

SECOND AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT

This SECOND AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT (“**Second Amendment**”) dated for reference purposes as of March 27, 2020 (“**Second Amendment Effective Date**”) is entered into by and between the Peninsula Health Care District, a political subdivision of the State of California (“**District**”), and PMB LLC, a California limited liability company (“**PMB**”) and Generations LLC, an Oregon limited liability company (“**Generations**”). PMB and Generations are referred to collectively herein as “**Developer.**”

RECITALS

A. The District and the Developer are parties to that Exclusive Negotiating Agreement, dated as of July 1, 2018, as amended by that certain First Amendment to the Exclusive Negotiating Agreement, dated March 1, 2019 (collectively, the “**ENA**”). The ENA establishes an exclusive negotiating period during which the District and the Developer intend to conduct planning activities for the development of the Project, negotiate a Project description and a non-binding Term Sheet, and, if successful in negotiating the Term Sheet, to negotiate a DDA. All capitalized terms not defined herein shall have the meaning ascribed to such terms in the ENA.

B. The RFP issued by the District on March 17, 2017 contemplated that the Project Site would be developed with approximately 400 units of senior housing; 100,000 square feet of senior support services such as rehabilitation and therapy; 250,000 square feet of professional office, research, and conference space; 35,000 square feet of hub, flex space, and community dining; a 30,000 square foot Community Gatepath facility; 15,000 square feet of related amenities; and associated parking and infrastructure improvements.

C. On or about April 22, 2019, the Developer submitted a revised proposal for the development of the Site that would reserve a 2-acre portion of the Site along Marco Polo Way for the development of affordable housing by a non-profit affordable housing developer and adjust and relocate the Developer’s commercial and residential components of the proposed project to the 4-acre portion of the Site located east of Hetch-Hetchy (“**PWC 2.0**”).

D. To evaluate the feasibility of PWC 2.0, the District and the Developer agreed to a 90-day feasibility period during which the parties would meet with affordable housing developers and the Developer would submit a feasibility plan to the District with detailed information addressing the proposed affordable housing, commercial, and residential components of PWC 2.0 (“**2.0 Feasibility Period**”). The Parties agreed that the 2.0 Feasibility Period would consist of two (2) phases. The first phase of the 2.0 Feasibility Period (“**Initial Period**”) commenced on June 19, 2019 and expired on August 9, 2019. The second phase of the 2.0 Feasibility Period (“**Refinement Period**”) expired on September 24, 2019 following the Developer’s submission of a detailed feasibility plan evaluating PWC 2.0 (“**2.0 Feasibility Plan**”) with requested extensions of the Schedule of Performance completion dates and the Term Sheet Phase. Developer’s submittal of the 2.0 Feasibility Plan automatically extended the Term Sheet Phase from January 28, 2020 to March 28, 2020 and constituted the use of a Developer Extension Option Period pursuant to Section 2.1 of the ENA.

E. During the 2.0 Feasibility Period, the Developer met with several affordable housing developers regarding the development of the affordable housing component of PWC 2.0, including MidPen Housing (“**MidPen**”). The Developer has proposed proceeding with the affordable housing component of PWC 2.0 with MidPen as the affordable housing development partner.

F. On November 18, 2019, after evaluating the Developer’s 2.0 Feasibility Plan, the Board authorized the Developer to proceed with planning and entitlement activities for PWC 2.0 and negotiation of a Term Sheet and DDA pursuant to the terms of the ENA, as amended.

G. By this Second Amendment, the Parties desire to further amend the ENA to reflect the foregoing, in accordance with the terms set forth herein.

AGREEMENT

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the District and Developer agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Affordable Housing. Developer has proposed reserving an approximately 2-acre portion of the Site along Marco Polo Way for the development of affordable housing by a non-profit affordable housing developer. The District hereby approves MidPen as the affordable housing development partner. In the event MidPen is unable to proceed with development of the affordable housing component, the Developer will make reasonable good faith efforts to select a local or regional non-profit affordable housing developer to develop the affordable rental housing component of the Project. The District shall have sole and absolute discretion to approve any subsequent affordable housing developer. For avoidance of doubt, nothing in the ENA, including the First Amendment thereto and this Second Amendment, shall give MidPen or any replacement affordable housing developer any rights to the Property or any portion thereof, or any rights to develop any portion of the Property, absent execution of a DDA by Developer and the District each in their respective sole and absolute discretion.
3. Amendment to Schedule of Performance Completion Dates. The District agrees to extend the completion dates for Developer’s submittal of certain scopes of work in the Schedule of Performance. The revised completion dates for these scopes of work are identified in Exhibit 1 to this Second Amendment. The Parties acknowledge that the completion dates for Developer’s submittal of certain scopes of work set forth in Exhibit 1 to this Second Amendment may be further amended through a third amendment to the ENA and the Schedule of Performance.
4. Extension of Term Sheet Phase. The Parties acknowledge and agree that the Developer exercised its remaining Extension Option Period pursuant to Section 2.1 of the ENA with its submittal of the 2.0 Feasibility Plan which automatically extended the Term Sheet Phase from January 28, 2020 to March 28, 2020. To accommodate the Developer’s performance of the Developer’s Work in accordance with the amended completion dates set forth in Exhibit 1 to this Second Amendment, Section 2.1 of the ENA is amended to provide that the Term Sheet Phase shall expire on December 31, 2020. All other terms and provisions in Section 2

of the ENA shall remain in full force and effect. The Parties further acknowledge and agree that the Developer shall have the right to exercise one (1) additional Extension Option Period during the Term Sheet Phase, as that date is amended in Section 4 of this Second Amendment. Section 2.1 of the ENA shall govern the Developer's right to exercise the Extension Option Period.

5. Term Sheet Terms to Be Negotiated. In addition to the terms identified in Section 3.1 of the ENA, the District and Developer shall work together in good faith to negotiate a Term Sheet that shall address, without limitation, the following matters:
 - 5.1 The legal and financial relationship between the Developer and MidPen.
 - 5.2 Coordination between the Developer and Midpen in processing and obtaining entitlements for the affordable housing component of the Project and the market-rate and commercial components of the Project.
 - 5.3 Development of a schedule of performance identifying phasing of development, including commencement and completion of the construction of buildings, infrastructure and improvements for the market rate, commercial and affordable housing components of the Project.
 - 5.4 General terms and conditions for the ground lease for the affordable housing component of the Project.
 - 5.5 Framework for the operation and programming of the affordable housing component of the Project.
6. Delegation of Authority. The Developer may, from time to time, delegate to MidPen the responsibilities for CEQA compliance, and processing planning and entitlement approvals for the Project subject to the District's review and approval under Section 8.1 of the ENA. The Developer must obtain the District's prior written consent prior to any delegation of authority under this Section 6. Any such delegation shall not limit Developer's obligation to timely complete Developer's Work in accordance with the Schedule of Performance, to timely complete entitlement milestones set forth in the Entitlement Schedule submitted by Developer and approved by District pursuant to Section 8.1 of the ENA, or perform any of Developer's material obligations under the ENA. In addition, any delegation shall not limit Developer's indemnity obligations under Section 14 of the ENA.
7. Mutual Assurances. The Parties hereby mutually affirm and warrant that the other is in compliance with the terms of the ENA and that they are unaware of any asserted or unasserted claims, causes of action or lawsuits against or by either party against the other. Subject to the terms of the ENA, the parties further mutually affirm and warrant to the other that each party will cooperate with the other to consummate the transactions contemplated by the ENA.
8. COVID-19 Related Delay. The Parties acknowledge that as of the Second Amendment Effective Date, significant interruptions to regular business operations are occurring as a result of the COVID-19 coronavirus pandemic. For this reason, the Parties agree that the

Schedule of Performance milestone dates and the Term Sheet Phase, as those dates are amended in Sections 3 and 4 above, shall be automatically extended as of the Second Amendment Effective Date by three (3) months (“**First COVID Delay**”). If, upon expiration of the Initial COVID Delay period, Developer is continuing to experience business interruption as a result of the COVID pandemic, Developer may request prior to expiration of the Initial COVID Delay period one (1) additional extension of the Schedule of Performance milestone dates and the Term Sheet Phase of up to three (3) months (“**Second COVID Delay**”). Provided Developer has provided information demonstrating that business interruptions persist as a result of COVID, Developer’s request for a Second COVID Delay shall not be unreasonably withheld, delayed or conditioned by District. Following expiration of the First COVID Delay period and the Second COVID Delay period, if exercised, any further extension of individual Schedule of Performance milestone dates or the Term Sheet Phase (not including use by Developer of any remaining Extension Option Period) shall require mutual agreement of the Parties each in their sole and absolute discretion.

9. Miscellaneous.

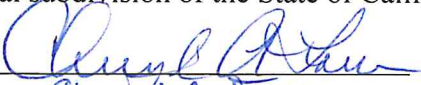
- a. Incorporation. This Second Amendment constitutes a part of the ENA and any reference to the ENA shall be deemed to include a reference to the ENA as amended by this Second Amendment.
- b. Ratification. To the extent of any inconsistency between this Second Amendment and the ENA, the provisions contained in this Second Amendment shall control. As amended by this Second Amendment, all terms, covenants, conditions, and provisions of the ENA shall remain in full force and effect.
- c. Successors and Assigns. This Second 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 Second 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. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of an original to both Parties.
- e. Integration. This Second Amendment contains the entire agreement between the parties hereto with respect to the subject matter of this Second Amendment. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Second Amendment. No prior drafts of this Second Amendment or changes from those drafts to the executed version of this Second 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 Second Amendment.

[Signatures on following page.]

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

DISTRICT

PENINSULA HEALTHCARE DISTRICT,
a political subdivision of the State of California

By: 
Name: Cheryl A. Fama
Its: CEO.

DEVELOPER

PMB LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

GENERATIONS LLC,
an Oregon limited liability company

By: _____
Name: _____
Its: _____

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

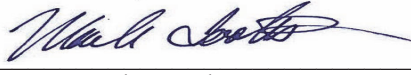
DISTRICT

PENINSULA HEALTHCARE DISTRICT,
a political subdivision of the State of California

By: _____
Name: _____
Its: _____

DEVELOPER

PMB LLC,
a California limited liability company

By:  _____
Name: Mark Toothacre
Its: President

GENERATIONS LLC,
an Oregon limited liability company

By: _____
Name: _____
Its: _____

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

DISTRICT

PENINSULA HEALTHCARE DISTRICT,
a political subdivision of the State of California

By: _____
Name: _____
Its: _____

DEVELOPER

PMB LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

GENERATIONS LLC,
an Oregon limited liability company

By: *H.W. Gabriel Jr*
Name: *Henry W. Gabriel Jr*
Its: *Authorized Member*

Exhibit 1
Schedule of Performance to Second Amendment for Developer's Work

Scope of Work	Completion Date
<p>Communications Protocol: In cooperation with the District, prepare a communications protocol for efficient communication with the District to keep the District regularly informed throughout the Negotiation Period. The communications protocol shall provide a meeting matrix with meeting frequency and attendance requirements, and propose a framework for keeping the District apprised of Developer communications with community stakeholders, neighboring businesses, District partners, and potential tenants for the Project.</p>	<p>Complete</p>
<p>Conceptual Developer Organizational Chart: Provide a conceptual entity organizational chart associated with Project delivery and Developer's structure and governance, including the legal and financial relationship between MidPen and the Developer, documents relating to Developer's composition, any operating agreements or formation documents regarding the business relationship between PMB and Generations (including the entities to serve as lessees and developers) and operator(s) of the Peninsula Wellness Community (such as MidPen), and the responsibilities designated to key personnel within each organization. The development team shall be responsible for management level leadership, reviewing Project progress, and assisting Developer and the District in achieving the development of the Project. The Parties acknowledge that Developer's proposal for legal organizational structure of the Project will be influenced by the final scope of the Project including any debt and equity partners.</p>	<p>By May 15, 2020</p>

Exhibit 1
Schedule of Performance to Second Amendment for Developer's Work

<p>Preliminary Project Schedule: Develop and submit a preliminary schedule identifying proposed Project milestones, including a critical path schedule identifying elements that have a sequential relationship and those that can be pursued concurrently.</p>	<p>Complete</p>
<p>Community Outreach and Public Relations Plan: Prepare and submit for District review and approval a proposed community outreach and public relations plan (“Outreach and PR Plan”) that describes Developer’s proposed community outreach strategy and plan during the Negotiation Period. The Outreach and PR Plan shall include a description of Developer’s proposed public relations program, including community and stakeholder outreach, and informing the public, the Board, and applicable regulatory agencies about the Project. The Outreach and PR Plan shall also include (i) a budget for the community outreach efforts; (ii) a strategy for community and public outreach for the Project and keeping regulatory agencies apprised of the Project; (iii) a proposed schedule for presentations to community groups, stakeholders, regulatory agencies during the Negotiation Period; and (iv) a proposal for keeping the District informed during the Negotiation Period. During the Negotiation Period, Developer shall conduct various outreach efforts to communicate with, and receive input from, community stakeholders, including but not limited to, residents, business and property owners within, and adjacent to, the Site to ensure that the development of the Project reflects reasonable community interests and desires. Developer and District acknowledge that the Outreach and PR Plan and strategy may be modified as negotiations and discussions regarding the Project proceed.</p>	<p>Complete</p>
<p>Land Use Approval & CEQA Schedule: Meet with the City of Burlingame and any other appropriate agency or authority that Developer determines will have discretionary review authority over the Project as proposed by Developer. Prepare and submit to the District for review and approval a schedule for processing and</p>	<p>By May 29, 2020</p>

Exhibit 1
Schedule of Performance to Second Amendment for Developer’s Work

<p>obtaining all necessary land use entitlements for the Project and completing the associated environmental review under CEQA (the “Entitlement Schedule”).</p>	
<p>Submittal of Project Applications: Submit planning and entitlement, and CEQA applications and documents identified in the Entitlement Schedule to the City of Burlingame. Submittal of Project applications shall be subject to Board review and approval pursuant to <u>Section 8.1</u> of the ENA.</p>	<p>October 30, 2020</p>
<p>Preliminary Due Diligence Investigation: Complete due diligence investigation of any Project or Site information provided by District or procured by Developer and issue a letter to District with any objections or required clarifications. The due diligence investigation shall include the review of a preliminary title report and any underlying documents relating to the exceptions referred to in the preliminary report, inspections, inquiries and investigations regarding the market conditions, the financial and physical condition of the Site, environmental matters, zoning and governmental compliance, financing and such other matters relating to the Site and the Project.</p>	<p>180 days from Effective Date</p> <p>The Developer has completed its Preliminary Due Diligence as contemplated under the ENA and the Schedule of Performance. The parties acknowledge that additional due diligence may be warranted as the Project progresses.</p>
<p>Healthcare Partnerships and Services: Developer agrees and acknowledges that the District will require the Project to provide significant health care services to District residents.</p> <p><u>Step 1:</u> Developer shall engage with Sutter Health (“Sutter”) to evaluate potential partnerships between Developer and Sutter regarding potential occupancy of some portion of the Project. Developer shall provide advance notice to District of all discussions with Sutter and shall provide a reasonable opportunity for District to participate in any such discussions. On or before the Step 1 Date, Developer shall submit to District in writing Developer’s proposal for inclusion of any Sutter-affiliated uses in the Project or, alternatively, Developer’s proposal for further engagement by Developer, if any, with Sutter.</p>	<p><u>Step 1 Date:</u> March 15, 2019</p> <p><u>Step 2 Date:</u> Prior to expiration of Term Sheet Phase.</p>

Exhibit 1
Schedule of Performance to Second Amendment for Developer's Work

<p><u>Step 2:</u> Developer shall host a minimum of two (2) meetings at which the Board, Developer and prospective health care provider partners and prospective users (other than Sutter), identified by Developer and the District, shall have the opportunity to continue discussions regarding the development of the Project. These introductory meetings may include presentations by Developer of its preliminary development concept and strategy for the Project and opportunity for feedback by Developer, District, prospective health care providers, and other attendees regarding Developer's proposed planning, programming, design and development of the Project.</p> <p>Developer shall participate in District and Board meetings throughout Step 1 and Step 2, as needed, to refine the Developer's development concept and strategy for the Project, to provide the Board with additional information, as necessary, regarding the programming, entitlement, and financing approach for the Project and any additional matters necessary for the Parties to proceed with negotiation of the Term Sheet</p>	
<p>Preliminary Conceptual Design and Project Description. Prepare and submit for District review and approval Preliminary Conceptual Design documents and proposed Project Description that consists of drawings, plans, and other necessary documents illustrating the scale and relationship of Project components that will include, but not be limited to, a site plan, preliminary building layout and floor plans, sections and elevations, a development plan that includes the proposed land uses; program of uses; phasing plan; infrastructure plan; constructability analysis and cost estimates for the Project; and key milestones for design, development, construction and completion.</p>	<p>June 1, 2020</p>
<p>Final Conceptual Design and Project Description: Prepare and submit for District review and approval:</p> <p>(1) Final Conceptual Design documents that consist of drawings, plans, and other necessary documents illustrating the scale and relationship of Project components</p>	<p>September 21, 2020</p>

Exhibit 1
Schedule of Performance to Second Amendment for Developer's Work

<p>that will include, but not be limited to, a site plan, preliminary building layout and floor plans, sections and elevations and any other documents that Developer proposes including in the Submittal of Project Applications to the City. The Conceptual Design submittal shall include a development plan that includes the proposed land uses; program of uses; phasing plan; infrastructure plan (including analysis of existing site infrastructure and proposed improvements relating to circulation, traffic/transportation, parking); constructability analysis and cost estimates for the Project; and key milestones for design, development, construction and completion; and</p> <p>(2) Project Description that provides information regarding the proposed development of the Site, including but not limited to the Project's development program and characteristics, including the proposed number of residential units and development square footage; a description of the Project's objectives; and the existing and proposed land uses on the Site.</p>	
<p>Project Economics: Prepare and submit for District review:</p> <p>(1) a detailed proforma, and financing plan that demonstrates the financial feasibility to develop and complete the Project. The pro forma shall include all financial considerations and requirements including sources of funds and method of calculating returns to the Developer and ground lease revenues and cash flow participation to the District, as well as projected revenues to the Developer and the District. Market assumptions, including absorption and rents shall be documented in a market study, and the basis for all financial assumptions shall be sourced and explained in a narrative supporting the financial analysis; and</p> <p>(2) an implementation strategy that includes (i) Developer's organizational plan, marketing program, and public benefit plan, and (ii) an overview of how the Project will commence, function, manage risk, and raise capital, based on preliminary assessments of infrastructure cost, phasing, environmental issues, market analysis, economic and financial modeling, and other technical studies.</p>	<p>March 2020 through Term Sheet Phase</p>

Exhibit 1
Schedule of Performance to Second Amendment for Developer's Work

<p>The District reserves the right to request reasonable additional information and data from Developer necessary for the review and evaluation of Developer's proforma, financing plan, and implementation strategy. Developer agrees to provide such additional information or data as requested in a timely manner.</p>	
<p>Project Development Schedule: Prepare and submit for District review a Project Development Schedule identifying milestones for detailed design, development, and construction of the Project. The Project Development Schedule shall include financing milestones; submittal, processing, and approval of implementing City approvals (for example, subdivision maps, design review, etc.); Project phasing, commencement and completion of infrastructure; commencement and completion of Project buildings and associated improvements; and commencement of operations within the Project. The Project Development Schedule shall include submittal dates, District review times, and review and approval timelines for any approving agency, utility, or similar body. Developer shall regularly update the Project Development Schedule to reflect milestone dates set forth in the Entitlement Schedule.</p>	<p>30 days after Submittal of Project Applications</p>