

DEPOSIT AND REIMBURSEMENT AGREEMENT

THIS DEPOSIT AND REIMBURSEMENT AGREEMENT (“Agreement”) is executed as of this 2nd day of July, 2024 (“**Effective Date**”), by and between the **CITY OF LOMPOC**, a California municipal corporation (“**City**”), and **PALE BLUE DOT VENTURES, INC.**, a Delaware corporation (“**PBD**” or “**Pale Blue Dot**”) The City and PBD are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the City entered into a Memorandum of Understanding (MOU) with Pale Blue Dot in July 2019 to provide a period during which the City will negotiate exclusively with Pale Blue Dot toward a proposed eventual development of a space-themed educational and recreational project (Project) on approximately 82 acres of City-owned property including and adjacent to Ken Adam Park (APN 095-070-008) (Property) and sale of the Property to Pale Blue Dot; and

WHEREAS, Section 3.A. of the MOU contained a deposit and reimbursement provision under which PBD shall deposit funds and City may withdraw from that deposit to cover various City costs of implementing the MOU and negotiating a DDA (“**MOU Deposit**”); and

WHEREAS, the MOU contemplated eventual preparation and execution of a Disposition and Development Agreement, which execution would terminate the MOU; and

WHEREAS, on May 21, 2024, the City Council of the City approved the Long-Term Ground Lease and Operating Agreement with Conditional Option for Disposition and Project Development (“**Lease/DDA**”); and

WHEREAS, under the Lease/DDA, PBD must submit various items and entitlement applications to the City for review and processing, and obtain certain approvals, as listed in Section 4.1 of the Lease/DDA (“**Leasehold Continuation Items**” or “**LCC Items**”); and

WHEREAS, the City and PBD desire to enter into this Agreement to ensure that PBD will be responsible for all direct and indirect City costs related to review and processing of the LCC Items and any other City costs related to implementing the Lease/DDA or review or implementation of the Project, and for PBD to deposit funds with City in advance to cover such costs, subject to the terms and conditions of this Agreement; and

WHEREAS, one LCC Item is to obtain approval of the discontinuance of the Property as to any public park use pursuant to applicable state laws, including without limitation Government Code § 38440 et seq.; and

WHEREAS, Government Code section 38440 et seq requires a majority vote of the people at an election for the discontinuance of the public park use of the Property; and

WHEREAS, on June 20, 2024, the City of Lompoc Elections Official certified that sufficient signatures had been obtained on a petition for a citizen initiative ordinance (“**Initiative Ordinance**”) to discontinue the use of the Property as a public park; and

WHEREAS, on July 2, 2024, the City Council of the City of Lompoc voted to submit the Initiative Ordinance to the voters at the City’s next regular municipal election to be held on November 5, 2024 (“**Election**”); and

WHEREAS, PBD agrees, as the approval of the Initiative Ordinance is one of the LCC Items, that PBD will reimburse the City in full for all costs and expenses actually incurred by the City in processing the petition for the Initiative Ordinance, submitting the Initiative Ordinance to the voters at the Election, and conducting the Initiative Ordinance portion of the Election; and for any costs incurred by the City for legal defense of the Initiative Ordinance or the Election for the Initiative Ordinance if challenged in court; and

WHEREAS, the Parties have separately executed that certain Reimbursement Agreement dated April 16, 2024 that provides for PBD’s reimbursement of City costs for a City-initiated ballot measure (“**City Measure**”) for discontinuance of the public park use of the Property, which required PBD to submit a deposit to the City (“**City Measure Deposit**”).

NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

TERMS

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated herein by this reference.

2. **Existing Balance.** Notwithstanding any contrary provision or reimbursement cap in the MOU, by August 1, 2024 PBD shall submit funds to the City to (a) bring any negative balance of the MOU Deposit to zero and (b) if the City Measure has been withdrawn bring any negative balance of the City Measure Deposit to zero. Any positive balance of the MOU Deposit on August 1, 2024 shall be transferred to the DDA Deposit. If the City Measure has been withdrawn, any positive balance of the City Measure Deposit on August 1, 2024 shall be used toward covering any negative balance of the MOU Deposit, and any remainder shall be transferred to the DDA Deposit.

3. **PBD’s Responsibility for City Costs.** PBD shall be responsible for, and shall reimburse City for, all direct and indirect costs, fees and expenses of the City incurred by the City commencing as of May 22, 2024 (the “**Cost Commencement Date**”) related to review, and processing of the LCC Items and any and all other City costs related to implementing the Lease/DDA or review or implementation of the Project (the “**City Costs**”). City Costs shall include, but are not limited to the following: (1) City staff, legal, consultant or other third party costs in reviewing, preparing, negotiating, processing, and obtaining approval for (including attendance at public hearings and considering public comments) the LCC Items and any other ordinances, resolutions, agreements, or documents necessary for the processing and approval of the Project; (2) attorney fees and expenses related to litigation against or challenges to the Lease/DDA, LCC Items or their approval, or the Project, (4) all costs and expenses actually incurred by the City in processing the petition for the Initiative Ordinance, submitting the Initiative Ordinance to the voters at the Election, and conducting the Initiative Ordinance portion of the Election, (5) any other actions taken by the City and the City Attorney’s office in connection with the implementation of the Lease/DDA, the LCC Items, or the Project; and (5) any other legal fees

and costs deemed necessary by the City in order to process, review, or act upon the Lease/DDA, the LCC Items, or the Project.

PBD shall deposit funds with the City, against which City Costs will be drawn down, and which shall be replenished in accordance with Section 3.1 below (“**DDA Deposit**”). On August 1, 2024, PBD shall deposit funds to bring the balance of the DDA Deposit to at least \$30,000. At no point shall the minimum balance of the DDA Deposit fall below Ten Thousand Dollars (\$10,000) (a “**Deficiency**”).

3.1 Additional Deposits by PBD. If a Deficiency occurs, PBD shall make an additional monetary deposit to the City within thirty (30) calendar days of City’s written request to PBD, to replenish the DDA Deposit to a balance of \$30,000. City’s written requests for additional deposits shall state what costs have been incurred to date, and what additional costs are anticipated. If any deposited sums ultimately exceed the actual costs incurred by City, City shall refund the difference as set forth in Section 3.5.

3.2 City’s Right to Cease Work. In the event that PBD does not promptly pay or reimburse the City Costs, including by failing to replenish the DDA Deposit as required by Section 3.1, or comply with Section 2 herein, City may immediately cease all work related to or concerning the LCC Items, the Lease/DDA, and/or the Project, and PBD shall be in default of the Lease/DDA as provided in the Lease/DDA.

3.3 Account Maintenance; Interest on Deposits. Any amounts deposited by PBD under this Agreement may be co-mingled with other City funds or maintained in a segregated interest-bearing account of the City’s choice. In the event any deposits by PBD are maintained in an interest-bearing account, interest accruing upon any such deposits shall inure to and be created for the benefit of City.

3.4 Accounting. City shall keep an accounting of the City Costs incurred by City and all deposits made by PBD. Commencing with August 2024, during the first week of each calendar month this Agreement is effective, City shall provide an accounting to PBD of City’s withdrawals, if any, from the DDA Deposit for City Costs for the immediately preceding calendar month, and the remaining balance of the DDA Deposit. Failure of City to provide any such accounting shall not excuse PBD’s duty to perform any act, including the duty to make full and timely deposits required under this Section 3. PBD may question or challenge any use of funds set forth in the accounting and may appeal same to the City Council for a determination.

3.5 Unexpended Funds. Upon a written request from PBD following the expiration or termination of the Lease/DDA, all unexpended portions of the DDA Deposit shall be refunded to PBD.

4. Indemnification and Hold Harmless.

4.1 Agreement Not Liability or Debt of City. The Parties acknowledge that there may be challenges to the legality, validity and adequacy of this Agreement. No official, officer, employee or agent of the City shall be personally liable hereunder to any extent. The Parties further acknowledge and agree that this Agreement is not a debt of the City. The City shall not have any liability hereunder other than to return the unexpended and uncommitted portions of the DDA 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 any City Costs.

4.2 Indemnification. In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Reimbursement Agreement, the Initiative Ordinance, the submission of the Initiative Ordinance to the voters at the Election, the Election for the Initiative Ordinance, the results of the Election on the Initiative Ordinance, or any action or alleged action of the City, its employees, agents, or officials (“Indemnitees”) related to the Initiative Ordinance or its submission to the voters at the Election, PBD shall indemnify, defend and hold harmless the Indemnitees, and each of them, to the maximum extent permitted by law, with respect to all liability, costs, and expenses incurred by, and/or awarded against, City or any of the Indemnitees in relation to such action, including any obligations of City under the Initiative Ordinance itself to pay for a legal defense of the Initiative Ordinance. City shall have the right to select counsel of its choice as to all claims and actions covered by this Section 4.2. The parties hereby agree to cooperate in defending any such action. In the event of any litigation challenging the effectiveness of this Reimbursement Agreement, or any portion hereof, this Reimbursement Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by a court of competent jurisdiction. This Section 4.2 shall survive the expiration or earlier termination of this Agreement.

4.3 Period of Indemnification. PBD’s indemnification obligations under this Section shall begin upon the Effective Date and shall survive termination or expiration of this Agreement.

5. Notices. All notices, demands, invoices, and communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

To City: City of Lompoc
100 Civic Center Plaza
Lompoc, CA 93436
Attn: Dean Albro, City Manager
Email: d_albro@ci.lompoc.ca.us

Copy to: Aleshire & Wynder, LLP
3701 Wilshire Blvd., Suite 725
Los Angeles, CA 90010
Email: jmalawy@awattorneys.com
Attn: Jeff Malawy, City Attorney

To PBD: Pale Blue Dot Ventures, Inc.
1010 North H Street
LaunchPad Suite G, Box 35
Lompoc, CA 93436
Attention: Steven Franck, CEO

Each such notice shall be deemed delivered to the Party to whom it is addressed and shall be deemed given and delivered in the following manner: (i) if personally served or delivered, upon delivery; (ii) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, seventy-two (72) hours after such notice is deposited with the United States mail; (iii) if given by overnight courier, with courier charges prepaid, twenty-four (24) hours after delivery to said overnight courier; or (iv) if given by any other means, upon delivery at the address specified in this Section.

6. **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.

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

8. **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.

9. **Attorney Fees.** If either party commences any legal, administrative, or other action against the other party arising out of or in connection with this Agreement, the prevailing party in such action shall be entitled to have and recover from the losing party all of its attorney fees and other costs incurred in connection therewith.

10. **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.

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

12. **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, and shall be construed so as to effectuate the intent of the Parties.

13. **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 Santa Barbara, California.

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

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

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

17. **Authority.** The persons executing this Agreement on behalf of PBD warrant that: (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of such Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and (iv) the entering into of this Agreement does not violate any provision of any other agreement to which such Party is bound.

[SIGNATURES OF PARTIES ON NEXT PAGE]

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

CITY:

CITY OF LOMPOC, a California municipal corporation

By: _____

Jenelle Osborne, Mayor

ATTEST:

By: _____

Stacey Haddon, City Clerk

APPROVED AS TO FORM:

By: _____

Jeff Malawy, City Attorney

PBD:

PALE BLUE DOT VENTURES, INC.

By:  _____

Steven Franck

Founder & CEO