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PURCHASERS' DIRECT AGREEMENT (CITY)

for the

NEW LONG BEACH CITY HALL, NEW MAIN LIBRARY, NEW PORT OF LONG BEACH  
HEADQUARTERS BUILDING AND REVITALIZED LINCOLN PARK

between

CITY OF LONG BEACH

and

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

and

PLENARY PROPERTIES LONG BEACH LLC

and

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

Dated April 20, 2016

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## PURCHASERS' DIRECT AGREEMENT (CITY)

This PURCHASERS' DIRECT AGREEMENT (CITY) (this "Agreement") is made and entered into as of April 20, 2016, by and among the City of Long Beach (the "City"), the City of Long Beach, acting by and through the Board of Harbor Commissioners (in such capacity, the "Port"), and Plenary Properties Long Beach LLC, a limited liability company, organized and existing under the laws of the State of Delaware and authorized to do business in the State of California (the "Project Company") and U.S. Bank National Association, acting as collateral agent for the Secured Parties (as defined below) pursuant to the Note Purchase Financing Documents (as defined below) (the "Agent").

### RECITALS

The City, the Port and the Project Company have entered into the Project Agreement (as such term is defined below);

Pursuant to the Note Purchase Agreement (defined below), the Purchasers (defined below) have agreed, subject to the terms and conditions contained therein, to purchase from the Project Company certain notes in connection with the financing of the construction of the City Facilities (as defined in the Project Agreement) and the Shared Rooms (as defined in the Project Agreement, collectively the "City Projects") and the financing of the payment described in Section 6.1(D) of the Project Agreement; and

It is a condition precedent to the obligations of the Purchasers under the Note Purchase Agreement that this Agreement be executed and delivered by the parties.

NOW, THEREFORE, in consideration of the mutual promises and agreements of the parties herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

### ARTICLE 1

#### DEFINITIONS AND INTERPRETATION

SECTION 1.1 DEFINITIONS. Unless otherwise specified or the context otherwise requires, capitalized but otherwise undefined terms in this Agreement shall have the respective meanings given to such terms in the Project Agreement, and:

"**Agent**" has the meaning set forth in the introductory paragraph to this Agreement.

"**Agent's Cure Notice**" has the meaning set forth in Section 3.9.

"**Agent's Cure Period**" has the meaning set forth in Section 3.9.

"**Agent's Indicative Notice**" means either an Agent's Indicative Step-In Notice or an Agent's Indicative Transfer Notice given in accordance with Section 3.4.

"**Agent's Indicative Step-In Notice**" has the meaning given to it in Section 3.4.

“**Agent’s Indicative Transfer Notice**” has the meaning given to it in Section 3.4.

“**Agent’s Step-In Notice**” means a notice given by the Agent to the City pursuant to Section 4.1.

“**Agent’s Step-Out Notice**” has the meaning given it in Section 5.1.

“**Agent’s Withdrawal Notice**” has the meaning set forth in Section 3.5.

“**Agreement**” means this agreement including any recitals, schedules and appendices to this agreement, as amended, supplemented or restated from time to time.

“**Antecedent Liabilities**” means, as at any time:

(1) all amounts due and payable by the Project Company to the City under the Project Agreement at such time; and

(2) all obligations which should have, but have not, been performed and outstanding liabilities of the Project Company under the Project Agreement with respect to the City Projects at such time.

“**Appointed Representative**” means the Purchasers’ Representative identified in an Agent’s Step-In Notice.

“**Bankruptcy Law**” means the United States Bankruptcy Code, 11 U.S.C. 101 et seq., as amended from time to time and any successor statute thereto. “Bankruptcy Law” shall also include any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers or the liquidation of companies and estates that are unable to pay their debts when due.

“**Bankruptcy Officer**” means any trustee, receiver, liquidator, sequestrator, administrator or other custodian in connection with the bankruptcy of the Project Company or any of its assets.

“**Bankruptcy Proceedings**” means any:

(1) formal step (including petition, proposal, application, convening of a meeting or other proceeding) taken with a view to or for the purpose of considering;

(2) appointment of an Bankruptcy Officer in connection with;

(3) order or resolution passed in connection with; or

(4) formal agreement reached regarding,

(a) a dissolution, bankruptcy, receivership, winding-up, liquidation, administration or other similar proceedings or any other proceeding seeking a stay of proceedings, reorganization, debt arrangement, compromise of the claims of creditors or any distribution of assets in respect of the Project Company (whether voluntary or involuntary) made or commenced by any party under any Bankruptcy Law; or (b) any distress, attachment, sequestration or execution or other similar

process affecting any of the assets of the Project Company or any other similar process or event occurring in relation to the Project Company's assets in any other jurisdiction.

**"City Projects"** has the meaning set forth in the Recitals.

**"City Project - Project Company Event of Default"** means a Project Company Event of Default with respect to the City Projects, which for the avoidance of doubt shall include all Project Company Events of Default that could give rise to a right of the City to terminate or partially terminate the Project Agreement.

**"City's Event Notice"** means a notice given by the City to the Agent under Section 3.1.

**"City's Termination Notice"** means a notice given by the City to the Agent under Section 3.2.

**"Design-Build Agreement"** means that certain Design-Build Agreement, dated as of April 20, 2016, by and among the Project Company and the Design-Builder.

**"Design-Builder"** means Clark Construction Group – California, LP, a limited partnership organized and existing under the laws of the State of California.

**"Discharged Obligations"** has the meaning set forth in Section 6.4 hereof.

**"Discharged Rights"** has the meaning set forth in Section 6.4 hereof.

**"Finance Parties"** means the Purchasers, lenders, agents and other finance parties under the Note Purchase Financing Documents.

**"FM Contractor"** means Johnson Controls, Inc., a corporation organized and existing under the laws of the State of Wisconsin.

**"Harbor Department"** means the Harbor Department of the City established pursuant to Section 1200 et seq. of the City Charter, to promote, develop and operate the Port of Long Beach.

**"Indicative Notice Period"** means the period commencing on the date of delivery of an Agent's Indicative Notice and ending on the earlier of:

- (1) the Step-In Date;
- (2) the date of delivery of an Agent's Withdrawal Notice; or
- (3) 180 days following the date of delivery of the Agent's Indicative Notice.

**"Installment Date"** has the meaning given in Section 10.2(2)(d) hereof.

**"Liability Report"** has the meaning given in Section 3.6 hereof.

**“Material Antecedent Liabilities”** means Antecedent Liabilities incurred in connection with the City Projects that are:

- (1) financial liabilities; or
- (2) non-financial liabilities, the breach of which shall trigger any remedy of the City under Article 22 (Project Company Events of Default) of the Project Agreement or Section 27.1 (Project Company’s Obligation to Indemnify) of the Project Agreement.

**“Note Purchase Agreement”** means the Note Purchase Agreement, dated April 20, 2016, between the Project Company and the Purchasers in respect of the Senior Debt.

**“Note Purchase Agreement Event of Default”** means an “Event of Default” as defined in the Note Purchase Agreement.

**“Note Purchase Financing Documents”** means the Note Purchase Agreement and the other financing documents executed in connection therewith, as set forth in Schedule 1 hereto.

**“Notice Period”** means:

- (1) any Agent’s Cure Period;
- (2) any Termination Notice Period; and
- (3) any Indicative Notice Period.

**“Project Agreement”** means the 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, dated as of April 20, 2016, among the City, the Port, and the Project Company.

**“Project Documents”** means, collectively, the Project Agreement and any other agreement (other than this Agreement) entered into from time to time by the City and the Project Company (with or without other parties) in connection with the Project; and “Project Document” means any one of the foregoing.

**“Purchasers”** has the meaning given to it in the Note Purchase Agreement.

**“Purchasers’ Representative”** means:

- (1) the Agent or any Purchaser;
- (2) a receiver of the Project Company appointed under or in connection with the Security Documents; or
- (3) any other person approved by the City (such approval not to be unreasonably withheld or delayed).



“**Reported Antecedent Liabilities**” means the Antecedent Liabilities identified in the Liability Report.

“**Restricted Action**” means the exercise of any right to:

(1) cancel, terminate (including any partial termination), step in, novate, expropriate, condemn, or take any other action that may result in the City having a right to take any such action, with respect to the Project Agreement or the City Projects, as applicable;

(2) cancel, step-in, novate or otherwise assume (whether directly or through a substitute entity) the benefit or burden of the Project Company’s rights against, or obligations to, the Design-Builder, the FM Contractor or any other operator, as the case may be; or any payment or performance bonds or guaranties delivered in connection therewith;

(3) make any claim or take any action or enforce any rights under or in connection with any collateral agreement or security agreement entered into by the City, the Design-Builder, or the Project Company, but does not include the exercise of any of the City’s rights under Section 21.2 (City’s and Port’s Temporary Step-in Rights) of the Project Agreement and the related exercise of its rights under Section 21.3 (City’s and Port’s Rectification Rights) of the Project Agreement; or

(4) issue any notice to the Project Company regarding any of the actions in (1) to (3) above.

“**Revocation of Termination Notice**” means a written notice from the City to the Agent revoking a City’s Termination Notice.

“**Secured Parties**” means the Purchasers, the Collateral Agent and U.S. Bank National Association, as depository account bank.

“**Security Documents**” means one of the security documents executed and delivered pursuant to the Note Purchase Agreement.

“**Senior Debt**” means all amounts due and owing to the Purchasers under the Note Purchase Financing Documents.

“**Senior Debt Discharge Date**” means the date on which the Senior Debt has been fully and irrevocably paid or discharged (whether or not as a result of enforcement) and the Purchasers are under no further obligation to purchase under the relevant Note Purchase Financing Document.

“**Step-In Date**” means five Business Days after delivery of an Agent’s Step-In Notice.

“**Step-In Period**” means, subject to Section 4.3 hereof, the period from the Step-In Date up to and including the earliest of:

(1) the Step-Out Date;

- (2) the date of any transfer under Article 4 hereof;
- (3) the date of any termination under Section 4.5 hereof;
- (4) the Expiration Date; and
- (5) if the Termination Notice was given before the Final City Occupancy Date, the date that is 6 months after the City Longstop Date.

“**Step-Out Date**” means the date that is 20 Business Days after the date of an Agent’s Step-Out Notice.

“**Suitable Substitute Project Company**” means, solely for the purposes of the rights and obligations of the Project Company with respect to the City Projects under the Project Agreement, a person that is not a Restricted Person and that is approved by the City (such approval not to be unreasonably withheld or delayed) as:

- (1) having the legal capacity, power and authority to become a party to and perform the obligations of the Project Company under the Project Agreement; and
- (2) employing persons having the appropriate qualifications, experience and technical competence and having the resources available to it (including committed financial resources and sub-contracts) which are sufficient to enable it to perform the obligations of the Project Company under the Project Agreement.

“**Termination Notice Period**” means the period beginning on the date of giving of a City’s Termination Notice and ending on the earlier of:

- (1) the Step-In Date;
- (2) the date of service of a revocation of a City’s Termination Notice; and
- (3) the proposed Termination Date (subject to the minimum notice requirements under Section 3.2(1)) set forth in the City’s Termination Notice.

## SECTION 1.2 INTERPRETATION.

This Agreement shall be interpreted according to the following provisions, except to the extent that the context or the express provisions of this Agreement otherwise require.

(1) Plurality. Words importing the singular number mean and include the plural number and vice versa.

(2) Persons. Words importing persons include individuals, legal personal representatives, firms, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability partnerships, limited liability companies, trusts, business trusts, corporations, governmental bodies, and other legal entities.

(3) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(4) References Hereto. The terms “hereby,” “hereof,” “herein,” “hereunder” and any similar terms refer to this Agreement.

(5) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated, such as by reference to Business Days. Each reference to time of day is a reference to Pacific Standard time or Pacific Daylight Saving time, as the case may be.

(6) References to Business Days. If the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day.

(7) References to Including. The words “include”, “includes” and including” are to be construed as meaning “include without limitation”, “includes without limitation” and “including without limitation”, respectively.

(8) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, orders, codes of practice or instruments made under the relevant statute.

(9) References to Governmental Bodies. Each reference to a Governmental Body is deemed to include a reference to any successor to such Governmental Body or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such Governmental Body.

(10) References to Documents and Standards. Each reference to an agreement, document, standard, principle or other instrument includes (subject to all relevant approvals and any other provision of this Agreement expressly concerning such agreement, document, standard, principle or other instrument) a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, novated or assigned.

(11) References to All Reasonable Efforts. The expression “all reasonable efforts” and expressions of like import, when used in connection with an obligation of the Purchasers, the Agent, the Appointed Representative or any other Purchasers’ Representative, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party’s obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person’s own benefit.

(12) Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, this Agreement shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions.

(13) Counterparts. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.

(14) Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State.

(15) Severability. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Agreement. If any such provision of this Agreement is held to be invalid, unenforceable or illegal, the parties will promptly endeavor in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Agreement as nearly as possible to its original intent and effect.

(16) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(17) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with generally accepted accounting principles, consistently applied, in the United States.

(18) Consents. Any consent required to be given under this Agreement must be in writing.

## ARTICLE 2

### CONSENT TO SECURITY

SECTION 2.1 CONSENT. The City acknowledges notice of, and (notwithstanding anything to the contrary in the Project Agreement) consents to, the first priority lien and security interest granted by the Project Company in favor of the Finance Parties under the Note Purchase Financing Documents over:

- (1) the Project Company's rights under the Project Agreement and all other Project Documents;
- (2) the Project Company's rights under the Material Contracts;
- (3) the Project Company's interest in any warranties, guarantees, letters of credit or other performance or payment security granted under any Project Contracts or Subcontracts;

- (4) the Project Company's assets, including any cash, securities, investments or balances in any Project Company bank accounts;
- (5) the Project Company's rights to Insurance Proceeds and Insurance Receivables;
- (6) any membership interests in the Project Company, and
- (7) any other Project Company Collateral (as defined in the Note Purchase Financing Documents).

SECTION 2.2 NO NOTICE OF OTHER SECURITY. The City confirms that as of the date of this Agreement it has not received written notice of any other security interest granted over the Project Company's rights described in Section 2.1(1) other than pursuant to the Note Purchase Financing Documents and the Port Facilities Construction Financing Documents.

SECTION 2.3 CITY OBLIGATIONS. Except as specifically provided for in this Agreement, the City has no obligations (whether express, implied, collateral or otherwise) to the Agent or the Purchasers in connection with this Agreement, the Project Agreement, the Note Purchase Financing Documents or the City Projects. All of the obligations and liabilities given, undertaken or arising on the part of the City under this Agreement are given solely to the Agent on behalf of the Purchasers and do not confer any rights on or in favor of the Project Company or any Affiliate of the Project Company or any other person.

SECTION 2.4 CITY'S RIGHTS NOT PREJUDICED. The parties acknowledge that nothing in the Note Purchase Financing Documents, this Agreement or any other agreement between any of them (including any giving by the Agent of a notice hereunder) will, except as between the Purchasers, the Agent and the City as expressly set forth in this Agreement, affect the rights of the City under the Project Agreement (but an exercise by the City of those rights will not preclude a proper exercise by the Agent of its rights under this Agreement). For greater certainty and without limiting the generality of the foregoing, nothing in this Agreement will limit, and the City will be entitled at all times in accordance with the provisions thereof to exercise, the City's rights under Section 21.2 (City's and Port's Step-in Rights) of the Project Agreement and the related exercise of its rights under Section 21.3 (City's and Port's Rectification Rights) of the Project Agreement. With respect to its permanent step in right under Section 22.6 of the Project Agreement, the City acknowledges that such right does not exist in the absence of a City right of termination for a Project Company Event of Default, and that such right of termination is subject to the rights of the Purchasers in this Agreement.

SECTION 2.5 SEPARATE AGREEMENTS. During the Design-Build Period, the Project Agreement shall, for the purposes of the City Facilities Financing and the Port Facilities Construction Financing, constitute and be treated as two separate and divisible contracts whereby all provisions relating to the Port Facilities and the Shared Facilities shall constitute one contract (the "Port Project Agreement"), all provisions relating to the City Facilities and the Shared Rooms shall constitute another contract (the "City Project Agreement"), and where any provision of the Project Agreement is silent as to whether it applies to the Port Facilities or the Shared Facilities, on the one hand, or the City Facilities or the Shared Rooms, on the other hand, such provision shall apply to each of the Port Project Agreement and the City Facilities Project

Agreement. In furtherance of the foregoing, the City, the Port and the Project Company further agree that during the Design-Build Period, the Project Company can be substituted by a “substitute” for the City Project Agreement without any change to the Project Company with respect to the Port Project Agreement and as set forth more fully herein. For the avoidance of doubt, the exercise by the City of its rights under the City Direct Agreement (Design-Builder) shall only be with respect to City Facilities and the Shared Rooms and, with respect to any substitution, step-in rights or similar rights, shall not in any way impair or have any effect whatsoever on the Design-Builder’s rights and obligations under the Design-Build Agreement with respect to the Port Facilities and the Shared Facilities.

### ARTICLE 3

#### NOTICES

##### SECTION 3.1 CITY’S EVENT NOTICES.

The City shall provide the Agent written notice (a “City’s Event Notice”) concurrently with issuing to the Project Company any notice regarding:

- (1) during the Design-Build Period, the occurrence of a City Project - Project Company Event of Default;
- (2) during the Operating Period, the occurrence of a Project Company Event of Default;
- (3) any event giving rise to a no-fault termination or no-fault partial termination of the Project Agreement as contemplated by the Project Agreement; or
- (4) any failure to appropriate funds for the City Projects, as set forth in Section 25.1(D)(Notice) of the Project Agreement.

A City’s Event Notice shall contain a summary of the facts relating to the relevant event. No failure of the City to give a City’s Event Notice shall create any City liability, or impair any right of the City under this Agreement, the Project Agreement or any related agreement.

SECTION 3.2 CITY’S TERMINATION NOTICE. The City shall not terminate or deliver any notice terminating (all or a portion of) the Project Agreement, or take any Restricted Action, in respect of a City Project - Project Company Event of Default without giving to the Agent written notice (a “City’s Termination Notice”) stating:

- (1) that a City Project - Project Company Event of Default has occurred and the proposed Termination Date, which will be not sooner than 180 days after the City’s Termination Notice; and
- (2) the grounds for termination in reasonable detail; and
- (3) the City’s determination of whether it will assume any of the Senior Debt in connection with such termination.

SECTION 3.3 AGENT'S NOTICE OF NOTE PURCHASE AGREEMENT EVENT OF DEFAULT. Promptly upon receipt of any notice of a Note Purchase Agreement Event of Default, the Agent shall promptly provide a copy of such notice to the City.

SECTION 3.4 AGENT'S INDICATIVE NOTICE. Without prejudice to the Agent's rights under the Security Documents, at any time after its receipt of a City's Event Notice regarding a City Project – Project Company Event of Default or its receipt of a City's Termination Notice, and where relevant to a City Project – Project Company Event of Default, the Agent may give notice to the City of its intention to nominate a Purchasers' Representative to step-in in accordance with Section 4.1 hereof (an "Agent's Indicative Step-In Notice") or to effect a transfer in accordance with Section 6.1 hereof (an "Agent's Indicative Transfer Notice").

SECTION 3.5 AGENT'S WITHDRAWAL NOTICE. If at any time after the giving of an Agent's Indicative Notice or a City's Termination Notice, the Agent has determined that it is not, or is no longer, considering appointing a Purchasers' Representative or effecting a transfer of the Project Company's rights and liabilities under the Project Agreement to a Suitable Substitute Project Company in accordance with this Agreement, the Agent shall give notice (an "Agent's Withdrawal Notice") to the City, and thereafter the provisions of this Agreement shall not be applicable with respect to the event that led to such Agent's Indicative Notice or City's Termination Notice and the City shall be at liberty to take any and all action available to it under the Project Agreement and other Project Documents.

SECTION 3.6 NOTICE OF ANTECEDENT LIABILITIES.

Unless an Agent's Withdrawal Notice has been given, not later than 30 days after the date of delivery by the City of a City's Termination Notice or the date of delivery by the Agent of an Agent's Indicative Notice, as the case may be, the City shall give the Agent a notice (the "Liability Report") containing details of:

(1) any Material Antecedent Liabilities accrued and outstanding as of the date of delivery of the City's Termination Notice or Agent's Indicative Notice, as the case may be; and

(2) any financial liabilities of which the City is aware (after reasonable inquiry) that will fall due under the Project Agreement on or after the date of delivery of the City's Termination Notice or Agent's Indicative Notice, as the case may be, and on or prior to:

(a) in the case of a City's Termination Notice, the proposed Termination Date set forth in that notice; and

(b) in the case of an Agents Indicative Notice, 180 days after the date of delivery of the Agent's Indicative Notice.

SECTION 3.7 SUBSEQUENT CITY NOTICE OF LIABILITIES. After the delivery of the Liability Report, unless an Agent's Withdrawal Notice has been given, the City shall, promptly upon becoming aware of them, notify the Agent in writing of any additional Material Antecedent Liabilities arising on or after the date of delivery of the City's Termination Notice or

Agent's Indicative Notice, as the case may be, and prior to the end of the Termination Notice Period or the Indicative Notice Period, as the case may be.

**SECTION 3.8 NO RIGHT TO TERMINATE OR TAKE RESTRICTED ACTION.** The City shall not terminate or partially terminate or deliver any notice terminating or partially terminating the Project Agreement or take any other Restricted Action during any Notice Period prior to the expiration of the 180 day period referred to in Section 3.2 hereof; provided, however, that until the expiration of such period the City shall be entitled to require the Project Company to remedy any City Project - Project Company Event of Default and shall be entitled to exercise all rights under the Project Agreement other than termination of such agreement or take any other Restricted Action. If the Project Company or the Agent has failed to cure the City Project - Project Company Event of Default giving rise to the City's Termination Notice during the applicable period, subject to Article 4 and Article 7, the City may exercise all rights and remedies available to it under the Project Agreement, including, without limitation, the right to terminate the Project Agreement, and all rights and remedies available to it under the City Direct Agreement (Design-Builder) and the City Direct Agreement (FM Contractor).

**SECTION 3.9 AGENT'S RIGHT TO CURE A PROJECT COMPANY BREACH OR DEFAULT WITHOUT STEP-IN OR TRANSFER.** The Agent shall have the right to take such actions as may be necessary, in the Agent's sole discretion, to cure or remedy a City Project - Project Company Event of Default prior to any Step-In Period and without the necessity of issuing an Agent's Indicative Step-In Notice or Agent's Indicative Transfer Notice. Prior to exercising any such right, the Agent shall deliver a written notice thereof to the City (an "Agent's Cure Notice"). The City shall have no duty to deal with the Agent in any such circumstances, but the City will accept performance by the Agent, or their designee, as performance by the Project Company. Any acts by the Agent or any designee in the exercise of such right shall be deemed to be acts of the Project Company for the purposes of the Project Agreement, including the indemnity provisions thereof. The Agent may exercise such rights for a period (the "Agent's Cure Period") commencing on the date of delivery of an Agent's Cure Notice and ending on the earlier of:

- (1) the Step-In Date;
- (2) the date of delivery of an Agent's Withdrawal Notice; or
- (3) 120 days following the delivery of a City's Event Notice.

**SECTION 3.10 OTHER PROJECT COMPANY EVENTS OF DEFAULT.** The City shall promptly notify the Agent of any Project Company Event of Default that is not a City Project - Project Company Event of Default.



## ARTICLE 4

### STEP-IN

SECTION 4.1 AGENT'S STEP-IN NOTICE. Subject to Section 4.3, and without prejudice to the Agent's rights under the Security Documents, the Agent may give the City a notice (an "Agent's Step-In Notice") at any time during an Indicative Notice Period or a Termination Notice Period, as the case may be.

SECTION 4.2 CONTENTS OF STEP-IN NOTICE. In the Agent's Step-In Notice, the Agent shall:

- (1) state that it intends to exercise its step-in rights under this Agreement; and
- (2) identify the Appointed Representative.

SECTION 4.3 ONE STEP-IN PERIOD. There will be not more than one Step-In Period following any one Agent's Indicative Notice or City's Termination Notice.

SECTION 4.4 APPOINTED REPRESENTATIVE RIGHTS. On the Step-In Date, the Appointed Representative shall be entitled to exercise and enjoy the rights of the Project Company under the Project Agreement with respect to:

(1) during the Design-Build Period, the City Facilities and Shared Rooms, including any rights to cure a City Project – Project Company Event of Default, subject to the performance by or on behalf of the Project Company's obligations under the Project Agreement with respect to the City Facilities and Shared Rooms. During the Step-In Period, the City shall deal with the Appointed Representative and not the Project Company with respect to the City Facilities and Shared Rooms; and

(2) during the Operating Period, the FM Facilities, including any rights to cure a Project Company Event of Default, subject to the performance by or on behalf of the Project Company's obligations under the Project Agreement with respect to the FM Facilities. During the Step-In Period, the City shall deal with the Appointed Representative and not the Project Company with respect to the City Facilities and Shared Rooms

SECTION 4.5 CITY RIGHT TO TERMINATE. The City shall not terminate the Project Agreement, in whole or in part, or take any other Restricted Action during the Step-In Period except as set forth in this Section. The City shall be entitled to terminate (or partially terminate) the Project Agreement during the Step-In Period by written notice to the Project Company, the Agent and the Appointed Representative:

(1) if the Reported Antecedent Liabilities that are financial liabilities owed to the City have not been paid to the City or guaranteed to the City's reasonable satisfaction on or before the Step-In Date or, if the due date for payment thereof is after the Step-In Date, have not been paid or guaranteed to the City's reasonable satisfaction by the due date;

(2) if amounts owed to the City, of which the City was not aware (having made reasonable inquiry) at the time of the Liability Report, subsequently become payable and are not discharged or sufficiently guaranteed to the City's reasonable satisfaction by:

(a) if notice of the liability is given to the Agent at least 20 Business Days prior to the Step-In Date, the Step-In Date;

(b) if notice of the liability is given to the Agent within 20 Business Days before the Step-In Date and such liability is material (as stated by the City, acting reasonably, when it gives such notice or by the Agent, acting reasonably, by notice to the City within five Business Days of receipt of the notice from the City), 20 Business Days after the Step-In Date; or

(c) otherwise, 20 Business Days after delivery of the notice;

(3) on grounds arising after the Step-In Date in accordance with the terms of the Project Agreement, provided that for the purposes of termination under the Project Agreement, any Deductions that arose prior to the Step-In Date will not be taken into account during the Step-In Period;

(4) on grounds arising prior to the Step-In Date (whether or not continuing at the Step-In Date) in accordance with the terms of the Project Agreement but only if the Appointed Representative is not using all reasonable efforts to remedy the relevant Reported Antecedent Liabilities which are non-financial liabilities (including, if necessary to effect any such remedy, diligent efforts to obtain possession or control of the City Facilities and the Shared Rooms);

(5) on grounds arising prior to the Final City Occupancy Date if the Final City Occupancy Date does not occur on or before the date that is 6 months after the City Longstop Date; or

(6) pursuant to Section 24.1(A)(2) of the Project Agreement, Section 24.1(A)(3) of the Project Agreement, Section 24.1(B)(1) of the Project Agreement, Section 24.1(B)(5) of the Project Agreement, or Section 24.1(B)(6) of the Project Agreement.

## ARTICLE 5

### STEP-OUT

SECTION 5.1 AGENT'S STEP-OUT NOTICE. The Agent or the Appointed Representative may at any time during the Step-In Period deliver to the City a notice (an "Agent's Step-Out Notice") which specifies the Step-Out Date.

SECTION 5.2 EXPIRATION OF STEP-IN PERIOD. Upon the expiration of the Step-In Period:

(1) the rights of the City against the Appointed Representative and the rights of the Appointed Representative against the City shall be cancelled; and

(2) the City shall no longer deal with the Appointed Representative and shall deal with the Project Company in connection with the Project Agreement.

SECTION 5.3 PROJECT COMPANY REMAINS BOUND. Subject to Section 6.4 hereof, the Project Company shall continue to be bound by the terms of the Project Agreement notwithstanding the occurrence of an Agent's Cure Notice, an Agent's Indicative Notice, an Agent's Step-In Notice, a Step-In Period, an Agent's Step-Out Notice, a Step-Out Date, any action by the Agent, Appointed Representative or the Purchasers or any provision of this Agreement, and for greater certainty the Project Company shall be liable for any and all obligations and liabilities arising under the Project Agreement prior to the expiration of the Step-in Period from actions or inactions of the Agent, the Appointed Representative or Purchasers. The Project Company shall remain liable for any unpaid amounts due and payable to the City by the Project Company under the Project Agreement.

## ARTICLE 6

### PURCHASER REPLACEMENT OF THE PROJECT COMPANY

SECTION 6.1 PROJECT COMPANY TRANSFER NOTICE. Subject to Section 6.2, at any time:

- (1) during the Design-Build Period, upon the occurrence of a City Project - Project Company Event of Default, and where relevant to such event during the continuance of such event;
- (2) during the Operating Period, upon the occurrence of a Project Company Event of Default; or
- (3) during the Step-In Period,

the Agent may, on 30 Business Days' notice to the City and any Appointed Representative, take any action available to it to cause the transfer of the Project Company's rights and liabilities under the Project Agreement and any Material Contract with respect to the City Projects to a Suitable Substitute Project Company in accordance with the provisions of Section 6.4.

SECTION 6.2 CITY CONSENT. The City shall notify the Agent as to whether any person to whom the Agent proposes to transfer the Project Company's rights and liabilities under the Project Agreement with respect to the City Projects is a Suitable Substitute Project Company, not later than 20 Business Days after the date of receipt from the Agent of all information reasonably required by the City to decide whether the proposed transferee is a Suitable Substitute Project Company.

SECTION 6.3 WITHHOLDING OF CONSENT. The City shall not unreasonably withhold or delay its decision on whether the proposed transferee is a Suitable Substitute Project Company and it shall, without limitation, be reasonable for the City to withhold its consent:

- (1) if there are unremedied breaches under the Project Agreement and there is no remedial program reasonably acceptable to the City in respect of the breaches; or

(2) based on any of the factors set forth in Section 26.1 (Limitation on Assignment by Project Company) of the Project Agreement with respect to any transfer, including any assignment.

SECTION 6.4 TERMS OF TRANSFER. Upon the transfer referred to in Section 6.1 becoming effective:

(1) the Project Company and the City shall be released from their obligations under the Project Agreement to each other, including with respect to indemnification under the Project Agreement whether arising prior to or after such transfer (the “Discharged Obligations”);

(2) the Suitable Substitute Project Company and the City shall assume obligations which are substantially similar to the Discharged Obligations, but owed to or assumed by the Suitable Substitute Project Company instead of the Project Company;

(3) the rights of the Project Company against the City under the Project Agreement and vice versa will be cancelled (the “Discharged Rights”);

(4) the Suitable Substitute Project Company and the City shall acquire rights against each other which differ from the Discharged Rights only insofar as they are exercisable by or against the Suitable Substitute Project Company instead of the Project Company; provided, however, that the Suitable Substitute Project Company shall not assume any material new obligations and the City shall not assume any material new rights without the prior written consent of the Agent, acting reasonably;

(5) any subsisting ground for termination of the Project Agreement by the City shall be deemed to have no effect and any subsisting Termination Notice will be automatically revoked;

(6) the City and the Suitable Substitute Project Company will execute and deliver to the Agent a new Project Agreement containing all of the same terms as those of the Project Agreement that are with respect to the City Projects, except for any obligations that have been fulfilled by the Project Company, any party acting on behalf of or stepping-in for the Project Company or the Agent prior to the execution of such new Project Agreement.

(7) the City shall enter into a lenders’ direct agreement with the Suitable Substitute Project Company and a representative of Purchasers lending to the Suitable Substitute Project Company on substantially the same terms as this Agreement; and

(8) any Deduction that arose prior to that time will not be taken into account after the transfer for the purposes of Section 22.1(A)(7) (Project Company Events of Default Defined) of the Project Agreement (for the avoidance of doubt, nothing in this Section 6.4(8) shall impact the ability of the City to impose Deductions in accordance with the Project Agreement).

## ARTICLE 7

### IMPACT OF BANKRUPTCY OR INSOLVENCY PROCEEDINGS

**SECTION 7.1 REJECTION OF THE PROJECT AGREEMENT.** If the Project Agreement is rejected by a trustee or debtor-in-possession in, or terminated as a result of, any bankruptcy or insolvency proceeding involving the Project Company and, within 150 days after such rejection or termination, the Agent shall so request and shall certify in writing to the City that the Agent's permitted designee or assignee, including a Suitable Substitute Project Company, intends to perform the obligations of the Project Company as and to the extent required under the Project Agreement with respect to the City Projects, the City will execute and deliver to the Agent (or any Suitable Substitute Project Company satisfying the requirements of this Agreement if directed to do so by the Agent) a new Project Agreement. The new Project Agreement shall contain conditions, agreements, terms, provisions and limitations which are the same as those of the Project Agreement with respect to the City Projects, except for any obligations that have been fulfilled by the Project Company, any party acting on behalf of or stepping-in for the Project Company or the Agent prior to such rejection or termination. References in this Agreement to the "Project Agreement" shall be deemed also to refer to any such new Project Agreement. The effectiveness of any new Project Agreement referred to in this Section 7.1 above will be conditional upon the Agent first reimbursing the City in respect of all of its costs and expenses, including legal fees and expenses, incurred in connection with the execution and delivery of such new Project Agreement.

**SECTION 7.2 EXTENSION OF CURE PERIOD AND STEP-IN PERIOD.** To the extent that the Agent is prohibited by any court order, bankruptcy or insolvency proceedings from remedying a Project Company Event of Default that is the subject of a City's Event Notice; or from commencing or prosecuting foreclosure proceedings, the Agent's Cure Period or the Step-In Period, as the case may be, shall be extended by a period of time equal to the shorter of the period of such prohibition or 150 Days.

## ARTICLE 8

### COVENANTS

**SECTION 8.1 CITY COVENANTS.** The City agrees with the Agent that the City shall:

(1) as soon as is reasonably practicable, at the Project Company's expense, take whatever action the Agent, an Appointed Representative or a Suitable Substitute Project Company taking a transfer in accordance with Article 6 hereof may reasonably require for perfecting any transfer or release under this Agreement, including the execution of any transfer or assignment, and the giving of any notice, order or direction and the making of any registration which, in each case, the Agent or Appointed Representative or Suitable Substitute Project Company reasonably requires;

(2) not, prior to the Senior Debt Discharge Date, unless the Agent has (acting reasonably) consented in writing:

- (a) appoint a Bankruptcy Officer;
  - (b) commence any Bankruptcy Proceedings;
  - (c) sanction, by voting or failing to vote, any Bankruptcy Proceedings and shall, if requested to do so by the Agent, vote against any Bankruptcy Proceedings;
  - (d) without prejudice to its rights of set-off under the Project Agreement, including rights to take amounts owing by the Project Company into account in calculating termination compensation payable, claim or prove as creditor or otherwise in competition with any Finance Party in respect of any monies owing to it by the Project Company for or on account of the Project Company's liabilities under the Project Documents in the event of any Bankruptcy Proceedings; or
  - (e) take any action authorizing, or which might result in or is in furtherance of, any of the prohibited matters referred to in items (a), (b), (c) or (d) above;
- (3) not take or fail to take any action (including amendments, waivers and enforcement action) with respect to any material agreement between the City and a third party, the effect of which would be reasonably likely to render the City unable to satisfy its obligations under the Project Agreement or to cause the occurrence of a City Event of Default; and
- (4) not issue any notice under Section 3.2 or 4.1 of the City Direct Agreement (Design-Builder) or under Section 3.2 or 4.1 of the City Direct Agreement (FM Contractor) at any time that the Purchasers are validly exercising under any Note Purchase Financing Agreement any step-in rights with respect to the City Direct Agreement (Design-Builder) or the City Direct Agreement (FM Contractor).

SECTION 8.2 AGENT COVENANTS. The Agent shall:

- (1) promptly notify the City when it believes the Senior Debt Discharge Date will occur or has occurred, and in any event shall so notify no later than 20 Business Days after its occurrence;
- (2) not, prior to the Senior Debt Discharge Date, without the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of the City;
  - (a) appoint a Bankruptcy Officer;
  - (b) commence a Bankruptcy Proceedings;
  - (c) sanction, by voting or failing to vote, any Bankruptcy Proceedings; or
  - (d) take any action authorizing, or which might result in or is in furtherance of, any of the matters referred to in items (a), (b) or (c) above;
- (3) not return or discharge any Deferred Equity Letter of Credit unless:

(a) all Deferred Equity Amounts have been contributed to the Project Company; or

(b) the City has consented (such consent not to be unreasonably withheld, conditioned or delayed) to such return or discharge in writing;

(4) not release or discharge any Construction Security or return any amounts from the Construction Retainage Account (City) (as defined in the Design-Build Agreement) without the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of the City; and

(5) not consent to any amendment or modification to the guarantee of the Design-Builder's obligations under the Design-Build Agreement provided by Clark Construction Group, LLC to the Project Company without the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of the City.

SECTION 8.3 PROJECT COMPANY COVENANT. The Project Company acknowledges and consents to the arrangements set forth in this Agreement and agrees not to do or omit to do anything that may prevent any party from enforcing its rights under this Agreement.

## ARTICLE 9

### ASSIGNMENT

SECTION 9.1 RESTRICTION ON ASSIGNMENT. No party to this Agreement may assign or transfer all or any part of its rights or obligations under this Agreement except as provided in this Article.

SECTION 9.2 ASSIGNMENT BY AGENT. The Agent may assign or transfer its rights and obligations under this Agreement to a successor Agent in accordance with the Note Purchase Financing Documents without the consent of the City, provided that the Agent delivers to the City not less than 10 Business Days prior to such assignment a notice setting out such contact information regarding the assignee as the City may reasonably require and provided the assignee or transferee is not a Restricted Person.

SECTION 9.3 ASSIGNMENT BY PURCHASER. Any Purchaser may assign or transfer its rights and obligations under the Note Purchase Financing Documents in accordance with the terms of the Note Purchase Financing Documents without the consent of the City provided the assignee or transferee is not a Restricted Person.

SECTION 9.4 ASSIGNMENT BY CITY. The City shall assign or transfer its rights and obligations under this Agreement to any permitted assignee of its interest in the Project Agreement concurrently with the assignment of the Project Agreement to such assignee, and the Agent and the Purchasers shall co-operate with the City in completing the formalities of any transfer or assignment including by executing any additional documents as may be reasonably required by the City.

SECTION 9.5 NEW AGREEMENT. If Section 9.2 applies in relation to the Agent, the City and the Project Company shall, upon request by the new Agent, enter into a new lenders' direct agreement with the new Agent on substantially the same terms as this Agreement.

## ARTICLE 10

### GENERAL

SECTION 10.1 TERM. This Agreement shall remain in effect until the earlier of:

- (1) the Senior Debt Discharge Date;
- (2) the date upon which a new lenders' direct agreement is entered into pursuant to Section 9.5 following an assignment or transfer by the Agent of its rights and obligations under this Agreement to a successor Agent;
- (3) subject to compliance with Section 6.4(6) above, the date of transfer of the Project Company's rights and liabilities under the Project Agreement to a Suitable Substitute Project Company pursuant to Section 6.1; or
- (4) if the City has assumed all or a portion of the Senior Debt pursuant to Section 10.2(2), the date on which the City makes the final payment in respect of such assumed portion of the Senior Debt.

SECTION 10.2 NO CITY RESPONSIBILITY FOR SENIOR DEBT.

(1) Subject to Section 10.2(2), none of the City, or any other agency, instrumentality or political division of the City, the Port, or the Harbor Department, and no board member, director, officer, employee, agent or representative of any of them, shall have any liability whatsoever for payment of the principal sum of any Senior Debt, any other obligations issued or incurred by the Project Company in connection with the Project Agreement, or any interest accrued thereon or any other sum secured by or accruing under the Note Purchase Financing Documents. Except for a violation by the City of its express obligations to Purchasers set forth in this Agreement, no Purchaser shall be entitled to seek any damages or other amounts from the City, whether for Senior Debt or any other obligation amount. The City's review of the Note Purchase Financing Documents or other Project financing documents is not a guarantee or endorsement of the Senior Debt, any other obligations issued or incurred by the Project Company in connection with this Project Agreement or the Project, and is not a representation, warranty or other assurance as to the ability of the Project Company to perform its obligations with respect to the Senior Debt or any other obligations issued or incurred by the Project Company in connection with the Project Agreement or the Project, or as to the adequacy of the Service Fee to provide for payment of the Senior Debt or any other obligations issued or incurred by the Project Company in connection with the Project Agreement or the Project, except that the foregoing does not affect any of City's liability to the Project Company under Article 24 of the Project Agreement and any Termination Payment that is measured in whole or in part by outstanding Senior Debt.



(2) Notwithstanding Section 10.2(1), the City may elect to pay the portion of a Partial Termination Payment or Termination Payment (other than for a Partial Termination Payment or Termination Payment due in connection with (i) a termination of the Project Agreement for a City Non-Appropriation Event pursuant to Section 25.1(F)(2) of the Project Agreement, or (ii) a City Event of Default pursuant to Section 23.2 of the Project Agreement), as applicable, corresponding to the outstanding Senior Debt directly to the Purchasers by assuming such outstanding Senior Debt, subject to the following conditions:

(a) the assumption of such Senior Debt by the City complies with all laws, regulations and policies applicable to the Purchasers and shall be entered into no later than the Partial Termination Date or Termination Date, as applicable;

(b) the terms and conditions pursuant to which the City assumes such Senior Debt shall be mutually acceptable to the City and the Purchasers, each acting reasonably, and shall, at a minimum, require the City to enter into an assumption agreement pursuant to which the City will assume all obligations of the Project Company in respect of the City Facilities Financing and to provide customary opinions (including as to due authorization, authority and enforceability), instruments, documents, and certificates required to close the transactions contemplated in the assumption agreement;

(c) the Purchasers shall retain the benefit of all security interests granted to them under the Note Purchase Financing Documents;

(d) such assumed Senior Debt, and any interest accrued thereon, shall be paid by the City on the dates set forth for payment of such amounts in the Note Purchase Agreement (each, an "Installment Date"), beginning with the first payment date set forth in the Note Purchase Agreement following the Termination Date or Partial Termination Date, as the case may be, and ending on the date on which the final payment in respect of Senior Debt is scheduled to be made in accordance with the Note Purchase Financing Documents;

(e) interest shall be due and payable in arrears on the next succeeding Installment Date; and

(f) such assumed Senior Debt and any accrued and unpaid interest thereon, shall be accelerated and become immediately due and owing upon the re-award of the Project by the City or the Port, as the case may be.

SECTION 10.3 CONFLICT OR INCONSISTENCY. If there is any conflict or inconsistency between the provisions of this Agreement and the Project Agreement, the provisions of this Agreement shall prevail.

SECTION 10.4 ENTIRE AGREEMENT. Unless otherwise stated in this Agreement, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement. No party has relied on any representation except as expressly set forth in this Agreement.

SECTION 10.5 VENUE. For the purposes of any legal actions or proceedings brought by any party hereto against the other party, the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the State of California, Los Angeles County, and acknowledge their competence and the convenience and propriety of the venue and agree to be bound by any judgment thereof and not to seek, and hereby waive, review of its merits by the courts of any other jurisdiction.

SECTION 10.6 WAIVER. The failure of any party to exercise any contractual right or remedy will not constitute a waiver thereof and no waiver will be effective, unless it is communicated in writing to the other party. A waiver of any right or remedy arising from a breach of this Agreement shall not constitute a waiver of any right or remedy arising from any other breach of this Agreement.

SECTION 10.7 COUNTERPARTS. This Agreement may be executed in any number of counterparts, all of which when taken together will constitute one and the same instrument.

SECTION 10.8 CONFIDENTIALITY. The Agent shall be bound to comply with the confidentiality obligations on the part of the Project Company contained in the Project Agreement in relation to all information matters obtained from any other party under or in connection with the Project.

SECTION 10.9 NOTICES. Any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been sufficiently given if delivered by hand or by registered mail to the address of each party set forth below:

if to the City:

Patrick H. West  
Office of the City Manager  
City of Long Beach  
333 W. Ocean Blvd., 13<sup>th</sup> Floor  
Long Beach, California 90802  
Telephone No.: (562) 570-6916  
Fax No.: (562) 570-7650

with a copy to:

Charles Parkin  
Office of the City Attorney  
City of Long Beach  
333 W. Ocean Blvd., 13<sup>th</sup> Floor  
Long Beach, California 90802  
Telephone No.: (562) 570-2200  
Fax No.: (562) 436-1579

if to the Port:

Long Beach Harbor Department

PO Box 570  
Long Beach, California 90801  
Attention: Chief Executive  
Telephone No: (562) 283-7097  
Fax No: (562) 283-7067

with a copy to:

Long Beach Harbor Department  
PO Box 570  
Long Beach, California 90801  
Attention: Managing Director of Finance & Administration  
Telephone No: (562) 283-7091  
Fax No: (562) 283-7067

and an additional copy to:

Long Beach Harbor Department  
PO Box 570  
Long Beach, California 90801  
Attention: Chief Harbor Engineer  
Telephone No: (562) 283-7275  
Fax No: (562) 283-7276

if to the Agent:

U.S. Bank National Association, as collateral agent  
Global Corporate Trust Services  
633 W. 5th Street, 24th Floor  
Los Angeles, CA 90071  
Attention: Georgina Thomas  
Email: georgina.thomas@usbank.com  
Telephone No.: (213) 615-6001  
Fax No.: (213) 615-6199

if to the Project Company:

Plenary Properties Long Beach LLC  
10100 Santa Monica Blvd., Suite 410  
Los Angeles, California 90067  
Attention: Stuart Marks  
Email: stuart.marks@plenarygroup.com  
Telephone No.: (424) 278-2175

or to such other address as any party may, from time to time, designate in the manner set forth above.


SECTION 10.10 AGENT. U.S. Bank National Association is acting hereunder solely in its capacity as Collateral Agent pursuant to that Collateral Agency Agreement, of even date herewith, by and among Agent, the Project Company, Plenary Civic Center Finco LP, Plenary Civic Center Finco ULC, and Plenary Civic Center Finco LLC. All rights, privileges, indemnities, benefits and protections given to the Collateral Agent in the Collateral Agency Agreement shall apply to the performance by the Agent of its obligations and the exercise of its rights under this Agreement or any other acts or omissions of the Agent arising out of or in connection with this Agreement.

SECTION 10.11 LIMITATIONS ON ASSIGNMENT BY PROJECT COMPANY. Notwithstanding the proviso set forth in Section 26.1 of the Project Agreement, the parties hereto agree that an assignee party to any assignment described in subsections (2), (4) and (5) of Section 26.1 of the Project Agreement may assume a portion of the obligations of the Project Company under the Project Agreement so long as such partial assignment is consistent with, or necessary or appropriate to carry out the intent of, Section 6.8 of the Project Agreement.

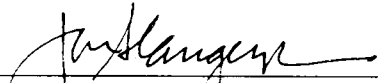
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

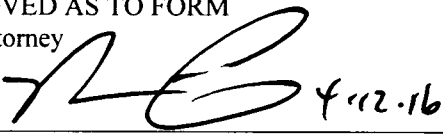
APPROVED AS TO FORM  
City Attorney

By:  4-12-16  
Name: Charles M. Gale  
Title: Principal Deputy City Attorney

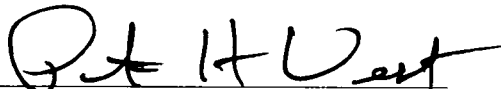
CITY OF LONG BEACH, acting by and through  
its Board of Harbor Commissioners

By:   
Name: Jon W. Slaughter  
Title: Chief Executive  
Long Beach Harbor Department

APPROVED AS TO FORM  
City Attorney

By:  4-12-16  
Name: Richard F. Anthony  
Title: Deputy City Attorney

CITY OF LONG BEACH

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

PLENARY PROPERTIES LONG BEACH LLC

By: \_\_\_\_\_  
Name: Paul Dunstan  
Title: President

By: \_\_\_\_\_  
Name: Stuart Marks  
Title: Senior Vice President

U.S. BANK NATIONAL ASSOCIATION, as  
collateral agent

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

APPROVED AS TO FORM  
City Attorney

CITY OF LONG BEACH, acting by and through  
its Board of Harbor Commissioners


By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

CITY OF LONG BEACH

By: \_\_\_\_\_  
Name:  
Title:

PLENARY PROPERTIES LONG BEACH LLC

By:  \_\_\_\_\_  
Name: Paul Dunstan  
Title: President

By: \_\_\_\_\_  
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City Attorney

CITY OF LONG BEACH, acting by and through  
its Board of Harbor Commissioners

By: \_\_\_\_\_  
Name:  
Title:


By: \_\_\_\_\_  
Name:  
Title:

CITY OF LONG BEACH

By: \_\_\_\_\_  
Name:  
Title:

PLENARY PROPERTIES LONG BEACH LLC

By: \_\_\_\_\_  
Name: Paul Dunstan  
Title: President

By:  \_\_\_\_\_  
Name: Stuart Marks  
Title: Senior Vice President

U.S. BANK NATIONAL ASSOCIATION, as  
collateral agent

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

APPROVED AS TO FORM  
City Attorney

CITY OF LONG BEACH, acting by and through  
its Board of Harbor Commissioners

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

CITY OF LONG BEACH

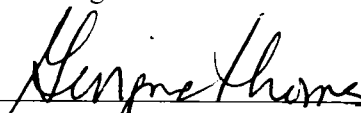
By: \_\_\_\_\_  
Name:  
Title:

PLENARY PROPERTIES LONG BEACH LLC

By: \_\_\_\_\_  
Name: Paul Dunstan  
Title: President

By: \_\_\_\_\_  
Name: Stuart Marks  
Title: Senior Vice President

U.S. BANK NATIONAL ASSOCIATION, as  
collateral agent

By:  \_\_\_\_\_  
Name: Georgina Thomas  
Title: Assistant Vice President



## SCHEDULE 1

### NOTE PURCHASE FINANCING DOCUMENTS

Notes issued by Plenary Civic Center Finco LP pursuant to the Note Purchase Agreement

Note Purchase Agreement

Collateral Agency Agreement, dated as of April 20, 2016, by and among Plenary Civic Center Finco LP, Plenary Civic Center Finco ULC, Plenary Civic Center Finco LLC, Plenary Properties Long Beach LLC and U.S. Bank National Association, as Collateral Agent

Security Agreement, dated as of April 20, 2016, by and among Plenary Civic Center Finco LP, Plenary Civic Center Finco ULC, Plenary Civic Center Finco LLC, Plenary Properties Long Beach LLC and U.S. Bank National Association, as Collateral Agent

Pledge Agreement, dated as of April 20, 2016, by and between Plenary Civic Center HoldCo Ltd. and U.S. Bank National Association, as Collateral Agent

Finco 1 Loan Agreement (City), dated as of April 20, 2016, by and between Plenary Civic Center Finco ULC and Plenary Civic Center Finco LP

Finco 2 Loan Agreement (City), dated as of April 20, 2016, by and between Plenary Civic Center Finco LLC and Plenary Civic Center Finco ULC

Project Company Loan Agreement (City), dated as of April 20, 2016, by and between Plenary Properties Long Beach LLC and Plenary Civic Center Finco LLC

Intercreditor Agreement, dated as of April 20, 2016, by and among Sumitomo Mitsui Banking Corporation, as Administrative Agent for the Lenders and the Hedging Banks, the Purchasers party to the Note Purchase Agreement, U.S. Bank National Association, as Collateral Agent, and U.S. Bank National Association as Intercreditor Agent

Purchasers' Direct Agreement (City), dated as of April 20, 2016, by and among the City of Long Beach, the City of Long Beach, acting by and through the Board of Harbor Commissioners, Plenary Properties Long Beach LLC and U.S. Bank National Association, as Collateral Agent

Purchasers' Direct Agreement (Design-Builder), dated as of April 20, 2016, by and among U.S. Bank National Association, as Collateral Agent, Clark Construction Group – California, LP and Plenary Properties Long Beach LLC

Purchasers' Direct Agreement (FM Contractor), dated as of April 20, 2016, by and among U.S. Bank National Association, as Collateral Agent Johnson Controls, Inc. and Plenary Properties Long Beach LLC