

ORDINANCE NO. 18-1824

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 18-2018 BY AND BETWEEN THE CITY OF CARSON AND CALIFORNIA PROCESSING COMPANY, LLC, FOR A PROPOSED COMMERCIAL CANNABIS OPERATION CENTER LOCATED AT 2403 E. 223RD STREET (APN: 7315012900, 7315012804)

WHEREAS, in 1996 California voters approved Proposition 215, the Compassionate Use Act (“CUA”), codified as Section 11362.5 of the Health and Safety Code, to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420, the Medical Marijuana Program Act (“MMPA”), codified as Sections 11362.7, *et seq.*, of the Health & Safety Code, and as later amended, to clarify the scope of the Compassionate Use Act of 1996 relating to the possession and cultivation of cannabis for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in October 2015, the State of California adopted AB 266, AB 243, and SB 643, collectively referred to as the Medical Marijuana Regulation and Safety Act (“MCRSA”), which established a comprehensive regulatory and licensing scheme for commercial medical cannabis operations; and

WHEREAS, at the November 8, 2016 general election, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was approved by California voters, and by the voters of the City of Carson by a margin of 56% to 44%, as Proposition 64, which established a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, and which also legalized limited personal adult-use cannabis use, possession, and cultivation; and

WHEREAS, on June 27, 2017 Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, on November 21, 2017 the Carson City Council adopted Ordinance No. 17-1637 to add Chapter 15 (Commercial Cannabis Operations Regulatory Program) to Article VI of the Carson Municipal Code, which authorizes no more than four (4) commercial cannabis centers, which may include indoor cultivation, mixed-light cultivation, manufacturing, testing and/or (wholesale) distribution; and

WHEREAS, under MAUCRSA the State of California began issuing licenses in 2018 for both medical and adult-use cannabis businesses in multiple categories which include cannabis cultivation, manufacturer, testing, retailer, distributor, and microbusiness; and

WHEREAS, On September 4, 2018, the Carson City Council in compliance with Chapter 15 of Article VI of the Carson Municipal Code (“CMC”) approved the issuance of one (1) commercial cannabis operation permit (cannabis center) to California Processing Company, LLC, a California limited liability company; and

WHEREAS, CMC section 615100 provides that before a commercial cannabis center (“cannabis center”) may operate in the City of Carson, in addition to being issued a commercial cannabis operation permit (cannabis center), the cannabis center shall apply for and enter into a development agreement with the City setting forth the terms and conditions under which the cannabis center will operate that are in addition to the requirements of Chapter 15 of Article VI of the Carson Municipal Code; and

WHEREAS, as permitted by Government Code section 65864, *et seq.*, Carson Municipal Code (“CMC”) section 615100 provides for the consideration of commercial cannabis development agreements by the City Council of the City of Carson (“City Council”); and

WHEREAS, the City of Carson (“City”) and California Processing Company, LLC, a California limited liability company (“Developer”), desire to enter into a statutory development

01007.0005/520603.4

agreement to vest certain land use entitlements and to encourage Developer to undertake the development of approximately 3.7 net acres of real property described as the northwest corner of Alameda and 223rd Street in the City of Carson, California, with an address of 2403 E. 223rd Street, Assessor Parcel Nos. 7315-012-900 and 7315-012-804, (“Site”); and

WHEREAS, Developer proposes to develop the Site with an approximately 220,000 sq. ft., four-story tilt-up concrete building to be utilized specifically for operations related to: 1) manufacturing facility sites that produce, prepare, propagate, or compound manufactured cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, package or repackage cannabis products, label or relabel its container, or transform cannabis into a concentrate, an edible product, a beverage or a topical product; 2) small scale cultivation for nursery or research and development purposes; 3) warehousing, transportation and distribution and delivery (to the extent permitted by State law and the Carson Municipal Code); 4) laboratory testing and compliance operation; and 5) any other use permitted by City law whether cannabis related or not (“Project”); and

WHEREAS, California Government Code section 65865 authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property; and

WHEREAS, Developer has proposed to enter into a development agreement concerning the Project to provide assurances that the Project can proceed without disruption caused by a change in the City’s planning policies and requirements, except as provided in a development agreement, which assurance will thereby reduce the actual or perceived risk of planning for and proceeding with development of the Project; and

WHEREAS, the City desires the timely, efficient, orderly and proper development of the Project in furtherance of the goals of the General Plan; and

WHEREAS, the City Council determines that by entering into the Development Agreement that: (i) the City will promote orderly growth and quality development of the Site in accordance with the goals and policies set forth in the General Plan; and (ii) significant benefits will be created for City residents and the public generally; and

WHEREAS, City staff has prepared, and the Developer has reviewed and has concurred with the terms and conditions of, the development agreement as set forth in Exhibit “A,” and incorporated herein by this reference with the same force and effect as set forth in full (the “Development Agreement”); and

WHEREAS, the provisions of the proposed Development Agreement are consistent with the General Plan and Specific Plan and contain all necessary elements required by Government Code section 65864 *et seq.* and Section 615100 of the City of Carson Municipal Code; and

WHEREAS, the City and Developer have reached mutual agreement and desire to voluntarily enter into the Development Agreement to facilitate development of the Project on the Site, subject to conditions and requirements set forth therein; and

WHEREAS, Carson Municipal Code section 615100(B)(3) provides that the Planning Commission shall review proposed cannabis center development agreements and provide a recommendation to the City Council to approve, approve with modifications or deny the proposed cannabis center development agreement; and

WHEREAS, the Project has been the subject of an Initial Study and a Mitigated Negative Declaration (“IS/MND”) pursuant to the California Environmental Quality Act (“CEQA”), which adequately describes the Project and its potential impacts, as well as the impacts potentially resulting from the approval of the Project for the purposes of CEQA, and an associated Mitigation Monitoring and Reporting Program (“MMRP”) was prepared for the Project; and

WHEREAS, on October 30, 2018 the City of Carson Planning Commission held a duly noticed public hearing in accordance with the provisions of Government Code Section 65090, *et*
01007.0005/520603.4

seq., Government Code Section 65867, and the City of Carson Municipal Code, to receive and consider all public comment on the proposed Development Agreement, the IS/MND and the MMRP, and recommended to the City Council on a 5-4 vote: approval of the Development Agreement with the following two amendments: 1) the applicant to submit a Safety-Policing Plan approved by the L.A. County Sheriff and City of Carson prior to issuance of building permits, and 2) City shall devote 25% of the revenues generated by this project to drug rehabilitation and homeless programs; and, approval and certification of the IS/MND and MMRP; and

WHEREAS, the City Council on November 20, 2018 in Resolution No. 18-158 adopted and certified the IS/MND and the MMRP, and determined that for purposes of CEQA the proposed Project will not have a significant effect on the environment because the proposed mitigation measures in the IS/MND and the adoption of the MMRP reduce all potentially significant impact to less than significant, and all of the proposed mitigation measures in the IS/MND and the MMRP have been incorporated into the Development Agreement; and

WHEREAS, California state law under Proposition 64 provides that cities may regulate or enforce local commercial cannabis regulations through local code, and otherwise commercial cannabis uses are allowed pursuant to a state commercial cannabis license; and

WHEREAS, Carson Ordinance No. 17-1637 provides for the issuance of local commercial cannabis permits for businesses located in the commercial and industrial zones of the City; and

WHEREAS, According to the City's General Plan, Land Use Plan, the Site is designated as Regional Commercial, which includes uses intended to offer a wide range of services to both the community and the region; and

WHEREAS, the Developer has made a request for Zone Text Amendment No. 30-2018 ("ZTA") to expressly allow cannabis uses within commercial zones consistent with the provisions of City of Carson Ordinance No. 17-1637 (which allows four cannabis centers in the

01007.0005/520603.4

City as long as they are at least 750' from sensitive uses identified in the Ordinance) upon approval of a development agreement to allow the specific proposed cannabis uses; and

WHEREAS, with approval of the ZTA, the Project will be expressly consistent with the Carson Zoning Ordinance and effectuate the establishment of a commercial cannabis use at the proposed site with approval of the Development Agreement; and

WHEREAS, on November 20, 2018 the City Council held a duly noticed public hearing, as required by law and in accordance with the provisions of Government Code Section 65090, *et seq.*, Government Code Section 65867, and the City of Carson Municipal Code, to receive and consider all public comment on the proposed Development Agreement, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed Development Agreement, and closed the public hearing; and

WHEREAS, the terms and conditions of the Development Agreement have undergone review by the City Council at a publicly noticed hearing and have been found to be fair, just, and reasonable, and consistent with the City's policies, the General Plan and Chapter 15 of Article VI of the Carson Municipal Code; and

WHEREAS, the City Council has determined that the provisions of the Development Agreement are: (i) consistent with the goals, objectives, and policies of the general plan and any applicable specific plan, (ii) compatible with the uses authorized in and the regulations prescribed for the zoned district in which the real property is located, (iii) will not be detrimental to the health, safety, environmental quality, and general welfare of the community, (iv) will not adversely affect the orderly development of property or the preservation of property values, and (v) provides for a reasonable penalty for any violation of the development agreement; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

01007.0005/520603.4

Section 1. **Recitals.** The recitals set forth above are all true and correct and are incorporated herein by this reference.

Section 2. **Application.** An application was duly filed by the applicant with respect to real property located at 2403 E 223rd Street in the City of Carson (APN 7315012900, 7315012804), requesting approval of Development Agreement No. 18-2018 by and between the City of Carson and California Processing Company, LLC.

Section 3. **Public Hearing.** A City Council meeting was duly held on November 20, 2018 meeting date, at 6:00 P.M. at City Hall, Council Chambers, 701 East Carson Street, Carson, California, for consideration of the aforementioned application at a duly noticed public hearing in accordance with the provisions of the Government Code and Carson Municipal Code, to receive and consider all public comment on the Project and the proposed development agreement, and a notice of time, place and purpose of the aforesaid meeting was duly given.

Section 4. **Authority.** Based on substantial evidence presented to the City Council during the public hearing conducted with regard to the Development Agreement, including written staff reports, verbal testimony, site plans, and the exhibits stated herein, the City Council hereby determines that the Development Agreement is authorized by and satisfies the requirements of Government Section Code 65864 through 65869.5 and Section 615100 of the City of Carson Municipal Code.

Section 5. **Findings.** With respect to the Development Agreement No. 18-2018, the City Council finds that:

- a) The Development Agreement is consistent with the goals, objectives and policies of the City's General Plan.
- b) The Development agreement supports General Plan goal ED-4, "Maintain and increase net fiscal gains to the City."
 - i. Evidence: annual revenues to the City for its general fund of no less than \$1,000,000 in the first year of the cannabis center's operation, \$1,250,000 in

the second year of the cannabis center's operation, \$1,750,000 in the third year of the cannabis center's operation, and thereafter \$1,750,000 + CPI annually.

- ii. Evidence: payment of development impact fees of approximately \$440,000 to the City to mitigate Project impacts on the City's infrastructure, including but not limited to, any or all of the following: Traffic and circulation (roads, sidewalks, and signals); Public Safety (Fire and Sheriff's stations); Parks and open space (park land/improvements and trails and bikeways); Library; Noise (sound walls); Flood control and stormwater.
 - iii. Evidence: agreement to annex Site into one or more community facilities districts ("CFDs") to fund public safety services and infrastructure necessary to serve the Project, the Site and the public. The CFDs will levy a special tax on the Site property.
- c) The Development Agreement supports General Plan goal LU-6.6, "Attract land uses that generate revenue to the City of Carson, while maintaining a balance of other community needs such as housing, open space, and public facilities."
- i. Evidence: the proposed project would include annual revenue to the City's general fund as specified in the Development Agreement while maintaining a balance of other community needs by developing an underutilized site without negatively impacting housing, open space and public facilities.
- d) The Development Agreement supports General Plan goal ED-3.4, "Encourage development opportunities that increase economic gains to the City."
- i. Evidence: the proposed project includes the construction of an approximately 220,000 sq. ft. building for commercial cannabis operations that will be a source of revenue as specified in the Development Agreement.

- e) The Development Agreement is compatible with the uses authorized in and the regulations prescribed for the zoned district in which the real property is located.
 - i. Evidence: Proposition 64 established a presumption that state licensed commercial cannabis operations are allowed unless otherwise expressly prohibited. The subject property is currently zoned CA (Commercial, Automotive) which is silent on commercial cannabis uses. Carson Ordinance No. 17-1637 (Chapter 15 of Article VI of the Carson Municipal Code) allows for the issuance of commercial cannabis operation permits in commercial zones.
 - ii. Evidence: A ZTA is proposed to expressly allow cannabis uses within commercial and industrial zones consistent with the provisions of the Cannabis Operations Ordinance No. 17-1637 which allows four cannabis centers in the City as long as they are at least 750' from sensitive uses identified in the Ordinance. The ZTA will require approval of a DA to allow the cannabis uses for this site. With approval of the ZTA, the project would be expressly consistent with the Carson Zoning Ordinance.
- f) The Development Agreement will not be detrimental to the health, safety, environmental quality, and general welfare of the community.
 - i. Evidence: cannabis uses will be subject to the provisions of the Cannabis Operations Ordinance No. 17-1637.
 - ii. Evidence: compliance with all mitigation measures from a California Environmental Quality Act initial study and mitigated negative declaration prepared for the Project.
 - iii. Evidence: compliance with strict standards contained in both Chapter 15 of Article VI of the Carson Municipal Code as well as State law, including odor control, security guards, security cameras, alarm systems, heightened site

management requirements concerning nuisances and waste disposal, no Site access to the general public, and procedures for the non-diversion of cannabis and cannabis products.

- iv. Evidence: agreement to annex Site into one or more community facilities districts (“CFDs”) to fund public safety services and infrastructure necessary to serve the Project, the Site and the public. The CFDs will levy a special tax on the Site property.
 - v. Evidence: payment of development impact fees of approximately \$440,000 to the City to mitigate Project impacts on the City’s infrastructure, including but not limited to, any or all of the following: Traffic and circulation (roads, sidewalks, and signals); Public Safety (Fire and Sheriff’s stations); Parks and open space (park land/improvements and trails and bikeways); Library; Noise (sound walls); Flood control and stormwater.
 - vi. Evidence: in 1996 California voters approved Proposition 215, the Compassionate Use Act (“CUA”), codified as Section 11362.5 of the Health and Safety Code, to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis for medical purposes.
 - vii. Evidence: in 2016 California voters (and City of Carson voters by a margin of 56% to 44%) approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), which established a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, and which also legalized limited personal recreational cannabis use, possession, and cultivation.
- g) The Development Agreement will not adversely affect the orderly development of property or the preservation of property values.

- i. Evidence: the DA will effectuate the establishment of a regulated commercial cannabis use at the proposed site, which is presently undeveloped, and will not negatively affect property values.
- h) The Development Agreement provides for a reasonable penalty for any violation of the Development Agreement.
 - i. Evidence: the Development Agreement provides for notice, cure and termination procedures for failure to perform any material duty or obligation.
 - ii. Evidence: the Development Agreement provides that in the event the Developer fails to perform any monetary obligation under the Agreement, City may sue for the payment of such sums to the extent due and payable. The Developer shall pay interest thereon at the higher of: (i) ten percent (10%) per annum, or (ii) the maximum rate permitted by law, from and after the due date of the monetary obligation until payment is actually received by the City.
- i) The Development Agreement Provides for public benefits.
 - i. Evidence: the Development Agreement provides for social justice programs such as equitable business ownership and employment opportunities.
 - ii. Evidence: the Development Agreement provides local hiring program with respect to the construction, operation and maintenance of the Project and Site.

Section 6. **Approval.** Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council hereby approves the Development Agreement as set forth in Exhibit “A.”

Section 7. **Environmental Review.** The City Council, exercising their independent judgment, finds that the development permitted by the proposed project will not have a significant effect on the environment, as indicated in the Initial Study and Mitigated Negative Declaration, and associated Mitigation Monitoring Reporting Program, prepared pursuant to the provisions of the California Environmental Quality Act (CEQA), and adopted and certified by

01007.0005/520603.4

the City Council on November 20, 2018 by Resolution No. 18-158, and that the Development Agreement adopts all of the recommended mitigation measures.

Section 8. **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

Section 9. **Effective Date.** This ordinance shall be in full force and effect thirty (30) days after its passage.

Section 10. **Certification.** The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED AND ADOPTED on the ____ day of _____, 2018, by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

ALBERT ROBLES, Mayor

DONESIA GAUSE-ALDANA, City Clerk

APPROVED AS TO FORM:

SUNNY K. SOLTANI, City Attorney

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

CITY CLERK
City of Carson
701 E. Carson Street
Carson, CA 90745

No Recording Fee Required – Government Code § 27383

DEVELOPMENT AGREEMENT

between

THE CITY OF CARSON

("City")

and

CALIFORNIA PROCESSING COMPANY, LLC

("Developer")

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (together with all exhibits hereto, the “Agreement”), is made by and between the CITY OF CARSON (“City”), a municipal corporation, and CALIFORNIA PROCESSING COMPANY, LLC, a California Limited Liability Company (“Developer”). The City is entering this Agreement for the limited purposes as described below. City and Developer are hereinafter collectively referred to as the “parties” and individually as a “party”.

R E C I T A L S:

A. Recitals and Capitalized Terms. The recitals in this Agreement constitute part of this Agreement and each party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement. The capitalized terms used in these recitals and throughout this Agreement shall have the meaning assigned to them in Article 1. Any capitalized terms not defined in Article 1 shall have the meaning otherwise assigned to them in this Agreement, the Carson Municipal Code, or as apparent from the context in which they are used.

B. Legislation Authorizing Development Agreements. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the legislature of the State of California adopted the Development Agreement Statute, Sections 65864, *et seq.*, of the Government Code, authorizing City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights therein. As set forth in Government Code Section 65868, a development agreement is a binding contract such that it “may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successors in interest. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Section 65867. An amendment to an agreement shall be subject to the provisions of Section 65867.5.”

C. The Site. Developer has a legal or equitable interest in real property, or can perfect such right, described as the northwest corner of Alameda and 223rd Street in the City of Carson, California, with an address of 2403 E. 223rd Street, Assessor Parcel Nos. 7315-012-900 and 7315-012-804, legally described in **Exhibit “A”** and shown on the Site Map attached hereto as **Exhibit “B”**.

D. Commercial Cannabis Operation Permit (Cannabis Center). On November 21, 2017 the Carson City Council adopted Ordinance No. 17-1637 which added Chapter 15 (Commercial Cannabis Operations Regulatory Program) to Article VI of the Carson Municipal Code (“Chapter 15”). Chapter 15 authorizes no more than four (4) commercial cannabis centers, which may include indoor cultivation, mixed-light cultivation, manufacturing, testing and/or (wholesale) distribution. Developer submitted to City an application for issuance of a commercial cannabis operation permit (cannabis center) pursuant to Chapter 15 of Article VI of the Carson Municipal Code. On September 4, 2018, the Carson City Council in compliance with Chapter 15 of Article VI of the Carson Municipal Code approved the issuance of one (1) commercial cannabis operation permit (cannabis center) to Developer.

E. The Project. Developer intends to construct a building of up to 220,000 square feet with four stories, which will be used for commercial cannabis operations including manufacturing, distribution, delivery (to the extent permitted by State law and the Carson Municipal Code, with retail sales of cannabis and cannabis products directly to consumers within the City of Carson being prohibited by the City's current cannabis regulations), testing, small-scale cultivation and supporting non-cannabis services (the "Project"). Developer has submitted a conceptual Site Plan showing the proposed Project and the Scope of Development attached hereto as **Exhibit "C"**. This Agreement does not guarantee that the City will issue any further Project entitlements and does not in any way limit the City's discretion in granting or denying land use approvals for the Project or any portion thereof.

F. Requirement for Development Agreement. Chapter 15 establishes a comprehensive set of regulations and a regulatory permit process for specific types of commercial cannabis operations to preserve the public health, safety, and welfare of the residents and visitors of the City of Carson. Chapter 15 further specifies that it shall be unlawful to own, establish, operate, use, participate in, or permit the establishment or activity of a commercial cannabis operation in any manner or capacity, other than as provided. Section 615100 of the Carson Municipal Code requires that each commercial cannabis operation shall apply for and enter into a development agreement with the City setting forth the terms and conditions under which the commercial cannabis operation will operate that are in addition to the requirements of Chapter 15, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare.

G. Public Hearings: Findings. In accordance with the requirements of the California Environmental Quality Act, appropriate studies, analyses, reports and documents were prepared and considered by the Planning Commission and the City Council. On October 30, 2018 the Planning Commission held a duly noticed public hearing and recommended certification of a Mitigated Negative Declaration for the Project, and recommended that the City Council approve the Project. On _____, 2018, the City Council held a duly noticed public hearing on the Developer's application for this Agreement, and after making appropriate findings; (i) certified, by Resolution No. _____, the Mitigated Negative Declaration for the Project; (ii) found on the basis of substantial evidence based on the entire administrative record, that this Agreement is consistent with all applicable plans, rules, regulations and official policies of the City, including the General Plan and Zoning; and (iii) introduced the Authorizing Ordinance. On _____, 2018, the City Council adopted the Authorizing Ordinance.

H. Cannabis Taxes and Alternative Minimum Payment. In November 2016, the City's voters adopted Ordinance No. 16-1599 which imposed a tax on cannabis related business activities ("Tax Ordinance"). The Tax Ordinance provided that the City Council may impose the tax at a lower rate and establish exemptions, incentives or other reductions. In addition, the Tax Ordinance provided that the City Council reserved the authority to amend the Tax Ordinance to further the purposes and intent of the Tax Ordinance in any manner that does not increase a tax rate. On September 4, 2018, the City Council adopted Resolution No. 18-130 setting a tax rate on cannabis related business activities and establishing alternate minimum payments for commercial cannabis businesses governed by a development agreement ("Tax Resolution"). In accordance with the Tax Resolution and Article 5 (Public Benefits and Fees) of this Agreement,

Developer is required to: (i) guarantee a minimum amount of annual revenue annually; and (ii) guarantee that revenue regardless of occupancy rate.

I. Mutual Agreement. Based on the foregoing and subject to the terms and conditions set forth herein, Developer and City desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and having determined that the foregoing recitals are true and correct and should be, and hereby are, incorporated into this Agreement, the parties agree as follows:

1. DEFINITIONS

The following words and phrases are used as defined terms throughout this Agreement. Each defined term shall have the meaning set forth below.

1.1 Anniversary Date. “Anniversary Date” means the date of the anniversary of each year following the Effective Date of this Agreement.

1.2 Annual Review. “Annual Review” means the annual review of the Developer’s performance of the Agreement in accordance with Article 9 of this Agreement and Government Code § 65865.1.

1.3 Applicable Law. “Applicable Law” means all statutes, rules, regulations, guidelines, actions, determinations, permits, orders, or requirements of the federal, State, County, City and local and regional government authorities and agencies having applicable jurisdiction, that apply to or govern the Site, the Project or the performance of the parties’ respective obligations hereunder, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, mitigation monitoring plans, building codes, zoning, non-discrimination, prevailing wages if applicable, and Department of Toxic Substances Control (“DTSC”) regulations. All references herein to Applicable Law include subsequent amendments or modifications thereof, unless otherwise specifically limited in this Agreement.

1.4 Applications. “Application(s)” means a complete application for the applicable land use or building approvals (such as a subdivision map, conditional use permit, building permit, etc.) meeting all of the terms of this Agreement, or where the terms of this Agreement do not address a particular permit, then meeting the terms of the current ordinances of the City; provided, however, that any additional or alternate requirements in those ordinances enacted after the date this Agreement is approved by the City Council which affect the Project application shall apply only to the extent permitted by this Agreement.

1.5 Assignment. All forms of use of the verb “assign” and the nouns “assignment” and “assignee” shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

1.6 Authorizing Ordinance. “Authorizing Ordinance” means Ordinance No. _____ approving this Agreement, introduced on _____ and adopted on _____.

1.7 Building Permit. “Building Permit,” with respect to any building or structure to be constructed on the Site, means a building permit for not less than the shell and core of such building or structure issued by the City’s Division of Building and Safety.

1.8 Cannabis. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

1.9 Cannabis concentrate. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code (and as amended), or a drug, as defined by Section 109925 of the Health and Safety Code (and as amended).

1.10 Cannabis products. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

1.11 Carson Municipal Code. “Carson Municipal Code” means the City’s Municipal Code as it existed on the date the City Council approves this Agreement and as it may be amended from time to time consistent with the terms of this Agreement.

1.12 CEQA. “CEQA” means the California Environmental Quality Act, Section 21000 *et seq.* of the California Public Resources Code and its implementing regulations and guidelines, including future amendments to or recodification thereof.

1.13 CEQA Completion Date. “CEQA Completion Date” means the later date of either: (i) 30 days after the Notice of Determination; or (ii) the date of the final settlement or resolution of any appeal, lawsuit or other action by a third party challenging the Development Approvals or the CEQA process.

1.14 Certificate of Compliance. “Certificate of Compliance” shall have the meaning set forth in Section 10.2 below.

1.15 Certificate of Occupancy. “Certificate of Occupancy,” with respect to a particular building or other work of improvement, means the final certificate of occupancy issued by the City with respect to such building or other work of improvement. No Certificate of Occupancy shall be issued until all required covenants are recorded.

1.16 City. “City” means the City of Carson, California.

1.17 City Council. The “City Council” means the governing body of the City.

1.18 City’s Design Guidelines. “City’s Design Guidelines” means applicable design guidelines stated in the Carson Municipal Code, including but not limited to those guidelines articulated in the General Plan, or by City’s Planning Commission or Planning Division; Project-specific Design Guidelines shall govern for purposes of this Agreement over general City Design Guidelines.

1.19 City Manager. “City Manager” means the City Manager of City.

1.20 Claims or Litigation. “Claims or Litigation” means any challenge by adjacent owners or any other third parties (i) to the legality, validity or adequacy of the General Plan, Land Use Regulations, this Agreement, Development Approvals or other actions of the City pertaining to the Project, or (ii) seeking damages against the City as a consequence of the foregoing actions, for the taking or diminution in value of their property or for any other reason. “Claims or Litigation” shall also include any referendum involving the approval of this Agreement, any of the Entitlements or then Existing Development Approvals.

1.21 Commercial Cannabis Operation. “Commercial cannabis operation” or “commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or wholesale (not retail sale) of cannabis and cannabis products; except, as applicable, as preempted by State law.

1.22 Commercial Cannabis Operation Permit. “Commercial cannabis operation permit” shall mean a City of Carson permit issued pursuant to the procedures provided for in Chapter 15 of Article VI of the Carson Municipal Code, and which shall allow the permit holder to operate a specific type of commercial cannabis operation in the City of Carson subject to the requirements of Chapter 15 of Article VI of the Carson Municipal Code, State law, and the specific permit.

1.23 Conditions of Approval. “Conditions of Approval” means those conditions to the Development of the Project imposed via this Agreement and attached hereto as **Exhibit “D”**.

1.24 Consumer Price Index. “Consumer Price Index” shall mean the same percentage increase as the Consumer Price Index for Los Angeles-Long Beach-Anaheim, California area for the preceding twelve month period. Excepting, however, that for purposes of calculating the Consumer Price Index, the rate shall have a floor no lower

than 2% and shall be capped at 3%, For example, if the actual Consumer Price Index is 1.9%, a rate of 2% shall apply; if the actual Consumer Price Index is 3.1%, a rate of 3.0% shall apply.

1.25 Default. “Default” refers to any material default, breach, or violation of a provision of this Development Agreement as defined in Article 11 (Default, Remedies and Termination) below. “City Default” refers to a Default by the City, while “Developer Default” refers to a Default by the Developer.

1.26 Development. “Development” means the preparation of designs for, and improvement of, the Site for purposes of affecting the structures, improvements and facilities composing the Project including, without limitation: design, grading, the construction of infrastructure related to the Project, whether located within or outside the Site; the construction of structures and buildings; the installation of landscaping; and the operation, use and occupancy of, and the right to maintain, repair, or reconstruct, any private building, structure, improvement or facility after the construction and completion thereof, provided that such repair, or reconstruction takes place during the Term of this Agreement.

1.27 Development Agreement Statute. “Development Agreement Statute” means Sections 65864 through 65869.5 of the Government Code as it exists on the date the City Council approves this Agreement.

1.28 Development Approvals. “Development Approvals” means all Site-specific (meaning specifically applicable to the Site only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements to use of every kind and nature. Development Approvals include, but are not limited to, site plans, tentative and final subdivision maps, vesting tentative maps, variances, zoning designations, planned unit developments, conditional use permits, design overlay review permits, grading, building and other similar permits, the Site-specific provisions of general plans, environmental assessments, including environmental impact reports, and any amendments or modifications to those plans, maps, permits, assessments and entitlements. The term Development Approvals does not include rules, regulations, policies, and other enactments of general application within the City.

1.29 Development Impact Fees. “Development Impact Fees” means a monetary exaction other than a tax or special assessment that is charged by a local governmental agency to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, pursuant to Gov. Code § 66000(b).

1.30 Development Plan. “Development Plan” means the Existing Development Approvals, Future Development Approvals and Existing Land Use Regulations.

1.31 Director. “Director” means the City’s Director of Community Development or equivalent official.

1.32 Distribution. “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed for and/or engaged in commercial cannabis activities.

1.33 Distributor. “Distributor” means a person engaged in distribution.

1.34 Edible. “Edible” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

1.35 Effective Date. “Effective Date” means the latest of the following dates: (i) this Agreement becomes effective pursuant to the Development Agreement Statute; or (ii) all necessary hearings have been held and the Existing Development Approvals, have been granted, including the CEQA Completion Date; or (iii) this Agreement has been executed by both parties; or (iv) the periods in which to bring any Claim or Litigation have expired without any Claim or Litigation having been commenced or, if any Claim or Litigation has been commenced, the date on which the validity of this Agreement, the Entitlements and the Existing Development Approvals have been finally upheld and are free from any further judicial review; and (vi) Developer has closed on its ownership of fee title to, or an equitable interest in, the Site.

1.36 Eligible Uses / Prohibited Uses. The Site shall be restricted in use to those uses permitted under the Scope of Development. Eligible Uses are permitted on the Site as part of the Project and include such uses as commercial cannabis manufacturing, distribution, testing and cultivation pursuant to Chapter 15 of Article VI of the Carson Municipal Code. Prohibited Uses are not permitted on the Site or as part of the Project and include such uses as transitional housing and retail cannabis sales. No use permit may be issued for a Prohibited Use.

1.37 Entitlements. As used herein, “Entitlements” shall mean receipt by Developer of all final Project entitlements, including without limitation all necessary governmental approvals, consents and permits to develop its Project (other than building permits) .

1.38 Existing Development Approvals. “Existing Development Approvals” means the Development Approvals which have been previously granted or are granted concurrent herewith, or will be granted pursuant hereto. The term “Existing Development Approvals” shall include Future Development Approvals after such Future Development Approvals are granted.

1.39 Existing Land Use Regulations. “Existing Land Use Regulations” or “Existing Regulations” means those Land Use Regulations applicable to the Site in effect on the date the City Council approves this Agreement.

1.40 Extraction. “Extraction” means the process of obtaining cannabis concentrates from cannabis plants, including but not limited to through the use of solvents like butane, alcohol or carbon dioxide.

1.41 Force Majeure. “Force Majeure” shall have the meaning set forth in Section 17.2 below.

1.42 Future Development Approvals. “Future Development Approvals” means those Development Approvals applicable to the Site approved by the City after the Effective Date such as, but not limited to, site plans, tentative and final subdivision maps, vesting tentative maps, variances, zoning designations, planned unit developments, conditional use permits, design overlay review permits, grading, building and other similar permits or more detailed planning or engineering Development Approvals. A list of specifically-anticipated and agreed-upon Future Development Approvals is attached hereto at **Exhibit “F”**.

1.43 Future Land Use Regulations. “Future Land Use Regulations” means Land Use Regulations enacted after the Effective Date of this Agreement.

1.44 General Plan. “General Plan” means the City’s General Plan as it exists on the date the City Council approves this Agreement.

1.45 Grading Permit. “Grading Permit” means a permit issued by the City’s Division of Building and Safety which allows the excavation or filling, or any combination thereof, of earth.

1.46 Land Use Regulations. “Land Use Regulations” means those ordinances, laws, statutes, rules, regulations, initiatives, policies, requirements, guidelines, constraints, codes or other actions of the City which affect, govern, or apply to the Site or the implementation of the Development Plan. Land Use Regulations include the ordinances and regulations adopted by the City which govern permitted uses of land, density and intensity of use and the design of buildings, applicable to the Site, including, but not limited to, the MND and MND Mitigation Measures, Zoning Ordinances, development moratoria, implementing growth management and phased development programs, ordinances establishing development exactions, subdivision and park codes, any other similar or related codes and building and improvements standards, mitigation measures required in order to lessen or compensate for the adverse impacts of a project on the environment and other public interests and concerns or similar matters. The term Land Use Regulations does not include, however, regulations relating to the conduct of business, professions, and occupations generally; taxes and assessments; regulations for the control and abatement of nuisances; building codes; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; any exercise of the power of eminent domain; or similar matters.

1.47 Manufacture. “Manufacture” or “manufacturing” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product; includes the activities of a manufacturer.

1.48 Manufacturer. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; includes the activity of manufacturing.

1.49 MND. "MND" means the Final Mitigated Negative Declaration for the Project which was certified by the City Council, after making appropriate findings, by Resolution No. _____ adopted on _____, 2018 as being in compliance with CEQA.

1.50 MND Mitigation Measures. "MND Mitigation Measures" means the mitigation measures imposed upon the Project pursuant to the MND and the Conditions of Approval thereof. The MND Mitigation Measures are attached hereto as **Exhibit "E"**.

1.51 Mortgage. "Mortgage" means a mortgage, deed of trust, sale and leaseback arrangement or other transaction in which all, or any portion of, or any interest in, the Site is pledged as security.

1.52 Mortgagee. "Mortgagee" refers to the holder of a beneficial interest under a Mortgage.

1.53 Mortgagee Successor. "Mortgagee Successor" means a Mortgagee or any third party who acquires fee title or any rights or interest in, or with respect to, the Site, or any portion thereof, through foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise from, or through, a Mortgagee. If a Mortgagee acquires fee title or any right or interest in, or with respect to, the Site, or any portion thereof, through foreclosure, trustee's sale or by deed in lieu of foreclosure and such Mortgagee subsequently conveys fee title to such portion of the Site to a third party, then such third party shall be deemed a Mortgagee Successor.

1.54 Non-Defaulting Party. "Non-Defaulting Party" shall have the meaning set forth in Article 11 below.

1.55 Person. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

1.56 Planning Commission. "Planning Commission" means the City's Planning Commission.

1.57 Proceeds. "Proceeds" means total revenue and/or money received through the sale of goods and/or services before any deductions or allowances (e.g., rent, costs of goods sold, taxes).

1.58 Processing Fees. "Processing Fees" means (i) the City's normal fees for processing tentative tracts, map review, plan checking, site review, site approval, administrative review, building permit (plumbing, mechanical, electrical, building),

inspection and similar fees imposed to recover the City's costs associated with processing, review and inspection of applications, plans, specifications, etc., and (ii) any fees required pursuant to any Uniform Code. Developer is required to pay the City's normal and customary Processing Fees, which Fees are not subject to limitation hereunder except pursuant to the City's general police power authority.

1.59 Project. "Project" means the Development of the Site, pursuant to this Agreement, the MND and MND Mitigation Measures, and the Existing Land Use Regulations, as described more specifically in the Scope of Development, attached hereto as **Exhibit "C"** and incorporated herein by this reference.

1.60 Reservations of Authority. "Reservation of Authority" shall have the meaning set forth in Article 9 below.

1.61 Schedule of Performance. "Schedule of Performance" means the schedule attached hereto as **Exhibit "G"**.

1.62 Scope of Development. "Scope of Development" means the description of the Project and the manner in which it will be developed as set forth in **Exhibit "C"**.

1.63 Site. "Site" means the approximately 3.7 net acres in the City of Carson, legally described in the Legal Description attached hereto as **Exhibit "A"** and shown in the Site Map attached hereto as **Exhibit "B"**.

1.64 State. "State" means the State of California.

1.65 Taxes. "Taxes" means general or special taxes, including but not limited to ad valorem property taxes, sales taxes, transient occupancy taxes, utility taxes or business taxes of general applicability citywide which do not burden the Site disproportionately to similar types of development in the City and which are not imposed as a condition of approval of a development project. Taxes do not include Development Impact Fees or Processing Fees.

1.66 Testing. "Testing" or "testing laboratory" refers to a laboratory, facility, or entity that offers or performs tests on cannabis or cannabis products; includes the activity of laboratory testing.

1.67 Term. "Term" means that period of time during which this Agreement shall be in effect and bind the parties, as defined in Section 3.1 below.

1.68 Transfer. "Transfer" shall have the meaning set forth in Article 12 below.

1.69 Zoning Code. "Zoning Code" means Article IX of the Carson Municipal Code as it existed on the date the City Council approves this Agreement except (i) as amended by any zone change relating to the Site approved concurrently with the approval of this Agreement, and (ii) as the same may be further amended from time to time consistent with this Agreement.

1.70 Other Definitions. Unless otherwise specified in this Agreement, other definitions relating to cannabis businesses, sales and proceeds shall bear the same meaning and definition as utilized in Chapter 15 of Article VI of the Carson Municipal Code. This includes, without limitation, the definitions for “retailer” (or “retail”), “adult use,” “delivery,” and “medical.”

2. **EXHIBITS.**

The following are the Exhibits to this Agreement:

- 2.1 Exhibit A Legal Description
- 2.2 Exhibit B Site Map
- 2.3 Exhibit C Scope of Development
- 2.4 Exhibit D Reserved
- 2.5 Exhibit E MND Mitigation Measures
- 2.6 Exhibit F List of Future Development Approvals
- 2.7 Exhibit G Schedule of Performance

3. **TERM.**

3.1 Term. The term of this Development Agreement (the “Term”) shall commence on the Effective Date and shall continue until twenty (20) years from the Effective Date hereof.

3.2 Termination for Default. This Agreement may be terminated due to the occurrence of any Default in accordance with the procedures in Article 11.

3.3 Effective Date. See Section 1.35 above. If such a Claim or Litigation has been filed, then the Effective Date shall be the date that the Claim or Litigation has been successfully resolved in the City’s favor, and the time for any further judicial review has run. The City shall give Developer notice as to the date established as the Effective Date. Until the Effective Date, neither City nor Developer shall have any rights or obligations under this Agreement. The Effective Date is not otherwise tolled for any other Force Majeure as described in Section 17.2.

4. **DEVELOPMENT OF THE SITE; OPERATOR PERMITS.**

4.1 Right to Develop. During the Term, the Developer shall have a vested right to develop the Site (subject to Article 9 below) to the full extent permitted by the MND and MND Mitigation Measures, this Agreement and the Development Plan, which shall exclusively control the Development of the Site (including the uses of the Site, the density or intensity of use, architectural review, the maximum height and size of

proposed buildings, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to the Project).

4.2 Developer Responsibility for DIF Amount. Developer shall be responsible for payment of one-time impact fees of \$2/square foot of gross building area. The Project contemplates a new building of up to 220,000 square feet with four stories, which will be used for commercial cannabis operations including manufacturing, distribution, testing, and small-scale cultivation on 3.7 acres of land. Based on the square foot of the Project, Developer will be responsible for one-time development impact fees in the total amount of \$440,000 (the “DIF Amount”), provided that if the Project increases or decreases in size, the DIF Amount will be adjusted accordingly at the same rate. Developer shall submit payment of the DIF Amount prior to the issuance of building permits. No building permits shall be issued prior to the full payment of the DIF Amount. Any amounts deposited by Developer shall be used by the City to pay for increased accumulative Project impacts on the City’s infrastructure, including but not limited to, any or all of the following: Traffic and circulation (roads, sidewalks, and signals); Public Safety (Fire and Sheriff’s stations); Parks and open space (park land/improvements and trails and bikeways); Library; Noise (sound walls); Flood control and stormwater. Interest accruing upon any such deposit shall inure to and be created for the benefit of the City.

4.3 This Agreement to Govern Zoning. The City has determined that this Agreement is consistent with the General Plan and the Zoning Code. As such, this Agreement and its Exhibits shall be the primary documents governing the use and Development of the Site and, in the event of a conflict, shall prevail over any other Existing Land Use Regulations. Any zoning issues or requirements applicable to the Site that are not otherwise governed by this Agreement, the MND or the Development Plan shall be governed by the Existing Land Use Regulations.

4.4 Right To Future Approvals. Subject to the City’s exercise of its police power authority as specified in Article 9 below, the Developer shall have a vested right: (i) to receive from the City all Future Development Approvals for the Site that are consistent with, and implement, the Development Plan and this Agreement; (ii) not to have such approvals be conditioned or delayed for reasons inconsistent with the Development Plan and this Agreement; and (iii) to Develop the Site in a manner consistent with such approvals in accordance with this Agreement. All Future Development Approvals for the Site, shall upon approval by the City, be vested in the same manner as provided in this Agreement for the Existing Land Use Regulations, for the Term of this Agreement.

4.4.1 Project Description. Developer intends to develop the Site for permitted commercial cannabis business activities per the Carson Municipal Code, including the following business activities: 1) manufacturing facility sites that produce, prepare, propagate, or compound manufactured cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, package or repackaged cannabis products, label or relabel its container, or

transform cannabis into a concentrate, an edible product, a beverage or a topical product; 2) small scale cultivation for nursery or research and development purposes; 3) warehousing, transportation, distribution and delivery (to the extent permitted by State law and the Carson Municipal Code) of the latter; 4) laboratory testing and compliance operation; and 5) any other use permitted by City law whether cannabis related or not.

4.4.2 Developer has represented that an initial anchor tenant for the Project will be an existing, well-established and properly-licensed commercial cannabis business that has submitted a letter of intent to Developer stating the terms of a proposed lease. In reliance on Developer's representation, City's approval of this Agreement is conditioned on an existing, well-established, reputable and properly-licensed anchor tenant occupying a substantial square footage of the Project for at least the first five years of operations. After such five-year period, the City Manager shall exercise reasonable discretion to determine if an anchor tenant is materially similar to the initial proposal for purposes of this subsection and shall have the authority (but not the obligation) to present any proposed alternative anchor tenant to the Council for approval prior to occupancy by such tenant.

4.5 Obtaining and Maintaining Required Licenses. Developer shall require, warrant and ensure that all subtenants, lessees, and owners of any portion of the Site, as the case may be, at all times comply fully with all existing and future local rules (pursuant to the Carson Municipal Code) and all existing and future State rules applicable to commercial cannabis activities on the Site and shall ensure such compliance by all of Developer's employees, contractors, vendors, and members of the public invited or allowed access to the Site.

4.5.1 Developer shall require that all subtenants, lessees, and owners of any portion of the Site, as the case may be, promptly apply for and obtain all State and City licenses required for activities on the Site.

4.5.2 All commercial cannabis operation permit applicants seeking to establish a commercial cannabis operation at the Site shall be prescreened by Developer to ensure compliance with State laws and the Carson Municipal Code, including Chapter 15 of Article VI of the Carson Municipal Code. No commercial cannabis operation permit shall be issued by the City and become effective unless and until: (a) Developer has prescreened the applicant and submitted its approval in writing to the City, and (b) City has determined that the applicant and application meets all requirements of the Carson Municipal Code. City's determination and issuance of the operation permit and business license shall be done administratively and the application may be approved administratively by the Director without further action or review of the City Council or the Cannabis Permit Committee (as understood by Chapter 15 of Article VI of the Carson Municipal Code) within a reasonable amount of time after the application is submitted to the City. If the Director is unable to make the findings and determinations prerequisite to the granting of approval pursuant to this Section,

the application shall be denied in writing with the reasons for any denial specified. The application fee shall be a reasonable fee to cover the City's actual cost of reviewing the application.

4.6 Renewal of Permits. The process described in Section 4.5 shall also govern the annual renewal of commercial cannabis operation permits.

4.7 Revocation and/or Suspension of Commercial Cannabis Operation Permits. Any commercial cannabis operation permit for any commercial cannabis activity at the Site may be revoked or suspended by the City Council, pursuant to written findings (made by adopted resolution after a public hearing held at a public meeting of the City Council) of any material violation of applicable State law or State rules, or of any material violation of Chapter 15 of Article VI of the Carson Municipal Code, or of any material violation of this Agreement (a material violation of this Agreement expressly includes, but is not limited to, failure to fully comply with any and all financial obligations owed to City pursuant to this Agreement), provided that at least thirty (30) days' written notice has been provided to the permit holder to cure the alleged violation. Such notice to cure does not preclude assessment by City of applicable financial penalties or interest. The permit holder shall have the right at the public hearing to present evidence to demonstrate that it is not in violation and to rebut any evidence. Conditions (if any) of suspension or revocation are at the reasonable discretion of the City Council and may include, but are not limited to, a prohibition on all owners, operators, managers and employees of the suspended or revoked commercial cannabis operation from operating within the City for a period of time set forth in writing and/or a requirement (when operations may resume, if at all, pursuant to the City Council's determination) for the holder of the suspended or revoked permit to resubmit an application for a commercial cannabis operation permit pursuant to the requirements of Chapter 15 of Article VI of the Carson Municipal Code.

5. PUBLIC BENEFITS AND FEES.

5.1 Minimum Annual Payments. As consideration for City's approval and performance of its obligations set forth in this Agreement, Developer shall guarantee and pay to City a Minimum Annual Payment as set forth below. The Minimum Annual Payment shall be made according to the schedule below, and shall not be adjusted or delayed by reason of the level of occupancy of the Project.

5.1.1 First Year: \$1,000,000 paid prior to issuance of the first Certificate of Occupancy for the Project to be applied against actual taxes due for the next full four calendar quarters (the "Initial Period"). The last day of the Initial Period will become the year end ("Year End Date") for the payment of Minimum Annual Payments.

5.1.2 Second Year: \$1,250,000 payable quarterly, with the full \$1,250,000 amount to be due on the first anniversary of the Year End Date.

5.1.3 Third Year: \$1,750,000 payable quarterly, with the full \$1,750,000 amount to be due on second anniversary of the Year End Date.

5.1.4 Fourth Year and all following years: \$1,750,000 increased by the change in the Consumer Price Index for the prior year (compounded annually), payable quarterly, with the full annual amount to be due at the Year End Date for that year.

5.2 Taxes. The cannabis tax due to the City from commercial cannabis operations located at the Site, pursuant to Chapter 13 of Article VI of the Carson Municipal Code, shall be determined from the total annual proceeds (based on the one year periods established by Section 5.1.1 through 5.1.4 of this Agreement) established in proceeds from those operations (combined) for each year using the rates established below (“Baseline Tax”). The Baseline Tax is the cannabis tax rate applicable to commercial cannabis operations at the Site pursuant to Chapter 13 of Article VI of the Carson Municipal Code, consistent with the authority provided by Carson Municipal Code section 61320 which reads in part: “The City Council may impose the tax authorized by this Chapter at a lower rate and may establish exemptions, incentives, or other reductions, and penalties and interest charges or determinations of tax due for failure to pay the tax in a timely manner, as otherwise allowed by Code or California law.” The cannabis tax shall be payable quarterly to the City based on the sales reported to the State of California on the quarterly cannabis tax return, subject to the authority of the City to conduct audits upon any sales reports (such audits to be paid for by Developer). If the Baseline Tax revenue for each year is lower than the Minimum Annual Payment for that year, Developer shall pay the deficiency amount to meet the Minimum Annual Payment within one month after the close of the applicable year. If the Baseline Tax for a given year exceeds the Minimum Annual Payment for that year, City shall keep all tax revenues that exceed the Minimum Annual Payment. Cannabis proceeds above that amount shall be subject to the following tax rates, and paid by Developer within one month after the close of the applicable quarter, to City in addition to the Minimum Annual Payment if applicable for that year:

5.2.1 Manufacturing: 0.5%

5.2.2 Distribution: 1.0%

5.2.3 Cultivation: 1.0% / \$0.00 per square foot

5.2.4 Testing: 1.0%

5.2.5 Medical Deliveries Retailer (to the extent permitted by State law and the Carson Municipal Code): 2.5%

5.2.6 Adult-Use Retailer Deliveries (to the extent permitted by State law and the Carson Municipal Code): 5.0%

5.3 Obligation of Developer and Tenants. Payment of the Baseline Taxes shall be the joint and several obligation of Developer and its tenants. Developer may establish an escrow account to collect payments from its Tenants on a periodic basis. Developer shall be responsible for full payment to the City and any shortfall in the Minimum Annual Payment and additional taxes. However, nothing herein shall prevent City from pursuing any available remedies against any Carson commercial cannabis permit holder or Site tenants under the Carson Municipal Code or Tax Resolution.

5.3.1 Notwithstanding any of the foregoing commitments in this Section 5, beginning in the Fourth Year identified in Section 5.1.4, should Developer, by virtue of economic circumstances outside Developer's reasonable control, suffer significant economic hardship, then Developer may defer payment of up-to 50% of the Minimum Annual Payment for no more than two years. After two years of such deferrals (consecutive or otherwise), if Developer is again unable to feasibly make full payment of a Minimum Annual Payment, then Developer may again defer payment of up-to 50% of the Minimum Annual Payment on a year-to-year basis, as outlined below, and any such subsequent deferral can only occur if all the following conditions are met:

(a) Developer has provided City at least 30 days' written notice of its inability to feasibly make a payment upon the Minimum Annual Payment;

(b) Developer provides the City with an opportunity to audit, at no cost to City (i.e., Developer's cost), all reasonably-requested financial records and data to demonstrate by a preponderance of the evidence that payment upon the Minimal Annual Payment will cause Developer significant economic hardship, such that Developer cannot economically and feasibly continue Project operations. Such evidence may include, without limitation, impending bankruptcy, foreclosure on the Project or a majority of Developer's assets, or unreasonable ratio of debt to assets;

(c) The Baseline Tax for the given year is below the Minimum Annual Payment;

(d) The Developer has paid at least fifty percent (50%) of the Minimum Annual Payment for the given year; and

(e) The Developer has fully paid all previous Baseline Taxes and met the Annual Minimum Payments in the first three years identified in Sections 5.1.1 through 5.1.3.

5.3.2 City shall provide Developer written notice of any determination made by the City that Developer does not qualify for a deferral.

5.3.3 If Developer qualifies for a deferral of payment, the amount of the deferral for any particular year will be equal to the difference between the Minimum Annual Payment and the actual payments, up to a maximum of fifty

percent (50%) of the Minimum Annual Payment. If Developer qualifies for a deferral of payment, such deferral shall not be subject to interest or penalty costs and shall be carried forward up to the Term of this Agreement. However, if Developer does not qualify for a deferral (e.g., is unable to demonstrate by a preponderance of the evidence that payment upon the Minimal Annual Payment will cause Developer significant economic hardship), then the full amount of the Minimum Annual Payment plus all penalties and assessments applicable under the Carson Municipal Code or Tax Resolution shall apply and be payable to the City within 90 days of the City's determination that Developer does not qualify for a deferral.

5.3.4 If City determines that Developer does qualify for one or more deferral(s) of payment upon the Minimum Annual Payment, the City may, in its sole discretion, send written notice of such determination to Developer and elect to negotiate with Developer either (i) a new Minimum Annual Payment that accommodates Developer's economic needs, or (ii) a new schedule for Developer's payment of Minimum Annual Payments or deferrals thereof.

5.4 Audits; Reopener Provision. City shall have the right to conduct periodic audits of all commercial cannabis operations located at the Site pursuant to the Carson Municipal Code, at City's discretion and Developer's expense. At the City's sole discretion, between the end of the third year from the issuance of the first Certificate of Occupancy to the end of the sixth year from the issuance of the first Certificate of Occupancy, and thereafter every three years, City shall have the right to discuss and negotiate with Developer increases in the Annual Minimum Payments and the Baseline Tax. Factors to be included in such negotiations include but are not limited to: (i) changes in federal or State cannabis laws; (ii) changes in State and local cannabis tax rates, applicable sales tax rates, and/or methodology; and (iii) changes in the uses and occupancy of the Site. Developer shall both participate in as well as conclude such negotiations in good faith.

5.5 Local Hiring. A goal of City with respect to this Project and Site and other major projects and sites within City is to foster employment opportunities for Carson residents ("Local Hiring Program"). To that end, Developer covenants that with respect to the construction, operation and maintenance of the Project and Site, Developer shall make reasonable efforts to cause all solicitations, for full-time, part-time, new or replacement employment relating to the construction, operation and maintenance of the Project and Site, to be advertised in such a manner as to target local City residents, and Developer shall make other reasonable efforts at local employment outreach as City shall approve. Developer shall also notify City of jobs available at the Project and Site such that City may inform City residents of job availability at the Project and Site. Developer shall include in each lease or sale of any portion of the Site, as the case may be, this Local Hiring Program as a guideline for any subtenant, lessee, owner of any portion of the Site, or by any applicant licensed on any portion of the Site. Nothing in this Section shall require Developer to offer employment to individuals who are not otherwise qualified for such employment. Without limiting the generality of the foregoing, the

provisions of this Section are not intended, and shall not be construed, to benefit or be enforceable by any person whatsoever other than City.

5.6 Social Justice Hiring. Developer and commercial cannabis operations at the Site shall promote equitable business ownership and employment opportunities at the Site in order to decrease disparities in life outcomes for marginalized communities and address the disproportionate impact of the war on drugs on those communities. To these ends, Developer and commercial cannabis operations at the Site shall engage in proactive efforts to hire partners and employees from marginalized communities and/or rehabilitated persons; seek to establish commercial cannabis operations that are diverse and inclusive; and, seek the hiring of otherwise qualified employees who have been arrested for or convicted of minor cannabis-related crimes that would not be considered crimes following the passage of the Adult Use of Marijuana Act (Proposition 64).

5.7 Local Tenancy Application Program. Developer shall implement a policy favoring or granting preferential application points, consistent with the Local Hiring provisions described above, to facilitate the leasing of space on the Site to residents of the City of Carson, including local tenants, lessees, and subtenants of any portion of the Site, as the case may be, to target residents of the City of Carson, by ensuring that local residents of the City are aware of Project and Site opportunities and have a fair opportunity to apply and compete for such operation space within the Project and Site.

5.8 Financing of Public Safety Services and Improvements. Developer acknowledges that City is considering the formation of one or more community facilities districts (“CFDs”) to fund public safety services and infrastructure necessary to serve the Project. Developer shall cooperate in the formation of such CFDs and shall agree to annex into such CFDs when requested by City. The CFDs will levy a special tax on the Site property. The amount of the special tax shall be the same rate and no higher than the rates paid for similar uses, as such similar uses are determined in the reasonable discretion of the City Manager. The CFD shall be formed in accordance with the City’s Goals and Policies for Community Facilities District Financing, as may be amended from time to time. The CFD shall be formed henceforth by the City.

6. PROJECT CONSTRUCTION AND SCHEDULING.

6.1 Timing of Development. The parties acknowledge that the substantial public benefits to be provided by the Developer to the City pursuant to this Agreement are in consideration for, and in reliance upon, assurances that the City will permit Development of the Site in accordance with the terms of this Agreement. Accordingly, the City shall not attempt to restrict or limit the Development of the Site in any manner that would conflict with the provisions of this Agreement or the Existing Development Approvals. The City acknowledges that the Developer cannot at this time predict the exact timing or rate at which the Site will be Developed. The timing and rate of Development depend on numerous factors such as market demand, commercial tenant availability, absorption, completion schedules and other factors, which are not within the control of the Developer or the City. It is the intent of the parties to provide in this Agreement that the Developer shall have the vested right to Develop the Site in such

order and at such rate and at such time as the Developer deems appropriate. Except as set forth in the following sentence, it is the intent of the parties that no City moratorium or other similar limitation relating to the rate or timing of the Development of the Site or any portion thereof, whether adopted by initiative, referendum or otherwise, shall apply to the Site to the extent that such moratorium, referendum or other similar limitation is in conflict with this Agreement. Notwithstanding the foregoing, the Developer acknowledges that nothing herein is intended or shall be construed as (i) overriding any provision of the Existing Land Use Regulations; or (ii) restricting the City from exercising the powers described in Article 9 of this Agreement to regulate development of the Site; and, (iii) nothing in this Article 6 is intended to excuse or release the Developer from any obligation set forth in this Agreement which is required to be performed on or before a specified calendar date or event.

6.2 Standard of Work. When the Developer is required by this Agreement and/or the Development Plan to construct any improvements which will be dedicated to the City or any other public agency, upon completion, and if required by applicable laws to do so, the Developer shall perform such work in the same manner and subject to the same construction standards as would be applicable to the City or such other public agency should it have undertaken such construction work. Developer is aware of the requirements of California Labor Code Sections 1720, *et seq.*, and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 1600, *et seq.*, (“Prevailing Wage Laws”). In any case where the Developer performs the public improvements work, the Developer shall pay prevailing wages as required by the Prevailing Wage Laws, the City shall not be liable for any failure in Developer’s payment of prevailing wages or legally-imposed penalties therefore, and Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability (including reasonable attorneys’ fees and court costs) arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

6.3 Prevailing Wages. Developer is aware of the requirements of California Labor Code Sections 1720, *et seq.*, and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 1600, *et seq.*, (“Prevailing Wage Laws”). Developer shall pay prevailing wages as required by the Prevailing Wage Laws. To the extent that it is determined that Developer has not paid, or does not pay, prevailing wages required by Prevailing Wage Laws for any portion of the Project, Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability (including reasonable attorneys’ fees and court costs) arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

6.3.1 Developer acknowledges and agrees that should any third party, including but not limited to the Director of the Department of Industrial Relations (“DIR”), require Developer or any of its contractors or subcontractors to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the DIR under the Prevailing Wage Laws, then Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from and against any such determinations, or actions (whether legal, equitable, or administrative in nature)

or other proceedings, and shall assume all obligations and liabilities for the payment of such wages and for compliance with the provisions of the Prevailing Wage Law. The City makes no representation that any construction or Site uses to be undertaken by Developer are or are not subject to Prevailing Wage Law.

7. PROCESSING OF REQUESTS AND APPLICATIONS FOR FUTURE DEVELOPMENT APPROVALS; OTHER GOVERNMENT PERMITS.

7.1 Project Uses. The Project is hereby approved for Eligible Uses.

7.2 Future Development Approvals. The parties contemplate that Developer will be required to obtain certain Future Development Approvals that will be subject to the City's discretionary review. The provisions of this Agreement shall fully govern the process and authority for securing Future Development Approvals and supersede the otherwise applicable provisions of the Zoning Code.

7.2.1 Approval of Future Development Approvals shall be the responsibility of the Director, based upon an application submitted to the Director, and may be approved administratively without further action or review of the Planning Commission or City Council, while otherwise subject to Zoning Code requirements in existence as of the effective date of this Agreement.

7.2.2 Before action is taken on any Future Development Approval, including without limitation an application for any Project improvement or for the issuance of a permit for any sign, building, structure, or alteration of the exterior of a structure in the Project, plans and drawings of such Project improvement, sign, building or alteration proposed as part of the Future Development Approval shall be submitted, in such form and detail as the Director may prescribe, to the Director for approval.

7.2.3 In order to grant approval, the findings and determinations of the Director shall include that the Project improvement, as set forth in the proposed Future Development Approval, is based on the requirements included in this Agreement, the approved Scope of Development, Conditions of Approval, and MND.

7.2.4 If the Director is unable to make the findings and determinations prerequisite to the granting of approval pursuant to this Section, the application shall be denied.

7.2.5 Approval of a Future Development Approval, and the finding that such Future Development Approval conforms to the provisions of this Agreement, is hereby declared to be an administrative function. The Director has the authority and responsibility to perform this administrative function. The action thereon by the Director shall be final and conclusive.

7.3 Other Governmental Permits. The Developer shall apply in a timely manner for such other permits and approvals as may be required from other governmental

or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. The City shall cooperate with the Developer in its efforts to obtain such permits and approvals. The City and Developer shall cooperate and use reasonable efforts in coordinating the implementation of the Development Plan with other public agencies, if any, having jurisdiction over the Site or the Project. Provided, however, that City makes no representations or warranties with respect to approvals required by any other governmental entity.

8. **AMENDMENT OF DEVELOPMENT AGREEMENT; OPERATING MEMORANDA.**

8.1 Initiation of Amendment. Either party may propose an amendment to this Agreement.

8.2 Procedure. Except as set forth in Section 8.4 below, the procedure for proposing and adopting an amendment to this Agreement shall be the same as the procedure required for entering into this Agreement in the first instance, and meet the requirements of the Development Agreement Statute.

8.3 Consent. Except as expressly provided in this Agreement, no amendment to all or any provision of this Agreement shall be effective unless set forth in writing and signed by duly authorized representatives of each of the parties hereto and recorded in the Official Records of Los Angeles County.

8.4 Operating Memoranda.

8.4.1 Flexibility Necessary. The provisions of this Agreement require a close degree of cooperation between City and Developer. Refinements and further development and implementation of the Project may demonstrate that clarifications and minor modifications to refine this Agreement are appropriate. In addition, the parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, from time to time, during the Term, the City Manager and Developer may agree to procedural or other minor modifications or clarifications to this Agreement, including without limitation, to implement changes to the Schedule of Performance. Such changes may be implemented through Operating Memoranda approved by the City Manager and Developer pursuant to Section 8.4.2, which after execution shall be attached to and form part of this Agreement and need not be recorded. Except as provided in this Section 8.4, all other modifications shall require an amendment to this Agreement.

8.4.2 Operating Memoranda. When and if Developer finds it necessary or appropriate to make changes to this Agreement pursuant to Section 8.4.1, the parties shall effectuate such modifications through operating memoranda (“**Operating Memoranda**”) approved by the parties in writing that reference this Section 8.4. Operating Memoranda are not amendments to this Agreement but mere ministerial clarifications, therefore public notices and hearings shall not be

required. The City Attorney shall be authorized, upon consultation with Developer, to determine whether a requested clarification may be effectuated pursuant to this Section 8.4 or whether the requested clarification is of such character as to constitute an amendment to the Agreement which requires compliance with the provisions of Sections 8.2 and 8.5. The authority to enter into any Operating Memoranda is hereby delegated to City Manager, and City Manager is hereby authorized to execute any Operating Memoranda hereunder without further City Council action.

8.5 Hearing Rights Protected. Notwithstanding the foregoing, City will process any change to this Agreement consistent with State law and will hold public hearings thereon if so required by State law and the parties expressly agree nothing herein is intended to deprive any party or person of due process of law.

8.6 Effect of Amendment to Development Agreement. Except as expressly set forth in any such amendment, an amendment to this Agreement will not alter, affect, impair, modify, waive, or otherwise impact any other rights, duties, or obligations of either party under this Agreement.

9. RESERVATIONS OF AUTHORITY.

9.1 Limitations, Reservations and Exceptions. Notwithstanding anything to the contrary set forth hereinabove, in addition to the MND and MND Mitigation Measures, this Agreement and the Development Plan, only the following Land Use Regulations adopted by City hereafter shall apply to and govern the Development of the Site (“Reservation of Authority”):

9.1.1 Future Regulations. Future Land Use Regulations which (i) are not in conflict with the Existing Land Use Regulations; (ii) would be applicable under the Development Agreement Statute; or (iii) have been consented to in writing by Developer (even if in conflict with the Existing Land Use Regulations).

9.1.2 State and Federal Laws and Regulations. Where State or federal laws or regulations, enacted after the date this Agreement is approved by the City Council, prevent or preclude compliance with one or more provisions of this Agreement, those provisions shall be modified, through revision or suspension, to the minimum extent necessary to comply with such State or federal laws or regulations.

9.1.3 Public Health and Safety/Uniform Codes.

(a) *Adoption Automatic Regarding Uniform Codes.* This Agreement shall not prevent the City from adopting future Land Use Regulations or amending Existing Land Use Regulations that are uniform codes and are based on recommendations of a multi-state professional organization and become applicable throughout the City, such as, but not limited to, the Uniform Building, Electrical, Plumbing, Mechanical, or Fire Codes (“Uniform Codes”).

(b) *Adoption Regarding Public Health and Safety/Uniform Codes.* This Agreement shall not prevent the City from adopting Future Land Use Regulations respecting public health and safety to be applicable throughout the City which directly result from findings by the City that failure to adopt such future Land Use Regulations would result in a condition injurious or detrimental to the public health and safety.

(c) *Adoption Automatic Regarding Regional Programs.* This Agreement shall not prevent the City from adopting Future Land Use Regulations or amending Existing Land Use Regulations that are regional codes and are based on recommendations of a county or regional organization and become applicable throughout the region, such as the Gateway Cities Council of Governments, with the exception of any Future Land Use Regulations or amendments to Existing Land Use Regulations that will otherwise prohibit the uses that are allowed by this Agreement.

9.1.4 Amendments to Codes for Local Conditions. Notwithstanding the foregoing, no construction within the Project shall be subject to any provision in any of the subsequent Uniform Construction Codes, adopted by the State of California, but modified by the City to make it more restrictive than the provisions of previous Uniform Construction Codes of the City, notwithstanding the fact that the City has the authority to adopt such more restrictive provision pursuant to the California Building Standards Law, including, but not limited to, Health and Safety Code § 18941.5, unless such amendment applies City-wide. The City shall give Developer prior written notice of the proposed adoption of such amendment and Developer shall have the right to present its objections to the amendment.

9.2 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of the City possess authority to regulate aspects of the Development of the Site separately from, or jointly with, the City and this Agreement does not limit the reasonable authority of such other public agencies.

9.3 Fees, Taxes and Assessments. Notwithstanding any other provision herein to the contrary, the City retains the right: (i) to impose or modify Processing Fees as provided in Section 1.58, (ii) to impose or modify business licensing or other fees pertaining to the operation of businesses; (iii) to impose or modify taxes and assessments which apply City-wide such as utility taxes, sales taxes and transient occupancy taxes; (iv) to impose or modify fees and charges for City services such as electrical utility charges, water rates, and sewer rates; (v) to impose or modify a community wide or area-wide assessment district; and (vi) to impose or modify any fees, taxes or assessments similar to the foregoing.

10. ANNUAL REVIEW.

10.1 Annual Monitoring Review. Following commencement of construction (as demarcated by the commencement of actual Site grading), the City and the Developer

shall review the performance of this Agreement, and the Development of the Project, on or about each anniversary of the Effective Date (the "Annual Review"). The cost of the Annual Review shall be borne by Developer and Developer shall pay a reasonable deposit in an amount requested by City to pay for such review. As part of each Annual Review, within ten (10) days after each anniversary of this Agreement, the Developer shall deliver to the City all information reasonably requested by City (i) regarding the Developer's performance under this Agreement demonstrating that the Developer has complied in good faith with the terms of this Agreement and (ii) as required by the Existing Land Use Regulations.

10.1.1 The Director shall prepare and submit to Developer and thereafter to City Council a written report on the performance of the Project, and identify any deficiencies and explain why such deficiencies have occurred and the Developer's plan to correct them. If any deficiencies are noted, a public hearing shall be held before the City Council on the report to Council. The Developer's written response shall be included in the Director's report. The report to Council shall be made within 45 days of the anniversary date.

10.1.2 If the City determines that the Developer has substantially complied with the terms and conditions of this Agreement, the Annual Review shall be concluded. If the City finds and determines that the Developer has not substantially complied with the terms and conditions of this Agreement for the period under review, the City may declare a default by the Developer in accordance with Article 11.

10.2 Certificate of Compliance. If, at the conclusion of an Annual Review, the City finds that the Developer is in substantial compliance with this Agreement, the City shall, upon request by the Developer, issue a Certificate of Compliance to the Developer in a form approved by the City.

10.3 Failure to Conduct Annual Review. The failure of the City to conduct the Annual Review shall not be a Developer Default unless Developer fails to cooperate in providing necessary information.

11. DEFAULT, REMEDIES AND TERMINATION.

11.1 Rights of Non-Defaulting Party after Default. The parties acknowledge that both parties shall have hereunder all legal and equitable remedies as provided by law following the occurrence of a Default or to enforce any covenant or agreement herein except as provided in Section 11.2 below. Before this Agreement may be terminated or action may be taken to obtain judicial relief the party seeking relief ("Non-Defaulting Party") shall comply with the notice and cure provisions of this Article 11.

11.2 No Recovery for Monetary Damages. The nature of a development agreement under the Development Agreement Statute is a very unusual contract for promoting a large development project facing many complex issues including geologic, environmental, finance, market, regulatory and other constantly evolving factors over a

long time frame. The high level of uncertainty and risk involved justify the extraordinary commitments made to the Developer. However, the original persons representing the parties and approving the transaction are only likely to be involved with the Project for a limited time in comparison to the over-all life of the Project. This can lead to confusion over time as to the intent of the parties in dealing with changed circumstances.

11.2.1 Accordingly, in this Agreement, the rights of enforcement are limited as follows (i) the remedy of monetary damages is not available to either party, and (ii) there is no shortcut to a mediation or arbitration procedure where a nonelected representative can arbitrarily determine land use development issues.

11.2.2 However, the parties shall have the equitable remedies of specific performance, injunctive and declaratory relief, or a mandate or other action determining that the City has exceeded its authority, and any other available equitable remedies, other than recovery of monetary damages, to enforce their rights under this Agreement. The parties shall have the right to recover their attorney fees and costs pursuant to Section 17.8 in such action, and nothing herein limits the provisions for restitution or liquidated damages set forth herein. Moreover, the Developer shall have the right to a public hearing before the City Council before any default can be established under this Agreement, as provided in Section 11.7.3.

11.3 Recovery of Monies Other Than Damages.

11.3.1 Restitution of Improper Exactions. In the event any actions, whether monetary or through the provision of land, good or services, are imposed on the Development of the Site other than those authorized pursuant to this Agreement, the Developer shall be entitled to recover from City restitution of all such improperly assessed exactions, either in kind or the value in-lieu of the exaction, together with interest thereon at the rate of the maximum rate provided by law per year from the date such exactions were provided to City to the date of restitution.

11.3.2 Monetary Default. In the event the Developer fails to perform any monetary obligation under this Agreement, City may sue for the payment of such sums to the extent due and payable. The Developer shall pay interest thereon at the higher of: (i) ten percent (10%) per annum, or (ii) the maximum rate permitted by law, from and after the due date of the monetary obligation until payment is actually received by the City.

11.3.3 Liquidated Damages for Unreasonable Delays. The Project's Schedule of Performance is attached hereto as Exhibit G. It is understood that the Schedule of Performance is subject to all of the terms and conditions set forth in the text of the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text of this Agreement; in the event of any conflict or

inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both Developer and City. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. The City Manager shall have authority to approve extensions of time without City Council action not to exceed a cumulative total of 180 days (subject to any force majeure).

Subject to any force majeure, if the Project is delayed such that Project completion (as demonstrated by issuance of a certificate of occupancy for all Project components) has not been accomplished by September 1, 2020, then Developer shall pay the City \$1,000,000.00 in liquidated damages for such delay or non-performance of the Project. The parties recognize that if Developer fails to timely perform the Project, or fails to cooperatively undertake the immediate cure of any violation in a timely manner, the City and its residents will suffer damages, including without limitation the minimum tax revenue guarantees set forth herein and potential lost opportunities in the development of the Site, and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that the City and its citizens will suffer. Therefore, the parties agree that the liquidated damages established herein represent a reasonable estimate of the amount of such damages for such specific violations, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of these liquidated damage provisions prior to entering this Agreement.

Developer Initials _____

City Initials _____

11.4 Compliance with the Claims Act. Compliance with this Article 11 shall constitute full compliance with the requirements of the Claims Act, Government Code § 900 et seq., pursuant to Government Code § 930.2 in any action brought by the Developer.

11.5 Notice and Opportunity to Cure. A Non-Defaulting Party in its discretion may elect to declare a Default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other party ("Defaulting Party") to perform any material duty or obligation of the Defaulting Party under the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in Default under this Agreement, if the breach or failure can be cured, but the Defaulting Party has failed to take such actions and cure such default within thirty (30)

days after the date of such notice or ten (10) days for monetary defaults (or such lesser time as may be specifically provided in this Agreement). However, if such non-monetary Default cannot be cured within such thirty (30) day period, and if the Defaulting Party does each of the following:

- (a) Notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period; and
- (b) Notifies the Non-Defaulting Party of the Defaulting Party's proposed cause of action to cure the default; and
- (c) Promptly commences to cure the default within the thirty (30) day period; and
- (d) Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure; and
- (e) Diligently prosecutes such cure to completion,

then the Defaulting Party shall not be deemed in breach of this Agreement.

11.5.1 Notwithstanding the foregoing, the Defaulting Party shall be deemed in default under this Agreement if the breach or failure involves the payment of money but the Defaulting Party has failed to completely cure the monetary default within ten (10) days (or such lesser time as may be specifically provided in this Agreement) after the date of such notice.

11.6 Dispute Resolution.

11.6.1 Meet & Confer. Prior to any party issuing a Default Notice hereunder, the Non-Defaulting Party shall inform the Defaulting Party either orally or in writing of the Default and request a meeting to meet and confer over the alleged default and how it might be corrected. The parties through their designated representatives shall meet within ten (10) days of the request therefore. The parties shall meet as often as may be necessary to correct the conditions of default, but after the initial meeting either party may also terminate the meet and confer process and proceed with the formal Default Notice.

11.6.2 Termination Notice. Upon receiving a Default Notice, should the Defaulting Party fail to timely cure any default, or fail to diligently pursue such cure as prescribed above, the Non-defaulting Party may, in its discretion, provide the Defaulting Party with a written notice of intent to terminate this Agreement ("Termination Notice"). The Termination Notice shall state that the Non-defaulting Party will elect to terminate this Agreement and state the reasons therefor (including a copy of any specific charges of default) and a description of the evidence upon which the decision to terminate is based. Once the Termination

Notice has been issued, the Non-defaulting Party's election to terminate this Agreement will only be waived if (i) the Defaulting Party fully and completely cures all defaults prior to the date of termination, or (ii) pursuant to Section 11.6.3 below.

11.6.3 Hearing Opportunity Prior to Termination. Prior to any termination, a termination hearing shall be conducted as provided herein ("Termination Hearing"). The Termination Hearing shall be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At said Termination Hearing, the Defaulting Party shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented in favor of termination. Based upon substantial evidence presented at the Termination Hearing, the Council may, by adopted resolution, act as follows:

- (a) Decide to terminate this Agreement.
- (b) Determine that the alleged Defaulting Party is innocent of a default and, accordingly, dismiss the Termination Notice and any charges of default; or
- (c) Impose conditions on a finding of default and a time for cure, such that Defaulting Party's fulfillment of said conditions will waive or cure any default.

11.6.4 Findings of a default or a condition of default must be based upon substantial evidence supporting the following three findings: (i) that a default in fact occurred and has continued to exist without timely cure, (ii) that the Non-Defaulting Party's performance has not excused the default; and (iii) that such default has, or will, cause a material breach of this Agreement and/or a substantial negative impact upon public health, safety and welfare, or the financial terms established in the Agreement, or such other interests arising from the Project. Notwithstanding the foregoing, nothing herein shall vest authority in the City Council to unilaterally change any material provision of the Agreement.

11.6.5 Following the decision of the City Council, any party dissatisfied with the decision may seek judicial relief consistent with this Article.

11.7 Waiver of Breach. By not challenging any (Existing or Future) Development Approval within 90 days of the action of City enacting the same, Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement. By recordation of a final map on all or any portion of the Site, or obtaining a building permit, the Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement for the subject portion of the Site.

11.8 Venue. In the event of any judicial action, venue shall be in the Superior Court of Los Angeles County.

12. ASSIGNMENT & BINDING SITE COVENANTS.

12.1 Right to Assign.

12.1.1 General. Neither party shall have the right to assign this Agreement or any interest or right thereunder without the prior written consent of the other party; however, notwithstanding the above, the Developer's assignment of its rights and obligations under this Agreement to another entity which is owned or controlled (directly or indirectly) by the Developer which assignee shall own, develop or operate the Site pursuant to the provisions of this Agreement, is permitted without the City's approval (a "Permitted Transfer"). The term "assignment" as used in this Agreement shall not include successors-in-interest to the City that may be created by operation of law.

As used in this Section, the term "transfer" shall include the transfer to any person or group of persons acting in concert of more than seventy percent (70%) of the present equity ownership and/or more than fifty percent (50%) of the voting control of the Developer (jointly and severally referred to herein as the "Trigger Percentages") or any general partner of the Developer in the aggregate, taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family. A transfer of interests (on a cumulative basis) in the equity ownership and/or voting control of the Developer in amounts less than the Trigger Percentages shall not constitute a transfer subject to the restrictions set forth herein. In the event the Developer or any general partner of the Developer or its successor is a corporation or trust, such transfer shall refer to the transfer of the issued and outstanding capital stock of the Developer, or of beneficial interests of such trust; in the event that Developer or any general partner of the Developer is a limited or general partnership, such transfer shall refer to the transfer of more than the Trigger Percentages in the limited or general partnership interest; in the event that the Developer or any general partner is a joint venture, such transfer shall refer to the transfer of more than the Trigger Percentages of such joint venture partner, taking all transfers into account on a cumulative basis.

Except for a Permitted Transfer, the Developer shall not transfer this Agreement or any of the Developer's rights hereunder, or any interest in the Site or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of City, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant approval to any transfer by Developer, which transfer requires City approval, City shall consider factors such as (i) the financial strength and capability of the proposed transferee to perform the obligations hereunder;

and (ii) the proposed transferee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects. In no event shall the City's approval of any transfer be unreasonably withheld or delayed.

In addition, no attempted assignment of any of the Developer's obligations hereunder which requires the City's approval shall be effective unless and until the successor party signs and delivers to the City an assumption agreement, in a form reasonably approved by the City, assuming such obligations. No consent or approval by City of any transfer requiring the City's approval shall constitute a further waiver of the provision of this Section 12.1.1 and, furthermore, the City's consent to a transfer shall not be deemed to release the Developer of liability for performance under this Agreement unless such release is specific and in writing executed by City. In no event shall the City's release of the Developer from liability under this Agreement upon a transfer be unreasonably withheld or delayed.

Notwithstanding any provision of this Agreement to the contrary, City approval of a Transfer or Assignment of any portion of the Site under this Agreement shall not be required in connection with any of the following (which shall also for purposes hereof be deemed a Permitted Transfer) provided that such person or entity transferee or assignee assumes in writing all of the Developer's obligations under this Agreement and notifies the City in writing of the same:

(a) Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing and any resulting foreclosure therefrom.

(b) The granting of easements or dedications to any appropriate governmental agency or utility or permits to facilitate the development of the Site.

(c) A sale or transfer resulting from, or in connection with, a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

(d) A sale or transfer of less than the Trigger Percentages between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries consist solely of immediate family members of the trustor or transfers to a corporation or partnership in which the immediate family members or shareholders of the transferor who owns at least ten percent (10%) of the present equity ownership and/or at least fifty percent (50%) of the voting control of Developer.

(e) A transfer of common areas to a duly-organized Site Owners' Association.

(f) Any transfer to an entity or entities in which the Developer retains a minimum of 51% of the ownership or beneficial interest and retains management and control of the transferee entity or entities.

(g) Any transfer of interests in Owner for estate planning purposes to the heirs of Owner, provided that the heirs retain a minimum of 51% of the ownership or beneficial interest of the transferor entity and retain management and control of the transferee entity.

12.1.2 Subject to Terms of Agreement. Following any such Transfer or Assignment of any of the rights and interests of the Developer under this Agreement, in accordance with Section 12.1 above, the exercise, use and enjoyment of such rights and interests shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were the Developer.

12.1.3 Release of Developer. Upon the written consent of the City to the complete assignment of this Agreement or the transfer of a portion of the Site and the express written assumption of the assigned obligations of the Developer under this Agreement by the assignee, the Developer shall be relieved of its legal duty from the assigned obligations under this Agreement with respect to the portion of the Site transferred, except to the extent the Developer is in Default under the terms of this Agreement prior to the transfer.

13. RELEASES AND INDEMNITIES.

13.1 The City's Release As To Actions Prior To Effective Date. The City forever discharges, releases and expressly waives as against the Developer and its attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort, or other theories of direct and/or of agency liability (including but not limited to principles of respondent superior) that it has now or has had in the past, arising out of or relating to the Site, this Agreement or the Development Plan.

13.2 The Developer's Release As To Actions Prior To Effective Date. The Developer forever discharges, releases and expressly waives as against the City and its respective councils, boards, commissions, officers, attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort or other theories of direct and/or of agency liability (including but not limited to principles

of respondent superior) that they have now or have had in the past, arising out of or relating to this Agreement and the Development Plan.

13.3 Litigation Preventing Performance. The parties acknowledge that: (i) in the future there may be challenges to legality, validity and adequacy of the General Plan, the Existing Development Approvals, Development Plan and/or this Agreement; and (ii) if successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Site.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of this Section 13.3, the City shall have no liability under this Agreement for any failure of the City to perform under this Agreement or the inability of the Developer to develop the Site as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the date this Agreement is approved by the City Council, or at any time thereafter, the Existing Land Use Regulations, the Development Approvals, this Agreement, or portions thereof, are invalid or inadequate or not in compliance with law.

13.4 Revision of Land Use Restrictions to Cure Litigation. If, for any reason, the Development Plan, Existing Development Approvals, this Agreement or any part thereof is hereafter judicially determined, as provided above, to not be in compliance with the State or Federal Constitution, laws or regulations and, if such noncompliance can be cured by an appropriate amendment thereof otherwise conforming to the provisions of this Agreement, then this Agreement shall remain in full force and effect to the extent permitted by law. The Development Plan, Existing Development Approvals and this Agreement shall be amended, as necessary, in order to comply with such judicial decision.

13.5 Participation in Litigation: Indemnity. The Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) against the City for any such Claims or Litigation (as defined in Section 1.20) and shall be responsible for any judgment arising therefrom. The City shall provide the Developer with notice of the pendency of such action and shall request that the Developer defend such action. The Developer shall utilize the City Attorney's office, or at written direction of the City will use legal counsel of its choosing (in consultation with the City as appropriate), and shall reimburse the City for any necessary legal cost incurred by City. The Developer shall provide a deposit in the amount of 150% of the City's estimate, in its sole and absolute discretion, of the cost of litigation, including the cost of any award of attorneys' fees, and shall make additional deposits as requested by City to keep the deposit at such level. The City may ask for further security in the form of a deed of trust to land of equivalent value. If the Developer fails to provide or maintain the deposit, the City may abandon the action and the Developer shall pay all costs resulting therefrom and City shall have no liability to the Developer. The Developer's obligation to pay the cost of the action, including judgment, shall extend until judgment. After judgment in a trial court, the parties must mutually agree as to whether any appeal will be taken or

defended. The Developer shall have the right, within the first 30 days of the service of the complaint or petition on the Developer, in its sole and absolute discretion, to determine that it does not want to defend any litigation attacking this Agreement or the Development Approvals in which case the City shall allow the Developer to settle the litigation on whatever terms the Developer determines, in its sole and absolute discretion, but Developer shall confer with City before acting and cannot bind City. In that event, the Developer shall be liable for any costs incurred by the City up to the date of settlement but shall have no further obligation to the City beyond the payment of those costs. In the event of an appeal, or a settlement offer, the parties shall confer in good faith as to how to proceed. Notwithstanding the Developer's indemnity for claims and litigation, the City retains the right to settle any litigation brought against it in its sole and absolute discretion and the Developer shall remain liable except as follows: (i) the settlement would reduce the scope of the Project by 10% or more, and (ii) the Developer opposes the settlement. In such case the City may still settle the litigation but shall then be responsible for its own litigation expense but shall bear no other liability to the Developer. Neither City nor Developer shall have any rights or obligations under this Section 13.5 prior to the Effective Date although Developer may, in its sole and unfettered discretion, assume the obligations if it chooses to do so.

13.6 Hold Harmless: Developer's Construction and Other Activities. The Developer shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any and all claims, costs (including attorneys' fees) and liability for any damages, personal injury or death, which may arise, directly or indirectly, from the Developer's or the Developer's agents, contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by the Developer or by any of the Developer's agents, contractors or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for the Developer or any of the Developer's agents, contractors or subcontractors. Nothing herein is intended to make the Developer liable for the acts of the City's officers, employees, agents, contractors of subcontractors.

13.7 Survival of Indemnity Obligations. All indemnity provisions set forth in this Agreement shall survive termination of this Agreement for any reason other than the City's Default.

14. INSURANCE.

14.1 Types of Insurance. In addition to the insurance requirements of Chapter 15 of Article VI of the Carson Municipal Code, the following insurance requirements apply:

14.1.1 Commercial General Liability Insurance. Prior to commencement and of construction by Developer on the Site, and for the Term of this Agreement, Developer shall at its sole cost and expense keep or cause to be kept in force commercial general liability ("CGL") insurance against liability for bodily injury or death and for property damage (all as defined by the policy or policies) arising from the use, occupancy, disuse or condition of the Site, providing limits of at

least Five Million Dollars (\$5,000,000) bodily injury and property damage per occurrence limit, Five Million Dollars (\$5,000,000) general aggregate limit, and Five Million Dollars (\$5,000,000) products-completed operations aggregate limit.

14.1.2 Builder's Risk Insurance. Prior to commencement and until completion of construction by Developer on the Site, Developer shall procure and shall maintain in force, or caused to be maintained in force, builder's risk insurance written on a "special causes of loss" form, on a replacement cost basis, including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's, and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees.

14.1.3 Workers' Compensation. Developer shall also furnish or cause to be furnished to City evidence reasonably satisfactory to it that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries workers' compensation insurance as required by law.

14.1.4 Other Insurance. Developer may procure and maintain any insurance not required by this Agreement.

14.1.5 Insurance Policy Form, Sufficiency, Content and Insurer. All insurance required by express provisions hereof shall be carried only by insurance companies licensed and admitted to do business in California, rated "A" or better in the most recent edition of Best Rating Guide or in The Key Rating Guide and only if they are of a financial category Class VIII or better, unless waived by City. All such policies shall be nonassessable and shall contain language, to the extent commercially reasonably obtainable, to the effect that (i) any loss shall be payable notwithstanding any act of negligence of City or Developer that might otherwise result in the forfeiture of the insurance, (ii) the insurer waives the right of subrogation against City and against City's agents and representatives; (iii) the policies are primary and noncontributing with any insurance that may be carried by City; and (iv) the policies cannot be canceled or materially changed except after thirty (30) days' written notice (ten (10) days in the event of cancellation for non-payment of premium) by the insurer to City or City's designated representative. Developer shall furnish City with copies of all such policies promptly on receipt of them or with certificates evidencing the insurance. City shall be named as an additional insured on the commercial general liability insurance and on the builder's risk insurance (as its interest may appear) policies required to be procured by the terms of this Agreement. In the event the City's Risk Manager determines reasonably that the use, activities or condition of the Site, improvements or adjoining areas or ways, affected by such use of the Site under this Agreement creates a materially increased or decreased risk of loss to the City, Developer agrees that the minimum limits of the CGL and builder's risk insurance policies required by this Section 14.1 may be changed accordingly upon receipt of written notice from the City's Risk Manager; provided that such

increased limits are available at commercially reasonable premiums. Developer shall have the right to appeal such determination of increased limits to the City Council within thirty (30) days of receipt of notice from the City's Risk Manager.

14.2 Failure to Maintain Insurance and Proof of Compliance. Developer shall deliver to City, in the manner required for notices, copies of certificates of all insurance policies required hereunder together with evidence satisfactory to City of payment required for procurement and maintenance of each policy within the following time limits:

(a) For insurance required above, within thirty (30) days after the Effective Date.

(b) For any renewal or replacement of a policy already in existence, at least ten (10) days before the expiration or termination of the existing policy.

If Developer fails or refuses to procure or maintain insurance as required hereby or fails or refuses to furnish City with required proof that that insurance has been procured and is in force and paid for, such failure or refusal shall be a default hereunder.

15. EFFECT OF AGREEMENT ON TITLE.

15.1 Covenant Run with the Land. Subject to the provisions of Articles 12 and 16 and pursuant to the Development Agreement Statute:

(a) All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Site, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

(b) All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law; and

(c) Each covenant to do or refrain from doing some act on the Site hereunder (i) is for the benefit of and is a burden upon every portion of the Site, (ii) runs with such lands, and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and each other person succeeding to an interest in such lands.

16. MORTGAGEE PROTECTION.

16.1 Definitions. As used in this Section, the term “mortgage” shall include any mortgage, whether a leasehold mortgage or otherwise, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term “holder” shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

16.2 No Encumbrances Except Mortgages to Finance the Project. Notwithstanding the restrictions on transfer in Article 12, mortgages required for any reasonable method of financing of the construction of the improvements are permitted but only for the following: (i) for the purpose of securing loans of funds used or to be used for financing the acquisition of a separate lot(s) or parcel(s), (ii) for the construction of improvements thereon, in payment of interest and other financing costs, and (iii) for any other expenditures necessary and appropriate to develop, own or operate the Project under this Agreement, or for restructuring or refinancing any for same. No map permitted herein, even if for financing purposes, shall permit financing for other than purposes of developing, owning or operating the Project solely. The Developer (or any entity permitted to acquire title under this Agreement) may notify the City in advance of any future mortgage or any extensions or modifications thereof. Any lender which has so notified the City shall not be bound by any amendment, implementation, or modification to this Agreement without such lender giving its prior written consent thereto. In any event, the Developer shall promptly notify the City of any mortgage, encumbrance, or lien that has been created or attached thereto prior to completion of construction, whether by voluntary act of the Developer or otherwise.

16.3 Developer’s Breach Not Defeat Mortgage Lien. The Developer’s breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render void the lien of any mortgage made in good faith and for value but, unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage whose interest is acquired by foreclosure, trustee’s sale or otherwise.

16.4 Holder Not Obligated to Construct or Complete Improvements. The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Project or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

16.5 Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer hereunder, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to the City therefor, or to the representative of such lender as may be identified in such a written

request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

16.6 Right to Cure. Each holder (insofar as the rights of City are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, and one hundred twenty (120) days after the Developer's cure rights have expired, whichever is later, to:

(a) Obtain possession, if necessary, and to commence and diligently pursue the cure until the same is completed, and

(b) Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that, in the case of a default which cannot with diligence be remedied or cured within such cure periods referenced above in Section 11.5, such holder shall have additional time as reasonably necessary to remedy or cure such default.

In the event there is more than one such holder, the right to cure or remedy a breach or default of the Developer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of the Developer under this Section.

No holder shall undertake or continue the construction or completion of the improvements on the Site (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement satisfactory to City with respect to the Project or any portion thereof in which the holder has an interest. The holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations.

16.7 City's Rights upon Failure of Holder to Complete Improvements. In any case where one hundred eighty (180) days after default by the Developer in completion of construction of improvements on the Site under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Project or portion thereof has not exercised the option to construct afforded in this Section or, if it has exercised such option and has not proceeded diligently with construction, the City may, after ninety (90) days' notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

(a) The unpaid mortgage, debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

- (b) All expenses, incurred by the holder with respect to foreclosure, if any;
- (c) The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the applicable portion of the Project, such as insurance premiums or real estate taxes, if any;
- (d) The costs of any improvements made by such holder, if any; and
- (e) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by the City.

If the City has not purchased the mortgage within ninety (90) days of the expiration of the ninety (90) days referred to above, then the right of the City to purchase shall expire.

In the event that the holder does not exercise its option to construct afforded in this Section, and if the City elects not to purchase the mortgage of holder, upon written request by the holder to the City, the City shall use reasonable efforts to assist the holder in selling the holder's interest to a qualified and responsible party or parties (as reasonably determined by City), who shall assume the obligations of making or completing the improvements required to be constructed by the Developer, or such other improvements in their stead as shall be satisfactory to the City. The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs (a) through (e) hereinabove and any balance remaining thereafter shall be applied as follows:

- (1) First, to reimburse the City for all costs and expenses actually and reasonably incurred by the City, including, but not limited to, payroll expenses, management expenses, legal expenses, and others;
- (2) Second, to reimburse the City for all payments made by City to discharge any other encumbrances or liens on the applicable portion of the Project or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees;
- (3) Third, to reimburse the City for all costs and expenses actually and reasonably incurred by the City, in connection with its efforts assisting the holder in selling the holder's interest in accordance with this Section; and
- (4) Fourth, any balance remaining thereafter shall be paid to the Developer.

16.8 Right of City to Cure Mortgage Default. In the event of a default or breach by the Developer (or entity permitted to acquire title under this Section) prior to completion of the Project or the applicable portion thereof, and the holder of any such mortgage has not exercised its option to complete the development, the City may cure the default prior to completion of any foreclosure. In such event, the City shall be entitled to

reimbursement from the Developer or other entity of all costs and expenses incurred by the City in curing the default, to the extent permitted by law, as if such holder initiated such claim for reimbursement, including legal costs and attorneys' fees reasonably incurred, which right of reimbursement shall be secured by a lien upon the applicable portion of the Project to the extent of such costs and disbursements. Any such lien shall be subject to:

- (a) Any Mortgage; and
- (b) Any rights or interests provided in this Agreement for the protection of the holders of such Mortgages;

provided that nothing herein shall be deemed to impose upon the City any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Project in the event of its enforcement of its lien.

16.9 Right of the City to Satisfy Other Liens on the Site After Conveyance of Title. After the conveyance of title and prior to completion of construction and development, and after the Developer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Project, the City shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Project or any portion thereof to forfeiture or sale.

17. MISCELLANEOUS.

17.1 Certificates of Compliance. Either party (or a Mortgagee under Article 16) may at any time deliver written notice to the other party requesting an Estoppel Certificate stating:

- (a) The Agreement is in full force and effect and is a binding obligation of the parties;
- (b) The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments; and
- (c) There are no existing defaults under the Agreement to the actual knowledge of the party signing the Estoppel Certificate.

A party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting party within thirty (30) days after receipt of the request. The Director may sign Estoppel Certificates on behalf of the City. An Estoppel Certificate may be relied on by assignees and Mortgagees.

17.2 Force Majeure. The time within which the Developer or the City shall be required to perform any act under this Agreement shall be extended by a period of time

equal to the number of days during which performance of such act is delayed due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions on priority, initiative or referendum, moratoria, processing with governmental agencies other than the City, unusually severe weather, third party litigation as described in Section 13.3 above, or any other similar causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if written notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause. Any act or failure to act on the part of a party shall not excuse performance by that party.

17.3 Interpretation.

17.3.1 Construction of Development Agreement. The language of this Agreement shall be construed as a whole and given its fair meaning. The captions of the sections and subsections are for convenience only and shall not influence construction. This Agreement shall be governed by the laws of the State of California. This Agreement shall not be deemed to constitute the surrender or abrogation of the City's governmental powers over the Site.

17.3.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and this Agreement supersedes all previous negotiations, discussions, and agreements between the parties, and no parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

17.3.3 Recitals. The recitals in this Agreement constitute part of this Agreement and each party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement.

17.3.4 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefitted thereby of the covenants to be performed hereunder by such benefitted party.

17.3.5 Severability. If any provision of this Agreement is adjudged invalid, void or unenforceable, that provision shall not affect, impair, or invalidate any other provision, unless such judgment affects a material part of this Agreement in which case the parties shall comply with the procedures set forth in Section 13.4 above.

17.4 Joint and Several Obligations. All obligations and liabilities of the Developer hereunder shall be joint and several among the obligees.

17.5 No Third Party Beneficiaries. There are no other third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person, excepting the parties hereto.

17.6 Notice.

17.6.1 To Developer. Any notice required or permitted to be given by the City to the Developer under this Development Agreement shall be in writing and delivered personally to the Developer or mailed, with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

California Processing Company, LLC
16501 Ventura Blvd., Suite 400
Encino, CA 91436
Attn: Todd Parkin

With copies to:

Zuber Lawler & Del Duca, LLP
350 South Grand Ave., 32nd Floor
Los Angeles, CA 90071
Attn: David Lambert

or such other address as the Developer may designate in writing to the City.

17.6.2 *To the City.* Any notice required or permitted to be given by the Developer to the City under this Development Agreement shall be in writing and delivered personally to the City Clerk or mailed with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

City of Carson
701 E. Carson Street
Carson, California 90745
Attention: Community Development Director

With a copy to:

Sunny Soltani, City Attorney
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, California 92612

or such other address as the City may designate in writing to the Developer.

Notices provided pursuant to this Section shall be deemed received at the date of delivery as shown on the affidavit of personal service or the Postal Service receipt.

17.7 Relationship of Parties. It is specifically understood and acknowledged by the parties that the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property and the owner of such private property.

17.8 Attorney's Fees. If either party to this Agreement is required to initiate or defend litigation against the other party, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and, in addition, a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to a final judgment.

17.9 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent necessary to implement this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

17.10 Time of Essence. Time is of the essence in: (i) the performance of the provisions of this Agreement as to which time is an element; and (ii) the resolution of any dispute which may arise concerning the obligations of the Developer and the City as set forth in this Agreement.

17.11 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

17.12 Execution.

17.12.1 Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

17.12.2 Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Los Angeles County no later than ten (10) days after the date that the City Council approves this Agreement (Gov't. Code § 65868.5). The recordation of this Agreement is

deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and the Development Agreement Statute does not make this Agreement void or ineffective.

17.12.3 Authority to Execute. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to sign and deliver this Agreement on behalf of the party he or she represents, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, (iv) the entering into of this Agreement does not violate any provision of any other Agreement to which the party is bound and (v) there is no litigation or legal proceeding which would prevent the parties from entering into this Agreement.

(SIGNATURES ON NEXT PAGE.)

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement on

_____.

CITY OF CARSON

By: _____
Albert Robles, Mayor

ATTEST:

Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney

CALIFORNIA PROCESSING COMPANY, LLC

By: _____
Managing Member/Owner

By: _____
Managing Member/Owner

On _____, _____, before me _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

(SEAL)

On _____, _____, before me _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

i

EXHIBIT A
LEGAL DESCRIPTION
[ATTACHED]

LEGAL DESCRIPTION
2403 223rd St.

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CARSON IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 6 IN BLOCK "C" OF THE SUBDIVISION OF A PART OF THE RANCHO SAN PEDRO, (ALSO KNOWN AS DOMINGUEZ COLONY), IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAPS RECORDED IN BOOK 1, PAGES 601 AND 602, AND BOOK 32, PAGES 97 AND 98 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED AS FOLLOWS:

ON THE NORTH BY THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, AS RECORDED IN BOOK D748, PAGE 676, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, (NOW KNOWN AS THE SAN DIEGO FREEWAY); ON THE SOUTH BOUNDED SOUTHERLY BY NORTHERLY LINE OF 100' STRIP OF LAND DESCRIBED PER (PARCEL 12-13:) IN DECREE OF CONDEMNATION, RECORDED OCTOBER 5, 1973, INSTRUMENT NO. 4331, OFFICIAL RECORDS; ON THE WEST BY A LINE WHICH IS AT RIGHT ANGLES TO SAID LAST MENTIONED CENTERLINE AND WHICH PASSES THROUGH A POINT IN SAID CENTERLINE, DISTANT EASTERLY HEREON, 1607.85 FEET FROM THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF LOT 5 OF SAID BLOCK "C", AND ON THE EAST BY THE WESTERLY LINE OF THAT CERTAIN 250 FOOT STRIP OF LAND DESCRIBED

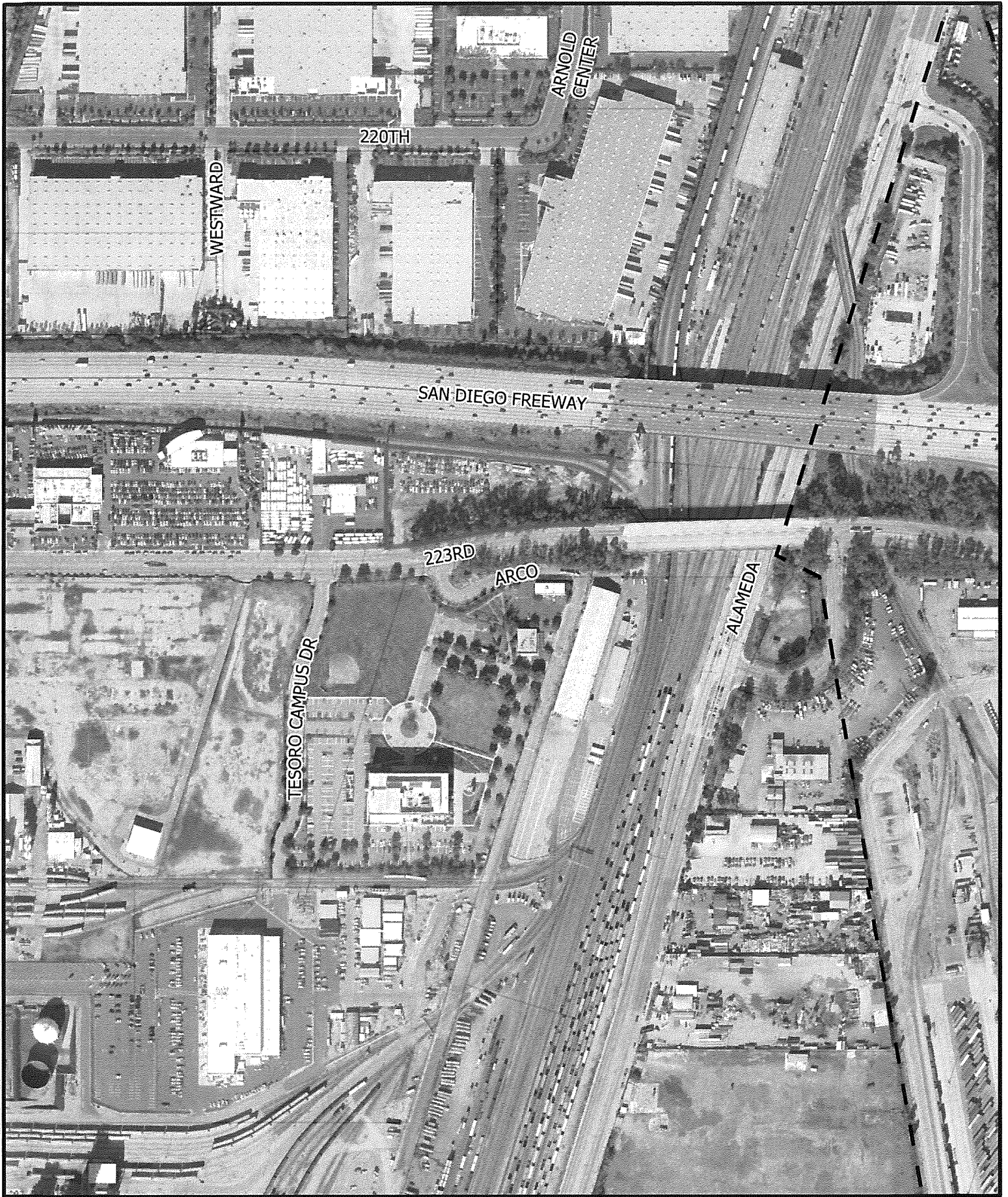
FIRST IN DEED TO THE PACIFIC ELECTRIC LAND COMPANY RECORDED AS INSTRUMENT NO. 1314 ON JANUARY 24, 1924, IN BOOK 2683, PAGE 358, OFFICIAL RECORDS.

APN: 7315-012-900, 7315-012-804

EXHIBIT B

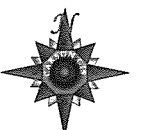
SITE MAP

[ATTACHED]



Location Map
Carcom: 2403 E. 223rd Street
APNs: 7315-012-900 and 7315-012-804

City of Carson



91

EXHIBIT C

SCOPE OF DEVELOPMENT

Developer shall develop the Site for permitted commercial cannabis use, pursuant to Chapter 15 of Article VI of the Carson Municipal Code, including the following business activities: 1) manufacturing facility sites that produce, prepare, propagate, or compound manufactured cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, package or repackage cannabis products, label or relabel its container, or transform cannabis into a concentrate, an edible product, beverages or a topical product; 2) small scale cultivation for nursery or research and development purposes; 3) warehousing, transportation, delivery (to areas outside the City of Carson limits) and distribution of the latter; 4) laboratory testing and compliance operation; and 5) any other use permitted by City law whether cannabis related or not.

Each permitted commercial cannabis operation at the Site shall prepare, for City inspection, an operations plan which shall be in conformance with the requirements of Carson Municipal Code and, at a minimum, provide the following:

- a) A list of the names, addresses, telephone numbers, and responsibilities of each owner and manager of the facility.
- b) The hours and days of operation for the facility.
- c) A site plan and floor plan of the facility denoting the layout of all areas of the commercial cannabis facility, including, as applicable, storage, cultivation, reception/waiting, manufacturing, and all ancillary support spaces.
- d) The commercial cannabis cultivation and manufacturing procedures to be utilized at the facility, including, as applicable, a description of how chemicals and fertilizers will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; track and trace program and procedures; quality control procedures; and testing procedures.
- e) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess commercial cannabis product.
- f) Procedures for inventory control to prevent diversion of commercial cannabis to noncommercial use, employee screening, storage of commercial cannabis, personnel policies, and recordkeeping procedures.
- g) An odor management plan detailing the steps that will be taken by Project and Site to ensure off-Site odors shall not result from activities on the Site. This requirement at a minimum means that all commercial cannabis operations at the Site shall be designed to provide sufficient odor-absorbing ventilation and exhaust systems so that any odor

generated inside the location of a commercial cannabis operation is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as a commercial cannabis operation, if the use only occupies a portion of a building.

- h) Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of the Carson Municipal Code.
- i) Policies and procedures to control mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts of cultivation, manufacture, delivery, or transporting of cannabis materials.
- j) Policies and procedures to control any hazards due to the use or storage of materials, processes, products, chemicals, fertilizers, or wastes.
- k) Policies and procedures to control and not disturb surrounding residential or commercial areas.

EXHIBIT D

RESERVED

EXHIBIT E

MND MITIGATION MEASURES

[ATTACHED]

Carcom Center Project

Mitigation Monitoring and Reporting Program

A. Introduction

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared in accordance with Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), which require a public agency to adopt a program for monitoring or reporting on the changes it has required in the project or conditions of approval to substantially lessen significant environmental effects. Specifically, Public Resources Code Section 21081.6 states: "... the [lead] agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment ... The ... program ... shall be designed to ensure compliance during project implementation." The City of Carson, specifically the Planning Division of the Community Development Department, is the Lead Agency for the proposed project.

The MMRP describes the procedures for the implementation of all of the mitigation measures identified in the MND for the proposed project. Mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the City of Carson, the various applicants, and/or other identified public agencies of responsibility.

B. Mitigation Measures

Mitigation Measures		Monitoring Phase	Implementing Party	Enforcement Agency	Responsible Monitoring Agency
BIOLOGICAL RESOURCES					
<p>MM-BIO-1: Any construction activities that occur during the nesting season (February 15 to August 31) shall require that all suitable habitat (i.e., trees and shrubs) be surveyed for the presence of nesting birds by a qualified biologist, retained by the Applicant as approved by the City of Carson before commencement of clearing and prior to grading permit issuance.</p> <p>A preconstruction survey by a qualified biologist shall be conducted within 50 feet of vegetation no more than 7 days prior to construction occurring and immediately before construction commences. If nests are observed, an appropriate buffer in compliance with the MBTA shall delineated, flagged, and avoided until the qualified biological monitor has verified that the young have fledged or the nest has otherwise become inactive.</p>		Pre-Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division
CULTURAL RESOURCES					
<p>MM CUL-1: Prior to earth moving activities, a qualified archaeologist meeting the Secretary of the Interior's professional qualifications standards for archaeology shall be retained. The qualified archaeologist shall conduct cultural resources sensitivity training for all construction personnel. The training shall include a module provided by the qualified paleontologist. Construction personnel shall be informed of the types of cultural resources that may be encountered, and of the proper procedures to be enacted in the event of an inadvertent discovery. The responsible party shall ensure that construction personnel are made available for and attend the training and shall retain documentation demonstrating attendance.</p>		Pre-Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division
<p>MM CUL-2: In the event of the discovery of historical, archaeological, or Native American cultural materials, the contractor shall immediately cease all work activities in the vicinity (within approximately 50 feet) of the discovery. After cessation of excavation, the contractor shall immediately contact the responsible party and shall not resume work until the qualified archaeologist has assessed the discovery and any recommended treatment has been fully implemented. If the qualified archaeologist determines that the discovery constitutes a significant</p>		Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division

Mitigation Measures	Monitoring Phase	Implementing Party	Enforcement Agency	Responsible Monitoring Agency
<p>resource under CEQA, avoidance shall be the preferred manner of mitigation. In the event that avoidance is demonstrated to be infeasible, a Cultural Resources Treatment Plan shall be prepared and implemented by a qualified archaeologist in consultation with the lead agency. The lead agency shall consult with appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are prehistoric or Native American in nature.</p> <p>Archaeological materials recovered during any investigation shall be curated at an accredited curatorial facility. The report(s) documenting the implementation of the Cultural Resources Treatment Plan shall be submitted to the lead agency and to the South Central Coastal Information Center.</p>				
<p>MM CUL-3: Prior to the start of any earth moving activities, a qualified paleontologist meeting the Society of Vertebrate Paleontology's professional criteria shall be retained by the responsible party to prepare and implement a Paleontological Resources Mitigation and Monitoring Plan (Plan). The Plan shall address procedures and locations for paleontological resources monitoring; microscopic examination of samples where applicable; the evaluation, recovery, identification, and curation of fossils, and the preparation of a final mitigation report.</p>	Pre-Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division
<p>MM CUL-4: Paleontological resources monitoring shall be conducted by qualified paleontological monitors, under the supervision of the qualified paleontologist, in areas specified by the Plan. Locations of monitoring will include areas where excavation may extend into Older Quaternary deposits based on geotechnical findings and construction design plans. In the event fossils are exposed during earth moving, the monitor shall have the authority to halt or redirect construction activities to other work areas so the find can be evaluated. At each fossil locality, field data forms shall be used to record pertinent geologic data, stratigraphic sections shall be measured, and appropriate sediment samples shall be collected and submitted for analysis. Based on observations of soil stratigraphy or other factors, and in consultation with the lead agency, the level of monitoring may be reduced.</p>	Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division
<p>MM CUL-5: In the event that human remains are uncovered during project excavation, the contractor shall halt work in the vicinity (within 100 feet) of the</p>	Construction	Applicant	City of Carson Department of	City of Carson Department of

Mitigation Measures		Monitoring Phase	Implementing Party	Enforcement Agency	Responsible Monitoring Agency
find and contact the Los Angeles County Coroner in accordance with Health and Safety Code Section 7050.5. If the Coroner determines the remains are Native American in origin, the Coroner shall contact the Native American Heritage Commission. As provided in Public Resources Code Section 5097.98, the NAHC shall identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendant shall be afforded the opportunity to provide recommendations concerning the future disposition of the remains and any associated grave goods as provided in Public Resources Code 5097.98.				Community Development, Planning Division	Community Development, Planning Division
GEOLOGY					
MM GEO-1: Prior to the issuance of grading or building permits, the applicant shall submit a geotechnical report, prepared by a registered civil engineer or certified engineering geologist, to the City of Carson, for review and approval. The project shall comply with the Uniform Building Code Chapter 18. Division 1 Section 1804.5 Liquefaction Potential and Soil Strength Loss. The geotechnical report shall assess potential consequences of any liquefaction and soil strength loss, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that may include building design consideration. Building design considerations shall include, but are not limited to: ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements or any combination of these measures.		Prior to Issuance of Grading or Building Permits	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division
HAZARDS AND HAZARDOUS MATERIALS					
MM HAZ-1: Prior to commencing operation of the cannabis facility (Certificate of Occupancy), the applicant will be required to show the City proof of contract with a licensed hazardous waste hauler that will be responsible for removing all hazardous wastewater and solid waste generated at the project site.		Prior to Operation	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division
MM HAZ-2: Prior to commencing operation of the cannabis facility, the applicant will submit a Hazardous Material Business Plan, if the use and storage of hazardous materials would exceed the criteria threshold quantity per HSC standards. The Los Angeles County Fire Department, as the State Certified		Prior to Operation	Applicant	Los Angeles County Fire Department, City of Carson	Los Angeles County Fire Department, City of Carson

Mitigation Measures		Monitoring Phase	Implementing Party	Enforcement Agency	Responsible Monitoring Agency
Unified Program Agency (CUPA) in the County of Los Angeles is responsible for review and approval of the site specific HMBP that sets forth operational procedures, emergency contact information, emergency response plan for containment spills or release of vapors and other information required in the HMBP. The HMBP shall be posted in a visible location on the project premises and shall list all hazardous materials to be used onsite in a documented material safety data sheet. The HMBP shall also include a training program for employees on safe handling procedures, use of protective equipment and abatement procedures in the event of an accidental spill or release. An evacuation plan and spill prevention and counter measurement plan (SPCC) shall also be included. Implementation of the HMBP will ensure that an emergency response plan is in place in the event that hazardous materials are accidentally released during operations.				Department of Community Development, Planning Division	of Community Development, Planning Division
Mitigation Measure HAZ-3: Any and all equipment, facilities, connections and building components required for cannabis extraction shall be submitted to the Los Angeles County Fire Department for review and approval. Should extraction of cannabinoids be included in the building plans, no building permit shall be issued until the Los Angeles County Fire Department provides the City with written authorization to issue the permit.		Pre-Construction	Applicant	Los Angeles County Fire Department, City of Carson Department of Community Development, Planning Division	Los Angeles County Fire Department, City of Carson Department of Community Development, Planning Division
HYDROLOGY AND WATER QUALITY					
MM HYD-1: Prior to final project design, a Low Impact Development (LID) Plan would be developed by the Applicant and submitted to the City of Carson for approval. The LID Plan is required because the project is classified as a "Planning Priority Project" per the CMC Ord. 96-1101, § 1 and must comply with requirements of Section 5809 Storm Water Pollution Control Measures for New Development and Redevelopment Projects. The project will result in 10,000 square feet or more of the impervious surfaces which was not subject to post-construction stormwater quality control requirements. Therefore, all stormwater runoff generated at the project site must be treated.		Prior to Final Project Design	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Planning Division

Mitigation Measures		Monitoring Phase	Implementing Party	Enforcement Agency	Responsible Monitoring Agency
NOISE					
MM NOISE-1: Noise-generating equipment operated at the Project Site shall be equipped with the most effective noise control devices, i.e., mufflers, lagging, and/or motor enclosures. All equipment shall be properly maintained to assure that no additional noise, due to worn or improperly maintained parts, would be generated.		Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Building and Safety Division
MM NOISE-2: The Applicant shall designate a construction relations officer to serve as a liaison with surrounding residents and property owners who is responsible for responding to any concerns regarding construction noise and vibration. The liaison's telephone number(s) shall be prominently displayed at the Project Site. Signs shall also be posted at the Project Site that includes permitted construction days and hours.		Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Building and Safety Division
MM NOISE-3: Construction and demolition activities shall be scheduled so as to avoid operating several heavy pieces of equipment simultaneously.		Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Building and Safety Division
MM NOISE-4: The Project shall provide a temporary 15-foot-tall construction barrier along property lines facing adjacent off-site commercial buildings and be equipped with noise blankets capable of achieving sound level reductions of at least 10 dBA between the Project construction site and the off-site commercial uses. Temporary noise barriers shall be used to block the line-of-sight between the construction equipment and the noise-sensitive receptors. The temporary barrier shall remain in place until windows have been installed. Standard construction protective fencing with green screen or pedestrian barricades for protective walkways shall be installed along property lines facing streets or commercial buildings. All temporary barriers, fences, and walls shall have gate access as needed for construction activities, deliveries, and site access by construction personnel.		Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Building and Safety Division
MM NOISE-5 All stationary mechanical equipment shall be equipped with standard noise control devices such as sound attenuators, acoustics louvers, or sound		Construction	Applicant	City of Carson Department of	City of Carson Department of

Mitigation Measures		Monitoring Phase	Implementing Party	Enforcement Agency	Responsible Monitoring Agency
screen/parapet walls. In addition, all stationary mechanical equipment shall be located greater than 110 feet from the property line. Equipment specifications, design, and location shall be submitted and reviewed during the Design Review process.				Community Development, Planning Division	Community Development, Building and Safety Division
MM NOISE-6 All loading and unloading areas shall be located greater than 110 feet from the property line. Design and location shall be submitted and reviewed during the Design Review process.		Pre-Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Building and Safety Division
UTILITIES					
MM UE-1: Cannabis Soil, Plant Material, and Waste Management. Each Licensee shall prepare and submit a Cannabis Soil, Plant Material, and Solid Waste Management Plan for the cannabis site, which describes the type and amount of solid waste that would be generated. The Plan shall maximize to the extent practicable composting of soil and cannabis plant waste onsite, and implement BMPs for solid waste handling. Transfer of cannabis plant waste material from the site shall only occur as allowed by state regulations, either through pre-treatment onsite to render the waste acceptable to licensed landfill or composting facilities, or using a commercial hauler that meets state regulations for the treatment and disposal of cannabis waste.		Pre-Construction	Applicant	City of Carson Department of Community Development, Planning Division	City of Carson Department of Community Development, Building and Safety Division

EXHIBIT F

LIST OF FUTURE DEVELOPMENT APPROVALS

Future Development Approvals may include the following:

- Site Plan and Design Review
- Tentative and final subdivision maps
- Variances
- Conditional Use Permits
- Grading, building and other similar permits
- Certificate of Occupancy
- Business License
- Environmental assessments
- Any amendments or modifications to those plans, maps, permits, and entitlements.

EXHIBIT G

SCHEDULE OF PERFORMANCE

October 30, 2018

	<u>Item To Be Performed</u>	<u>Time For Performance / Responsible Party</u>	<u>Agreement Reference</u>
1.	Submit Planning applications for Administrative Review (DOR or other required Planning applications)	January 31, 2018 / Developer	
2.	Review and approval of Planning applications (permits required for, and specific to, individual tenants may be obtained at a later date based upon anticipated tenant occupancy)	May 31, 2018 / City	
3.	Effective Date of the Development Agreement	January 4, 2019	
4.	Submittal of the Site Plan and Design Review Application	30 days after Effective Date of the Development Agreement/Developer	
5.	Approval of the Site Plan and design Review Application	4 months from #4/City	
6.	Submittal of construction plans for City review	5 months from #5 / Developer (may submit prior to approval of Site Plan and Design Review applications with approval of a Hold Harmless agreement)	
7.	Issuance of Building / Grading Permits	4 months after #6 April 1, 2020 / City	
8.	Start of construction	15 days after #7/ Developer	
9.	Completion of construction	1 year after #8/ Developer	
10.	Start of operations	15 days after #9/ Developer	

It is understood that the foregoing Schedule of Performance is subject to all of the terms and conditions set forth in the text of the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text; in the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both Developer and the City. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. The City Manager shall have the City approve extensions of time without City Council action not to exceed a cumulative total of 180 days.