

LOS ANGELES PUBLIC LIBRARY
BOARD REPORT

December 10, 2020

TO: Board of Library Commissioners

FROM: John F. Szabo, City Librarian

SUBJECT: **APPROVAL OF THE FIRST AMENDMENT (NAME CHANGE) AND
CONSENT TO ASSIGNMENT TO THE CENTRAL LIBRARY
LANDSCAPING CONTRACT NO. 769**

RECOMMENDATION:

THAT The Board of Library Commissioners adopt the following resolutions:

RESOLVED, That the Board of Library Commissioners approves the First Amendment to Contract No. 769, Agreement for the Maintenance of Central Library Landscape and Hardscape Areas, to effectuate a name change to **USBT PROPERTY OWNER LP** pursuant to the Assignment of Contracts and Intangibles and Assumption Agreement between Beringia Central LLC and USBT Property Owner LP, dated September 15 (Attachment B); and

FURTHER RESOLVED, That the Board of Library Commissioners approve a Consent to Assignment to USBT Property Owner LP for the maintenance of the Central Library landscape and vicinity including the Maguire Gardens (Attachment A); and

FURTHER RESOLVED, That the City Librarian and the City Attorney be authorized to make technical changes to the First Amendment to Contract No. 769 and Consent to Assignment prior to execution; and

FURTHER RESOLVED, That the President of the Board of Library Commissioners is authorized to execute the First Amendment to Contract No. 769 and Consent to Assignment.

FINDINGS:

1. On August 22, 2013, the Board of Library Commissioners approved Agreement No. 769 with Beringia Central, LLC for the maintenance of the Maguire Gardens, Central Library Landscape, and vicinity.

2. The term of the agreement is for three years plus seven one-year renewal options commencing on October 4, 2013, with a termination date of October 3, 2023.
3. Beringia Central LLC entered into an agreement to sell US Bank Tower to USBT Property Owner LP pursuant to a Purchase and Sale Agreement and Escrow instructions between Beringia Central LLC and USBT Property Owner LP, dated July 16, 2020.
4. USBT Property Owner LP will assume rights, title, and interest in Contract No. 769, pursuant to their Assignment of Contracts and Intangibles and Assumption Agreement with Beringia Central LLC, including the duties, covenants, obligations, and liabilities of Beringia Central, LLC, effective September 15, 2020 (Exhibit 1 to Attachment B).
5. The contract is reviewed by the City Attorney's Office as to form.

Prepared by: Eloisa Sarao, Director of Facilities & Event Management
Reviewed by: Susan Broman, Assistant City Librarian

RESOLUTION

December 10, 2020

LIBRARY RESOLUTION NO. 2020 - XX (C-XX)

WHEREAS, Beringia Central LLC assigned its interest in Contract No. 769 for the Maintenance of the Central Library Landscape and Hardscape Areas to USBT Property Owner LP, in connection with the sale of real properties known as 633 West Fifth Street (U.S. Bank Tower) and 524 South Flower Street (Maguire Gardens and West Lawn Garage) to USBT Property Owner LP ("Assignment of Contracts and Intangibles and Assumption Agreement," dated September 15, 2020); and

WHEREAS, Contract No. 769 with Beringia Central LLC for the maintenance of the Maguire Gardens, Central Library landscape and vicinity was approved by the Board on August 22, 2013 and will expire on October 3, 2023; and

WHEREAS, USBT Property Owner LP will assume all rights, title and interest in Contract No. 769, including the duties, covenants, obligations and liabilities of Beringia Central LLC, upon execution of the First Amendment to Contract No 769:

THEREFORE, BE IT RESOLVED That the Board of Library Commissioners approves the Consent to Assignment to USBT Property Owner LP (Attachment A); and

FURTHER RESOLVED That the Board of Library Commissioners approves the First Amendment to Contract No. 769 between the City and USBT Property Owner LP for the maintenance of the Maguire Gardens, Central Library landscape and vicinity (Attachment B); and

FURTHER RESOLVED That the City Attorney and the City Librarian be authorized to make technical changes to the Consent to Assignment and First Amendment prior to execution.

FURTHER RESOLVED That the Board President be authorized to execute the Consent to Assignment and First Amendment to Contact No 769.

This is a true copy:

Raquel M. Borden
Board Executive Assistant

Adopted by the following votes:

AYES:

NOES:

ABSENT:

FIRST AMENDMENT
TO THE
AGREEMENT FOR MAINTENANCE OF THE CENTRAL LIBRARY LANDSCAPE
AND HARDSCAPE AREAS
BETWEEN
THE CITY OF LOS ANGELES AND USBT PROPERTY OWNER LP

FIRST AMENDMENT to Contract Number 769, is entered into by and between the City of Los Angeles, a municipal corporation, acting by and through the Board of Library Commissioners (hereinafter referred to as the "City"), and USBT Property Owner LP, a Delaware limited partnership (hereinafter referred to as the "Contractor") as successor in interest to Beringia Central LLC, a Delaware limited liability company (hereinafter referred to as "Previous Contractor"), with reference to the following:

WHEREAS, as of October 4, 2013, the City entered into Contract No. 769, Agreement for Maintenance of the Central Library Landscape and Hardscape Areas, wherein Beringia Central LLC agreed to maintain the Central Library Landscape Areas and vicinity including the Maguire Gardens (hereinafter referred to as the "Contract"); and

WHEREAS, the Contract provides for amendments; and

WHEREAS, the City and Contractor are now desirous of amending the Contract for the purpose of changing the original contracted name of Beringia Central LLC, a Delaware limited liability company, to the new owner, USBT Property Owner LP, a Delaware limited partnership effective upon the close of escrow; and

WHEREAS, the City agreed to a Consent of Assignment of the Contract to Contractor (Attachment A), providing that the Contractor satisfy the City's contracting requirements; and

WHEREAS, Contractor will assume rights, title, and interest in the Contract, including the duties, covenants, obligations and liabilities of Beringia Central LLC, pursuant to the Assignment of Contracts and Intangibles and Assumption Agreement between Beringia Central LLC and USBT Property Owner LP, dated September 15, 2020; and

WHEREAS, the amendment is necessary and proper to continue or complete certain activities authorized under the Contract.

NOW THEREFORE, the City and Contractor agree that the Contract be amended as follows:

1. Replace Beringia Central LLC, a Delaware limited liability company with USBT Property Owner LP, a Delaware limited partnership, throughout the Contract.

2. Replace Exhibits K, L, M, N, P, Q, R, S, referencing Beringia Central LLC (Previous Contractor) with the same and/or updated requirements and forms executed by USBT Property Owner LP (Contractor) and currently required by the City. Exhibit P - Standard Provisions for City Contracts revised (Rev 10/17) [v.3] and (Paragraph PSC-23) requires a Certificate of Liability Insurance, as approved by the City Administrative Office, Risk Management Division.

3. Replace Section E and its entirety to read as:

As contemplated by the OPA, the Garage Agreement, and the First Amendment, City and Library Square Associates LLC, formerly known as Maguire Thomas Partners Development Ltd., entered into that certain Agreement for Maintenance of Central Library Landscape Areas. On June

18, 2013, Library Square Associates LLC conveyed the Garage Plaza Parcel to Beringia Central LLC. On September 15, 2020, Beringia Central LLC conveyed the Garage Plaza Parcel to USBT Property Owner LP pursuant to a Grant Deed and executed an Assignment of Contracts and Intangibles and Assumption Agreement with USBT Property Owner LP. City and Contractor now desire to enter into the Agreement for Maintenance of Central Library Landscape and Hardscape Areas, effective as of September 15, 2020 (Effective Date), with the intention that this First Amendment to the Contract will replace the Previous Contractor with the Contractor in its entirety as the party assuming all obligations and liabilities under the Contract and become the signatory to the Contract.

4. Replace Section 6.10 Ratification to read as:

The parties acknowledge that the Contractor will cause the maintenance services for the Landscaping Area and the Vicinity Landscaping Area to Commence on the Effective Date, which may be prior to execution of this Agreement by the parties. Contractor and the City acknowledge and agree that, upon mutual execution and delivery hereof, performance by the parties hereunder after the Effective Date and prior to such execution and delivery is hereby ratified, and this Agreement shall, for such purposes, be deemed effective as of the Effective Date.

5. In the event of an inconsistency between any of the provisions of this First Amendment, Contract No. 769, all prior amendments, and/or attachments, the inconsistency shall be resolved by giving previous amendments precedence in the following order:

- 1) First Amendment
 - 2) Contract No. 769
 - 3) Standard Provisions for City Contracts revised (Rev 10/17) [v.3]
6. Except as amended by this First Amendment, all other terms and conditions of Contract No. 769 and its prior amendments shall remain in full force and effect.
7. This First Amendment is executed in four (4) duplicate originals, each of which is deemed to be an original. This amendment consists of three (3) pages.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

By _____
BICH NGOC CAO
President
Board of Library Commissioners

By _____
JONATHAN W. KNIPE
Secretary
USBT Property Owner, LP

Date _____

Date _____

APPROVED AS TO FORM:

ATTEST:

MICHAEL N. FEUER, City Attorney

By _____
BASIA JANKOWSKI
Deputy City Attorney

By _____
RAQUEL BORDEN
Executive Assistant

Date _____

Date _____