

RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:

CAM-Carson LLC  
c/o The Macerich Company  
401 Wilshire Boulevard, Suite 700  
Santa Monica, CA 90401  
Attn: Ann C. Menard, Esq.

APN 7336-010-904

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## **CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF RENTS AND FUNDING RECOVERY AND LIEN AGREEMENT**

This **CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF RENTS AND FUNDING RECOVERY AND LIEN AGREEMENT** (this “**Instrument**”) is made as of July [X], 2018, by **CARSON RECLAMATION AUTHORITY**, a California joint powers authority (“**Authority**”), having an address at 701 East Carson Street, Carson, California 90745, Attention: Executive Director, to **COMMONWEALTH LAND TITLE INSURANCE COMPANY**, a Florida corporation (“**Trustee**”), having an address at 888 Figueroa Street, Suite 2100, Los Angeles, California 90017, for the benefit of **CAM-CARSON LLC**, a Delaware limited liability company, having its principal mailing address and place of business c/o The Macerich Company, 401 Wilshire Boulevard, Suite 700, Santa Monica, California 90401, Attn: Ann C. Menard, Esq. (“**Developer**”).

### **R E C I T A L S**

- A. **The 157 Acre Site.** Authority is the owner of approximately 157 gross acres of real property in the City of Carson, California (the “**157 Acre Site**”), as shown on Exhibit A hereto.
- B. **Vertical Subdivision.** The 157 Acre Site has been vertically subdivided into a surface lot (the “**Surface Lot**”) and a subsurface lot (the “**Subsurface Lot**”), which lots are described as Parcels 1 (Subsurface Lot) and 2 (Surface Lot) of Parcel Map No. 70372 recorded in the Official Records of Los Angeles County, California (“**Official Records**”).
- C. **Horizontal Division.** The 157 Acre Site is divided for administrative purposes into five “Cells”, as shown on Exhibit A hereto.

- D. **Cell 2 Surface Lot.** Pursuant to that certain Conveyancing Agreement between Authority and Developer, dated as of July \_\_, 2018 (the “**Conveyancing Agreement**”), Authority has agreed to convey to Developer a portion of the Surface Lot of Cell 2 containing approximately 41 acres, as more particularly described on Exhibit B hereto (the “**Cell 2 Surface Lot**”) for the purpose of developing thereon of a first-class regional fashion outlet shopping center. Authority will retain all portions of the Cell 2 Site located below the Cell 2 Surface Lot (the “**Cell 2 Subsurface Lot**”).
- E. **Developer Advances.** Pursuant to the Conveyancing Agreement, the Developer has agreed to advance to Authority certain “Offsite Advances,” in the amount of up to Ten Million Dollars (\$10,000,000), and “Site Development Advances,” anticipated to be approximately Sixty Million Dollars (\$60,000,000), as described and defined in the Conveyancing Agreement, on the terms and conditions set forth therein.
- F. **Repayment of Developer Advances.** Under certain circumstances more particularly described in Sections 16.2 and 17.6 of the Conveyancing Agreement, Authority is required to repay to Developer the Offsite Advances and Site Development Advances to the extent actually made, with interest thereon (the “**Total Recovery Amount**”).
- G. **Refund of Deposit and Carry Costs in Specific Circumstances.** Section 12.2 of the Conveyancing Agreement provides in part that: “...If due to Challenge Litigation (defined in Section 19.1 below) or other Force Majeure the Closing is delayed, Macerich shall continue to pay one hundred percent of such Carry Costs unless Macerich exercises its rights to terminate this Agreement pursuant to Sections 11.3 above, 16 below, 17.6 below, 19.2 below or 19.3 below, in which event Authority shall reimburse Macerich for fifty percent of the Carry Costs paid by Macerich from the date of commencement of such Challenge Litigation or Force Majeure to the date of such termination.” Section 12.2 of the Conveyancing Agreement further provides that: “If after a Final Adverse Judgment Macerich applies for Re-Processing in accordance with Section 19.2 below and the Re-Processing results in either a Re-Processing Disapproval or a Re-Processing Material Adverse Change (each as defined in Section 19.2 below), then Macerich may terminate this Agreement, in which event Authority shall promptly reimburse Macerich for one hundred percent of the Carry Costs paid by Macerich from the date of commencement of such Challenge Litigation to the date of such termination. If instead of pursuing the Challenge Litigation to final judgment, Macerich settles and applies for Re-Processing in accordance with Section 19.2 below and the Re-Processing results in either a Re-Processing Disapproval or a Re-Processing Material Adverse Change, then Macerich may terminate this Agreement, in which event Authority shall promptly reimburse Macerich for fifty percent of the Carry Costs paid by Macerich from the date of commencement of such Challenge Litigation to the date of such termination.” Section 12.2 of the Conveyancing Agreement also provides that the remedies in Section 12.2, to the extent unpaid, shall be secured by a lien on the Cell 2 Surface Lot and are in addition to Macerich’s remedies under Section 19.2 of the Conveyancing Agreement. Section 19.2.4 of the Conveyancing Agreement provides in part that “In the event of a RE-Processing Disapproval or a RE-Processing Material Adverse Change, Macerich shall, in addition to Macerich’s remedies under Section 12.2 above, have the right to terminate this Agreement, in which event Authority shall refund one-half of the Deposit to

Macerich, which amount, to the extent unpaid, shall be secured by a lien on the Cell 2 Surface Lot. These rights to reimbursement set forth in 12.2 and 19.2.4 and quoted above are referred to herein as the “**Deposit and Carry Costs Refund.**” The Parties are not aware of any Challenge Litigation being filed to date.

**NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING**, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged:

1. **GRANT OF LIEN UPON THE CELL 2 SURFACE LOT.** Authority irrevocably mortgages, grants, bargains, sells, transfers and assigns to Trustee IN TRUST, WITH POWER OF SALE, for the benefit of Developer, that certain real property located in Carson, California, more particularly described on Exhibit B hereto (“**Property**”), for the purpose of securing Authority’s obligations to pay to Developer the Total Recovery Amount and to make the Deposit and Carry Costs Refund, subject, however, in each case, to the terms and conditions relating thereto in the Conveyancing Agreement.

2. **AUTHORITY AGREEMENTS REGARDING THE CELL 2 SURFACE LOT.** To protect the security of this Instrument, Authority shall not sell, lease, encumber or otherwise transfer the Cell 2 Surface Lot or any portion thereof or interest therein without Developer’s consent prior to the Closing.

3. **ADDITIONAL AGREEMENTS REGARDING THIS INSTRUMENT.** Authority further agrees, and by accepting this Instrument Developer agrees:

3.1 That at any time or from time to time upon written request of Developer and approval of Authority and presentation of this Instrument, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

3.2 That upon payment in full of all sums secured hereby, or passage of the time within which any such sums could become due, upon written request of Developer, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto.”

3.3 That, subject to the terms and provisions of the Conveyancing Agreement, provided that Developer is not in material default of any of its obligations under the Conveyancing Agreement, but only once the conditions set forth in the Conveyancing Agreement to the exercise of Developer’s remedies thereunder have been met, then Trustee shall have the power to foreclose this instrument as a deed of trust with power of sale by the methods permitted under California law, but only as and to the extent provided by the Conveyancing Agreement.

3.4 That after deducting all costs, fees and expenses of Trustee and of this trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued

interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

**3.5** That Developer, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to Trustee named herein or acting thereunder, which instrument, executed by the Developer and duly acknowledged and recorded in the Official Records, shall be conclusive proof of proper substitution of such successor Trustee, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of Authority, Trustee and Developer hereunder, the book and page where this Instrument is recorded and the name and address of the new Trustee.

**3.6** That this Instrument runs with the land encumbered hereby, and applies to, inures to the benefit of, and binds all parties hereto, their administrators, executors, successors, and assigns. The term Developer shall mean the owner and holder, including pledgees, of the obligations secured hereby, whether or not named herein. In this Instrument, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

**3.7** That the Trustee accepts this Trust when this Instrument, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Authority, Developer or Trustee shall be a party unless brought by Trustee.

**3.8** That in the event of any transfer or further encumbrance of the property encumbered hereby or interest therein or portion thereof, direct or indirect, voluntary or involuntary, without the prior written consent of Developer, Developer shall have the absolute right at its option, to declare all sums secured hereby immediately due and payable, but only to the extent then due and payable pursuant to the terms of the Conveyancing Agreement. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions.

**3.9** Authority requests that a copy of any notice of default and any notice of sale hereunder be mailed to it at its address hereinabove set forth, with a copy to: Aleshire & Wynder LLP, 18881 Von Karman Avenue, Suite 1700, Irvine, CA 92612, Attention: Sunny Soltani, Esq.

**3.10** Without limiting any other rights or remedies of Developer set forth in this Instrument or the Conveyancing Agreement, or available at law or in equity, upon the occurrence and during the continuance of a default, Developer shall have the right to enforce all of the rights and remedies of an assignee under Section 2938 of the California Civil Code.

**3.11** All capitalized terms used, but not otherwise defined herein shall have the meanings ascribed to such terms in the Conveyancing Agreement.

**3.12** The terms and provisions of the Conveyancing Agreement are incorporated herein in full by this reference. In the event of any conflict between the terms and provisions of this Instrument and the Conveyancing Agreement, the terms of the Conveyancing Agreement shall supersede the terms of this Instrument.

**AUTHORITY:**

**CARSON RECLAMATION AUTHORITY**, a joint powers authority  
of the State of California

By: \_\_\_\_\_  
Albert C. Robles, Chairman

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

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

\_\_\_\_\_  
Notary Public (Seal)

**EXHIBIT A**

**157 ACRE SITE AND DIVISION INTO CELLS**

**EXHIBIT B**

**LEGAL DESCRIPTION AND DRAWING OF CELL 2 SURFACE LOT**