (which may only be made

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

	with the prior written consent of the Hotel) shall inure to and remain the property of Hotel.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Appendix B
Calculation of Charges

1. Maximum Not-to-Exceed Amount of Agreement

a. Total Not-to-Exceed Compensation - **$5,230,724** (b. + c. + d)

b. Not-to-Exceed Compensation without Reimbursable Amount - **$2,739,325** ($79 * 95 * 365)

c. Not-to-Exceed Reimbursable Amount (15% of amount in b.) - **$410,899**

d. Not-to-Exceed Reimbursable Amount for Food Service (Appendix E) - **$2,080,500**

2. Method of Payment

A. Hotel shall submit monthly invoices by the fifteenth (15th) business day of each month, in the format attached in Appendix C, based upon the number of Rooms and Services provided in the immediately preceding month (other than the Compensation, which shall be invoiced for the current month). All deliverables associated with the Rooms and Services listed in Appendix A shall be reported on the invoice(s) each month.

B. Hotel acknowledges that City cannot make any payments to Hotel unless Hotel is qualified as an approved vendor in City's financial and payment system. Therefore, City will not be in default of any monetary obligation under the Agreement and no interest or late charge will apply if Hotel is not an approved vendor with City. All Compensation that has accrued while Hotel is not an approved vendor will be payable within twenty (20) days after City receives Hotel's written notice and the Contract Monitoring Division confirms that Hotel is approved as a City Vendor.

3. Compensation and Final Invoice

A. Hotel agrees to comply with its Program Budgets of Appendix B in the provision of Services. Changes to the budget that do not increase or reduce the maximum dollar obligation of the City are subject to the provisions of the Department of Public Health Policy/Procedure Regarding Contract Budget Changes. Hotel agrees to comply fully with that policy/procedure.

B. A final closing invoice, clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of the Agreement, and shall include only those Services rendered during the referenced period of performance.

4. No invoices for Services provided by law firms or attorneys, including, without limitation, as subcontractors of Hotel, will be paid unless the provider received advance written approval from the City Attorney.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Appendix C
Invoice Template

[To be inserted, if applicable]

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Appendix D
FEMA Emergency & Exigency Contracts Requirements

1. Precedence of FEMA Requirements. This contract may be eligible for FEMA funding. FEMA requires inclusion of the following contract provisions for procurement under exigent or emergency circumstances. In the event of a conflict between this appendix and other provisions of the Agreement that address the same or a similar requirement, the provisions that are stricter and impose the greater duties upon Hotel shall apply.

2. Work Hours and Safety Standards. Hotel agrees as follows:

A. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (A) of this section Hotel and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Hotel and subcontractor(s) shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of $26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

C. **Withholding for unpaid wages and liquidated damages.** The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Hotel or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.

D. **Subcontracts.** Hotel or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Hotel shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

E. **Exceptions.** This Section 5 does not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence

3. Clean Air Act. Hotel agrees as follows:

A. Hotel agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

B. Hotel agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. Hotel agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. Federal Water Pollution Act. Hotel agrees as follows:

A. Hotel agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

B. Hotel agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. Hotel agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. Debarment and Suspension. Hotel agrees as follows:

A. To the extent this contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, Hotel is required to verify that none of Hotel's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

B. To the extent this contract is a covered transaction, Hotel must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the City. If it is later determined that Hotel did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

D. Hotel agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of any contract that may arise from this offer. Hotel further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. Procurement of Recovered Materials

A. In the performance of this contract, Hotel shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

i. Competitively within a timeframe providing for compliance with the contract performance schedule;
ii. Meeting contract performance requirements; or
iii. At a reasonable price.

B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

C. Hotel also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

7. Department of Homeland Security Seal, Logo, and Flags. Hotel shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

8. Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. Hotel will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

9. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the City, Hotel, or any other party pertaining to any matter resulting from the contract.

10. Program Fraud and False or Fraudulent Statements or Related Acts. Hotel acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Hotel's actions pertaining to this contract.

11. Byrd Anti-Lobbying Certification.

A. Hotels who apply or bid for an award of $100,000 or more shall file the required certification pursuant to the Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352, as amended. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

B. If this contract is for a price of $100,000 or more, Hotel, and its lower tiers, must sign and submit to the City the following certification:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

//
//

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

//
//
Shin International, Inc. ("Hotel"), certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Hotel understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

SHIN INTERNATIONAL, INC.

Signature of Hotel's Authorized Official

Simon Sin, GM & Owner

Name and Title of Hotel's Authorized Official

5/15/2020

Date

DocuSign Envelope ID: F5838899-570E-46FA-8036-C51653DB8C7D

Appendix E
Food Service by Hotel

The Hotel and City are working in good faith to develop and incorporate a food service program to not exceed the greater of $60 per room night and/or $2,080,500 (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 E.