

CONTRACT SUMMARY SHEET

TO: THE OFFICE OF THE CITY CLERK,
COUNCIL/PUBLIC SERVICES DIVISION
ROOM 395, CITY HALL

DATE: 03/25/2021

(PLEASE DO NOT STAPLE THE CONTRACT FOR THE CLERK'S FILE)

FORM MUST BE TYPEWRITTEN

FROM (DEPARTMENT): General Services, Real Estate Services Division

CONTACT PERSON: Wayne Lee PHONE: 213-978-8342

CONTRACT NO.: C-136072 COUNCIL FILE NO.: 19-0563

ADOPTED BY COUNCIL: _____
DATE

APPROVED BY BPW: _____
DATE

NEW CONTRACT _____
AMENDED AND RESTATED _____
ADDENDUM NO. _____
SUPPLEMENTAL NO. _____
CHANGE ORDER NO. _____
AMENDMENT 2

CONTRACTOR NAME: Mayfair Lofts, LLC

TERM OF CONTRACT: 03/27/2021 THROUGH: 08/31/2021

TOTAL AMOUNT: Subject to change based on occupancy

PURPOSE OF CONTRACT:

Second amendment to the Mayfair Lofts Occupancy Agreement part of Project Roomkey.

NOTE: CONTRACTS ARE PUBLIC RECORDS - SCANNED AND UPLOADED TO THE INTERNET

SECOND AMENDMENT TO EMERGENCY OCCUPANCY
AGREEMENT (CONTRACT # _____)
BETWEEN THE CITY OF LOS ANGELES
AND MAYFAIR LOFTS LLC

This Second Amendment to Emergency Occupancy Agreement (Contract # _____) (“Second Amendment”), dated for reference purposes as of _____, 2021, is entered into by and between the City of Los Angeles, a municipal corporation, acting by and through its Department of General Services (“City”), and Mayfair Lofts LLC, a California limited liability company (“Owner”).

RECITALS

- A. On or about _____, 2020, City and Owner entered into an Emergency Occupancy Agreement (Contract # _____) (“Occupancy Agreement”), pursuant to which Owner granted City the right to use and occupy rooms at the Mayfair Hotel (“Hotel”), located at 1256 West 7th Street, Los Angeles, CA 90017, in accordance with the terms and conditions of the Occupancy Agreement.
- B. Pursuant to the terms of the Occupancy Agreement, City has exercised three (3) options to extend the Term (as defined in the Occupancy Agreement), which is currently scheduled to expire on January 12, 2021.
- C. On or about _____, City and Owner amended the Occupancy Agreement to extend the Term to March 26, 2021, and to revise the schedule of minimum guaranteed rent to be paid by City to Owner (“Second Amendment”).
- D. City and Owner wish to amend the Occupancy Agreement to extend the Term to August 31, 2021, and to revise further the schedule of minimum guaranteed rent to be paid by City to Owner, along with other changes, as more particularly set forth in this Second Amendment.

AGREEMENT

1. **Amendments.** In consideration of the promises and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by each party hereto, City and Owner agree that the Occupancy Agreement be amended effective as of the Amendment Date (defined below) as follows:

A. **Premises Description.** The description of the premises, as provided in Paragraph 1 of the Occupancy Agreement and Exhibit A thereto, is hereby amended to make the following changes: (i) the number of guest rooms is reduced from two hundred ninety-four (294) rooms to two hundred seventy-eight (278) rooms; and (ii) the pool deck is expressly excluded from the premises.

B. **Term.** The Term of the Occupancy Agreement is hereby extended through August 31, 2021, with no additional options to extend the Term.

C. **Rent.** Paragraph 4 of the Occupancy Agreement is hereby amended to provide in its entirety as follows:

4. Rental payments shall be paid by the City on the 1st and 15th day of each calendar month during the Term and during any holdover period, from legally available funds, in arrears (based on an invoice provided by Owner to the City at least thirty (30) business days prior to the payment due):

(a) During the first two (2) weeks (i.e., 14 calendar days) of the Term (the “First Two Weeks”), the rent paid by the City shall be \$138 times the actual number of room nights occupied by the City or its invitees during the First Two Weeks, plus any transient occupancy taxes

actually impose on such occupancy (“TOT”);

(b) After the First Two Weeks and through January 11, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 206 rooms (given that the City has agreed to guarantee payment on a minimum 70% occupancy of the 294 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT (this guaranteed amount, the “Minimum Guaranteed Rent”);

(c) From January 12, 2021, through February 14, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 221 rooms (given that the City has agreed to guarantee payment on a minimum 75% occupancy of the 294 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT; and

(d) From February 15, 2021, through February 28, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 147 rooms (given that the City has agreed to guarantee payment on a minimum 50% occupancy of the 294 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT; and

(e) From March 1, 2021, through March 17, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 103 rooms (given that the City has agreed to guarantee payment on a minimum 35% occupancy of the 294 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT; and

(f) From March 18, 2021, through March 26, 2021, the rent paid by the City shall be \$138 times the actual number of room nights occupied by the City or its invitees, plus any transient occupancy taxes actually impose on such occupancy (“TOT”); and

(g) From March 27, 2021, through July 25, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 209 rooms (given that the City has agreed to guarantee payment on a minimum 75% occupancy of the 278 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT; and

(h) From July 26, 2021, through August 8, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights

occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 139 rooms (given that the City has agreed to guarantee payment on a minimum 50% occupancy of the 278 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT; and

(i) From August 9, 2021, through August 17, 2021, the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 98 rooms (given that the City has agreed to guarantee payment on a minimum 35% occupancy of the 278 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT; and

(j) From August 18, 2021, through August 31, the rent paid by the City shall be \$138 times the actual number of room nights occupied by the City, plus any transient occupancy taxes actually impose on such occupancy (“TOT”). If, however, on any date after August 18, 2021, there is a COVID-19 outbreak among City occupants at the Hotel such that they cannot be reasonably relocated therefrom, the Term shall be extended by two (2) weeks from such date, and the rent paid by the City for any given payment period within that window of time shall be the greater of: (i) \$138 times the actual number of room nights occupied by the City or its invitees during that payment period, plus any applicable TOT and (ii) \$138 times 84 rooms (given that the City has agreed to guarantee payment on a minimum 30% occupancy of the 278 rooms during this portion of the Term) times the number of days in that payment period, plus any applicable TOT.

With respect to each reference to \$138 above, if the subject room has two (2) occupants rather than one (1) occupant, such amount would instead be \$156.

When the City’s occupancy of the Hotel is below 35% of the 278 rooms (i.e., fewer than 98 rooms), the Owner shall not be contractually obligated under this Occupancy Agreement to provide food and beverages to City guests and staff notwithstanding anything to the contrary herein.

Owner shall provide a monthly invoice to the City by sending an email to GSD.Projectroomkey@lacity.org, citing each room occupied, multiplied by the number of days actually occupied in that month, and then multiplied by the daily room rate or the aforementioned minimum guaranteed rent (“Minimum Guaranteed Rent”), as applicable. Rent shall be paid to Owner at the address specified in Paragraph 5 or to such other address as the Owner may designate by a notice in writing.

Invoices to City shall be sent to:

City of Los Angeles
c/o Department of General Services
Real Estate Services Division
Suite 201, City Hall South
111 East First Street
Los Angeles, CA 90012
Attention: Director of Real Estate Services

D. **Sprinkler System Repairs and Upgrades.** During the Term of the Occupancy Agreement, the Hotel intends to repair and upgrade its sprinkler system. The Hotel requires that a floor on which such construction work is being actively performed be vacant of guests. Accordingly, onsite Hotel staff and City agents (i.e., the homeless service provider) shall coordinate in a good-faith effort to vacate one (1) floor at a time, each for a period of two (2) weeks.

E. **Option to Extend Term.** So long as City is not then in uncured default under the Occupancy Agreement, the First Amendment, or this Second Amendment, City shall have the right and option to extend the Term by an additional sixty (60) days through October 30, 2021. City shall notify Owner of its election to exercise such option no later than August 16, 2021.

2. **Defined Terms.** Each capitalized term used herein shall have the same meaning as given to such terms in the Occupancy Agreement and the First Amendment unless expressly superseded by the terms of this Second Amendment.

3. **Occupancy Agreement Effective.** City and Owner agree that the Occupancy Agreement and the First Amendment and all of their terms, as modified by this Second Amendment, remain in full force and effect, and City and Owner hereby affirm and reaffirm the Occupancy Agreement and the First Amendment, as modified by this Second Amendment. Except as set forth in this Second Amendment, all of the terms and provisions of the Occupancy Agreement and the First Amendment shall remain unmodified and in full force and effect.

4. **Entire Agreement.** This Second Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. In case of any inconsistency between the provisions of the Occupancy Agreement, the First Amendment, and this Second Amendment, the provisions of this Second Amendment shall govern and control.

5. **Headings.** The headings in this Second Amendment are inserted for convenience of reference only and shall not affect the interpretation of this Second Amendment.

6. **Representation and Warranty.** Each of City and Owner represents and warrants to the other that, as to itself, (i) it has the full right and authority to enter into this Second Amendment, and (ii) this Second Amendment and all instruments, documents and agreements to be executed by such party in connection herewith are, or when delivered shall be, duly authorized, executed and delivered by it and are, or when delivered shall be, valid and enforceable obligations of such party.

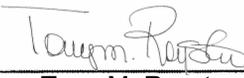
7. **Counterparts; Electronic Signatures.** This Second Amendment and any other document necessary for the consummation of the transaction contemplated by this Second Amendment may be executed in counterparts, including both counterparts that are executed on paper and counterparts that are in the form of electronic records and are executed electronically. An electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or e-mail electronic signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Second Amendment and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called pdf format shall be legal and binding and shall have the same full force and effect as if a paper original of this Second Amendment had been delivered and had been signed using a handwritten signature. Owner and City (i) agree that an electronic signature, whether digital or encrypted, of a party to this Second Amendment is intended to authenticate this writing and to have the same force and effect as a manual signature, (ii) intended to be bound by the signatures (whether original, faxed or electronic) on any document sent or delivered by facsimile or, electronic mail, or other electronic means, (iii) are aware that the other party will rely on such signatures, and (iv) hereby waive any defenses to the enforcement of the terms of this Second Amendment based on the foregoing forms of signature. If this Second Amendment has been executed by electronic signature, all parties executing this document are expressly consenting under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and California Uniform Electronic Transactions Act ("UETA") (Cal. Civ. Code § 1633.1, et seq.), that a signature by fax, email or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the dates written below.

CITY:

CITY OF LOS ANGELES, a municipal corporation,
acting by and through its Department of General
Services

By: 
Name: Tony M. Royster
Title: General Manager
Date: March 17, 2021

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: 
Name: Sara Batian
Title: Deputy City Attorney
Date: 3-9-2021

ATTEST:

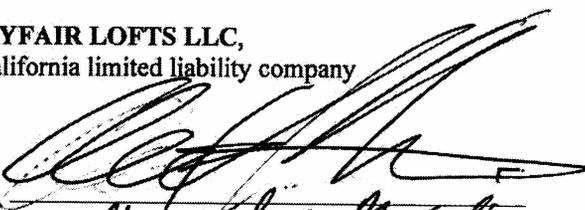
HOLLY L. WOLCOTT, City Clerk

By:  
Deputy
Date: 3-16-21

Date: 3/8/21

OWNER:

MAYFAIR LOFTS LLC,
a California limited liability company

By: 
Name: Alexander Moradi
Its: Manager