

**EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT**  
**(Cell 1 – 20400 S. Main Street, Carson, CA)**

**THIS EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (“Agreement”)** is made this \_\_\_\_ day of November, 2022 (the “**Effective Date**”), by and between the CARSON RECLAMATION AUTHORITY, a joint powers authority formed under the laws of California (“**Authority**”), and DISTRICT ESSENTIAL HOUSING, LLC, a California limited liability company (together with its Permitted Assigns (as defined below), “**Developer**”, or collectively with the Authority, the “**parties**”, and each individually, a “**party**”).

A. **The 157-Acre Property.** The Authority acquired, and currently owns, approximately 157 gross acres of real property located in the City of Carson (“**City**”), as shown on the Site Map attached hereto as **Exhibit “A”** (the “**Property**”), which is divided into five distinct cells (each a “**Cell**” and collectively, the “**Cells**”). Each Cell must be wholly developed in a single phase. The Property has been vertically subdivided into a surface lot (the “**Surface Lot**”) and a subsurface lot (the “**Subsurface Lot**”), which lots are referenced as Parcel 1 (Subsurface Lot) and Parcel 2 (Surface Lot) of Parcel Map No. 70372. The Property is subject to The District at South Bay Specific Plan, originally approved on February 8, 2006, and amended on April 5, 2011, April 3, 2018 and June 8, 2022 (as so amended, the “**Specific Plan**”). An environmental review process was previously undertaken pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “**CEQA**”) for the Property in connection with the approval of the Specific Plan (the “**Prior CEQA Review**”), which culminated in a Final Environmental Impact Report, dated February 8, 2006, an Addendum to the Final Environmental Impact Report dated March 2009, a Supplemental Environmental Impact Report dated April 3, 2018, and a Supplemental EIR approved on May 23, 2022 (collectively, the “**EIR**”). The Property is a former landfill site, and on October 25, 1995, the California Department of Toxic Substances Control (“**DTSC**”) approved a Remedial Action Plan (“**RAP**”) for the Property, which RAP requires the installation, operation and maintenance of certain remedial systems, including a landfill cap, gas extraction and treatment system, and groundwater collection and treatment system on the Property (“**Remedial Systems**”). In addition, the development of the Property is subject to the terms and conditions set forth in that certain document entitled Management Approach to Phased Occupancy (File No. 01215078.02), approved by DTSC in April 2018 (the “**MAPO**”) and that certain letter regarding phased development matters, issued by DTSC to the Authority, dated October 17, 2017 (the “**Phased Development Letter**”). The RAP requires the preparation of Remedial Action Completion Reports (“**RACRs**”) for each Cell.

B. **Reclamation Authority Acquisition.** City determined that there were a number of former landfill and other sites with the need for remediation in the City, including the Property, and that a substantial need existed to establish an entity to perform such remediation and which could operate ongoing Remedial Systems, without putting City’s general fund and taxpayer dollars at risk for such cleanup expense. Accordingly, City established the Authority as a joint powers authority under the provisions of the California Joint Powers Act (Govt. Code Sections 6500 *et seq.*), and on January 20, 2015, the governing boards of the Housing Authority and of the Community Facilities Districts each approved an agreement for the formation of the Authority for the purpose of overseeing and facilitating the remediation of contaminated properties in the City, and for the maintenance and potential development of same, and said Authority was formed on February 17, 2015, and officers were elected on April 20, 2015. Among the powers of Authority

are to purchase, hold, sell, and improve real property, to appoint officers and employees, to enter contracts, to purchase insurance, to sue and be sued, and to construct, operate, and maintain the Remedial Systems to alleviate soil contamination.

C. **Area Underutilized.** The Property is the largest tract of undeveloped Property in the City, and represents significant potential for public benefit through appropriate development, including the economic opportunity to finally remediate the environmental contamination conditions that have afflicted the Property. However, the land has negative value due to the cost of the constructing the Remedial Systems and the high infrastructure development costs associated with building on a landfill. As a result, the Property is currently underutilized, falling substantially short of its revenue-generating and job-generating potential. The Authority seeks to utilize the Property in a manner that will maximize public benefits and welfare.

D. **Cell 2 Agreements.** Authority and CAM-Carson LLC, a Delaware limited liability company (“**CAM**”) entered into that certain Conveyancing Agreement dated as of September 6, 2018, as amended by that certain First Amendment to Conveyancing Agreement dated effective as of September 6, 2018 and as modified by that certain Operating Memorandum #1 to Conveyancing Agreement dated as of September 6, 2018 and as amended by that certain Second Amendment to Conveyancing Agreement dated October 11, 2022 (collectively, the “**CAM Conveyancing Agreement**”), pursuant to which CAM is to acquire a fee simple interest to the Cell 2 Surface Lot, among other things. Separately, CAM and the City are parties to that certain Development Agreement, dated as of September 6, 2018, as amended by that certain First Amendment to Development Agreement dated October 11, 2022 (the “**CAM Development Agreement**”).

E. **Remainder Cells Agreements.** The Authority and Faring Capital LLC, a Delaware limited liability company (“**Faring**”) entered into that certain Option Agreement and Joint Escrow Instructions, dated as of December 17, 2020, as amended by that certain Amendment to Option Agreement and Joint Escrow Instructions, dated effective as of October 4, 2022 (as may be further amended, the “**Carson-Goose Option Agreement**”), pursuant to which Faring was given an option to acquire Cells 3, 4 and 5 (the “**Remainder Cells**”). The Carson-Goose Option Agreement was assigned by Faring to Carson Goose Owner, LLC, a Delaware limited liability company (“**Carson Goose**”, together with CAM, the “**Remainder Developers**”) by virtue of that certain Assignment of Option Agreement and Joint Escrow Instructions, dated January 19, 2021. On May 23, 2022 the City Council voted to certify a Supplemental EIR and approve numerous discretionary entitlements, including but not limited, to a Specific Plan Amendment, General Plan Amendment, Development Agreement (the “**CGO Development Agreement**”) and ancillary approvals to permit a development project on Cells 3, 4 and 5 (collectively, the “**Remainder Cells Approvals**”) that includes (i) up to six light industrial buildings (providing for e-commerce/fulfillment center uses and distribution center/parcel hub uses) consisting of a maximum of 1,567,090 square feet, inclusive of 75,000 square feet of associated office space, (ii) an 11.12 acre community amenity and commercial restaurant and retail area, with a variety of programmed passive and active open spaces (known and referred to as the “**Carson Country Mart**”), and (iii) associated signage. The City Council granted final approval for the Remainder Cells Approvals (upon its adoption of Ordinance No. 22-2208 approving Development Agreement No. 29-2021) with the Council’s second reading on June 8, 2022 for the CGO Development Agreement.

F. **Surplus Land Act.** California Government Code Section 54220 *et seq* requires that local agencies follow certain statutory procedures prior to disposing of public land, including providing notice to and negotiating with interested housing developers (the “**Surplus Land Act**”). On August 2, 2021, the Authority’s Board of Directors approved Resolution No. 21-10-CRJPA pursuant to California Government Code Section 5221(b) to declare the Cell 1 portion of the Property depicted on Exhibit “A” attached hereto (“**Cell 1 Property**”) as “surplus land.” The Authority subsequently issued a Notice of Availability (“**NOA**”) on September 14, 2021 to all interested “housing sponsors” identified on the State Housing & Community Development Department’s (“**HCD**”) list of affordable housing providers, as required by California Government Code Section 54222. The NOA triggered a 60-day deadline for interested housing sponsors to respond to the Authority and express an interest in developing housing and affordable housing on the Cell 1 Property. During this 60-day period the Authority received only one proposal of interest to develop and acquire the Cell 1 Property from “Standard Property Company, Inc.”, an affiliate of Developer. After entering into good faith negotiations during the statutory period with Standard Property Company, Inc., the Authority has agreed to enter into this Agreement with Developer with the goal of transferring ownership of the Cell 1 Property subject to the terms of a future Purchase Agreement as described below. Notwithstanding anything to the contrary hereunder, the Project must comply with the Surplus Land Act (Assembly Bill No. 1486, approved on October 9, 2019), and all regulations, procedures, and guidelines issued by the HCD relating to the Surplus Land Act (collectively the “**SLA Guidelines**”). The Surplus Land Act specifically requires an entity proposing to use surplus land for affordable housing to agree to make no less than 25 percent of the total number of units developed for Lower Income affordable housing units. Such a commitment shall be memorialized in a recorded covenant and agreement and provided to the Housing & Community Development Department (“**HCD**”) along with a summary of the proposed disposition of land as required by Section 400 of the SLA Guidelines. Developer’s proposed Project on the Project Surface Lot (each as defined below) substantially exceeds this requirement in that 1,250 units are proposed for affordable housing, 445 of which (or over 35 percent) will be deed restricted to Lower Income households at 80 percent of the Area Median Income.

G. **The Developer’s Project.** Developer has proposed to build a new affordable residential development on the Cell 1 Property, and the Authority is negotiating with Developer for the conveyance to Developer of the Surface Lot of the Cell 1 Property, which encompasses approximately 15 gross acres (the “**Project Surface Lot**”), in addition to the licensing or granting of easements to Developer of the Subsurface Lot of Cell 1. Developer’s proposed project would consist of a large-scale modern housing project consistent with the current zoning of Cell 1 under the Specific Plan, including affordable housing options (referred to herein as the “**Project**”). The Authority and Developer anticipate that the Project will, in addition to potential market rate housing, include approximately 445 Lower Income units (defined as 80% or less than Area Median Income) and 805 Moderate Income units (defined as 120% or less than Area Median Income) (such affordable units, the “**Affordable Units**”). Notwithstanding anything to the contrary hereunder, the Project must comply with the regulations, procedures, and guidelines set for the in the Surplus Land Act and issued by the HCD.

H. **Negotiations with Goal of Reaching a Purchase Agreement.** The Authority and Developer desire, for the period set forth herein, to negotiate in good faith to enter into a purchase agreement for the sale of the Project Surface Lot to Developer (the “**Purchase Agreement**”). This Agreement and the subsequent Purchase Agreement represent the culmination of good faith

negotiations between the Authority and the sole developer that responded to the NOA issued by the Authority in compliance with the Surplus Land Act. A sale of the Project Surface Lot by the Authority to the Developer would facilitate development of a substantial amount of deed restricted Lower Income and additional Moderate Income housing units consistent with the Surplus Land Act and SLA Guidelines which strongly encourage local agencies to dispose of surplus property for the purpose of generating affordable housing.

**NOW, THEREFORE**, and in consideration of the mutual covenants contained herein and incorporating the Recitals above which are deemed to be true and correct, and with the Exhibits which are incorporated herein by reference, the parties mutually agree to the following:

## **SECTION 1. TERM; DEPOSITS AND PAYMENTS.**

A. **Term.** The term of this Agreement shall commence on the Effective Date and shall terminate twelve (12) months thereafter (the “**Term**”). During the Term, Developer (i) will conduct and complete its due diligence with respect to the Cell 1 Property and the Project as described herein, (ii) develop with Authority additional business terms and final details for the transaction, (iii) develop an initial Project schedule in cooperation with the Authority, (iv) produce a Project site plan and elevations, and (v) negotiate the Purchase Agreement (including other necessary agreements for the sale of the Project Surface Lot, the licensing or granting of easements for the Subsurface Lot of Cell 1 or the development of the Project to Developer, and any and all other necessary covenants, easements, DTSC or third party approvals, insurance and documentation) for the Cell 1 Property with Authority.

B. **Developer Deposits, Payments, Reimbursements, and Contributions.**

1. **Description of Deposits.** Within three (3) business days after the Effective Date, Developer shall fund into an escrow (the “**Escrow**”) to be opened concurrently with the Effective Date with, and held by, Fidelity National Title Insurance Company (the “**Escrow Holder**”), the amount of One Hundred Thousand Dollars (\$100,000) (the “**ENA Deposit**”)[**CRA BOARD TO CONFIRM**], which shall be refundable to Developer pursuant to the terms and conditions set forth in the Reimbursement Agreement (as defined below) (the terms of which include the event of a failure to execute a Purchase Agreement between the parties and shall be applied to the Purchase Price (as defined below) upon consummation of the transactions contemplated under the Purchase Agreement. The purchase price (the “**Purchase Price**”) shall equal at least One Million Dollars (\$1,000,000) (to be particularly agreed to in the Purchase Agreement), which shall be payable in accordance with the Purchase Agreement, subject to any adjustment, reduction or credit expressly set forth herein or in the Purchase Agreement.

2. **Payment of Carry Costs.** Developer shall not have any obligation under this Agreement or the Purchase Agreement to pay or reimburse the Authority for any of the operation, maintenance, and other carrying costs for the Project Surface Lot incurred by the Authority in connection with, among other things, maintaining and operating the Remedial Systems installed on the Property (the “**Carry Costs**”) unless and until, and then only if and when, Developer acquires fee title to the Project Surface Lot pursuant to the Purchase Agreement, at which time an amount equal to ten percent (10%) of the Carry Costs (the “**Developer’s Proportionate Share of Carry Costs**”) incurred by the Authority from the Effective Date set forth

above until the Closing Date (as such term shall be defined in the Purchase Agreement) shall be due and payable by Developer to the Authority in addition to the Purchase Price, all as shall be more fully described in the Purchase Agreement. Notwithstanding anything to the contrary hereunder, in the event that the Authority's available funding decreases to an amount less than One Million Dollars (\$1,000,000) during the Term or the escrow period under the Purchase Agreement (prior to the Closing Date), Developer shall be obligated to commence payment of Developer's Proportionate Share of Carry Costs to the Authority, on an ongoing monthly basis (any such payments, "**Shortfall Payments**"); provided that (i) any payments made in respect of Shortfall Payments shall be credited against amounts required at Closing pursuant to Developer's obligation to pay Developer's Proportionate Share of Carry Costs and (ii) if the ENA Deposit is refunded to Developer pursuant to the terms of the Purchase Agreement, then any payments made by Developer in respect to Shortfall Payments shall also be reimbursed to Developer by the Authority. [CRA BOARD TO CONFIRM]

3. **Reimbursement Agreement.** All deposits, payments, and reimbursements of City and Authority costs and contributions and advances to be made by Developer, including, without limitation, the ENA Deposit, but expressly excluding the Carry Costs which are to be addressed in the Purchase Agreement, are as set forth in detail in that certain Reimbursement Agreement in the form attached hereto as **Exhibit "B"** to be executed among the Authority, City and Developer (the "**Reimbursement Agreement**") and shall be governed by the terms thereof.

## **SECTION 2. NATURE OF NEGOTIATIONS.**

A. **Good Faith.** During the Term of this Agreement, the parties agree to negotiate diligently and in good faith and expeditiously process any required additional entitlements (if any) and any required additional CEQA documentation (if any), the Purchase Agreement, and other necessary agreements in order to allow for the development of the Project on the Project Surface Lot, all of which shall be subject to the rules, regulations, standards, and criteria set forth in the City's General Plan, the Specific Plan, and the City's zoning and land use regulations. This Agreement is a limited but binding commitment to exclusively negotiate in accordance with the terms set forth herein. During the Term, the Authority will not negotiate any similar agreements with any other third party regarding the development of the Project Surface Lot, for any use or development type, except as Developer may otherwise approve in writing. The Authority further agrees that it shall not market or advertise Cell 1 or otherwise undertake any activities that are contrary to Developer's exclusive rights under this Agreement. The Authority understands and agrees that Developer will be incurring considerable costs and expenses, time and effort, and suffer lost opportunity costs in evaluating the feasibility of the Project during the Term of this Agreement, including, without limitation, both in-house and out-of-pocket third party costs and expenses incurred in connection with, among others (i) negotiating this Agreement, the Reimbursement Agreement, the Purchase Agreement and any and all other agreements with the City and or the Authority, and (ii) designing, investigating, evaluating, pursuing funding sources for and/or otherwise pursuing the Project, including, without limitation, attorneys', architects', surveyors', contractors', consultants' and experts' fees and costs.

**B. ACCORDINGLY, IN THE EVENT AUTHORITY BREACHES THIS AGREEMENT, SPECIFICALLY BY THE AUTHORITY BOARD'S APPROVAL OF AND ENTRY INTO A WRITTEN CONTRACT WITH A THIRD PARTY TO SELL THE**

CELL 1 SURFACE LOT TO A PARTY OTHER THAN DEVELOPER (AN “EXCLUSIVITY BREACH”), AUTHORITY AND DEVELOPER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH DEVELOPER MAY SUFFER. THEREFORE, AUTHORITY AND DEVELOPER DO HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT DEVELOPER WOULD SUFFER IN THE EVENT THAT AUTHORITY DEFAULTS UNDER THE PRECEDING SENTENCE, IS AND SHALL BE, AS DEVELOPER'S SOLE AND EXCLUSIVE REMEDY (WHETHER AT LAW OR IN EQUITY), THE RETURN OF THE ENA DEPOSIT FROM ESCROW (INCLUDING ANY INTEREST EARNED THEREON, IF ANY) AND PAYMENT BY THE AUTHORITY OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000) TO DEVELOPER. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR AN EXCLUSIVITY BREACH BY AUTHORITY, ALL OTHER CLAIMS TO DAMAGES OR OTHER REMEDIES BEING HEREIN EXPRESSLY WAIVED BY DEVELOPER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO DEVELOPER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. DEVELOPER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. UPON AN EXCLUSIVITY BREACH BY AUTHORITY (FOLLOWING THE NOTICE AND CURE PROCEDURES SET FORTH IN SECTION 5.G1 BELOW), THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF DEVELOPER TO COLLECT SUCH LIQUIDATED DAMAGES FROM AUTHORITY. THE PROVISIONS OF THIS SECTION ARE SEPARATE AND APART FROM ANY REMEDIES AVAILABLE TO DEVELOPER UNDER THE PURCHASE AGREEMENT.

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AUTHORITY'S INITIALS

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DEVELOPER'S INITIALS

C. **Developer Due Diligence; Authority Cooperation.** During the Term, Authority shall permit Developer and its employees, agents, representatives and contractors reasonable access to the Project Surface Lot to conduct environmental evaluations, engineering studies, surveys, geological work and other studies as reasonably desired by Developer for development purposes as set forth in, and subject to the terms of, Section 3.A. below, including subsurface investigations. In addition, throughout the Term of this Agreement, the Authority shall reasonably endeavor, and shall cause its consultants, to make available to Developer for Developer's review, the following items to the extent in the Authority or such consultants' possession or control and not already provided to Developer outside of this Agreement:

1. Any site plans and approved or proposed maps for the development of any portion of the Property;

2. Any authorization or consent of the Authority required for the Developer to submit entitlement and or CEQA related processing applications;
3. All applications and other submissions and documents relating to the Property entitlements, including all notices to or from and communications with the Authority, other governmental agencies or third parties relating to the entitlements;
4. All reports concerning the soils and geologic condition of the Property, including any documents regarding existing or expected subsidence at the Property;
5. All existing environmental reports, RAP, and other reports regarding the Remedial Systems;
6. All permits, approvals and inspection reports relating to the Property; and
7. All plans and specifications for the Offsite Improvements (as defined below) including all grading and drainage plans, water/sewage plans, street plans and dry utility plans, and the Area Off-site Improvements (as defined below).

Authority shall cooperate and assist with Developer's effort to seek and apply for any Federal or State public funding to defray Cell 1 remediation costs and or assist with financing construction of the Project's Lower Income affordable units, including but not limited to, grant funding and public subsidy programs administered by DTSC and/or HCD and tax credit financing and tax exempt bond financing through the California Tax Credit Allocation Committee ("TCAC") and the California Debt Limit Allocation Committee ("CDLAC").

Except for attorney-client privileged material and information, the Authority grants Developer the full and unlimited right to discuss the entitlements and the Property with all of the Authority's retained consultants, firms, or agencies.

**D. Affordable Housing Commitments and Obligations.**

1. **Affordable Unit Obligations.** The Developer agrees to process the Project upon the Project Surface Lot with a minimum of 445 Lower Income units (defined as 80% or less than Area Median Income) and 805 Moderate Income units (defined as 120% or less than Area Median Income). The Lower Income units will be secured through a deed restriction recorded against the Cell 1 Property and are anticipated to be consolidated on a separate parcel or parcels for tax credit and/or tax exempt bond financing purposes. It is currently undetermined whether the Moderate Income units will be subject to recorded deed restrictions, which the Authority and Developer shall negotiate during the Term and which will be set forth in the Purchase Agreement.

2. **Alternative Funding; Government Funding.** The Authority acknowledges that the Developer anticipates applying for public subsidies and funding to defray remediation and clean-up costs associated with redevelopment of the Cell 1 Property. Public subsidies may include but are not limited to remediation funding allocated through the Federal and/or State budget process and through programs administered by DTSC and/or HCD. Developer also anticipates seeking tax credit and/or tax exempt bond financing assistance through the TCAC and CDLAC. Authority agrees to reasonably cooperate and assist in Developer's efforts

to secure public remediation subsidies and tax credit and tax exempt bond financing assistance as Developer determines necessary and appropriate in its discretion.

E. ***Phases of Negotiation.*** During the Term, the Authority and Developer's obligations are to use their good faith efforts to reach conceptual agreement on the business terms of the transaction. These Phases of Negotiation are described as follows:

1. ***Term.*** Prior to the expiration of the Term, Developer shall have obtained approval from Authority for the items listed in Section 2.D.1(a) and (b) below.

(a) ***Site Plan and Identification of Uses.*** A "**Site Plan**" specifying the conceptual framework to guide the overall development of the Project and showing location of significant uses. The general nature of the uses shall be identified with users' requirements. In addition, Developer shall prepare the preliminary design plan for the Project, including design themes, as reasonably required by Authority, sufficient, to the extent feasible and practicable, to allow evaluation of the architectural design and site layout. In addition, Developer shall prepare the preliminary design plan of the Project including building elevations and design themes, as reasonably required by Authority, sufficient to the extent feasible and practicable to allow evaluation of sign configuration, architectural design and similar issues. Developer shall also order and review a preliminary title report.

(b) ***Purchase Agreement.*** The Purchase Agreement shall be negotiated and entered into between the parties, which shall include the Project Deal Terms described below as well as the following: (i) a specific schedule for development of the Project; (ii) rights and limitations of Developer to assign or transfer its obligations prior to completion of the Project; (iii) provisions regarding the responsibility of the parties with respect to the Remedial Systems; (iv) Developer's obligation to pay Carry Costs at Closing (as such term shall be defined in the Purchase Agreement) consistent with Section 1.B.2 above; (v) provisions for clearing title; (vi) requirement for issuance of RACRs from DTSC for each of Cells 2, 3, 4 and 5 as a condition to Closing, provided that, if DTSC expressly allows for occupancy of Cell 1 prior to the issuance of such RACRs, such earlier date of permitted occupancy shall be deemed to satisfy such condition to Closing; and (vii) other provisions as identified herein or pursuant to Section 1.A.2 above.

2. ***Project Deal Terms.*** The "**Project Deal Terms**" include the following:

(a) ***Developer Generally Responsible for Project Costs.*** Other than Authority responsibilities explicitly set forth in this Agreement, Developer is responsible for costs of development of the Project, including, without limitation, all Remedial Systems required to be installed within the Subsurface Lot of the Cell 1 Property, and the "**Site Development Improvements**" (defined as all required Stormwater Work, Site Preparation Work, Sub-Foundation Systems, and Foundation Systems (each as defined below)), all in accordance with any applicable DTSC regulations and requirements.

(b) ***Entitlement Costs.*** Developer shall use reasonable good faith efforts to submit required entitlement applications for the additional and modified land use entitlements for the Project, if any ("**Entitlements**").



(c) **Site Pre-Development Work.** Generally, Developer shall be responsible for construction of the Remedial Systems, Site Development Improvements, and the construction, operation and maintenance of the Project while the Authority shall be responsible for the operation and maintenance of the Remedial Systems once constructed and approved by DTSC. In terms of ownership, the division of ownership shall be separated at the structural foundation slab with the Authority having ownership over the sub-foundation improvements below the structural foundation slab. In addition to the Remedial Systems and Project, there are additional components that must be built, including the pilings, piling caps and structural slab systems that contact the site's soils and are necessary to support the Project. The parties have conceptually agreed that the allocation of responsibility for constructing, maintaining, and funding these other improvements shall be as follows:

(i) **Remedial Systems:** The Remedial Systems shall be constructed and installed by Developer but owned, operated and maintained by Authority following completion and shall not be deemed complete until a RACR is approved by the DTSC. The Remedial Systems include the Groundwater Extraction and Treatment System, the Landfill Gas Collection and Control System, and the Landfill Cap. Developer's construction of the Remedial Systems shall be of good quality and free from any defective or faulty material and workmanship. Developer agrees that for a period of one year after the date of the DTSC's approval of a RACR for Cell 1 Property and upon all such systems becoming operational, Developer shall, within ten (10) days after being notified in writing by DTSC (or by the Authority after receiving notice from DTSC) of any defect in those Remedial Systems or non-conformance of those Remedial Systems to the terms required by the DTSC, investigate such notice and, if necessary, rectify same, all as shall be more fully described the Purchase Agreement.

(ii) **BPS:** The building protection systems ("**BPS**") includes below-ground and above-ground improvements, such as venting systems and gas monitoring systems (which shall include the required cost of any necessary methane monitoring and venting equipment within buildings). Developer shall construct and install the BPS and shall retain ownership over the BPS and associated improvements and responsible for the maintenance and funding for the BPS.

(iii) **Site Preparation Work:** The "**Site Preparation Work**" shall include (i) site grading up to sub-grade elevation for building slabs, parking lots, roads, lighting, signs, etc., including the import and export of any soils as needed and any and all necessary relocation and mitigation of the existing trash layers so as to accommodate the necessary soil barrier between the proposed foundation system and the trash that is to remain in place, as well as redistributing contaminated fill materials and grading of the Project Surface Lot, pursuant to the preparation and mutual approval by Authority and Developer, and (ii) work required to engineer, design, install and maintain all Storm Water Pollution Control Measures required under the applicable Urban Storm Water Mitigation Plan and other applicable regulations (the "**Stormwater Work**"). Developer shall perform the Site Preparation Work and pay all costs therefor.

(iv) **Sub-Foundation Systems:** The "**Sub-Foundation Systems**" include the piles, the pile caps, grade beams, utility shelves, pits, vaults, retaining walls, vapor barrier system, under-slab utilities, landfill cap membrane tie-in (pile boots), and pile systems for other site improvements such as fire hydrants and parking lot lighting. Developer shall construct

and maintain such improvements in accordance with the requirements of DTSC and other regulatory requirements.

(v) Foundation Systems: The “**Foundation Systems**” include the structure slab for the buildings and any foundation elements within the Project Surface Lot not included in the Sub Foundation Systems. The Foundation Systems will serve to support the vertical improvements upon the Project Surface Lot. The Foundation Systems are to be constructed and maintained by Developer.

3. Activities During Term. During the Term, the Developer will negotiate to finalize a Purchase Agreement with the Authority in order to allow Developer to obtain title to the Project Surface Lot and provide for the terms of the development of the Project. Among other things, the following shall be completed prior to the expiration of the Term:

(a) *Processing of the Project.*

(i) *Applications for and Processing of City Approvals.*

Developer shall submit and assist with the processing of applications for any requisite additional and modified land use entitlements and approvals, which may include Site Plan Review, State Density Bonus Law incentives/concessions and waivers of development standards and approval of a tentative subdivision map to accommodate the development of the Project, at its sole cost and expense, from the City and as well as all other applicable governmental and/or quasi-governmental entities (collectively, “**Permits**”), except for actual building permits, which will be obtained after Developer has acquired the Project Surface Lot. Approval of all of the Permits and the expiration of all applicable litigation statute of limitations periods related to such approvals without the filing of any such litigation by a third party shall be a condition precedent to the consummation of the Closing under the Purchase Agreement. For avoidance of any doubt, the expiration of the litigation statute of limitations period for purposes of this paragraph shall be ninety-five (95) days after the City grants final approval of any and all discretionary Permits required for the Project. Developer understands that all approvals are subject to the City’s sole and absolute discretion in the exercise of its police powers, consistent with applicable State housing laws such as the Housing Accountability Act and the Density Bonus Law, and assumes the risk of not obtaining its Permits. Approval of any Permits shall be a condition precedent to the consummation of the sale of the Project Surface Lot under the Purchase Agreement which condition shall be for the benefit of Developer. Developer acknowledges and agrees that this Agreement does not constitute a disposition of property by the Authority and Developer acknowledges and agrees that it has not acquired and will not acquire, by virtue of the terms of this Agreement, any legal or equitable interest in real or personal property from Authority. Execution of this Agreement does not constitute “approval” of a “project,” as those terms are defined in CEQA.

(ii) *CEQA/Environmental Review*. Developer acknowledges and agrees that the Authority / City has not yet determined whether or to what extent the Prior CEQA Review satisfies the need for environmental review as to the Project. Developer shall have sole responsibility at its sole cost and expense to pursue and obtain any necessary environmental approvals for the Project and all Permits required for the Project pursuant to CEQA. Authority will assist Developer (to the extent necessary) in preparing any environmental documentation and processing any environmental review necessary. Developer shall provide to Authority / City all

funds necessary to cover the costs of such environmental review through the Reimbursement Agreement.

F. **Development of Other Cells.**

1. **Compatibility of Remainder Cells Development.** The Authority shall cooperate with Developer to assure that the development of the other Cells harmonizes with and contributes to the success of the Project. Authority acknowledges that development and operation of the Project requires that the environmental remediation and protection improvements for the other Cells have been completed and RACRs issued by DTSC therefor (unless otherwise agreed to by DTSC).

**SECTION 3. DEVELOPER'S RIGHTS DURING THE TERM OF THIS AGREEMENT.**

A. **Site Access.** Authority shall allow Developer and its employees, agents, representatives and contractors reasonable access to the Property, including the Project Surface Lot, during normal business hours, upon reasonable notice to Authority of not less than two (2) business days (together with a written scope of work) for the purpose of due diligence including performing environmental evaluations, engineering studies, surveys, geological work, subsurface investigations or other studies as reasonably desired by Developer. In connection with, and as a condition to, such rights of access and entry upon the Project Surface Lot:

1. Developer shall maintain comprehensive general liability insurance on a per occurrence basis insuring against any liability arising out of or in connection with Developer's entry, use and activity on the Property (including any entry, use, and activity by any contractor or agent of Developer) with a single combined liability limit of One Million Dollars (\$1,000,000) per occurrence. All insurance certificates shall name the Authority as additional insured. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements or certificates and shall specifically bind the insurance carrier(s). Developer shall cause its insurance carrier(s) to provide thirty (30) days' notice to the Authority prior to any termination, expiration, cancellation, or reduction in coverage. Any failure to maintain the required coverage for any period of time shall constitute a breach of this Agreement, notwithstanding that Developer may subsequently procure replacement insurance.

2. Developer hereby agrees to indemnify the Authority and hold the Authority, its officers, Board Members, agents, and employees harmless from any loss, claims, liability, or costs arising out of or incurred as a result of Developer's or its agents' entry upon the Property and/or the performance of any investigative activities on the Project Surface Lot or Subsurface Lot by Developer; provided that Developer shall not be responsible for any liability arising out of (i) the existence or mere discovery of any defects or conditions with respect to the Property, (ii) the effect of any governmental action which results from any tests, studies or reports obtained by Developer, or (iii) the acts or omissions of the Authority or its agents or representatives. Subject to the foregoing, whether or not this Agreement terminates or expires, Developer agrees to repair any and all damage caused to the Property by reason of any such investigation(s) or site access. This indemnity shall survive the termination or expiration of this Agreement.

#### SECTION 4. AUTHORITY'S RESPONSIBILITIES.

A. **Reasonable Assistance.** Authority shall provide Developer with appropriate and reasonable assistance, and all information and documentation in its possession pertaining to the Project and the Property.

B. **Negotiation of Purchase Agreement.** Authority shall negotiate in good faith the Purchase Agreement during the Term.

#### SECTION 5. MISCELLANEOUS.

A. **Brokerage Commissions.** Developer agrees to pay and to hold Authority harmless from any claim by any broker, agent, or finder retained by Developer with respect to the Cell 1 Property / Project Surface Lot. Authority shall not be liable to pay any real estate commission or any broker's fees which may arise in relation to the Project.

B. **Copies of Documents.** During the Term, Developer shall provide Authority for its information, and for public reports to be prepared in connection with the Project, at no cost or expense to Authority, with copies of certain third party consultant, contractor, or subcontractor reports, studies, analysis, site plan layouts, engineering studies, memorandums, or similar documents, excluding legally privileged or confidential items or proprietary financial information, regarding the Project Surface Lot. Authority may not sell such plans or drawings and may use them solely for planning purposes relating to the Project on the Project Surface Lot and coordinating the Project with other projects on other Cells at the Property. Delivery of such documents to Authority shall be made without any representation, warranty, or liability whatsoever by Developer as to the accuracy or sufficiency of the contents of such documents and shall be subject to the rights of the preparers of such documents including, without limitation, any applicable copyrights.

C. **No Personal Liability.** No employee, agent, board member, partner, principal or shareholder of a party shall have any personal liability or obligation under this Agreement except as specifically set forth herein.

D. **No Conflicts.** Each party ("**Representing Party**") represents to each other party that the execution and delivery by the Representing Party of this Agreement, the performance of its obligations hereunder, and its fulfillment of the terms and conditions hereof do not conflict with, violate or result in a breach of any applicable law or any term or condition of any document to which Representing Party is subject.

E. **Amendment.** This Agreement may only be amended in writing executed by both parties.

F. **Notices.** Any notices, requests, demands, documents, approvals or disapprovals given or sent under this Agreement from one party to another (each, a "**Notice**" and collectively, the "**Notices**") shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

Authority: Carson Reclamation Authority  
701 East Carson Street  
Carson, California 90745  
Attention: Executive Director  
Email: [jraymond@carsonca.gov](mailto:jraymond@carsonca.gov)

With a copy to: Aleshire & Wynder, LLP.  
18881 Von Karman Avenue, Suite 1700  
Irvine, California 92612  
Attention: Sunny Soltani, Esq.  
Email: [ssoltani@awattorneys.com](mailto:ssoltani@awattorneys.com)

Developer: District Essential Housing, LLC  
c/o Standard Communities  
1901 Avenue of the Stars, Suite 395  
Los Angeles, CA 90067  
Attn: Jeff Jaeger and Brad Martinson  
Email: [jjaeger@standard-companies.com](mailto:jjaeger@standard-companies.com)  
[bmartinson@standard-companies.com](mailto:bmartinson@standard-companies.com)  
[brendan@faring.com](mailto:brendan@faring.com)

Standard Communities  
1015 18<sup>th</sup> Street, NW, Suite 601  
Washington, DC 20036  
Attention: Feras Qumseya  
Email: [FQumseya@standard-companies.com](mailto:FQumseya@standard-companies.com)

With copies to: Allen Matkins Leck Gamble Mallory & Natsis LLP  
1901 Avenue of the Stars, Suite 1800  
Los Angeles, CA 90067  
Attn: Anton N. Natsis, Esq.  
Email: [tnatsis@allenmatkins.com](mailto:tnatsis@allenmatkins.com)

and

Rand Paster Nelson  
633 W. Fifth Street, 64<sup>th</sup> Floor  
Los Angeles, California 90071  
Attention: Dave Rand  
Email: [dave@rpnllp.com](mailto:dave@rpnllp.com)

Each such Notice shall be deemed delivered to the party to whom it is addressed: (i) if personally served or delivered, upon delivery; (ii) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, seventy-two hours after such notice is deposited with the United States mail; (iii) if given by overnight courier, with courier

charges prepaid, twenty-four hours after delivery to said overnight courier; (iv) if sent by electronic mail, when received as evidenced by confirmation of receipt, or (v) if given by any other means, upon delivery at the address specified in this Section.

G. **Default & Remedies.**

1. **Cure; Termination.** If a party fails to comply with its obligations under this Agreement (a “**Defaulting Party**”), the other party (a “**Non-Defaulting Party**”) may terminate this Agreement if the Defaulting Party fails to cure such default within thirty (30) days after receipt of notice of default from the Non-Defaulting Party, or if such default is not susceptible of cure within such thirty (30) day period, then if the defaulting party fails to commence such cure within such thirty (30) day period and thereafter diligently pursue such cure to completion, not to exceed ninety (90) days in the aggregate (“**Cure Period**”). If the Defaulting Party fails to cure during the Cure Period, the Non-Defaulting Party may terminate this Agreement by providing written notice to the Defaulting Party (“**Termination Notice**”). Notwithstanding the foregoing, in no event shall any Cure Period hereunder extend the Term. Any failure or delay by a party in asserting any of its rights or remedies under this Agreement as to any default under this Agreement shall not operate as a waiver of any default under this Agreement or of any rights or remedies provided in this Agreement associated with any such default. Authority’s sole remedy for a Developer default under this Agreement shall be to terminate this Agreement by written notice to Developer and retain the ENA Deposit and any previously funded Shortfall Payments (and/or any accrued but unpaid amounts of such Shortfall Payments) pursuant to this Agreement. Developer’s rights in the event of an Authority breach are as specified in Section 2.A above. Upon termination of this Agreement, (i) neither party shall have any other right, remedy or obligation under this Agreement, except that any indemnifications provisions shall survive such termination; and (ii) each party specifically waives and releases any such rights or claims it may otherwise have at law or in equity and expressly waives any rights to consequential damages or specific performance from the other party. In no event shall either party be liable for monetary damages, attorneys’ fees and costs, or any other cost or expense for the default or termination of this Agreement except as specifically provided in this Agreement, and any such right to recover such damages is expressly waived.

H. **Indemnification.** Developer agrees to indemnify, defend, and hold Authority, City and their respective members, officers, staff, and agents (collectively, “**Authority Indemnitees**”) harmless from any and all third party claims, actions, suits and other liability (“**Claim(s)**”) asserted against Authority, City or Authority Indemnitees resulting from Developer’s breach of this Agreement. Nothing in this Section shall be construed to mean that Developer shall hold City, Authority, or any Authority Indemnitees harmless and/or defend them to the extent of any Claims arising from the gross negligence, willful misconduct or illegal acts of any of City, Authority, or Authority Indemnitees (including contractors or subcontractors retained by such parties). This indemnity shall survive the termination of this Agreement.

I. **General Provisions.** This Agreement and all terms and conditions hereof shall be governed by and construed and enforced in accordance with the laws of the State of California. If any legal action is necessary to enforce this Agreement, a court of competent jurisdiction in Los Angeles County shall be the sole venue and jurisdiction for the bringing of such action. Any term may be waived only by a written waiver signed by the party against whom such waiver is to be

asserted. All provisions shall not be construed in favor of or against either party, but rather as if both parties prepared this Agreement. This Agreement shall inure to the benefit of and bind the respective successors and assigns of Authority and Developer, subject to the limitations on assignment by Developer set forth in this Agreement. This Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which, together, shall constitute one and the same instrument. This Agreement, together with the Reimbursement Agreement, constitutes the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

J. **Assignment**. Except for an assignment by Developer to any Permitted Assigns (as defined below), Developer may not assign this Agreement or any of its rights or obligations hereunder to any third party or entity without the prior written consent of Authority. The transfer of any ownership interest in Developer inconsistent with the foregoing shall be deemed a transfer/assignment under this provision. For purposes of this Agreement, the term “**Permitted Assigns**” means (i) any entity owned by Developer wherein Developer, or its affiliated entity, either owns more than 50% of that entity, or has day-to-day management authority and control over (regardless of its percentage ownership interest), whether it be a partnership, limited liability company, or corporation or (ii) any entity that is controlled by one or more of the same person(s) who control Developer as of the date of this Agreement.

K. **Authority**. The person(s) executing this Agreement on behalf of each party represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of such party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

[SIGNATURE PAGE FOLLOWS]

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

**DEVELOPER:**

DISTRICT ESSENTIAL HOUSING, LLC,  
a California limited liability company

By: \_\_\_\_\_  
Name: Jeff Jaeger  
Title: \_\_\_\_\_

**AUTHORITY:**

CARSON RECLAMATION AUTHORITY,  
a California joint powers authority

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

**ATTEST:**

\_\_\_\_\_  
Name: Dr. Khaleah K. Bradshaw  
Title: Authority Secretary

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

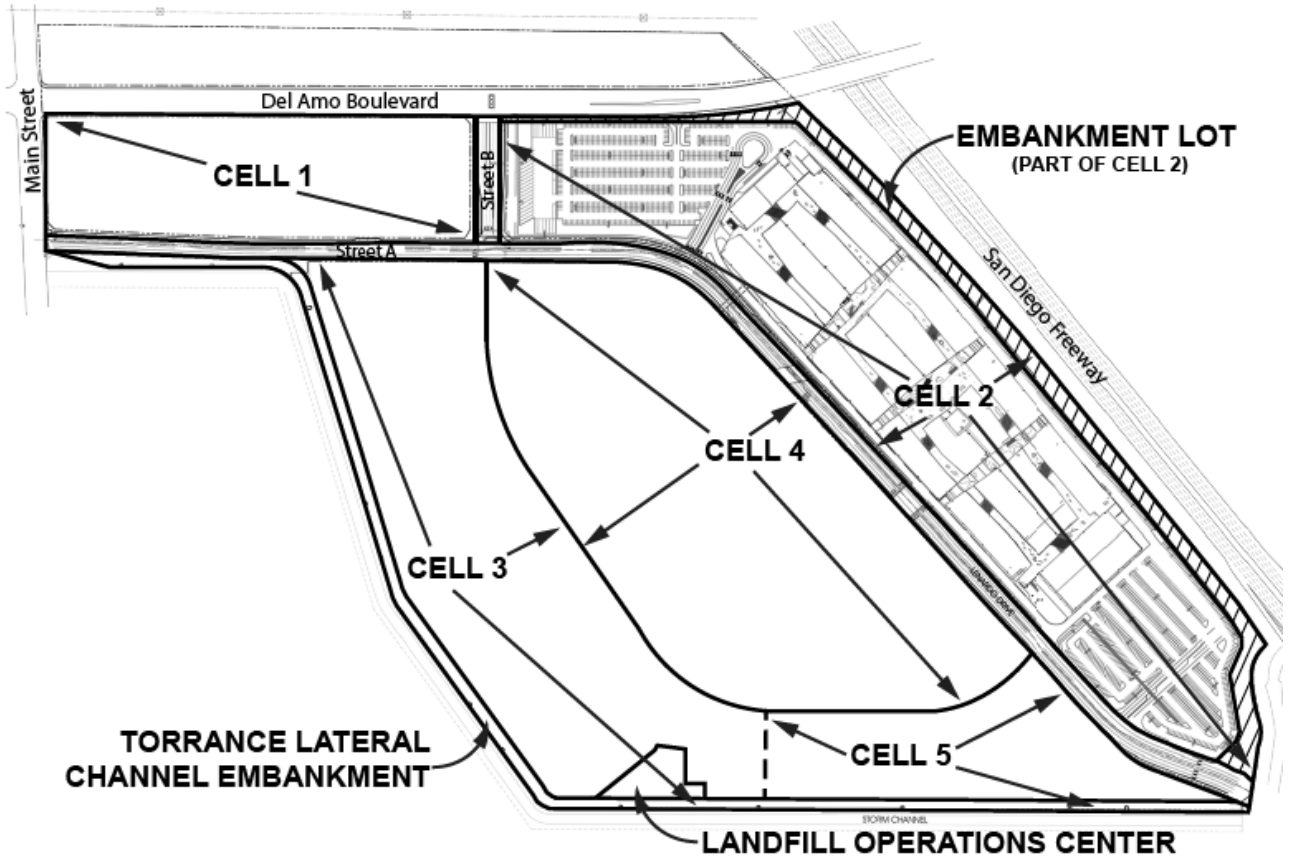
\_\_\_\_\_  
Sunny Soltani  
Authority Counsel

- Exhibits:**     **A: Site Map**  
                  **B. Reimbursement Agreement**



**Exhibit A**

**Site Map**



**Exhibit B**

**Reimbursement Agreement**

[Attached]