

May 19, 2020

R-18

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager, or designee, to execute an amendment to Contract No. 34242 with Plenary Properties Long Beach, LLC, of Los Angeles, CA, modifying the conditions of final occupancy. (District 2)

DISCUSSION

On December 15, 2015, the City Council approved an agreement (Agreement) with Plenary Properties Long Beach, LLC (Plenary), for the design, build, finance, operation, and maintenance of a new Civic Center, including a City Hall, Main Library, Port of Long Beach Headquarters, and revitalized Lincoln Park (Project). Over the past three years, the Project team has worked to construct modern and efficient facilities that meet the requirements of City operations. Plenary met the Project completion date and delivered the buildings on June 30, 2019. Demolition of the old Main Library is underway in preparation for development of a new Lincoln Park (Park), which is scheduled to be complete by September 30, 2021.

As specified in the Agreement, the old City Hall site (Mid-block site) is to be transferred to Plenary (or its approved assignee) for development of a private mixed-use project. Entitlements for the Mid-block site were approved by the Planning Commission at its meeting on March 19, 2020. The project includes 580 residential units, of which 58 units are affordable, and 35,000 square feet of retail space. The Mid-block site development also includes construction of Cedar Avenue between Ocean Boulevard and Broadway to further improve access throughout the downtown area.

Conveyance of the Mid-block site was scheduled to be finalized in April 2020; however, due to the economic impacts of the COVID-19 pandemic, the planned development has stalled. Plenary has requested the City acknowledge these impacts and extend the conveyance timeline. Plenary believes its development partner will have a clearer understanding of the financial markets and its ability to fund the construction of the private development by the fourth quarter of 2020.

Plenary has also requested the City modify a portion of the Agreement related to the required reimbursement to the City of allowance account funding. At Project financial close in April 2016, the City temporarily funded \$7.375 million for the Civic Center project allowance accounts related to Project design modifications. The \$7.375 million was scheduled to be repaid to the City upon the final occupancy date, which aligns with the completion of Lincoln Park. The delay in conveyance of the Mid-block site and associated economic impacts, have created funding challenges for the construction of Lincoln Park. Plenary is asking that the timing for the repayment of the allowance account funding be aligned with the conveyance of the Mid-block or the long-

stop date of September 30, 2022, whichever comes first. Plenary states this is necessary to continue with progress on the construction of Lincoln Park.

In consideration for the requested change, City staff negotiated several additional safeguards to ensure construction timelines are met. These include liquidated damages if Lincoln Park is not completed by September 30, 2021; payment of \$1 million for construction of Cedar Avenue if the Mid-Block site conveyance is not completed by the long-stop date; and, provisions for the City to retain the Mid-block site as collateral for repayment of the contingency allowance accounts.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on April 29, 2020 and by Revenue Management Officer Geraldine Alejo on May 6, 2020.

TIMING CONSIDERATIONS

City Council action is requested on May 19, 2020, to allow for the timely development of the new Lincoln Park.

FISCAL IMPACT

The City advanced \$7.375 million to Plenary to fund the contingency allowance accounts. This advance was planned to be repaid by November 2020 (the original Civic Center final occupancy date) but was later modified to September 30, 2021 to accommodate construction delays associated with demolition of the old Main Library. The recommendation modifies the refunding language to align with the conveyance of the Mid-block site. If the conveyance is completed in the fourth quarter of 2020 as Plenary hopes, the City will be repaid a year earlier than is currently required. However, although the intent and expectation is that Plenary will repay the City, there would be no legal requirement for them to do so. If Plenary fails to make the repayment by September 2022, the City will retain ownership of the Mid-block site and will be able to sell the Mid-block and retain the proceeds from the sale. Staff believes the scenario of the City not being repaid and instead retaining ownership of the Mid-block site, while possible, is unlikely because the value of the Mid-block site is expected to remain significantly greater than the \$7.375 million owed, even when considering the cost of the old City Hall demolition. The City is responsible for costs associated with maintenance of the Mid-block site until it is conveyed to Plenary or sold to a different entity, so the potential extension of the time for conveyance increases these City costs beyond what had initially been anticipated.

Due to the shift in the repayment timeframe to as late as September 2022, with no assurance that payment will be made (even though it is expected), Financial Management cannot rely on the receipt of the \$7.375 million to the Civic Center Fund and cannot treat it as funds available to be spent. As a result, with the approval of this agreement, the Civic Center Fund funds available (money available to be appropriated and spent) will change from a positive \$2.4 million to a negative \$5.0 million. It is the position of Financial Management that as a result of this change, the Civic Center Fund will have limited financial capacity and will not be able to fund any Civic Center improvement projects until and unless the \$7.375 million is repaid. However, since it is

HONORABLE MAYOR AND CITY COUNCIL

May 19, 2020

Page 3

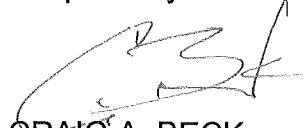
reasonably likely that the \$7.375 m will be repaid by September 2022, major corrective actions do not necessarily need to be taken.

The amendment to the Civic Center Agreement will have no impact to the previously approved Service Fee for operations. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. Construction of Lincoln Park falls under the Civic Center Project Labor Agreement, which prioritizes the hiring of local construction workers.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



CRAIG A. BECK
DIRECTOR OF PUBLIC WORKS

APPROVED:



THOMAS B. MODICA
CITY MANAGER