

SECOND AMENDMENT TO CONVEYANCE AGREEMENT

35331

THIS SECOND AMENDMENT TO CONVEYANCE AGREEMENT ("Amendment") is entered into on August 13, 2020, between the City of Long Beach (the "City") pursuant to a minute order adopted by its City Council on May 19, 2020, and Plenary Properties Long Beach LLC, a limited liability company organized and existing under the laws of the State of Delaware (the "Project Company" or "Developer").

RECITALS

A. The City and the Project Company are parties to that certain Conveyance Agreement dated as of April 20, 2016 (the "Conveyance Agreement"), as the same has been amended by that certain First Amendment to Conveyance Agreement dated as of March 24, 2020, pursuant to which the City has agreed to convey to the Project Company certain real property referred to as the "Mid-Block Site" and more particularly described therein. The Conveyance Agreement is executed in connection with that certain Project Agreement for the Design, Construction, Financing, Operation, and Maintenance of the New Long Beach City Hall, New Main Library, New Port of Long Beach Headquarters Building and Revitalized Lincoln Park by and between the City and the Project Company dated as of April 20, 2016 (as amended, the "Project Agreement"), as the same has been amended by that certain First Amendment thereto dated as of July 18, 2017, that certain Second Amendment thereto dated as of March 24, 2020, and that certain Third Amendment thereto dated as of even date herewith (the "Third Amendment to Project Agreement"). All initially capitalized terms used herein, which are not otherwise defined, shall have the meaning given them in the Conveyance Agreement.

B. In connection with the conveyance and development of the Site, the parties wish to amend certain provisions of the Conveyance Agreement.

SECTION 1. ALLOWANCE ACCOUNT REIMBURSEMENT OBLIGATIONS

Section 2.2(j) of the Conveyance Agreement is added as follows:

"(j) Developer or Approved Assignee has satisfied its obligations pursuant to Section 12.1(H)(11) of the Project Agreement."

SECTION 2. REMEDIATION; INDEMNIFICATION AND REIMBURSEMENT AGREEMENT

"Section 2.11.5 of the Conveyance Agreement is amended and restated in its entirety to read as follows:

"City shall, at its own cost, use its best efforts to treat or manage up to 10,000 cubic yards of impacted soil on the Site as disclosed by that certain Phase II Report dated July 13, 2015 prepared by Amec Foster Wheeler. In connection therewith, City shall, at its own cost, complete the foregoing remediation work and cause the issuance of a "no further action" letter ("NFA Letter") from the Certified Unified Permitting Agency (CUPA) with respect to such impacted soil on or before the date of conveyance of the Site, or if it is unable to obtain an NFA Letter at the time of conveyance of the Site, City shall have entered into an indemnification and reimbursement agreement with Developer or Approved Assignee generally in the form attached to the Third Amendment to Project Agreement. If necessary, Developer or Approved Assignee shall reasonably cooperate with City so that its demolition and grading activities accommodate the City's remediation obligations hereunder. After the Close of Escrow, and whether or not City has provided any of the disclosures set forth above, it shall be Developer's or Approved Assignee's (if applicable) responsibility to remedy any other environmental, soil or geologic condition at its cost."

Section 2.3(k) of the Conveyance Agreement is amended and restated in its entirety to read as follows:

“k. City shall have obtained a “no further action” letter (“NFA Letter”) from the Certified Unified Permitting Agency (CUPA) with respect to City’s obligation to remediate soils on the Site as described in Section 2.11.5, or if it is unable to obtain an NFA Letter at the time of conveyance of the Site, City shall have entered into an indemnification and reimbursement agreement with Developer or Approved Assignee generally in the form attached to the Third Amendment to Project Agreement.”

SECTION 3. CEDAR AVENUE, LIBRARY LOADING DOCK, AND PERMANENT LINCOLN GARAGE RAMP

Section 3.1(5) of the Conveyance Agreement is amended and restated in its entirety to read as follows:

“(5) in connection with the development of the Site, Developer shall construct, in accordance with the Project Agreement, 1st Street between Cedar Avenue and Chestnut Avenue, and complete the construction of Cedar Avenue between Broadway and W. Ocean Boulevard. The construction of Cedar Avenue shall include street paving, striping, sidewalks, curbs, gutters and drainage, and shall be completed no later than three (3) years after the issuance of an excavation and shoring permit for the development of the Site. On or before the date on which the City issues street improvement permits in respect of the construction of Cedar Avenue, Developer or Approved Assignee shall post a completion guarantee bond in favor of the City in the amount of the estimated cost of the construction of Cedar Avenue and otherwise in form and substance reasonably acceptable to the City.”

SECTION 4. DEMOLITION OF THE OLD CITY HALL BUILDING

Section 3.1(6) of the Conveyance Agreement is added as follows:

“(6) Developer or Approved Assignee shall obtain the demolition permit contemplated in Section 2.2(f) within four (4) months of conveyance of the Site, and Developer or Approved Assignee shall demolish and remove the Old City Hall Building no later than one (1) year after issuance of the demolition permit.”

SECTION 5. WATER LINE EASEMENT

Section 3.1(7) of the Conveyance Agreement is added as follows:

“(7) Developer or Approved Assignee shall execute and deliver a water line easement, generally in the form attached to the Third Amendment to Project Agreement, to be recorded immediately after the deed conveying the Site and before any deeds of trust or other instruments encumbering the Site.”

SECTION 6. TERMINATION OF AGREEMENT FOR FAILURE TO SATISFY ALLOWANCE ACCOUNT REIMBURSEMENT OBLIGATIONS

Section 10 of the Conveyance Agreement is added as follows:

“The Parties acknowledge that pursuant to Section 12.1(M) of the Project Agreement, if Developer or Approved Assignee has not satisfied the Allowance Account Reimbursement Obligations by the City

Longstop Date, this Agreement shall immediately terminate, and Developer or Approved Assignee shall relinquish all rights to acquire the Site pursuant to this Agreement, and in such event Developer or Approved Assignee shall have no further obligations under this Agreement.”

SECTION 7. CONTINUING EFFECTIVENESS.

Except as herein amended the Conveyance Agreement shall remain unchanged and in full force and effect.

SIGNATURES APPEAR ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the parties have caused this First Amendment to Conveyance Agreement to be executed by their duly authorized representatives as of the date first written above.

CITY OF LONG BEACH

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

By: Linda F. Tatum
Name: LINDA F. TATUM
Title: ASST. CITY MANAGER

PLENARY PROPERTIES LONG BEACH LLC

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM

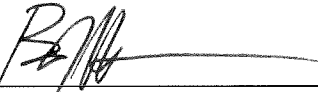
7-27-2020
CHARLES PARKIN, City Attorney
By: [Signature]
RICHARD ANTHONY
DEPUTY CITY ATTORNEY


IN WITNESS WHEREOF, the parties have caused this Second Amendment to Conveyance Agreement to be executed by their duly authorized representatives as of the date first written above.

CITY OF LONG BEACH

By: _____
Name: _____
Title: _____

PLENARY PROPERTIES LONG BEACH LLC

By:  _____
Name: Brian Budden
Title: Director

By:  _____
Name: Stuart Marks
Title: Director