

LIMITED LICENSE TO ENTER AGREEMENT

THIS LIMITED LICENSE TO ENTER AGREEMENT (this "**Agreement**"), dated as of May __, 2019 ("**Agreement Date**") is made and entered into by and among the CITY OF CARSON, a charter city ("**City**"), the CARSON SUCCESSOR AGENCY to the dissolved Carson Redevelopment Agency, a public body corporate and politic ("**Successor Agency**" or "**Licensor**"), and the CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY, aka the Los Angeles County Fire Department, a dependent special district ("**Licensee**").

RECITALS

- A. The Successor Agency owns that certain real property located at 20820 Main Street in the City of Carson (consisting of Los Angeles County Assessor's Parcel Nos. 7336-016-900, 7336-016-901, 7336-016-902, 7336-016-903, 7336-016-904, 7336-016-905, 7336-016-906) ("**Property**"), which is currently vacant land.
- B. The Successor Agency and Licensee are currently in negotiations regarding a possible real estate transaction involving conveyance of the Property to Licensee. Nothing in this Agreement shall be deemed to bind Successor Agency or Licensee with respect to the acquisition of the Property.
- C. As part of its due diligence prior to executing any agreement effectuating said possible real estate transaction involving the Property, Licensee, via the Los Angeles County Department of Public Works as its subcontractor, desires to conduct a Phase II Environmental Site Assessment, including soil testing, to determine the existence, nature and extent of any contaminants on the Property.
- D. The Successor Agency recently conducted a Phase I Environmental Site Assessment for the Property.
- E. The City has collected Thirty-Eight Thousand Eighty-Eight Dollars and Seventy-Five Cents (\$38,088.75) in Development Impact Fees specifically for the Licensee, and Licensee desires to use these funds for a Phase II Environmental Site Assessment.
- F. The Successor Agency, City and Licensee have agreed that Licensee may enter the Property for the purpose of conducting a Phase II Environmental Site Assessment on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

AGREEMENT:

1. Grant of License.

- 1.1 **Permitted Studies.** Subject to the terms of this Agreement, Licensor grants to Licensee, at Licensee's sole cost (except as otherwise provided herein), expense and risk, a non-exclusive license to enter the Property for the limited purposes of conducting the assessments, analyses, studies, sampling, testing, boring, inspections, surveys and/or investigations on portions of the Property as set forth in the written Scope of Work attached hereto as Exhibit A and incorporated herein by reference, which has been pre-approved by the Contract Officer (defined in Section 1.2) ("**Permitted Studies**"). Notwithstanding the foregoing, Licensee shall not, and nothing in this Agreement shall be construed to authorize Licensee to, damage any existing improvements on or in the Property. All reports prepared based on the Permitted Studies shall be promptly sent to the Contract Officer, and Licensor shall be entitled to retain all such reports irrespective of any future transaction involving the Property. In the event that Licensee would like to conduct further studies and examinations of the Property, Licensee shall prepare a written plan summarizing in reasonable detail the proposed investigations and procedures, including any contracts to be used, and shall submit it to Licensor's Contract Officer for pre-approval. Licensor shall have the

right, at its option, to have an employee or agent present at all times of entry by Licensee, its agents, employees or contractors.

1.2 Licensors' Contract Officer. Licensors' and City's Contract Officer, designated as its representative and contact person for purposes of this Agreement, is James Nguyen, Project Manager (jnguyen@carson.ca.us) (310) 830-7600, or such other person as may be designated by the City Manager/Executive Director (hereinafter "**Contract Officer**").

1.3 Limitations. In no event shall Licensee contact any third party governmental agency without the prior written consent of the Contract Officer.

1.4 Non-Exclusive License. Licensors and Licensee acknowledge and agree that the license granted pursuant to Section 1.1 is non-exclusive, and that Licensors has and shall retain the right to grant one or more additional non-exclusive license(s) authorizing the use of the Property to any third party at any time, provided the uses and/or activities authorized by such license(s) do not materially interfere with Licensee's ability to access the Property and conduct the Permitted Studies as authorized by this Agreement. Specifically, Licensors and Licensee acknowledge and agree that Licensors intends to grant a non-exclusive license to a third party during the Term (as defined in Section 3) for the purpose of temporarily storing stone slabs, marble, and similar or related materials on the Property, and that such license may also involve the installation of a temporary fence with landscaping over a portion of the Property. Licensors represents and warrants to Licensee that the terms of any such license will not interfere with the Licensee's license pursuant to this Agreement. Licensee represents and warrants to Licensors and agrees that it will not object to or challenge such license or any other license or the uses or activities authorized thereby, provided they do not interfere with Licensee's license pursuant to this Agreement.

2. Funding. Licensee shall be reimbursed by City for the costs of conducting the Permitted Studies up to the first Thirty-Eight Thousand Eighty-Eight Dollars and Seventy-Five Cents (\$38,088.75) incurred by Licensee (the "**Reimbursement Amount**"). Licensee shall pay all costs up-front, and shall be reimbursed the Reimbursement Amount within a reasonable time after submission of a written request to the City therefor, including an invoice containing sufficient detail to apprise City of all costs that are the subject of the request for reimbursement. All costs in excess of the Reimbursement Amount shall be the sole responsibility of Licensee, and shall be paid by Licensee at its sole expense.

3. Term. This Agreement shall commence on the Agreement Date and terminate upon the first to occur of: (i) notice of termination by Licensors and City to Licensee, or by Licensee to Licensors and City, or (ii) six (6) months from the Agreement Date. Any Term extensions of up to an additional cumulative ninety (90) days are subject to the written approval of, and may be executed by, the Successor Agency's Executive Director ("**Term**").

4. Compliance with Law. Licensee shall perform the Permitted Studies strictly in compliance with all applicable law including, but not limited to, any and all permits required by any applicable governmental authority having jurisdiction, including the City, which shall be obtained by Licensee at its sole cost and expense.

5. Notice & Entry Requirements; Primary Contacts.

5.1 Notice Requirements. Licensee shall provide Licensors with prior written notice of its intent to enter the Property, which notice shall include the date and time of the proposed entry, the specific purpose of intended entry, the names and affiliations of the persons entering the Property, evidence of all insurance required pursuant to Section 9, and copies of any governmental permits in accordance with Section 4, and shall permit an employee or agent of Licensors to be present at Licensors's election. The notice must be given not less than (i) twenty-four (24) hours prior to proposed entry on a Tuesday, Wednesday or Thursday, and (ii) seventy-two (72) hours prior to proposed entry on a Monday. Upon entry, Licensee shall conduct all Permitted Studies in a diligent, expeditious and safe manner, not to interfere with any Successor Agency or City operations, and not to create any dangerous or hazardous conditions on the Property during or after any Permitted Studies. Upon completion of the Permitted Studies, Licensee shall return the Property to substantially its original condition as it existed immediately

prior to Licensee's entry. Licensor's consent to a request to enter shall not be unreasonably withheld or delayed but will be subject to compliance with the requirements set forth in Section 5.2. Licensee understands and agrees that Licensee's personnel shall not be constantly monitored by Licensor.

5.2 Entry Requirements.

- 5.2.1 Limitations on Days and Times.** Licensee is aware that Licensor's personnel do not work on Fridays, so no entry will be permitted on Fridays.
- 5.2.2 Badge Requirement.** Licensee's personnel or contractors must check in and wear a badge authorizing their presence on the Property and identifying their affiliation. Furthermore, Licensee will need to advise Licensor of the lead person representing Licensee at the Property.

5.3 Primary Contacts for Parties.

- 5.3.1 Licensor & City.** The primary contact for Licensor and City shall be the Contract Officer.
- 5.3.2 Licensee.** The primary contact for Licensee shall be Debbie Aguirre, 323-881-3075 Debbie.Aguirre@fire.lacounty.gov.
- 5.3.3 Right to Change Contacts.** Any party may change the primary contact by providing written notice to the other party.

6. Mechanic's Liens. Licensee shall keep the Property free and clear of all materialmen's liens, liens pendens and other liens arising out of the entry and work performed under this Agreement by Licensee and its personnel or contractors. If such a lien or claim is filed against the Property, Licensee shall promptly cause same to be removed. If Licensee fails to do so, Licensor may, in its discretion, proceed to do so and Licensee shall promptly reimburse Licensor for all costs incurred.

7. Indemnity. Licensee agrees to indemnify and hold Licensor and the City, and their officials, officers, employees, agents and tenants, free and harmless from and against any and all losses, damages (whether general, punitive or otherwise), liabilities, claims (including, but not limited to, mechanic lien claims), causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including attorneys' fees and costs) (collectively, "**Liabilities**") which Licensor or the City may suffer or incur to the extent caused by Licensee's entry onto the Property, or any act or omission by Licensee, any contractor, subcontractor or material supplier, engineer, architect or other person or entity acting by or under Licensee on the Property, but excluding: (a) Liabilities caused by the Successor Agency or City or any of the above-described indemnitees; and (b) Liabilities resulting from the mere discovery by Licensee of a pre-existing condition at, on or under the Property.

8. Termination. Either Licensee or Licensor may terminate this Agreement at any time by providing written notice of such election to terminate to the other party, provided, however, that Licensee's obligations under Sections 2, 5, 6, 7, 9, 15, 16, 18 and 24, shall survive termination for any reason.

9. Insurance. During the term of this Agreement, Licensee and/or its contractors entering the Property shall maintain in full force, at its or their own expense, the following policies of insurance: (i) Workers' Compensation insurance (or state approved self-insurance) on all persons entering the Property in the amounts required by the State of California; (ii) Commercial General Liability insurance, which policy shall be written on a per occurrence and not claims made basis, in an amount of ONE MILLION DOLLARS (\$1,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) in the aggregate, and which policy shall name the City and the Successor Agency as additional insureds; and (iii) Automobile Liability insurance, Coverage form ISO CA 00 01, with a minimum limit of ONE MILLION DOLLARS (\$1,000,000) single combined limit, which policy shall name the City and Successor Agency as additional insureds or contain a blanket additional insured endorsement. In lieu of commercial insurance coverage, Licensee may self-fund any potential liabilities arising out of or connected with this Agreement, and in that event, Licensee shall provide the Licensor with evidence of such self-insurance.

10. Reports. Licensee shall promptly provide to Licensor copies of all final studies, surveys, reports, investigations and other tests prepared by third parties and derived from any of the Permitted Studies (the

"Final Reports"), provided that such Final Reports shall be provided without any representation or warranty from Licensee or its contractors or consultants, and Licensor's reliance on such Final Reports shall be at the Licensor's sole risk.

11. No Assurances. Nothing in this Agreement shall be construed to commit either party to enter into an agreement with respect to the Property.

12. Assignment. Licensee may not assign this Agreement or any of its rights or obligations to any third party or entity without the prior written consent of Licensor, which may be withheld in its sole and absolute discretion. Notwithstanding the foregoing, Licensor will not unreasonably withhold consent to an assignment by Licensee to a wholly-owned subsidiary of Licensee provided that Licensee shall not be released from this Agreement. Furthermore, this Agreement may not be involuntarily assigned or assigned by operation of law. Transfer of ownership interest in Licensee shall be deemed a transfer under this provision.

13. Notices. Any notices, demands or communications under this Agreement between the parties shall be in writing, and may be given either by (i) personal service, (ii) overnight delivery, or (iii) mailing via United States mail, certified mail, postage prepaid, return receipt requested ("**US Mail**"), addressed to each party as set forth on the signature page of this Agreement or such other address as may be furnished in writing by a party, and such notice or communication shall, if properly addressed, be deemed to have been given as of (i) the date so delivered, or (ii) three (3) business days after deposit into the U.S. Mail or if sent on a Friday via overnight delivery or email.

14. Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

15. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that a court of competent jurisdiction in Los Angeles County shall be the sole venue and jurisdiction for the bringing of such action.

16. Legal Fees and Costs. In the event of any litigation or other legal proceeding including, but not limited to, arbitration or mediation between the parties arising from this Agreement, the prevailing party will be entitled to recover, in addition to any other relief awarded or granted, its reasonable costs and expenses (including attorney's fees) incurred in the proceeding.

17. Final Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter of this Agreement.

18. Construction. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, no uncertainty or ambiguity shall be construed or resolved against a party under any rule of construction, including the party primarily responsible for the drafting and preparation of this Agreement. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

19. Recitals. The foregoing recitals are true and correct, and are incorporated herein by reference.

20. Qualification; Authority. Each individual executing this Agreement on behalf Licensee represents, warrants and covenants to Licensor that (a) such person is duly authorized to execute and deliver this Agreement on behalf of such entity in accordance with authority granted under the organizational documents of such entity, and (b) such entity is bound under the terms of this Agreement.

21. Modifications in Writing. Any modification or amendment of any provision of this Agreement must be in writing and bear the signature of the duly authorized representatives of Licensee and Licensor.

22. No Waiver. The failure of a party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement.

23. No Third Party Beneficiaries. This Agreement is only between the parties, and is not intended to be nor shall it be construed as being for the benefit of any third party.

24. Interest. If Licensee fails to reimburse Licensor for any amounts incurred hereunder, the amounts shall bear interest at the rate of ten percent (10%) per annum from the due date until paid in full.

25. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall be deemed but one and the same instrument, and a facsimile copy of such execution shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first written above.

LICENSEE

CONSOLIDATED FIRE PROTECTION
DISTRICT OF LOS ANGELES COUNTY, aka
LOS ANGELES COUNTY FIRE
DEPARTMENT, a dependent special district

By: _____
Daryl L. Osby, Fire Chief

Address for Notice:

SUCCESSOR AGENCY

CARSON SUCCESSOR AGENCY, a public body
corporate and politic

By: _____
John Raymond, Acting Executive Director

Address for Notice:

Carson Successor Agency
701 E. Carson Street
Carson, CA 90745
Attention: Executive Director

CITY

CITY OF CARSON, a charter city

By: _____
John Raymond, Acting City Manager

Address for Notice:

City of Carson
701 E. Carson Street
Carson, CA 90745
Attention: City Manager

ATTEST:

Donesia Gause-Aldana, City Clerk & Agency Secretary

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney & Agency Counsel

EXHIBIT A - SCOPE OF WORK

- County Public Works will drill three (approximately 50-foot deep) soil borings for geotechnical and environmental soil and groundwater sampling. The approximate locations of the proposed boring are shown in the image below.
- Prior to drilling, the boring locations will be marked with wood stakes so that the locations can be checked for possible utility conflicts.
- Utility clearance will include notifying “Dig Alert”, a service for locating underground utilities. County Public Works will also perform a geophysical survey at each boring location to verify that the sites are clear of utilities.
- Drilling of the borings will be done using a truck-mounted hollow stem drill rig, with support truck.
- After drilling, the boring will be backfilled with a cement grout as directed by the County Public Health Department. Soil cuttings will be drummed and removed from the site.
- Drilling locations will be restored to the pre-drilling condition.
- Total field work will take approximately 2 to 3 non-consecutive days, including the initial site walk and boring staking and mark out, geophysical survey, and drilling.
- Soil and water samples collected from the borings will be submitted to geotechnical and environmental testing labs, and the results will be used to help characterize the geotechnical and environmental site conditions.
- Based on site research, the results of the field exploration, and data analysis, County Public Works will provide a geotechnical feasibility and environmental site assessment report(s) for the project.

Proposed Boring Locations

