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FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT

between

THE CITY OF CARSON

and

CAM-CARSON, LLC

a Delaware limited liability company

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (this “Amendment”) is made and entered into effective as of this __ day of September, 2022, by and between the CITY OF CARSON, a municipal (“City”), and CAM-CARSON LLC, a Delaware limited liability company (“Developer”) with reference to the facts set forth below. City and Developer may be referred to in this Amendment individually as a “Party” and collectively as the “Parties.”

RECITALS

A. City and Developer entered into that certain Development Agreement recorded in the public record of the County of Los Angeles, California at document number 20180960608 on September 19, 2018 (the “Development Agreement”), pursuant to which City granted Developer certain vested rights to proceed with development of the Project, which development would provide significant public benefits, all in accordance with the terms and conditions of the Development Agreement.

B. All capitalized terms used but not defined in this Amendment shall have the same meaning as set forth in the Development Agreement.

C. Concurrently with execution of the Development Agreement, (i) Authority and Developer entered into that certain Conveyancing Agreement dated effective 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 (collectively, the “Conveyancing Agreement”), pursuant to which Developer was to acquire a fee simple interest to the Cell 2 Surface Lot (as defined in the Conveyancing Agreement), among other things; and (ii) City and Authority entered into that certain Cooperation Agreement dated as of September 6, 2018 (the “Cooperation Agreement”), pursuant to which Authority agreed to perform City’s infrastructure obligations under the Project Agreements and cooperate with the parties to the Project Agreements to facilitate the Project, and City agreed to pay to Authority one-half of the sales taxes received by City attributable to the Project during a 25-year term as more fully set forth in the Cooperation Agreement.

D. After execution of the Project Agreements, Authority commenced the installation of the Remedial Systems and Site Development Improvements and Developer made certain Site Development Advances, all as provided for in the Project Agreements. A dispute arose between the Parties as to Authority’s ability to complete the Remedial Systems and Site Development Improvements as set forth in the Project Agreements. In April 2020, Developer filed suit in that certain litigation captioned *CAM-Carson, LLC v. Carson Reclamation Authority, et. al*, Case No. 20STCV16461, (the “Litigation”) alleging, in part, breaches of the Project Agreements by Authority, and thereafter Authority filed counterclaims in the Litigation alleging, in part, that Developer owed Authority ten million dollars (\$10,000,000) for Site Development Advances.

E. After a mediation of the disputes in the Litigation, Developer, City and Authority now desire to proceed with the Project provided that (a) Authority deposits the Remediation Escrow Deposit into the Remediation Escrow Account to pay for the Remaining Horizontal Work (as those terms are defined in the “Amendment to Conveyancing Agreement” defined below), (b)

Developer as agent for Authority completes or funds the completion of the Remaining Horizontal Work, and (c) Developer is reimbursed for the Remaining Horizontal Work, Offsite Advances, Site Development Advances and other payments as provided in the Project Agreements, by City and Authority paying to Developer one-half of the sales taxes derived from the Project during a thirty-two (32)-year term, all as provided in the Project Agreements (as amended by this Amendment and the Related Amendments (as defined below)).

F. Concurrent with this Amendment, Authority and Developer are entering into a Second Amendment to Conveyancing Agreement (the “Amendment to Conveyancing Agreement”) to provide, in part, for Developer to proceed with the Project provided that Authority deposits the Remediation Escrow Deposit to pay for the Remaining Horizontal Work, and for Developer to be reimbursed for the Remaining Horizontal Work, Offsite Advances, Site Development Advances and other payments as provided in the Project Agreements by City and Authority paying to Developer one-half of the sales taxes attributable to the Project during a thirty-two (32)-year term.

G. Concurrent with this Amendment, City and Authority are entering into an Amendment to Cooperation Agreement (the “Amendment to Cooperation Agreement” and, together with the Amendment to Conveyancing Agreement, the “Related Amendments”) to provide that Authority may have Developer perform or fund completion of the Remaining Horizontal Work, the cost of which shall be included in the Advances that are subject to reimbursement under the Sales Tax Assistance, that the term of the Cooperation Agreement shall be extended to up to the earlier of thirty-two (32) years from the date of Developer’s first receipt of sales tax reimbursement from the Project or the date on which the Total Recovery Amount is paid, and that in light of the extent of the Advances to be made by Developer that the Feasibility Gap analysis shall no longer be required.

H. City and Developer now wish to modify the Development Agreement to extend the Term to thirty-two (32) years and provide other modifications consistent with the Related Amendments.

I. In connection with the approval of the Project, a Supplemental Environmental Impact Report for the District at South Bay Specific Plan, State Clearinghouse No. 2005051059, was certified by City as in compliance with CEQA (the “2018 Final SEIR”). Thereafter, in connection with the City’s approval of a revised development proposal for the 157 Acre Site pursuant to an amendment to the District at South Bay Specific Plan (“2022 Specific Plan”) (which includes the Project), the City certified a further Supplemental Environmental Impact Report for the development of the 157 Acre Site (SCH No. 2005051059 / April 2022) (the “2022 Final SEIR”). On ____, the Planning Commission of the City, after giving notice pursuant to the applicable California Government Code provisions, held a public hearing on this Amendment and recommended approval to the City Council. On ____, the City Council, after giving notice pursuant to the applicable California Governmental Code provisions, held a public hearing on this Amendment, and after making appropriate findings, adopted Ordinance No. ___ approving this Amendment. The Planning Commission and the City Council found, on the basis of substantial evidence based on the entire administrative record, that this Amendment is consistent with all applicable plans, rules, regulations and official policies of City. Moreover, the City Council has evaluated the potential environmental impacts of this Amendment and has determined that any

potential impacts have been analysed pursuant to the 2018 Final SEIR and 2022 Final SEIR, in accordance with CEQA. There are no circumstances present that would require a new, subsequent or supplemental environmental impact report for this Amendment under the provisions of CEQA.

J. This Amendment shall be effective after (i) all approvals have been granted to permit this Amendment, (ii) it is effective pursuant to Development Agreement Statute, and (iii) it is executed by both Parties, which execution shall take place concurrently with execution of the Amendment to Conveyancing Agreement by Authority and Developer and the Amendment to Cooperation Agreement by City and Authority.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as set forth below.

AGREEMENT

1. **EFFECTIVE DATE.** The Effective Date of the Development Agreement was September 10, 2018 (the date the Development Agreement was executed by both Parties).
2. **STAY OF LITIGATION.** Immediately following the execution of this Amendment, Authority, City and Developer shall jointly seek a stay of all Litigation until thirty (30) days after the end of the Diligence Period (as defined in the Amendment to Conveyancing Agreement) as the same may be extended pursuant to the Amendment to Conveyancing Agreement subject to the consent of the court. Upon the occurrence of all of the following: (a) the deposit of the Remediation Escrow Deposit; (b) the end of the Diligence Period under the Amendment to Conveyancing Agreement as may be extended pursuant to the Amendment to Conveyancing Agreement, if Developer has not previously terminated the Amendment to Conveyancing Agreement, and (c) expiration of all applicable challenge or appeal periods, including litigation, to this Amendment and any Related Amendments (or successful resolution of any and all such challenges and appeals, including litigation), then within two (2) business days of the latest to occur of clauses (a), (b), and (c) above, (i) Developer, Authority and City shall dismiss the Litigation, (ii) Developer, Authority, City, and the Successor Agency shall enter into a mutual release of claims related to the Litigation and the existing horizontal improvements, and (iii) Authority and City shall assist and support Developer in finalizing a mutual release with RE Solutions related to the Litigation. The forms of the mutual releases are attached hereto as Exhibit A and Exhibit B.

3. **DUE DILIGENCE.**

3.1 Due Diligence Documents. Immediately upon execution of this Amendment, City shall provide Developer access to any reports, information, and documents in City's possession, custody or control related to the Cell 2 Site and reasonably necessary for Developer and its consultants to undertake and complete the inspection and review of the previously constructed Remedial Systems and Site Development Improvements, title, utilities, infrastructure and any other matters associated with the development of the Cell 2 Site, including, but not limited to, any reports, contracts, information and documentation related to remediation of the 157 Acre Site; provided, however, that City does not have to provide access to documents that the Authority has

separately provided to Developer. City represents and warrants that to the best of its knowledge the reports, information, contracts, agreements and documents provided by City to Developer pursuant to the immediately preceding sentence constitute all of the reports, information, contracts, agreements and documents in the possession, custody or control of City and its consultants, sub-consultants and subcontractors regarding the condition of the 157 Acre Site (including, without limitation, the remediation, construction and regulatory status thereof) other than documents that the City has confirmed the Authority has separately provided to Developer.

3.2 Due Diligence Termination and Termination of Amendment. If during the Diligence Period, Developer provides Authority notice of its election to terminate the Amendment to Conveyancing Agreement, then this Amendment shall immediately become null and void and of no further force or effect, and the Parties may continue with the Litigation or other actions pursuant to the Project Agreements as they existed prior to the effective date of this Amendment.

3.3 Termination of Third-Party Agreements. Except for the contracts expressly approved in writing by Developer to remain in effect, on or before the end of the Diligence Period, City shall terminate or cause to be terminated all contracts specifically related to the Cell 2 Site to which City is a party and that may result in or give rise to costs or liabilities for Developer, the Project or the Property, if any, and in connection therewith City shall obtain or cause to be obtained from the parties to such contracts appropriate releases, estoppel certificates and/or lien releases reasonably acceptable to Developer. City shall indemnify, protect and defend Developer from and against any claims made by vendors, contractors, or other third parties in connection with agreements made with City related to the Cell 2 Site that are not terminated or released as provided for herein.

4. **DEVELOPMENT AGREEMENT IN FULL FORCE.** The Parties acknowledge and agree that the Development Agreement is in full force and effect and is a binding obligation on the Parties, and the Parties agree that, upon the dismissal of the Litigation and full execution of the releases as provided for in Section 2 herein, there are no existing Defaults under the Development Agreement.

5. **EXHIBITS.** The following Exhibits to the Development Agreement are amended hereby as follows:

5.1 In the event that Exhibit 1.9.1 to the Conveyancing Agreement is amended pursuant to the terms of the Amendment to Conveyancing Agreement, Exhibit C-3 (Pylon Sign Easement Area and Location of Pylon Signs) to the Development Agreement shall be deleted and replaced consistent with the amended Exhibit 1.9.1 to the Conveyancing Agreement.

5.2 In the event that Exhibit 5.3 to the Conveyancing Agreement is amended pursuant to the terms of the Amendment to Conveyancing Agreement, Exhibit E (List of Offsite Improvements with Projected Costs) to the Development Agreement shall be deleted and replaced with the amended Exhibit 5.3 to the Conveyancing Agreement, and the definition of "Offsite Improvements" in Section 1.83 and Exhibit "E" of the Development Agreement, Exhibit "H" (SEIR Mitigation Measures) and Exhibit "I" (Conditions of Approval) shall be amended consistent with the revisions to Exhibit 5.3. The Director is authorized hereby, with the concurrence of the City Attorney, to amend Section 1.83 and Exhibits "E," "H" and "I" of the Development Agreement consistent with the amended Exhibit 5.3.

5.3 The Parties understand that the information in Exhibit “L” to the Development Agreement may need to be updated to reflect changes in the schedule. During the Diligence Period, Developer shall update and revise Exhibit “L”, which modifications shall be consistent with the Project Schedule as approved pursuant to the Amendment to the Conveyancing Agreement. The Director is authorized hereby to replace Exhibit “L” of the Development Agreement upon receipt of an updated Exhibit “L” from Developer.

5.4 In the event that Exhibit 5.7 to the Conveyancing Agreement is amended pursuant to the terms of the Amendment to Conveyancing Agreement, Exhibit “M” (Insurance Administration Agreement) to the Development Agreement shall be deleted and replaced with the amended Exhibit 5.7 to the Conveyancing Agreement.

5.5 [The Parties understand that the information in Exhibit “F” to the Development Agreement needs to be updated to reflect the costs of operation and maintenance of the Remedial Systems rather than construction costs. During the Diligence Period, the Parties, together with the Remainder Developers, shall cooperate to update and revise Exhibit “F” to reflect the costs of operation and maintenance of the Remedial Systems rather than construction costs, and the Director is authorized hereby, with the concurrence of the City Attorney, to replace Exhibit “F” accordingly.]

6. **DELETED SECTIONS.** The following Sections of the Development Agreement are deleted in their entirety hereby and replaced with “Intentionally Omitted”: 4.5 and 11.10

7. **AMENDED SECTIONS.**

7.1 Section 1.104 of the Development Agreement is amended and restated in its entirety hereby to read as follows:

Sales Tax Assistance. “Sales Tax Assistance” means the reimbursement to Authority to Developer of the Total Recovery Amount (as defined in the Conveyancing Agreement), which reimbursement shall be funded by payments by City to Authority pursuant to the Cooperation Agreement. The Sales Tax Assistance is generally described as up to fifty percent (50%) of the sales taxes resulting from operation on the Developer Property for a term of up to thirty-two (32) years.

7.2 The first sentence of Section 3.1 of the Development Agreement is amended to replace “twenty-five (25) years” with “thirty-two (32) years”.

7.3 The penultimate sentence of Section 5.7 of the Development Agreement is amended to replace “after June 30, 2023” with “after June 30, 2028”.

7.4 Section 12.2 of the Development Agreement is amended to add “or Simon Property Group, L.P.” to the end of the sentence.

7.5 Section 14.4.3 of the Development Agreement is amended and restated in its entirety hereby to read as follows:

No Other CFDs. There shall be no tax or other financial burden imposed on the Developer Property or the improvements thereon on account of the CFD or any similar taxing authority of City or any agency or instrumentality of City or controlled by City, other than as set forth in this Section or as otherwise agreed to by Developer, and the CFD shall be in lieu of any other assessments, special taxes, fees or charges that may otherwise be charged on account of the types of services covered thereby.

7.6 Developer Notices. Section 16.6.1 of the Development Agreement is amended hereby to update the notice recipients for Developer who are designated to receive notices as follows:

CAM-Carson LLC
c/o Simon Property Group, Inc.
225 West Washington Street
Indianapolis, Indiana 46204-3438
Attn: Steven E. Fivel, Esq.
Email: sfivel@simon.com
Telephone: (317) 263-7962

With a copy to:

CAM-Carson LLC
c/o Simon Property Group, Inc.
399 Park Avenue, 29th Floor
New York, NY 10022
Attn: Mark J. Silvestri
E-mail: msilvestri@simon.com
Telephone: (212) 745-9614

8. MISCELLANEOUS.

8.1 No Further Amendment. All other terms and conditions of the Development Agreement that are not modified by this Amendment shall remain in full force and effect.

8.2 Severability. If any provision of this Amendment shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Amendment and to this end the provisions of this Amendment are intended to be and shall be severable.

8.3 Governing Laws. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of California, without regard to its conflict of laws provisions.

8.4 Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.5 Headings. The Paragraph and Section headings in this Amendment are for convenience only and shall not be used in the interpretation or considered part of this Amendment.

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IN WITNESS WHEREOF, the Parties hereto have duly executed and delivered this Amendment as of the date first written above.

Dated: September __, 2022

CITY OF CARSON, a general law
California municipal corporation

By: _____
Lula Davis-Holmes, Mayor

Attest:

Name: _____
City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani
City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA } ss:
COUNTY OF _____

On _____, before me, _____
_____, a Notary Public, personally appeared Lula Davis Holmes
who proved to me on the basis of satisfactory evidence to be the person whose name is
subscribed to the within instrument and acknowledged to me that she executed the same in her
authorized capacity, and that by her signature on the instrument the person, or the entity upon
behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Dated: September _____, 2022

CAM-CARSON LLC, a Delaware
limited liability company

By: _____
[●]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA } ss:

COUNTY OF _____

On _____, before me, _____
_____, a Notary Public, personally appeared _____
_____ who proved to

me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

CARSON RECLAMATION AUTHORITY, a California Joint Powers Authority, as owner in Fee Simple of the 157 Acre Site described in the Development Agreement, hereby accepts and agrees to the execution, delivery, and recordation of this Amendment.

Dated: September _____, 2022

**CARSON RECLAMATION
AUTHORITY**, a California Joint Powers
Authority

By: _____
Lula Davis-Holmes, Chair

Attest:

Name: _____
Authority Secretary

APPROVED AS TO FORM:

Sunny K. Soltani
Authority Counsel

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA } ss:
COUNTY OF _____

On _____, before me, _____
_____, a Notary Public, personally appeared Lula Davis Holmes

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

**FORM OF MUTUAL RELEASE
(DEVELOPER AND CITY, AUTHORITY, AND THE SUCCESSOR AGENCY)**

EXHIBIT B

**FORM OF MUTUAL RELEASE
(DEVELOPER AND RE-SOLUTIONS)**

EXHIBIT “L”
SCHEDULE OF PERFORMANCE