

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is entered into by and between Rand Resources International, LLC, a California limited liability company, (“Rand Resources”) and Carson El Camino, LLC, a California limited liability company (“Carson El Camino”) (collectively, “Rand”), on the one hand, and the City of Carson, a charter city and municipal corporation (the “City”), on the other hand. The parties to this Agreement may be individually referred to below as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Rand is the fee owner of approximately 12 acres of unimproved real property (the “Property”), which is part of an approximately 91-acre site near the 110 and 405 freeways, located in the City of Carson, County of Los Angeles, State of California, APN _____. The remaining 79 acres of the 91-acre site are currently owned by third parties.

WHEREAS, in or about 2012, Rand Resources submitted an application to the National Football League (“NFL”) for the development of a sports entertainment and cultural retail complex on the 91-acre site, including the Property.

WHEREAS, on September 4, 2012, the City and Rand Resources entered into an Exclusive Agency Agreement (“EAA”), pursuant to which Rand Resources was appointed to be the City’s sole and exclusive agent for the purpose of negotiating the designation and development of a football stadium with the NFL on the 91-acre site.

WHEREAS, the term of the EAA was from September 4, 2012 to September 4, 2014. The term of the EAA could be extended for two (2) additional periods of one (1) year in the City’s sole and unfettered discretion.

WHEREAS, when the term of the EAA expired, the City decided not to extend the term of the EAA.

WHEREAS, on February 20, 2015, Rand Resources and Carson El Camino filed a lawsuit against the City, former-Mayor James Dear, Leonard Bloom, and U.S. Capital, LLC, titled, *Rand Resources, LLC, et al v. City of Carson, et al*, Los Angeles Superior Court case number BC564093 (the “Action”). The Action originally asserted claims for breach of contract, tortious breach of contract, fraud, promissory estoppel, intentional interference with contract, and intentional interference with prospective business advantage. The only remaining claim against the City in the Action is for breach of contract.

WHEREAS, Rand desires to make certain improvements to the Property, as agreed to by the City;

WHEREAS, the Parties desire to finally and completely resolve all of their current and potential disputes, including all claims asserted against the City in the Action.

NOW, THEREFORE, in consideration of the mutual promises and covenants made in this Agreement and other valuable consideration, receipt of which is acknowledged, the Parties agree as follows:

AGREEMENT

In consideration of the facts, acknowledgements, agreements, general release, and promises contained in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged by each Party hereto, the Parties promise and agree as follows:

1. **Recitals.** The foregoing recitals are incorporated herein and made a part hereof.
2. **Effective Date; Execution Process; Court Approval**

2.1 Effective Date. This Agreement shall be effective upon the occurrence of the following conditions: 1) Execution of this Agreement by the Parties in accordance with the process set forth in Section 2.2, and 2) the Court's approval of this Agreement in accordance with Section 2.3 ("Effective Date").

2.2 Execution Process. Rand shall execute this Agreement and deliver same to the City Attorney prior to the City Council meeting scheduled for review and consideration of this Agreement by the City Council. If the City Council approves this Agreement, the City shall promptly execute the Agreement. If the City Council does not approve this Agreement, this Agreement shall become null and void and of no further effect.

2.3 Approval by the Court. This Agreement is entered into after arms-length negotiations between the Parties, in good faith, and in the spirit of settlement and compromise. It is based upon the information and facts learned in the course of investigation and discovery; uncertainty of litigation; the costs of litigation; and the desire of the Parties to reasonably settle the Action, as between themselves, on the terms and conditions set forth in this Agreement. This Agreement, and the obligation herein, are contingent upon the Court in the Action approving the City's application for determination of a good faith settlement, pursuant to Code of Civil Procedure section 877.6 (the "Application"). The City shall file the Application within fifteen (15) business days after the full execution of this Agreement.

2.4 Future Actions. Subject to the terms of Section 8 below, Rand agrees to submit an application for a Project (as defined below), by which it will process, apply for, and negotiate a development agreement, or such alternative form of entitlement applicable to the Project, including all applications for consideration of the Project. Any entitlement approval shall include all conditions of approval, or development application standards as determined by the City and/or required by the Carson Municipal and Zoning Codes. All terms of such entitlements (development agreement or otherwise) shall include an indemnity provision, schedule of performance, and other standard terms applied by the City to similar project applications. Nothing herein shall constitute a breach or default of this Agreement and the rights and remedies shall be provided in the future entitlements. All approvals for any project are subject to any required review process under the California Environmental Quality Act ("CEQA"), if any is required by law. Nothing in this Agreement requires any approvals subject to CEQA before full compliance with CEQA is obtained.

3. Purpose of Agreement. The purpose of this Agreement is to resolve all claims and issues between the Parties that have been or could have been asserted in the Action; and all claims or potential claims arising from any transactions or occurrences between the City and Rand to date. The Parties agree it is their mutual intention that neither this Agreement nor any terms hereof shall be admissible in any other or future proceedings against the City, Rand, or any Released Party, except a proceeding to enforce this Agreement.

4. Settlement of Dispute. As of the Effective Date, the Parties agree to settle the Action as follows:

4.1 Settlement Payment. In consideration for entering into this Agreement, for the promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby agree and acknowledge, the City agrees to pay to Rand the total sum of Two Hundred, Fifty Thousand Dollars (\$250,000) as follows:

(i) a payment of Two Hundred Thousand Dollars (\$200,000) by the City to Rand Resources within thirty (30) days of the Effective Date; and

(ii) reimbursement of Fifty Thousand Dollars (\$50,000) paid by Rand Resources towards upgrades to the Property. The upgrades to be made to the Property shall be determined by the City's Community Development Director and reimbursed only after proof of the expenditures towards the upgrades have been made to the satisfaction of the Community Development Director in his or her sole discretion. However, the City agrees that the following upgrades to the Property are pre-approved by the City as reimbursable expenditures under this section and will not require further approval from the City's Community Development Director: roof repairs; parking lot improvements; fence repair; and exterior painting. The City agrees to reimburse Rand for approved expenditures within thirty (30) days of receipt of proof of such expenditures by Rand.

4.2 Site Development. The Parties hereby agree that Rand Resources shall expeditiously pursue the development of the Property (the "Project"). The precise parameters, scope, and nature of the Project are not known in detail at this time; Rand shall provide a detailed Project description/scope to the City in writing no later than October 1, 2021. To obtain the development credit described in Section 4.3 below, the Project must proceed to actual "Vertical Construction" within four (4) years of the Effective Date hereof and otherwise meet the criteria of Section 4.3, including the threshold residential requirement described therein. For purposes of all provisions herein, "Vertical Construction" means that Rand has commenced actual vertical construction of the Project, which excludes pre-construction activities, entitlement processing and non-visible site preparation work, including, without limitation, test pits and testing activities; the placement of fill materials; and demolition/clearing and grading of the construction site. The precise terms of the Project and any remedies related thereto shall be set out in the Project entitlements as provided in Section 2.4 above.

4.3 Development Impact Fee Credit. Also in consideration for entering into this Agreement, for the releases and indemnities set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby agree and acknowledge, that the City shall provide to Rand a Two Hundred, Fifty Thousand Dollar (\$250,000) development

impact fee credit (“DIF Credit”) if Rand constructs at least 50% of the Project as residential-only development (“Residential Component”). The DIF Credit shall only apply towards such Residential Component if it reaches Vertical Construction within four (4) years. Rand’s failure to build the threshold Residential Component will disqualify Rand from the DIF Credit, but shall otherwise not be a default or breach of this Agreement.

4.4 Expiration Deadline. Each of the City’s obligations contained in Sections 4.1(ii) through 4.3 shall expire four (4) years from and after the Effective Date and shall have no further effect after their expiration. The Releases contained in Section 5 and the Indemnification contained in Section 6 shall survive the expiration or the termination of this Agreement.

4.5 Dismissal of the Action with Prejudice As To The City. Concurrently with the execution and delivery of this Agreement, Rand’s counsel shall execute and deliver to the attorneys of record for the City an executed Request for Dismissal with prejudice of the complaint filed in the Action as to the City. Three (3) business days after Rand’s counsel’s receipt of the settlement sum pursuant to Section 4.1(i) above, which shall be acknowledged by Rand’s counsel upon receipt, the City is authorized to proceed forthwith to cause the Request for Dismissal of the Action to be filed with the clerk of the court in and for the Los Angeles County Superior Court, and the parties shall do all other things necessary in order to cause the Action, as against the City only to be dismissed with prejudice.

4.6 Duty of Cooperation and Further Assurances. Each Party hereto agrees to execute such further papers or documents that shall be necessary or proper in order to fulfill the terms and conditions of the Agreement. The Parties shall act in good faith and shall take all further actions reasonably necessary to effectuate the letter and the spirit of this Agreement.

5. Mutual General Releases (“Releases”).

5.1 Release by City. As of the Effective Date, City fully and irrevocably releases and forever discharges Rand, and each of its and their current and former employees, officials, agents, members, shareholders, directors, officers, attorneys and representatives, and any of them (“**Rand Releasees**”), of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, loss, costs or expenses, of any nature whatsoever, known or unknown, fixed or contingent (“**City Claims**”), the City now has or may hereafter have by reason of any matter, cause, or thing whatsoever occurring prior to the date of execution of this Agreement including, without limiting the generality of the foregoing, any City Claims constituting, arising out of, based upon, or relating to the allegations set forth in the Action, as well as any matters, causes, or things whatsoever that were, or have been, or could in any way have been, alleged in the pleadings filed in the Action.

5.2 Release by Rand. Subject to the exclusion of Leonard Bloom and U.S. Capital, LLC (together, the “Bloom Defendants”) expressly set forth in this paragraph, as of the Effective Date, Rand fully and irrevocably release and forever discharge the City, and its current and former employees, officials, agents, members, shareholders, directors, officers, attorneys and representatives, and any of them, other than the Bloom Defendants, (“**City Releasees**”), of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits,

debts, liens, contracts, agreements, promises, liability, claims, demands, damages, loss, costs or expenses, of any nature whatsoever, known or unknown, fixed or contingent (“**Rand Claims**”), Rand have or may hereafter have by reason of any matter, cause, or thing whatsoever occurring prior to the date of execution of this Agreement including, without limiting the generality of the foregoing, any Rand Claims constituting, arising out of, based upon, or relating to the allegations set forth in the Action, as well as any matters, causes, or things whatsoever that were, or have been, or could in any way have been, alleged in the pleadings filed in the Action. Notwithstanding the foregoing, and for clarity, nothing herein is intended to constitute a release by Rand of any claims against the Bloom Defendants, all of which are expressly retained by Rand.

5.3 Release of Unknown Claims. As set forth in this Section 5, and as limited to the Rand Releasees and City Releasees, as defined above, the Releases are a release of ALL claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are described in the Release and are intended to encompass all known and unknown, foreseen and unforeseen claims that the Parties may have as a result of the Action, except for any claims that may arise from the terms of this Agreement.

5.4 Discovery of Different or Additional Facts. The Parties acknowledge that they may hereafter discover facts different from or in addition to those that each now knows or believes to be true with respect to the claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are the subject of the Release set forth in Section 5 of this Agreement, and expressly agree to assume the risk of the possible discovery of additional or different facts, and the Parties agree that this Agreement shall be and remain effective in all respects regardless of such additional or different facts.

5.5 Waiver of Civil Code Section 1542. Further, the Parties acknowledge that each has been informed of the provisions of California Civil Code Section 1542, and expressly agree to waive and relinquish all rights and benefits each may have under California Civil Code Section 1542. That section reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

5.6 Survival of Provisions. Notwithstanding any other provision of this Agreement, the Parties expressly agree that the obligations of Rand and the City under this Section 5 shall survive the expiration or early termination of the Agreement.

6. Indemnification. Except as to the direct active negligence or willful misconduct of the City, Rand expressly agrees to, and shall indemnify, defend, release, and hold the City, its officers, officials, agents, servants, employees, attorneys and contractors harmless from and against, any claim, liability, loss, damage, entry, cost, or expense (including, but not limited to, attorneys’ fees, expert fees, and court costs) that arise out of or are in any way connected with Sections 4.2 through 4.4 of this Agreement, including without limitation, from any contracts,

agreements, or obligations related thereto, the negotiation, execution, or non-approval of development instruments or Project entitlements related to Rand's development of the Property, any wage or prevailing wage claims, any claims related to the California Public Environmental Quality Act (California Public Resources Code § 21000 et seq. and its attendant regulations) or other State or Federal environmental laws, or the suitability of the Property for the Project. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct (whether active or passive) on the part of the employees, agents, servants, or subcontractors of Rand. The City shall not be responsible for any acts, errors, or omissions of any person or entity except those directly attributable to the City and its respective officers, agents, servants, employees or contractors.

Notwithstanding any other provision of this Agreement, the Parties expressly agree that the obligations of Rand under this Section shall survive the expiration or early termination of the Agreement.

7. **Compliance with City of Carson Codes and Regulations.** Nothing in this Agreement shall be interpreted to exempt Rand from any applicable codes or regulations, including, but not limited to, submitting applications and plans to obtain all necessary land use entitlements and permits necessary in order to allow for the development of the Property.

8. **Reservation of Police Powers.** The Parties understand and acknowledge that the City reserves the right to exercise its discretion as to all governmental matters which the City is, by law, entitled or required to exercise, in its sole and absolute discretion, and nothing in this Agreement shall be construed as having the effect of waiving or limiting police powers and exercise of discretion by City with respect to the Property or the Project, and the City shall be fully entitled to exercise its independent discretion with respect to any matters covered by this Agreement. By its execution of this Agreement, the City is not committing itself or agreeing to undertake any activity requiring the subsequent exercise of discretion by City, or any department thereof including, but not limited to, taking any action for which prior environmental review is required under CEQA or the approval of any development proposal or land use regulation governing the Property or the Project, or any other such governmental act or approval.

9. **Attorneys' Fees and Costs.** Each Party agrees to bear their own attorneys' fees and costs in connection with the Action and the negotiation and execution of this Agreement.

10. **Non-Admission of Liability.** The Parties acknowledge and agree that this Agreement is a settlement of disputed claims. Neither the fact that the Parties have settled nor the terms of this Agreement shall be construed in any manner as an admission of any liability by the Parties and/or the Parties' Releasees, including the Parties' attorneys, all of whom have consistently taken the position that they have no liability whatsoever.

11. **Representation of Authority.** The individuals executing this Agreement on behalf of the Parties represent and warrant that they have full standing, power, and authority to grant releases and settle the Claims as contained in this Agreement, and do so on behalf of the Parties, that the Parties shall, therefore, be bound by the terms of this Agreement.

12. **No Assignment of Claims.**

12.1 City. City warrants that it has made no assignment or transfer, and will make no assignment or transfer, of any claim, cause of action, right of action or any right of any kind whatsoever, embodied in any of the City Claims and allegations referred to herein, and that no other person or entity of any kind had or has any interest in any of the City Claims.

12.2 Rand. Rand warrants that they have made no assignment or transfer, and will make no assignment or transfer, of any claim, cause of action, right of action or any right of any kind whatsoever, embodied in any of the Rand Claims and allegations referred to herein, and that no other person or entity of any kind had or has any interest in any of the Rand Claims.

13. Successors and Assigns. This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

14. Knowing and Voluntary. This Agreement is an important legal document and in all respects has been voluntarily and knowingly executed by the Parties. The Parties specifically represent that prior to signing this Agreement they have been provided a reasonable period of time within which to consider whether to accept this Agreement. The Parties further represent that they have each carefully read and fully understand all of the provisions of this Agreement, and that they are voluntarily, knowingly, and without coercion entering into this Agreement based upon their own judgment.

15. Assistance of Counsel. The Parties each specifically represent that they have, prior to executing this Agreement, consulted to their satisfaction with and received independent advice from their respective counsel concerning the terms and conditions of this Agreement.

16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute one agreement.

17. Severability. Should any portion, word, clause, phrase, sentence or Section of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

18. Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel. This Agreement shall be construed according to its fair meaning as prepared by both of the Parties, and any uncertainty or ambiguity existing herein shall not be interpreted against either of the Parties.

19. Waiver. Failure to insist on compliance with any term, covenant, or condition contained in this Agreement shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time.

20. Retention of Jurisdiction. Pursuant to California Code of Civil Procedure section 664.6, the Parties stipulate and agree that the Superior Court of Los Angeles County shall retain jurisdiction over the Parties and the Action, as to any action to enforce, invalidate, or interpret any

provision of this Agreement. The Parties agree to file a Stipulation to this effect before dismissal of the Action.

21. Enforcement Costs. Should any legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to recover their actual attorneys' fees, costs, and expenses, which are reasonably incurred, from the non-prevailing party, in addition to any other relief to which that party may be entitled. Such fees and costs shall not be limited by any statutory guidelines.

22. Governing Law; Venue. This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said State without giving effect to conflicts of laws principles. Any action to enforce, invalidate, or interpret any provision of this Agreement shall be brought in Superior Court of Los Angeles County.

23. Duty of Cooperation. Upon request of a Party, the other Party shall reasonably cooperate to effect the intent of this Agreement which may include executing documents as required by a title insurance company or the Escrow.

24. Notice. Any notice which either Party may desire to give to the other Party or to the Escrow Holder must be in writing and may be given (i) by personal delivery which will be deemed received the following day or (ii) by mailing the same by registered or certified mail, return receipt requested which will be deemed delivered three (3) days after depositing same in the mail, addressed to the party to whom the notice is directed as set forth below, or such other address and to such other persons as the Parties may hereafter designate:

To City: City of Carson
701 E. Carson Street
Carson, CA 90745
Attention: City Manager

With a Copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attention: Sunny Soltani, Esq. & Anthony Taylor, Esq.

To Defendants: Rand Resources International, LLC
Carson El Camino, LLC
1111 La Colina Drive
Beverly Hills, California 90210

With a Copy to: Halpern May Ybarra Gelberg LLP
550 S. Hope St., Ste. 2330
Los Angeles, California 90071
Attn: Joseph J. Ybarra

25. Entire Agreement. This Agreement constitutes the entire agreement between the

Parties who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement, and that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty. No representation, inducement, promise, agreement or warranty not contained in this Agreement including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.

26. Execution in Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on the Parties, notwithstanding that the Parties are not signatories to the original or the same counterpart.

27. Authority To Sign. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party and to bind that party, including its members, agents and assigns, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned hereby agree to all the above terms and conditions, and hereby approve and execute this Agreement as of the dates specified below.

PLAINTIFFS:

CITY:

RAND RESOURCES
INTERNATIONAL, LLC
a California limited liability company

CITY OF CARSON,
a charter city as of January 1, 2019

DocuSigned by:

By: _____
Richard Rand
Managing Member

By: _____
Sharon Landers
City Manager

_____, 2021

CARSON EL CAMINO, LLC,
a California limited liability company

ATTEST:

DocuSigned by:

By: _____
Richard Rand
Managing Member

Donesia L. Gause
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

HALPERN MAY YBARRA
GELBERG, LLP

ALESHIRE & WYNDER, LLP

By: _____
Joseph J. Ybarra
Plaintiffs' Attorney

By: _____
Sunny K. Soltani
City Attorney