

## **LOAN AGREEMENT**

THIS AGREEMENT (the Agreement) is made as of this 20th day of April, 2023, between Isaac Fonseca (the Owner) of Beyond Rooted 559 LLC and the CITY OF FRESNO, a municipal corporation (the City).

### **RECITALS**

A. The City wishes to loan, and Owner wishes to borrow the sum of \$75,000 (the Funds) for the purpose of start-up and operation costs of a legally permitted commercial cannabis business or cannabis retail business in the City of Fresno (the Project), upon the terms and conditions contained herein.

NOW, THEREFORE, the City and Owner agree as follows:

1. **LOAN.** The City agrees to loan the Funds to Owner, and Owner agrees to borrow the Funds subject to the following terms and conditions:

(a) Owner shall not use the the Funds in a manner or for purposes other than the acquisition and development of the Project.

(b) The parties hereto agree that Owner's failure to be operational within 18 months, including but not limited to obtaining a Commercial Cannabis Business Permit, will terminate this Agreement.

(c) Owner shall repay the Funds to City with no interest.

2. **TERMS OF REPAYMENT.** Beginning the 1st of the month following twelve months after Funds disbursement, Owner agrees to begin making equal payments to repay the loan balance for 36 consecutive months. Payment is due on the 1st of each month. There is no penalty for early repayment.

The City may, at its discretion, agree to an alternative re-payment plan with the Owner if demonstrated hardship warrants. The agreement must be in writing and signed by both parties. The City Manager may, at his/her discretion, agree to forgive the balance of the loan if the cannabis social equity business has ceased operations and the Commercial Cannabis Business Permit is surrendered or revoked.

3. **DISBURSEMENTS.** The City shall fully disburse the Funds to Owner within thirty days of execution of this agreement. Owner shall use such disbursed Funds only for purposes in connection with the payment of certain legal assistance, regulatory compliance, fixtures and equipment, and capital improvements relating to the operation of a permitted commercial cannabis business.

4. **INDEMNIFICATION.** To the furthest extent allowed by law, Owner shall indemnify, hold harmless and defend City, GO-Biz and each of their officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, GO-Biz, Owner or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses and cost to enforce this agreement), arising or alleged to have arisen directly or indirectly out of the loan referenced herein. Owner's obligations under the preceding sentence shall apply regardless of whether

City, Go-Biz or any of their officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City, Go-Biz or any of their officers, officials, employees, agents or volunteers.

This section shall survive termination or expiration of this Agreement.

5. OWNER COOPERATION WITH THE CITY. Owner covenants to cooperate with the City and respond promptly to all requests by the City necessary to maintain the City's compliance with the Agreement. Owner intends to develop a commercial cannabis business that is permitted in the City of Fresno and in compliance with local and State law.

6. OWNER'S DEFAULT AND RIGHT TO CURE. A default shall be defined as a failure by Owner to fulfill any obligation created under this Agreement. The loan will be considered in default when a payment is missed and remains unpaid 30 calendar days from the due date. Upon receipt of written notice from the City of any default hereunder, Owner shall cure such default within 30 calendar days and bring account back into good standing.

7. THE CITY'S REMEDIES. Should Owner fail to cure a default under this Agreement pursuant to Section 6 above, in addition to other rights and remedies permitted by the Agreement or applicable law, the City, in its sole discretion, may proceed with any or all of the following remedies in any order or combination:

- (a) Bring an action in equitable relief seeking specific performance by Owner of the terms and conditions of this Agreement;
- (b) Enjoin, abate, or prevent any violation of said terms and conditions of the Agreement;
- (c) Seek declaratory relief;
- (d) Bring an action for return of any funds disbursed to Owner that Owner has not used pursuant to the terms of this Agreement;
- (e) Terminate this Agreement and cease to disburse funds;
- (f) Revoke Owner's Commercial Cannabis Business Permit pursuant to FMC Section 9-3321;
- (g) Pursue any other remedy allowed at law or in equity.

8. GOVERNING LAW AND VENUE. This Agreement shall be interpreted under and governed by the laws of the State of California. A party must bring any legal action in the Superior Court of Fresno, in an appropriate municipal court in Fresno County, or in the United States District Court serving Fresno County.

9. NO WAIVER. Any waiver by either the City or Owner of any obligation in this Agreement must be in writing. No waiver shall be implied from any delay or failure of the City or Owner to take action on any default by the other party or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City or Owner to any act or

omission by the other party shall not be construed to be consent to any other act or omission or to waive the requirement for the City or Owner's written consent to future waivers.

10. NOTICES. All notices, requests and demands given to or made upon the respective parties shall be deemed to have been given or made when upon deposit with any overnight delivery service, or three days after deposit with certified mail, return receipt requested, and addressed as follows:

Owner: Nathan Perez; and  
Isaac Fonseca  
Beyond Rooted 559 LLC  
4535 E Belmont Avenue  
Fresno, CA 93702  
fonsecaisaac@yahoo.com  
Phone: (559) 790-7187

Grantor: City of Fresno  
Fresno City Hall  
2600 Fresno Street, Room 2084  
Fresno, California 93721  
Attention: City Manager

11. BINDING UPON SUCCESSORS. All provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Agreement by Owner without the City's consent. The term "Owner" as used in this Agreement shall include all assigns, successors-in-interest, and transferees of Owner.

12. RELATIONSHIP OF PARTIES. The relationship of the City and Owner under this Agreement is and shall remain solely that of a lender and borrower under a loan agreement and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. The City neither undertakes nor assumes any responsibility or duty to Owner (except as provided herein) or to any third party with respect to the matters described herein. Owner shall have no authority to act as an agent of the City or to bind the City to any obligation.

13. AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to this Agreement must be in writing, and shall be effective only if executed by both the City and Owner.

14. TIME. Time is of the essence in this Agreement.

15. INTEGRATION. This Agreement contains the entire agreement of the parties and supersedes any and all prior negotiations.

16. SEVERABILITY. If any provision of this Agreement shall be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality and

enforceability of the remaining provisions shall not in any way be affected or impaired by such holding.

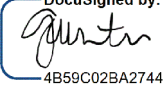
17. EXECUTION OF COUNTERPARTS. This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; provided, however, that only the counterpart delivered to the City shall be deemed the original.

[SIGNATURE PAGE IS THE NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first hereinabove written.

THE CITY:

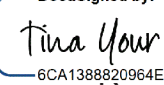
CITY OF FRESNO,  
a California municipal corporation

By:  3/29/2023  
Georgeanne A. White  
City Manager

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

By:  3/29/2023  
Mary Raterman-Doidge  
Senior Deputy City Attorney II

ATTEST:  
TODD STERMER, CMC  
City Clerk

By:  3/30/2023  
Deputy

OWNER:

By:  3/29/2023

Name: Isaac Fonseca

Title: Managing Member  
Beyond Rooted 559 LLC

Address: 4535 E Belmont Avenue  
Fresno, CA 93702