DEPOSIT AND REIMBURSEMENT AGREEMENT

This **DEPOSIT AND REIMBURSEMENT AGREEMENT** ("**Agreement**") is executed as of this ____ day of June, 2020 ("**Effective Date**"), by and among the **CITY OF CARSON**, a California municipal corporation ("**City**"), the **CARSON RECLAMATION AUTHORITY**, a California joint powers authority ("**Authority**", together with the City, the "**City Parties**"), and **FBD CARSON, LLC**, a Delaware limited liability company ("**Developer**"). City, Authority and Developer may be referred to, individually or collectively, as "**Party**" or "**Parties**."

RECITALS

WHEREAS, the Authority is the owner of approximately 157 gross acres of real property located in the City of Carson (the "**Site**" or "**157 Acre Site**"), known as the former Cal-Compact Landfill;

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

WHEREAS, on October 3, 2019, the Authority released an Invitation to Propose for the development of Cells 3, 4, and 5 of the Site (the "**Remainder Cells**"), and thereafter, established a process for the selection of a potential developer with which to enter into an option agreement ("**Option Agreement**") for the potential development of the Remainder Cells to be developed (the "**Selection Process**");

WHEREAS, following the Selection Process, the Developer was selected for the potential development of the Remainder Cells and the Parties are in the process of negotiating and finalizing the Option Agreement;

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

WHEREAS, the Authority has incurred, and continues to incur, certain carrying costs to maintain the 157 Acre Site, including O&M of the Remedial Systems (the "**Carry Costs**"), which

Developer has agreed to reimburse the Authority for its pro-rata share based on the Remainder Cells acreage in relation to the overall 157 Acre Site (i.e., 96 acres to the overall 157 acres);

WHEREAS, the Parties now desire to specify the terms and conditions for the delivery and administration of the Deposit and the Carry Costs required by Developer; and

AGREEMENT

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

TERMS

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein by this reference. In addition, all recitals, terms and conditions set forth under the Option Agreement, when and if it is executed, shall be incorporated herein as though fully set forth herein. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the executed version of the Option Agreement, or, if it is not executed, the final version thereof negotiated by the Parties containing such terms.

2. Deposit. As a good faith performance deposit to cover the City Costs (as defined below) and any other reimbursable costs of the City Parties pursuant to the terms of this Agreement and/or the Option Agreement, Developer shall, within five (5) days of the Effective Date, make the following deposits (collectively, the "**Deposits**") to the extent it has not already done so: (i) with the City, the sum of Fifty Thousand Dollars ($50,000), (ii) with the Authority, the sum of Two Hundred Thousand Dollars ($200,000), and (iii) with FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation ("**Escrow Holder**") the sum of One Million Seven Hundred Fifty Dollars ($1,750,000) (such portion is referenced herein as the "**Escrow Deposit**"). Disbursements of the Escrow Deposit shall be made in accordance with the disbursements procedures and escrow instructions as the Parties shall agree upon with Escrow Holder (pursuant to an amendment to this Agreement or other side letter or similar document), at the time of execution of the Option Agreement (or as otherwise set forth in the Option Agreement). In furtherance thereof, the Parties shall cause an executed copy of this Agreement to be deposited with Jessica Avila, Escrow Officer at Fidelity National Title Insurance Company, 555 South Flower Street, Suite 4420, Los Angeles, CA 90071, (213) 452-7132; jessica.avila@fnf.

3. Developer Responsibility for City Costs. The Deposits shall be used by the City Parties in order to reimburse the City Parties for all actual costs incurred by City Parties commencing on March 9, 2020 (i.e., the date on which the Authority Board gave approval for staff and its attorneys to negotiate and prepare the Option Agreement and this Agreement with Developer) (the "**Cost Commencement Date**") in connection with the following (all of which shall be deemed "**City Costs**"): (i) City or Authority staff, employee, legal, consultant, or other third party costs in reviewing, preparing, negotiating, processing, and obtaining approval for the Project, the Option Agreement and related documentation, this Agreement, the Entitlements, CEQA Approvals, and all other agreements related to the Project, (ii) City or Authority staff, employee, legal, consultant, or other third party costs in performing its/their obligations under the Option Agreement, and any and all other actions reasonably taken by the City Parties in connection with

the planning and development of the Project under the Option Agreement and/or related documentation, (iii) City or Authority staff, employee, legal, consultant, or other third party costs for all CEQA Processing (as defined below), (iv) City or Authority staff, employee, legal, consultant, or other third party costs related to litigation against the Project, the Entitlements, and/or CEQA Approvals, including defense of any legal or administrative action challenging the Option Agreement and/or related documentation, any Entitlements or approvals for the Project, including CEQA Approvals, Challenge Litigation, and/or any Re-Processing of the Project, but expressly excluding any litigation filed by CAM against the Authority, the City and/or other third parties related to Cell 2 and the agreements entered into with CAM Carson prior to this Agreement, (v) costs incurred to prepare and review studies, proformas, reports and design services, and agreements related to development of the Project and Project-related infrastructure, such as the Remedial Systems, BPS, and Site Development Improvements, (vi) any and all other actions taken by City Parties in connection with carrying out the transactions contemplated under the Option Agreement, this Agreement, or the development of the proposed Project, and (vii) any Claims and Liabilities (as defined in Section 9 below). Reimbursable City Attorney/Authority Counsel rates will not exceed $395 per hour for partners and/or $350 for associates. Developer's obligation to deposit and reimburse City Costs are in addition to Developer's duty to indemnify, defend, and hold harmless City Parties, as set forth in Section 9.2, below. Developer acknowledges and agrees that the Deposits shall be used to reimburse the City Parties for previously incurred City Costs between the Cost Commencement Date to the Effective Date of this Agreement. Notwithstanding anything herein to the contrary, unless and until the Option Agreement is executed, Developer's responsibility for the City Costs shall be capped at Two Hundred Fifty Thousand ($250,000) and no more than that amount of the Deposits may be used for reimbursement of City Costs. If the Parties do not execute the Option Agreement on or prior to the date that is sixty (60) days after the date hereof or if Developer provides written notice to the City Parties that it has decided to terminate negotiation of the Option Agreement at any time prior to execution thereof, then Escrow Holder shall, upon written demand from Developer, immediately return the Escrow Deposit to Developer.

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

3.1 Carry Costs Reimbursement Obligations of Developer. Commencing as of the Cost Commencement Date, Developer shall reimburse one hundred percent (100%) of the Authority's monthly Carry Costs attributable to the Remainder Cells (i.e., its proportional share based on the acreage of the Remainder Cells, approx. 96 acres, in relation to the overall Site acreage, 157 acres), in connection with, among other things, O&M for the Remedial Systems installed on the Site (which include the costs of maintaining the Site and operating the Remedial Systems, plus utilities, DTSC oversight and similar expenses), which costs fluctuate monthly but have been generally running at approximately $200,000 to $446,000 per month for the overall 157 Acre Site.

a. On or before June 5, 2020, Developer shall be required to deposit with the Authority by(as reimbursement for Carry Costs attributable to the Remainder Cells between the Cost Commencement Date and the expected date of execution of the Option Agreement) the amount of $912,974, consisting of $316,789 for March 2020 (prorated for the partial month), $194,873 for April 2020, $203,576 for May 2020, and 197,736, for June 1, 2020 through when the Option Agreement is executed. It is anticipated the Option Agreement will be executed by June 30, 2020; if negotiations are extended, however, Developer shall be required to supplement such payments of Carry Costs. The June 2020 Carry Costs amount is an estimate; in the event the actual June 2020 Carry Costs are less than $194,873 for the Remainder Cells, the difference shall be refunded to Developer (or applied to future payments of Carry Costs if negotiations are ongoing after June 2020 or if the Option Agreement is executed by then); alternatively, if they turn out to be more than $194,873, Developer shall be required to make up the difference to the Authority.

b. Following the execution of the Option Agreement, Developer shall make monthly reimbursements for Carry Costs within ten (10) days following the Authority's Notice and delivery of an invoice therefor to Developer, unless otherwise set forth in the Option Agreement. This reimbursement responsibility is independent from Developer's responsibility for the City Costs and the use of the Deposits to pay for same

3.2 Additional Deposits by Developer. In the event the City expends the entire Deposits, Authority may request additional amounts by written request to Developer, which request shall state what costs have been incurred to date (together with appropriate backup documentation to evidence same), additional costs anticipated, and how City/Authority intends to apply any needed additional Developer deposits. Authority and Developer shall work together in good faith to determine whether an additional amount should be deposited. Any such additional amount that is deposited is referred to herein as an "**Additional Deposits**" (which shall be added to and included within the definition of the "**Deposits**" hereunder).

3.3 City's Right to Cease Work. In the event that Developer does not promptly deliver the Deposit or reimburse the Authority for its Carry Costs as required herein, City Parties may immediately cease all work related to or concerning the Project or the transactions contemplated under the Option Agreement.

3.4 Interest on Deposit. The Deposits shall not earn interest and may be co-mingled with other City funds.

3.5 Accounting. City Parties shall keep an accounting of the City Costs incurred by City Parties and all Deposits made by Developer. The City Parties shall provide to Developer a summary of expenditures made from the Deposits for City Costs and the Carry Costs expenditures within thirty (30) days of receipt of a written request therefor from Developer; provided that such request shall not be made more than once during any three (3) month period. Failure of City Parties to provide any such accounting shall not excuse Developer's duty to perform any act required under this Agreement or the Option Agreement (after it has been executed).

3.6 Unexpended Funds. In the event of a Closing under the Option Agreement (i.e., the transfer of the Surface Lot of the Remainder Cells to Developer), the unexpended portions

of the Deposits shall be retained by Authority and shall be applied to the Authority's costs in operating, maintaining, and developing the 157 Acre Site, including, without limitation, Authority's O&M costs, costs associated with the design and development of Leonardo and other offsite improvements in accordance with the Option Agreement, Authority's costs in connection with the Stormwater Work, SWPPP, and implementation of the measures under the SUSMP (each as defined in the Option Agreement). If the Option Agreement is entered into and subsequently terminated following a material Default by City Parties under the Option Agreement, then this Agreement shall be deemed terminated, all unexpended portions of the Escrow Deposit shall be refunded to Developer, unless Developer has outstanding indemnifications obligations owed to City Parties under the Option Agreement or otherwise herein. The terms and provisions of this Section shall survive the expiration or termination of this Agreement.

4. Additional Taxes, Fees, and Charges. Notwithstanding any provision to the contrary, Developer shall pay all normal and customary fees and charges applicable to all permits necessary for the Project, and any taxes, fees, and charges hereafter imposed by City in connection with the Project, and the Project Entitlements which are standard and uniformly-applied to similar projects in the City (or otherwise set forth in the Development Agreement).

5. Termination. Except as otherwise expressly set forth herein, this Agreement shall terminate (i) within three months following the Effective Date if the Option Agreement is not executed by then, or (ii) concurrent with the termination of the Option Agreement, in accordance with the terms and provisions therein, unless either Developer has outstanding reimbursement obligations to the City Parties at that time.

6. Remedies. In the event of a breach by either Party, the non-breaching Party may, in addition to any other remedies, seek to recover reasonable attorneys' fees in enforcing this Agreement. This provision will not be interpreted to curtail either Party's remedies at law or equity against the other, nor shall it be interpreted as a waiver of any defense.

7. Conflicts of Interest.

7.1 No Financial Relationship. Developer acknowledges the requirements of Government Code Sections 1090 *et seq.* ("**1090 Laws**") and represents and warrants that it has not entered into any financial or transactional relationships or arrangements that would violate the 1090 Laws, nor shall Developer solicit, participate in, or facilitate a violation of the 1090 Laws. By law, the documents required by CEQA must be independently reviewed and approved by City in accordance with its independent judgment and subject to its sole discretion. Accordingly, despite any funding mechanism provided in this Agreement, during the existence of the City's contract with the Environmental Consultant (as defined below), and for a period of one (1) year after final resolution of the Project Entitlements, neither Developer, nor any of its representatives, agents or other persons acting on behalf of Developer, shall enter into any financial relationship with the Environmental Consultant or with any City official, employee, or contractor. Nor, during such period, shall Developer propose to enter into any future relationship with the Environmental Consultant or with any City official, employee, or contractor. This shall not prevent Developer's consulting with Environmental Consultant as permitted by Section 10 of this Agreement.

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

8. Developer Acknowledgements. Subject to the reimbursement obligations set forth in this Agreement, Developer acknowledges and agrees that, with respect to the work concerning the Project or its related applications or entitlements:

8.1 City Parties shall have sole discretion to select which of its employees and contractors are assigned to the work, including the Environmental Consultant (as defined in Section 10).

8.2 City Parties shall have sole discretion to direct the work and evaluate the performance of the employees of City Parties and/or contractors of City Parties assigned to the work, and City Parties retain the right to terminate or replace at any time any such person.

8.3 City Parties shall have sole discretion to determine the amount of compensation paid to employees of City Parties and/or contractors of City Parties assigned to the work.

8.4 City Parties, not Developer, shall pay employees and contractors assigned to the work from a City / Authority account.

8.5 City Parties make no representations or assurances to Developer that the Project will be approved, or that Developer will receive any priority treatment for processing the Project or its Entitlements.

9. Indemnification and Hold Harmless.

9.1 Non-liability of City. The Parties acknowledge that there may be challenges to the legality, validity and adequacy of: the Project; the Project Applications; the Project entitlements; compliance of the Project with CEQA, state law, or federal law; and/or, this Agreement, in the future. If such challenges are successful, such challenges could delay or prevent the performance of this Agreement, approval of the Project, or implementation of the Project. City shall have no liability for the inability of Developer to obtain approval of the Project or any of the Project entitlements or approvals (including any environmental determinations, actions or approvals), or implement the Project, as the result of a judicial determination that some or all of the Project, the Project Applications, or the entitlements or approvals concerning the Project, or implementation of the Project are invalid or inadequate or not in compliance with law. No official, officer, employee or agent of the City Parties shall be personally liable hereunder to any extent. The Parties further acknowledge and agree that this Agreement is not a debt of the City Parties. The City Parties shall not in any event be liable hereunder other than to return the unexpended and uncommitted portions of the Escrow Deposit as provided in Section 3.5 above, and to provide an accounting under Section 3.4

above. The City shall not be obligated to advance any of its own funds with respect to CEQA documents or for any other purpose.

9.2 Indemnification. Developer agrees to indemnify, protect, defend, and hold harmless the City Parties and their respective officials, officers, employees, agents, elected boards, commissions, departments, agencies, and instrumentalities thereof, from any and all actions, suits, claims, demands, writs of mandamus, liabilities, losses, damages, penalties, obligations, expenses, and any other actions or proceedings (whether legal, equitable, declaratory, administrative, or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to, arbitrations, mediations, and other such procedures) asserted by third parties against the City Parties that challenge, or seek to void, set aside, or otherwise modify or annul, the action of, or any approval by, the City Parties for or concerning this Agreement, the Project, the Entitlements, or any CEQA approvals issued by the City, or any aspect or portion thereof (including, but not limited to, reasonable attorneys' fees and costs) (herein the "**Claims and Liabilities**"), whether such Claims and Liabilities arise under planning and zoning laws, the Subdivision Map Act, the California Environmental Quality Act, Code of Civil Procedure Sections 1085 or 1094.5, or any other federal, state, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction.

9.3 Exception. The obligations of Developer under this Section shall not apply to any claims, actions, or proceedings arising through the negligence or willful misconduct of the City Parties or their respective officers, agents, or employees.

9.4 Period of Indemnification. The obligations for indemnity under Section 9.2 shall begin upon the Effective Date and shall survive termination or expiration of this Agreement for a period of twelve (12) months. If City Parties and Developer enter into a Development Agreement that is approved by the City Council, the indemnity obligations in this Agreement may, pursuant to express written agreement in that Development Agreement, be superseded by Developer's indemnity obligations under the Development Agreement. Notwithstanding the foregoing, City is not assuring Developer that it will enter into a Development Agreement.

10. Compliance with Guidelines; Independent Judgment. The CEQA Guidelines, including Sections 15084 and 15090, require the City as lead agency to exercise its independent judgment in CEQA findings and approvals. The City will engage with one or more consultants to prepare CEQA documents and conduct the CEQA Processing (collectively, the "**Environmental Consultant**") for the Project. Accordingly, it is understood that any such Environmental Consultant hired by the City to prepare CEQA documents or engage with CEQA Processing shall be under contract to and directed by the City, and Developer shall not attempt to direct, influence, or otherwise control the Environmental Consultant in the performance of the work. Any questions or concerns Developer may have will be directed to the City. Notwithstanding the foregoing, and in accordance with CEQA Guideline Section 15084, the Developer may retain and direct other environmental consultants to prepare various technical reports and analyses that may be used and relied upon by the Environmental Consultant and the City in preparing the draft and final CEQA document (such as a Supplement to the EIR or new Environmental Impact Report) (including but not limited to consultants retained to prepare traffic, air quality, noise, and historical studies or analyses (collectively, the "**Technical Consultants**"). The City retains the sole and absolute right to review and approve any and all reports prepared and submitted to the City and the Environmental

Consultant by the Technical Consultants in accordance with its independent judgment and ultimate sole discretionary authority.

11. Developer's Rights Concerning Review of Documents. City shall give Developer at least ten (10) days' Notice along with copies of any proposed contract with the Environmental Consultant, drafts of CEQA documents, and related documents so that Developer shall have the opportunity to provide comments or objections thereto, prior to the City finalizing, filing, or otherwise releasing any of the foregoing for public review and comment. The City shall also provide Developer with draft copies of all other reports and studies funded through this Agreement. Developer may discuss issues with the City Parties or their consultants and may make comments orally or in writing. The City Parties shall also use reasonable efforts to permit Developer's review with respect to agendas and staff reports for all open City Council, Planning Commission and other public body meetings at which the Project or related matters are to be considered, and by providing Developer with draft copies thereof prior to or concurrently with the transmission of such documents to the appropriate body. As set forth in Section 10, it is expressly understood that the Environmental Consultant (and other City Parties' consultants retained hereunder) is under contract solely with the City, and the City is free to disregard the comments of Developer and exercise its independent judgment in making payments to the Environmental Consultant or revising or accepting the Environmental Consultant's work product, without any liability whatsoever to Developer therefor.

12. No Obligation to Adopt CEQA Documents or to Approve Project. The provisions of this Agreement shall in no way obligate the City to adopt any CEQA documents or take any action related to approval of the Project or any Entitlements related thereto. The City shall use its independent judgment in determining whether to approve the Project Entitlements, whether to approve draft CEQA documents for circulation, and whether to certify or to not certify CEQA documents. In the event that the City certifies CEQA documents, the City shall use its independent judgment in determining the significance of any impacts, approving any mitigation program, adopting a statement of overriding considerations, or taking any other action. The City Parties shall have no liability to Developer in any manner whatsoever therefor, other than providing the accounting of expenses as provided herein.

13. Assignment/Transfer. Developer may not assign this Agreement to any other entity (except as provided in the transfer/assignment provisions to be set forth in the Option Agreement, once it has been executed) unless agreed to in writing by City Parties and upon proof of the financial viability of the successor entity to fulfill the Agreement's obligations in the City Parties' discretion.

14. Relationship Between the Parties. The Parties agree that this Agreement does not operate to create the relationship of partnership, joint venture, or agency between City Parties and Developer. Nothing herein shall be deemed to make Developer an agent of City Parties.

15. Qualification; Authority. Developer warrants that it has the legal capacity to enter into the Agreement. Each Party warrants that the individuals who have signed the Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party. Each individual executing this Agreement on behalf of Developer represents, warrants and covenants to City Parties that (a) Developer is duly formed and authorized to do business in the state of its

formation, (b) such person is duly authorized to execute and deliver this Agreement on behalf of Developer in accordance with authority granted under the organizational documents of Developer, and (c) Developer is bound under the terms of this Agreement.

16. Notices. Any notices, requests, demands, documents approvals or disapprovals given or sent under this Agreement from one Party to another (each a "**Notice**", and collectively, the "**Notices**") shall be given to the Party entitled thereto at its address set forth below or at such other address as such Party may provide to the other Parties in writing. Any such Notice may be given (i) by personal delivery which will be deemed received on the day of delivery; (ii) by national overnight delivery service which shall be deemed received the following day; or (ii) by mailing the same by registered or certified US mail, return receipt requested which will be deemed delivered three (3) days after depositing same in the mail, addressed to the Party to whom the Notice is directed as set forth below:

To Authority:	Carson Reclamation Authority 701 East Carson St. Carson, CA 90745 Attention: Executive Director
With a Copy to:	Aleshire & Wynder, LLP 18881 Von Karman Ave., Suite 1700 Irvine, CA 92612 Attention: Sunny Soltani
To City:	City of Carson 701 East Carson St. Carson, CA 90745 Attention: City Manager
With a Copy to:	Aleshire & Wynder, LLP 18881 Von Karman Ave., Suite 1700 Irvine, CA 92612 Attention: Sunny Soltani
To Developer:	FBD Carson, LLC c/o Faring Capital 659 N. Robertson Blvd. West Hollywood, CA 90069 Attention: Jason Illoulian FBD Carson, LLC c/o Bridge Development Partners 1600 E. Franklin Avenue, Suite D El Segundo, CA 90245 Attention: Brian Wilson
With copies to:	Nixon Peabody, LLP

300 South Grand Ave., Suite 4100
Los Angeles, CA 90071-3151
Attention: Justin X. Thompson

Allen Matkins Leck Gamble Mallory & Natsis, LLP
1900 Main Street, 5th Floor
Irvine, CA 92614-7321
Attention: Pam Andes

17. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

18. Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against either Party. Unless otherwise specified, any term referencing time, days, or period for performance shall be deemed calendar days and not business days, provided, however that any deadline that falls on a weekend or holiday shall be extended to the next City business day. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to City Parties include their respective elected officials, appointed boards and commissions, officers, employees, agents, and volunteers of such City Parties. The captions of the various paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

19. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by the Parties.

20. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

21. Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

22. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

23. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

24. Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties'

activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Los Angeles, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

25. Time is of the Essence. Time is of the essence with respect to this Agreement.

26. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

27. Entire Agreement. This Agreement contains the entire agreement between City Parties and Developer with respect to the subject matter of this Agreement and supersedes any prior oral or written statements or agreements between City Parties and Developer with respect to the subject matter of this Agreement.

28. Attorneys' Fees. 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.

[signatures on the following page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

DEVELOPER:

FBD CARSON, LLC, a Delaware limited liability company

By: _____
Jason Illoulian
Its: _____

By: _____
Brian Wilson
Its: _____

CITY:

CITY OF CARSON, a California municipal corporation

By: _____
Albert Robles, Mayor

AUTHORITY:

CARSON RECLAMATION AUTHORITY, a California joint powers authority

By: _____
Albert Robles, Chairman

ATTEST:

By: _____
Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Sunny K. Soltani, City Attorney / Authority Counsel
[dja]

DEVELOPER SHALL PROVIDE CITY WITH COPIES OF APPROPRIATE DOCUMENTS EVIDENCING AUTHORITY OF SIGNATORIES TO EXECUTE AND BIND DEVELOPER. DEVELOPER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

_____
TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER_____

_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE