

EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

(Grapevine Development)

THIS EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (“**Agreement**”) is made this ____ day of _____, 2018, by and between the CARSON RECLAMATION AUTHORITY, a joint powers authority formed under the laws of California (“**Authority**”), and GRAPEVINE DEVELOPMENT, LLC, a California limited liability company (together with its Permitted Assigns (as defined below), “**Developer**”, or collectively with the Authority, the “**parties**”, and each individually, a “**party**”). The City of Carson, a California municipal corporation (“**City**”) has a limited role hereunder and its obligations are limited to those specifically stated herein.

A. The 157-Acre Property. The Authority acquired, and currently owns, approximately 157 gross acres of real property located in the City of Carson, as shown on the Site Map attached hereto as **Exhibit “A”** (the “**Property**”). The Property was acquired by the Authority on May 20, 2015, from Carson Marketplace LLC (“**CM**”). CM acquired the Property in 2005 and entitled it and developed an environmental cleanup program. The Property is divided into five (5) Cells as shown on **Exhibit “A”** attached hereto and incorporated herein by this reference and each of which must be wholly developed in a single phase. The Property has been vertically subdivided into a surface lot (the “**Surface Lot**”) and a subsurface lot (the “**Subsurface Lot**”), which lots are referenced as Parcel 1 (Subsurface Lot) and Parcel 2 (Surface Lot) of Parcel Map No. 70372. The Property is subject to The District at South Bay Specific Plan, originally approved on February 8, 2006, and amended on April 5, 2011 and on April 3, 2018 (as so amended, the “**Specific Plan**”). An environmental review process was previously undertaken pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “**CEQA**”) for the Property in connection with the approval of the Specific Plan (the “**Prior CEQA Review**”), which culminated in a Final Environmental Impact Report, dated February 8, 2006, an Addendum to the Final Environmental Impact Report dated March 2009, and a Supplemental Environmental Impact Report dated April 3, 2018 (collectively, the “**EIR**”). The Property is a former landfill site, and on October 25, 1995, the California Department of Toxic Substances Control (“**DTSC**”) approved a Remedial Action Plan (“**RAP**”) for portions of the Property, which RAP 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**”). In addition, the development of the Property is subject to the terms and conditions set forth in that certain document entitled Management Approach to Phased Occupancy (File No. 01215078.02), approved by DTSC in April 2018 (the “**MAPO**”) and that certain letter regarding phased development matters, issued by DTSC to the CRA, dated October 17, 2017 (the “**Phased Development Letter**”)

B. Reclamation Authority Acquisition. City determined that there were a number of former landfill and other sites with the need for remediation in the City, including the Property, and that a substantial need existed to establish an entity to perform such remediation and which could operate ongoing remediation systems, without putting City’s general fund and taxpayer dollars at risk for such cleanup expense. Accordingly City established a joint powers authority under the provisions of the California Joint Powers Act (Govt. Code Sections 6500 et seq.), and on January 20, 2015, the governing boards of the Housing Authority and of the Community Facilities Districts each approved an agreement for the formation of the Authority for the purpose of overseeing and facilitating the remediation of contaminated properties in the City, and for the maintenance and potential development of same, and said Authority was formed on February 17,

2015, and officers were elected on April 20, 2015. Among the powers of Authority are to purchase, hold, sell, and improve real property, to appoint officers and employees, to enter contracts, to purchase insurance, to sue and be sued, and to construct, operate, and maintain remediation systems to alleviate soil contamination.

C. Area Underutilized. The Property is the largest tract of undeveloped Property in the City, and represents significant potential for public benefit through appropriate development, including the economic opportunity to finally remediate the environmental contamination conditions that have afflicted the Property. However, the land has negative value due to the cost of the Remediation Systems and the high infrastructure development costs associated with building on a landfill. As a result, the Property is currently underutilized, falling substantially short of its revenue-generating and job-generating potential. The Authority therefore seeks to enable the Property to be used for commercial uses, providing further economic and employment opportunities within the City, while maintaining high standards of development and environmental protection. The Authority seeks to utilize the Property in a manner that will maximize public benefits and welfare.

D. Development Plans for the Property. The Authority has been working with various developers over the last several years for the redevelopment of the entire 157-acre Property and a number of development projects have been previously proposed on the Property, including the Boulevards mixed-use regional retail and entertainment project and a NFL Stadium. While these projects have not proceeded, on September 6, 2018, the Authority entered into a Conveyancing Agreement with CAM-CARSON LLC (“CAM”), a regional fashion outlet developer for the disposition and development of a high-end fashion outlet center on Cell 2 of the Property (“**Cell 2 Project**”). 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. Developer and other potential developers responded to such RFP with proposals for the development of portions of the Property. Developer has been selected as a result of the RFP process to enter into exclusive negotiations with the Authority for the development of Cell 1, subject to the terms and conditions of this Agreement. Developer has also been selected for consideration of the development of other Remainder Cells as described in Recital F, and the Authority warrants and represents that as of the Effective Date, such selection for consideration does not conflict with any existing development agreements or other commitments with third parties for the development of Cells 1, 3, 4, or 5. Developer understands, however, that the Authority has entered into a letter agreement with CAM regarding their right of first negotiation with the Authority for a potential project on (i) Cell 1 in the event this ENA is terminated or otherwise expires pursuant to the terms and conditions herein, and (ii) one or more of the Remainder Cells (as defined below) in the event Authority does not enter into an exclusive negotiation agreement with Developer for any Remainder Cells.

E. The Developer’s Project. Developer has proposed to build a new commercial development on Cell 1, and the Authority is negotiating with Developer for the conveyance to Developer of the Surface Lot of Cell 1, which encompasses approximately 15 gross acres (the “**Project Surface Lot**”). Developer’s proposed project would consist of a mix of one or more hotels, an entertainment / sports venue, and/or retail / restaurant uses (herein the “**Project**”). The Project Surface Lot is located directly southwest of the 405 freeway, and is uniquely positioned to attract retail, hospitality service, and commercial business from Orange County, Long Beach, and Los Angeles. This creates a prime location for development of the Project. Separately, the

Developer has proposed various other development concepts for Cells 3, 4, and 5 (the “**Remainder Cells**”) and the Authority is considering such development proposal from Developer.

F. Other Development. It is the intent of the Authority to harmonize the development and coordinate the phasing of and integration of the development on the Property on each of the Cells, including the Cell 2 Project and any other projects approved by the Authority on the Remainder Cells (the “**Cooperation Obligations**”). CAM and any other developers that are selected by the Authority for the development of the Remainder Cells (if any), are collectively referred to as the “**Remainder Developers**” or “**Remainder Development**” herein. The Cooperation Obligations are set forth in the CAM project documents (the “**Cell 2 Project Documents**”, which include, without limitation, a development agreement, conveyance agreement, a tax sharing agreement, and related documents among Authority, City, and CAM). Notwithstanding the foregoing, as described more fully in Section 2.E below, Developer shall be given the right to develop a project plan for Cells 3, 4, and/or 5 during the Initial Term (as defined below) as described in Section 2.E. below.

G. Negotiations with Goal of Reaching a Conveyance Agreements. The Authority and Developer desire, for the period set forth herein, to negotiate in good faith to enter into a purchase agreement for the conveyance of ownership of, or ground lease for, the Project Surface Lot to Developer, and setting forth the terms and conditions of the Project’s development and operation in accordance with this Agreement (the “**Conveyance Agreements**” which term shall include and refer to all documents related to undertaking the transaction, including a Development Agreement (as defined below)). It is also anticipated that, concurrently with negotiating a Conveyance Agreements, the parties and the City will negotiate an arrangement by which Developer will be refunded a share of the annual sales tax revenues generated by the Project (“**Tax Sharing**”) to the extent necessary to produce an economic return for the Project as more particularly described in Section 2.D.1(d) below.

NOW, THEREFORE, and in consideration of the mutual covenants contained herein and incorporating the Recitals above which are deemed to be true and correct, and with the Exhibits are incorporated herein by reference, the parties mutually agree to the following:

SECTION 1. TERM; DEPOSITS AND PAYMENTS.

A. Initial Term. The initial term of this Agreement shall commence on the date approved by the Authority (the “**Effective Date**”), and shall terminate on one hundred and twenty (120) days thereafter (the “**Initial Term**”). During the Initial Term, Developer (i) will conduct its due diligence with respect to the Property and the Project as described herein, (ii) develop with Authority additional business terms of the transaction, (iii) develop a preliminary project financial proforma justifying the transaction, (iv) determine what changes are required to the Specific Plan and EIR, if any, (v) develop an initial Project schedule in cooperation with the Authority, and (vi) produce a preliminary Project site plan and sample elevations. These tasks are further described in Section 2.D.1 hereof.

B. Extended Term. At the conclusion of the Initial Term and upon Authority’s approval of (x) completion of the tasks set forth above and in Section 2.D.1 below, and (y) Developer’s compliance with all Preconditions (as defined below), the term of this Agreement shall be extended upon Developer’s exercise of its Right to Extend (as defined below) for a period of

nine (9) months for the following purposes: (i) to obtain from the City any required additional entitlements for the Project or modifications to the Specific Plan, any required additional CEQA processing or modifications to the EIR, and negotiate and enter into a development agreement for the development of the Project (“**Development Agreement**”), and (ii) to negotiate with the Authority the Conveyance Agreements, Tax Sharing terms and other necessary agreements for the transfer and development of the Project Surface Lot to Developer (the “**Extended Term**”, or, together with the Initial Term, the “**Term**”).

C. **Extensions.** The parties acknowledge that the number of days in the Initial Term and Extended Term represents their current estimate of the time required for the activities set forth above, but if notwithstanding their diligent efforts such period proves inadequate for such activities, the Authority may extend the Term for one or more cumulative periods of up to one hundred eighty (180) days, in his/her reasonable discretion. The Authority agrees to reasonably cooperate with any good faith request by Developer to extend the Extended Term in the event and Developer needs additional time to process any required CEQA or entitlement approvals so long as Developer has proceeded diligently and expeditiously in processing such approvals during the Extended Term.

D. **Developer Deposits, Payments, Reimbursements, and Contributions.**

1. **Description of Deposits.** In connection with the selection of Developer under the RFP process for the development of the Project Surface Lot, 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 this Agreement, Developer shall pay a deposit in the amount of Two Million Dollars (\$2,000,000) to City, which shall be refundable to Developer pursuant to the terms and conditions set forth in Section 1.D.5 below and the terms and conditions under Reimbursement Agreement (the “**Performance Deposit**”, together with the Participation Deposit, and ENA Deposit, collectively, the “**Deposits**”).

2. **Payment of Carry Cost.** Upon execution of this Agreement, Developer shall commence paying or reimbursing Authority for one hundred percent (100%) of the carrying costs for the Project Surface Lot in connection with, among other things, maintaining and operating the Remedial Systems installed on the Property (the “**Carry Costs**”) (approximately \$22,500 per month for Cell 1).

3. **Remainder Cell Deposit.** In the event Developer is selected to develop any of the Remainder Cells, Developer shall pay an additional Two Million Dollars (\$2,000,000) to the Authority (the “**Remainder Cell Deposit**”). See Section 2.E. below.

4. **Reimbursement Agreement.** All deposits, payments, and reimbursements of City and Authority costs and contributions and advances to be made by Developer, including, without limitation, the Participation Deposit, ENA Deposit, Performance Deposit, and the Remainder Cell Deposit, are set forth in detail in a reimbursement agreement among the Authority, City and Developer (the “**Reimbursement Agreement**”) and are governed by the terms thereof, except that the terms regarding the Remainder Cell Deposit shall be specified pursuant to an amendment to the Reimbursement Agreement or under an amended and restated reimbursement agreement or separate reimbursement agreement, as agreed to by the parties.

5. **Performance Deposit.** 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 below), 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 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, as more particularly set forth under the Reimbursement Agreement, City’s and Authority’s costs and expenses incurred in connection with the negotiation and performance of this Agreement (including any and all third party costs and expenses incurred by City or Authority), preparing any additional agreements relating to the Project (including, without limitation, the Reimbursement Agreement), processing any required permits or entitlements for the Project, and/or processing any environmental review documents required under CEQA for the Project, or any amendments, supplements, or addenda to the EIR, shall be deducted from the Performance Deposit, which shall be non-refundable to Developer. Such costs and expenses shall include (as may be further specified in the Reimbursement Agreement), but not be limited to, staff costs, fees and expenses of legal counsel, environmental, soils, geotechnical, traffic, landscaping, petroleum engineer, financial and economic consultants and reports, in each case engaged by Authority or City for services directly related to the Project.

6. **Performance Deposit Reimbursement Event.** If a Deposit Reimbursement Event has occurred, the City shall not unreasonably or unnecessarily incur any additional Eligible Expenses (as defined in the Reimbursement Agreement) outside of those expenses reasonably required for the winding-down of Project completion or termination of this Agreement.

SECTION 2. NATURE OF NEGOTIATIONS.

A. **Good Faith.** During the Term of this Agreement, the parties agree to negotiate diligently and in good faith for any required additional entitlements and any required additional CEQA processing, a Development Agreement, Conveyance Agreements, Tax Sharing terms and other necessary agreements in order to allow for the development of the Project on the Project Surface Lot, all of which shall be subject to the rules, regulations, standards, and criteria set forth in the City’s General Plan, the Specific Plan, and the City’s zoning and land use regulations (which may require amendment or other modification to accommodate Developer’s proposed uses). Neither party is obligated in any way to enter a Conveyance Agreements nor is City or Authority obligated to approve the Project or any Tax Sharing arrangement. This Agreement is a limited commitment to exclusively negotiate in accordance with the terms set forth herein. During the Term, Authority will not negotiate any similar agreements with any other third party regarding the development of the Project Surface Lot except as Developer may otherwise approve in writing, but Authority may negotiate modifications and amendments to the Cell 2 Project and the development of the Cell 2 surface lot, provided that such negotiations and modifications to the Cell 2 Project do

not impact Developer's efforts to develop Cell 1 and, if Developer receives approval for the Remainder Cell Plan, Cells 3, 4, or 5. During the Term, Developer shall not negotiate to establish another hotel and/or sports/entertainment venue similar to the Project at any other location within ten (10) miles of the Property.

B. Developer Due Diligence. Authority represents that it owns the entire Property, but makes no representation concerning Developer's ability to perform the Project or of the viability of the Project Surface Lot for the Project. In fact, Developer is aware that (i) the entire Property is subject to the RAP, (ii) Tetra Tech developed a Remediation Plan costing over \$100,000,000, which is now being carried out by TRC Solutions, Inc., and (iii) Authority has agreed to provide Developer with open access to the Project Surface Lot and Cells 3, 4, and 5 and its records pertaining to the Property in order to facilitate Developer's due diligence investigations. Accordingly, Developer has been given the opportunity and has completed its preliminary due diligence investigation and will undertake the necessary follow up during the Initial Term, at its sole cost and expense, to assure itself of the suitability of the Project Surface Lot for development and viability of the Project. During the Term, Authority shall permit Developer and its employees, agents, representatives and contractors reasonable access to the Project Surface Lot to conduct additional environmental evaluations, engineering studies, surveys, geological work and other studies as reasonably desired by Developer for development purposes as set forth in, and subject to the terms of, Section 3.A. below. Authority has been and shall continue to provide Developer with reasonable and timely access to information concerning the design, build, and cost of the Remedial Systems. In addition, throughout the Term of this Agreement, the Authority shall reasonably endeavor, and shall cause its consultants, to make available to Developer for Developer's review, the following items to the extent in the Authority or such consultants' possession or control:

- a. Any site plans and approved or proposed maps for the development of any portion of the Property, including the Cell 2 Project Documents;
- b. All applications and other submissions and documents relating to the Property entitlements, including all notices to or from and communications with the City, other governmental agencies or third parties relating to the entitlements;
- c. All reports concerning the soils and geologic condition of the Property, including any documents regarding existing or expected subsidence at the Property;
- d. All existing environmental reports, RAPs, and other reports regarding the Remedial Systems;
- e. All permits, approvals and inspection reports relating to the Property; and
- f. All plans and specifications for the Off-site Improvements on the Property (including all grading and drainage plans, water/sewage plans, street plans and dry utility plans).

Except for attorney-client privileged material and information, the Authority grants Developer the full and unlimited right to discuss the entitlements and the Property with all of the Authority's retained consultants, firms, or agencies.

C. **City's Role Under Agreement.** City has no real property interest in the Property which is wholly owned by Authority. However, City possesses the legal authority to regulate the zoning of the Property, to approve and modify the general plan designation and specific plans, to approve development agreements, all pursuant to state law, to undertake environmental review and approve mitigation programs and development applications for specific projects (the “**Entitlement Obligations**”). In addition to its regulatory authority, City provides public infrastructure and services to the Property, including streets, sidewalks, parkways, sewer, water, drainage, lighting, and other utilities, and must assure accessibility to the Property (“**Infrastructure Obligations**”). City wishes to contract with Authority to perform City's Infrastructure Obligations to avoid any City liability for the remediation of the Property, which was a purpose for creation of Authority. Finally, City will derive certain sales tax revenues from the development of the Project. The Authority's resources are insufficient to pay for certain Offsite Improvements and certain Site Preparation Work, among other things, in order to allow Developer to undertake the Project. City is prepared to pledge to Authority certain funds City would receive after development of the Project Surface Lot, in exchange for Authority undertaking City's Infrastructure Obligations.

Based on the foregoing, City's obligations under this Agreement are limited to the following:

1. **Entitlement Obligations.** During the Extended Term, City will perform the Entitlement Obligations stated in Section 2.C., subject to the provisions of Section 5. To perform the Entitlement Obligations, City shall be reimbursed its expenses by Developer pursuant to the Reimbursement Agreement.

2. **Infrastructure Obligations.** The City's Infrastructure Obligations will be contracted to Authority as set forth in Section 2.C., above.

3. **Financial Obligations.** During the Extended Term, in exchange for Authority undertaking the Infrastructure Obligations, the Authority and City will negotiate a Tax Sharing agreement obligating City to pay Authority based on a formula not exceeding 50% of sales taxes arising from the sales generated by the Project (and/or transient occupancy taxes) received by City for a term not exceeding 25 years from the opening of the Project, and sufficient to meet Authority's obligations.

The Conveyance Agreements shall provide that Developer must (i) develop the Project consistent with all applicable laws, ordinances, regulations, zoning regulations, the General Plan and the Specific Plan, as the same may be varied or amended by the City to accommodate Developer's Project, and (ii) obtain design development review and approval from the City's Planning Commission and City Council.

As noted above, development of the Project requires agreements and efforts by both City and Authority. To the extent within its ability, given that it is a separate agency, and subject to Section 5, City shall facilitate, and shall not impede, Authority's performance of its obligations as described herein.

D. **Phases of Negotiation.** During the Initial Term, the Authority and Developer's obligations are to use their good faith efforts to reach conceptual agreement on the business terms of the transaction. These Phases of Negotiation are described as follows:

1. **Initial Term.** Prior to the expiration of the Initial Term, Developer shall have obtained approval from Authority for:

(a) ***Site Plan and Identification of Uses.*** A “**Site Plan**” specifying the conceptual framework to guide the overall development of the Project and showing location of significant uses. The general nature of the uses shall be identified with users’ requirements. In addition, Developer shall prepare the preliminary design plan for the Project, including design themes, as reasonably required by Authority and City, sufficient, to the extent feasible and practicable, to allow evaluation of the architectural design and site layout. In addition, Developer shall prepare the preliminary design plan of the Project including building elevations and design themes, as reasonably required by Authority and City, sufficient to the extent feasible and practicable to allow evaluation of sign configuration, architectural design and similar issues. Developer shall also order and review a preliminary title report.

(b) ***Conveyance Agreements General Terms.*** The general terms and conditions of the Conveyance Agreements, which shall include the following: (i) a specific schedule for development of the Project; (ii) standard use restrictions consistent with the operation of a hotel and sports/entertainment venue; (iii) rights and limitations of Developer to assign or transfer its obligations prior to completion of the Project; (iv) provisions ensuring that the Authority retains responsibility for installing and operating the Remedial System; (v) provisions for clearing title; (vi) the agreement by Developer to proceed diligently in good faith to perform its obligations and to reimburse Authority for certain of its out of pocket third-party costs of negotiating the transaction; (vii) Developer’s responsibility to indemnify Authority and City from certain claims against the Project; and (viii) other provisions as identified herein.

(c) ***Project Proforma.*** A Project proforma (“**Project Proforma**”) which sets forth the following:

(i) due to remediation issues and development costs there will be no “purchase price” but the consideration will be Developer’s performance with its obligations hereunder and under the Conveyance Agreements (see Section 2.D.3(f));

(ii) the estimated costs and expenses required for the Offsite Improvements, the BPS, the Site Preparation Work, the Sub-Foundation Systems, and Foundation Systems all as set forth in Sections 2.D.3(c) and (d);

(iii) the estimated costs of developing, constructing, and financing of all Project vertical improvements (“**Vertical Improvements**”) (all of which Developer shall have sole responsibility for constructing and paying for);

(iv) the expected income, valuation, and expected rates of return for the Project, including (a) computation of net operating income (“**NOI**”) with rental revenue, other revenue, and vacancy allowance to derive gross income total operating expense (with itemizing property taxes, management fees, and other expenses), and (b) computation of return on cost by component (with estimated cap rates);

(v) sources of equity and construction and permanent loan financing (together with evidence of commitments from such financing sources);

(vi) a twenty five (25) year summary operating projection showing projected gross, effective gross, NOI, and a consolidated cash flow showing all Project components;

(vii) a preliminary financial analysis demonstrating the costs and benefits to the City regarding all construction, maintenance and operations of all proposed public improvements, including the economic return to Authority and the City for at least a twenty five (25) year period after completion of the Project, including all taxes and fees, and other economic returns to the City as well as jobs and general community benefits;

(viii) the expected assessment and/or apportionment of costs, and responsibility for construction, of necessary public improvements, including an estimate of any and all City fees for processing any necessary additional entitlements for the Project;

(ix) the estimated costs of any proposed offsite public improvements as allocated between Authority and/or Developer;

(x) the projected need for any public assistance in the form of a Tax Sharing arrangement (as described below) in order to make the Project financially feasible; and

(xi) any other information reasonably deemed necessary by Authority's financial consultant.

(d) ***Terms Regarding Tax Sharing.*** The terms of a Tax Sharing / Tax Assistance arrangement whereby Developer would receive rebates/refunds of local sales taxes produced by the Project and payable by Developer and its tenants to the City. Such Tax Sharing will be negotiated for the purpose of facilitating Developer's development and operation of the Project on the Project Surface Lot. For purposes of Tax Sharing, the rebate of local sales tax payable to Developer shall be a negotiated percentage to a capped limit of 50% of each dollar paid by Developer and its tenants upon taxable sales and uses attributable to the construction and operation of the Project and allocated and actually paid to, and received by, the City under the Uniform Local Sales and Use Tax Law (Part 1.5, Division 2 of the California Revenue and Taxation Code). Negotiated terms of Tax Sharing shall include, for a term, without limitation (i) a requirement setting the City as the situs for all Project retail sales, (ii) mechanisms for maximizing the taxable retail sales attributable to the Project, such as a minimum scope of operations and/or progress schedule of shared tax percentages to reflect actual Project performance, (iii) means for the Authority to review and audit records pertaining to Project retail performance and tax calculations, and (iv) provisions of indemnity and/or defense with respect to any third-party challenge to the Tax Sharing arrangement. The City-provided Tax Sharing Revenue may be as much as 50% of the Project sales taxes (or transient occupancy taxes) generated by the Project (up to a 25-year cap), as described below. The Tax Sharing arrangement may be encompassed within the terms of the Conveyance Agreements, or may be memorialized as a separate agreement. The agreement would be an agreement between the Developer and Authority, but the Authority and City shall enter into a separate agreement (a cooperation agreement) which would be enforceable by Developer in the event Authority fails to enforce its terms. The terms regarding Tax Sharing are further described in Section 2.D.3 below.

(e) ***Partners.*** In addition to the information publicly available regarding Developer and its personnel, Developer shall provide adequate disclosure of Developer's joint

venturers, if any, who are participants or principals of the Project, and other reasonable and relevant information requested by Authority, concerning the above. To the extent Developer is an entity established solely to undertake the Project, its financial obligations hereunder (which are not otherwise supported by deposits or other security) shall be guaranteed by an appropriately creditworthy affiliate of Developer. Developer is encouraged to identify financially capable and experienced partners knowledgeable concerning the Property, particularly for any proposal on the Remainder Cells.

(f) **Tenants.** Developer shall diligently contact potential tenants for the Project and shall keep Authority updated on all contacts and letters of intent or commitment from prospective tenants.

(g) **Schedule.** During Initial Term, Developer shall work in the following phases: (i) in the first 60 days, Developer shall work to develop and submit a preliminary Site Plan and description of uses, a preliminary proforma together with a projection of tax revenues generated by the Project, a preliminary description of necessary changes to the Specific Plan and the EIR, an identification of its proposed partners and sources of financing, and any proposed changes to the Major Deal Terms; (ii) in the subsequent 30 days, Developer and Authority staff shall meet, review and revise the preliminary Site Plan and preliminary proforma, proposed changes to the Specific Plan and EIR, and the Major Deal Terms; and (iii) in the last 30 days, Developer shall present the final Site Plan and description of uses along with the detailed Project Proforma, and the parties will finalize the Major Deal Terms.

2. **Conditions for Extended Term.** In the event Developer has obtained approvals from the Authority set forth in Section 2.D.1. above (the “**Preconditions**”) prior to the expiration of the Initial Term, Developer shall have the right to extend the Term for the Extended Term on the terms described herein (which shall include the allowance to re-negotiate the terms set forth below, but which re-negotiated terms shall be subject to approval from the Authority in its sole discretion), or terminate the Agreement, but the Deposits and all Carry Costs paid by Developer shall be forfeited if Developer does not proceed. In the event Developer exercises the right to extend the Term (the “**Right to Extend**”), any and all costs and expenses of the Authority incurred in connection with processing Developer’s Project during the Extended Term (including environmental review processing costs) shall be deducted from the Deposits, and all such costs and expenses shall be nonrefundable to Developer all as set forth in the Reimbursement Agreement.

(a) **Right to Extend.** At the end of the Initial Term, based on Developer’s due diligence, and provided all Preconditions have been approved in writing by Authority, Developer shall have the right in writing to (i) extend the Term for the Extended Term, causing Authority to negotiate the Conveyance Agreements consistent with the Major Deal Terms, subject to the conditions that (i) Developer’s Project Proforma justifies the public assistance offered by the Major Deal Terms, and (ii) the Project is subject to public hearing and the conditions set forth in Section 5 herein. The “**Project Deal Terms**” are outlined in Section 2.D.3 below. Attached hereto as **Exhibit “B”** is the “**Summary of Major Additional Deal Terms**,” incorporated herein by this reference. Collectively, these constitute the “**Major Deal Terms**.”

3. **Project Deal Terms.** The Project Deal Terms include the following:

(a) ***Developer Generally Responsible for Project Costs.*** Other than Authority responsibilities explicitly set forth in this Agreement, Developer is responsible for costs of development of the Project on the Project Surface Lot.

(b) ***Entitlement Costs.*** In the event the Project requires modifications or amendments to the EIR and/or Specific Plan or any other land use entitlements, Developer shall use reasonable good faith efforts to submit applications for the additional and modified land use entitlements for the Project (“**Entitlements**”). The Authority’s third party out of pocket costs for entitlement work related solely to the Project Surface Lot (the “**Entitlement Costs**”) will be paid by withdrawals from the Deposits Developer has or shall deposit with City as set forth in the Reimbursement Agreement. The Entitlement Costs shall be deducted from the Performance Deposit, as provided in the Reimbursement Agreement and shall be nonrefundable to Developer.

(c) ***Offsite Improvements.*** The EIR for the Specific Plan requires that certain water and sewer, drainage, power, gas, cable, telephone, fiber and other utility, roadway and other off-site physical improvements be made as a condition to development of the Property (“**Offsite Improvements**”). Such are more specifically described in the “**Description of Infrastructure Improvements**” attached hereto as **Exhibit “C.”** Authority will contract with the City to construct the Offsite Improvements as well as acquire any necessary rights of way and easements. The Offsite Improvements shall be constructed by Authority at the expense of Developer (which expense shall only include the portion of such Offsite Improvements necessary to serve the Project) (the “**Infrastructure Cost Advance**”), which includes, without limitation, the installation of all wet and dry utility stubs from the public street to the edge of the Project Surface Lot and underground utility runs/lines (“**Utility Work**”). The Infrastructure Cost Advance shall be paid by Developer to Authority upon the execution and approval of the Conveyance Agreements, and, shall be subject to Tax Assistance by City. Developer shall also pay typical development impact fees and related expenses (unless the City or Authority agree to defer and/or waive such fees and expenses in Authority’s and City’s sole discretion).

(d) ***Site Pre-Development Work.*** Generally, Authority shall be responsible for construction, operation, and maintenance of the Remedial Systems, while the Developer shall be responsible for the construction, operation and maintenance of the Project. In terms of ownership, the division of ownership shall be separated at the structural foundation slab with the Authority having ownership over the sub-foundation improvements below the structural foundation slab. In addition to the Remedial Systems and Project, there are additional components that must be built, including the pilings, piling caps and structural slab systems that contact the site’s soils and are necessary to support the Project. The parties have conceptually agreed that the allocation of responsibility for constructing, maintaining, and funding these other improvements, as shown in the Graphic of Foundation and Remedial Systems attached as **Exhibit “D”** and in the Responsibility Matrix attached hereto as **Exhibit “F”** and shall be as follows:

(i) **Remedial Systems:** The Remedial Systems shall be owned, constructed, operated and maintained by Authority and shall include the Groundwater Collection and Treatment System, the Landfill Gas Collection System, and Landfill Cap. Capital expenses for the Remedial Systems shall be funded from the Cell 1 portion of Authority’s funds. Maintenance expenses will be paid through the CFD described in Section 2.D.4(a)(v) of this Agreement.

(ii) BPS: The building protection systems (“**BPS**”) includes below-ground and above-ground improvements, such as venting systems and gas monitoring systems (which shall include the required cost of any necessary methane monitoring and venting equipment within buildings). Authority shall construct and install the BPS and shall retain ownership over the BPS and associated improvements, however, Developer shall be responsible for the maintenance and funding for the BPS. The Conveyance Agreements shall grant to Authority the right and responsibility to access and maintain the such improvements at Developer’s expense. Developer will advance the funding for Authority’s costs of constructing and installing the BPS as a part of the Contamination Development Cost per Section 2.D.3(e) below. The parties shall reasonably cooperate to minimize the cost of the BPS. The design and construction of the above-slab BPS improvements must be coordinated with the core and shell construction of the relevant portions of the Project. The Conveyance Agreements may require that Developer shall be responsible for providing, at its cost, electrical and communications lines to components of the BPS system to be located on the roof of the Project structures.

(iii) Site Preparation Work: The “**Site Preparation Work**” shall include (i) site grading up to sub-grade elevation for building slabs, parking lots, roads, lighting, signs, etc., including the import and export of any soils as needed and any and all necessary relocation and mitigation of the existing trash layers so as to accommodate the necessary soil barrier between the proposed foundation system and the trash that is to remain in place, as well as redistributing contaminated fill materials and grading of the Project Surface Lot, pursuant to the preparation and mutual approval by Authority, Developer, and Remainder Developer(s), of a Site-Wide Grading Plan for the entire Property, and (ii) work required to engineer, design, install and maintain all Storm Water Pollution Control Measures required under the applicable Urban Storm Water Mitigation Plan and other applicable regulations (the “**Stormwater Work**”). Authority shall perform the Site Preparation Work and pay all costs therefor.

(iv) Sub-Foundation Systems: The “**Sub-Foundation Systems**” include the piles, the pile caps, grade beams, utility shelves, pits, vaults, retaining walls, vapor barrier system, under-slab utilities, landfill cap membrane tie-in (pile boots), pile systems for other site improvements such as fire hydrants and parking lot lighting. Authority will construct and maintain such improvements. These costs are among those identified as the Contamination Development Cost below. Developer will advance the funding for the construction and maintenance of such improvements as a part of the Contamination Development Cost per Section 2.D.3(e) below.

(v) Foundation Systems: The “**Foundation Systems**” include the structure slab for the buildings and any foundation elements within the Project Surface Lot not included in the Sub Foundation Systems. The Foundation Systems support the Vertical Improvements also within the Project Surface Lot. The Foundation Systems includes the structural slab (not including the Sub Foundation Systems constructed by Authority but funded by Developer) are to be constructed by Authority and funded by Developer. These costs are among those identified as the Contamination Development Cost below.

(e) ***Contamination Development Cost.*** As set forth above, there are certain costs caused by the contamination conditions of the Property (the “**Contamination Development Costs**”) in order to allow for vertical development of the Project Surface Lot, which Developer is required to advance to the Authority: (i) the BPS, (ii) the Sub-Foundation Systems,

(iii) the Foundation System, and (iv) Developer's pro rata share of insurance costs for Cell 1 as part of the Insurance Program described in **Exhibit "E"**. Such Contamination Development Costs are development costs that shall be advanced by Developer to Authority upon the Authority's commencement of any construction/installation work for the BPS, Sub-Foundation Systems, and/or Foundation System (i.e., prior to the conveyance of the Project Surface Lot to Developer under the Conveyance Agreements) (the "**CDC Commencement Date**"), which shall be repaid to Developer through Tax Assistance as set forth in Section 2.D.3(g) below, to the extent of the Project Feasibility Gap. The Conveyance Agreements shall require Developer to advance to Authority, on the CDC Commencement Date, an initial deposit for the payment of Contamination Development Costs, which the Authority shall draw upon until such deposit has been exhausted at which time, Developer may be required to deposit an additional amount for the payment of Contamination Development Costs (which true-up requirement shall continue until all the work has been completed by Authority). Developer understands this aforementioned advance will be in the millions of dollars. The Authority shall prepare a final total actual Contamination Development Cost showing all such costs incurred by Authority and funded by Developer to develop the Project (the "**Actual Contamination Development Cost**") upon the conclusion of the construction and opening of the Project, to be updated, if any as necessary, at the time of determination of the actual Project Feasibility Gap (as defined below). The parties shall have the right to audit the Actual Contamination Development Cost through an independent third party review by a "Big 4" accounting firm mutually agreed upon by the parties.

(f) **Feasibility Gap.** Developer has determined that there may be a Project Feasibility Gap in the Project, as defined in Section 2.D.3(h) below. Authority will be performing certain remediation and pre-development work as described in Sections 2.D.3(d) and (e) above. To offset the Contamination Development Costs, in order to make development of the Project feasible, the parties contemplate a tax assistance ("**Tax Assistance**") package based on 50% of the City's 1% share based on the point of sale of the sales taxes paid to City from sales from the Project and, if necessary, up to the same percentage of City's transient occupancy tax revenue from the Project. The need for the Tax Assistance is based upon the fact that a developer would not proceed with the Project without a reasonable assurance that it can achieve a reasonable rate of return on its costs to build the Project (i.e., net operating income from the Project on its total cost of developing the Project, in the first stabilized decade or so of operation of the Project) (the "**Required Return**"). Failure to achieve the Required Return for the Project would produce a Project Feasibility Gap as defined below in Section 2.D.3(h). Based on Developer's current projections of Project costs and anticipated net operating income from the Project, Developer has determined that it can achieve the Required Return only if Authority pays the Actual Contamination Development Cost per Section 2.D.3(e), provides the Offsite Improvements per Section 2.D.3(c), and constructs the Remedial System at its expense per Section 2.D.3(d), all as set forth herein. However, Authority does not currently have funds to pay the Actual Contamination Development Cost or Offsite Improvements. Therefore the Conveyance Agreements shall provide that Developer shall advance to Authority funds necessary to pay the Actual Contamination Development Cost and to pay the costs of installing and constructing the Offsite Improvements. The total of the Actual Contamination Development Cost will be advanced by Developer to Authority as set forth in Section 2.D.3(f) and treated as a loan, repayable from Project taxes as set forth herein.

(g) **Developer Recovery of Advances to Authority for Contamination Development Cost.** The "**Total Recovery Amount**" would be repaid on the following terms (the "**Recovery Terms**"): (i) interest rate shall be five percent (5%) per annum compounded monthly

accruing from the date of each advance by Developer of Contamination Development Costs; (ii) Developer to be paid 50% of all of the City's share of sales taxes accruing from the Project, beginning with the first dollar of such sales taxes (and if sales taxes are insufficient, then the same share of transient occupancy taxes accruing from the Project on the same terms and limits) received by the City until the Total Recovery Amount and all interest accrued thereon is paid in full; (iii) term ("**Loan Term**") not to exceed 25 years from the date of Developer's first receipt of tax reimbursements from the Project; (iv) any balance which could not be paid from such tax rebates by the end of the Loan Term would be forgiven; (v) the portion of Total Recovery Amount comprised of the Actual Contamination Development Cost cannot exceed the Project Feasibility Gap as described below in Section 2.D.3(h); (vi) such sales tax receipts (and then TOT receipts) shall be deemed applied first to accrued interest on, and then principal of, the Actual Contamination Development Cost, (vii) no prepayment penalty, and (viii) the repayment obligation shall terminate and all sums then outstanding shall be forgiven if the right to receive the Total Recovery Amount is transferred to an entity other than the transferee of the Project (which may include any lender secured by the Project), or if the Project ceases operations for more than ninety (90) consecutive days, not including periods of non-operation caused by the City or Authority, arising from the environmental condition of the Cell 1 Site.

(h) **Project Feasibility Gap.** The parties acknowledge that the payoff of the Total Recovery Amount shall be made through sales taxes generated by the Project, which have been projected based on reasonable good faith estimates, but the Project may exceed expectations if either (i) the overall cost of the Project is less than estimated, or (ii) taxes generated exceed projections and thus cause the Total Recovery Amount to be paid off prior to the Loan Term. Authority would not provide financial assistance to the extent that such assistance is not required to produce the Required Return, or the Total Recovery Amount has been repaid in less than 25 years, as Developer would then receive a windfall. The Actual Contamination Development Cost shall be determined as set forth in Section 2.D.3(e) above. This shall be determined as of a date selected by Authority that is not less than 32 nor more than 60 months after the grand opening of the Project. Thus, the Actual Contamination Development Cost shall be reimbursed to Developer to the extent there is a Project Feasibility Gap, determined as follows:

(i) The Project Feasibility Gap is the difference between the Actual Project Development Cost (as defined below) and the amount that Developer could have afforded to pay to develop the Project given the actual performance of the Project, determined using the concepts below.

(ii) The actual project development cost of the entire Project, including the Actual Contamination Cost (the "**Actual Project Development Cost**") shall be determined based on the cost reported by Developer in its SEC filings, or, if not reported in such filings, then on another financial report that has been audited by a "Big Four" accounting firm.

(iii) The actual Project real estate net operating income shall be determined for the full calendar year before the date of determination, excluding any Tax Assistance payments received by Developer and its affiliates (the "**Actual NOI**"). The Actual NOI shall be based on a financial report that has been audited by a "Big Four" accounting firm, unless there is a pending legal or regulatory challenge to such financial reporting, in which case the Actual NOI can be audited by a "Big Four" accounting firm retained by Authority. Additionally, if Developer has represented to any third party in connection with an acquisition or loan transaction in the six months

prior to the date of determination that the Actual NOI is higher than contained in such financial report, then such higher Actual NOI shall be utilized.

(iv) The “**Acceptable Project Development Cost**” shall be determined by dividing the Actual NOI by an amount as agreed to by the parties.

(v) If the Acceptable Project Development Cost is less than the Actual Project Development Cost, then the difference shall be the “**Project Feasibility Gap**”. In such event, City and Authority shall be required to repay from Tax Assistance on account of the Actual Contamination Cost portion of Total Recovery Amount the lesser of the Actual Contamination Development Cost and the Project Feasibility Gap. Tax Assistance payments made prior to the date of such determination shall be credited accordingly, in accordance with the Recovery Terms. If the Acceptable Project Development Cost is equal to or greater than the Actual Project Development Cost then no tax assistance payments shall be made on account of the Actual Contamination Cost portion of Total Recovery Amount.

(vi) Notwithstanding the foregoing, the parties may mutually agree to make adjustments to the Loan Terms intended to achieve the same economic results in different ways.

(i) **Site Carry Costs.** Commencing on approval of the Agreement, Developer will pay approximately \$22,500 per month as its portion of Authority’s cost of maintaining the Cell 1 Site, as further set forth and described in the Reimbursement Agreement. Developer shall continue to be responsible for 100% of such Carry Costs unless it or the Authority exercise any rights to terminate under this Agreement or the Conveyance Agreements.

4. **Extended Term.** During the Extended Term, the parties, together with the City, will complete a Development Agreement pursuant to Government Code Section 65864 *et seq.*, as well as Conveyance Agreements in order to allow Developer to obtain title to the Project Surface Lot and provide for the terms of the development of the Project and any additional and modified land use entitlements to be able to proceed with development of the Project (if any). Among other things, the following shall be completed prior to the expiration of the Term:

(a) ***City and Developer.***

(i) ***Applications for and Processing of City Approvals.*** Developer shall submit and assist with the processing of applications for any requisite additional and modified land use entitlements to accommodate the development of the Project, at its sole cost and expense, from all applicable governmental and/or quasi-governmental entities, including, without limitation, from the City and Los Angeles County Fire Department (collectively, “**Permits**”), except for actual building permits, which will be obtained after Developer has acquired the Project Surface Lot. Approval of all of the Permits and the expiration of all applicable appeals periods to such approvals without the filing of any such appeal by a third party shall be a condition precedent to the consummation of the transaction under the Conveyance Agreements, which condition precedent is for the benefit of each of Developer, City and Authority. City shall use reasonable good faith efforts to expeditiously process, and lend reasonable cooperation to other agencies in processing Developer’s Permits. Developer understands that all approvals are subject to the City’s sole and absolute discretion in the exercise of its police powers and assumes the risk of

not obtaining its Permits. Approval of any Permits shall be a condition precedent to the consummation of the transfer of the Project Surface Lot under the Conveyance Agreements which condition shall be for the benefit of each of the parties. Developer acknowledges and agrees that this Agreement does not constitute a disposition of property by the Authority and Developer acknowledges and agrees that it has not acquired and will not acquire, by virtue of the terms of this Agreement, any legal or equitable interest in real or personal property from Authority or the City. Execution of this Agreement does not constitute “approval” of a “project,” as those terms are defined in CEQA.

(ii) **Design Theme.** The design will be compatible with the Cell 2 Project plans and any development plans approved by the Authority for the Remainder Cells. The Project Surface Lot is adjacent to the Cell 2 Project which is projected to feature a major entry point to the Property and to the Project. Once the design is established, there will be design charrette workshops with the City’s Planning Commission and/or City Council or committees thereof, which shall be open to the community and such other community meetings as the City shall direct.

(iii) **CEQA/Environmental Review.** Developer acknowledges and agrees that the City has not yet determined whether or to what extent the Prior CEQA Review satisfies the need for environmental review as to the Project. To the extent new or supplemental environmental review is legally required for the Project under CEQA, Developer will undertake the studies, reports and analyses required, including traffic analysis, environmental impact analysis and financing plans if and to the extent required. Developer shall have sole responsibility at its sole cost and expense to pursue and obtain any necessary environmental approvals for the Project pursuant to CEQA. City and Authority will assist Developer in preparing any environmental documentation and processing any environmental review necessary. Developer shall provide to Authority all funds necessary to cover the costs of such environmental review through the Reimbursement Agreement.

(iv) **Tax Sharing Arrangements.** During the Extended Term, the City shall not pledge, encumber or otherwise commit tax revenues from the Project in any manner that would impair its ability to provide the Tax Assistance intended to be paid to the Authority as set forth under Sections 2.D.3(f) and (h), above, and thereby indirectly to the Project.

(v) **CFD.** Developer shall pay its pro-rata share for the costs of the two existing Community Facility Districts (collectively, “CFD”) established to generally pay for (i) the operation and maintenance of the Remedial Systems, and (ii) the installation of onsite public infrastructure for the Property (i.e., CFDs 2012-1 and 2012-2). If necessary, the City shall restructure the CFD encumbering the Project Surface Lot such that the Project will be charged only such annual amounts as are necessary to pay the Project’s pro rata share, based on gross building area, of the operation and maintenance of the environmental systems set forth in **Exhibit “D”**. The proceeds of such restructured CFD shall be dedicated solely to such operation and maintenance of environmental systems on the Property. Actual CFD assessments may rise or fall due to the actual costs.

(b) **Authority and Developer.**

(i) **Conveyance Agreements.** During the Extended Term, the Authority and Developer shall negotiate the terms of Conveyance Agreements, including the Tax Sharing arrangement in accordance with the terms of this Agreement.

(ii) **CEQA Review.** The Authority shall serve as lead agency for purposes of any required CEQA environmental review, and Developer shall provide to Authority all funds necessary to cover Authority's out of pocket costs of such environmental review in accordance with the Reimbursement Agreement.

E. Development of Other Cells.

1. **Cooperation with Remainder Cell Development.** Developer's Project plan currently encompasses only the Project Surface Lot, but may be expanded to include one or more Remainder Cells. Authority has solicited other development proposals on the other Cells at the Property and has entered into a Conveyancing Agreement, dated September 4, 2018 for the development of a fashion outlet mall on Cell 2 with CAM. Pursuant to the Cell 2 Project Documents, Authority has the obligation to assure coordination and operation of the Remainder Development with the Cell 2 Project and Developer shall comply with those obligations. The City and Authority shall cooperate with Developer to assure that the development of the other Cells harmonizes with and contributes to the success of the Project. City and Authority acknowledge that development and operation of the Project may require that the Authority complete the environmental remediation and protection improvements for the other Cells simultaneously with construction of the Project. Processing of entitlements and CEQA compliance for the Project shall not be delayed by Authority if such other projects are not ready for processing when the Project is ready, and CEQA analysis will include such project alternatives as are reasonably calculated to accommodate such other projects, but if Authority requires any delay to harmonize the processing of entitlements or CEQA compliance with the development plans for the other Cells, the Authority shall in good faith work with the Developer to extend the Extended Term in order to accommodate such delay.

2. **Option to Develop Remainder Cells.** During the Initial Term, Developer shall, in addition to the Cell 1 Site Plan, have the exclusive option to prepare a plan to develop one or more or all of the Remainder Cells. The elements of the plan ("**Remainder Cell Plan**") shall include: (i) a site plan; (ii) a designation of proposed uses; (iii) a description of financial partners and financing sources; (iv) a description of proposed tenants; (v) an outline necessary Specific Plan amendments or revisions or amendments to the EIR; (vi) a description of public revenues generated from the Remainder Cell Plan project; (vii) a financial proforma and needed tax assistance; (viii) a description of public benefits; and (ix) a development schedule. It is intended that any development project for the Remainder Cells accomplish the following objectives: (a) procure sufficient tax revenue to finance the project and make a substantial contribution to the City's general fund, (b) create an iconic regional attraction drawing visitors to the City, and (c) create a core town center for the community to foster City pride and identity. During this Initial Term, it is the intent of the parties that Authority shall not approve any development proposal from any other third party developer.

3. **Evaluation; ENA.** At the end of the Initial Term, Authority will evaluate Developer's Remainder Cell Plan to see how well it accomplishes the Authority's objectives, whether it is feasible and practical, and the extent to which tax assistance will be required. Generally, the Authority will apply the same criteria to its evaluation as it will for the Cell 1 Project. In the sole and absolute discretion of Authority, Authority may (i) determine to negotiate an exclusive right to negotiate agreement ("**ENA**") with Developer for one or more Remainder Cells, or (ii) determine to negotiate with a different developer. The parties acknowledge and agree that

CAM has a right of first negotiation following the conclusion of negotiations with Developer for any Remainder Cells. Authority shall have no liability to Developer for choosing not to enter an ENA with Developer for the Remainder Cell(s). If Authority decides to negotiate an ENA with Developer for the Remainder Cell Plan, the provisions will be similar to those in this Agreement except as noted herein. As set forth above, the deposit payable by Developer upon entering the ENA for the development of any Remainder Cell(s) would be \$2,000,000.

SECTION 3. DEVELOPER'S RIGHTS DURING THE TERM OF THIS AGREEMENT.

A. Site Access. Authority shall allow Developer and its employees, agents, representatives and contractors reasonable access to the Project Surface Lot during normal business hours, upon reasonable notice to Authority of not less than two (2) business days together with a written scope of work, for the purpose of due diligence including performing environmental evaluations, engineering studies, surveys, geological work or other studies as reasonably desired by Developer. In connection with, and as a condition to, such rights of access and entry upon the Project Surface Lot :

1. Developer shall maintain comprehensive general liability insurance on a per occurrence basis insuring against any liability arising out of or in connection with Developer's entry, use and activity on the Property (including any entry, use, and activity by any contractor or agent of Developer) with a single combined liability limit of One Million Dollars (\$1,000,000) per occurrence. All insurance certificates shall name the Authority as additional insured. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements or certificates and shall specifically bind the insurance carrier(s). Developer shall cause its insurance carrier(s) to provide thirty (30) days' notice to the Authority prior to any termination, expiration, cancellation, or reduction in coverage. Any failure to maintain the required coverage for any period of time shall constitute a breach of this Agreement, notwithstanding that Developer may subsequently procure replacement insurance.

2. Developer hereby agrees to indemnify the Authority and hold the Authority, its officers, and employees harmless from any loss, claims, liability, or costs arising out of or incurred as a result of Developer's or its agents' entry upon the Property and/or the performance of the investigative activities on the Project Surface Lot described herein except for the gross negligence or willful misconduct of the indemnified party. Whether or not this Agreement terminates or expires, Developer agrees to repair any and all damage caused to the Property by reason of any such investigation(s). This indemnity shall survive the termination or expiration of this Agreement.

B. Signage. During the Extended Term, Developer shall, at its sole cost and expense, have the right to place signage on the Project Surface Lot for purposes of identifying the Project ("**Signage**"), and Authority shall grant the necessary easements or similar agreements to do so. All Signage shall be subject to reasonable approval of the Executive Director / City Manager or his or her designee, and shall comply with the City's Municipal Code and standard sign requirements. Upon termination of this Agreement, Developer shall (i) promptly remove the Signage at its sole cost and expense, (ii) indemnify Authority and City against any mechanics liens or other claims related to the Signage, and (iii) have no claim or other right against Authority or City for any contact by third parties as a result of the Signage.

SECTION 4. AUTHORITY'S RESPONSIBILITIES.

A. **Reasonable Assistance.** Authority shall provide Developer with appropriate and reasonable information and assistance.

B. **Preparation of Instruments.** Authority shall prepare and negotiate in good faith the Conveyance Agreements (including the Tax Sharing arrangement described therein) and assist in the negotiation of the Development Agreement.

C. **Processing Permits.** Authority shall use reasonable good faith efforts to expeditiously process, facilitate the City's processing, and lend reasonable cooperation to other agencies in processing, Developer's Permits.

SECTION 5. DISCRETION; NON-WAIVER OF POLICE POWERS.

A. **No Obligation to Enter Agreements.** Although Authority and City are obligated to negotiate diligently and in good faith, they under no obligation to enter into the Conveyance Agreements, Development Agreement, or Tax Sharing arrangement and all expenses incurred by Developer during the Term are incurred at Developer's sole risk and expense. Prior to formal approvals from the City and Authority, Developer's reliance on any representations or promises by City, Authority, or their respective staff, attorneys, or consultants, or individual City Council members, is undertaken at Developer's sole risk and expense. Although obligated to negotiate in good faith, Developer is under no obligation to enter into the Conveyance Agreements, Development Agreement, or Tax Sharing arrangement.

B. **Hearings.** If proceeding into Extended Term, the Authority Board, City Council and the City's Planning Commission will be required to review and hold hearing(s) on the Project's requested Permits and environmental documentation. Authority and City each reserve the right to exercise their discretion as to all matters which they are, by law, entitled or required to exercise, at their discretion and nothing in this Agreement shall be construed as having the effect of waiving or limiting police powers and exercise of discretion by Authority and/or the City. To this end:

1. **Discretion.** City Council and Authority Board have complete and unfettered discretion to enter into any Development Agreement or Conveyance Agreements or Tax Sharing arrangement without explanation or cause, and this Agreement is not committing Authority/City to undertake any activity requiring the exercise of discretion, including the approval and execution of a Development Agreement or Conveyance Agreements or any other act or approval.

2. **Instruments.** The duty of Authority and City to approve any project or execute a Development Agreement or Conveyance Agreements or approve a Tax Sharing arrangement shall be conditioned upon the successful review and approval of all necessary findings and conclusions which the City Council and Authority Board are required to make, including all necessary findings and determinations required under CEQA as well as state and local land use requirements. As to any matter which Authority and City may be required to exercise its unfettered discretion with respect to the Project, nothing herein nor in a Conveyance Agreements shall obligate Authority and City to exercise discretion in any particular manner, and any exercise of discretion reserved hereunder or required by law; it is not a waiver of the City's or Authority's police powers and shall not be deemed to constitute a breach of Authority's or City's duties under this Agreement.

3. **Agreement to Negotiate.** This Agreement does not constitute a disposition of property and, therefore, does not require a public hearing nor is it a “project” under CEQA. Authority and City’s execution of this Agreement is merely an agreement to enter into exclusive negotiations with Developer for a specified time period, reserving final discretion and approval by Authority as to any proposed Conveyance Agreements and all proceedings and decisions in connection therewith.

SECTION 6. MISCELLANEOUS.

A. Brokerage Commissions. Developer agrees to pay and to hold Authority and City harmless from any claim by any broker, agent, or finder retained by Developer with respect to the Project Surface Lot. Neither Authority nor the City shall be liable to pay any real estate commission or any broker’s fees which may arise in relation to the Project.

B. Copies of Documents. During the Term, Developer shall provide Authority and City for its information, and for public reports to be prepared in connection with the Project, at no cost or expense to Authority or City, with copies of certain third party consultant, contractor, or subcontractor reports, studies, analysis, site plan layouts, engineering studies, memorandums, or similar documents, excluding legally privileged or confidential items or proprietary financial information, regarding the Project Surface Lot. Authority and City may not sell such plans or drawings and may use them solely for planning purposes relating to the Project on the Project Surface Lot and coordinating the Project with other projects on other Cells at the Property. Delivery of such documents to Authority and City shall be made without any representation, warranty, or liability whatsoever by Developer as to the accuracy or sufficiency of the contents of such documents and shall be subject to the rights of the preparers of such documents including, without limitation, any applicable copyrights.

C. No Personal Liability. No employee, agent, board member, partner, principal or shareholder of a party shall have any personal liability or obligation under this Agreement except as specifically set forth herein.

D. No Conflicts. Each party and the City (“**Representing Party**”) represents to each other party that the execution and delivery by the Representing Party of this Agreement, the performance of its obligations hereunder, and its fulfillment of the terms and conditions hereof do not conflict with, violate or result in a breach of any applicable law or any term or condition of any document to which Representing Party is subject.

E. Amendment. This Agreement may only be amended in writing executed by both parties.

F. Notices. Any notices, requests, demands, documents, approvals or disapprovals given or sent under this Agreement from one party to another (each, a “**Notice**” and 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:

City: City of Carson
701 East Carson Street
Carson, California 90745
Attention: City Manager
Email: kfarfsing@carson.ca.us

Authority: Carson Reclamation Authority
701 East Carson Street
Carson, California 90745
Attention: Executive Director
Email: jraymond@carson.ca.us

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

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

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 given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, seventy-two hours after such notice is deposited with the United States mail; (iii) if given by overnight courier, with courier charges prepaid, twenty-four hours after delivery to said overnight courier; (iv) if sent by electronic mail, when received as evidenced by confirmation of receipt, or (v) if given by any other means, upon delivery at the address specified in this Section.

G. Default & Remedies.

1. **Cure; Termination.** If a party fails to comply with its obligations under this Agreement (a “**Defaulting Party**”), the other party (a “**Non-Defaulting Party**”) may terminate this

Agreement if the Defaulting party fails to cure such default within ten (10) days after receipt of notice of default from the Non-Defaulting Party, or if such default is not susceptible of cure within such ten (10) day period, then if the defaulting party fails to commence such cure within such ten (10) day period and thereafter diligently pursue such cure to completion, not to exceed sixty (60) days in the aggregate (“**Cure Period**”). If the Defaulting Party fails to cure during the Cure Period, the Non-Defaulting Party may terminate this Agreement by providing written notice to the Defaulting Party (“**Termination Notice**”). Notwithstanding the foregoing, in no event shall any Cure Period hereunder extend the Term. Any failure or delay by a party in asserting any of its rights or remedies under this Agreement as to any default under this Agreement shall not operate as a waiver of any default under this Agreement or of any rights or remedies provided in this Agreement associated with any such default. Developer’s sole remedy for a default by Authority or City shall be to terminate this Agreement by written notice. Authority and/or City’s sole remedy for a Developer default shall be to terminate this Agreement by written notice, retain the Deposits, and be entitled to payment of all Carry Costs required to be paid hereunder by Developer as of the date of such termination. Upon termination of this Agreement, (i) neither party shall have any right, remedy or obligation under this Agreement, except that any indemnifications provisions shall survive such termination; and (ii) each party specifically waives and releases any such rights or claims it may otherwise have at law or in equity and expressly waives any rights to consequential damages or specific performance from the other party. In no event shall either party be liable for monetary damages, attorneys’ fees and costs, or any other cost or expense for the default or termination of this Agreement, and any such right to recover such damages is expressly waived.

2. **Remedies in Conveyance Agreements** In addition to the remedies described herein concerning the Deposits, the Conveyance Agreements shall provide and be limited to the following remedies:

(a) **Specific Performance; No Damages.** The parties may pursue specific performance to carry out the terms of the Conveyance Agreements but neither party may recover damages against the other for defaults, including special or consequential damages, or for lost profits or business opportunities.

(b) **Force Majeure.** The construction schedules shall provide for extensions of time in performance for force majeure for delays caused by reasons beyond the control of the parties provided written notice is given of the commencement of the cause. The parties may also have reciprocal rights to extend deadlines for limited times.

(c) **Before Closing.** Before Closing, remedies for delay and default by Developer may be to shorten the time to provide Tax Assistance, and for delay and default caused by Authority, to lengthen the time to provide Tax Assistance. Before Closing, Developer shall have no lien or foreclosure rights.

(d) **After Closing.**

(i) Following the Closing, should Developer fail to timely complete the Project, the Developer shall have six (6) months (“**Developer Marketing Period**”) to find a buyer who Authority finds capable of completing the Project in accordance with the Conveyance Agreements and enter into agreement therefore, and if Developer fails to do so, title will revert to Authority and Authority will be entitled to find an alternative developer subject only to the

requirements hereof. The Conveyance Agreements shall provide that Developer's actual construction cost (not including any planning entitlement, management fees or costs, or overhead) shall be a lien on the Project Surface Lot, however, if Authority can market and sell the Project Surface Lot within four (4) years, and during such period, the balance of the lien shall decline twenty-five percent (25%) per year after the expiration of the Developer Marketing Period.

(ii) Following the Closing, should Authority fail to make Tax Assistance payments to Developer in accordance with the Tax Assistance arrangement under the Conveyance Agreements, Developer may enforce the rights of the Authority against the City to collect such sums.

H. Indemnification. Developer agrees to indemnify, defend, and hold Authority, City and their respective members, officers, staff and agents (collectively, "**Authority Indemnitees**") harmless from any and all third party claims, actions, suits and other liability ("**Claim(s)**") asserted against Authority, City or Authority Indemnitees resulting from Developer's breach of this Agreement including with respect to any Signage or under the Reimbursement Agreement. This indemnity shall survive the expiration or termination of this Agreement. In addition, the parties acknowledge that: (i) in the future there may be challenges to legality, validity and adequacy of the Permits, the Conveyance Agreements, Development Agreement, any other development or land use/entitlement or CEQA approvals rendered by Authority, City, any board, commission, or agency of the City, and/or this Agreement; and (ii) if successful, such challenges could delay or prevent the performance of this Agreement and the development of the Project. Neither the Authority nor the City shall have any liability under this Agreement for the inability of Developer to develop the Project Surface Lot as contemplated by the Site Plan, this Agreement, or the Conveyance Agreements or otherwise, as the result of a judicial determination that the Permits, any other development or land use/entitlement approvals, CEQA approvals, this Agreement, or portions thereof, are invalid or inadequate or not in compliance with applicable law. Developer will defend any action or actions filed in connection with any of said Claims with counsel reasonably approved by Authority, and will pay all costs and expenses including reasonable legal costs and attorneys' fees incurred in connection therewith. Developer will promptly pay any final judgment (subject to Developer's or Authority's rights to appeal from such final judgment) rendered against the Authority/City, or any Authority Indemnitees for any such Claims and Developer agrees to save and hold Authority, City, and Authority Indemnitees harmless therefrom. Notwithstanding the foregoing, Authority and City retain the right to settle any litigation in the public interest, but if such settlement is without the consent of Developer, Authority will reimburse Developer's actual out-of-pocket litigations expenses. Nothing in this Section shall be construed to mean that Developer shall hold City, Authority, or any Authority Indemnitees harmless and/or defend them to the extent of any Claims arising from the gross negligence, willful misconduct or illegal acts of any of City, Authority, or Authority Indemnitees.

I. General Provisions. This Agreement and all terms and conditions hereof shall be governed by and construed and enforced in accordance with the laws of the State of California. If any legal action is necessary to enforce this Agreement, a court of competent jurisdiction in Los Angeles County shall be the sole venue and jurisdiction for the bringing of such action. Any term may be waived only by a written waiver signed by the party against whom such waiver is to be asserted. All provisions shall not be construed in favor of or against either party, but rather as if both parties prepared this Agreement. This Agreement shall inure to the benefit of and bind the respective successors and assigns of Authority, City and Developer, subject to the limitations on

assignment by Developer set forth in this Agreement. This Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which, together, shall constitute one and the same instrument. This Agreement, together with the Reimbursement Agreement and that certain Release and Agreement Not to Sue executed by Developer in favor of Authority on June 5, 2018, this Agreement constitute the entire, complete and exclusive expression of the understanding of the parties. 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, and none shall be used to interpret this Agreement.

J. Assignment. Except for an assignment by Developer to any Permitted Assigns (as defined below), Developer may not assign this Agreement or any of its rights or obligations hereunder to any third party or entity without the prior written consent of Authority. The transfer of any ownership interest in Developer inconsistent with the foregoing shall be deemed a transfer/assignment under this provision. For purposes of this Agreement, the term “**Permitted Assigns**” means any entity owned by Developer wherein Developer, or its affiliated entity managed by James Acevedo, either owns more than 50% of that entity, or has day-to-day management authority and control over (regardless of its percentage ownership interest), whether it be a partnership, limited liability company, or corporation.

K. Attorney’s Fees. In any action between the parties to interpret, enforce, reform, modify, rescind or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing party in the action or other proceeding shall be entitled to recover its reasonable costs and expenses.

L. Authority. The person(s) executing this Agreement on behalf of each party represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of such party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Developer, Authority, and City have executed this Agreement as of the day first above written.

DEVELOPER:

GRAPEVINE DEVELOPMENT, LLC,
a California limited liability company

By: _____
Name:
Title:

AUTHORITY & CITY:

CARSON RECLAMATION AUTHORITY,
a California joint powers authority

By: _____
Name: Albert Robles
Title: Chair

CITY OF CARSON,
a California municipal corporation

By: _____
Name: Albert Robles
Title: Mayor

ATTEST:

City Clerk / Secretary

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Sunny Soltani
City Attorney / Authority Counsel

Exhibits: **A: The Site Map (showing all Cells)**

B. Major Additional Deal Points

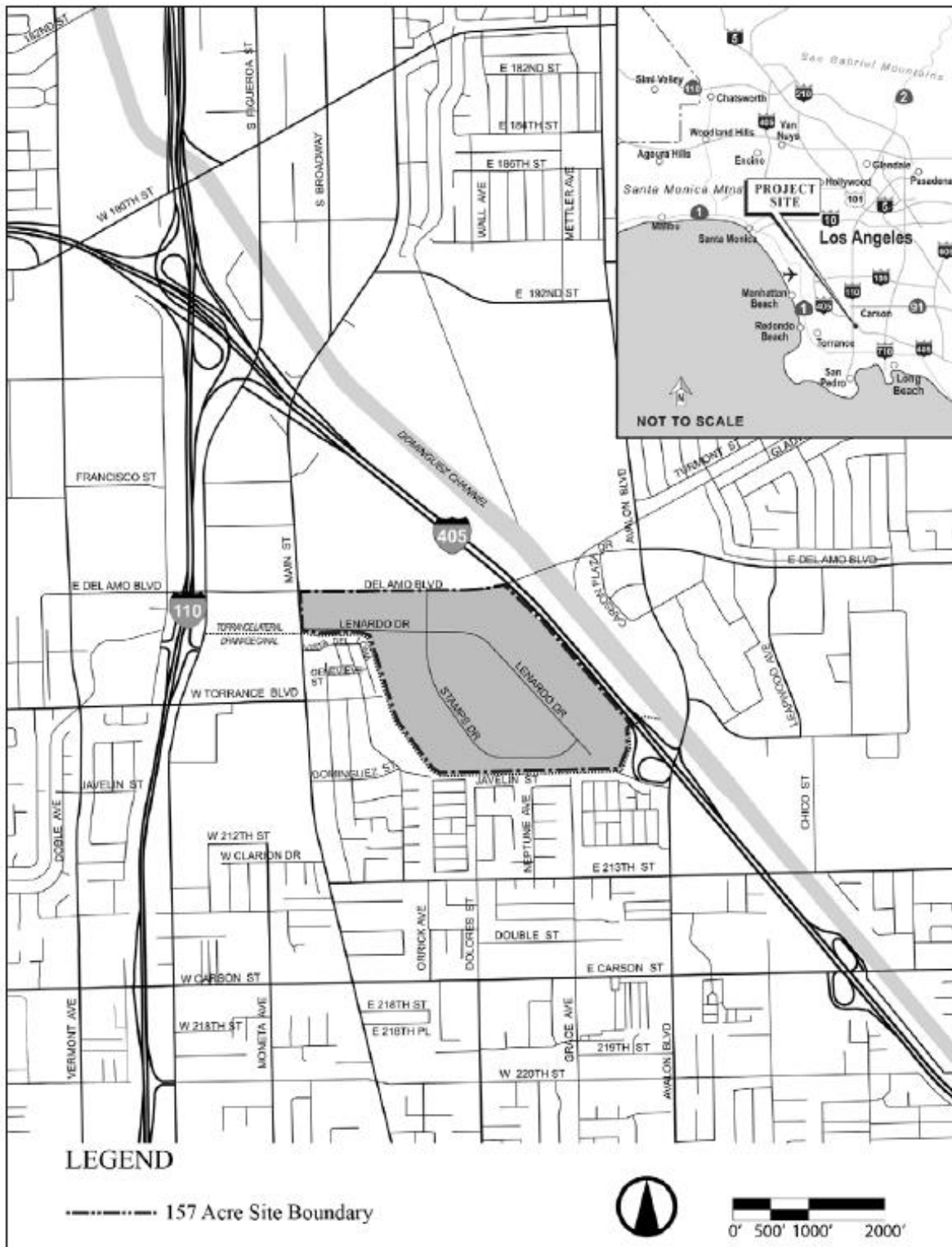
C. Description of Infrastructure Improvements

D. Graphic of Foundation and Remedial Systems

E. Description of Insurance Program

F. Responsibility Matrix

Site Map



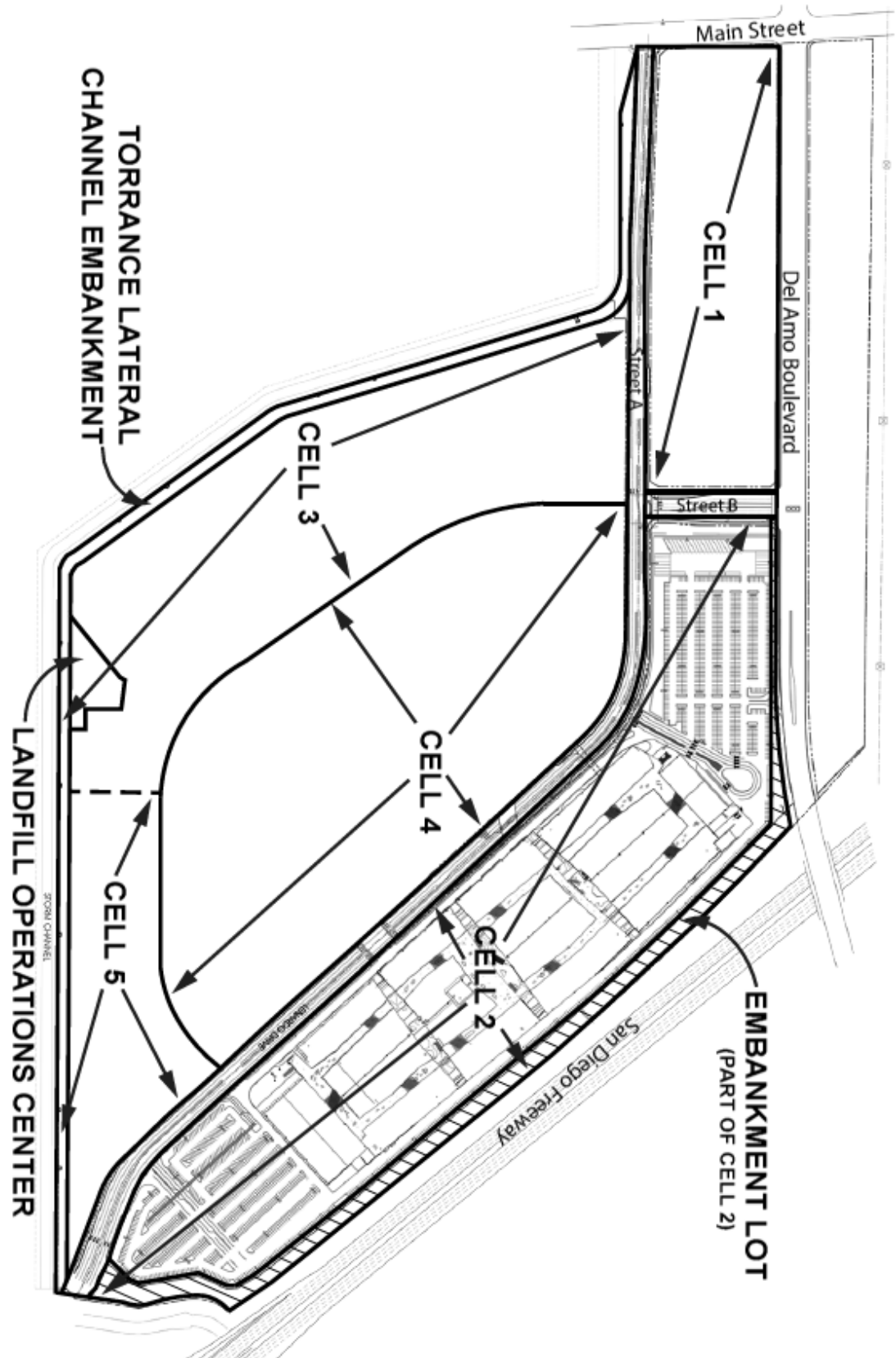


Exhibit B

Major Additional Deal Terms

A. Subdivision, Sale, and Transfer

1. Subdivision. At Developer's sole cost, Authority will adjust vertical subdivision lines to match the final design of the Project, which shall include adjusting the vertical lot line between the Cell 1 Subsurface Lot and the Project Surface Lot to the bottom of the foundation slab. Due to the contaminated condition of the Property, the intent of Developer to acquire only non-contaminated property and the likelihood of settlement of the former landfill contents over time, it is intended by Authority and Developer that Authority shall retain the Cell 1 Subsurface Lot and convey to Developer the Project Surface Lot, and any easements reasonably necessary to permit Developer to access, construct and operate the Project.
2. Sale. The transfer of the Project Surface Lot to Developer pursuant to the Conveyance Agreements shall occur at the closing of escrow (the "**Closing**"). Closing is to occur as soon as each of the following have been completed: (i) the Conveyance Agreements and Reimbursement Agreement have been negotiated and executed (which shall include the terms regarding Tax Assistance and Tax Sharing), and such agreements remain in effect and there are no defaults thereunder, (ii) any necessary subdivision adjustments are completed per Section A.1, above, (iii) any additional required entitlements and/or amendments, supplements, or addenda to the EIR are approved and all appeal periods have expired, (iv) the Remedial Systems, including BPS, in the Cell 1 Subsurface Lot are completed, (v) the Site Preparation Work is completed, (vi) the Sub-Foundation Systems on the Cell 1 Site are completed, and (vii) the Foundation Systems are completed.
3. Transfer. The transfer provisions of the Conveyance Agreements will not permit transfer prior to completion of the Project except for securing financing for the Project, and transfers/assignments by Developer to Permitted Assigns.
4. REA Agreement. Typical retail center REA provisions will be included in an REA agreement encumbering the entire Property, which Developer shall negotiate and enter into with the Authority, CAM, and any Remainder Developers. The Development Agreement may include as an exhibit thereto a draft of the REA.
5. CFD Financing. CFD Financing is in place and has been restructured to carry out the terms set forth in the Agreement.
6. Deposits and Carry Costs. All Deposits required to be paid hereunder have been paid and Developer has made all Carry Cost payments when due.

B. Remedial Systems

1. Authority Responsible for Remedial Systems. It is the intention of the parties that (i) Authority will construct the Remedial Systems and BPS in accordance with applicable

governmental requirements, (ii) Authority will deliver Sub-Foundation Systems within the Subsurface Lot upon which Developer can construct, (iii) Developer will not have to undertake construction or maintenance within the contaminated soils or groundwater of the Subsurface Lot, and (iv) these mechanisms in accordance with the insurance provided hereunder will limit Developer's exposure to environmental liability in the undertaking of the Project. Authority has obtained extensive environmental insurance as described in the recitals and in the **"Description of Insurance Program"** attached as **Exhibit "E."** Accordingly, Authority will construct, own and operate the Remedial Systems described in the **"Graphic of Foundation and Remedial Systems"** attached as **Exhibit "D."**

2. RAP. Upon the Subsurface Lot, Authority shall perform all activities required under the approved RAP and as per the Compliance Framework Agreement ("CFA") with the DTSC, as the same may be updated or modified. The financing of the Remedial Systems and BPS is described in Section 2.D.3.

3. Authority Right to Direct Work. Authority has the right to contract with third parties to construct improvements, to operate the Remedial Systems, to manage the construction process and Remedial Systems, to provide various expert services related thereto, and including an environmental remediation entity for the entire Property. Authority shall retain exclusive rights to contract with and direct the work of its contractors performing work hereunder. Authority and Developer will work together to develop protocols for their respective consultants and contractors to coordinate and share information and comments with respect to plans and specifications, bidding materials, insurance, phasing, scheduling and consultants and contractors for the foregoing work. Until completion by Authority of its work on the Cell 1 Subsurface Lot, Authority shall retain ultimate site control.

4. Coordination of Work on Other Cells. Consistent with the nature of a major construction project, Authority shall reasonably regulate development of the Remainder Cells so as to ensure that construction activities on and around such other Cells, including dust, noise, odors, traffic impediments, etc., do not adversely affect the Project, and that the construction activity on the Project Surface Lot will not adversely affect the development of the Remainder Cells. Development of Cell 1/the Project Surface Lot shall be subject to the terms and conditions set forth in the MAPO and the Phased Development Letter. The MAPO and/or Phased Development Letter include mitigation measures for the phased development of Cells to comply with DTSC requirements.

C. Project Plan

1. Description. The Project shall consist of a mix of one or more hotels, an entertainment / sports venue, and/or retail / restaurant uses

2. Size of Development. The Authority shall support allocating to the Project Surface Lot at least the minimum amount of square footage required to support Developer's proposed Project under the Specific Plan, as well as an appropriate number of vehicle trips.

3. Specific Plan Modifications. Certain design and development criteria contained in the Specific Plan may require modification to accommodate the uses proposed by and design of the Project which changes the Authority will support, including:

- (a) A reasonable building height as necessary to enable a project on Cell 1.
- (b) Right to construct hotel, hospitality, entertainment / sports uses, together with retail and restaurant uses and associated alcohol service/sales.
- (c) High quality design standards harmonizing with the Cell 2 Project and other approved projects on the Property.

4. Signage. The Specific Plan provides for certain Freeway icon pylon signs (“**Pylon Signs**”) and certain additional Freeway monument signs (“**Monument Signs**”) located on the 2,200-foot-long I-405 embankment (the “**Embankment**”). Half of these permitted signs are allocated to CAM for Cell 2 and half to the City for the benefit of the development on the rest of the Property.

D. Schedule

1. Project Schedule; Goal for Opening. The parties shall agree to a “**Project Schedule**”, which shall include an expected grand opening in accordance with a timeframe approved by the Authority. The Project Schedule shall be an exhibit to one or more of the Conveyance Agreements.

2. Efforts of Parties. Each party shall use its commercially reasonable efforts to complete the work required of it in accordance with the Project Schedule, subject to force majeure, including delays caused by the other party.

3. Payment of Advances. Developer shall make advances for the Contamination Development Cost and Infrastructure Cost Advance as and when required under the Agreement to the Authority so as to avoid delaying construction of such improvements, and failure to make such advances as and when required under the Agreement shall constitute a Developer Default (as defined below).

4. Interest on Late Payments. Where Developer is required to make a payment to the City or Authority, payments shall be made promptly, and, unless otherwise specified, in no less than thirty (30) days after the date of delivery of written request for payment supported with appropriate documentation. Any payment not made within thirty (30) days of the due date shall accrue interest compounded monthly at the rate of 8.0% per annum.

5. Schedule for Coordinating Construction. Developer will provide Authority with a plan for the schedule of construction of the Project, including needed construction access prior to commencement of construction. Authority shall obtain a similar schedule from the Remainder Developers. Representatives of Authority, the Developer, and each Remainder Developer shall meet and cooperate to develop a coordinated schedule for all construction activity so that no project interferes with another. The schedule shall also be utilized by Authority to develop its infrastructure phasing plan which shall be provided to Developer and Remainder Developers for comment.

6. Force Majeure. All timeframes for performance are subject to force majeure provided that the party claiming force majeure must inform the other party in writing within 20 days of the commencement of the delay.

E. **Insurance**

1. **Insurance Programs.** Authority has obtained various insurance programs to address the risks posed by the redevelopment and vertical construction work to be conducted on and under the Property as more fully described in **Exhibit “E”** attached hereto (the **“Development Insurance Programs”**), which insurance policies Developer has reviewed and approved. Premiums for the Development Insurance Programs shall be allocated among Authority and all vertical developers of the Property as detailed on **Exhibit “E”**. Authority will determine and negotiate an acceptable PLL sublimit applicable to Developer’s Project during the Term.

2. **Developer Obligations.** Authority’s responsibility shall be to the limit the insurance coverage described herein, and Developer shall pay its pro rata share for such coverage as detailed on **Exhibit “E”**. Developer will indemnify Authority and City as to any claims from contractors, tenants, lenders and invitees resulting from Developer’s activities or business operations on the Property, except for those related to the presence of hazardous materials in place or generated from materials in place prior to conveyance of the Project Surface Lot to Developer.

F. **Termination and Enforcement Rights**

1. In the event of any claimed delay, the sole recourse of the party damaged by the delay shall be an extension of their performance deadlines. The parties shall not be liable for damages as long as they are acting in good faith, except as otherwise set forth in Section F.2 below.

2. The Conveyance Agreements shall provide for a letter of credit or other form of deposit from Developer to Authority sufficient to compensate Authority as liquidated damages recoverable by Authority for a Developer Default. A **“Developer Default”** shall consist of the following:

(a) Once the Development Agreement is negotiated, approved and executed by the City and Developer refuses to execute or executes but thereafter (i) does not apply for building permits in accordance with the Project Schedule, or (ii) fails to commence construction of or complete the Project improvements in accordance with the Project Schedule as extended by force majeure. or doesn’t finish

(b) Developer fails to timely do any of the following: (i) to pay the Carry Costs it is required to pay, (ii) pay advances to the Authority for the Contamination Development Costs or any other costs incurred by the Authority or City for work required in order to allow for the conveyance of the Project Surface Lot to Developer which Developer is required to reimburse hereunder or under the Conveyance Agreements, (iii) to pay the Infrastructure Cost Advance, or (v) for any other costs Developer is required to pay hereunder or under the Reimbursement Agreement.

G. **Miscellaneous**

1. **Prevailing Wages.** Developer is aware that publicly assisted projects can be subject to the payment of prevailing wages and that in general the heavier the involvement of the

public agency, the more likely the project would be subject to prevailing wage and similar policies. Developer retains the right to select its own contractors, and will be exclusively responsible for complying with prevailing wage and similar policies to the extent they impact the private development which shall not be subject to Sales Tax Assistance which only pays for Contamination Development Cost as defined in Section 2.D.3(e) of this Agreement.

2. Audit. Each party shall have such rights to audit the records of the other party as may be reasonably necessary to calculate and confirm financial matters described herein, except that financial matters reported in SEC filings or equivalent disclosures shall not be subject to further audit or confirmation. Failure to provide such necessary information shall excuse performance by the other party until such necessary information is provided.

EXHIBIT C

Description of Infrastructure Improvements

EXHIBIT D

Graphic of Foundation and Remedial Systems

[Attached]

EXHIBIT E

Description of Insurance Program

Reference	Primary Carrier/ Policy Number	Excess Policies	Total Limits	Description	Total Premium Paid	Premium Allocation Calculation
PLL	Beazley, Policy No. B0901EK1702322000	Yes	\$200,000,000 <i>(subject to \$50,000,000 Cam- Carson Dedicated Limit and a to be determined sub- limit for vertical developers)</i>	Site specific pollution legal liability policy provides third party bodily injury and property damage claims and first party claims for cleanup costs for pollution conditions occurring on, at under or migrating from the Property.	\$4,399,221	60% of premium paid by Authority is allocated to vertical developers of cells 1 and 3-5 based on acreage of the proposed development project.
CPL/PLI	Tokio Marine Specialty Insurance Company, Policy No. PPK1590707	Yes	\$50,000,000 CPL \$25,000,000 PLI	Contractor pollution liability (CPL) provides third-party coverage for bodily injury, property damage, defense, and first party coverage for cleanup as a result of pollution conditions arising from contracting operations performed by or on behalf of a contractor party. All contractors and subcontractors performing construction work will be listed as insureds under the CPL portion. Professional Liability Insurance (PLI) provides coverage for contractors' and subcontractors' professional work (<i>i.e.</i> design work) to Authority, RES and RES' direct design subcontractors .	\$2,972,297	60% of premium paid by Authority is allocated to vertical developers of cells 1 and 3-5 based on acreage of the proposed development project.
OPPI	Berkley Assurance Company, Policy No. OOMB-5004810-0918	No	\$25,000,000	Owner's Protective Professional Indemnity Insurance provides excess professional liability coverage on behalf of Authority and vertical developers. The OPPI provides first party coverage to the insureds, but does not extend to the design professionals or contractors (<i>i.e.</i> the engineers, architects, etc. are not added as named insureds to the	\$353,458	60% of premium paid by Authority is allocated to vertical developers of cells 1 and 3-5 based on acreage of the proposed development project.

Reference	Primary Carrier/ Policy Number	Excess Policies	Total Limits	Description	Total Premium Paid	Premium Allocation Calculation
				policy).		
GL-Wrap (OCIP)	Tokio Marine HCC, Policy No. H18PC31029-00	Yes	\$200,000,000 each occurrence; \$200,000,000 general aggregate; \$200,000,000 products and completed operations aggregate; 10 years products and completed operations	Wrap-up General Liability and Excess (OCIP) coverage for all tiers of horizontal and vertical contractors and subcontractors working on the Property provides the primary bodily injury coverage at or on the Property and includes affirmative coverage for concussive risk.	\$2,026,868	Pro-Rata based on hard- cost construction values
Builders' Risk	Lloyd's of London, Policy No. B0901LB1833162000	No		Wrap-up Builder's Risk insurance policy provides first party property coverage for damage to real property incurred during construction, including assets that are installed or being built on the Property.	\$1,063,874	Pro-rata based on project construction values multiplied by the annual rate set forth in the Builder's Risk Program
Terrorism Liability (3 rd party claims)	Lloyd's of London, Policy No. B0901LP1830848000	No	\$100,000,000	Stand-alone Terrorism Public Liability Insurance provides coverage for third-party claims resulting from a covered act of terrorism.	\$123,840	Pro-rata based on hard- cost construction values
Terrorism / Sabotage (1 st party damage)	Lloyd's of London, Policy No. B0901LP1830635000	No	\$392,000,000 [matches project construction values]	Stand-alone Terrorism and/or Sabotage Insurance provides coverage for first party losses resulting from a covered act of terrorism or sabotage.	\$112,188	Pro-rata based on project construction values

EXHIBIT F

Responsibility Matrix

RESPONSIBILITY MATRIX			
Task	Construction	Funding	Maintenance
A. Remedial Systems	Authority	Authority	Authority
B. BPS	Authority	Developer	Developer
C. Sub-foundation/Piles/Pile Caps, etc.	Authority	Developer	Authority
D. Structural Slab	Authority	Developer	Developer
E. Rough Grading (grading to liner grade)	Authority	Authority	Authority
F. Vertical Improvements	Developer	Developer	Developer
G. Offsite Improvements	Authority	Developer (for its pro-rata share)	City