

AIA Document A121™ – 2014

Standard Form of Master Agreement Between Owner and Contractor where work is provided under multiple Work Orders

MASTER SERVICES AGREEMENT made as of the ____ day of _____ in the year 2018

BETWEEN the Owner:

RE | SOLUTIONS, LLC

1525 Raleigh Street, Suite 240

Denver, CO 80204

and the Contractor:

SL CARSON BUILDERS, LLC

17962 Cowan

Irvine, California 92614

for the following:

Construction of site work, infrastructure improvements and foundation systems at the 157-acre parcel located at 20400 S. Main Street, Carson, California, commonly known as the Cal Compact Landfill (“**Project**”), as more specifically described in each Work Order executed in connection with this Master Agreement. The Project is a former land fill site the remediation of which is subject to the oversight of the California Department of Toxic Substances Control.

The Owner and Contractor agree as follows.

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ARTICLE 1 MASTER AGREEMENT TERM AND PARTY REPRESENTATIVES

§ 1.1 This Master Agreement shall commence on the date first written above (“**Date of this Master Agreement**”) and shall continue for an initial term of three (3) years, unless otherwise terminated in accordance with Section 19; thereafter, this Master Agreement shall automatically be extended for additional one (1) year terms or for such other term as set forth in any existing Work Order (“**Term**”).

§ 1.2 This Master Agreement shall apply to all Work Orders executed within the Term of this Master Agreement until completion of the Work Order. Each Work Order, together with this Master Agreement, the Insurance Addendum, listed Exhibits and the Contract Documents (as defined in Section 6.2), form a “**Contract**”. In the event of a conflict between the terms and conditions of this Master Agreement and a Work Order, the terms of the Work Order shall take precedence for all terms provided in that Work Order.

§ 1.3 Notice of election not to renew must be provided at least thirty (30) days prior to the Term expiration date. In the event either party elects not to renew this Master Agreement, the terms of this Master Agreement shall remain in full force and effect until all Work Orders executed under this Master Agreement are completed or terminated.

§ 1.4 The Owner identifies the following representative authorized to act on the Owner’s behalf with respect to this Master Agreement:

The Owner’s Representative:

Stuart L. Miner, Principal
RE | Solutions, LLC
1525 Raleigh Street, Suite 240
Denver, CO 80204
Telephone: (303) 945-3017
Email: stuart@resolutionsdev.com

§ 1.4.1 In each Work Order, the Owner will identify a representative authorized to act on the Owner’s behalf with respect to the Work Order and in the absence of any such designation the representative shall be such party as set forth in Section 1.4 above. For the avoidance of doubt, no individual designated by Owner to serve as its representative, including hereunder or pursuant to any Work Order, shall have any personal liability to the Contractor, including without limitation for any amounts due on account of the Work. Owner may substitute a different representative pursuant to written notice to Contractor.

§ 1.5 The Contractor identifies the following representative authorized to act on the Contractor’s behalf with respect to this Master Agreement:

The Contractor’s Representative:

John F. Rochford
SL Carson Builders, LLC
17962 Cowan
Irvine, California 92614
Telephone: 949-863-9200
Email: jrochford@snyderlangston.com

The **Contractor’s Project Executive** (pursuant to Section 6.1.3) is:

Kelly McCarty

Telephone: _____
Email: _____

§ 1.5.1 In each Work Order, the Contractor will identify a representative authorized to act on behalf of the Contractor with respect to the Work Order and in the absence of any such designation the representative shall be the person set forth in Section 1.5 above. For the avoidance of doubt, no individual designated by Contractor to serve as its representative, including hereunder or pursuant to any Work Order, shall have any personal liability to the Owner, including without limitation for any liability arising out of the performance of the Work in such person’s individual capacity.

§ 1.6 The Owner's civil engineer and geotechnical engineer for the Project (the "**Engineer**"), and their respective responsibilities, shall be designated in any Work Order for that Work.

§ 1.7 The parties hereby acknowledge that Owner is not the fee owner of the real property upon which the Project and Work is to be performed and that Owner is undertaking the Project as a master developer and environmental remediation and development manager by the Carson Reclamation Authority (the "**CRA**") in accordance with that certain Environmental Remediation and Development Management Agreement dated as of July 26, 2017 between Owner and CRA (the "**Development Agreement**"). The Contractor acknowledges that the Work performed hereunder is subject to the terms and conditions of the Development Agreement, including, without limitation, permissible charges on account of the Work, limitations on markups, indemnification and insurance obligations, compliance with prevailing wage laws, coordination with separate contractors and activities on the Project site, review and approval of Work and access to Project records of CRA and its representatives, contract assignment rights and CRA's express status as a third-party beneficiary to all agreements entered into by Owner in relation to the Project site including this Master Agreement and any Work Orders. The Contractor acknowledges that a copy of the Development Agreement has been provided to the Contractor and the Contractor represents that it has reviewed and understands the conditions governing the Work as set forth therein. The Contractor has, contemporaneous with the execution of this Master Agreement, executed and delivered that certain Acknowledgement and Consent of Contractor for the benefit of the CRA, attached as **Exhibit D** hereto. If the Development Agreement is amended, a copy of such amendment shall be provided to Contractor and shall apply to all future Work Orders.

Contractor is aware that TRC, Solutions, Inc. ("**TRC**") is the environmental contractor for the Project shall also be integral in the work on the Project and Contractor agrees to assist Owner in coordinating the TRC work on the Site with the Work by Contractor as requested by Owner.

ARTICLE 2 THE WORK

§ 2.1 The Contractor shall perform the specific Work set forth in each Work Order in the form attached as **Exhibit B** hereto executed by both parties and approved by CRA ("**Work Order**"). Each Work Order shall state (i) the name, location and detailed description of the Project; (ii) identify the Engineer (if applicable); (iii) specify the Contract Time in Section __ of the Work Order ("**Contract Time**"); (iv) specify the Contract Sum in Section __ of the Work Order ("**Contract Sum**"); (v) describe the specific work to be performed by Contractor specified in Section __ of the Work Order and in accordance with Section 6.1 of this Master Agreement ("**Work**"); and (vi) enumerate the applicable Contract Documents in accordance with Section 6.2 applicable to the Work Order.

§ 2.2 Preconstruction Phase for Work Orders

§ 2.2.1 The Contractor shall for each portion of the Work to be undertaken under a proposed Work Order, taking into account the overall Project, provide a preliminary evaluation of the Owner's Project, Project schedule and construction budget requirements, each in terms of the other. The Owner and Contractor acknowledge while only such Work as set forth in a Work Order shall be undertaken by the Contractor, this Master Agreement is executed to facilitate accelerated and fast-track scheduling, procurement, and phased construction of the overall Project. The Contractor shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues with respect to any designated phase of the Project, as well as, the scope of the Project as a whole. The Contractor shall identify all long-lead items, in writing, and take same into account when proposing Work Order schedules and cost estimates, including cash flow projections relative to Cost of the Work.

§ 2.2.1.1 Notwithstanding the foregoing, Contractor, with Owner's approval, has completed a portion of the preconstruction work prior to the execution of this Master Agreement which preconstruction work costs will be included in the first Work Order submitted and executed concurrently with this Master Agreement.

§ 2.2.2 The Contractor shall schedule and conduct meetings with the Engineer and the Owner as needed to discuss such matters as procedures, progress, coordination, and scheduling of the Work under each proposed Work Order and for the Project as a whole. The Contractor shall advise the Owner and the Engineer on proposed site use and improvements, selection of materials, building systems, and equipment relative to the Work. The Contractor shall also provide recommendations consistent with the Project requirements to the Owner and Engineer on constructability; availability of materials and labor; time requirements for procurement, installation and

construction; and factors related to construction cost including but not limited to, costs of alternative designs or materials, preliminary budgets, and possible cost reductions.

§ 2.2.3 Contractor shall consult on the plans governing the Work; shall review for purposes of constructability, value engineering and refinement, the progress sets of plans and specifications prepared by the Engineer and other designated Project engineers, designers, and/or consultants as the Owner may have identified for any such phase of the Project to be included within a proposed Work Order (such persons or parties, including the Engineer, collectively being the “**Owner Consultants**”); and make recommendations for changes, where necessary, to conform to the Project objectives. Contractor shall provide recommendations on construction feasibility, construction means and methods, availability of materials and labor, time requirements for procurement, installation and construction. In conducting such reviews, Contractor shall give notice to Owner of any items of potential non-compliance with laws and/or errors or omissions of which it becomes aware or a reasonably competent Contractor should have become aware, conflicts or inconsistencies, and any other items or aspects likely to cause disruption, delay, increases in costs or other unintended consequences related to performance of the Work, and shall recommend alternative systems, materials, and solutions to Owner and to Engineer, and identify the impact of such recommendations on the design, the schedule, and the Cost of the Work.

§ 2.2.4 The Contractor shall prepare and update a construction site access, logistics and coordination plan, with input from Owner, detailing all access routes, staging areas, storage areas and parking for the site at all times during the Work.

§ 2.2.5 Based on the preliminary design and other design criteria prepared by Owner and/or the Owner Consultants, the Contractor shall prepare preliminary estimates of the Cost of the Work for the full scope of the Project as may then have been identified. As the Owner and the Owner Consultants progress with the preparation of the designs and specifications, the Contractor shall prepare and update, at appropriate intervals agreed to by the Owner, such control estimate. The Contractor shall inform the Owner when estimates of the Cost of the Work exceed the latest approved Project budget and the control estimate and make recommendations for corrective action.

§ 2.2.6 The Contractor shall develop bidders’ interest in the Project, taking into account independent Work Orders and the overall Project.

§ 2.2.7 The Contractor shall prepare, for the Owner’s review, a procurement schedule for items that must be ordered well in advance of construction. The Contractor shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction, provided the Contractor has been authorized for same pursuant to a Work Order.

§ 2.2.8 Commencing with the execution of the first Work Order, Contractor shall track and maintain records regarding the daily progress of the Work. On a monthly basis, or otherwise as agreed to by the Owner, the Contractor shall submit written progress reports to the Owner and Engineer, showing percentages of completion and other information required by the Owner under each open Work Order. The Contractor shall also keep, and make available to the Owner and Engineer, a daily log containing a record for each day of weather, portions of the Work in progress, number of staff and workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner. Copies of all logs and other Contract Documents shall be maintained at the Project site by the Contractor during the course of the Work, as well as on the Project’s designated secure website to be maintained by the Contractor. Contractor shall preserve all such logs and Contract Documents in electronic format for a period of at least fifteen (15) years after final payment under a Work Order. Upon the completion of a Work Order, the originals and all hard copies of such logs and Contract Documents shall be made available to the Owner and CRA by Contractor by written notice and shall include a document index prepared by Contractor. If Owner or CRA does not take possession of the originals and/or hard copies within one hundred twenty (120) days of said written notice, Contractor may destroy said originals and hard copies.

§ 2.2.8.1 In addition to the reporting set forth above, the Contractor shall, for each open Work Order, provide the Owner with written monthly progress reports to include without limitation: (i) a schedule of all submitted, pending, and resolved requests for information (“**RFI**’s”); (ii) a schedule of all submitted Change Orders together with the status of such Change Orders (responses, approvals, rejections or modifications); (iii) a schedule indicating the

status of all submissions to be presented to the Owner and if applicable, the Engineer; and (iv) such other reporting as the Owner may reasonably require with respect to performance of the Work and/or the status of the Project.

Any modifications of the Work Order shall be evidenced by a change order substantially in the form attached hereto as **Exhibit C** which must be executed by Contractor and Owner and approved by CRA ("**Change Order**").

§ 2.2.9 The Contractor shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Contractor shall identify variances between actual and estimated costs and report the variances to the Owner and shall provide this information in its monthly reports to the Owner. The Contractor's cost reporting shall include cash flow reports concerning construction costs and forecasts as requested by the Owner. Such reports and forecasts will include all pending and executed Change Orders and any proposed Change Orders.

§ 2.2.10 The Contractor shall, during the course of the Work, designate regularly scheduled meetings in each Work Order which will be held with the Owner, the applicable Owner Consultants, the CRA (at its option) and Contractor to discuss jointly such matters as procedures, progress, problems and scheduling, and the Contractor shall provide written minutes of such meetings to Owner not later than two (2) business days following each meeting. In addition, Contractor shall attend meetings conducted by Owner or other designated Owner Consultants as requested by the Owner.

§ 2.2.11 The Contractor shall provide, develop, implement, coordinate, oversee, monitor, direct, and manage a quality control and inspection program for the Work to uncover defects and deficiencies in the Work. Contractor will inspect representative quantities of materials delivered to the Project site to ascertain whether they conform to the Contract Documents and the laws and reject all non-conforming materials or workmanship of which Contractor becomes aware or should have become aware as a reasonably competent Contractor.

§ 2.3 The Contractor shall promptly notify the Owner in writing of any information or response required by the Contractor for its timely performance in the development of a proposal for any intended Work Order or otherwise with respect to the performance of Work pursuant to a Work Order, and/or of any failure by the Owner, Owner Consultants or other contractor engaged separately by the Owner to timely provide such information and/or response to the Contractor that will impact the timely performance thereof.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds in accordance with each individual Work Order.

§ 3.2 Where the Contract Sum is based on the Cost of the Work under Section 3.3 or 3.4 of the Work Order, the Cost of the Work is defined in **Exhibit A**, Determination of the Cost of the Work, to be appended to each Work Order.

ARTICLE 4 PAYMENT

§ 4.1 Progress Payments

§ 4.1.1 Based upon an application for payment in the form required by Owner executed by Contractor ("**Application for Payment**") for individual Work Orders submitted to the Owner by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 4.1.3 The Contractor shall submit a "**pencil copy**" of its proposed monthly Application for Payment (for each Contract separately), together with all required supporting documentation on the 24th day of the month (or the closest previous business day to such date if on a weekend or holiday) for which the Application for Payment is to be presented. The Contractor, Owner, and, to the extent required by the Owner or CRA, the Engineer, shall meet at the Project site or at any other mutually agreed location, prior to the first business day of the subsequent calendar month to review and edit the "pencil copy" of its proposed monthly Application for Payment, including, without limitation, to discuss any withholdings and Subcontractors' invoices to be adjusted, rejected and/or otherwise

approved for payment. The Owner and Contractor shall initial all adjustments as are approved to such "pencil copy". Based on the determinations of the "pencil copy" review meeting, the Contractor shall prepare and submit to the Owner on or before the 1st business day of said subsequent calendar month, the finalized Application for Payment, containing the adjustments approved at the meeting, requesting a progress payment as set forth in the Sections below. If the "pencil copy" or finalized Application for Payment is received after the time limits specified above, the parties respective review, submission, and payment of same shall be delayed by an equal number of days but shall otherwise be consistent with the time limits set forth above and in Section 4.1.3.1 based on the date of actual submission of the "pencil copy" of Application for Payment, as applicable. The Contractor acknowledges and agrees that the invoice date of any Application for Payment shall be the date of the properly submitted Application for Payment, with all required deliverables in connection therewith, following the "pencil copy" review as set forth herein and not the date of submission of the "pencil copy". Any Application for Payment submitted by the Contractor is subject to the independent review and written approval of the CRA in accordance with the Development Agreement.

§ 4.1.3.1 Subject to Section 4.1.3 above, provided that an Application for Payment, together with all required deliverables consistent with the approved "pencil copy" is received by the Owner and approved by the CRA, and except as to any charges for work performed or expenses incurred by Contractor which are disputed by Owner or CRA as provided in this Article 4, Owner shall use its best efforts to cause Contractor to be paid the undisputed portions of its finalized Application for Payment within thirty (30) days of Owner's receipt of the finalized Application for Payment. The Contractor and the Owner acknowledge and agree that for purposes of any applicable prompt payment laws, that (a) delivery of the "pencil copy" shall not constitute delivery of an Application for Payment, and (b) no Application of Payment shall be deemed to have been delivered unless and until the Contractor has provided all supporting documentation as set forth in this Article 4. Contractor acknowledges and agrees that payment schedules under this Master Agreement must be consistent with the payment schedules set forth in the Development Agreement and, in no event, shall the Owner be required to accept more than one (1) Application for Payment for each calendar month or twelve (12) Applications for Payment in any calendar year. In the event the submission of a completed Application for Payment is delayed beyond the time limits specified in Section 4.1.3, Contractor may submit such Application for Payment despite the delay subject to the prior written approval of Owner, which approval shall not be unreasonably withheld.

§ 4.1.3.2 With each Application for Payment, the Contractor shall submit certified payrolls (which shall be subject to Owner's right to audit in accordance with Section 4.2.3 hereof), petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor, less that portion of those payments attributable to the Contractor's Fee, plus certified payrolls for the period covered by the present Application for Payment.

§ 4.1.3.2.1 To be deemed complete, each Application for Payment shall be accompanied by the following, in a form and substance satisfactory to the Owner: (i) a current Contractor's conditional progress lien waiver and release in the form attached hereto as **Exhibit E** ("**Contractor Conditional Lien Waiver**"); (ii) the Contractor's sworn statement detailing all Subcontractors and materialmen with whom the Contractor has entered into subcontracts, the amount of each such subcontract, the amount requested and to be paid to any Subcontractor with respect to such Application for Payment; (iii) duly executed unconditional progress lien waivers (actual dollar amount and not percentage waivers) from Contractor and all Subcontractors in the form attached hereto as **Exhibit F** ("**Unconditional Lien Waivers**") for the second previous payment period preceding the current payment period; and (iv) all such other information and materials required under the Contract Documents or reasonably requested by the Owner.

§ 4.1.3.2.2 Each Application for Payment shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and Subcontractor invoices and any mark-up to Subcontracts charged by Contractor (which is subject to Section ____). Subcontractor charges shall also be detailed by such categories. Owner and CRA shall independently review each Application for Payment submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of the Contract Documents. If Owner or CRA objects to all or any portion of the Application for Payment, Owner shall so notify Contractor in writing as soon as practicable, identifying the specific reason and basis for the objection and shall pay when due all portions of the Application for Payment that are not in dispute. Both parties shall use best efforts to resolve any dispute in an expeditious manner. If the parties are unable to resolve the

dispute within sixty (60) days of receipt of Owner's written objection, the dispute shall be subject to the Dispute Resolution procedures set forth in Article 5.

§ 4.1.3.3 All Applications of Payment shall be subject to, and payments on account thereof reduced to reflect, any amounts withheld by the Owner on account of: (i) the failure of Contractor to comply fully with any requirements or obligations of Contractor under a Contract, including the failure of the Contractor to make payments to Subcontractors or for material or labor; (ii) the failure of Contractor to comply with Section 4.1.8 regarding the filing of liens or claims against the property, the Project or the Owner; (iii) damage to another contractor or subcontractor by reason of acts or failure to act of Contractor or its Subcontractors; (iv) any portion of an Application for Payment which the Owner or the CRA has, in good faith, disputed; (v) any portion of such current or prior Applications for Payment which the Owner has withheld approval or nullified any prior approval; and (vi) such other amounts withheld to reimburse the Owner for charges incurred and payable by the Contractor pursuant to the Contract Documents. The Owner may also withhold or deduct from any moneys then due or thereafter to become due to the Contractor any costs and expenses incurred by Owner attributable to: (a) actions taken to prevent damage, injury or loss in case of emergency arising out of the actions or omissions of Contractor or its subcontractors; (b) any damage caused by the fault, negligence, act or omission of Contractor or its Subcontractors, agents, employees or representatives; and (c) any breach or defaults of Contractor's obligations under the Contract Documents. Notwithstanding the foregoing, the Contractor shall have no obligation to prevent the filing or discharge or satisfaction of any lien filed by a subcontractor or vendor by reason of the Owner's failure to make a payment to the Contractor pursuant to the Contract Documents and taking into account Owner's rights as provided therein.

§ 4.1.3.4 Each Application for Payment shall be based on the schedule of values submitted by the Contractor as part of the corresponding Work Order. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work, except that the Contractor's Fee and any Subcontractor's fee not on a lump sum arrangement with Contractor shall be shown as separate line items. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment. When contracting with Subcontractors, it is the intent of the parties that Contractor shall work diligently to keep its Subcontractors' management fees and other "mark-ups" to a minimum. Contractor's Fee shall be set forth in the applicable Work Order at a limit not to exceed 5% and Contractor shall not charge any other management fee or markup on work performed by a Subcontractor.

§ 4.1.3.5 Applications for Payment (which shall be presented on the most recent version of AIA Form G702 and 703 or otherwise on such form acceptable to the Owner) shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of: (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Contract Sum allocated to that portion of the Work in the schedule of values.

§ 4.1.3.6 The Contractor shall, at their sole cost and expense, subscribe to the Textura software system owned by Textura Corporation ("**Textura System**") for purposes of submitting the pencil copy and any Application for Payment and supporting documents required thereunder. Any delays associated with use of the Textura System extend the payment submission and payment deadlines accordingly provided that such delay is not willful and is not due to Contractor's failure to comply with the requirements of the Textura System vendor. All costs of the Textura System shall be paid by Contractor. Owner and CRA shall have full access to the Textura System and all documents including, but not limited, to mechanic lien releases, proof of payment, etc. which shall be maintained in the Textura System in accordance with Section 4.3. The service contract for the Textura System shall provide that Owner and CRA be third party beneficiaries and shall also provide that, if applicable, Textura shall provide copies of all such documents in accordance with applicable laws for electronic contracts including, UETA and ESign.

§ 4.1.4 Subject to the terms of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Contract Sum allocated to that

portion of the Work in the schedule of values. Pending final determination of cost to the Owner of Change Orders, amounts not in dispute shall be included as provided in Article 12 herein;

- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation into the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Contractor's Fee. The Contractor's Fee shall be computed upon the Cost of the Work at a rate not to exceed five percent (5%) of the Cost of the Work ("**Contractor's Fee**"). No retention shall be held on Contractor's Fee, Contractor's General Conditions Costs (as defined in the applicable Work Order), Contractor's insurance outside of OCIP and Subcontractor Default Insurance;
- .4 Add Retainage Release Requests (as defined in Section 4.1.5);
- .5 Subtract Retainage (as defined in Section 4.1.5);
- .6 Subtract the aggregate of previous payments made to Contractor;
- .7 Subtract the shortfall, if any, indicated by the Contractor in the documentation required to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation ("**True-up**"); and
- .8 Subtract amounts, if any, for which the Owner or CRA has withheld or amounts otherwise disputed or withheld by the Owner or the CRA pursuant to the terms of this Master Agreement or the Contract Documents.

§ 4.1.5 "**Retainage**" means the amount that is equal to five percent (5%) of the total amount of any Application for Payment except as provided in Section 4.1.4.3, and except for the amount requested under the Retainage Release Request. "**Retainage Release Request**" means the Contractor's written request for the release of Retainage, which shall set forth the specific line item cost from a Work Order that the Contractor deems to be substantially complete and approved in writing by Owner and CRA. Upon written approval by Owner of a Retainage Release Request, that portion of the Retainage shall be released to the Contractor upon receipt of Certificates of Final Completion approved by Owner (and if required by Owner, the Engineer), CRA and any applicable governmental agencies in accordance with Section 14.4.1 for the applicable Work line items set forth in a Work Order. Notwithstanding the foregoing, Retainage for subcontracted work may be released early by written agreement of Contractor and Owner and approved by CRA when the Project is best served by such release. Contractor shall require all subcontracts to include a retainage amount consistent with the requirements set forth herein.

§ 4.1.6 Except with the Owner's prior written approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site. Contractor hereby indemnifies Owner for any claims or liabilities arising out of Contractor making such advance payments without Owner's prior written approval.

§ 4.1.7 Any and all funds payable to the Contractor hereunder are hereby declared to constitute trust funds in the hands of the Contractor, to be applied first to the payment of claims of Subcontractors, laborers and materialmen arising out of the Work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety bonds and other bonds filed and premiums on insurance (which are authorized pursuant to Article 16) accruing during the Work, before application to any other purpose. Whenever required by the Owner, it shall be the duty of the Contractor to file with the Owner a verified statement, in form satisfactory to the Owner, certifying the amounts then due and owing from the Contractor for labor and materials furnished under an open Work Order, setting forth herein the names of the persons whose charges or claims for labor, materials or supplies are unpaid, and the amount due each respectively. The Owner reserves the right to make payments to such parties jointly payable to the Contractor where in the Owner's reasonable determination such joint payments are necessary for protection of the Owner's interests based on a failure by the Contractor to remit payments for Work performed to subcontractors, laborers, suppliers, and/or materialmen as required. In the event that Owner shall make any joint payment to any Subcontractor on behalf of the Contractor, notwithstanding that the Owner shall have no obligation to do so, the Owner shall be deemed to be a subrogee of such Subcontractor with respect to such claims for payment, including without limitation claims arising under applicable trust laws.

§ 4.1.8 In the event any lien, stop payment notice as defined in California Civil Code 8520 ("**Stop Payment Notice**"), encumbrance or security interest is filed, claimed or otherwise asserted against the Owner's or the CRA's interests in the Project or Project site or related property on account of the Work for which Owner has remitted amounts properly due pursuant to the Contract Documents, the Contractor shall within ten (10) days of receipt of

written notice from Owner of the filing or recordation of same, bond over such lien or Stop Payment Notice. The Owner, upon the Contractor's failure to so bond over any such lien or Stop Payment Notice, may retain out of any payment due, or to become due under any Work Order or any other agreement between the Owner and the Contractor, an amount sufficient to indemnify the Owner and the CRA against such lien or Stop Payment Notice claim, or to fully satisfy such liability, claim, or demand to the fullest extent allowed by law. Upon Contractor's failure to so bond over any such lien or Stop Payment Notice, the Owner and the CRA shall also be entitled to charge against or deduct from any such payment all costs of legal defense or collection with respect thereto, including reasonable attorneys' fees. Should any claim or lien develop after all payments are made hereunder, and should Contractor fail to bond over such lien within ten (10) days of receipt of written notice from Owner regarding the filing or recordation of such lien, the Contractor shall refund to the Owner and the CRA within ten (10) days of demand thereof all monies that the Owner or the CRA may be compelled to pay in discharging such claims or liens and all costs, including reasonable attorneys' fees incurred in collecting said monies from the Contractor.

§4.1.9 In the event Contractor is not paid the undisputed portion of any Application for Payment within sixty (60) days of submission of the Application for Payment, Contractor may stop work under the applicable Work Order for which the undisputed payment is delinquent without further notice to Owner.

§ 4.2 Final Payment

§ 4.2.1 Final payment for individual Work Orders, constituting the entire unpaid balance of the Work Order Contract Sum, shall be made by the Owner to the Contractor when all of the following is satisfied:

- .1 the Contractor has fully performed the Work except for the Contractor's responsibility to correct Work as provided in Section 17.2, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Owner has completed Owner's Final Accounting (as defined in Section 4.2.3).
- .3 receipt by Owner of: (i) assignments of, and original copies of, all guaranties and warranties of Subcontractors, vendors and manufacturers; (ii) final conditional lien waivers and releases from all parties providing or performing any portion of the Work; (iii) the consent of any surety, if applicable; (iv) satisfactory proof that all claims, including taxes, arising out of the Work to be performed hereunder and any liens resulting from same which have been filed or recorded, have been released or bonded around by Contractor; (v) a certificate evidencing that any insurance or performance bonding as may be required by the Contract Documents will remain in full force and effect for such time periods required following Final Completion; (vi) all documentation and information necessary to obtain approvals, certifications of compliance, permits and clearances from all governmental authorities having jurisdiction over the Work and the Project; and (vii) sketches, shop drawings, and Contractor's in-field marked up drawing set as prepared by Contractor with respect to the Project; and (viii) any other reasonable documentation as may be required by the Owner or the CRA; and
- .4 Completion of all Work, including without limitation, completion of all Punch List items (as defined in Section 14.4.1) and all start-up and testing of systems, permit sign-offs, and delivery and satisfaction of all requirements for Project close-out, all in accordance with the Contract Documents.

§ 4.2.2 Intentionally Omitted.

§ 4.2.3 For any Work Order, the Owner and the CRA shall have the right to have their respective auditors review and report in writing on the Contractor's final accounting of the Cost of the Work (the "**Contractor's Final Accounting**") within sixty (60) days after delivery of the Contractor's Final Accounting to the Owner. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's Final Accounting, and provided the other conditions of Article 4 have been met, the Owner will, within seven (7) days after receipt of the written report of the Owner's auditors, notify the Contractor in writing of any discrepancies (the "**Owner's Final Accounting**").

§ 4.2.3.1 If the Owner's or the CRA's auditors report the Cost of the Work as substantiated by the Contractor's Final Accounting to be less than claimed by the Contractor, the Contractor shall be entitled to dispute in writing such accounting within thirty (30) days after the Contractor's receipt of the Owner's Final Accounting. Failure to provide written dispute of such Owner's Final Accounting within this 30-day period shall result in the substantiated amount reported by the Owner's or CRA's auditors becoming binding on the Contractor. In the event of any such disputed final payment as provided herein, the Owner shall pay the Contractor the undisputed amount within sixty-seven (67)

days after the delivery of Contractor's Final Accounting to the Owner, and the Contractor shall provide waivers and releases for all such amounts except as to any expressly reserved disputed amount.

§ 4.3 Accounting Records

The Contractor shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Master Agreement and each Work Order and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's representatives, as well as the CRA and the CRA's representatives shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, Contractor's Project-related records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Master Agreement and each Work Order. The Contractor shall preserve these records, in electronic format, for a period of at least fifteen (15) years after final payment, or for such longer period as may be required by law or agreed upon by the Parties. Upon the completion of a Work Order, the originals and all hard copies of such logs and Contract Documents shall be made available to the Owner and CRA by Contractor by written notice and shall include a document index prepared by Contractor. If Owner or CRA does not take possession of the originals and/or hard copies within one hundred twenty (120) days of said written notice, Contractor may destroy said originals and hard copies.

§ 4.4 In taking action on a Contractor's Application for Payment, the Owner (and at Owner's request, the Engineer) and the CRA shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that any such entity: (i) has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance therewith; (ii) has made exhaustive or continuous on-site inspections; or (iii) has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of any Work Order. The foregoing shall not be deemed to release Contractor for oversight responsibility of its subcontractors under this Master Agreement. Such examinations, audits and verifications, if required by the Owner or the CRA, will be performed by the Owner's or the CRA's auditors (as applicable) acting in the sole interest of the Owner and the CRA, as applicable.

§ 4.5 The sums paid under a Work Order shall be deemed to be in full consideration for the performance by the Contractor of all its duties and obligations under such Contract and the Contractor shall have the full continuing responsibility to perform the Work, including to install the materials and supplies purchased in accordance with the provisions thereof, to protect the same, to maintain them in proper condition and to forthwith repair, replace and make good any damage thereto without cost to the Owner or until such time as Final Completion of the Work or during any warranty period as provided in this Master Agreement and such Work Order.

§ 4.6 Payments by Owner made pursuant to a Work Order shall not be conclusive evidence of Owner's confirmation of the performance of the Work either in whole or in part. Furthermore, any such payments shall not be construed to be evidence of Owner's waiver of the Contractor's obligation to perform the Work evidenced by such payment nor Owner's acceptance of non-conforming Work, defective Work or improper materials.

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 Dispute Resolution

Disputes arising under this Master Agreement shall be resolved as set forth herein. The provisions of this Article 5 shall expressly survive the expiration or earlier termination of this Master Agreement or Work Order.

§ 5.2 The parties agree that they share an interest in preventing misunderstandings that could become claims against one another under this Master Agreement or any other document, instrument, writing or agreement related hereto, or with respect to the Work or Project. The parties agree to attempt to identify and discuss in advance in good faith any areas of potential misunderstanding that could lead to a dispute. If either party identifies an issue of disagreement, the parties agree to engage in a face-to-face or immediate telephonic discussion of the matter within ten (10) calendar days of the initial request. Notwithstanding the foregoing, the failure of any party to meet and confer as provided herein shall not impair the exercise of remedies available at law or in equity for any default under this Master Agreement or any Work Order hereunder. This process does not apply if the Owner terminates for convenience pursuant to Section 19.1.4.

§ 5.3 Mediation

§ 5.3.1 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association or JAMS, at the option of the requesting party, in accordance with JAMS' Construction Industry Mediation Procedures in effect on the date of this Master Agreement. A request for mediation shall be made in writing, delivered to the other party pursuant to Section 18.10, and filed with the entity administering the mediation.

§ 5.3.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the County where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 5.4 Any disputes arising hereunder which are not resolved within sixty (60) days of commencement of mediation as set forth in Section 5.3 above, may be resolved by litigation. Any legal action or proceeding with respect to this Master Agreement or any other document, instrument, writing or agreement related hereto, or with respect to the Work or Project, shall be brought exclusively in the State courts of California in a court of competent jurisdiction in the County in which the Project is located, and by execution and delivery of this Master Agreement, and, by execution and delivery of each Work Order hereunder, the parties hereby irrevocably accept for themselves in respect of their property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Master Agreement or the transactions contemplated hereby in such courts, and irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

§ 5.5 If either party is required to initiate or defend or is made a party to any action or proceeding in any way connected with this Agreement or any other document, instrument, writing or agreement related hereto, or with respect to the Work or Project, the prevailing party in such action or proceeding in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to attorneys' fees, expert witness and consultant fees, interest, costs and expenses whether or not the matter proceeds to judgment.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Work

The term "**Work**" has the meaning set forth in Section 2.1 and includes the construction and services required by the Contract Documents for a specific Work Order, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Work Order and related Contract. The Work identified in a particular Work Order will be applicable to only specific part of the Project specified in the Work Order.

§ 6.1.1 The Contractor shall assign sufficient numbers of duly qualified personnel to the services to the extent necessary to ensure that its obligations under this Master Agreement and each Work Order are timely and properly carried out. Together with each proposal for a Work Order, the Contractor shall submit a proposed staffing plan, to identify key personnel to be assigned to the Project, their relative background, qualifications, and experience, assigned project and responsibilities. Contractor shall not employ any key project personnel to be assigned to the Project without Owner's prior written approval. The approval by Owner of any project personnel shall not relieve Contractor of any responsibility for such personnel. All such personnel shall, while employed by Contractor, devote their full time (except where otherwise designated) to the Work, unless Owner gives prior written consent for such personnel to undertake other responsibilities. Excluding key personnel who are no longer employed by Contractor, a key personnel will not be removed or replaced by Contractor without Owner's prior written consent. Owner may require Contractor to remove any personnel whose performance, in the judgment of the Owner, is not satisfactory, and, in such event, Contractor shall promptly remove any such personnel as may then be required. In the event that any key personnel are no longer employed by Contractor, Contractor shall notify Owner within three (3) days after learning of such event. Contractor shall use its best efforts to provide a permanent replacement of any key personnel within seven (7) days after such event. Contractor represents that all persons who are directly supervising the services are duly qualified, trained, and, to the extent so required, licensed in accordance with the laws of the State in which the Project is located and the County and municipality having jurisdiction over the Project. Each Work Order shall include a list of the key project personnel.

§ 6.1.2 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications (i.e., communications relating to changes, delays, timing for required reviews and approvals, cost of the Work) shall be confirmed in writing and retained as part of the Project records.

§ 6.1.3 Without limiting Section 6.1.1 above, the Contractor has identified Kelly McCarty to serve as the Project Executive.

§ 6.2 The Contract Documents

The Contract Documents consist of: (i) this Master Agreement which includes the Indemnity and Insurance Addendum; (ii) any approved Work Order and attachments, appendixes, and exhibits identified therein and attached thereto; (iii) the Development Agreement and governing documents, agreements and permits as identified and agreed upon in a supplemental document following the execution of this Master Agreement; (iv) the executed Acknowledgment and Consent of Contractor; (v) any supplementary conditions applicable to a Work Order agreed to in writing by Contractor and Owner; (vi) all Drawings, Specifications, and Addenda issued in connection with a Work Order; (vii) any other documents specifically listed as a Contract Document in a Work Order; and (viii) Change Orders, if any, approved after the execution of a Work Order (collectively “**Contract Documents**”). The Contract Documents represent the entire and integrated agreement between the parties hereto for construction of the Work and supersedes prior negotiations, representations or agreements, either written or oral.

§ 6.3 Modification of Contract Documents

The Contract Documents may be amended or modified only by a Modification. A Modification is (1) a written amendment to the Work Order approved and executed by both parties and the CRA; (2) a Change Order; or (3) a written order for a Minor Change in the Work (as defined in Section 12.3) issued by the Engineer. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to complete the Work. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor, with the understanding that the CRA is the only intended third party beneficiary to the Contract Documents.

§ 6.4 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Engineer and the Engineer’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models, and other similar materials.

§ 6.5 Ownership and Use of Drawings, Specifications and Other Instruments of Service

§ 6.5.1 All rights to Instruments of Service prepared by the Owner or the Engineer are hereby expressly reserved by the Owner and the Engineer, as applicable. The Contractor and its Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner’s or the Engineer’s reserved rights.

§ 6.5.2 The Contractor and its Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for the purpose of performing the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor and its Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not use the Instruments of Service on other projects or for additions to a Project outside the scope of the Contract Documents without the specific written consent of the Owner or the Engineer, as applicable.

§ 6.6 Transmission of Data in Digital Form

The Contractor acknowledges that documents related to the Project may be transmitted electronically but that in all cases original hard copies shall control in the event of conflicts.

ARTICLE 7 OWNER

§ 7.1 Owner's Right to Not Issue Work Orders. The Owner is not required to issue any Work Orders under this Master Agreement.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish all necessary surveys and a legal description of sites referenced in a Work Order.

§ 7.2.2 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner provided that the Contractor shall not be excused from, and shall exercise, proper precautions relating to the safe performance of the Work, and diligence and care to undertake all Work consistent with the customs, standards, and best practices as exercised in the construction industry for projects of comparable size, scope and complexity.

§ 7.2.3 Except for permits or fees that are the express responsibility of the Contractor under the Contract Documents or Work Order, including those required under Section 8.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments and charges required for the Work.

§ 7.3 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

§ 7.4 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a ten (10) day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner, without prejudice to any other remedy the Owner may have, may correct such deficiencies and, subject to Section 4.1.3.3, may deduct the reasonable cost thereof, including Owner's expenses and compensation for any other Project contractor's services made necessary thereby, from the payment then or thereafter due the Contractor.

§ 7.5 Owner's Rights and Remedies

Except as expressly set forth to the contrary in the Contract Documents, the rights stated in this Master Agreement are cumulative and not in limitation of any rights of the Owner (i) granted in the Contract Documents, (ii) at law, or (iii) in equity.

§ 7.6 Owner's Right to Reject Non-Conforming Work

Owner may reject Work that does not conform to the Contract Documents and may require inspection or testing of the Work. Correction of such rejected Work shall be consistent with Article 17.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of a Work Order by the Contractor is a representation that the Contractor has visited the relevant site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report, in writing, to the Owner and Engineer any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Engineer and/or Owner may require.

§ 8.1.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report, in writing, to the Owner and Engineer any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Owner or Engineer may require.

§ 8.1.4 The Contractor accepts the relationship of trust and confidence established by this Master Agreement, and represents and covenants to the Owner that it shall cooperate with the Engineer and other Owner Consultants (including TRC) designated by the Owner, and that it shall exercise its best skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's and the CRA's interests and in a manner consistent with the Contract Documents.

§ 8.2 Supervision and Construction Procedures

§ 8.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under a Work Order, unless the Contract Documents give other specific instructions concerning these matters.

§ 8.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing all or a portion of the Work.

§ 8.2.3 The Contractor shall comply with applicable State, federal and local laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to the Work, including all equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities having jurisdiction over the Work or the Project.

§ 8.3 Labor and Materials

§ 8.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 8.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Engineer and in accordance with a Modification.

§ 8.3.4 The Contractor shall be responsible for managing or resolving all labor disputes and/or work stoppages so as to minimize or eliminate the impact of any such labor dispute and/or work stoppage to the Project, provided that such labor disputes and/or work stoppages may be avoided or minimized through intervention by the Contractor.

§ 8.4 Warranty

§ 8.4.1 The Contractor warrants to the Owner and Engineer that materials and equipment furnished under a Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage.

§ 8.4.2 The Contractor agrees to assign to the Owner at the time of termination or expiration of this Master Agreement, or at the time of Final Completion of the Work under each Work Order, any and all manufacturer's

warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties. In addition, the Contractor shall furnish all special warranties as may be required by the Contract Documents. All such warranties shall be in addition to Contractor's warranty obligations as required pursuant to this Master Agreement and each Work Order and shall not otherwise limit such obligations. Where extended manufacturer warranties are available, Contractor shall promptly advise Owner of the right to purchase any such extended warranties.

§ 8.5 Taxes

The Contractor shall include in the Contract Sum for each Work Order all sales, consumer, use and other similar taxes that are legally enacted when bids or proposals are received or negotiations concluded for any individual Work Order, whether or not yet effective or merely scheduled to go into effect.

§ 8.6 Permits, Fees, Notices, and Compliance with Laws

§ 8.6.1 Owner shall pay for the plan check fees, building permit, and other permits and governmental fees, licenses (excluding city business licenses for Contractor and Subcontractors) and inspections necessary for proper execution and completion of the Work. The Owner shall also pay for all utility company fees, connection fees and assessments including, but not limited to, sewer, water, natural gas and electric, including any security deposit related thereto. The Contractor shall comply with any programs or rules established from time to time to minimize utility usage, provided that Contractor shall be entitled to a Change Order if such programs or rules change after the signing of a Work Order and increase Contractor's costs or the time necessary to perform the work required by the Work Order.

§ 8.6.2 The Contractor shall comply with and give notices required by any applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it to be contrary to such applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall be liable for such failure and shall bear the costs attributable to the correction thereof including without limitation the costs associated with any fees and penalties and shall hold Owner harmless from same.

§ 8.7 Allowances

The Contractor shall include in the Contract Sum for each Work Order all allowances stated in the Contract Documents for that Work Order. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Allowance amounts shall not include the Contractor's costs for unloading and handling at the site, labor, installation, overhead, and profit.

§ 8.8 Contractor's Construction Schedules

§ 8.8.1 The Contractor shall prepare and submit for the Owner's and Engineer's review and written approval a Contractor's construction schedule for the Work described in that Work Order ("**Work Order Schedule**"). The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 8.8.2 The Contractor shall perform the Work in general accordance with the Work Order Schedule to be and as appended to and defined in each Work Order.

§ 8.9 Submittals

§ 8.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Engineer shop drawings, product data, samples and similar submittals required by the Contract Documents in coordination with the Contractor's Work Order Schedule and in such sequence as to allow the Engineer reasonable time for review. By submitting shop drawings, product data, samples and similar submittals, the Contractor represents to the Owner and Engineer that the Contractor has: (1) reviewed and approved them; (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with all approved submittals.

§ 8.9.2 Shop drawings, product data, samples and similar submittals by the Contractor are not Contract Documents.

§ 8.10 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities and by the Contract Documents and shall not unreasonably encumber the site with materials or equipment. Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. Materials and equipment may only be stored in those areas of the Project site as the Owner has designated in each Work Order. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft and/or vandalism (during working hours), damage and all other adversity is solely the responsibility of the Contractor.

§ 8.11 Cutting and Patching

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 8.12 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under a Work Order. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material from and about the Project. If the Contractor fails, within 48 hours of receipt of written notice from Owner, to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement for such expenses from the Contractor or to a reduction from progress payments due to the Contractor under any open Work Order.

§ 8.13 Royalties, Patents and Copyrights

The Contractor shall include in the Contract Sum for each Work Order all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and CRA harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Engineer. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Engineer and Owner.

§ 8.14 Access to Work

The Contractor shall provide the Owner, the CRA and the Engineer access to the Work in preparation and progress wherever located.

§ 8.15 Indemnification

§ 8.15.1 The Indemnity and Insurance Addendum attached to this Master Agreement is hereby incorporated herein by reference and made a part of this Master Agreement. Without limiting Contractor's obligation to bond over any lien asserted against the Project, subject to Owner's payment to Contractor of all such amounts properly due, Contractor shall indemnify and hold Owner harmless from all claims of lien threatened, asserted, noticed or filed by any Subcontractor, materialman, supplier, laborer or any other person or party providing any part of the Work, and all damages, charges, costs and expenses, including reasonable attorney fees resulting therefrom or related thereto.

ARTICLE 9 ENGINEER

§ 9.1 The Owner has the right to retain an Engineer to perform the services enumerated in this Article 9 and as described elsewhere in this Master Agreement. If an Engineer is not designated in a Work Order, Owner shall be responsible for those obligations required by this Agreement to be performed by the Engineer.

§ 9.2 The Engineer listed on each Work Order will provide administration of the Contract and will be an Owner's representative during construction to the extent requested by Owner. The Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Master Agreement or Work Order.

§ 9.3 The Engineer will visit the site at intervals appropriate to the stage of the construction, or upon Owner's request, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Engineer will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 9.4 On the basis of the site visits, the Engineer will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the Work Order Schedule, and (2) defects and deficiencies observed in the Work. The Engineer will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Engineer will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 9.5 Intentionally Omitted.

§ 9.6 Intentionally Omitted.

§ 9.7 The Engineer will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and make recommendations to the Owner.

§ 9.8 Subject to Article 20 regarding Claims and Disputes, the Engineer will interpret and decide matters concerning design compliance under the Contract Documents, on written request of either the Owner or Contractor.

§ 9.9 Intentionally Omitted.

§ 9.10 Duties, responsibilities and limitations of authority of the Engineer as set forth in the Contract Documents may be restricted, modified or extended without written consent of the Contractor. Notwithstanding anything to the contrary in this Article 9 or otherwise in the Contract Documents, including without limitation, any Work Order, the Owner reserves the right to delegate responsibility for construction phase administration to Owner designated representatives to be performed in coordination with and/or independent of the Engineer provided that Owner may not delegate any such responsibilities which are required to be performed by a licensed architect or engineer to any person or party without such relative licensure.

ARTICLE 10 SUBCONTRACTORS

§ 10.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform a portion of the Work ("Subcontractor").

§ 10.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. All bidding shall be conducted in an "open-book" manner with Contractor procuring not less than three (3) qualified bids for all trades, except where otherwise approved by the Owner. The Owner shall have the right to participate in approval of qualified bidders, all bid reviews, proposed subcontractor meetings and negotiations, bid leveling exercises and other efforts through a final award to Subcontractors. The Contractor shall analyze the bids and select the Subcontractors subject to the Owner's objection. The Contractor shall not make an award to any proposed Subcontractor, material supplier, or vendor unless the Owner has approved such award in writing. The Contractor shall not substitute a Subcontractor, person or entity previously selected and approved without prior written notice to and approval of the Owner with respect to such substitution.

§ 10.3 Contracts between the Contractor and Subcontractors ("Subcontract") shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the

Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Engineer, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed sub-subcontractors. Each Subcontract for a portion of the Work shall be assignable to the Owner in the event of any termination of this Master Agreement or any such Contract by the Owner, provided that such assignment shall be only for those Subcontracts that the Owner accepts by notifying the Subcontractor and Contractor in writing; and assignment is subject to the prior rights of the surety, if any, obligated under bond relating to such Contract. When the Owner accepts the assignment of a Subcontract, the Owner assumes the Contractor's rights and obligations under the Subcontract. The Contractor shall require each Subcontract, purchase order or other agreement for Work to contain provisions that expressly (i) require Work be performed in accordance with the requirements of the Contract Documents; (ii) require the Subcontractor to indemnify the Owner as and to the same extent as set forth in Article 8; (iii) require the Subcontractor to carry and maintain insurance coverage in the amounts specified under Section IV of the Indemnity and Insurance Addendum; (iv) require the Subcontractor to submit certificates and waivers of liens for Work completed by it and by sub-subcontractors as a condition to the disbursement of the progress payment next due and owing; (v) expressly provide for assignment to the Owner, at Owner's election, as the case may be, in the event of a termination of this Master Agreement or the relative Work Order; (vi) require that Subcontractor continue to perform under its Subcontract in the event the Master Agreement or relative Work Order is terminated and the Owner elects to take an assignment of its Subcontract; (vii) provide that all warranties for the Work shall include and be directed for the benefit of the Owner, as well as, the Contractor; and (viii) expressly acknowledge that the Work is performed for the Owner and for the CRA as an intended third party beneficiary and that the Owner and/or CRA shall have the right to assert claims directly against the Subcontractor for breach of contract and/or any breach of warranty, and other claims arising out of or related to the Work or the Project. Copies of all Subcontracts, purchase orders and other agreements for the Work, as well as the names and contact information for all persons or parties providing such Work shall be provided to the Owner and the CRA upon request. Subcontractor shall also specifically agree to use the Textura System.

§ 10.4 The Contractor shall not bid, award or let Work under any Work Order to a related party (as defined below) without prior written notice to the Owner of such relationship and the Owner's express written approval of such related party. For purposes of this Section, the term "**related party**" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent (10%) in the aggregate; any person or entity which has the right to control the business or affairs of the Contractor; or any member of the immediate family of any person identified above.

ARTICLE 11 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 11.1 The Owner and the CRA, in accordance with the Development Agreement, each reserve the right to perform construction or operations related to the Project with their own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make a claim as provided in Article 20.

§ 11.2 The Contractor shall afford the Owner and the Owner's separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall coordinate the Contractor's activities with theirs.

§ 11.3 The Owner shall be entitled to reimbursement by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Contractor shall be entitled to reimbursement by the Owner and the separate contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of the separate contractor.

ARTICLE 12 CHANGES IN THE WORK

§ 12.1 By appropriate Modification, changes in the Work may be accomplished after execution of a Work Order. The Owner, without invalidating this Master Agreement or a Work Order, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized only by written Change Order signed by the Owner and the Contractor and approved by the CRA, or by written Change Order or written directive (“**Change Directive**”) signed by the Owner.

§ 12.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties, which shall compensate Contractor for the actual additional cost of labor, material, equipment, and Contractor’s Fee, unless the parties agree on another method for determining the cost or credit. Adjustments of the Contract Time shall be determined in accordance with Section 13.5 or any other provision of this Master Agreement. Pending final determination of the total cost of a Change Order, the Contractor may request payment for Work completed pursuant to the Change Order. The Owner may make an interim determination of the amount of payment due for purposes of reviewing the Contractor’s monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Change Order, the adjustments shall be memorialized by a written Change Order.

§ 12.2.1 On each request for a Change Order submitted by Contractor to Owner, or when aggregate changes begin to indicate delay, the Contractor will note the anticipated delay and related costs due to changes and present to Owner in writing for approval.

§12.2.2 A Change Order shall include a Contractor's Fee (independent of Subcontractor's mark-up) of not more than five percent (5%). Decreases in the Scope of Work shall adjust the Contractor’s Fee downwards accordingly. In addition, should the revised Scope of Work require additional personnel, Contractor will be entitled to reimbursement for such personnel necessary to process and expedite the revisions.

§ 12.3 Subject to Owner’s written approval, the Engineer may order a Minor Change in the Work. A “**Minor Change in the Work**” is defined as one not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

§ 12.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions that Contractor has previously found to exist at the site, the Contract Sum and Contract Time shall be equitably adjusted upon mutual agreement between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Engineer promptly and before conditions are disturbed.

§ 12.5 Contractor shall not perform any changed work unless such changed work is authorized by Owner or an authorized representative of Owner, in writing in a Change Order or in a Minor Change in the Work. No course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim of betterment that the Owner or the CRA, or any other person or party with interests in the property has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in any amounts due under the Master Agreement or any Work Order or a change in any time period provided for in the Contract Documents. The Contractor hereby expressly waives any such claims and defenses based on such claims. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including but not limited to, all direct and indirect costs associated with such change, any impact such change may have on the unchanged Work, and any and all adjustments to the Contract Sum and Contract Time. The foregoing sentence shall not preclude Contractor from reserving claims in a Change Order if the full impact of a change or changes cannot be ascertained at the time the Change Order is issued. In the event a Change Order increases the Contract Sum, the Contractor shall include the Work covered by such Change Order in the related Application for Payment as if such Work were originally part of the Contract Documents.

ARTICLE 13 TIME

§ 13.1 Time periods stated in the Contract Documents are of the essence. By executing the Work Order, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 13.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 13.3 The term “**day**” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 13.4 The date of Substantial Completion is the date certified by the Engineer in accordance with Section 14.4.3.

§ 13.5 In the event of any delay to the critical path of a Work Order Schedule caused by: (1) an affirmative act, omission or negligence of the Owner, the Engineer, the CRA, or of an employee or authorized representative of either, or of a separate contractor engaged by the Owner; (2) breach by Owner of an obligation under the Contract Documents; (3) changes ordered in the Work; or (4) unforeseen site conditions (any of the foregoing (1) through (4) being an “**Owner Responsible Delay**”), or in the event of any delay to the critical path of the Project Schedule due to events beyond any party’s reasonable control that occurred without any party’s fault or negligence, including without limitation, earthquake, flood, fire, storm, natural disaster, act of God, war, sabotage, terrorism, armed conflict, riots, vandalism, labor disputes or strikes, unusually adverse weather, or acts of government (any such delay shall be deemed a “**Force Majeure Delay**”), then subject to the provisions of Sections 13.5.1 and 13.5.5 the Contractor shall be entitled to both of the following: (A) a change order to extend the Contract Time to take into account the actual impact to the critical path of the Project Schedule, and (B) a Change Order to adjust the Contract Sum to compensate Contractor for its reasonable, actual, demonstrated costs resulting from any such delay, including costs involved with labor and material escalations, if applicable, as well as costs such as, but not limited to, supervision, job office and supplies, etc. With respect to an Owner Responsible Delay, Contractor shall be entitled to add a Contractor’s Fee, at the rate set forth in the applicable Work Order, to the costs identified above; however no such Contractor’s Fee shall be added in the event of a Force Majeure Delay.

§ 13.5.1 Except as provided in Section 13.5.2, Contractor shall not be entitled to an extension of the Contract Time in a Work Order Schedule or an adjustment in the Contract Sum due to any delay caused by any affirmative act, omission, negligence, violation of a State, Federal or local law, or failure of the Contractor or any of its Subcontractors of any tier to comply with the Contract Documents (“**Contractor Caused Delay**”).

§ 13.5.2 In the event of any “**Concurrent Delay**” (as defined herein) to a Work Order Schedule, Contractor shall be entitled to an extension of the Contract Time, but shall not be entitled to an adjustment of the Contract Sum. A “**Concurrent Delay**” is defined as a day on which the critical path of a Work Order Schedule is delayed and which delay is caused by both a Contractor Caused Delay and an Owner Responsible Delay.

§ 13.5.3 Any extension of the Contract Time shall not include any days of delay that could be limited or avoided by the Contractor, and shall not include any days of delay that could have been avoided or mitigated by reasonable work-around or precautionary measures. Any adjustment in the Contract Time for an Owner Responsible Delay or a Force Majeure Delay shall in all cases be no greater than the actual change in the critical path of the Work Order Schedule. Float is defined as the number of days by which a Work activity identified in the Work Order Schedule could be delayed from its “**early start date**” until the date upon which the Work activity would become a critical path activity. Any float, slack time, or contingency within the Work Order Schedule is a resource available to and shared by both parties as needed to meet the governing Contract Time. Use of such jointly owned float shall be on a first come, first served basis and may be applied to delays caused (without limitation) by third parties.

§ 13.5.4 No Claim for adjustment of the Contract Sum or additional compensation for extra, affected, impacted or inefficient work or lack of productivity will be allowed where Contractor does not keep and maintain contemporaneous, complete and accurate time records for labor and equipment and contemporaneous, complete and accurate records for materials and where such records do not contemporaneously segregate and allocate by time, location and work the time and cost for each element of such Work, labor or equipment. Contractor’s failure to keep and maintain such records constitutes a waiver of any Claim or request by Contractor for adjustment of the Contract

Sum for any alleged loss of efficiency, fatigue, labor stacking/rhythm, trade stacking, concurrent operations, dilution of supervision, ripple effect, cumulative impact or similar damages.

§ 13.5.5 In the event of an Owner Responsible Delay or a Force Majeure Delay, Contractor shall: (i) promptly provide written notice to Owner of the occurrence of said Delay describing the proximate cause and commencement date thereof and its impact, if any, on Contractor's ability to achieve Substantial Completion; (ii) use good faith efforts to minimize the impact on Substantial Completion; and (iii) list those portions of the Work, if any, that Contractor is able to perform during the term of the Delay and the reasonable and necessary costs associated therewith. Should Owner desire to accelerate the Work in lieu of extending the Contract Time, in whole or in part, as a result of said Delay, Owner and Contractor shall meet to discuss the anticipated cost and time savings expected from such acceleration, and act in good faith to agree upon a mutually acceptable adjustment to the Contract Sum and Contract Time.

ARTICLE 14 PAYMENTS AND COMPLETION

§ 14.1 Applications for Payment

§ 14.1.1 Applications for Payment will be submitted individually for each Work Order.

§ 14.1.2 Intentionally omitted.

§ 14.1.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's and the CRA's interests as related to the Project.

§ 14.2 Payment

§ 14.2.1 Intentionally Omitted.

§ 14.2.2 The issuance of a payment by Owner to Contractor will not be a representation that the Owner has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 14.2.3 The Owner and the CRA reserve the right to withhold from payment upon Owner's or CRA's determination of any of the reasons set forth below and as otherwise provided herein, provided that the Owner provides the Contractor with written notice of such withholding within five (5) days of determining such reasons. The Owner may withhold payment because of

- .1 defective Work not remedied;
- .2 third party claims filed or evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to any Subcontractor or for labor, materials or equipment;
- .4 evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner, CRA, or a separate contractor;
- .6 evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 failure to carry out the Work in accordance with the Contract Documents.

§ 14.3 Progress Payments

§ 14.3.1 The Contractor shall pay each Subcontractor, no later than seven (7) days after receipt of payment, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in a similar manner. The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid

Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid.

§ 14.3.2 Neither the Owner nor the CRA shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law.

§ 14.3.3 Any progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of any Work that is not in accordance with the Contract Documents.

§ 14.4 Substantial Completion

§ 14.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, without limitation or interruption, and the Contractor has satisfied the following conditions (“**Substantial Completion**”): (a) delivery to Owner of all sign-offs, approvals and other submissions demonstrating to the Owner that the Work has passed all construction and code inspections by applicable agencies; (b) the improvements have been accepted by the City or Carson; (c) a utility company or district for permanent maintenance (or other such quasi-public entity) has completed a walkthrough inspection of the applicable improvements and has initiated the procedure for accepting such improvements for permanent maintenance (subject to any warranty obligations); (d) the only remaining Work consists of minor items, adjustments or corrections which have no material effect upon the utilization or function of the Project and are deemed “**Punch List**” items; and (e) the Engineer has issued its certificate of Substantial Completion, including certification in favor of CRA and the applicable vertical developer stating that such improvements have been completed pursuant to the applicable plans and specifications in a form acceptable to Owner (“**Certificate of Substantial Completion**”).

Notwithstanding the preceding sentence, subject to Owner’s written approval, if the Contractor’s Work is otherwise Substantially Complete and has met the requirements of this Section, but an approval or other requirement is not issued as a direct and proximate result of (i) the acts or omissions of the California Department of Toxic Substances Control, (ii) the acts or omissions of TRC, its successor environmental contractor or any of their respective subcontractors in the employ of Owner or CRA, or (iii) any other reason beyond the control of Contractor or its Subcontractors of any tier, then Substantial Completion shall nonetheless be deemed to have been achieved. The terms “**Substantially Completed**” or “**Substantially Complete**” shall have the same meaning as Substantial Completion.

§ 14.4.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is Substantially Complete, the Contractor shall prepare and submit to the Engineer a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 14.4.3 Upon receipt of the Contractor’s list, the Engineer will make an inspection to determine whether the Work or designated portion thereof is Substantially Complete. When the Engineer determines that the Work or designated portion thereof is Substantially Complete, the Engineer will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion, establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 14.4.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 14.5 Final Completion and Final Payment

§ 14.5.1 Upon receipt of the Contractor’s written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Engineer will promptly make such inspection and, when the Engineer finds the Work acceptable under the Contract Documents and the Work Order fully performed, the

Engineer will promptly issue a Certificate of Final Completion in a form acceptable to Owner (“**Certificate of Final Completion**”) stating that to the best of the Engineer’s knowledge, information and belief, and on the basis of the Engineer’s on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents. The Engineer’s Certificate of Final Completion will constitute a further representation that conditions stated in Section 14.5.2 as precedent to the Contractor’s being entitled to final payment have been fulfilled.

§ 14.5.2 Final payment shall not become due until the Contractor has delivered to the Owner all close out deliverables for such Work, together with a complete release of all liens and Stop Payment Notices arising out of the Contract which have been recorded or filed prior to the date of the final Application for Payment. If any liens or Stop Payment Notices are recorded or filed after the date of the final Application for Payment, Contractor shall comply with Section 4.1.8 and Owner shall have all rights and remedies set forth in Section 4.1.8. If such lien remains unsatisfied after final payment has been made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys’ fees.

§ 14.5.3 The making of final payment shall constitute a waiver of claims by the Owner and CRA except those arising from (i) liens, claims, security interests or encumbrances arising out of the Work Order and unsettled; (ii) failure of the Work to comply with the requirements of the Contract Documents; or (iii) terms of special warranties required by the Contract Documents.

§ 14.5.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 15 PROTECTION OF PERSONS AND PROPERTY

§ 15.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of a Work Order. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor’s Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 15.1.2 and 15.1.3, except for damage or loss attributable to acts or omissions of the Owner or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to and not a limitation on the Contractor’s Indemnification obligations under Section 8.15.

§ 15.2 Hazardous Materials

§ 15.2.1 Contractor shall, in performing the Work, comply with applicable federal, state, and local laws, ordinances, regulations and orders, and Environmental Laws (collectively, “**Laws**”) in effect during the time of performance of any Work. As used herein, “**Environmental Laws**” means any applicable federal, state or local laws, statutes, ordinances, rules, regulations, orders, now in effect, imposing liability, establishing standards of conduct or otherwise relating to protection of the environment (including natural resources, surface water, groundwater, soils, and indoor and ambient air), health and safety, or the presence, generation, treatment, storage, disposal, discharge or threatened discharge, transport or handling of any hazardous material. For purposes of this Master Agreement, Environmental Laws shall also expressly include the DTSC Documents (as defined in the Development Agreement) and all orders, directives and

communications issued or received by the Department of Toxic Substances Control from time to time relating to the Project.

§ 15.2.2 It is understood and agreed that Contractor is not, and has no responsibility as, a generator, operator, owner, treater, arranger, or storer of pre-existing substances, materials or wastes (hazardous or non-hazardous) (collectively, “Waste”) found or identified at work sites including drilling and cutting fluids and other samples. Ownership of all samples obtained by Contractor from the Project for Work shall be maintained by Owner. Contractor will store such samples in a professional manner for the period of time necessary to complete the Work. Upon completion of the Work, Contractor will return any unused samples or portions thereof to Owner or, at Owner’s option using a manifest signed by CRA as generator, dispose of the samples in a lawful manner and bill Owner for the costs related thereto.

Before any Wastes are removed from the Project, Owner will sign manifests naming Owner as the generator of the Waste (or, if Owner is not the generator, Owner will arrange for the generator to sign). Owner will select the treatment or disposal facility to which any Waste is taken. Contractor shall not directly or indirectly assume title to such Wastes and shall not be liable to third parties alleging that Contractor has or had title to such materials. Contractor will not have responsibility for or control of the Project or of operations or activities at the Project other than its own and those of its agents or Subcontractors. Contractor will not undertake, arrange for or control the handling, treatment, storage, removal, shipment, transportation or disposal of any Wastes or hazardous or contaminated materials at or removed from the Project, other than any laboratory samples it collects or tests. Owner shall pay all costs and expenses associated with the collection, storage, transport and disposal of samples and Wastes, unless otherwise set forth in the applicable Work Order.

If the Work includes the transportation and disposal of Waste, Contractor shall perform such transportation and disposal in accordance with the standards in the industry and only qualified and competent persons shall perform such work. Contractor warrants that all vehicles used to transport any materials or Wastes shall be permitted in compliance with all Environmental Laws and appropriate to such transport and that all drivers shall be properly licensed. Contractor warrants that it has the required certificates, permits, licenses and authorizations to conduct business and perform the Work. Notwithstanding anything to the contrary herein, Contractor shall not transport or dispose of hazardous Waste without the prior written consent of Owner.

All costs incurred by Contractor in complying with the requirements of this Section 15.2.2 are not included in the initial Contract Sum contained in the applicable Work Order, and shall be reimbursed to Contractor by Owner pursuant to a change order to said Work Order.

§ 15.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 15.4 The Contractor shall designate a responsible member of the Contractor’s organization at the Project site whose duty shall be the prevention of accidents. The Contractor shall employ duly trained, licensed and qualified site safety supervisors and coordinators.

ARTICLE 16 INSURANCE AND BONDS

§ 16.1 The Indemnity and Insurance Addendum (“**Insurance Addendum**”) and Owner Controlled Insurance Program Insurance Manual (“**OCIP Manual**”) attached hereto as Attachment A to the Insurance Addendum are hereby incorporated herein by reference and made a part of this Master Agreement. The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as set forth in the Insurance Addendum and OCIP Manual.

§ 16.1.1 Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner and CRA of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the

Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 16.2 PROJECT SPECIFIC INSURANCE REQUIREMENTS

§ 16.2.1 The Contractor shall secure and maintain insurance in the coverages set forth in the Insurance Addendum and OCIP Manual and shall adhere to all provisions of the Insurance Addendum, for so long as Work shall be provided pursuant to this Master Agreement or such longer periods as may be stated therein, in amounts not less than the minimum limits set forth therein (such minimum limits to be increased as may be required to comply with statutes or regulations governing the Work). In addition to the foregoing, the Contractor shall provide Subcontractor Default Insurance with all trades to be enrolled except as approved by the Owner in writing and such coverage endorsed to include the interests of the Owner and by policy endorsement acceptable thereto. As copy of such policy shall be provided to the Owner upon request.

§ 16.2.2 The Contractor shall provide the Owner with endorsements to all required insurance policies, in form and substance satisfactory to the Owner, that include the Owner and Engineer (and such other persons or entities as Owner has designated below or that the Owner may reasonably designate hereafter) as an “**additional insured**”, provided however that no such endorsement shall be required for Workers Compensation coverage, Statutory Disability Coverage, Equipment Floater, or any Professional Liability Policy. Such endorsements shall be provided on forms CG2010 and CG2037 or their equivalents. The following parties shall be named as Additional Insured (together with any such Project lenders or other person or parties as Owner may reasonably require and identify at any time during the course of the Work):

- (i) RE | Solutions LLC
- (ii) Carson Reclamation Authority
- (iii) City of Carson
- (iv) [ENGINEER]
- (v) All affiliates, subsidiaries, parent entities, managers, members, partners, directors, officers, employees, agents, representatives, successors or assigns of any of the aforementioned

§ 16.2.3 All policies shall include, by endorsement, a requirement that the Owner, and each other additional insured, shall receive not less than thirty (30) days prior written notice of any non-renewal, cancellation or delinquent premium payment by the named insured.

§ 16.2.4 The Contractor shall cause any Subcontractor to maintain coverages consistent with the requirements herein provided that coverage limits shall be adjusted as are reasonably determined in the Contractor’s professional judgment.

§ 16.2.5 ANY INSURANCE LIMITS REQUIRED HEREIN ARE MINIMUM LIMITS ONLY AND NOT INTENDED TO RESTRICT THE LIABILITY IMPOSED ON THE CONTRACTOR OR ANY CONTRACTOR’S SUBCONTRACTORS FOR WORK PERFORMED UNDER THIS MASTER AGREEMENT OR ANY CONTRACT.

§ 16.3 PERFORMANCE BOND AND PAYMENT BOND

§ 16.3.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of any Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of such Contract. The form of such bonds shall be subject to Owner’s and the CRA’s review and approval. The Contractor represents to the Owner that it has adequate bonding capacity to provide such bonds upon execution of this Master Agreement and, by its execution of any Work Order, which shall constitute Contractor’s reaffirmation as of the date of execution thereof. Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under a Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 17 CORRECTION OF WORK

§ 17.1 The Contractor shall promptly correct Work properly rejected by the Engineer or the Owner or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion

and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including without limitation additional testing and inspections, the cost of uncovering and replacement, and compensation for the Engineer's services and expenses made necessary thereby, shall be at the Contractor's expense, unless compensable under the provisions of Exhibit A, Determination of the Cost of the Work.

§ 17.2 In addition to the Contractor's obligations under Section 8.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 14.4.3, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly at its own cost and expense after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. In no event shall Contractor be required to bear the cost of gaining access in order to perform its warranty obligations hereunder.

§ 17.3 If the Contractor fails to correct nonconforming Work within a reasonable time after receipt of the written notice from Owner, the Owner may correct it and deduct the cost thereof from amounts due to the Contractor, in accordance with Section 7.4.

§ 17.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 17.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 17.

ARTICLE 18 MISCELLANEOUS PROVISIONS

§ 18.1 Assignment of Contract

Neither party to a Contract shall assign the Contract without written consent of the other and of the CRA. In connection with the Development Agreement, Owner and CRA entered into a Collateral Assignment of Project Documents dated as of July 26, 2017 (the "**Assignment**") pursuant to which Owner assigned to CRA all of its respective right, title and interest in and to and obligations under this Master Agreement and related documents in order to secure its obligations under the Development Agreement. Subject to the terms set forth in this Master Agreement, Contractor acknowledges and consents to the Assignment and agrees to execute and deliver the acknowledgement and consent attached hereto as Exhibit D and made a part hereof (the "**Consent**") to Owner. CRA shall be a third-party beneficiary of this Master Agreement and may (but is not obligated to) enforce the terms hereof subject to the terms and conditions of the Consent. Should CRA choose to exercise its rights as a third-party beneficiary, Owner's rights and obligations under this Agreement shall become the CRA's, subject to the limitations set forth in this Master Agreement.

§ 18.2 Governing Law

All Contracts shall be governed by the laws of the State of California.

§ 18.3 Tests and Inspections

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. Owner shall bear all costs of tests, inspections and approvals and make payment for same. The Contractor shall give the Engineer and Owner timely notice of when and where tests and inspections are to be made so that the Owner or the Engineer may be present for such procedures.

§ 18.4 Commencement of Statutory Limitation Period

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to a Work Order in accordance with the requirements of the final dispute resolution method selected in this Master Agreement within the period specified by applicable law. The Owner and Contractor waive all claims and causes of action not commenced in accordance with

this Section 18.4. Any claims against the CRA, the City of Carson or their respective elected officials shall be filed in compliance with the notice requirements of the California Torts Claims Act (Government Code Sections 810-996.6.).

§18.5 Publicity and Signage

The Contractor shall not reference the Owner, this Master Agreement, the Project, and/or the CRA in any of the Contractor's promotional and professional materials, or otherwise in any interview, seminar, conference, press release or other publication, forum or medium, without the Owner's prior written approval which shall not be unreasonably withheld. The Contractor may erect normal and customary signage (as approved by Owner) at the Project site at locations designated by the Owner. The Contractor shall provide for the same restrictions in all agreements with Subcontractors.

§18.6 Severability

If any provision of this Master Agreement or of any Work Order is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of this Master Agreement, and/or such Contract, as the case may be, and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby.

§18.7 No Waiver

No provision of the Contract Documents shall be deemed to have been waived by either party, either expressly, impliedly or by course of conduct, unless such waiver is in writing and signed by such party, which waiver shall apply only to the matter described in the writing and not to any subsequent rights of such party. Except as expressly set forth in this Master Agreement or a Work Order, no failure on the part of either party to exercise and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by either party of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right.

§18.8 Survival of Indemnification, Representations And Warranties

All indemnities, representations, warranties and waivers made by the Contractor in favor of the Owner and the CRA shall survive completion of the Work, the making of the Final Payment and any cancellation or termination of the Master Agreement.

§18.9 Rights of CRA

The Contractor acknowledges and agrees that the Owner's interests in the Project are limited to the rights afforded under the Development Agreement and the Assignment and CRA is the record title holder of the Project site. The Contractor shall assist and cooperate with all draw requirements for any financing of the Project by or through the CRA, including without limitation, cooperation in connection with Project site inspections, certifications of pay applications, and furnishing such consents to assignments, estoppels, stand-still agreement, and/or other certifications as the CRA may require.

§ 18.10 Notice

Except as set forth below, all notices, demands, or other communications under this Master Agreement and all Work Orders shall be in writing and shall be delivered to the appropriate party at the address set forth below (subject to change from time to time by written notice to all other parties to this Agreement). All notices, demands or other communications shall be considered as properly given if sent by: (a) electronic mail or regular mail; or (b) overnight express mail, charges prepaid. Notices so sent shall be deemed effective one (1) business day after mailing or the same day as sent for electronic delivery.

Notices of termination, intent to terminate, or default under this Agreement must be made by overnight express mail, charges prepaid, and Return Receipt Requested. Both the party providing such notice and the party receiving such notice, must have confirmation of both transmission and receipt.

If to **Owner:**

Stuart Miner, Principal
RE | Solutions, LLC
1525 Raleigh Street, Suite 240
Denver, CO 80204

Telephone: (303) 945-3017
Email: stuart@resolutionsdev.com

With a copy to:
Marc Stice, Esq.
Stice & Block, LLP
2335 Broadway, Suite 201
Oakland, CA 94612
(510) 735-0032
Email: mstice@sticeblock.com

and

If to **Contractor**:

John F. Rochford
SL Carson Builders, LLC
17962 Cowan
Irvine, California 92614
Telephone: 949-863-9200
Email: jrochford@snyderlangston.com

and in all cases of notice by either party with copies to:

With copies to:
John S. Raymond
Director of Community Development
City of Carson, California
701 E. Carson Street
Carson, CA 90745
Telephone: (310) 952-1773
Email: jraymond@carson.ca.us

with a copy to:

Curtis B. Toll, Esq.
Greenberg Traurig, LLP
2700 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103
Telephone: (215) 988-7804
Email: tolle@gtlaw.com

and to:

Sunny K. Soltani, Esq., Counsel for CRA
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Telephone: (949) 223-1170
Email: ssoltani@awattorneys.com

§18.11 No Presumption Against Drafting Party

This Master Agreement and any and all Work Orders shall be construed without regard to any presumption or other rule requiring construction against the party causing this Master Agreement or such Work Order to be drafted. In the event of any action, suit, dispute or proceeding affecting the terms of this Master Agreement or such Work

Order, no weight shall be given to any deletions or striking out of any of the terms of this Master Agreement or such Work Order, as the case may be, contained in any draft thereof and no such deletion or strike out shall be entered into evidence in any such action, suit, dispute or proceeding nor given any weight therein.

§18.11 Covenant Against Discrimination

The Contractor covenants that, by and for itself and its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Master Agreement and Work Orders. The Contractor shall take affirmative action to insure that consultants and Subcontractors are employed and are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

§18.12 Unauthorized Aliens

The Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should the Contractor so employ, either directly or indirectly, such unauthorized aliens for the performance of Work, and should any liability or sanctions be imposed for which the Owner shall be liable to the City of Carson or the CRA for such use of unauthorized aliens, the Contractor shall indemnify and hold the Owner harmless for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the Owner.

§18.13 Compliance With Prevailing Wage Laws

The Contractor represents that it is familiar with and understands the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("**Prevailing Wage Laws**"), which require the payment of prevailing wage rates and the performance of other requirements on "**Public Works**" and "**Maintenance**" projects. It is the Contractor's sole responsibility to make sure all Work performed under this Master Agreement and Work Orders is in compliance with such Prevailing Wage Laws. The Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Work available to interested parties upon request, and shall post copies at the Project site. The Contractor shall defend, indemnify and hold the Owner and the CRA harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

§18.14 Mutual Waiver of Consequential Damages

The Contractor and Owner each waive Claims against each other for consequential damages arising out of or relating to this Master Agreement and all Work Orders. This mutual waiver includes but is not limited to:

- .1 damages incurred by the Owner and CRA for rental expenses, for losses of use, income, profit, financing, opportunity costs, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 19.

§18.15 Interest. Payments due and unpaid under the Contract shall bear interest at the reference rate of the lesser of: (i) the Wall Street Journal prime rate plus two (2) percent; or (ii) five (5) percent, calculated from forty five (45) days after the submittal of the Application for Payment by the Contractor to Owner, until the date that the payment is received.

§18.16 If required due to material escalation risk in a specific commodity, such as oil, copper, glass or lumber and evidenced during the Subcontractor bidding and award process; then a) early purchase, b) storage and payment or c) allowances will be established as determined at the time of establishing the final contract with the Subcontractor..

§18.17 If a specific commodity escalates during the course of a specific Work Order by a factor of greater than thirty percent (30%), and the Subcontractor refuses to honor their price, Contractor will be entitled to a Change Order for the costs, as approved by Owner, associated with settling the Subcontractor's claim.

§18.18 Limitation of Liability. Notwithstanding any provision in this Master Agreement or any Work Order to the contrary, Contractor's maximum and total aggregate liability to Owner and CRA for any and all claims, demands and liabilities arising under this Master Agreement and the Work Orders and Change Orders thereto, shall not exceed an amount equal to fifty percent (50%) of the total Contractor's Fee payable under this Master Agreement and the Work Orders and Change Orders thereto. The limits contained herein shall not apply to (1) claims arising from the willful misconduct of Contractor or its agents, employees or Subcontractors; and (2) the rights of Owner and CRA to obtain recovery under any of the insurance programs provided by Owner or Contractor pursuant to this Master Agreement.

ARTICLE 19 TERMINATION

§ 19.1 Termination of a Contract

This Master Agreement and all Work Orders hereunder may be terminated in accordance with this Article 19.

§ 19.1.1 Termination by the Contractor

The Contractor may terminate this Master Agreement or a Work Order if: (i) the Engineer fails to certify payment as provided in Article 14 through no fault of the Contractor; or (ii) the Owner fails to make payment as provided in Article 4. In order to terminate this Master Agreement or a Work Order for cause, the Contractor must provide the Owner and the CRA with written notice of its intent to terminate. The Owner and the CRA shall have thirty (30) days in which to cure (ten business (10) days for non-payment); provided that if such action to cure (other than non-payment) reasonably requires longer than thirty (30) days, upon the prior written consent of the Contractor (which consent shall not be unreasonably withheld), the Owner or the CRA shall be permitted additional time to cure, so long as the Owner or the CRA commences a cure within such time and diligently and continuously prosecutes the cure to completion within sixty (60) days of the date that the cure first commenced. This Master Agreement or a Work Order may be terminated upon the failure of the Owner or the CRA to: (i) cure; or (ii) diligently pursue the cure (other than for non-payment) within the cure period specified herein. In the event that this Master Agreement or a Work Order is terminated for cause, all of Contractor's obligations pursuant to or in connection therewith shall cease. In the event of a termination by Contractor for cause pursuant to this Section, Owner shall pay to Contractor: all amounts actually due and owing to Contractor through the date of termination, including all reasonable costs incurred to date, reasonable out-of-pocket costs for demobilization and decommissioning, and reasonable costs associated with non-cancellable commitments, in each case, offset by any damages directly caused by Contractor's breach of its obligations under the Master Agreement or the Work Order and amounts in dispute in connection with the Work performed, if any.

§19.1.1.1 The rights of Contractor under Section 19.1.1 shall not be interpreted to impair or restrict Contractor's right to stop work under a Work Order pursuant to Section 4.1.9 or any applicable statute.

§ 19.1.2 Termination by the Owner for Cause

§ 19.1.2.1 The Owner may terminate the Master Agreement and any or all Work Orders if the Contractor:

- .1 refuses or fails to supply enough properly skilled workers or proper materials, subject to prior written notice by Owner of such events and failure to cure such condition within ten (10) days of such notice;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 fails to comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority in the performance of the Work;
- .4 fails to perform or otherwise breaches its obligations under the Contract Documents;
- .5 fails to furnish the Owner upon request thereof with reasonable assurances satisfactory to the Owner evidencing the Contractor's ability to complete the Work in compliance with all requirements of the Contract Documents;
- .6 fails, after commencement of the Work, to proceed continuously with construction and completion of the Work for any period exceeding ten (10) days, except to the extent of delay or suspension as permitted in the Contract Documents;

- .7 Contractor declares bankruptcy or is involuntarily subjected to bankruptcy proceedings; or
- .8 For any act or omission of Contractor or its Subcontractors that directly or proximately causes the occurrence and continuance of an Event of Default (as defined in the Development Agreement) by Owner under the Development Agreement.

§ 19.1.2.2 When any of the above reasons exists, the Owner may without prejudice to any other rights or remedies of the Owner and of the CRA and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate the Master Agreement or any and all Work Order as the case may be, and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of Subcontracts pursuant to the terms of this Master Agreement; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 19.1.2.3 When the Owner terminates this Master Agreement or any Work Order for one of the reasons stated in Section 19.1.2.1, all of Contractor's and Owner's obligations pursuant to or in connection therewith shall cease. Owner shall pay to Contractor all amounts actually due and owing for Work performed prior to the date of termination, offset by any damages directly caused by Contractor's breach of its obligations under the Master Agreement or Work Order and by any amounts in dispute in connection with the Work performed. The Contractor shall promptly turnover to the Owner copies of all Contract Documents and other Project materials, including without limitation all Project related documents, records, and materials, Project logs, meeting minutes, Project correspondence, progress lien waivers, submittals, requests for information, and change orders, both hard copy and in electronic form, included all external hard drives and other such storage devices, all of which is property of the Owner, without charge to the Owner or to the CRA. The Contractor acknowledges that the turnover of such documents and Project materials is critical to the Owner and that refusal of the Contractor to immediately comply with the requirements of this Section will cause irreparable harm to the Owner.

§ 19.1.2.4 If the unpaid balance of the Contract Sum on account of Work performed by the Contractor prior to termination exceeds costs of finishing the Work under any such terminated Contract or Contracts, as the case may be, including without limitation compensation for the Engineer's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, then to extent of any unpaid portion of the Contract Sum on account of Work performed by the Contractor, such excess shall be paid to the Contractor, subject to reduction pursuant to Section 19.1.2.3. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

§ 19.1.3 Suspension By The Owner For Convenience

The Owner may, with or without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part, for any or all Work Orders, for such period of time as the Owner may determine. The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in the Contract. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 19.1.4 Termination By The Owner For Convenience

Owner may terminate this Master Agreement and any or all Work Orders for convenience for any reason or no reason whatsoever at any time by delivering at least thirty (30) days advance written notice to Contractor. Upon receipt of any notice of termination for convenience, Contractor shall immediately cease all Work hereunder except such as may be specifically approved and directed by the Owner pursuant to the terms of this Master Agreement or Work Order. If such termination for convenience occurs, Owner shall pay to Contractor all amounts actually due and owing for Work performed through the date of termination including without limitation, reasonable out-of-pocket costs for demobilization, decommissioning and non-cancellable commitments, offset by any damages directly caused by Contractor's breach of its obligations under the Master Agreement or Work Order prior to the date of termination, if any, and by any amounts in dispute as of the date of termination in connection with the Work

performed. No cure period shall apply with respect to a termination for convenience. Contractor expressly waives all claims for anticipated profits, lost opportunity costs, loss of reputation, or other claims for consequential damages as a result of any such termination.

§ 19.1.5 Contractor Transfer Period

Upon any notice of termination of the Master Agreement or of a Work Order, whether by the Owner or by the Contractor, Owner may, at its sole discretion, designate a replacement or substitute contractor to replace Contractor and to complete the Work. Provided Owner and CRA are making all undisputed payments to Contractor as required by this Master Agreement and any applicable Work Order, Contractor shall continue to diligently perform the Work and to comply with the terms of the Master Agreement and any open Work Order until the date that is ninety (90) days after termination or such earlier date prescribed by Owner by written notice to Contractor (the “**Contractor Transfer Period**”). During or after the Contractor Transfer Period, Contractor shall, immediately upon the request of Owner execute any and all agreements, documents or materials requested by Owner to assign or transfer to the new contractor all of Contractor’s right, title and interest in and to all materials, contracts, Subcontracts, processes, and other documents necessary to complete the Work (collectively, the “**Contractor Transfer**”). Contractor hereby grants to Owner its full and complete power-of-attorney, which shall be deemed to be coupled with an interest, for the purpose of completing and effectuating the Contractor Transfer. Upon the completion of the Contractor Transfer, this Master Agreement and any or all Work Orders shall be terminated and shall be null and void, except that, for those provisions that expressly survive termination.

ARTICLE 20 CLAIMS AND DISPUTES

§ 20.1 A Claim is a demand or assertion by the Contractor seeking, as a matter of right, adjustment or interpretation of the Master Agreement or any Work Order terms with regards to payment of money, extension of time, or other relief with respect to the terms of the Master Agreement or any Work Order. Claims must be initiated by written Notice of Claim. The responsibility to substantiate Claims shall rest with the Contractor.

§ 20.1.2 NOTICE OF CLAIMS

§ 20.1.2.1 In the event that Contractor believes it has a Claim against Owner for additional compensation, additional time or some other remedy arising out of or in connection with the Contract Documents, the Work or the actions or omissions of Owner (or the parties for whom Owner is responsible), Contractor shall give written notice (“**Notice of Claim**”) to Owner of such claim within ten (10) days of the later of the event or circumstance giving rise to such Claim, or knowledge of any impact of the event or circumstance giving rise to such Claim. The Notice of Claim shall describe the nature and impact of the claim in detail. For purposes of this provision, giving notice to Owner shall be deemed to mean notice delivered pursuant to Section 18.10. The notice requirement set forth herein shall be strictly construed and the Contractor’s failure to provide timely notice in accordance herewith shall result in a waiver of any such Claim.

§ 20.1.2.2 Contractor shall use its best efforts to include the following in a Notice of Claim or as soon as reasonably practicable after submission thereof: (1) the date and description of the event giving rise to the request for an adjustment or interpretation of Master Agreement or Work Order terms as the case may be, a payment of money, an extension of time or other relief with respect to the terms of the Contract Documents; (2) a statement of the nature of the impacts to the Contractor and its Subcontractors, if any; (3) a detailed written breakdown and calculation of the adjustment in the Contract Sum sought by the Contractor for itself and for others, if any, together with documenting substantiation for all adjustments; (4) a detailed written analysis and explanation of the amount of any adjustment to the Contract Time, then known and sought by the Contractor, together with a critical path method (“**CPM**”) schedule analysis showing the claimed impact on Substantial Completion date; (5) a detailed written analysis and explanation, together with documenting substantiation for any other request relief with respect to the terms of the Contract Documents; and (6) a detailed statement of all provisions of the Contract Documents upon which the Notice of Claim is based. The Contractor shall update the facts, circumstances, and status of any pending Claims with each monthly report to Owner.

§ 20.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 20.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum under a Work Order, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property.

§ 20.1.5 CLAIMS FOR ADDITIONAL TIME

If the Contractor wishes to make a Claim for an increase in the Contract Time under a Work Order, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§ 20.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

ARTICLE 21 SCOPE OF THIS MASTER AGREEMENT

§ 21.1 This Master Agreement represents the entire and integrated Master Agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Master Agreement may be amended only by written instrument signed by both Owner and Contractor and approved by CRA.

§ 21.2 This Master Agreement (with the Indemnity and Insurance Addendum attached hereto) is comprised of the following documents listed below:

- .1 Exhibit A - Determination of the Cost of the Work**
- .2 Exhibit B - Form of Work Order**
- .3 Exhibit C - Form of Change Order**
- .4 Exhibit D - Acknowledgement and Consent of Contractor**
- .5 Exhibit E - Contractor Conditional Lien Waiver**
- .6 Exhibit F - Unconditional Lien Waiver**

§ 21.3 This Master Agreement and any Work Order hereunder may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of the signature page by facsimile or other generally accepted electronic means shall be effective as delivery of a manually executed counterpart of the document.

§ 21.4 With regard to their respective obligations and commitments under this Master Agreement, the Owner and the Contractor agree that this Master Agreement is subject to the covenant of good faith and fair dealing as applicable under California law.

This Master Agreement is entered into as of the Date of this Master Agreement.

[SIGNATURES ON FOLLOWING PAGE]

OWNER:

RE | SOLUTIONS, LLC

By: _____
Name: _____
Its: _____

CONTRACTOR:

SL CARSON BUILDERS, LLC
License Number 1035347

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM AND AS A THIRD PARTY BENEFICIARY:

CARSON RECLAMATION AUTHORITY (CRA)

The Development Agreement requires that the Carson Reclamation Authority approve as to form any contracts executed by Owner with respect to the Project site with any contractor or subcontractor, and, therefore, CRA is executing this Master Agreement for the sole purpose of fulfilling said approval requirement and for no other purpose. Additionally, the CRA, as a Third Party Beneficiary of this Agreement, agrees that its rights and remedies herein against Contractor are no greater than those of Owner and, without limitation, agrees that it shall be bound by the waivers and limitations set forth in Sections 18.14 and 18.18 herein.

CARSON RECLAMATION AUTHORITY

By: _____
John Raymond, CRA Executive Director

Date: _____, 2018

ALESHIRE & WYNDER, LLP

By: _____
Sunny Soltani, Esq.
Legal Counsel for Carson Reclamation Authority

JOINDER:

Snyder Langston Service Providers, LLC, for itself and its successors and assigns, hereby joins in this Master Agreement as of the Date of this Master Agreement with the same force and effect as though it were the "Contractor" and agrees to perform or cause to be performed all obligations of Contractor set forth in this Master Agreement.

SNYDER LANGSTON SERVICE PROVIDERS, LLC

By: _____
Name: _____
Title: _____

INDEMNITY AND INSURANCE ADDENDUM

**THIS ADDENDUM IS ATTACHED TO AND FORMS AN INTERGRAL PART OF THE
MASTER SERVICES AGREEMENT BETWEEN OWNER AND CONTRACTOR.**

INDEMNITY AND INSURANCE ADDENDUM

The CARSON RECLAMATION AUTHORITY (“CRA”), CAM-CARSON, LLC (“CAM”), and RE | SOLUTIONS, LLC (“RES”) (collectively referred to herein as the “Owner/Developer”) have arranged for certain insurance coverages to be obtained and maintained in connection with the 157-acre parcel of real property, owned by CRA, at 20400 Main Street, Carson, California, and commonly known as the former Cal Compact Landfill (hereinafter, the “Project”). This Indemnity and Insurance Addendum (hereinafter, the “Addendum”) sets forth the insurance coverages obtained by the Owner/Developer and identifies certain additional insurance coverages that Project participants shall be required to obtain and maintain. This Addendum is deemed to be, and is hereby made a part of, the Agreement. To the extent that this Addendum conflicts with the Agreement, the terms of this Addendum supersede those conflicting terms, and the terms of the Addendum control.

SECTION I – INDEMNITY

1. Indemnification. Subject to Section I, paragraph 2 hereof, and to the fullest extent permitted by law, the Consultant and/or Subcontractor, as applicable (hereinafter, the “Indemnitor”) agrees to indemnify, defend, and hold harmless the Owner/Developer, and all of the agents, servants and employees of Owner/Developer, and any additional entities specifically identified by the Owner in any exhibit or addenda hereto (collectively “Indemnitees”), from any and all demands, claims, suits, damages, liability, judgments, professional fees and expenses (including attorney’s fees, costs court costs, expenses and disbursements related to death, personal injury, or property damage (including loss of use thereof)) brought against any of the Indemnitees by any person or entity arising out of, or in connection with or as a result or consequence of the negligence of the Indemnitor under this Contract, whether or not caused in whole or in part by the Indemnitor or any person or entity employed, either directly or indirectly by Indemnitor, including any subconsultants or subcontractors thereof and their employees. The parties expressly agree that this indemnification obligation contemplates: 1) full indemnity in the event of liability imposed against the Indemnitees without negligence; and 2) partial indemnity in the event of any actual negligence on the part of any of the Indemnitees, either causing or contributing to the underlying claim which negligence is expressly excepted from Indemnitor’s obligation to indemnify. Attorney’s fees, court costs, expenses and disbursements shall be defined without limit to include those fees, costs, etc. incurred in defending the underlying claim and those fees, costs, etc. incurred in connection with the enforcement of this Contract. Indemnification under this section shall operate whether or not Indemnitor has placed and maintained the insurance required under this Addendum.

2. Joint Defense.

- a. Indemnitor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys’ fees incurred in connection herewith. Notwithstanding the foregoing, in the event that: (1) any Claims or Liabilities contain an allegation of injury, damage or loss caused by the negligent, reckless or willful acts or omissions of Indemnitor under this Agreement; and (2) such Claims or Liabilities also contain similar allegations of liability against the Owner/Developer, the City and its affiliated agencies or any other consultants or contractors insured under the policies set forth in Section II or Section III below, and providing services to the Owner/Developer in connection with the Project (collectively, the “CRA/RES Defendants”), then such claims shall be defended on a “joint defense” basis by the Owner/Developer, and the obligation of Indemnitor for defense costs in connection therewith shall be equal to the Defense Cost Amount (as defined below) until such time that: (i) a court of competent jurisdiction issues a final and binding determination of the proportional amount of liability of Indemnitor with respect to such claim (a “Judicial Determination”); or (ii) Indemnitor enters into a settlement allocating

the proportional amount of liability of Indemnitor through private negotiation; or (iii) pursuant to final resolution by an arbitrator or panel of arbitrators (each, a “Settlement”).

- b. The “Defense Cost Amount” shall be: (X) the total aggregate amount of defense and other costs related thereto incurred by the CRA/RES Defendants to provide a joint defense of the applicable claim for and on behalf of Indemnitor and the other CRA/RES Defendants, divided by (Y) the total number of CRA/RES Defendants, including Indemnitor, that are subject to the claim. Thus, and purely by way of illustration, in the event that there are eight (8) CRA/RES Defendants and the total defense costs incurred are \$500,000, Indemnitor’s share of the defense costs shall be \$62,500 [\$500,000 divided by eight (8)]. Sub-consultants or Sub-subcontractors of Indemnitor shall not be deemed to be CRA/RES Defendants for purposes of calculating the Defense Cost Amount. Upon receipt of a Judicial Determination or a Settlement, an adjustment will be made between the Defense Cost Amount paid by Indemnitor and the proportional liability allocated to the Indemnitor pursuant to such Judicial Determination or Settlement, such that any excess amount beyond that allocation shall be promptly refunded to Indemnitor by Owner/Developer and any shortfall in allocation shall be promptly paid to the Owner/Developer by Indemnitor; provided, however, that in the event that any Judicial Determination or a Settlement does not allocate proportional liability among all CRA/RES Defendants, the Defense Cost Amount paid by Indemnitor shall remain unchanged.
- c. In the event that any Claims or Liabilities are tendered to the insurer under the OCIP or other Owner-Provided coverages set forth below, if applicable, and the insurer accepts coverage thereunder, the indemnification obligation of Indemnitor under this Section for defense costs necessary to satisfy any deductible or self-insured retention prior to a Judicial Determination or Settlement shall be equal to the Defense Cost Amount, up to and including the aggregate costs accepted by the insurer in satisfaction of the applicable self-insured retention or deductible, and shall be adjusted, as appropriate, as set forth above upon Judicial Determination or Settlement.
- d. Upon a Judicial Determination or Settlement, Indemnitor will be responsible for payment of its allocated liability thereunder to the extent of Indemnitor’s indemnification obligations set forth in above.
- e. Failure of the Owner/Developer to monitor compliance with these provisions shall not be a waiver hereof.

SECTION II – OWNER CONTROLLED INSURANCE PROGRAM

1. Owner Controlled Insurance Program. Owner/Developer has secured an On-Site Owner Controlled Insurance Program for General Liability and Excess (Umbrella) Liability for the Project (the “OCIP”). Construction Risk Partners, a JLT Group Company, shall be the administrator of the OCIP (the “OCIP Administrator”). The OCIP is more fully described in the Owner Controlled Insurance Program Insurance Manual (the “OCIP Insurance Manual”) that is attached hereto and hereby made part of the Contract Documents. Parties performing Work or providing Services at the Project site are eligible to enroll in the OCIP, unless they are an Excluded Party. Participation in the OCIP is mandatory for all Consultants, Subcontractors, and eligible sub-consultants and/or sub-contractors of all tiers unless they are an Excluded Party.

2. Enrolled and Excluded Parties.

- a. **Enrolled Parties.** Enrolled Parties shall include Owner/Developer, Consultants, Subcontractors, eligible sub-consultants and/or sub-subcontractors of all tiers that enroll in the OCIP and receive confirmation of enrollment from the OCIP Administrator, and any

other such persons or entities as Owner/Developer may designate, in its sole discretion. Entities who are intended to be enrolled, but who are not enrolled due to error or oversight, shall be considered enrolled.

- b. **Excluded Parties.** Excluded Parties are set forth in the OCIP Insurance Manual.
- c. **Insurance required of Enrolled and Excluded Parties.** Enrolled and Excluded Parties are required to provide certain insurances for off-site exposures. See **Section III** of the Addendum below for these requirements.

3. **Summary of OCIP Policies.**

- a. **OCIP Policies Establish Coverage.** The OCIP Insurance Policies summarized in this Addendum and in the other Contract Documents are set forth in full in their respective OCIP Insurance Policies. The summary descriptions of the OCIP Insurance Policies in this Addendum, the OCIP Insurance Manual, and/or other Contract Document(s) are not intended to be exhaustive, or to alter or amend any provision of the actual OCIP Insurance Policies. In the event that any provision of this Addendum, the OCIP Insurance Manual, and/or other Contract Document(s) conflict with the OCIP Insurance Policies, the provisions of the actual OCIP Insurance Policies shall govern. To the extent there are any other conflicts between or among the provisions of the OCIP Insurance Policies, this Addendum, the OCIP Insurance Manual, and the Contract Documents, then, in descending order, the OCIP Insurance Policies shall govern, followed by this Addendum, the OCIP Insurance Manual, and then the other Contract Documents.
- b. **Applicability of the OCIP Policies.** The OCIP Insurance Policies shall apply only to those operations of each Enrolled Party performed at the Project Site (as defined in the OCIP Insurance Policies) in connection with the Work, and only to Enrolled Parties. An Enrolled Party's operations away from the Project Site, as defined in the OCIP Insurance Policies, including product manufacturing, assembly, or otherwise, are not generally covered by the OCIP Insurance Policies unless the policies have been specifically amended or written to provide coverage for such "off-Site" operations. The OCIP shall not apply to the operations of Consultants or Subcontractors (or their respective sub-consultants or sub-subcontractors) at their respective offices, factories, warehouses, or other such locations away from the Project Site.
- c. **Summary of the OCIP Policies.** The OCIP shall provide at least the following insurance to Enrolled Parties:

- **Commercial General Liability**, applying to all Enrolled Parties jointly, with the following limits:

Each Occurrence	\$2,000,000
General Aggregate	\$4,000,000
Products-Comp. Operations Agg.	\$4,000,000
Ten (10) years Products & Completed Operations Extension	

- **Excess Liability:**

Each Occurrence	\$200,000,000
General Aggregate	\$200,000,000
Products-Comp. Operations Agg.	\$200,000,000
Ten (10) years Products & Completed Operations Extension	

- d. **OCIP Policies' Coverage Periods.** The coverage provided by the OCIP Insurance Policies is effective on the date set forth in the certificate of insurance issued by the OCIP Administrator. Coverage shall terminate as set forth in the OCIP Insurance Policies.
- e. **Proof of OCIP Policies' Coverage.** The OCIP Administrator will issue Certificates of Insurance evidencing Commercial General Liability and Excess Liability insurance to each Enrolled Party. Copies of liability policies will be made available for review upon written request to the Owner/Developer by any Enrolled Party.

4. Owner/Developer's Insurance Obligations. Owner/Developer shall pay the costs of premiums for the OCIP Policies. Owner/Developer will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, or other moneys due, audits, or otherwise. Owner/Developer promises Enrolled Parties no insurance other than what is actually provided per the terms of the OCIP Policies. Enrolled Parties shall review the OCIP Policies themselves, and not rely on any representation by Owner/Developer or the OCIP Administrator as to such insurance. Owner/Developer's furnishing of OCIP Policies shall in no way relieve or limit, or be construed to relieve or limit any Enrolled Party of any responsibility, liability, or obligation imposed by the Contract Documents, the OCIP Policies, or by law, including without limitation any indemnification obligations which any Enrolled Party owes to Owner/Developer thereunder. Owner/Developer reserves the right at its option, without obligation to do so, to furnish other insurance coverages of various types and limits.

5. Consultant and Subcontractor OCIP Obligations. Consultants, Subcontractors, and all sub-consultants and sub-subcontractors, shall:

- a. Fully comply with all of the enrollment, administrative, claims, safety, insurance, and all other requirements outlined in the Agreement, this Addendum, the OCIP Insurance Manual, and the OCIP Policies.
- b. Incorporate the terms of this Addendum into all sub-consultant/sub-subcontract agreements, and ensure that all sub-consultants/sub-subcontractors, in turn, incorporate the terms of this Addendum into any of their lower tier agreements.
- c. Provide to each of their sub-consultants/sub-subcontractors a copy of the OCIP Insurance Manual and ensure each such sub-consultant's/sub-subcontractor's compliance with the provisions of the OCIP Policies, the OCIP Insurance Manual, and the Contract Documents. The failure of a Consultant or Subcontractor to provide each of its lower-tier sub-consultants/sub-subcontractors with a copy of the same shall not relieve Consultant or Subcontractor, or any lower-tier sub-consultants/sub-subcontractors, of any of the obligations contained therein.
- d. Acknowledge, and require all sub-consultants/sub-subcontractors to acknowledge, in writing, that Owner/Developer and the OCIP Administrator are not agents, partners, or guarantors of the insurance companies providing the OCIP Policies (each such insurer is an "OCIP Insurer"), that neither the Owner/Developer or the OCIP Administrator is responsible for any claims or disputes between or among any party and any OCIP Insurer(s), and that neither Owner/Developer or the OCIP Administrator guarantees the solvency, or the availability of limits, of any OCIP Insurer(s). Any type of insurance coverage or limits of liability in addition to the OCIP Policies that Consultant or Subcontractor requires for its or its sub-consultants/sub-subcontractors own protection, or that is required by applicable laws or regulations, shall be such Consultant or Subcontractor's sole responsibility and expense, and shall not be billed to Owner/Developer.

6. **OCIP for the Benefit of Enrolled Parties Only.** The OCIP exists for the sole and exclusive benefit and protection of Owner/Developer and the Enrolled Parties. The OCIP is not intended to benefit any other parties including, without limitation, parties not enrolled in the OCIP, Excluded Parties or claimants (regardless of whether such claimant's claim(s) are covered by the OCIP and regardless of against whom such claimant makes claim(s)). Owner/Developer is not responsible for enforcing any term of this Addendum for the benefit of any party not enrolled in the OCIP.

7. **Audits.** Consultants, Subcontractors, and all sub-consultants/sub-subcontractors, agree that Owner/Developer, the OCIP Administrator, and/or any OCIP Insurer(s) may audit its records, insurance coverages, insurance cost information, or any other information that such parties provide to Owner/Developer, the OCIP Administrator, or the OCIP insurer(s) to confirm their accuracy and to identify their insurance cost as established previously herein.

8. **Modification/Discontinuance of OCIP.** Owner/Developer may, for any reason, modify the OCIP Policies, discontinue the OCIP, or request withdrawal from the OCIP by any Enrolled Party upon thirty (30) days written notice. Upon such notice, that party specified by Owner/Developer in such notice shall obtain and thereafter maintain during the performance of the Work or Services replacement coverage for all of the OCIP Policies (or a portion thereof as specified by Owner/Developer). Such coverages shall be at that party's expense. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to Owner/Developer's approval.

9. **Waiver.** With respect to the OCIP, unless prohibited by law, Consultants, Subcontractors, and all sub-consultants/sub-subcontractors hereby waive all rights of recovery because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage against Owner/Developer, the OCIP Administrator, its or their officers, agents, or employees. The waivers provided hereunder shall be effective as to any individual or entity, even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium, directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

SECTION III – OTHER INSURANCE PROVIDED BY OWNER/DEVELOPER

1. Builder's Risk Insurance.

- a. **General Requirements for Builder's Risk.** Owner/Developer shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, and with a minimum of A-VII rating in accordance with the latest editions of the A.M. Best Insurance Guide, property insurance written on a builder's risk "all-risk" or equivalent policy form (the "Builder's Risk Policy"). This insurance shall include the interests of the Owner, the Consultant, the Subcontractors, the sub-consultants and the sub-subcontractors in the Project.
- b. **Builder's Risk Deductibles.** The Builder's Risk Policy shall include deductibles not exceeding \$100,000 for water damage related losses and \$50,000 for all other perils. Owner/Developer shall be responsible for the payment of any deductibles. Owner/Developer may, in its sole discretion, seek contribution(s) towards any such deductible from Consultant(s), Subcontractor(s) and/or their respective sub-consultants and sub-subcontractors, in a total amount not to exceed \$10,000.
- c. **Waivers.** All parties insured by the builder's risk insurance hereby waive all rights against each other, and against their respective agents and employees, each of the other, as to claims and damages to the extent covered by available property insurance. Owner/Developer shall ensure that each of its insurers waives subrogation in favor of the insured parties. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual

or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

- d. **Adjustment of Losses.** A loss insured under Owner/Developer's builder's risk insurance shall be adjusted by Owner/Developer and made payable to Owner/Developer on behalf of the insureds, as their interests may appear, subject to any applicable mortgagee clause unless one of the parties in interest shall object in writing.

2. **Contractors' Environmental and Professional Insurance.** Owner/Developer shall obtain and maintain a Contractors' Environmental and Professional Insurance policy (the "Project Specific CPL Insurance"), which shall be primary coverage and shall contain substantially similar coverage terms as the Predevelopment CPL/PLI currently in force and effect, including without limitation, a retroactive date of December 31, 2007 and shall provide at least the following minimum insurance:

Per Incident – Contracting Operations	\$50,000,000
Aggregate – Contracting Operations	\$50,000,000
Per Incident – Professional Services	\$20,000,000
Aggregate – Professional Services	\$20,000,000
Self-Insured Retention	\$ 500,000

The policy will grant insured status to consultants, contractors and subcontractors for the Environmental Liability portion of the policy. The policy will grant insured status to the scheduled consultants for the Professional Liability portion of the policy. Subcontractors are not granted insured status on the Professional Liability portion of the policy.

SECTION IV – INSURANCE REQUIREMENTS FOR CONSULTANTS AND SUBCONTRACTORS

1. **Other Insurances Required.** Prior to the commencement of the Work or Services, all Consultants and Subcontractors (and their sub-consultants/sub-subcontractors) shall obtain and maintain the following insurance coverages, from insurance companies satisfactory to Owner/Developer, until completion and final acceptance of the Work or Services or as otherwise stated herein. Enrolled Parties must provide the following insurance for all operations not included in the OCIP Policies, including but not limited to operations not performed on the Project site, as defined in the OCIP Policies. Excluded Parties or any party not enrolled in the OCIP must provide the following coverage for all operations.

- a. **Workers' Compensation:** Statutory limits for the state(s) in which the Work or Services will take place, and including but not limited to coverage or endorsements for Occupational Disease Benefits, Voluntary Compensation and Disability benefits, Jones Act and U.S. Longshoremen's and Harbor Worker's Act, if applicable. Self-insurance is not acceptable.
- b. **Employers' Liability:** Employers' liability insurance with limits of not less than \$1,000,000 for each bodily injury by accident, each bodily injury by disease, and annual aggregate.
- c. **Automobile Liability:** Commercial (business) automobile liability insurance written on a current ISO form or equivalent (or another form with coverage at least as broad and approved by the Owner/Developer in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Consultant or Subcontractor (and their sub-consultants/sub-subcontractors), with combined single limits

of at least \$1,000,000, exclusive of defense costs. This insurance shall also be endorsed to include coverage for claims under the Motor Carrier Act of 1980 (e.g., MCS-90 endorsement) resulting from the transportation of materials identified as hazardous during the performance of the Work or Services. In the event that the insurance required under this section excludes any drivers from coverage, such drivers shall not be permitted to drive in connection with this Project.

d. Commercial General Liability:

- i. Commercial General Liability (“CGL”) insurance, provided by a current Insurance Service Office Commercial General Liability Insurance policy (occurrence form) including, without limitation, coverage for damages because of bodily injury, property damage, and personal and advertising injury. This insurance shall include, without limitation, coverage for products liability for any product manufactured, assembled or otherwise worked upon away from the Project Site, and coverage for the products-completed operations hazard, and shall be maintained from commencement of the Work until not less than ten (10) years after substantial completion and acceptance of the Project, or to the applicable Statute of Repose in the jurisdiction where the Project is located, whichever is longer.
- ii. Limits shall comply with the following table:

	For Consultants (and sub-consultants)	For Subcontractors (and sub-subcontractors)
Per Occurrence	\$1,000,000	\$1,000,000
Annual Aggregate	\$2,000,000	\$2,000,000
Products-Complete Operations Aggregate	\$2,000,000	\$2,000,000
Excess/Umbrella	N/A	\$10,000,000

Aggregate limits must be per location or per project. For all Work or Services provided in connection with any residential component of the Project, Consultant or Subcontractor shall furnish a sworn statement from itself or its insurance broker and/or insurance companies stating that the coverage shall contain no residential exclusions or limitations. Limits may be satisfied with a combination of primary, excess and/or umbrella policies of insurance, provided that all such policies comply with all provisions of this Addendum, including, without limitation, the scope of coverage and the naming of the Additional Insureds (as hereinafter defined) on a primary and non-contributory basis, as set forth below in Paragraph 2.b.

- iii. For Consultants only: If the Work or Services involves transporting to or from the Project environmental waste materials (non-hazardous or hazardous), or grading, excavation, or sampling of soil or groundwater at, on or under the Project site, the minimum CGL limits shall be \$5,000,000, or higher limits if required by Owner/Developer or applicable regulatory authorities. For the avoidance of doubt, any requirement under this sub-paragraph for coverage limits exceeding \$2,000,000 shall be defined and agreed to by the Parties in writing in the Work Authorization for such Work or Services.

- e. **Contractor's Pollution Liability:** Contractor’s Pollution Liability (“CPL”) insurance with limits of at least \$5,000,000, applying to any Work or Services performed at the

Project, providing coverage excess of the Project Specific EPL Insurance set forth above in Section III, and providing difference-in-conditions coverage.

- f. **Professional Liability/Errors and Omissions:** Professional liability insurance with a limit of liability of at least \$3,000,000 for Consultants per claim and annual aggregate, providing coverage excess of the Project Specific CPL Insurance set forth above in Section III, and providing difference-in-conditions coverage. This insurance shall include a retroactive date prior to the commencement of Services for the Project, and must be maintained for at least 10 years following substantial completion and acceptance of the Project, or to the expiration of any applicable Statute of Repose, whichever is shorter.

2. General Provisions. These requirements apply to all of the insurance coverages Consultants and Subcontractors (and their sub-consultants/sub-subcontractors) are required to provide under this Section. For ease of reference, all references to Consultants and Subcontractors in this section shall be deemed to include their respective sub-consultants and sub-subcontractors, of every tier.

- a. Upon the signing of this contract, the Consultant or Subcontractor shall submit Certificates of Insurance in duplicate evidencing all of the above coverages. Attached to each certificate shall be a copy of the Additional Insured Endorsement(s) from the CGL policy, the Excess/Umbrella policy, and the Automobile Liability policy.
- b. See Additional Insured Schedule below. The below listed entities shall be included as additional insureds on Consultant's or Subcontractor's CGL, Automobile Liability, and Umbrella/Excess policies (collectively, the "Additional Insureds"). Each policy (including umbrella/excess) shall state that the insurance provided to the additional insureds is primary and non-contributory to any other insurance (including primary, excess, self-insurance, or on any other basis) available to the additional insureds. The coverage provided to the additional insureds must be at least as broad as that provided to the Contractor or Subcontractor who is the first named insured on each policy. In the event that any policy provided in compliance with this Exhibit states that the coverage provided to an additional insured shall be no broader than that required by contract, or words of similar meaning, the parties agree that nothing in this Exhibit is intended to restrict or limit the breadth of such coverage. With respect to the Commercial General Liability policy, additional insured status must be provided on ISO forms CG 20 10 and CG 20 37.

Additional Insured Schedule:

Cam-Carson, LLC

Carson Reclamation Authority

City of Carson, RE Solutions, LLC

Snyder Langston L.P.

TRC Solutions, Inc.

Macerich Management Company, The Macerich Partnership, L.P., The Macerich Company, (And, with respect to each of these entities, all owned, managed, controlled, non-controlled and subsidiary companies, corporations, entities, joint ventures, LLC's, partnerships, and their constituent partners and members, all Lenders for the project, and ground lessors of the property or improvements comprising the Project.

The City of Carson

Carson Redevelopment Agency

Community Facilities District No. 2012-1 of the City of Carson

Community Facilities District No. 2012-2 of the City of Carson

City of Carson Housing Authority

Additional buyers/developers for Insured Property, including affiliates of Macerich, and other such buyers/developers to be selected for specific phases of the project by CRA

- c. All policies shall contain a provision that coverages afforded thereunder shall not be cancelled, materially changed, or not renewed unless thirty (30) days prior written notice has been given to Owner/Developer.
- d. If the insurance provided by Consultant or Subcontractor excludes or limits coverage for named insureds because an OCIP has been provided for this Project, such limitation or exclusion may only apply to the extent of valid and collectible insurance available from the OCIP. No such exclusion or limitation may apply to Owner or any other named or additional insureds.
- e. To the fullest extent permitted by law, all insurance furnished in compliance with this Section shall include a waiver of subrogation in favor of the Additional Insureds.
- f. All policies required under this Section are to be issued and underwritten by insurance companies having an A. M. Best rating of "A" or better.
- g. The insurance coverages maintained by Consultant or Subcontractor shall not limit any of Consultant's or Subcontractor's indemnity obligations or other liabilities under the Contract.
- h. All insurance required by this Section (excluding only Workers Compensation Insurance) shall include a provision or be endorsed to provide that, inasmuch as the policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. No cross liability exclusions are permitted and there may not be any restrictions in any policies that limit coverage for a claim brought by an additional insured against a named insured.
- i. Consultant's or Subcontractor's failure to obtain and maintain insurance coverages required by this Section shall constitute a material breach of the Contract. In such event Owner/Developer may at its option: (i) terminate the Consultant or Subcontractor for default; or (ii) purchase such coverage and backcharge the premium and associated costs to Consultant or Subcontractor; or (iii) require the Consultant or Subcontractor to pay for attorney's fees, expenses, damages and liability as a result of any claim or lawsuit to the extent coverage would have been provided to them under Consultant's or Subcontractor's insurance but for that party's breach. Owner/Developer has the right to backcharge Consultant or Subcontractor for such sums. Furthermore, to the extent of their respective interest, the insurers of those entities that were to be included as additional insureds are deemed to be third-party beneficiaries of the insurance procurement obligation.
- j. IT IS EXPRESSLY AGREED BETWEEN OWNER/DEVELOPER AND CONSULTANTS AND SUBCONTRACTORS THAT THE FAILURE OF OWNER/DEVELOPER TO REQUIRE OR VERIFY COMPLETE AND TIMELY PERFORMANCE OF THE OBLIGATIONS UNDER THIS CONTRACT SHALL NOT BE A WAIVER BY OWNER/DEVELOPER OF ANY RIGHT OF OWNER TO REQUIRE THE PARTY TO COMPLY WITH THESE INSURANCE REQUIREMENTS AND/OR TO SEEK DAMAGES BECAUSE OF THAT PARTY'S

FAILURE TO COMPLY WITH THE INSURANCE REQUIREMENTS IN THIS CONTRACT.

- k. IN THE EVENT THAT THE LAW OF THE STATE IN WHICH THE PROJECT IS LOCATED (OR APPLICABLE LAW) LIMITS THE APPLICABILITY OF ANY OF THE INSURANCE COVERAGE THAT OWNER/DEVELOPER MAY REQUIRE, THEN CONSULTANTS AND SUBCONTRACTORS SHALL BE REQUIRED TO OBTAIN COVERAGE TO THE FULLEST EXTENT OF COVERAGE AND LIMITS ALLOWED BY APPLICABLE LAW AND THIS ADDENDUM SHALL BE READ TO CONFORM TO SUCH LAW.
- l. Notwithstanding any other provisions in the Contract Documents, all deductibles on Consultant's and Subcontractor's policies of insurance shall be the responsibility of Consultants/Subcontractors.

ATTACHMENT A TO INSURANCE ADDENDUM
OCIP MANUAL

**CARSON RECLAMATION
AUTHORITY
OWNER CONTROLLED
INSURANCE PROGRAM (OCIP)**
CARSON REDEVELOPMENT PROJECT
OCIP INSURANCE MANUAL

December 2017



CAM-CARSON, LLC

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

CARSON RECLAMATION AUTHORITY

CAL COMPACT LANDFILL REDEVELOPMENT

20400 Main Street

Carson, CA 90745



www.jltusa.com

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1 INTRODUCTION

WELCOME TO THE CARSON RECLAMATION AUTHORITY –

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

This manual is intended to provide a brief description of the OCIP and includes the following information:

- Defines the responsibilities of all ***Enrolled Parties and Excluded Parties***.
- Provides a basic understanding of the structure and operation of the OCIP.
- Provides answers to questions that are likely to arise during the course of the Project. As it is not possible to anticipate every question or situation that may arise, the Administration Directory lists those involved in the administration of the OCIP with their areas of expertise.

This manual will be updated as changes dictate during the course of the contract per the **SPONSOR**.

This manual does not and is not intended to provide coverage interpretations. **The terms and conditions of the OCIP Policies alone govern insurance coverage.**

The insurance coverage and limits provided under the OCIP Policies are limited. We recommend that you have the enclosed information reviewed by your insurance representative. Any additional coverage or limits you wish to purchase will be at your option and expense.

Awarding contractors are responsible for state imposed fines due to late enrollment for eligible Subcontractors of every tier.

2 OCIP DIRECTORY

Program *SPONSOR* Team

Carson Reclamation Authority

OCIP Risk Manager
Mary B. Hashem - Principal
RE | Solutions
1525 Raleigh Street, Suite 240
Denver, CO 80204

Phone: (303) 945-3018
Email: mary@resolutionsdev.com

Development Manager
Will Lansche
RE | Solutions
1525 Raleigh Street, Suite 240
Denver, CO 80204

Phone: (303) 339-0893
Email: Will @resolutionsdev.com

JLT Team

Address: 1250 Route 28
Branchburg, NJ 08876

Phone: (908) 566-1010

Address: 725 S. Figueroa
Street, Suite 1840
Los Angeles, CA 90017

Phone:

Kevin Houston
Account Executive

Phone: (908) 566-1270
khouston@constructionriskpartners.com

Account Manager
Andrew McMullin

Phone: (213) 358-2144
Email: Andrew.mcmullin@jltus.com

Geraldine D'Aversa
Project Administrator

Phone: (908) 566-1260
Email: gdaversa@constructionriskpartners.com

Erin Pfeiffer
Director of Claims

Phone: (484) 654-0580
Email: epfeiffer@constructionriskpartners.com

Mary Bishop
OCIP Implementation

Phone: (908) 566-1010
Email: mbishop@constructionriskpartners.com

3 PROGRAM DEFINITIONS

Administrator:	JLT (CRP)
Awarding Contractor or Consultant:	The Contractor / Consultant or Subcontractor / Sub-Consultant who hires another company, entity, or individual to complete any portion of the Work awarded to them.
Cost of OCIP Coverages	The ELIGIBLE PARTY(ies) shall identify insurance premiums, related taxes and assessments, markup on the insurance premiums and losses retained through the use of a self-funded program, self-insured retention or deductible program. The Cost of OCIP Coverages shall also include expected losses within any retained risk (first dollar cost).
OCIP SPONSOR:	Carson Reclamation Authority
OCIP Certificate of Insurance or OCIP COI:	A Certificate of Insurance which evidences the OCIP Policies to an Enrolled Contractor/Subcontractor.
OCIP Insurer(s):	Any insurance company with which SPONSOR has entered into one or more contracts of insurance in order to provide coverage required for the OCIP (may also be referred to as a carrier).
OCIP Policies:	The General Liability and Excess Liability insurance policies which are issued as part of the OCIP.
Broker:	JLT Specialty USA / JLT (CRP)
Contract:	A written agreement between SPONSOR and a Contractor, or between a Contractor and a Subcontractor.

Administrator:	JLT (CRP)
Contractor:	A person or entity engaged by SPONSOR to undertake the construction of the Project.
ELIGIBLE PARTY(ies):	All successful bidders who perform actual on-site labor at the Project Site(s) except those defined in Excluded Parties below.
Enrolled Party(ies):	Those Consultants, Sub-Consultants, Contractors and Subcontractors that have submitted all necessary enrollment forms and have been accepted into the OCIP as evidenced by a Confirmation Letter and/or OCIP Certificate of Insurance.
Excluded Party(ies):	Contractors and Subcontractors whose scope of work is not covered by the OCIP and/or are excluded from participation in the OCIP at SPONSOR's discretion, as set forth more fully in the OCIP Policies and summarized in the Manual.
Federal Employer Identification Number (FEIN #):	The unique number assigned to a company by the Federal Government. Also known as the Tax Identification Number.
Final Completion:	The date on which all work is completed by all Consultants, Sub-Consultants, Contractors and Subcontractors on the Project.
Insured:	SPONSOR and all Enrolled Parties, as defined more fully in the OCIP Policies.
Location Code:	A code assigned for each enrollment with the following format: 00000 0000-0. The first set of numbers will be the project # identifier (from the Sponsor); the second set of numbers will be the consultant / contractor number; and the third set will reference the sub-consultant / subcontractor tier. (0000-000-00)

Administrator:	JLT (CRP)
Project Site(s) and Project Site Operations:	The site named Cal Compact Landfill located at 20300 Main Street, Carson, California as designated by the SPONSOR and on file with the Insurance Company, and defined as the "Project" in your Contract. The operations necessary or incidental to the construction of the Project, but shall not include operations at the insured's permanently established workplace, shop, warehouse, plant, yard, office, or other property, even if such operations are for fabrication of materials to be used at the designated Project Site, all as set forth more fully in the OCIP Policies.
Subcontractor / Sub-Consultant	The entity, company, or individual to whom a Consultant or Contractor (or other Sub-Consultant / Subcontractor) awards part or all of the work for which such Consultant / Contractor (or other Sub-Consultant / Subcontractor) is responsible.
Non-OCIP Certificate of Insurance:	A Certificate of Insurance for an Enrolled Party or an Excluded Party evidencing required non-OCIP coverage's, limits, and additional insured wording, as required by the applicable Contract.

4 OVERVIEW

SPONSOR HAS IMPLEMENTED A WRAP-UP INSURANCE PROGRAM OR OWNER CONTROLLED INSURANCE PROGRAM (OCIP). THE OCIP INSURES THE SPONSOR, ALL ENROLLED PARTIES, AND OTHER ENTITIES DESIGNATED BY SPONSOR, AS MORE FULLY DEFINED IN THE OCIP POLICIES.

Under the terms of this OCIP, **SPONSOR** is providing General Liability and Excess Liability coverage. These coverages apply only to Work performed at the Project Site(s), as defined in the OCIP Policies. Each Enrolled Party must comply with insurance, claim and safety procedures.

PREMIUMS

SPONSOR is responsible for payment of premiums to the OCIP Insurers providing the OCIP Policies. **It is recommended you discuss the impact of the OCIP coverage with your insurance representative.** Since the premiums for the OCIP Policies will not be paid by you, **SPONSOR** shall receive and pay, as the case may be, all adjustments in such costs, whether by way of dividends or otherwise. All Enrolled Parties shall assign to SPONSOR all adjustments and shall cause all Subcontractors of every tier covered by such OCIP Policies to do the same.

ENROLLMENT

Enrollment in the OCIP is mandatory but not automatic for all Eligible Parties, of every tier. An **ELIGIBLE PARTY** becomes an Enrolled Party when they have completed and submitted the Enrollment Form and other documents and information described in this Manual. Once enrollment has been approved, JLT will provide the Consultant / Contractor or Sub-Consultant / Subcontractor with a welcome letter and a OCIP Insurance Certificate evidencing the OCIP Policies applicable to the Enrolled Party.

There is no coverage under this program until the required forms and information are received and a OCIP Certificate of Insurance has been issued to the Consultant / Contractor or Sub-Consultant / Subcontractor. Consultants / Contractors and Sub-Consultant / Subcontractors, of

every tier, will not be permitted to begin site operations until the enrollment process has been completed.

EXCLUDED PARTIES

Excluded Parties are not provided insurance under the OCIP, but must meet the insurance requirements set forth in their Contract and provide evidence of coverage to **SPONSOR** and JLT.

At the discretion of **SPONSOR**, or as described in the OCIP Policies, **Excluded Parties**, of every tier, include the following:

- Licensed surveyors, vendors, suppliers material dealers, drivers, truckers, haulers, and others who merely deliver, pickup, or carry materials, parts (including tanks), equipment or other items to or from the Work Site(s)
- Demolition contractors (not including incidental demolition)
- Off-site fabricators – unless a portion of the On-Site installation is part of the Subcontract
- Temporary services, including but not limited to fence installers, leasing companies, casual day labor, and temporary employees including temporary employment agencies
- Photographers
- Pest control companies
- *Engineers, architects and professional consultants
 - **Except for specifically enrolled firms*
- Guard, security services and janitorial services
- Any other party at the discretion of **SPONSOR**

Notify JLT if there is any intention of using a Professional Employer Organization (PEO).

5 PRE-ENROLLMENT AND BIDDING PROCESS

BIDDING INSTRUCTIONS FOR ELIGIBLE CONTRACTORS

OCIP Eligible – bidding firms are required to complete the JLT Insurance Cost Worksheet. The purpose of the worksheet is to: (a) identify the insurance costs for OCIP provided insurance coverage that would otherwise have been incurred by the party; and (b) identify the Insurance Cost rate associated with the Contract. Depending on state regulations, the Insurance Cost rate may be used to calculate final adjustment associated with the subcontract.

Net Bid With Alternate Add. Each **ELIGIBLE PARTY** shall fully and accurately complete CONSTRUCTION RISK PARTNERS Insurance Cost Worksheet, which are set forth in Bid Documents and Forms Section of the CCIP Insurance Manual, and submit the same to **SPONSOR** and/or the CCIP Administrator with any bid submitted for the Project. Each **ELIGIBLE PARTY** shall exclude the Costs of CCIP Coverages from their base bids for the Project, and shall also set forth with their base bids, a CCIP Alternate Add Bid identifying the Cost of CCIP Coverages for itself and each of its Sub-Consultants/ Subcontractors. The "Costs of CCIP Coverages" is defined as the amount of each Sub-Consultant's/ Subcontractors' reduction in insurance costs due to eligibility for CCIP Coverages, as determined by using CONSTRUCTION RISK PARTNERS Insurance Cost Worksheet. The Costs of CCIP Coverages shall include insurance premiums, related taxes and assessments, markup on the insurance premiums and losses retained through the use of a self-funded program, self-insured retention or deductible program. The Cost of CCIP Coverages shall also include expected losses within any retained risk (first dollar cost).

1. Calculating the Alternate Add:

In anticipation of the use of a OCIP, each Contractor and Subcontractor must **EXCLUDE** from its bid, the costs (i.e., the Insurance Costs) it would incur to provide the coverages and terms listed in section 2. of this document and identify these costs as an **Alternate Add** to the bid. Every Subcontractor must be prepared to identify **ALL** costs associated with that insurance for all activities associated with the bid package within the OCIP Site, including but not limited

to insurance premiums, expected losses within any retention or deductible program, subcontracted work, overhead and a minimum of 15% profit markups. Upon request the Contractor and Subcontractor shall submit copies of its policy declaration page(s) and premium rate page(s) to verify the amount of these costs. Upon verification and/or acceptance of the identified insurance cost amount this amount, and only this amount, will be noted as an **Alternate Add** to the contract and will be the maximum amount available to the Subcontractor should they be required to purchase their own insurance in lieu of OCIP provided coverages.

THE FOLLOWING PROCEDURES MUST BE FOLLOWED IN DETERMINING INSURANCE COST:

A. Coverage requirements for purposes of calculating the Insurance Cost:

(a) **First dollar coverage** is provided under the OCIP; therefore, **Alternate Add** calculations should be based on first dollar cost. Contractor and Subcontractor's insurance program(s) that include large deductibles; self-retention levels; self-insured portions (General Liability) must use the following for their calculations:

(i) The General Liability Alternate Add will be calculated by applying your fixed expense rates against the exposure base of payroll, receipts or standard premium on the jobsite. A loss rate will also be calculated that will become a part of the GL Alternate Add. This will be calculated by taking five (5) years of your loss history (Valued within 60 days of the bid submittal date) and dividing it by the exposure basis during the five (5) year period. If requested, claims experience shall be provided to verify that the loss rate has been calculated correctly. All applicable taxes, assessments, surcharges, and terrorism shall also be applied.

(b) **Excess Liability** – As the OCIP will be providing the coverage for Excess/Umbrella Liability, an amount must be included for this coverage.

If your Excess policy is flat rated then a pro-rata rate shall be calculated. If no premium exposure basis is identified on the Excess Policy then the exposure basis of the GL Policy shall be used for this calculation. Divide the Excess premium by the GL exposure then multiply by \$1,000 to obtain a rate per \$1,000 of exposure.

- (c) **Markup** – An amount associated with Overhead, Profit and Mark-Up shall be provided. If not identified then an amount equal to 15% of the total credit will be used.
- (d) Each Subcontractor using lower-tier Subcontractor(s) will show the 2% of their lower tier Subcontractor(s) contractor value as their lower tier Subcontractors' estimated insurance cost unless actual costs for lower tier Subcontractor's coverage can be provided. This amount *may* be verified and adjusted at the time of enrollment of each lower tier Subcontractor.
- (e) If upon request the Subcontractor fails to furnish the required information shown above, a cost of 2.5% will be used to calculate the Add Alternate.

CHANGE ORDERS:

Subsequent change order proposals shall be submitted in the same manner, with the **Cost of CCIP Coverages excluded from the base change order price.**

ASSIGNMENT

SPONSOR will pay the cost of the insurance coverages specified. **SPONSOR** shall receive and pay, as the case may be, all adjustments in such costs, whether by way of dividends or otherwise. All Enrolled Parties per the JLT Enrollment Form (Section V–Agreements-Assignment) shall assign to **SPONSOR** adjustments and shall cause all Subcontractors of every tier covered by such insurance to do the same.

SUBCONTRACTOR / SUB-CONSULTANT ENROLLMENT

Each Awarding Party is responsible for notifying any lower tier Sub-Consultant and Subcontractor that a OCIP is being utilized for the Project and are responsible for enrollment of such lower tier Sub-Consultants/ Subcontractors.

Bidder must provide **separate** CIP forms for each of its Sub-Consultants/ Subcontractors at the time of the bid. Bidder shall require that the Sub-Consultants/ Subcontractors complete the required Enrollment Form.

Upon request, JLT will assist all Contractors / Subcontractors and Consultants / Sub-Consultants with the completion of these forms. Please contact Geri D'Aversa at (908)566-1260 for assistance.

NOTE:

Failure to provide lower tier Sub-Consultants and Subcontractors' enrollment forms shall result in a 2% insurance cost to be held as retainage for each lower tier Subcontractor pending receipt of insurance cost worksheet and supporting documentation noted above.

Contractor/Subcontractor and Consultant / Sub-Consultant acknowledges and agrees that the insurance identified on the Insurance Cost Worksheet is an initial estimate only.

6 OCIP INSURANCE COVERAGES

The OCIP will provide the following insurance coverages for all Enrolled Parties for **onsite operations only**, as defined in the OCIP Policies:

- General Liability
- Excess Liability

Under the OCIP, each Enrolled Party will be provided evidence of these coverages with a Certificate of Insurance and issued a Welcome Letter explaining the program requirements.

Each Enrolled Party will be provided a copy of the OCIP Manual. Information concerning enrollment and accident reporting are outlined in this Manual.

We suggest that you discuss the OCIP with your Insurance agent so that you coordinate proper coverage for offsite work. Offsite coverage is discussed in detail in Section 7 of this manual.

COVERAGES AND LIMITS

Coverages are subject to actual terms and conditions of the OCIP Policies, including both coverage enhancements and coverage restrictions to the standard coverage forms.

Enrolled Party warrants on behalf of itself and its Sub-Consultants/ Subcontractors that they have solely relied upon their own independent review and analysis of the OCIP Policies in formulating any understanding and/or belief as to amount, nature, type or extent of any coverages and/or its potential applicability to any potential claim or loss. The Enrolled Party shall include the OCIP Manual and all applicable insurance language in every Subcontract agreement so that each lower tier Subcontractor is aware of and bound to such provisions.

The OCIP coverages are limited only to work **performed at or emanating from the project site**, as that term is defined in the OCIP Policies. As such, products-completed operations coverage provided under the Commercial General Liability and the Excess Liability **does not apply to any insured party, contractor, subcontractor, vendor, supplier, material**

dealer, or others for any product or material manufactured, assembled, or otherwise worked on away from the Project site.

COMMERCIAL GENERAL LIABILITY

Commercial General Liability	*Limits Shared by All Enrolled Parties on both Carson Reclamation Authority and Fashion Outlets of Los Angeles OCIP projects
General Aggregate	\$4,000,000
Products-Completed Operations Aggregate	\$4,000,000
Personal-Advertising Injury Aggregate	\$2,000,000
Each Occurrence Limit	\$2,000,000
Fire Damage Legal Liability (any one fire)	\$ 100,000
Medical Expense Limit (any one person)	\$ 10,000

Coverage and terms shall include, but not be limited to, the following: (TBD per policy)

- ISO Occurrence Form

General Liability Exclusions include, but are not limited to, the following: TBD per policy

- Nuclear Energy Liability
- Total Pollution, Lead, Asbestos & EIFS, Mold & Fungus
- Engineers, Architects or Surveyors, Professional Liability
- Employment Related Practices
- Property Damages- Builders Risk
- Contractors Professional Liability

UMBRELLA LIABILITY

Umbrella Liability	*Limits Shared by All Enrolled Parties on both Carson Reclamation Authority and Fashion Outlets of Los Angeles OCIP projects
Each Occurrence Limit	\$ 200,000,000
Annual General Aggregate Limit	\$ 200,000,000

- Single policy covering all insureds
- Scheduled underlying coverages:
 - OCIP Commercial General Liability policy.

Coverages and terms shall include, but not be limited to, the following:

- Products-Completed Operations Extensions- 10 Years or the Statute of Repose,

Exclusions include, but are not limited to, the following:

- Automobile Liability
- Employers Liability
- Fungus
- EIFS
- Total Pollution
- Lead
- Professional
- Chromate Copper Arsenate
- Continuing/Progressively Deteriorating Damages
- Includes any other exclusions not used above but contained in underlying coverages

UNCOVERED EXPOSURES

NO insurance coverage is provided for certain exposures. These exposures include, but are not limited to, the following:

- Workers Compensation / Employers Liability
- Automobile Liability
- Contractor Equipment Floater
- Aircraft Liability
- Marine Liability
- Payment and Performance Bonds
- Offsite General Liability, including Products / Completed Operations for offsite operations



This list is not all-inclusive and should be reviewed with your insurance agent/broker to discuss any uncovered exposures.

OTHER OWNER PROVIDED INSURANCE

BUILDERS RISK INSURANCE

1. **General Requirements for Builder's Risk.** Owner/Developer shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, and with a minimum of A-VII rating in accordance with the latest editions of the A.M. Best Insurance Guide, property insurance written on a builder's risk "all-risk" or equivalent policy form (the "Builder's Risk Policy"). This insurance shall include the interests of the Owner, the Consultant, the Subcontractors, the sub-consultants and the sub-subcontractors in the Project.
2. **Builder's Risk Deductibles.** The Builder's Risk Policy shall include deductibles not exceeding \$100,000 for water damage related losses and \$50,000 for all other perils. Owner/Developer shall be responsible for the payment of any deductibles. Owner/Developer may, in its sole discretion, seek contribution(s) towards any such deductible from Consultant(s), Subcontractor(s) and/or their respective sub-consultants and sub-subcontractors, in a total amount not to exceed \$10,000.
3. **Waivers.** All parties insured by the builder's risk insurance hereby waive all rights against each other, and against their respective agents and employees, each of the other, as to claims and damages to the extent covered by available property insurance. Owner/Developer shall ensure that each of its insurers waives subrogation in favor of the insured parties. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
4. **Adjustment of Losses.** A loss insured under Owner/Developer's builder's risk insurance shall be adjusted by Owner/Developer and made payable to Owner/Developer on behalf of the insureds, as their interests may appear, subject to any applicable mortgagee clause unless one of the parties in interest shall object in writing.

CONTRACTORS' ENVIRONMENTAL AND PROFESSIONAL INSURANCE

CPL/PLI –Contractor's Pollution Liability Policy/Professional Liability Insurance

CRA/RES will obtain and maintain a CPL/PLI policy. The CPL coverage part shall be primary coverage to consultants, contractors and subcontractors performing work on the horizontal and vertical construction of the project. The PLI coverage part will also provide primary coverage for the CRA, RES and parties directly contracting with RES for the performance of work on the project in order to deliver structural slabs to Cam-Carson, LLC or future developer partners. It is anticipated that the CPL/PLI policy will provide at least the following minimum insurance:

Per Incident – Contracting Operations	\$50,000,000
Aggregate – Contracting Operations	\$50,000,000
Per Incident – Professional Services	\$20,000,000
Aggregate – Professional Services	\$20,000,000
Self-Insured Retention	\$ 500,000

The policy will grant insured status to consultants, contractors and subcontractors for the Environmental Liability coverage part of the policy. The policy will grant insured status to ONLY the scheduled consultants directly contracting with RES for the Professional Liability portion of the policy. Subcontractors will not be granted insured status on the Professional Liability coverage part of the policy. Contractors are required to carry CPL coverage excess of the CPL/PLI program as set forth in Section 7 of this OCIP Manual, and subcontractors and sub-consultants are required to carry Environmental Liability and Professional Liability / Errors and Omissions as set forth in Section 7 of this OCIP Manual.

7 CONSULTANT / SUB-CONSULTANT / CONTRACTOR / SUBCONTRACTOR REQUIRED COVERAGES

In addition to the OCIP Policies, Enrolled Parties and Excluded Parties are required to maintain certain additional insurance coverages, as set forth herein in summary fashion and described more fully in each party's respective Contract. In the event of a conflict between the terms of this Manual and the terms of Consultant/Sub-Consultant and Contractor's/Subcontractor's Contract, the terms of the Contract control.

All required insurance shall be written with insurance companies with an A.M. Best quality rating of A-, Financial Size Rating of VII or higher and licensed to do business in the State of CA or otherwise acceptable to **SPONSOR**.

The Awarding Consultant / Contractor shall incorporate into all Contracts all of the relevant provisions regarding insurance requirements and obligations in any and all Sub-Consultant Agreements / Subcontracts. The Awarding Contractor shall be responsible for providing each Sub-Consultant / Subcontractor with a copy of the OCIP Manual and require contractually that each Sub-Consultant / Subcontractor comply with the provisions contained therein and this entire section of the Contract.

A sample Certificate of Insurance is provided in the Forms section of this manual (Section XI).

AWARDING CONSULTANTS / CONTRACTORS ARE RESPONSIBLE FOR MONITORING AND PROVIDING THEIR SUB-CONSULTANTS/ SUBCONTRACTORS' CERTIFICATES OF INSURANCE TO THE OCIP ADMINISTRATOR BEFORE SAME ARE ENROLLED IN THE OCIP. SPONSOR RESERVES THE RIGHT TO APPROVE OR DENY UTILIZATION OF SUBCONTRACTORS UNABLE TO MEET THE INSURANCE REQUIREMENTS.

The limits of liability shown for the insurance required of the Consultants/Sub-Consultants and Contractor/Subcontractors are minimum limits only and are not intended to restrict the liability imposed on the Consultants / Sub-Consultants and Contractor /Subcontractors for work performed under their contract.

At least 5 days prior to a Consultant / Sub-Consultant and Contractor / Subcontractor performing any work at or delivering materials to the Project Site, Consultant / Sub-Consultant and Contractor/Subcontractor shall procure and maintain the following coverages:

Enrolled Parties are to provide evidence of Workers' Compensation/Employers Liability *on site* and General Liability *for offsite activities*. Excess/Umbrella Liability insurance and Automobile Liability and any other insurance as per the insurance specifications in the Consultant / Sub-Consultant agreement(s) and Contractor / Subcontractor agreements.

Excluded Parties must provide evidence of Workers' Compensation, General Liability, Excess/Umbrella Liability, Automobile Liability and any other insurance as per the insurance specifications in the contract / subcontract for all activities including **both onsite and offsite** activities as per the insurance specifications in the Subcontract.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

Workers' Compensation insurance with limits as required by Statute and/or Regulation, and Employers' Liability insurance with limits of \$1,000,000 for each bodily injury by accident, each bodily injury by disease and annual aggregate. Exclusions for the Proprietor/Partners/Executive Officers will not be permitted. The policy must include waiver of subrogation - where permissible by statute. Endorsements for Occupational Disease Benefits, Voluntary Compensation and Disability benefits, Jones Act and U.S. Longshoremen's and Harbor Worker's Act are required, if applicable. Self-insurance is not acceptable.

Note: Coverage applies to on-site and off-site operations for both Enrolled and Excluded Parties.

COMMERCIAL GENERAL LIABILITY

Commercial General Liability (“CGL”) insurance, provided by a current Insurance Service Office Commercial General Liability Insurance policy (occurrence form) including, without limitation, coverage for damages because of bodily injury, property damage, and personal and advertising injury. This insurance shall include, without limitation, coverage for products liability for any product manufactured, assembled or otherwise worked upon away from the Project Site, and coverage for the products-completed operations hazard, and shall be maintained from commencement of the Work until not less than ten (10) years after substantial completion and acceptance of the Project, or to the applicable Statute of Repose in the jurisdiction where the Project is located, whichever is longer.

Limits of Insurance shall comply with the following table:

General Aggregate	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000
Each Occurrence	\$1,000,000

Note: Claims-made coverage is not acceptable. General Aggregate limits must apply separately to each project. For Enrolled Parties, coverage shall apply to off-site operations, including fabrication for ongoing and products / completed operations.

For Excluded Parties, coverage shall apply to all ongoing and products / completed operations.

For Consultants only: If the Work or Services involves transporting to or from the Project environmental waste materials (non-hazardous or hazardous), or grading, excavation, or sampling of soil or groundwater at, on or under the Project site, the minimum CGL limits shall be \$5,000,000, or higher limits if required by Owner/Developer or applicable regulatory authorities. For the avoidance of doubt, any requirement under this sub-paragraph for coverage limits exceeding \$2,000,000 shall be defined and agreed to by the Parties in writing in the Work Authorization for such Work or Services.

COMPREHENSIVE AUTO LIABILITY

Commercial (business) automobile liability insurance written on a current ISO form or equivalent (or another form with coverage at least as broad and approved by the Owner/Developer in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Consultant or Subcontractor (and their sub-consultants/sub-Subcontractors), with combined single limits of at least \$1,000,000, exclusive of defense costs. This insurance shall also be endorsed to include coverage for claims under the Motor Carrier Act of 1980 (e.g., MCS-90 endorsement) resulting from the

transportation of materials identified as hazardous during the performance of the Work or Services. In the event that the insurance required under this section excludes any drivers from coverage, such drivers shall not be permitted to drive in connection with this Project.

UMBRELLA/EXCESS LIABILITY

For Subcontractors (and sub-Subcontractors) only, Umbrella/excess liability insurance with limits of not less than \$10,000,000 for each occurrence and in the aggregate are required. General Aggregate limits must apply separately to each project. Coverage should follow-form with underlying terms outlined above for Workers Compensation, General Liability and Automobile.

This insurance is primary over any other insurance providing coverage to **SPONSOR** and RE | Solutions and all other parties required by Contract Documents (outlined on Page 24). Any such insurance providing coverage to **SPONSOR** and the Additional Insureds (and other designated parties) shall be excess to and shall not contribute with this insurance.

ENVIRONMENTAL LIABILITY

Contractor's Pollution Liability ("CPL") insurance with limits of at least \$5,000,000, applying to any Work or Services performed at the Project, providing coverage excess of the Project Specific EPL Insurance and provide difference-in-conditions coverage.

Additional insureds to include **SPONSOR**, RE | Solutions and all other parties required by Contract Documents (outlined on Page 24) and included on the Sample Certificate of Insurance.

DELEGATED DESIGNS/PROFESSIONAL LIABILITY

Professional Liability/Errors and Omissions: Professional liability insurance with a limit of liability of at least \$3,000,000 for Consultants per claim and annual aggregate, providing coverage excess of the Project Specific CPL Insurance and providing difference-in-conditions coverage. This insurance shall include a retroactive date prior to the commencement of Services for the Project, and must be maintained for at least 10 years following substantial completion and acceptance of the Project, or to the expiration of any applicable Statute of Repose, whichever is shorter.

OTHER REQUIREMENTS

ALL POLICIES provided by Contractor/Subcontractor shall adhere to the following requirements:

- A **Waiver of Subrogation** in favor of **SPONSOR**; RE | Solutions and all other Additional Insureds as required by Contract Documents and included on Sample Certificate of Insurance Section in form section.
- The use of self-insured retentions or deductibles will not be allowed unless specifically approved by **SPONSOR** in advance of any work by Enrolled Parties.
- The Comprehensive Automobile Liability, General Liability and Umbrella / Excess Liability policies shall state that the insurance provided to the additional insureds is **primary and non-contributory** to any other insurance (including primary, excess, self-insurance, or on any other basis) available to the additional insureds.
- The policies each Consultant / Sub-Consultant and Contractor/Subcontractor provides shall not eliminate or restrict coverage for claims or suits between named insureds and additional insureds.
- To the fullest extent permitted by law, the coverage provided to the additional insureds must be at least as broad as that provided to the first named insured on each policy.
- The Consultant / Sub-Consultant and Contractor/Subcontractor shall provide notice of cancellation, or modification to JLT.
- With respect to the Commercial General Liability policy, additional insured status must be provided using a current I.S.O. endorsement(s) for **ongoing and completed operations**.

It is understood and agreed that the insurance coverage and limits, required above, shall not limit the extent of the Contractor's/Subcontractor's responsibilities and liabilities specified within the Contract Documents or by law.

CERTIFICATES OF INSURANCE

Verification of insurance in place and compliance with coverage and limits required of Enrolled Parties and Excluded parties must be submitted in the form of a Certificate of Insurance to JLT:

Geraldine D'Aversa

1250 Route 28, Suite 201

Branchburg, NJ 08876

wrapup@constructionriskpartners.com

A certificate of insurance acceptable to **SPONSOR** must be furnished and received by JLT, reflecting the inclusion of the interests of **SPONSOR** and any other parties required by contract documents as ADDITIONAL INSURED, before **SPONSOR** will execute the Contract, before any work is performed on the project or upon request by **SPONSOR** at any other time during the project. **Additional Insureds to be evidenced on the Certificate of Insurance:**

Additional Insured Schedule:

- Cam-Carson, LLC
- Carson Reclamation Authority
- City of Carson, RE Solutions, LLC
- Snyder Langston L.P.
- TRC Solutions, Inc.
- Carson Redevelopment Agency
- Community Facilities District No. 2012-1 of the City of Carson
- Community Facilities District No. 2012-2 of the City of Carson
- City of Carson Housing Authority
- Macerich Management Company, The Macerich Partnership, L.P., The Macerich Company, (And, with respect to each of these entities, all owned, managed, controlled, non-controlled and subsidiary companies, corporations, entities, joint ventures, LLC's, partnerships, and their constituent partners and members, all Lenders for the project, and ground lessors of the property or improvements comprising the Project.
- The City of Carson
- Additional buyers/developers for Insured Property, including affiliates of Macerich, and other such buyers/developers to be selected for specific phases of the project by CRA

Please note the following Certificate of Insurance requirements:

- Additional insured requirements (GL & Excess) on a primary/non-contributory basis to any other policy available to the additional insureds, as specified in Contract: **SPONSOR**; Additional Insured(s) (outlined above) and all other parties required by Contract Documents (all should be listed on Non-OCIP COI per the Sample Certificate of Insurance in Section 10 of this manual).
- Prior to mobilization and within five (5) days of any renewal, change or replacement of coverage, or any request from **SPONSOR**, Enrolled Parties of every tier, shall submit to JLT, a Certificate of Insurance evidencing the coverages and limits as specified within the appropriate category above.
- Endorsements must be furnished for all policies of insurance, except Workers' Compensation, reflecting the inclusion of the interests of **SPONSOR**; Additional Insured(s) (outlined above) and any other parties required by the Contract Documents to be Additional Insureds.
- Endorsements must be furnished for all policies of insurance required under this Section 7 stating that coverage will not be altered, canceled, or allowed to expire without thirty (30) days written notice by registered mail to **SPONSOR**.

8 ENROLLED PARTY(IES) RESPONSIBILITIES

ENROLLMENT INTO THE OCIP

A separate **Enrollment Application** form is required for each awarded Consultant / Sub-Consultant and Contractor or Subcontractor of every tier.

Awarding Consultants and Contractors shall provide to each of their Subcontractors a copy of **SPONSOR's** OCIP Insurance Manual, including applicable forms and procedures to enroll them. The OCIP Administrator will need all information requested on the **Enrollment Application** along with a compliant Certificate of Insurance and, upon request, Rate and Declaration pages. Once these forms have been completed, coverage will be evidenced by a OCIP Certificate of Insurance and only then will a Consultant/Sub-Consultant and/or Contractor/Subcontractor be allowed to commence work.

Awarding Consultants and Contractors must provide evidence of a written Contract and indemnification agreement between itself and its Sub-Consultants / Subcontractors wherein its lower tier Sub-Consultants and Subcontractors agree to defend, indemnify and hold harmless **SPONSOR** and all indemnities under the Contract Documents.

In the event an Awarding Consultant and Contractor fails to have its Sub-Consultants and Subcontractors enrolled in the OCIP and performs Work with non-enrolled Sub-Consultants and Subcontractors, Awarding Consultant and Contractor agrees, to the maximum extent permitted by law, to assume the entire responsibility and liability (which includes the indemnification of **SPONSOR** and all indemnities) for any and all damages and expenses or injuries of any kind or nature whatsoever (including death resulting there from) to all persons, whether employees of the Consultant / Sub-Consultant and Contractor/Subcontractor whose injuries occurred while working at the jobsite or otherwise, and to all property, caused by, resulting from, arising out of, or in any way occurring directly or indirectly or in any matter connected with Consultant or Sub-Consultants work or Contractors' work or its Subcontractors' work, the design and execution of the work, or the

Consultant's and Contractor's failure to perform any of his obligations under the Contract Documents including delegable or non-delegable duties imposed by laws.

If any person, including Sub-Consultant's and Subcontractor's employees, shall make a claim for any damage, costs, or injury (including death resulting there from and property damage) as herein above described, or upon any alleged breach of any statutory duty or obligation on the part of the **SPONSOR**, the Consultant and Contractor agrees to indemnify and hold harmless the **SPONSOR**, all additional insureds and indemnitees, from and against any and all loss, expense, judgments, (including court costs, attorneys' fees, investigative and discovery costs, legal costs for appeal and all costs incurred in the enforcement of this indemnification provision) damage, or injury that the **SPONSOR** or the other additional insureds may sustain as a result of any such claim but only to the extent that such claim, damage or loss is not caused by the negligence of the **SPONSOR**; Consultant/Sub-Consultant and Contractor/Subcontractor shall defend and indemnify **SPONSOR** for any breach of any warranty and guarantee representation and/or performance of the non-enrolled Sub-Consultant and Subcontractor under the Contract Documents. Such obligation shall not be construed to negate, abridge, or otherwise reduce the other rights or obligations of indemnity which would otherwise exist as a party or person described in this Manual or the Contract.

COMPLETION OF WORK

When an Enrolled Party has completed its work (excluding punch list) under the Agreement or Contract and will no longer have on-site workers, the Enrolled Party shall notify **SPONSOR** by submitting the **Notice of Completion** form for the final reporting along with an offsite insurance certificate conforming to the insurance coverage required by all tiers.

Final Payment will not be released by SPONSOR until all necessary forms have been submitted to the OCIP Administrator.

Any Enrolled Consultant or Contractor returning to work at the Project Site after the Notice of Completion Form has been submitted must notify JLT prior to the commencement of this onsite work. Failure to provide such notification may result in no insurance coverage for the additional work under the OCIP.

SAFETY

Each Enrolled Party shall be solely responsible for safety on the Project. **ENROLLED PARTY(IES)** shall establish a safety program that, at a minimum, complies with local, state, federal and OCIP safety standards.

9 CLAIMS MANUAL

INTRODUCTION

It is the goal of **SPONSOR** to provide the most efficient and effective claims service possible to the **ENROLLED PARTY(IES)** while on **SPONSOR**'s OWNER CONTROLLED INSURANCE PROGRAM(OCIP) job sites. While not all incidents you report will fall within insured parameters, **SPONSOR** requires notification of any situation, which may bring about a claim in order to respond appropriately. **SPONSOR** representatives have the ability to respond on a 24/7 basis. The following is a list of examples of claims that are to be reported. This list, however, does not cover every conceivable situation. If in doubt, report the claim to the designated **SPONSOR** personnel.

- All serious worker injuries or work-related illnesses
- All job site injuries (vendors, suppliers, guests, visitors, etc.)
- All complaints from neighbors or general public which have resulted from an accident or incident
- All damage to the work or material to be used on the project
- Anything likely to affect the quality of work
- All environmental concerns

All Enrolled Parties and their employees must cooperate with **SPONSOR** personnel and their designated representatives in the reporting, investigating, and adjusting of OCIP claims.

The Director of Claims for all projects is the OCIP Risk Manager. This individual will work with the **ENROLLED PARTY(IES)** job site supervisors and JLT Claims Personnel to maintain compliance with claim reporting guidelines, claim handling instructions, and the proper dissemination of claim reports and loss data.

CLAIM REPORTING RESPONSIBILITIES

Upon notification of an accident/incident, the employer will:

- Work with **SPONSOR**, the CM/GC and Consultant/Sub-Consultant and/or responsible Enrolled Party to take action to stop the unsafe act or condition in order to prevent further injury or damage.
- Investigate and report the incident using the Claim Incident Report Form for General Liability claims which appears in the Forms Section of this manual and forward to the OCIP Claims Manager within 24 hours of injury or incident.
- Verbal notification should be made immediately to the **SPONSOR** for all injuries occurring on the jobsite that require immediate medical attention.
- Remove any machinery or equipment involved from service.
- Identify witnesses and, if possible, record their names, addresses and telephone numbers.
- **NOT** make any comments on negligence or fault. Do not express an opinion regarding the incident to anyone or offer to pay for anything.
- **NOT** discuss building, equipment, or equipment conditions.
- **NOT** attempt to apply first aid to anyone other than job site personnel unless you are trained and certified. On minor injuries, offer the first aid kit to the injured. For serious injuries, do not move the person. **Call 911.**

Report all Third Party claims to:

Attention: Mary B. Hashem
mary@resolutionsdev.com

Attention: Erin Pfeiffer
Email: epfeiffer@constructionriskpartners.com
Fax: (484) 654-0580

CRISIS MANAGEMENT CONTACTS

Crisis Management after a major event is critical to the claim process. Effective communication, post-crisis analysis and investigation and training are all critical to the process. The **SPONSOR** has established a team to respond in the event there is a major injury or incident at the project site.

Crisis Management Team	
SPONSOR Name	
Mary B. Hasham, Principal RE Solutions OCIP Risk Manager	Phone: (303) 945-3018 Email: mary@resolutionsdev.com
Erin Pfeiffer Construction Risk Partners Director of Claims	Phone: (484) 654-0580 Email: epfeiffer@constructionriskpartners.com

10 FORMS

OCIP FORMS

This section contains the following forms with instructions needed for the OCIP:

- Notice of Award (filled out by **SPONSOR**)
- Insurance Cost Worksheet
- Enrollment Application – this form must be completed and submitted, to the CIP Administrator (outlined below), by each successful Consultant / Sub-Consultant and Contractor/Subcontractor of every tier before Site mobilization.
- Notice of Completion Form and Instructions
- Sample Certificate of Insurance for Consultants / Sub-Consultants and Contractors / Subcontractors
- Incident Investigation Report Form
- Claim Forms

For assistance in completing these forms, please contact the Program Administrator:

Contact: Geraldine D'Aversa

Phone: (908) 566-1260

Email: gdaversa@constructionriskpartners.com



Notice of Award

Carson Reclamation Authority

CITY OF CARSON
RECLAMATION AUTHORITY

Legal Company Name:

FEIN #

Contract #:

Office Contact:

Office Contact E-Mail:

Phone:

Fax:

Start Date:

Work Description:

Gross Contract Value: \$ _____

Insurance Cost: \$ _____


Actual Contract Value: \$ _____


OCIP Enrollment Status (please check one): Enrolled _____ Excluded _____

Requires evidence of Pollution insurance: Yes _____

Requires evidence of Professional insurance: Yes _____

Send form to Geraldine D'Aversa at wrapup@constructionriskpartners.com

		Sponsor: CAM-CARSON, LLC (CRA) Project: Carson Redevelopment Project				
Subcontractor Insurance Cost Verification Form						
Section 1 – Contractor Information						
FEIN:		Contact Name:				
Company Name:		Title:				
Address:		Phone:				
City, State, Zip:		Email:				
Section 2 – Contract Information						
Awarding Contractor		Start Date				
Actual Contract Value		Completion Date				
Description of Work						
Estimated Payroll		Est. Man-hours				
% Self Performed		% Subcontract				
Section 3 – WC Insurance Premium						
State	Class Code	Description	Rate (Per \$100 Payroll)	Man Hours	Payroll	WC Premium (Payroll * Rate / 100)
Totals						
				Hourly Rate	Payroll %	
Retention Amount:		WC Experience Modifier:				
Employers Liability Rate:		Modified Premium (WC Premium * Modifier):				
		Employers Liability Premium (WC Premium * EL Rate):				
Modifications & Discount Premiums		(Circle One)	Rate	Amount		
		+ or -				
		+ or -				
		+ or -				
		+ or -				
		+ or -				
Total Modification Amount:						
Total WC Premium (Total Modification Amount + Modified Premium):						
Section 4 – GL Insurance Premium						
GL Rate	Rate	Basis (CV or Payroll)	Factor (100 or 1,000)			GL Premium (Basis * Rate / Factor)
Retention Amount:						Total GL Premium:
Section 5 – Umbrella Insurance						
Rate	Basis (CV or Payroll)	Factor (100 or 1,000)			XS/UMB Premium (Basis * Rate / Factor)	
Total Umbrella/Excess Premium:						
Section 6 – Totals						
Overhead & Profit %: _____ %				Total of All Insurance Premiums:		
				O/H & Profit (Total Premium * %):		
				Estimated Subcontractor Insurance Cost:		
				Total Insurance Cost:		
				Insurance Cost Rate:		
I hereby warrant that this worksheet reflects the projected insurance cost that would apply in the event my regular insurance program was in force at this location at the time of bid.						
Please provide copies of the following documents to support all insurance cost calculations:						
1) WC Declaration & Rate Pages		2) GL Declaration & Rate Pages		3) UMB/Excess Declaration & Rate Pages		
4) Experience Modification Worksheet		5 year actual loss experience (>\$5,000 retention)				
Signature: _____				Date: _____		
Please return all forms to CPR Administrator per fax: 908-566-1020 or by email: info@constructionriskpartners.com						

		Sponsor: Carson Reclamation Authority	
		Project: Carson Redevelopment Project	
OCIP Enrollment Form			
Section 1 – Contractor Information			
FEIN/Tax Id #:		Contact Name:	
Company Name:		Title:	
Address:		Phone:	
City, State Zip:		Fax:	
		Email:	
Section 2 – Contract Information			
Awarding Contractor:		Start Date:	
Awarded Contract Value:		Completion Date:	
Description of your work:			
Section 3 – Subcontractor Information			
Subcontractor Name:		Start Date:	
Total Contract Value:		Completion Date:	
Contact Name:		Phone:	
Description of your work:			
<i>Please attach a list of Subcontractors if more than one Subcontractor is anticipated.</i>			
Section 4 – Declarations / Warranties			
I hereby warrant that, to the best of my knowledge, the above referenced information is accurate. Additionally, I acknowledge the following conditions of entering into this contract:			
<ul style="list-style-type: none"> • I authorize the Wrap-up Administrator to bind coverage on my behalf within the OCIP • I warrant that I have received and reviewed the Wrap-up Manual for this project and will comply with the conditions and responsibilities identified in the document • I have omitted from my bid the insurance costs for the coverage provided by the OCIP identified in Section 2 above • I authorize the release of all claim information for all insurance policies under this program • It is my responsibility to notify my insurance carrier(s) that I am enrolling in this program • I will pay the cost of premium(s) for coverages not covered by the OCIP as required by this contract • Change order & Labor Rates are "net" of OCIP Provided Insurance costs • I understand that I will be expected to provide onsite coverage post OCIP construction operations 			
Audit Rights:	In the event the undersigned contractor is awarded a contract, such party will permit Carson Reclamation Authority or its representative to inspect their insurance policies to audit methods and rates used in determining the initial insurance premium calculation. Requests for inspection of any policy or payroll records will be made in writing ten days in advance of any review.		
Assignment:	The undersigned contractor hereby assigns, transfers, and sets over absolutely unto Carson Reclamation Authority rights, titles, and interest to any and all returns of premium, dividends, discounts, or other adjustments including retrospective adjustments to the OCIP. This assignment shall pertain to the OCIP policies as now written and as subsequently modified, rewritten, or replaced in OCIP insurance company(s), including any additional amount or coverage as result thereof. The undersigned contractor also assigns its rights of cancellation of all insurance policies provided by Carson Reclamation Authority. If the undersigned contractor shall subcontract any part of the contracted work, the undersigned shall require each subordinate contractor to execute a similar assignment in favor of Carson Reclamation Authority.		
Compliance:	The undersigned contractor hereby agrees that all Carson Reclamation Authority requirements will be met on a timely basis: including but not limited to: enrollment documents for subcontractors, maintenance and evidence of off-site coverage, loss control recommendations and requirements and prompt claim reporting. If these requirements are not satisfied SPONSOR has the right to withhold payments from the contractor.		
Additional Insured:	The undersigned contractor understands that coverage for the OCIP is limited to the project location as identified in the OCIP manual. Off-site work and activity are not covered by the OCIP. I agree to name all parties per written contract as additional insured on my applicable insurance policies relative to off-site claims that may arise out of the performance of this contract.		
Signature:	Date:		
Please return all forms to CPR Administrator per fax: 908-566-1020 or by email: wrapup@constructionriskpartners.com			

SAMPLE OCIP CERTIFICATE FOR ALL PARTIES				DATE (MM/DD/YYYY)		
Broker's Name/Producer/Insurance Agent Broker's Address City, State, Zip – Contact Numbers/email			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
Your Company's Name Your Company's Address City, State, Zip – Contact Numbers/email			INSURERS AFFORDING COVERAGE		NAIC #	
			INSURER A: INSURER'S NAME			
			INSURER B: INSURER'S NAME			
			INSURER C: INSURER'S NAME			
			INSURER D: INSURER'S NAME			
COVERAGES						
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSION AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
IN SLT R	ADJ. INSTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		GENERAL LIABILITY				EACH OCCURRENCE \$1,000,000 DAMAGES TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE \$2,000,000 PRODUCTS-COMP/OP AGG \$2,000,000
	X	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
	X	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea Accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	X	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNER AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> RERD AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS				
	X	EXCESS/UMBRELLA LIABILITY	Contractor / Sub Contractors only			EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000
	X	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				
		WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY	Waiver of Subrogation Applicable			<input checked="" type="checkbox"/> INC STATUS- TORY LIMITS <input type="checkbox"/> OTHER E. L. EACH ACCIDENT \$ 1,000,000 E. L. DISEASE – EA. EMPLOYEE \$ 1,000,000 E. L. DISEASE – POLICY LIMIT \$ 1,000,000
		ANY PROPRIETOR, PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				
		Pollution Liability XS/DIC Professional Liability XS/DIC				Occurrence/Aggregate \$5 Mil/ \$5Mil Occurrence/Aggregate \$3Mil/ \$3Mil
DESCRIPTION OF OPERATIONS/ LOCATION/ VEHICLES/ EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS RE: Work performed at Carson Redevelopment Authority- Additional Insureds (see list below) included on a primary and non-contributory basis on the General Liability, Automobile and Excess/Umbrella Liability policies. Waiver of Subrogation in favor of all Additional Insureds applies to all policies. Enrolled- ISO endorsement CG 20 10 and CG 20 37 (latest version) must be ATTACHED TO THE CERTIFICATE. General Liability coverage applies off site only during premises/operations period (all other times on-site & off-site). Excluded- ISO endorsement CG 20 10 and CG 20 37 (latest version) must be ATTACHED TO THE CERTIFICATE. All coverage applies on and off-site.						
Certificate Holder			CANCELLATION			
Carson Redevelopment Authority c/o Construction Risk Partners 1250 Route 28, Suite 201 Branchburg, NJ 08876 E-mail: wrapup@constructionriskpartners.com			AUTHORIZED REPRESENTATIVE			
			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.			

ACORD 25 (201005)

The ACORD name and logo are registered marks of

Additional Insured Schedule:

Cam-Carson, LLC

Carson Reclamation Authority

City of Carson, RE Solutions, LLC

Snyder Langston L.P.

TRC Solutions, Inc.

Macerich Management Company, The Macerich Partnership, L.P., The Macerich Company, (And, with respect to each of these entities, all owned, managed, controlled, non-controlled and subsidiary companies, corporations, entities, joint ventures, LLC's, partnerships, and their constituent partners and members, all Lenders for the project, and ground lessors of the property or improvements comprising the Project.

The City of Carson

Carson Redevelopment Agency

Community Facilities District No. 2012-1 of the City of Carson

Community Facilities District No. 2012-2 of the City of Carson

City of Carson Housing Authority

Additional buyers/developers for Insured Property, including affiliates of Macerich, and other such buyers/developers to be selected for specific phases of the project by CRA



General Liability Claim/Incident Report

Date of Loss:		Location of Occurrence (not project):	
Address:			
Building:			
Floor:			
Reported to police?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Name of Authority/Police Dept:	
Description of Occurrence:			
<hr/> <hr/> <hr/> <hr/> <hr/>			
Name of main contact for this claim/incident		Contact Phone #:	
Witness Name:		Contact Phone #:	
Statement:	<hr/> <hr/> <hr/> <hr/>		
Reported By: (Print Name)		Date:	Phone Number:

Forward to the **SPONSOR**: Mary B. Hashem

Email: mary@resolutionsdev.com

OCIP Safety Manager @email

epfeiffer@constructionriskpartners.com



About JLT

JLT Specialty USA is the U.S. platform of the leading specialty business advisory firm, Jardine Lloyd Thompson Group. Our experts have deep industry and product experience serving leading U.S. and global firms. Our key to client success is our freedom to be creative, collaborative, and analytical while challenging conventions, redefining problems, creating new insights, and exploring new options to deliver solutions for each client's unique business and risks.

JLT is one of the world's leading providers of insurance, reinsurance and employee benefits related advice, brokerage and associated services. We are specialists. Our deep expertise and entrepreneurial culture give us the insights, creative freedom and tenacity to go beyond the routine and deliver better results for our clients. At JLT, clients come first. JLT owns offices in 40 territories and has more than 10,600 colleagues. Supported by the JLT International Network, we service clients in over 135 countries.

SUMMARY OF DEFINITIONS AND DEFINED TERMS

DEFINED TERM	SECTION
Additional Insured	16.2.2
Application for Payment	4.1.1
Assignment	18.1
Change Order	2.2.8.1
Certificate of Final Completion	14.5.1
Certificate of Substantial Completion	14.4.1
Consent	18.1
Concurrent Delay	13.5.2
Contract	1.2
Contract Documents	6.2
Contractor	1
Contractor Caused Delay	13.5.1
Contractor's Fee	4.1.4.3
Contractor's Final Accounting	4.2.3
Contractor's Representative	1.5
Contractor's Project Representative	1.5
Contract Sum	2.1
Contract Time	2.1
Contractor Transfer	19.1.5
Contractor Transfer Period	19.1.5
CPM	20.1.2.2
CRA	1.7
Date of this Master Agreement	1.1
Day	13.3
Development Agreement	1.7
Early Start Date	13.5.3
Engineer	1.6
Environmental Laws	15.2.1
Final Completion	
Force Majeure Delay	13.5
General Conditions Costs	4.1.4
Insurance Addendum	16.1
Laws	15.2.1
Maintenance	18.13
Minor Change in the Work	12.3
Notice of Claim	20.1.2.1
OCIP Manual	16.1
Owner	1
Owner Consultants	2.2.3
Owner Responsible Delay	13.5
Owner's Final Accounting	4.2.3

Owner's Representative	1.4
Pencil Copy	4.1.3
Prevailing Wage Laws	18.13
Project	1
Punch List	14.4.1
Public Works	18.13
Related Party	10.4
Retainage	4.1.5
Retainage Release Request	4.1.5
RFI	2.2.8.1
Stop Payment Notice	4.1.8
Subcontract	10.3
Subcontractor	10.1
Substantial Completion	14.4.1
Term	1.1
Textura System	4.1.3.6
TRC	1.7
True-Up	4.1.4.7
Waste	15.2.2
Work	2.1
Work Order	2.1
Work Order Schedule	8.8.1

EXHIBIT A
DETERMINATION OF THE COST OF THE WORK

Exhibit A to Master Agreement

Document A121TM - 2014

Determination of the Cost of the Work

THE OWNER:

RE | SOLUTIONS, LLC
1525 Raleigh Street, Suite 240
Denver, CO 80204

THE CONTRACTOR:

SL CARSON BUILDERS, LLC
17962 Cowan
Irvine, California 92614

All terms not specifically defined in this Exhibit A shall have the meaning in the Master Services Agreement dated _____, 2018 between Owner and Contractor ("**Master Agreement**"). In the event of a conflict between the terms of the Master Agreement and this Exhibit A, the terms of the Master Agreement shall control.

ARTICLE A.1 CONTROL ESTIMATE

§ A.1.1 Unless otherwise agreed, where the Contract Sum, pursuant to Section 3.3 of a Work Order, is the Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, the Contractor shall prepare and submit to the Owner, in writing, a control estimate within _____ (___) days of the executed Work Order as set forth in this Article A.1 ("**Control Estimate**"). The Control Estimate shall include the estimated Cost of the Work plus a separate line item for the Contractor's Fee. The Control Estimate shall be used to monitor actual costs and the timely performance of the Work. The Contractor shall update the Control Estimate with each Application for Payment as needed to reflect Changes in the Work.

§ A.1.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 5 of a Work Order, including all Addenda thereto and the Conditions of the Contract;
- .2 a list of the clarifications and assumptions made by the Contractor in the preparation of the Control Estimate, including assumptions under A.1.4, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;
- .4 a schedule for the Work indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and written approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment requiring long-lead time, and the Owner's occupancy requirements; and
- .5 contingencies for further development of design and construction as required by Section A.1.4.

§ A.1.3 The Contractor shall meet with the Owner and Engineer to review the Control Estimate. In the event that the Owner or Engineer discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Contractor, who shall make appropriate adjustments to the Control Estimate. When the Control Estimate is acceptable to the Owner, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ A.1.4 To the extent that the Drawings and Specifications are anticipated to require further development by the Engineer, the Contractor shall provide in the Control Estimate for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

§ A.1.5 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Engineer with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the

Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor's first Application for Payment and shall be revised and submitted with each Application for Payment.

ARTICLE A.2 COSTS TO BE REIMBURSED

§ A.2.1 Cost of the Work

§ A.2.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior written consent of the Owner. The Cost of the Work shall include only the items set forth in this Article A.2.

§ A.2.1.2 Where any cost is subject to the Owner's prior written approval, the Contractor shall obtain the written approval prior to incurring the cost. Any costs subject to the Owner's prior written approval and not already set forth in this Article A.2 shall be identified in the Work Order to which those costs relate.

§ A.2.2 Labor Costs

§ A.2.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ A.2.2.2 Labor wages or salaries of the Contractor's supervisory and administrative personnel (including but not limited to project executive, project manager(s), engineer(s), and estimator(s)), at the fixed rates set forth on Appendix C to each Work Order, when stationed at the site with the Owner's prior approval. The proportionate share of the cost of said supervisory and administrative personnel shall be reimbursable, but only for that portion of their time required for the Work at the fixed rates in Appendix C, regardless of where stationed.

(If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate (\$0.00)	Rate (unit of time)
« »			

§ A.2.2.3 Labor wages and salaries of the Contractor's supervisory or administrative personnel (including but not limited to project executive, project manager(s), engineer(s), and estimator(s)), at the fixed rates set forth on Appendix C to each Work Order, engaged at Contractor's home office, factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work, regardless of where stationed. .

§ A.2.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions are included in the fixed rates set forth on Appendix C to each Work Order.

§ A.2.2.5 [Intentionally Omitted].

§ A.2.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of subcontracts approved by the Owner in writing in accordance with Article 10 of the Master Agreement.

§ A.2.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.2.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed Work.

§ A.2.4.2 Costs of materials described in the preceding Section A.2.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.2.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.2.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ A.2.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Contractor-owned item may not exceed the purchase price of any comparable item. Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner's prior written approval.

§ A.2.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.2.5.4 Costs of document reproductions, facsimile transmissions, phone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ A.2.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior written approval.

§ A.2.6 Miscellaneous Costs

§ A.2.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents pursuant to Article 16 of the Master Agreement and not covered by the insurance programs obtained by the Owner or CRA that can be directly attributed to the Contract. In lieu of Subcontractor payment and performance Bonds, Contractor will provide Subcontractor Default Insurance ("SDI") for the benefit of Owner with CRA a third party beneficiary, at a fixed rate of 1.35% of all Subcontracted Work that is approved in writing by the Owner. Billing for SDI will be with the first Application for Payment.

§ A.2.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

§ A.2.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the Contract Documents (including the executed Work Order) to pay.

§ A.2.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Article 17 of the Master Agreement or by other provisions of the Contract Documents, and which do not fall within the scope of Section A.2.7.3.

§ A.2.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 8.13 of the Master Agreement or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ A.2.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior written approval at the fixed rates set forth in Appendix C to each Work Order.

§ A.2.6.7 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ A.2.6.8 Legal, mediation and arbitration costs, including attorneys' fees, reasonably incurred by the Contractor after the execution of this Master Agreement in the performance of the Work, other than those arising from (i) disputes between the Owner and Contractor, (ii) the Contractor's negligence, (iii) the Contractor's failure to fulfill a specific responsibility in the

Contract Documents, including without limitation Section 6.2 of the Work Order, or (iv) disputes arising out of Subcontractor allegation of a breach of contract by Contractor, and with the Owner's prior approval.

§ A.2.6.9 Subject to the Owner's prior written approval, expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work.

§ A.2.6.10 Subject to the Owner's prior written approval, that portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.2.7 Other Costs and Emergencies

§ A.2.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.2.7.2 Reasonable costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property in the course of performance of the Work. To the extent possible prior to taking any such actions, Contractor shall discuss same with the Owner.

§ A.2.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors or suppliers, provided that such damaged or nonconforming Work did not arise out of negligence or failure to fulfill a specific responsibility of the Contractor and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

§ A.2.7.4 Cost of any fees, assessments, gross receipts tax, special licenses, etc., required by governmental agencies having jurisdiction are to be reimbursed as Cost of the Work and not included within any other cost category listed in this Exhibit A. Items which are known will be listed and included in the Guaranteed Maximum Price. Any additional costs not listed will be for the account of the Owner as changes in the Work.

§ A.2.8 Related Party Transactions

§ A.2.8.1 For purposes of Section A.2.8, the term “**related party**” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent (10%) in the aggregate; or any person or entity which has the right to control the business or affairs of the Contractor. The term “related party” includes any member of the immediate family of any person identified above.

§ A.2.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes in writing the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article A.5. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Article A.5.

ARTICLE A.3 COSTS NOT TO BE REIMBURSED

§ A.3.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section A2.2.2;
- .2 Expenses of the Contractor's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Article A.2;
- .4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .5 Except as provided in Section A.2.7.3 of this Exhibit A, costs due to the negligence or failure of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Article A.2; and
- .7 Costs, other than costs included in Change Orders approved in writing by the Owner that would cause the Guaranteed Maximum Price to be exceeded.

ARTICLE A.4 DISCOUNTS, REBATES AND REFUNDS

§ A.4.1 Cash discounts obtained on payments made by the Contractor, shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and subsequently received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

§ A.4.2 Amounts that accrue to the Owner in accordance with Section A.4.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE A.5 SUBCONTRACTS AND OTHER AGREEMENTS

§ A.5.1 Contractor performance obligations with regards to Subcontracts shall be in accordance with Article 10 of the Master Agreement. Subcontracts or other agreements shall conform to the applicable payment provisions of the Master Agreement, and shall not be awarded on the basis of cost plus a fee without the prior written consent of the Owner. If the subcontract is awarded on a cost-plus a fee basis, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article A.6, below.

ARTICLE A.6 ACCOUNTING RECORDS

§ A.6.1 The Contractor shall preserve full and detailed records and accounts related to the cost of the work in a manner consistent with Section 4.3 of the Master Agreement.

§ A.6.2 When the Contractor believes that all the Work required by a Work Order has been fully performed, the Contractor shall deliver to the Owner the Contractor's Final Accounting in accordance with Section 4.2.3 of the Master Agreement.

§ A.6.3 The Owner's auditors will review and report in writing on the Contractor's Final Accounting within thirty (30) days after delivery of the final accounting to the Engineer by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 4.2.1 of the Master Agreement have been met, the Engineer will, within seven (7) days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Engineer's reasons for withholding a certificate as provided in Section 14.2.3 of the Master Agreement. The Engineer is not responsible for verifying the accuracy of the Contractor's Final Accounting.

§ A.6.4 If the Owner's auditors report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the dispute without a further decision of the Engineer. A request for mediation shall be made by the Contractor within thirty (30) days after the Contractor's receipt of a copy of the Engineer's final Certificate for Payment. If the Contractor fails to request mediation within this 30-day period, the substantiated amount reported by the Owner's auditors shall become binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount, if any, determined by the Owner's auditors to be due the Contractor.

§ A.6.5 If, subsequent to final payment and at the Owner's written request, the Contractor incurs costs in connection with the correction of defective or non-conforming work as described in Article A.2 above (Costs to be Reimbursed), and not excluded by Article A.3 (Costs Not to be Reimbursed), the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price, if any. If the Contractor has participated in savings, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor, if any, as set forth in the Work Order.

EXHIBIT B
FORM OF WORK ORDER

EXHIBIT B
TO MASTER SERVICES AGREEMENT

AIA[®] Document A221[™] - 2014

Work Order for use with Master Agreement Between Owner
and Contractor

WORK ORDER number #___ made as of the «» day of «» in the year «»

THE OWNER:

RE | SOLUTIONS, LLC
1525 Raleigh Street, Suite 240
Denver, CO 80204

THE CONTRACTOR:

SL CARSON BUILDERS, LLC
17962 Cowan
Irvine, California 92614

THE ENGINEER:

(Name, legal status, address and other information)

«»
«»
«»
«»

for the following **PROJECT:**

Construction of site work, civil infrastructure improvements and foundation systems at the 157-acre parcel located at 20400 S. Main Street, Carson, California, commonly known as the Cal Compact Landfill as defined in the Master Agreement defined below.

THE CONTRACT

This Work Order, together with the Master Agreement between Owner and Contractor dated the «» day of «» in the year of _____, 2018 (“**Master Agreement**”) form a Contract. A Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations, or agreements, either written or oral. A Contract may be amended or modified only by a Modification.

Unless otherwise defined in this Work Order, all defined terms shall have the same definition set forth in the Master Agreement.

[CONTINUED ON FOLLOWING PAGE]

« »

§ 3.3 Cost of the Work plus Contractor's Fee with a Guaranteed Maximum Price

§ 3.3.1 The Cost of the Work is as defined in Section 3.2 of the Master Agreement unless otherwise set forth below.

« »

§ 3.3.1.1 The following costs are subject to the Owner's prior written approval:

« »

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

«

§ 3.4 Application for Payment. The Application for Payment shall be completed in accordance with Article 4 of the Master Agreement.

ARTICLE 4 PARTY REPRESENTATIVES

§ 4.1 The Owner identifies the following person as Owner's Representative in accordance with Section 1.4.1 of the Master Agreement:

(List name, address and other information.)

« »

« »

« »

« »

« »

§ 4.2 The Contractor identifies the following person as the Contractor's Representative in accordance with Section 1.5.1 of the Master Agreement:

Kelly McCarty
Project Executive
SL Carson Builders, LLC
17962 Cowan, Irvine, CA 92614

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

§ 5.1 The documents enumerated in Section 6.2 of the Master Agreement including any amendments or modifications thereto, together with the documents listed in this Article 5 constitute the Contract Documents applicable to this Work Order ("Contract Documents"):

§ 5.1.1 [Intentionally Omitted]

§ 5.1.2 [Intentionally Omitted]

§ 5.1.3 The Supplementary and other Conditions of the Contract:

Document

Title

Date

Pages

« »

§ 5.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Work Order.)

« »

By: _____
Sunny Soltani, Esq.
Legal Counsel for Carson Reclamation Authority

EXHIBIT C

FORM OF CHANGE ORDER



Owner Change Order

The District at South Bay 20400 S. Main Street Carson, CA 90745	Project # _____	Job # _____
--	------------------------	--------------------

Date: _____
To Contractor: SL Carson Builders, LLC
 17982 Cowan
 Irvine, CA 92614

Architect's Project No: _____
Contract Date: _____
Contract Number: _____
Change Order Number: _____

The Contract is hereby revised by the following items:

COR	Description	Amount
Total Amount of this Owner Change Order:		

The original Contract Value was	\$	
Sum of changes by prior Prime Contract Change Orders	\$	\$0
The Contract Value prior to this Prime Contract Change Order was	\$	
The Contract Value will increased be changed by this Prime Contract Change Order in the amount of	\$	
The new Contract Value including this Prime Contract Change Order will be	\$	
The Contract duration will be unchanged by	0 Cal Days	
The revised Substantial Completion date as of this Prime Contract Change Order is	MM/dd/YYYY	

SL Carson Builders, LLC
Contractor
 17982 Cowan
 Irvine, CA 92614
Address

RE | Solutions, LLC
Owner
 1525 Raleigh Street, Suite 240
 Denver, CO 80204
Address

Carson Reclamation Authority (CRA)
 701 E. Carson Street
 Carson, CA 90745
Address

John F. Rochford, President
Date _____

Stuart Miner, Principal
Date _____

John Raymond, CRA Executive Director
Date _____

EXHIBIT D

ACKNOWLEDGMENT AND CONSENT OF CONTRACTOR

_____, 2018

Carson Reclamation Authority
City of Carson, California
701 E. Carson Street
Carson, CA 90745
Attention: John S. Raymond
Director of Community Development

Ladies and Gentlemen:

The undersigned ("Contractor") has executed an agreement (the "Contractor Contract") dated _____, 2018, by and between Contractor and RE | SOLUTIONS, LLC, a Colorado limited liability company (the "Company") pursuant to which Contractor has agreed to perform the services set forth in the Contractor Contract for the project located in the City of Carson, California, and known as the former Cal Compact Landfill (the "Project") and more fully described in the Contractor Contract.

Contractor understands that the Carson Reclamation Authority ("CRA") and the Company entered into an Environmental Remediation and Development Management Agreement dated as of July 26, 2017 (the "Development Agreement"); and that the Company has assigned to CRA all of its right, title and interest in and to the Contractor Contract pursuant to a certain Collateral Assignment of Project Documents, dated as of July 26, 2017 (the "Assignment"), in order to secure its obligations under the Development Agreement.

Intending to be legally bound hereby, Contractor hereby covenants, represents and warrants, and agrees as follows:

1. Contractor (a) consents to the Assignment, and (b) agrees that if CRA gives notice to Contractor that the Company is in default under the Development Agreement or that the Development Agreement has been terminated, Contractor shall, at CRA's request, and notwithstanding any default by the Company under the Contractor Contract, continue performance on CRA's behalf under the Contractor Contract in accordance with the terms thereof; provided, that CRA pay for all services provided to CRA from and after such request, in accordance with the payment terms of the Contractor Contract. Contractor understands that CRA has no obligation to exercise CRA's rights under the Assignment.

2. In the event that CRA requests Contractor continue performance on CRA's behalf as set forth in paragraph 1 above, Contractor shall attorn to CRA and recognize CRA as the counter-party under the Contractor Contract, and the Contractor Contract shall continue in full force and effect as a direct contract between CRA and Contractor for the full term thereof; provided, however, that CRA shall not be:

- (i) liable for any act or omission of Company;
- (ii) subject to any offsets or defenses which Contractor might have against Company; or
- (iii) bound by any amendment or modification of the Contractor Contract not consented to in writing by CRA.

3. Contractor represents and warrants that the Contractor Contract is in full force and effect, and neither the Company nor Contractor is in default thereunder.

4. Contractor shall not, without CRA's prior written consent, agree to the amendment or modification of the Contractor Contract, except with respect to modifications or Change Orders which have been approved in accordance with the Development Agreement, and further agrees that it will not terminate the Contractor Contract or cease to perform its work thereunder for any reason, including but not limited to the Company's failure to make payments to the Contractor, without first giving written notice to CRA of such intention at least thirty (30) days before taking such action.

5. Contractor acknowledges and agrees that it is not entitled to rely upon the provisions of the Development Agreement and it is not a third party beneficiary thereof.

6. Contractor agrees that CRA shall have no obligations or liability to Contractor under the Contractor Contract or this letter unless and until CRA gives notice to Contractor pursuant to paragraph 1 hereof and only thereafter to the extent that Contractor performs under the Contractor Contract on CRA's behalf.

7. Contractor shall not assign its rights or obligations under the Contractor Contract without CRA's prior written consent, which may be withheld in CRA's sole discretion.

8. Contractor hereby covenants and agrees that in the event any of the payments under the Development Agreement are disbursed directly to Contractor, it will receive and hold any such proceeds as a trust fund for the purpose of paying the costs of the labor, equipment and supplies used in performing the services for the Project and will apply these same first to payment of such costs before using any part thereof for any other purposes.

9. Contractor covenants and agrees that upon CRA's request it shall furnish to CRA a current list of all persons or firms with whom Contractor has entered Subcontracts or other agreements relating to the performance of work or furnishing of materials in connection with the Project, together with a statement as to the status of each of such Subcontracts or agreements and the respective amounts, if any, owed by Contractor thereunder.

10. The officer executing this instrument on behalf of Contractor hereby personally certifies that he or she is authorized to do so.

11. Contractor represents and warrants that it has full authority under all applicable state and local laws and regulations to perform its obligations under the Contractor Contract in accordance with the terms thereof.

12. This letter shall be binding upon Contractor and its successors and permitted assigns and shall inure to the benefit of CRA and its successors and assigns.

Very truly yours,

SL CARSON BUILDERS, LLC

By: _____

Name: _____

Title: _____

EXHIBIT E

FORM OF CONDITIONAL LIEN WAIVER

CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Civil Code Section 8132

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant: _____
Name of Customer: _____
Job Location: _____
Owner: _____
Through Date: _____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____
Amount of Check: \$ _____
Check Payable to: _____

Exceptions

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:
Date(s) of waiver and release: _____
Amount(s) of unpaid progress payment(s): \$ _____
- (4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature

Claimant's Signature: _____
Claimant's Title: _____
Date of Signature: _____

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT
Civil Code Section 8136

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant: _____
Name of Customer: _____
Job Location: _____
Owner: _____

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____
Amount of Check: \$ _____
Check Payable to: _____

Exceptions

This document does not affect any of the following: _____
Disputed claims for extras in the amount of: \$ _____

Signature

Claimant's Signature:  _____
Claimant's Title: _____
Date of Signature:  _____

EXHIBIT F

FORM OF UNCONDITIONAL LIEN WAIVER

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Civil Code Section 8134

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

Through Date: _____

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment: \$ _____

Exceptions

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Civil Code Section 8138

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information

Name of Claimant: _____
Name of Customer: _____
Job Location: _____
Owner: _____

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

Exceptions

This document does not affect the following:

Disputed claims for extras in the amount of: \$ _____

Signature

Claimant's Signature:  _____
Claimant's Title: _____
Date of Signature:  _____