



PUBLIC NOTICE
BOARD OF DIRECTORS
SPECIAL OPEN SESSION MEETING
Wednesday, October 9, 2024, 7:30 pm
1819 Trousdale Dr., Burlingame

Join Zoom Meeting
https://
us02web.zoom.us/
j/84543128065
Meeting ID:
845 4312 8065
One tap mobile
+12532158782/
+12678310333

A G E N D A

- 1. CALL TO ORDER & ROLL CALL:** Chair Cappel
- 2. ORAL COMMUNICATIONS:** *At this time, any person may speak on any items not on the agenda and any other matter within the jurisdiction of the District. Speakers are customarily limited to three minutes. If you cannot attend the meeting, but would like to offer comments, please email your comments to ana.pulido@peninsulahealthcaredistrict.org and your comments will be read into the record. Public comments will be taken for each agenda item prior to the Board's consideration on that item.*
- 3. OPEN SESSION:**
 - A. Consider Amending the Existing Amended and Restated Exclusive Negotiating Agreement for The PWC Project to Provide for an Additional Extension Period or Periods:** Lawrence Cappel, Board Chairman
- 4. ADJOURNMENT:**

Any writings or documents provided to a majority of the Board of Directors regarding any item on this agenda will be made available for public inspection at the District office, 1819 Trousdale, Burlingame during normal business hours. Please call 650-697-6900 to arrange an appointment.

If you are an individual with a disability and need an accommodation to participate in this meeting, please contact Peninsula Health Care District at least 48-hrs in advance at 650-697-6900.

SIXTH AMENDMENT TO AMENDED AND RESTATED EXCLUSIVE NEGOTIATING AGREEMENT

This SIXTH AMENDMENT TO AMENDED AND RESTATED EXCLUSIVE NEGOTIATING AGREEMENT (“**Sixth Amendment**”) dated for reference purposes as of October 10, 2024 (“**Sixth Amendment Effective Date**”) is entered into by and between the Peninsula Health Care District, a political subdivision of the State of California (“**District**”), PMB LLC, a California limited liability company (“**PMB**”), Generations LLC, an Oregon limited liability company (“**Generations**”), and MidPen Housing Corporation, a California nonprofit public benefit corporation. PMB, Generations, and MidPen are referred to collectively herein as “**Developer**” or “**Developers.**” The District and Developer are sometimes referred to individually herein as “**Party**” and collectively as the “**Parties.**”

RECITALS

A. The District and the Developer are parties to that Amended and Restated Exclusive Negotiating Agreement, dated as of October 21, 2021, as amended by that certain First Amendment to Amended and Restated Exclusive Negotiating Agreement, dated July 22, 2022, as amended by that certain Second Amendment to Amended and Restated Exclusive Negotiating Agreement, dated January 9, 2023, as further amended by that certain Third Amendment to Amended and Restated Exclusive Negotiating Agreement, dated April 27, 2023, as further amended by that certain Fourth Amendment to Amended and Restated Exclusive Negotiating Agreement, dated October 10, 2023, and as further amended by that certain Fifth Amendment to Exclusive Negotiating Agreement, dated January 29, 2024 (collectively, the “**Restated Agreement**”). The Restated Agreement amended and restated the Original ENA in its entirety, established terms and provisions to ensure coordination and cooperation between the District and each Developer to negotiate a Term Sheet during the Term Sheet Phase and a Ground Lease and DDA during the DDA Phase, and memorialized other agreements of the Parties in connection with the Project. All capitalized terms used but not defined herein shall have the meanings given to them in the Restated Agreement.

B. On or about June 23, 2022, the Board adopted Resolution No. 2022-11 authorizing Developer to initiate the entitlement process with the City of Burlingame based on Developer’s revised PWC 3.0 site plan attached to Resolution No. 2022-11.

C. Pursuant to the Restated Agreement, Developer is required to prepare and submit to the District a detailed proforma and financing plan that demonstrates the financial feasibility to develop and complete the Project. On August 7, 2023, Developer submitted an updated proforma and financing plan for Developer’s revised PWC 3.0 site plan. The District is reviewing and considering the Developer’s updated proforma and financing plan. In addition to the Project’s proforma and financing plan, the Parties are in the process of negotiating key issues related to the design, development, and programming of the Project.

D. Under the Fifth Amendment to the Restated Agreement, the parties agreed to extend the Term Sheet Phase to May 13, 2024, subject to Developer’s sixty (60) day Extension Option Period and any mutual extensions of the parties pursuant to Section 2 of the Fifth Amendment.

E. By letter dated May 1, 2024, the Parties mutually agreed to extend the Term Sheet Phase by thirty (30) days from May 13, 2024 to June 12, 2024 pursuant to Section 2 of the Fifth Amendment to the Restated Agreement.

F. On or about June 12, 2024, the Developer exercised its remaining sixty (60) day Extension Option Period, extending the Term Sheet Phase from June 12, 2024 to August 12, 2024.

G. By letter dated August 6, 2024, the Parties mutually agreed to extend the Term Sheet Phase from August 12, 2024 to October 11, 2024 pursuant to Section 2(b) of the Fifth Amendment to the Restated Agreement.

H. To allow the Developer additional time to prepare the detailed proforma and financing plan and for the Parties to continue negotiating the Term Sheets, the Parties desire to further amend the Restated Agreement to extend the Term Sheet Phase, in accordance with the terms set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and approved, the District and Developer hereby mutually agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Extension of Term Sheet Phase. To provide Developer the time needed to prepare and submit a proforma and financing plan for the Project and for the Parties to negotiate the Term Sheets, Section 2.1 of the Restated Agreement is hereby amended to provide that the Term Sheet Phase shall expire on *[January 9, 2025]*. All other terms and provisions in Section 2 of the Restated Agreement shall remain in full force and effect.
 - a. Mutual Extension. The Developer and the District may mutually agree in writing, to extend the Term Sheet Phase, by an additional ninety (90) calendar days without further amendment to the Restated Agreement. Any mutual extensions of the Term Sheet Phase shall require approval of the Board.
3. Miscellaneous.
 - a. Incorporation. This Sixth Amendment constitutes a part of the Restated Agreement and any reference to the Restated Agreement shall be deemed to include a reference to the Restated Agreement as amended by this Sixth Amendment.
 - b. Ratification. To the extent of any inconsistency between this Sixth Amendment and the Restated Agreement, the provisions contained in this Sixth Amendment shall control. As amended by this Sixth Amendment, all terms, covenants, conditions, and provisions of the Restated Agreement shall remain in full force and effect.

- c. Successors and Assigns. This Sixth Amendment shall be binding upon and inure to the benefit of the respective successors and assigns of the District and the Developer.
- d. Counterparts. This Sixth Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same document, binding on all parties hereto notwithstanding that each of the parties hereto may have signed different counterparts. This Sixth Amendment may be signed electronically via DocuSign or similar software, and delivery of pdf copies of signatures via email shall be deemed delivery of originals.
- e. Integration. This Sixth Amendment contains the entire agreement between the parties hereto with respect to the subject matter of this Sixth Amendment. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Sixth Amendment. No prior drafts of this Sixth Amendment or changes from those drafts to the executed version of this Sixth Amendment shall be introduced as evidence in any litigation or other dispute resolution proceeding by either party hereto or any other person, and no court or other body shall consider those drafts in interpreting this Sixth Amendment.

IN WITNESS WHEREOF, the Parties hereto have executed this Sixth Amendment as of the Sixth Amendment Effective Date.

DISTRICT

PENINSULA HEALTH CARE DISTRICT,
a political subdivision of the State of California

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

DEVELOPERS

PMB LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

GENERATIONS LLC,
an Oregon limited liability company

By: _____
Name: _____
Its: _____

MIDPEN HOUSING CORPORATION,
a California nonprofit public benefit corporation

By: _____
Name: _____
Its: _____