



CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

411 West Ocean Boulevard • Long Beach, CA 90802 • (562) 570-6711 FAX (562) 570-7650

April 10, 2020

34242

Plenary Properties Long Beach LLC
555 W. Fifth St., Suite 3150
Los Angeles, California 90013
Attn: Stuart Marks

Re: Final Completion Deadlines - Project Agreement Contract Administration
Memorandum No. 8

Dear Mr. Coulter:

Reference is hereby made to that certain Project Agreement dated as of April 20, 2016 ("Project Agreement") executed by and among the City of Long Beach ("City"), the Port of Long Beach ("Port"), and Plenary Properties Long Beach LLC ("Project Company"). This letter agreement constitutes a Contract Administration Memorandum as that term is defined and described in Section 28.7 of the Project Agreement. All initially-capitalized terms used herein which are not otherwise defined shall have the meanings given them in the Project Agreement.

The City and the Port are in receipt of the letter from the Project Company dated October 29, 2019, in regards to a request for, among other things, extension of the Final Completion Deadline for the City Hall Building, the Shared Rooms, the Library, the Port Facilities and the Shared Facilities. In response to such letter, the City, the Port and the Project Company agree as follows.

The City, the Port and the Project Company agree to extend the Final Completion Deadline for each of the Facilities noted below, pursuant to the terms and conditions noted below.

1. Notwithstanding anything to the contrary contained in Section 7.19(B) of the Project Agreement, the Final Completion Deadline date for each respective Facility shall be as follows:

- a. Library – May 31, 2020
- b. Port Facilities – May 31, 2020
- c. Shared Facilities – May 15, 2020
- d. City Hall Building – June 5, 2020
- e. Shared Rooms – August 15, 2020

The City and the Port acknowledge that the Project Company cannot complete the landscaping surrounding the Fire and Police Memorial ("Memorial") until the City's third-party contractor finishes installation of the Memorial. Upon completion of installation of the Memorial, City shall so advise the Project Company, and the Project Company shall thereafter have 120 days within which to complete such landscaping.

2. The City, the Port and the Project Company acknowledge that the correction of defective Design-Build Work and the completion of warranty work can, under certain circumstances, take place after achievement of Final Completion in respect of a Facility. Such correction and warranty work shall be performed in accordance with Section 7.16 of the Project Agreement.

Resolution of the following ongoing issues shall not be considered conditions precedent to Final Completion of any Facility; provided, however that the Project Company shall continue to be obligated to address these matters, among others, in accordance with the Project Agreement:

- a. New Parking Facility leaks as noted in the Port Notice of Defect dated August 28, 2019.
- b. Elevator performance concerns as noted in the Port Notice dated September 18, 2019.
- c. Temperature and air pressurization concerns in the City Hall Building and Port Administration Building.
- d. City Hall AV credenzas temperature concerns.
- e. Humidity control in City Data Center.
- f. As-Built drawings and associated documentation.
- g. Past, present and future QFM work orders. QFM is the Computer-aided Facility Management software employed by Project Company to enter and track Service Work Orders to be addressed by the Project Company.

3. The City and the Port agree that they will not exercise their respective rights as outlined in Section 8.6(E) of the Project Agreement as such rights relate to incomplete Punch List Items until after the Final Completion Deadline for each respective Facility as noted in Section 1; provided, however that the City and the Port reserve the right to rescind the Final Completion Deadline extensions evidenced by this Contract Administration Memorandum and enforce their full rights under the Project Agreement (including without limitation rights outlined in Section 8.6(E)) should the City and/or the Port reasonably determine that the Project Company and/or the Design-Builder are not actively pursuing completion of the remaining Punch List Items.

4. In respect of the City Hall Building, the Shared Rooms, and the Library, the Project Company shall not release any further retention to the Design-Builder until the first of such Facilities achieves Final Completion. Retention applicable to each Facility shall thereafter be released on a Facility-by-Facility basis as each Facility achieves Final Completion.

5. In respect of the Port Facilities and the Shared Facilities, the Port shall not release to any further retention to the Project Company until the first of such Facilities achieves Final Completion. Retention applicable to each Facility shall thereafter be released on a Facility-by-Facility basis as each Facility achieves Final Completion.

6. The City and the Port reserve the right to seek compensation from the Project Company for direct costs incurred by either or both parties as a result of providing an extension to the Final Completion Deadline for the City Hall Building, the Shared Rooms, the Library, the Port Facilities and the Shared Facilities. It is understood that the City and the Port have incurred no such costs as of the date of this Contract Administration Memorandum No. 8.

7. The City and the Port reserve all other rights in the Project Agreement.

CITY OF LONG BEACH

APPROVED AS TO FORM

4-13, 2020
CHARLES PARKIN, City Attorney

By [Signature]
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

APPROVED AS TO FORM AND RETURNED

APR 14 2020

CHARLES PARKIN, City Attorney
By [Signature]
DEPUTY CITY ATTORNEY

By: [Signature]
Thomas B. Modica
City Manager

CITY OF LONG BEACH, ACTING BY AND
THROUGH ITS BOARD OF HARBOR
COMMISSIONERS

By: [Signature]
Mario Condero
Executive Director
Long Beach Harbor Department

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

Acknowledged and Agreed:

PLENARY PROPERTIES LONG BEACH LLC

By: [Signature]
Joshua Coulter
Project Company Representative

cc:

Gillian Schloss