

**AGREEMENT TO GRANT DEVELOPMENT IMPACT FEE CREDIT
AND FOR CONSTRUCTION OF PUBLIC INFRASTRUCTURE**

This AGREEMENT TO GRANT DEVELOPMENT IMPACT FEE CREDIT AND FOR CONSTRUCTION OF PUBLIC INFRASTRUCTURE (“**Agreement**”) is made and entered into this _____ day of _____, 2020, by and among the CITY OF CARSON, a California municipal corporation (“**City**”), CARSON RECLAMATION AUTHORITY, a California joint powers authority (“**Authority**”), and FARING CAPITAL, LLC, a Delaware limited liability company (“**Developer**”); each a “**Party**” and collectively, the “**Parties**”.

RECITALS

A. Developer and Authority, have entered into that certain Option Agreement and Joint Escrow Instructions, dated _____, 2020 (the “**Option Agreement**”), whereby Developer obtained (i) the option to acquire certain Property (defined below), and (ii) the opportunity to seek certain entitlements and approvals (“**Entitlements**”) for a project (as more particularly described in the Option Agreement, the “**Project**”) Developer has proposed, and, in consideration, Developer agreed to advance to the Authority an advance of funds in the amount of \$12,500,000 (the “**First Advance Funds**”), and potentially a second advance in the amount of \$32,500,000, subject to the terms and conditions of the Option Agreement. The subject property for the Project is the Surface Lot of Cells 3, 4, and 5 (together with certain additional easements and related rights described in the Option Agreement, collectively, the “**Property**”) of that certain 157 acre site, formerly known as the Cal-Compact Landfill (“**157 Acre Site**” or “**Site**”), located in the City of Carson, California; the Site and the Property are shown in the “**Site Map**” attached hereto as **Exhibit A** and incorporated herein by this reference. The Option Agreement gives Developer two different options, Options A and B (the “**Options**”), based on whether the Required Approvals (as defined in the Option Agreement) are approved or not approved, including the right/obligation of Developer to reprocess the Project if it is not approved, which Options are more fully described in the Option Agreement. The City shall reserve full and final discretion over Developer’s proposed Entitlements and other Required Approvals in the exercise of its police powers and land use authority.

B. Subject to the terms and conditions of this Agreement, City shall provide Developer with development impact fee credits in the amount of \$12,500,000 in exchange for the First Advance Funds Developer has provided to the Authority. In exchange, the Authority obligates itself to install at least \$12.5M worth of public infrastructure on or supporting the 157 Acre Site and described herein.

B. The 157 Acre Site was operated as a landfill prior to the incorporation of the City of Carson in 1968 and as a result, the 157 Acre Site has serious soil and groundwater contamination that requires substantial remediation. On October 25, 1995, the California Department of Toxic Substances Control (“**DTSC**”) approved a Remedial Action Plan (“**RAP**”) for the 157 Acre Site, which RAP requires the performance of the remediation work (“**Remediation Work**”) being the installation, operation and maintenance of certain remedial systems, including a landfill cap, gas extraction and treatment system, and groundwater collection and treatment system (“**Remedial Systems**”) and including necessary grading. The Authority was formed on January 20, 2015 in order to (among other things) acquire the 157 Acre Site from the former owner, Carson Marketplace LLC (“**CM**”), to take over the remediation responsibilities under the RAP, among other regulatory documents and obligations applicable to the environmental condition of the Site.

Under the Option Agreement, the responsibility to perform the Remediation Work required for the Remainder Cells, would be transferred to the Developer. In addition, in order to ensure that the City would not undertake any work within the contaminated soils, Authority has agreed to undertake the responsibility to install certain offsite public infrastructure (“**Offsite Improvements**”) as described herein.

C. The First Advance Funds may be used by the Authority for the purposes set forth in the Option Agreement, including, without limitation, the construction of the Remedial Systems and certain other improvements for the 157 Acre Site as required by the RAP and for the construction and installation of certain public infrastructure required for the Site. In exchange for Developer’s payment of such First Advance Funds to the Authority, and as required under the Option Agreement, Developer is entitled to DIF Credits (as defined below) in the amount of \$12,500,000, as detailed in, and subject to the terms and conditions of, this Agreement and the Option Agreement.

D. Additionally, in exchange for City providing the DIF Credits to Developer, Authority agrees to install the Offsite Improvements required for the Site in the amount of at least \$12,500,000, as such public infrastructure is described in the “**Description of Offsite Public Improvements**”, attached hereto as **Exhibit B** and incorporated herein by this reference. The Offsite Improvements shall be timely constructed and coordinated with the development of the Site.

E. The Carson Municipal Code (“**CMC**”) Article XI (Ordinance 19-1931) (“**DIF Ordinance**”) establishes Development Impact Fees (“**Impact Fees**”) that developers are required to pay for their fair share of the costs to construct the infrastructure that will be necessary to accommodate and mitigate the impacts and burdens on the public generally generated by new development and that are necessary to protect the safety, health and welfare of persons in the City. Impact Fees are collected as a condition to the development of land prior to the issuance of building permits.

F. City and Developer now desire to enter into this Agreement to provide for a credit to Developer in the amount of \$12,500,000 to be used and applied by Developer towards the Impact Fees otherwise applicable to existing and future development projects within the City pursuant to the DIF Ordinance. In addition, City and Authority desire to enter into this Agreement to provide the terms and condition under which the Authority shall install the Offsite Improvements for the Property and the 157 Acre Site, as required in the Option Agreement on behalf of the City.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the Parties hereto agree as follows:

AGREEMENT

1. **Effective Date.** This Agreement shall be deemed effective following the approval of the City Council and the Authority Board once executed by the Parties as first stated above (the “**Effective Date**”). Irrespective of the Effective Date, the Agreement Term shall not commence until the Commencement Date as stated in Section 6.

2. **Capitalized Terms; Conflicts With the Option Agreement.** Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Option Agreement. To the extent possible, in the event of conflict between the terms and provisions of this Agreement

and the Option Agreement, the terms and provisions shall be harmonized to eliminate any such conflict. To the extent any of the terms and provision hereof cannot be harmonized with the terms and provisions of the Option Agreement, the terms and provision hereof shall govern. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions in the body of this Agreement, the language, terms and conditions contained in this Agreement shall control.

3. **DIF Credit Amount.** Upon the Commencement Date (defined below) Developer shall be entitled to a credit in the amount of \$12,500,000 (“**DIF Credit(s)**”), subject to the terms and conditions of Section 5 below, to be used and applied by Developer towards the actual Impact Fees that are to be received by the City in connection with any development projects within the City not paid as of the Commencement Date or following the Commencement Date (subject to the expiration of the Agreement Term) pursuant to the DIF Ordinance. The applicable terms of the DIF Ordinance which shall apply shall be the most recent existing form of the Ordinance, provided that the value of the credits cannot be reduced from \$12,500,000, subject to the terms of Section 5.

4. **Refund Pursuant to DIF Credit.** Upon City’s receipt of Impact Fees from any entity under or pursuant to the DIF Ordinance following the Commencement Date, or any subsequent fee(s) directly replacing or modifying such Impact Fees from time to time, the City shall, within thirty (30) days of such receipt, refund Developer an amount equal to the sum received. The City’s reimbursement to Developer according to this process shall continue until the earlier of (i) Developer’s receipt of the full amount of the refund of its DIF Credits, or (ii) until the expiration of the Agreement Term..

5. **Fee Credit Ledger; Priority.** City shall establish, and maintain a database or ledger (“**Ledger**”) that shows the total dollar value of the initial DIF Credit provided to Developer under this Agreement, the date of receipt of any and all Impact Fees the City receives from any entity following the Commencement Date, and the portion of DIF Credit that has been refunded to Developer pursuant to this Agreement. A copy of this Ledger shall be provided to Developer with each refund processed in accordance with Section 4. City covenants that it shall not, without the prior written consent, of Developer, which Developer may withhold, condition or provide in its sole and absolute discretion, sell, issue or otherwise transfer any credits under the DIF Ordinance, or any subsequent fee(s) replacing or modifying such Impact Fees from time to time, to or for the benefit of any other developments within the City of Carson during the Agreement Term hereof, unless the City has or shall refund any such Impact Fees to the Developer (to the extent there remains outstanding DIF Credits in favor of Developer). Notwithstanding anything herein to the contrary, neither the terms and provisions of Sections 8, 9, 10 or 11 nor any breach thereof shall affect the validity or enforceability of this Section. **Notwithstanding anything to the contrary hereunder, in the event City or Authority refunds or reimburses Developer with a portion of the First Advance Funds, the amount of the DIF Credits Developer is entitled to receive hereunder shall be reduced on a corresponding (dollar for dollar) basis. .**

6. **Agreement Term.** Unless terminated as set forth in Section 13 hereof, the term of this Agreement shall commence on the Commencement Date and expire on the earlier of (i) twenty (20) years thereafter, or (ii) the date on which Developer has received the full amount of the refund of its DIF Credits (i.e., the balance of the DIF Credits have been exhausted as shown in the Ledger) (“**Agreement Term**”). The “**Commencement Date**” shall be the date on which either of the following conditions have occurred (x) the occurrence of an Option B Trigger as set forth

in the second paragraph of Section 1.1 of the Option Agreement, or (y) one or more of Developer's conditions precedent in Section 8.1 of the Option Agreement are not satisfied by the conclusion of the Term (as defined in Section 2.4 of the Option Agreement) (including the extensions provided thereunder) unless extended by the mutual agreement of the Parties; provided that (a) Developer has given Authority the Option B Closing Notice described in Section 8.2 of the Option Agreement and the conditions thereof are not satisfied within ninety (90) days following Authority's receipt of such notice, and (b) in the case of a default by Authority, (i) the Notice of Default and opportunity to cure has been provided without cure having occurred pursuant to Section 16.1 of the Option Agreement, and (ii) the dispute resolution provisions of Section 16.2 of the Option Agreement have been exercised without resolution. In the event of any claims concerning the validity and enforceability of the DIF Credits, Developer shall defend any such claim and will bear the legal cost and attorneys' fees of defending such claims; provided that Developer may elect not to defend such claim by giving written notice to the Authority and City, in which case, the DIF Credits shall be null and void and this Agreement shall terminate as of the date of such notice.

7. Indemnification.

(a) *Developer Responsibilities.* Developer agrees to indemnify and hold harmless Authority, City, their officers, agents, consultants, and employees ("**City Parties**") from any and all claims, demands, costs or liability arising from or connected with all activities contemplated by this Agreement.

(b) *City Responsibilities.* City agrees to indemnify and hold harmless Developer and its officers, directors, agents, consultants, employees, successors and/or assigns ("**Developer Parties**") from any and all claims, demands, costs (including, but not limited to, reasonable attorneys' fees) or liability arising from the active negligent acts, fraud, errors or omissions or willful misconduct of City or City Parties under this Agreement.

(c) *Authority Responsibilities.* Authority agrees that in carrying out its obligations to install the Offsite Improvements, it shall indemnify and hold harmless City from any and all claims, demands, costs or liability arising from or connected with all activities contemplated by this Agreement.

(d) *Project Agreements.* The Option Agreement and Option B Documentation may provide more comprehensive indemnity provisions superseding the provisions hereof.

8. Authority Construction, City Maintenance of Offsite Improvements. Authority shall fulfill certain obligations of City in accordance with the EIR by constructing the Offsite Improvements as set forth in **Exhibit B**. Additionally, except for Stamps Road south of Lenardo Drive, all roads and Offsite Improvements built by Authority on the 157 Acre Site and after formal acceptance by City will be maintained by the City as public streets and improvements. City hereby agrees to accept such improvements if properly constructed hereunder in accordance with all City standards and will (i) be responsible for all liability claims for public use other than those resulting from or caused by presence of hazardous or toxic substances/materials, contamination, or waste located on or migrating to or under such streets and improvements from other areas of the 157 Acre Site, and (ii) accept ownership of such public streets and improvements. City will maintain such roadway systems in a finished and attractive manner conducive to the success of the Project.

9. **Contract Administration.** Authority retains exclusive rights to contract with and direct the work of its contractors constructing the Offsite Improvements hereunder. Authority must undertake the work as a public agency subject to all laws of the state of California, as well as ordinances of the City of Carson, and such requirements shall not make the City liable for the Authority's acts, or the condition of the property hereunder. To this end, Authority agrees as follows:

(a) *Contract Administration.* To perform the construction contract administration for all Offsite Improvements, which shall include actual construction, contract administration, materials testing and construction surveys. Authority may utilize an engineering consultant team that includes a licensed Civil Engineer and a construction inspector or other representative to perform the function of the Resident Engineer and inspector.

(b) *Plans and Specifications.* To use plans and specifications prepared in accordance with the RAP, CFA, City ordinances, applicable laws, and to obtain City's approval of the construction terms and costs (which approval may be granted administratively through the City Manager).

(c) *Advertising and Bidding.* All construction work shall be advertised, bid, and awarded in compliance with all applicable laws, including City standards and policies, and the contracts shall thereafter be administered in accordance therewith.

(d) *Security.* Authority shall require its contractors to provide such work and performance security, including without limitation bonds securing performance, labor and materials, and other such bid bonds as typically required under City policy for the award of public construction contracts.

(e) *Contract Change Orders.* Authority shall have the right at any time, without invalidating this Agreement, to order extra work or make changes to contracted work by altering, adding to or deducting from said contracted work. No such extra work may be undertaken unless a written change order is first given by the Authority to the contractor, incorporating therein any adjustment in (i) the contract sum, and/or (ii) the time to perform such contracted work, which said adjustments are subject to the written approval of the Contractor ("**Change Order**"). All such Change Orders must be signed by the Contractor and Contract Officer prior to commencing the extra work thereunder. Any Change Order that will increase compensation for, or costs of an awarded contract, up to a maximum limit of five percent (5%) of the contract sum or \$500,000, whichever is less; or any increase in the time to perform of up to one hundred eighty (180) days; may be approved by the Authority's Director. Any greater increases, taken either separately or cumulatively must be reported to City and must be approved by the Authority Board.

(f) *Final Inspections and Payment Accounting.* City may inspect and accept or reject any of the public infrastructure constructed by Authority, including the Offsite Improvements, both during performance or when completed for purposes of ensuring regulatory and legal compliance with local, state and federal laws, building codes, and, to the extent relevant, the RAP and CFA. City shall reject or finally accept any portion thereof in writing within thirty (30) days after submittal to City. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to provisions pertaining to warranty and indemnification and insurance, respectively. Authority shall furnish City, within one hundred twenty (120) calendar days after final payment to any construction contractor for the

Offsite Improvements, a final accounting of the total costs, including an itemization of actual unit costs and actual quantities.

(g) *Form of Construction Contract.* In its administration and implementation of contractors' work pursuant to this Agreement, Authority shall utilize a standard construction contract form similar to the form and substance generally used by City in its public works contracts.

(h) *Access to Books and Records.* City shall at all times have the right to inspect and audit the books and records of Authority to assure that all work has been performed and disbursements made properly in accordance with contract provisions. Each of Authority and City shall bear their own respective costs of such audit.

10. **Standards of Work Applicable to Offsite Improvements.** Authority shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Authority covenants that it shall follow the highest professional standards in performing the work required hereunder and that all materials will be of good quality, fit for the purpose intended.

(a) *Compliance with Law.* Authority shall keep itself informed concerning, and shall render all work hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

(b) *Licenses, Permits, Fees and Assessments.* Authority shall obtain at its sole cost and expense such licenses, permits, registrations, and approvals as may be required by law for the performance of the work required by this Agreement. Authority shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Authority's performance of the work required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

(c) *Protection and Care of Work and Materials.* Authority shall adopt reasonable methods, including providing and maintaining storage facilities, during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property.

(d) *Assurance of Non Discrimination During Construction.* The Authority agrees that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation or gender preference, national origin, or ancestry in the performance of the Offsite Improvements or of this Agreement, and shall assume compliance with this provision from its contractors, subcontractors, and other performing work on the site. The Authority shall take affirmative action to ensure that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation or gender preference, national origin, or ancestry.

(e) *Assurance of Payment of Prevailing Wages.* Authority shall pay prevailing wages as required by law, as described in California Labor Code § 1720 ("**Prevailing Wage Law**") in the performance of the Offsite Improvements. Authority acknowledges and agrees that should

any third party, including, but not limited to, the Director of the Department of Industrial Relations (“**DIR**”), require Authority 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 Prevailing Wage Law, then Authority shall indemnify, defend, and hold City harmless from 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.

11. **Integration of Offsite Improvements Work with Overall Site Development.** Authority shall coordinate by using commercially reasonable efforts for the construction and maintenance of Offsite Improvements located on (or serving) the Property along with those on (or serving) Cells 1 and 2 such that the Offsite Improvements will not impair current or future development. Authority’s reasonable efforts to integrate Offsite Improvements as between all Cells of the Site shall include, without limitation:

(a) That construction activities, including dust, noise, odors, traffic impediments, etc., do not adversely affect the Project or the development of the other Cells of the Site.

(b) That certain “**Phased Development Plan**” or “**MAPO**” approved by DTSC, which will include mitigation measures for the phased development of Cells to comply with DTSC requirements.

12. **Disputes; Remedies; Termination.**

(a) *Time is of the Essence.* Time is of the essence with respect to this Agreement.

(b) *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.

(c) *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.

(d) *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 attorneys’ fees) incurred in the proceeding.

(e) *Disputes.* A Party not in default under this Agreement (a “**Non-Defaulting Party**”) in its discretion may elect to declare a default under this Agreement by delivering a written notice of the alleged default (“**Notice of Default**”) in accordance with the procedures hereinafter

set forth for any alleged failure or breach of any other Party to perform any material duty or obligation under the terms of this Agreement. Notwithstanding any failure or breach, a Party shall be deemed to be in Default under this Agreement (and therefore, a Defaulting Party) only if: (i) the Non-Defaulting Party has provided a Notice of Default to such Party setting forth the nature of the breach or failure and the actions, if any, required to cure such breach or failure, and (ii) the Party for which a breach is alleged shall have failed, if the breach or failure can be cured, to take such actions and cure such default (x) within twenty (20) calendar days after the date of its receipt of the written notice delivered by the Non-Defaulting Party for monetary defaults, or (y) for all other defaults, within thirty (30) calendar days after the date of its receipt of the Notice of Default delivered by the Non-Defaulting Party, provided, however, if any non-monetary default cannot be cured within such thirty (30) day period, then the Party against which a default is alleged shall not be deemed in breach of this Agreement if and as long as such Party does each of the following:

- (i) 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;
- (ii) Notifies the Non-Defaulting Party of its Party's proposed course of action to cure the default;
- (iii) Promptly commences to cure the default within the thirty (30) day period;
- (iv) Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure; and
- (v) Diligently prosecutes such cure to completion.

Notwithstanding anything to the contrary herein, Developer shall have no right to enforce the obligations of the Authority vis-à-vis the City under Sections 8 through 10 above.

13. **Termination.** This Agreement shall terminate at the conclusion of the Agreement Term as set forth in Section 6 above unless it is terminated earlier for the following reasons (i) Developer shall have materially defaulted under this Agreement, the Option Agreement, or the Option B Documentation, or (iii) Developer sells, transfers, or assigns this Agreement to another party without the Authority's prior approval. **Notwithstanding anything to the contrary hereunder, this Agreement shall be void and of no further force nor effect in the event Option A is effectuated by the Authority and Developer under the Option Agreement.**

14. **Relationship Between the Parties.**

(a) *No Partnership.* 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 or Developer Parties an agent of City Parties.

(b) *Cooperation.* 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.

(c) *Successors.* 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.

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

15. **Miscellaneous.**

(a) *Notice.* 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; (iii) 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; or (iv) electronic mail so long as a hard copy is concurrently sent to the applicable Party pursuant to subsections (i) through (iii) above, addressed as follows which shall be deemed delivered upon electronic confirmation of receipt by the addressee to the sending party:

To Authority:	Carson Reclamation Authority 701 East Carson St. Carson, CA 90745 Attention: Executive Director Email: jraymond@carson.ca.us
With a Copy to:	Aleshire & Wynder, LLP 18881 Von Karman Ave., Suite 1700 Irvine, CA 92612 Attention: Sunny Soltani Email: ssoltani@awattorneys.com
To City:	City of Carson 701 East Carson St. Carson, CA 90745 Attention: City Manager Email: slanders@carson.ca.us
With a Copy to:	Aleshire & Wynder, LLP 18881 Von Karman Ave., Suite 1700 Irvine, CA 92612 Attention: Sunny Soltani Email: ssoltani@awattorneys.com
To Developer:	FARING CAPITAL, LLC c/o Faring Capital 659 N. Robertson Blvd. West Hollywood, CA 90069 Attention: Jason Illouljian Email: jason@faring.com

With Copies to:

Bryan Cave Leighton Paisner, LLP
1920 Main Street, Suite 1000,
Irvine, CA 92614-7276
Attention: Brett Souza
Email: bjsouza@bclplaw.com

(b) *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. 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.

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

(d) *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.

(e) *Counterparts.* This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one single instrument. The signature of any Party to this Agreement transmitted to any other Party by facsimile or e-mail shall be deemed an original signature of the transmitting Party.

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

(g) *Qualification; Authority.* Each Party warrants that it has the legal capacity to enter into this Agreement. Each individual executing this Agreement on behalf of the Party represents, warrants and covenants that (i) the Party is duly organized and existing, (ii) such person is duly authorized to execute and deliver this Agreement on behalf of the Party in accordance with authority granted under the organizational documents of the Party, (iii) the Party is bound under the terms of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other agreement to which the Party is bound.

(h) *Incorporation of Recitals & Exhibits.* The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein. Exhibits A and B attached hereto are incorporated herein by reference

[SIGNATURES ON FOLLOWING PAGE]

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

DEVELOPER:

FARING CAPITAL, LLC, a Delaware limited liability company

By: Faring Capital, LLC, a Delaware limited liability company

By: _____
Name: Jason Illouliau
Title: CEO

AUTHORITY:

CARSON RECLAMATION AUTHORITY, a California joint powers authority

By: _____
Name: _____
Title: _____

CITY:

CITY OF CARSON, a California municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

Donesia Gause-Aldana
Authority Secretary

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Sunny Soltani, Authority Counsel

Exhibits:

- A Site Map**
- B Description of Offsite Public Improvements**

EXHIBIT A

Site Map

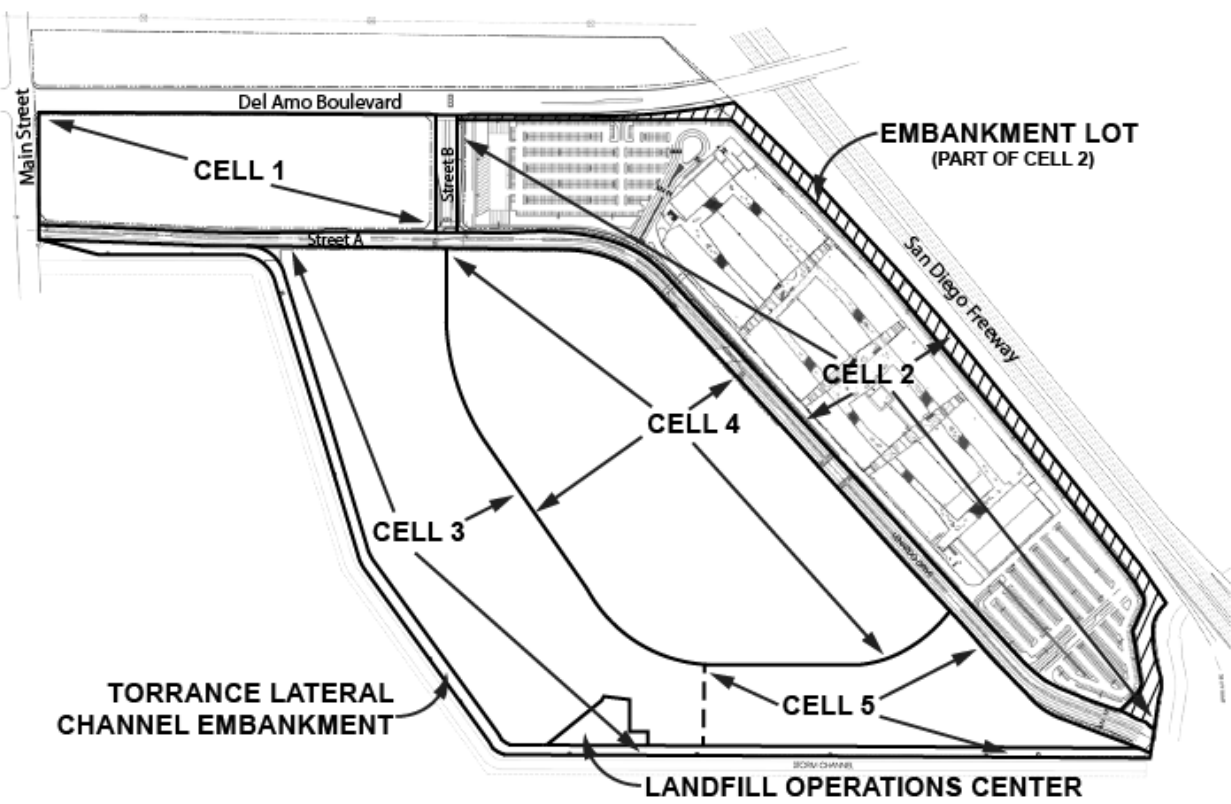


EXHIBIT B

Description of Offsite Public Improvements

A. Lenardo Drive and a portion of Stamps Road

1. Wet Utilities Necessary for Lenardo Drive Construction¹
2. Paving, Landscaping, Street & Traffic Lights, Dry Utilities Necessary for Lenardo Dr. Construction
3. Other Contractor Costs (on Paving, Landscaping, Street & Traffic Lights, Dry Utilities Costs)²
4. Plan Check and Permits Fees, Governmental Fees and Assessments³
5. Costs for Testing and Inspection
6. Geotechnical Design & Observation, Structural Design, Civil Design, Landscape Design
7. Landfill Gas Suppression or Mitigation Operations⁴
8. Relocation/ Reconsolidation of /Waste into Landfills⁵
9. Regulatory Compliance (AQMD/DTSC/Regional Board)⁶
10. Buffer Zone: Primary Methane Barrier & Design⁷
11. Project Labor Agreement (PLA) Premium (if City-bid project)⁸
12. Project Management and Soft Cost Contingency
13. Payment Bond⁹

B. Other Infrastructure Improvements

¹ Includes water, recycled water, sewer, and storm drain.

² Subcontractor Default Insurance (SDI) at 1.35% of these costs, Contractor's fee and Contractor's contingency.

³ These also include utility company design and approval.

⁴ This assumes that Environmental Contractor would perform Health & Safety work including methane suppression during intrusive activities.

⁵ This assumes that there may be a small amount of waste along the edge of the roadway that would need to be relocated on site by Environmental Contractor.

⁶ Includes AQMD and DTSC oversight as well as SWPPP compliance.

⁷ If Lenardo Dr. construction proceeds before Cell 1 or Cell 2 work is completed, it is likely a buffer zone would need to be designed and installed as part of the street construction project.

⁸ City of Carson has entered a Project Labor Agreement with regional trade unions. If this is a City project, would need to bid it as a PLA project.

⁹ Public Works projects require a payment bond, which becomes a project cost.

1. Off-Site Traffic Intersection Improvements¹⁰
2. Electrical System Upgrades¹¹
3. Installation of Landfill Gas System in Lenardo Dr.¹²

¹⁰ These are required for The District at South Bay Project by the EIR and affirmed by the 2018 Supplemental EIR. Costs were originally estimated in 2013, and updated in 2016 by inflating the estimated cost by 30%. This can be revisited in changes to EIR.

¹¹ SCE has indicated that the amount of power available to the 157 Acre Site is only sufficient to serve the current uses (the Landfill Operations Center, street lights and signals), and the development on Cell 2. A new electrical service line will be necessary to serve Cells 1, 3, 4, and 5.

¹² There are 13 GCCS vaults and associated gas collection lines that are located in Lenardo and would need to be installed at the time the street is constructed. This is not directly a street cost, but overall a remedial system cost.