REIMBURSEMENT AGREEMENT
AMONG
CITY OF CARSON, THE CARSON RECLAMATION AUTHORITY
AND
GRAPEVINE DEVELOPMENT, LLC

THIS REIMBURSEMENT AGREEMENT ("**Agreement**") is made this ____ day of _____, 2018 ("**Effective Date**"), by and among the CITY OF CARSON, a municipal corporation ("**City**"), the CARSON RECLAMATION AUTHORITY, a California joint powers authority ("**Authority**", collectively with City, the "**City Parties**"), and GRAPEVINE DEVELOPMENT, LLC, a California limited liability company (together with its successors and assigns, "**Developer**", or collectively with City and Authority, each individually, a "**Party**" and collectively, the "**Parties**").

RECITALS:

WHEREAS, the Authority acquired, and currently owns approximately, 157 acres of real property in the City of Carson (the "**157 Acre Property**"), consisting of a former landfill, with Assessor Parcel Nos. 7336-010-013, 7336-010-24 and 7336-010-25, which is divided into five (5) Cells, known as Cells 1, 2, 3, 4, and 5; and

WHEREAS, the 157 Acre Property is currently the subject of remediation efforts, with financial assistance being provided by the City, the Authority, the Community Facilities District No. 2012-1 of the City (The Boulevards at South Bay - Remedial Systems OM&M), a public body formed pursuant to the Mello-Roos Community Facilities Act of 1982, and the Community Facilities District No. 2012-2 of the City (The Boulevards at South Bay - Capital Improvements), a public body formed pursuant to the Mello-Roos Community Facilities Act of 1982; and

WHEREAS, the 157 Acre Property is the largest tract of undeveloped property in the City as of the Effective Date hereof, and represents significant potential for public benefit through appropriate development; and

WHEREAS, the 157 Acre Property is a former landfill site, which suffers from significant environmental contamination, posing development constraints on the 157 Acre Property, and on October 25, 1995, the California Department of Toxic Substances Control ("**DTSC**") approved a Remedial Action Plan for portions of the 157 Acre Property ("**RAP**"), which requires the installation, operation and maintenance of certain remedial systems, including a landfill cap, gas extraction and treatment system, and groundwater collection and treatment system on the Property ("**Remedial Systems**"); and

WHEREAS, the Authority has been working with various developers over the last several years for the redevelopment of the 157 Acre Property and on September 6, 2018, the Authority entered into a Conveyancing Agreement with CAM-CARSON LLC ("**CAM**"), and the City entered into a Development Agreement with CAM, which collectively provide for the disposition and development of a high-end fashion outlet center on Cell 2 of the 157 Acre Property ("**Cell 2 Project**"); and

WHEREAS, on October 25, 2017, the Authority released a request for proposals ("**RFP**") for the development of Cells 1, 3, 4, and 5 of the Property (the "**Remainder Cells**"), and thereafter, established a process for the selection of a potential developer to enter into an exclusive negotiation agreement for the development of the four remaining Cells to be developed which process is referred to herein as the "**Selection Process**"; and

WHEREAS, Developer was selected for the development of one or more Remainder Cells and the Parties have negotiated and executed an exclusive right to negotiate agreement ("**ENA**") relating to the development of new hospitality, entertainment / sports, and/or retail / restaurant uses (the "**Project**") on Cell 1 of the 157 Acre Property, which encompasses approximately 15 gross acres in the City (the "**Property**"); and

WHEREAS, in connection with Selection Process and the ENA, the City Parties have required that Developer submit certain deposits and reimburse the City Parties for their respective costs and expenses related to the Project and the Developer has agreed to fund and be solely responsible for all such costs and expenses, including but not limited to, all staff time and third-party consulting costs and the City Parties' legal costs associated with the Selection Process, the negotiation of the ENA, preparation and/or review of all Project plans, proformas, studies, permits and agreements related to the Project, as well as review, processing, preparation and approval of the Project, including, without limitation, any required environmental review under the California Environmental Quality Act, Public Resources Code § 21000 *et seq*. ("**CEQA**"), and/or any entitlements required for the Project, as more particularly set forth below; and

WHEREAS, the Authority has and continues to incur certain carrying costs to maintain the 157 Acre Property (collectively, "**Carry Costs**"). A summary of such costs, which were incurred by the Authority over the course of April 2018 through August 2018 in connection with holding and maintaining the 157 Acre Property is set forth on Exhibit A, attached hereto. Developer has agreed to pay for 100 percent the Carry Costs incurred by the Authority for the Cell 1 portion of the 157 Acre Property, and that such reimbursement of costs would commence effective as of the date that the City Council / Authority Board approves the ENA (i.e., November [6], 2018), and

WHEREAS, pursuant to the ENA, Developer has been given an option to submit a plan for the development of one or more of the additional Remainder Cells, and in the event the Authority approves of the Developer's proposed plans for one or more Remainder Cells and the Parties execute an exclusive negotiation agreement for such development proposal, Developer shall be required to deposit the amount of $2,000,000 with the City as a good faith performance deposit, which deposit shall be governed by a separate deposit/reimbursement agreement or an amendment to this Agreement; and

WHEREAS, the Parties now desire to specify the terms of such deposits and reimbursements, including the terms regarding the various cash deposits previously made or to be made by Developer as provided herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

Section 1. Recitals; Interpretation; Defined Terms; Construction.

The Recitals set forth above are incorporated herein by this reference. All recitals, terms and conditions set forth under the ENA are incorporated herein as though fully set forth herein. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the ENA.

This Agreement shall be liberally constructed to accomplish its intent, and shall be harmonized in so far as possible with the ENA, but in the event of any conflict or inconsistency in the terms of this Agreement and the ENA, the terms of the ENA shall govern.

Section 2. Deposits

2.1 Participation Deposit and ENA Deposit. In connection with the selection of Developer under the RFP process and Selection Process for the development of the Property, Developer has previously paid City, (i) a nonrefundable deposit in the amount of Fifty Thousand Dollars ($50,000) (the "**Participation Deposit**"), and (ii) a nonrefundable deposit in the amount of Two Hundred Thousand Dollars ($200,000) to City (the "**ENA Deposit**"). Within ten (10) business days following the execution of the ENA, Developer shall pay a deposit in the amount of Two Million Dollars ($2,000,000) to City, which shall be refundable to Developer as set forth in, and pursuant to the terms and conditions under, Section 3.3 below (the "**Performance Deposit**", together with the Participation Deposit, and ENA Deposit, collectively, the "**Deposits**"). The Deposits shall be held in a separate deposit account by City or Authority ("**Deposit Account**") as a good faith deposit to cover the costs of Eligible Expenses as such term is defined below.

2.2 Deposits and Payment / Reimbursement of Carry Costs. Upon the Effective Date Developer shall commence paying monthly deposits to reimburse the Authority for one hundred percent (100%) of the amount of the monthly projected Carry Costs for the Property that are incurred by the Authority and shall continue to pay for such Carry Costs until the expiration of the Term (as defined in the ENA) or the termination of the ENA.

The terms and provisions under this Section 2 shall survive the expiration or termination of this Agreement.

Section 3. Eligible Expenses; Deposit Administration

3.1 Eligible Expenses. The Deposits shall be used to pay for the reasonable and actual costs incurred by the City Parties on or after September 7, 2018 (the day following the City Council's direction to the Authority to negotiate and enter into the ENA and this Agreement with Developer, in connection with the following (all of which shall be deemed "**Eligible Expenses**"): (i) City or Authority staff, employee, legal, consultant, or other third party costs in

reviewing, preparing, negotiating, processing, and obtaining approval for the Project, the ENA, this Agreement, and all other agreements related to the Project, (ii) City or Authority staff, employee, legal, consultant, or other third party costs in preparing, negotiating, reviewing and processing the Project and performing its obligations under the ENA, and any and all other actions reasonably taken by the City Parties in connection with the planning and development of the Project, (iii) City or Authority staff, employee, legal, consultant, or other third party costs in preparing, negotiating, reviewing and processing any and all entitlements, and/or permits required for the Project (including, without limitation preparing and/or reviewing plans, studies, permits, conditions, site plans, general plan, specific plan, or zoning entitlements, and any further agreements as may be required by the Project, such as any amendments to the District at South Bay Specific Plan for the 157 Acre Site), (iv) City or Authority staff, employee, legal, consultant, or other third party costs for all CEQA Processing (as defined below), (v) City or Authority staff, employee, legal, consultant, or other third party costs related to litigation against the Project, including defense of any legal or administrative action challenging any entitlements or approvals for the Project, (vi) costs incurred to prepare and review studies, proformas, reports and design services, and agreements related to development of any Project and Project-related infrastructure, (vii) any and all costs incurred by the City or Authority, including City or Authority staff, employee, legal, consultant, or other third party costs in connection with the renegotiation of, and obtainment of, or changing any of the insurance programs with respect to the Property (if required for the Project), including, without limitation, Commercial General Liability, OCIP, OPPI, Builder's Risk, contractor's pollution liability and owner's professional liability coverage, pollution legal liability coverage, comprehensive pollution legal liability coverage, earthquake and related coverages in connection with the foregoing, and (viii) any and all other actions taken by City Parties in connection with carrying out the ENA, this Agreement, or the development of the proposed Project. Reimbursable City Attorney rates will not exceed $350 per hour. Other specialty counsel will be billed at their respective hourly rates.

For purposes of this Agreement, the term "**CEQA Processing**" shall mean: (i) preparing necessary CEQA reports and documents, including traffic engineering, economic impact on the community, any studies or analyses of the financial value of the Project, other environmentally-pertinent analyses, and additional supporting documentation, as necessary and appropriate in accordance with CEQA; (ii) distributing such documentation to responsible agencies and others; (iii) noticing and holding public hearings and considering public comments on such CEQA documents and reports; (iv) considering certification of such CEQA documents and reports and other documentation through a City Council Resolution in accordance with CEQA; and (v) preparing, negotiating, and approving all environmental documents required under CEQA.

3.2 Administration of Deposits. The Deposits and Carry Costs paid by Developer to City Parties may be pooled with other funds of the City or Authority for purposes of investment and safekeeping. Such Deposits and Carry Costs shall not accrue interest. The City or Authority will administer the Deposits and Carry Costs paid by Developer to City Parties and the City Parties may draw upon the Deposits to pay for Eligible Expenses. The City or Authority shall maintain satisfactory accounting records as to the expenditure of the Deposits and Carry Costs at all times.

3.3 Reimbursement of Unexpended Portions of the Performance Deposit; Application of Performance Deposit to Purchase Price. Unexpended portions of the Performance Deposit

shall only be reimbursable to Developer if (each of the following, a "**Deposit Reimbursement Event**") (i) Developer has exercised its Right to Extend (as set forth in Section 2.D.2 of the ENA), has met all conditions and performed all obligations necessary for the Authority staff (and its counsel) to prepare draft Conveyance Agreements for approval by the Authority and the City, and Developer is not otherwise in breach of any terms or obligations under the ENA or this Agreement, but Authority staff fails to recommend in good faith approval of the draft Conveyance Agreements during the Extended Term, (ii) the approving body fails to conduct a public hearing thereon and formally vote to approve or disapprove the Conveyance Agreements and/or Development Agreement, or (iii) the Conveyance Agreements and/or Development Agreement include one or more significant new economic terms not contemplated herein (the "**New Economic Terms**"), but not including (a) any conditions resulting from review agencies other than Authority or City, or (b) any conditions imposed as a part of the EIR mitigation measures imposed on the Project or generally imposed on other development projects in the City (such as law enforcement costs). Notwithstanding the terms above or anything to the contrary set forth herein, City's and Authority's Eligible Expenses shall be deducted from the Performance Deposit, which Eligible Expenses shall be non-refundable to Developer. If a Deposit Reimbursement Event has occurred, however, the City shall not unreasonably or unnecessarily incur any additional Eligible Expenses outside of those expenses reasonably required for the winding-down of Project completion or termination of the ENA.

3.4 Application of Performance Deposit to the Monetary Contributions Required by Developer for the Project Under the ENA. In the event the Conveyance Agreements are approved by the City Parties, all unexpended portions of the Performance Deposit shall be applied to the monetary contributions required to be paid by Developer to Authority under the Conveyancing Agreements, including, without limitation, certain Offsite Improvements, the Remedial Systems, the BPS, the Site Preparation Work, and the Sub-Foundation Systems and Foundation Systems, all as more particularly described in the ENA.

The terms and provisions under this Section 3 shall survive the expiration or termination of this Agreement.

Section 4. Conflicts of Interest.

4.1 No Financial Relationship. Developer acknowledges the requirements of Government Code Sections 1090 *et seq.* (the "**1090 Laws**") and warrants that it has not entered into any financial or transactional relationships or arrangements that would violate the 1090 Laws, nor shall Developer solicit, participate in, or facilitate a violation of the 1090 Laws.

4.2 Developer's Representations and Warranties. Developer represents and warrants that for the twelve (12) month period preceding the Effective Date of this Agreement it has not entered into any arrangement to pay financial consideration to, and has not made any payment to, any City or Authority official, agent or employee that would create a legally cognizable conflict of interest as defined in the Political Reform Act (California Government Code sections 87100 *et seq.*).

4.3 Developer's Acknowledgments. Developer acknowledges and agrees as follows with respect to its proposed Project:

(1) The City Parties have sole discretion to select which of its employees and contractors are assigned to work on the Project; provided, however, that City Parties agree to reasonably cooperate with any good faith request by Developer for changing or assigning particular contractors assigned by City Parties to work on the Project.

(2) The City Parties have sole discretion to direct the work and evaluate the performance of the employees and contractors assigned to work on the Project, and the City Parties retain the right to terminate or replace at any time any such person; provided, however, that City Parties agree to reasonably cooperate with any good faith request by Developer for changing or altering any work tasks or assignments of particular contractors directed by the City Parties to work on the Project.

(3) The City Parties have sole discretion to determine the amount of compensation paid to employees or contractors assigned to work on the Property.

(4) The City Parties, not Developer, shall pay employees and contractors assigned to work on the Project from a City or Authority account.

(5) The Parties acknowledge and agree that the processing of Developer's Project is not contingent on the hiring of any specific contractor.

Section 5. Developer's Rights Concerning Expenses.

The City Parties shall provide Developer with a summary of expenditures made from the Deposits and the Developer's pro-rata share of Carry Costs incurred by the Authority, within ten (10) business days of receipt by either of the City Parties of a written request therefor submitted by Developer; provided that such request shall not be made more than once during any two (2) months during the Term. Together with its delivery of such summary of expenditures, City Parties shall provide Developer with (i) a cost report, including copies of each statement or invoice received from any consultant whose costs are chargeable as Eligible Expenses, and (ii) an accounting of Developer's pro rata share of monthly Carry Costs. If Authority finds that its actual costs for any Carry Costs is different from the amount of Carry Costs previously paid by Developer, if applicable, Authority shall prepare a written accounting showing such different expenses for the Carry Costs, and either (i) Developer shall pay any deficiency to Authority within twenty (20) days of its receipt of a written request for payment together with reasonable supporting documentation, or (ii) any overpayment by Developer shall be applied to Developer's next monthly payment of its pro-rata share of the Authority Carry Costs. The projected Carry Costs for the Property are set forth in Exhibit A, attached hereto.

Section 6. Agreement Not Debt or Liability of City Parties.

It is hereby acknowledged and agreed that this Agreement is not a debt or liability of the City Parties. The City Parties shall not in any event be liable hereunder other than to return the unexpended and uncommitted portions of the Performance Deposit as provided in Section 3 above, and to provide an accounting under Section 5 above. The City Parties shall not be obligated to advance any of their own funds with respect to any documents or for any of the

other purposes listed herein. No official, officer, employee or agent of the City or Authority shall be personally liable hereunder to any extent.

Section 7. Indemnification and Hold Harmless.

All provisions contained in the ENA concerning indemnification shall apply to the actions and work performed by the City and Authority under the terms of this Agreement and survive termination of this Agreement to the extent they survive termination of the ENA; provided, however, the obligations of Developer under this Section shall not apply to any claims, actions, or proceedings arising through the gross negligence or willful misconduct of the City Parties, or their respective members, officers, or employees.

The provisions of this Section 7 shall survive the expiration or termination of this Agreement.

Section 8. Notices.

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

If to Developer: Grapevine Development, LLC
15301 Ventura Blvd Bldg. B, Suite 490
Sherman Oaks, California 91403
Attention: James Acevedo
Email: james@grapevinedevelopment.com

With copies to: DLA Piper LLP
550 South Hope Street, Suite 2400
Los Angeles, California 90071
Attention: Adam Baas
Email: adam.baas@dlapiper.com

Gaines & Stacey LLP
16633 Ventura Blvd, Suite 1220
Encino, CA 91436
Attention: Rebecca Thompson
Email: rthompson@gaineslaw.com

If to the City: City of Carson
701 East Carson Street
Carson, CA 90745
Attn: City Manager
Email: kfarfsing@carson.ca.us

If to the Authority: Carson Reclamation Authority
701 East Carson Street
Carson, CA 90745
Attn: Executive Director
Email: jraymond@carson.ca.us

With a copy to: Sunny K. Soltani, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Ave., Suite 1700
Irvine, CA 92612
Email: ssoltani@awattorneys.com

Each such Notice shall be deemed delivered to the Party to whom it is addressed: (i) if personally served or delivered, upon delivery; (ii) if sent by electronic mail, when received as evidenced by confirmation of receipt; (iii) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, seventy-two (72) hours after such notice is deposited with the United States mail; (iv) if given by overnight courier, with courier charges prepaid, twenty-four (24) hours after delivery to said overnight courier; or (v) if given by any other means, upon delivery at the address specified in this Section.

Section 9. California Law.

This Agreement shall be governed by, construed in accordance with, and interpreted under the laws of the State of California. The venue for any litigation regarding this Agreement shall be Los Angeles County, State of California.

Section 10. Severability.

If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

Section 11. Amendments.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by City Parties and Developer. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void

Section 12. Successors and Assigns.

Developer shall not assign or transfer any of its rights or obligations under this Agreement, except for an assignment to Permitted Assigns as set forth in, and pursuant to the conditions under, the ENA.

Section 13. Attorneys' Fees.

In the event that any Party shall commence any legal action or proceeding to enforce or interpret this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorneys' fees.

Section 14. Ambiguities; Interpretation.

In the event of any asserted ambiguity in, or dispute regarding, the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of interpretation providing for interpretation against the Party who caused the uncertainty to exist or against the drafting Party. This Agreement and the ENA constitute the entire, complete and exclusive expression of the understanding of the Parties with respect to the matters described herein. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties with respect to the terms and provisions contained herein, and none shall be used to interpret this Agreement.

Section 15. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other Parties to this Agreement attached thereto. Delivery of a signed counterpart by fax or email shall constitute good and sufficient delivery.

Section 16. Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City Parties of any work, services by, or money from, Developer

shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

Section 17. Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that: (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and (iv) the entering into of this Agreement does not violate any provision of any other agreement to which said Party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS THEREOF, the Parties hereto have executed this Agreement as of the day and year written alongside their respective signature line below.

Executed on: _____, 2018

DEVELOPER

GRAPEVINE DEVELOPMENT, LLC,
a California limited liability company

_____
James Acevedo
CEO and Managing Partner

Executed on: _____, 2018

CITY PARTIES

CITY OF CARSON,
a California general law municipal corporation

_____
Albert Robles, Mayor

CARSON RECLAMATION AUTHORITY,
a California joint powers authority

_____
Albert Robles, Chair

ATTEST:

_____
_____, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

_____
Sunny Soltani, City Attorney

EXHIBIT A

Carry Costs

(April – August 2018)

April 2018:	$193,404.39
May 2018:	$212,306.16
June 2018:	$188,264.50
July 2018:	$201,430.41
August 2018 (prelim.):	$222,224.44