[Agreement Amendment - Shin International, Inc. - Cova Hotel - Waiver of Certain Administrative, Labor and Employment, and Environment Code Requirements - Not to Exceed $16,032,443]

Ordinance authorizing the Department of Homelessness and Supportive Housing ("HSH") to amend the booking agreement with Shin International, Inc., the operator of the Cova Hotel, to increase the not to exceed amount by $3,414,393 for a total amount not to exceed $16,032,443 and to extend the term of the agreement by seven months from August 31, 2024, for a new term of May 26, 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 purposes of the agreement.

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

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

Section 1. Background and Findings.

(a) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in response to the COVID-19 pandemic (the "Proclamation"). On May 11, 2020, the Mayor issued the Thirteenth Supplement to the Proclamation, authorizing City departments to enter 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 authority of the Thirteenth Supplement, the Human Services Agency ("HSA") entered into an

Emergency Hotel Booking Agreement with Shin International Inc., operator of the Cova Hotel ("Cova Hotel Booking Agreement"), HSA Contract No. 1000018023.

(b) On February 19, 2021, the Mayor issued the Thirty-Fifth Supplement to the Proclamation authorizing departments to extend the terms of COVID-19 related emergency contracts up to 12 months, without including terms otherwise required by the Administrative and Environment Codes. Under the Authority of the Thirty-Fifth Supplement, HSA extended the Cova Hotel Booking Agreement until February 28, 2022, and increased the total not-to-exceed amount to $6,926,272.

(c) On February 10, 2022, the Mayor issued the Forty-Fifth Supplement to the Proclamation, authorizing HSA to amend any emergency hotel booking agreement in place as of February 10, 2022, to extend the term of such agreements to August 31, 2022. The Forty-Fifth Supplement also provided that any further contract extensions would require approval by the Board of Supervisors. Under the authority of the Forty-Fifth Supplement, HSA amended, the Cova Hotel Booking Agreement to extend the term through August 31, 2022, and increased the total not-to-exceed amount to $8,514,330.

(d) In Ordinance No. 167-22, the Board of Supervisors authorized HSA to extend the terms of several booking agreements through August 31, 2023. Under the Authority of Ord. No.167-22, HSA amended the Cova Hotel Booking Agreement to increase the amount by $2,870,981 for a new not-to-exceed amount of $11,385,311, with a term through August 31, 2023, and to extend the waiver of the provisions in the Administrative and Environment Codes that HSA previously waived under the authority of the Mayor's Supplements to the Proclamation.

(e) On September 1, 2022, HSA executed a Fourth Amendment to the Cova Hotel Booking Agreement that amended the Appendix B to add a surcharge of $2.83 per room/day

for the period commencing on September 1, 2022 to be paid from contingency, for a total not-to-exceed amount of $11,385,311 as authorized by Ordinance 167-22.

(f) On January 1, 2023, HSA assigned the Cova Hotel Booking Agreement to the Department of Homelessness and Supportive Housing ("HSH") for continued use as 95 units of non-congregate shelter for adults experiencing homelessness in order to maintain stable housing for individuals who might otherwise be discharged to the streets.

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

(h) On July 27, 2023, the City adopted Ordinance No. 148-23 that amended the Cova Hotel Booking Agreement to increase the amount by $2,918,942 for a new not-to-exceed amount of $14,304,253, extend the term by 12 months through August 31, 2024, and extend the waiver of the provisions in the Administrative and Environment Codes that HSA previously waived under the authority of the Mayor's Supplements to the Proclamation.

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

(j) The Administrative Code, Labor and Employment Code (which did not exist as a distinct component of the Municipal Code until recently), and Environment Code typically require that new and amended contracts include provisions requiring the contractor to adhere

to various City policies. Requiring Shin International, Inc. to comply with these requirements as a condition of extending the agreement would likely impose costs and delays that would further impede HSH's ability to provide uninterrupted non-congregate shelter units. It is therefore in the public interest to waive certain of the requirements in those Codes.

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

(a) Pursuant to Charter Section 9.118(b), the Board of Supervisors hereby approves the Sixth Amendment to the Cova Hotel Booking Agreement, to increase the not-to-exceed amount by $3,414,393 for a new not-to-exceed amount of $16,032,443, and to extend the contract term from August 31, 2024, through March 31, 2025.

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

(c) The Board of Supervisors authorizes HSH to enter into any additional amendments to the Cova Hotel Booking Agreement approved pursuant to this Section 2 that HSH determines, in consultation with the City Attorney, are in the best interest of the City, do not further extend the term of the agreement or increase the not-to-exceed amount stated in this

ordinance, do not otherwise materially increase the obligations or liabilities of the City, are necessary or advisable to effectuate the purposes of the agreement, and are in compliance with all applicable laws.

(d) Within 30 days of the Agreement being fully executed by all parties, HSH shall provide the executed Agreement to the Clerk of the Board of Supervisors for inclusion in File No. 240632.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
ADAM RADTKE
Deputy City Attorney

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