

32279

**FIRST AMENDMENT TO
AGREEMENT TO NEGOTIATE EXCLUSIVELY**

Property address: the property bounded by
East Broadway, Elm Avenue, East 3rd Street and Alamo Court
(excluding buildings fronting on Third Street)
(Assessor Parcel Nos.: 7281-017-900, -901 and -907)

THIS FIRST AMENDMENT TO AGREEMENT TO NEGOTIATE EXCLUSIVELY ("First Amendment") is entered into as of this 28th day of JUNE, 2011, by and among the REDEVELOPMENT AGENCY OF THE CITY OF LONG BEACH, CALIFORNIA, a public body corporate and politic ("Agency"), THE CITY OF LONG BEACH, a chartered city ("City") and CITY VENTURES, LLC, a Delaware limited liability company ("Developer").

RECITALS

A. Agency and Developer entered into that certain Agreement to Negotiate Exclusively dated as of June 22, 2010, in connection with the purchase and development of property bounded by East Broadway, Elm Avenue, East 3rd Street and Alamo Court ("Property"). Capitalized terms used in this Amendment shall have the same meanings ascribed to them in the Agreement unless expressly defined otherwise herein.

B. Pursuant to the Agreement, the Exclusive Negotiating Period expired on June 22, 2011.

C. The parties by this Amendment intend to provide for an additional extension to the Exclusive Negotiating Period, to add City as a party hereto, to amend the description of the "Property," and for certain other amendments as set forth below.

1. NEGOTIATIONS

Paragraph 1, Negotiations, is hereby amended in its entirety to read as follows:

During the term of this Agreement, the Agency, City and Developer (or an entity owned or controlled by the Developer) agree to negotiate in good faith regarding the terms and conditions of a Disposition and Development Agreement ("DDA") among Agency, City and Developer concerning the purchase and development of property bounded by East Broadway, Elm Avenue, East 3rd Street and Alamo Court, Assessor Parcel Nos.: 7281-017-900, -901, and -907, as more particularly shown on the revised Site Map (Revised Exhibit A). The Property no longer includes the buildings fronting on Third Street. The Property is located within the Downtown Long Beach Redevelopment Project Area in the

City of Long Beach. During the term of this Agreement, the Agency agrees not to negotiate with or solicit any other person or entity regarding the acquisition and development of the Property without the written consent of the Developer. Nothing in this Agreement shall be deemed a covenant, promise or commitment by the Agency, the City, or any agency of the City, with respect to the acquisition of the property or the approval of any development on the Property proposed by Developer or the sale of the Property to Developer. This Agreement is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof; the Agency and Developer reserve their final discretion and approval with respect to future agreements and approvals relating in any way to the Property. The Developer shall not assign this Agreement without the prior written approval by the Agency and City, which approval may be withheld at the sole and complete discretion of the Agency and City.

2. NEGOTIATION PERIOD

Paragraph 2, Negotiation Period, is hereby amended to read in its entirety as

follows:

Agency, City and Developer agree to negotiate exclusively from the date hereof until December 22, 2011 (the "Exclusive Negotiation Period") for the purpose of determining whether to enter into a DDA for the purchase and development of the Property and, if so, the terms and conditions of such DDA. At the request of Developer, and provided that Developer has met its performance milestones under this Agreement, the Executive Director may, in his or her absolute discretion, extend the Exclusive Negotiation Period not more than two times for up to ninety (90) days each extension. If, upon expiration of the Exclusive Negotiation Period (including extensions, if any), a DDA has not been approved and executed by both the Agency and the Developer (or an entity owned or controlled by the Developer), then this Agreement shall automatically terminate, the Developer shall have no further rights regarding the subject matter of this Agreement or the Property, and the Agency shall be free to negotiate with any other person or entity with regard to the Property.

Provided, however, that if Developer has executed a DDA and Agency staff has agreed to place, or has placed, such DDA on the agenda for consideration by the Agency's Board, Agency's Executive Director may, in his or her sole option, if required agree in writing to further extend the Exclusive Negotiation Period for an additional thirty (30) days.

3. PROPOSED DEVELOPMENT

Paragraph 3, Proposed Development, Subparagraph A, Development Plan, is hereby amended to read in its entirety as follows:

The proposed development to be negotiated hereunder shall be a residential project consisting of approximately 44 residential units. Developer shall be solely responsible for the construction costs of the proposed project, unless expressly agreed otherwise by Agency. Neither City nor Agency, nor any of their officers, employees or agents has provided any direct or indirect information which in any way would indicate that the proposed project is or is not subject to the State of California's prevailing wage requirements.

4. Schedule of Performance

Paragraph 3, Proposed Development, Subparagraph B, Schedule of Performance, is hereby amended to read in its entirety as follows.

Attached hereto as Revised Exhibit B is a Revised Schedule of Performance (2011) indicating the dates by which the parties are to have accomplished their tasks.

5. IMPACT OF THIS AMENDMENT

Except as expressly amended by this Amendment, all provisions of the Agreement shall remain in full force and effect.


(Signatures follow)

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Agreement to Negotiate Exclusively – City Ventures, LLC

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THE PARTIES have executed this First Amendment as of the date first written
above.

REDEVELOPMENT AGENCY OF THE CITY OF
LONG BEACH, CALIFORNIA, a public body
corporate and politic

By: 
Name: ROBERT M. ZUERCHER
Its: ASSISTANT EXECUTIVE DIRECTOR

THE CITY OF LONG BEACH, CALIFORNIA, a
chartered city


Assistant City Manager

By: 
Name: Patrick H. West
Its: City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

Approved as to form this 28 day of
June, 2011.

ROBERT E. SHANNON, City Attorney of
the City of Long Beach, California and
general counsel of the Redevelopment
Agency of the City of Long Beach

By: 
Assistant

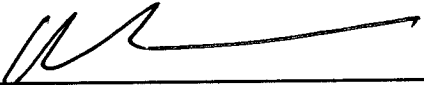
(Signatures continue)

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DEVELOPER

CITY VENTURES, LLC a Delaware limited liability
company

By: 
Name: MARK BUCKLAND
Its: CEO

By: _____
Name: _____
Its: _____



EXHIBIT A - SITE MAP



Disclaimer

DISCLAIMER OF DATA ACCURACY: The services provided on this web site are intended for informational purposes only and the GIS data used is compiled from various sources and is subject to constant change. While reasonable effort has been made to ensure the accuracy of the data, the information provided herein may be inaccurate or out of date.

REVISED EXHIBIT B

REVISED SCHEDULE OF PERFORMANCE (2011)

1. Payment – Good Faith Deposit. Completed.
Developer shall pay the Good Faith Deposit to Agency.
2. Developer Access to the Property. Ongoing.
Agency and City shall provide Developer with access to the Property.
3. Inspect Environmental Condition of the Property. Completed.
Developer shall perform such tests and inspections as Developer determines to be prudent.
4. Completion of Appraisal. Agency shall have completed its appraisal of the Property and reviewed the conclusions with the Developer. Within 90 days after execution of this Agreement by Agency.
5. Submission – Pro Forma Budget. Completed.
Developer shall submit to Agency its pro forma budget for the Project.
6. Submission – Public Art Concept. Within 90 days after execution of this Agreement by Agency.
Developer shall submit to Agency its public art concept for compliance with Agency's Percent for Public Art Program.
7. 35% Entitlement Drawings. Within 90 days after execution of this Agreement by Agency
Developer shall submit to Agency its 35% entitlement drawings
8. Preliminary Evidence of Financing. Within 90 days after execution of this Agreement by Agency.
Developer shall have submitted to Agency its preliminary evidence of financing.
9. 100% Entitlement Drawings. Within 90 days after execution of this Agreement by Agency.
Developer shall submit to Agency its 100% entitlement drawings.

10. CEQA. City shall review Project and find it in compliance with CEQA through the updated and certified Downtown Plan and Program EIR, or notify Developer of areas in which Project is not in compliance and circulate a notice of determination for a mitigated negative declaration, if required.
- Within 30 days after the Downtown Plan is certified by the City Council.
11. Purchase Price. The parties shall have agreed upon a purchase price and payment terms for the Property.
- Within 180 days after execution of this Agreement by Agency.
12. Approval - Condition of the Property. Developer shall have approved the condition of the Property.
- Within 180 days after execution of this Agreement by Agency.
13. Approval – Pro Forma Budget. The Executive Director shall have approved Developer's pro forma budget for the Project.
- Within 180 days after execution of this Agreement by Agency.
14. Approval – Preliminary Evidence of Financing. The Executive Director shall have approved Developer's preliminary evidence of financing.
- Within 30 days after Developer submits preliminary evidence of financing.
15. Execution of DDA. Developer shall have executed and submitted to Agency for its approval a DDA.
- Provided that the Exclusive Negotiation Period is extended, within 270 days after execution of this Agreement by Agency.