



**JOINT MEETING  
BEAUMONT CHERRY VALLEY RECREATION & PARK IMPROVEMENT  
CORPORATION  
BEAUMONT-CHERRY VALLEY RECREATION & PARK DISTRICT  
MEETING OF THE BOARD OF DIRECTORS  
Monday, December 28, 2020  
5:00pm  
390 W. Oak Valley Parkway  
Beaumont, CA 92223  
**AGENDA****

**PUBLIC PARTICIPATION BY TELECONFERENCE ONLY**

Due to the spread of COVID-19 and in accordance with the Governor's Executive Order N-29-20, the Beaumont Cherry Valley Recreation & Park Improvement Corporation will be conducting this meeting by teleconference only. Public comments on matters listed on the agenda or on any matter within the District's jurisdiction will be received during Public Comments, Agenda Item No. 1. There will be no public physical location for attending this meeting in person. The Corporation's Board meeting room will be closed to the public until further notice.

If you are unable to participate via RingCentral, you may submit comments and/or questions in writing for the Board's consideration by sending them to [janet@bcvparks.com](mailto:janet@bcvparks.com). Submit your written inquiry prior to the start of the meeting. All public comments received prior to the start of the meeting will be provided to the Board and may be read into the record or compiled as part of the record.

**BEAUMONT CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION**

The BCVRPIC Regular Session is available by calling: 1(623) 404-9000. Meeting ID: 149 434 6467

You can also join the meeting from PC, Mac, Linux, iOS or Android: <https://meetings.ringcentral.com/j/1494346467>

**BCVRPIC CLOSED SESSION** – (1 item) Closed Session to Begin at 5:00pm

1. Conference with Legal Counsel - Pursuant to Government Code Section 54956.8 Real Property Negotiations, TSG Cherry Valley, L.P. Riverside County Assessor Parcel Nos. 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2."

**Roll Call:** Director De La Cruz, Director Ward, Treasurer Diercks, Vice-Chair/Secretary Flores, Chairman Hughes, Duane Burk, Christy Valdivia

**BCVRPIC REGULAR SESSION** - Regular Session to begin at 5:30 p.m. Noble Creek Community Center

**Roll Call:** Director De La Cruz, Director Ward, Treasurer Diercks, Vice-Chair/Secretary Flores, Chairman Hughes, Duane Burk, Christy Valdivia

**Invocation:**

**Pledge of Allegiance:**

**Adjustments to Agenda:** Government code sec 54954.5(b) (2) provides "upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or if less than two-thirds of the members are present, a unanimous vote of those member present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a) "

**1. ACTION ITEMS**

1.1 "CONSIDERING THE APPROVAL OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT-CHERRY VALLEY RECREATION AND PARK IMPROVEMENT CORPORATION AUTHORIZING THE EXECUTION OF A DONATION AGREEMENT WITH TSG CHERRY VALLEY, L.P. AND AUTHORIZING THE EXECUTION OF A CERTIFICATE OF ACCEPTANCE OF THE DONATION OF APPROXIMATELY 123 ACRES OF LAND FROM TSG CHERRY VALLEY, L.P. The land to be donated concerns Riverside County Assessor Parcel Nos. 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2."

**BEAUMONT-CHERRY VALLEY RECREATION & PARK DISTRICT**

The BCVRPD Session is available by calling: 1(623) 404-9000. Meeting ID: 471-749-1599

You can also join the meeting from PC, Mac, Linux, iOS or Android: <https://meetings.ringcentral.com/j/4717491599>

**BCVRPD CLOSED SESSION** – (1 item) Closed Session to Begin at 6:00pm

1. Conference with Legal Counsel - Pursuant to Government Code Section 54956.8

Real Property Negotiations, TSG Cherry Valley, L.P. Riverside County Assessor Parcel Nos. 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2."

**Roll Call:** Director De La Cruz, Director Ward, Treasurer Diercks, Vice-Chair/Secretary Flores & Chairman Hughes

**BCVRPD REGULAR SESSION** – Regular session to begin at 6:15pm

**Roll Call:** Director De La Cruz, Director Ward, Treasurer Diercks, Vice-Chair/Secretary Flores & Chairman Hughes

**1. PUBLIC COMMENT:**

**2. CONSENT CALENDAR:** Items are considered routine, non-controversial and generally approved in a single motion. A board member may request to have an item removed from the consent calendar for discussion or to be deferred. (Includes Minutes, Financials, Resolutions, and Policy & Procedure matters). None.

**3. ACTION ITEMS**

3.1 "CONSIDERING THE APPROVAL OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT-CHERRY VALLEY RECREATION AND PARK DISTRICT AUTHORIZING THE EXECUTION OF A DONATION AGREEMENT WITH TSG CHERRY VALLEY, L.P. AND AUTHORIZING THE EXECUTION OF A CERTIFICATE OF ACCEPTANCE OF THE DONATION OF APPROXIMATELY 123 ACRES OF LAND FROM TSG CHERRY VALLEY, L.P. The land to be donated concerns Riverside County Assessor Parcel Nos. 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2."

**4. NEXT MEETING: Wednesday January 13, 2021**

**5. DIRECTORS MATTERS:**

**6. ADJOURNMENT:**

**Any person with a disability who requires accommodations in order to participate in the meeting should telephone Janet Covington at 951-845-9555 prior to the meeting in order to make a request for a disability-related modification or accommodation**

## STAFF REPORT

Item 1.1

**To:** Chairman and Board of Directors

**From:** Duane Burk, General Manager

**Re:** Resolution # 2020-di. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT-CHERRY VALLEY RECREATION AND PARK IMPROVEMENT CORPORATION AUTHORIZING THE EXECUTION OF A DONATION AGREEMENT WITH TSG CHERRY VALLEY, L.P. AND AUTHORIZING THE EXECUTION OF A CERTIFICATE OF ACCEPTANCE OF THE DONATION OF APPROXIMATELY 123 ACRES OF LAND FROM TSG CHERRY VALLEY, L.P.

**Date:** December 28, 2020

### **Background and Analysis:**

In late November 2020, the Beaumont-Cherry Valley Recreation and Park Improvement Corporation ("Foundation") was approached by Shopoff Realty Investments, L.P. with a proposal for TSG Cherry Valley, L.P. ("Donor") to donate approximately 123 acres of land ("Property"), convey a water well, and convey a right of first refusal to purchase up to thirty (30) acre-feet of water access rights associated with the Property, to the Foundation so that the District could use the Property to construct more baseball parks and potentially a sports complex. The Property is worth approximately \$8.325 Million according to a recent third party appraisal.

The Property is located in unincorporated Riverside County, which is bordered to the north by undeveloped foothills, to the west by undeveloped land proposed for warehouse logistics buildings, to the east by a single family residential/agricultural property, and to the south by Cherry Valley Boulevard. The Property also contains a single family residence and several agricultural buildings.

The District could put the Property to many good uses, including, but not limited to, developing the land and constructing more baseball fields and other sports fields and sports and recreational facilities, dedicating open space for recreational use, etc.

### **Essential Terms:**

1. Donor donates approximately 123 acres of land to Foundation for free.

a. Subject to a Road and Drainage Facilities Easement for Donor's benefit to be able to conduct grading activities on the abutting development property. The Road and Drainage Facilities Easement will terminate on the later of the date that (x) the Drainage Facilities are accepted by the relevant governmental or regulatory agency (the "Approving Agency"), and (y) a permanent easement is recorded in the Official Records in favor of the County Flood Control (or other Approving Agency) for access to, and the maintenance and repair of, the Drainage Facilities (the "County Flood Control Easement"). The County Flood Control Easement will run with the land and be a permanent, non-exclusive easement for purposes of access to, and the maintenance and repair of, the Drainage Facilities.

2. Donor conveys water well to the District for free at same time as donating the Property to the District.

a. This would relieve the District from having to construct its own water well, in order to pump up to 10 acre-feet of water for free as permitted by the Watermaster.

b. Subject to a Well Site Easement for Donor's benefit in order for Donor to use water from the well for its construction grading activities on the abutting development property.

c. For all the period of time where Donor is using water from the well site, Donor will be responsible for providing water service to the tenant Mr. Gutierrez.

3. Donor conveys to Foundation a right of first refusal to be able to purchase up to 30 acre-feet of water access at the same price as it is offering to sell to another party in the future.

4. Foundation agrees to cooperate with Donor for Donor to transfer water access rights from this Property to another Property. Water rights will stay with donation Property and be deeded to Foundation.

a. Although a remote possibility, Foundation agrees, if necessary in order to facilitate the transfer of water rights access to another property, to deed the well to the Beaumont-Cherry Valley Recreation and Park District ("District") for the District to then deed the well to Donor or Donor's affiliate (subject to a license for District/Foundation's benefit to still have water access in the meantime). After Donor or Donor's affiliate has successfully transferred the water rights to another property, Donor or Donor's affiliate would deed the well back to the District.

b. Donor will record a Water Rights Agency Agreement for Donor's affiliate to control the water rights and facilitate their transfer.

c. Donor to be responsible for paying charges and fees associated with ownership of water rights, including Watermaster fees, until Foundation owns in whole or in part.

5. Debris Cleanup/Remediation.

a. As the agreement stands, if the updated Phase I recommends, and Foundation requests, debris cleanup then Donor would do so by the completion of Donor's construction grading activities on the abutting development property. Foundation agrees to grant Donor a Landscape Debris Removal License for this purpose.

b. We are still negotiating to have the debris cleaned up no matter what.

6. Donor grants Foundation a Sewer Easement, to allow Foundation to enter Donor's abutting development property to construct sanitary sewer lines from the western boundary of the donation Property to a point of connection in a parking lot area on the eastern side of the development property. The construction of the sewer lines must commence within 10 years after the sewer easement is recorded and be completed within 6 months of commencement.

7. Reliance letter for Phase I. Prior to closing, Donor shall provide Foundation with a reliance letter from Langan in favor of Foundation for the updated Phase I.

8. Reliance letter for Alta survey. Donor will make efforts to obtain an updated Alta survey. If Foundation wants an updated survey, Foundation will pay for any expenses.

9. Foundation will not be doing any physical inspection of the property and will rely entirely on Donor's representations.

10. Foundation agrees to cooperate with Donor in order for Donor to demonstrate to County of Riverside that it has met its conditions of approval for its development project on the abutting development property. Foundation will execute an Internal Revenue Form 8283 (Non-Cash Charitable Contributions), prepared by Donor.

11. Indemnification

a. Need to negotiate new paragraph for indemnification if Foundation named in Watermaster litigation.

b. Donor agreed to make representations and warranties about condition of property and indemnify Foundation for material breach.

12. Environmental Indemnity

a. Limited to not include to the extent caused or contributed to by Foundation; then indemnify limited by proportion of Foundation's contribution.

b. Still negotiating to have indemnity cover activities that happened under Donor's ownership and control, not just those things caused by Donor directly.

13. Assumption of tenant lease for Mr. Gutierrez. On the Gutierrez Lease from 2006, note that all animals were supposed to be removed from the Property. However, to staff's knowledge, he is still grazing cattle and goats. It also appears that there has been a verbal agreement that the rent is \$800/month, but the written lease says \$600/month.

**Fiscal Impact:**

The Foundation will be responsible for paying any transfer fees or taxes associated with transferring the land to any other party. The Foundation will be responsible for paying property taxes on the Property, which from documents that are three years old, can be between \$10,000 to \$15,000 dollars annually. There will be an undetermined cost to maintain the land and to eventually develop the land.

**Recommendations:**

Staff recommends that the Board review, comment, approve or change Resolution #2020-\_\_\_\_\_, authorizing the execution of a donation agreement with TSG Cherry Valley, L.P. and authorizing the execution of a certificate of acceptance of the donation of approximately 123 acres of land from TSG Cherry Valley, L.P.

**RESOLUTION NO. 2020-01**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT-CHERRY VALLEY RECREATION AND PARK IMPROVEMENT CORPORATION AUTHORIZING THE EXECUTION OF A DONATION AGREEMENT WITH TSG CHERRY VALLEY, L.P. AND AUTHORIZING THE EXECUTION OF A CERTIFICATE OF ACCEPTANCE OF THE DONATION OF APPROXIMATELY 123 ACRES OF LAND FROM TSG CHERRY VALLEY, L.P.**

**WHEREAS**, the Beaumont-Cherry Valley Recreation and Park Improvement Corporation (the "Foundation") is a 501(c)(3) nonprofit public benefit corporation existing under and pursuant to the laws of the State of California; and

**WHEREAS**, the Foundation was approached by Shopoff Realty Investments, L.P. ("Shopoff") with a proposal for TSG Cherry Valley, L.P. ("Donor") to donate approximately 123 acres of land (the "Property") to the Foundation for the Foundation to operate consistent with its mission of providing community recreation and park facilities and programs, including potentially using the land for ball fields and a sports complex; and

**WHEREAS**, the land that Donor owns is located in unincorporated Riverside County, which is bordered to the north by undeveloped foothills, to the west by undeveloped land proposed for warehouse logistics buildings, to the east by a single family residential/agricultural property, and to the south by Cherry Valley Boulevard, and is more particularly described and shown in the Donation Agreement, attached hereto and incorporated herein as Exhibit A; and

**WHEREAS**, the Property consists of Riverside County Assessor Parcel Nos. 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2; and

**WHEREAS**, the Property contains a single family residence and several agricultural buildings, which are located at 37300 and 37356 Cherry Valley Boulevard, Beaumont, CA 92223; and

**WHEREAS**, the Donor desires to convey to the Foundation a water well on the Property which still functions to pump water; and

**WHEREAS**, Donor desires to grant the Foundation a right of first refusal to be able to purchase up to thirty (30) acre-feet of water access to the Foundation at the time that Donor attempts to sell the water access rights in the future; and

**WHEREAS**, the Land to be donated has an estimated value of \$8.325 Million based on a recent appraisal; and

**WHEREAS**, the Foundation desires to accept Donor's donation of approximately 123 acres of land and contemplates putting the land to good productive use that would benefit the community; and

**WHEREAS**, the Foundation desires to accept Donor's conveyance of the water well and the right of first refusal to purchase up to thirty (30) acre-feet of water access; and

**WHEREAS**, to effectuate the conveyance of the Property, the water well, and the right of first refusal to purchase up to thirty (30) acre-feet of water access rights, Donor and the Foundation have negotiated a Donation Agreement and a Grant Deed, a copy of which is attached at Exhibit A; and

**WHEREAS**, in order for the Foundation to legally accept the donation of the Property, the Foundation desires to execute the Donation Agreement and accept the Grant Deed through a Certificate of Acceptance, attached hereto as part of the Donation Agreement found at Exhibit A.

**NOW, THEREFORE**, it is resolved by the Board of Directors of the Beaumont-Cherry Valley Recreation and Park Improvement Corporation as follows:

**SECTION 1. Incorporation of Recitals.** The recitals above are true and correct and are hereby incorporated herein by this reference.

**SECTION 2. Donation Agreement.** The President of the Board of Directors, the General Manager or a designee in writing (each, an "Authorized Officer") is hereby authorized to enter into a Donation Agreement (the "Donation Agreement") with TSG Cherry Valley, L.P. substantially in the form on file with the Secretary of the Board and subject to final approval as to form by the Foundation's legal counsel.

**SECTION 3. Certificate of Acceptance.** The President of the Board of Directors, the General Manager or a designee in writing (each, an "Authorized Officer") is hereby authorized to execute the Certificate of Acceptance, accepting the Grant Deed from TSG Cherry Valley, L.P., substantially in the form on file with the Secretary of the Board and subject to final approval as to form by the Foundation's legal counsel.

**Section 4. CEQA.** The Foundation finds that execution of the Donation Agreement and Certificate of Acceptance and acceptance of the Grant Deed is not subject to review under the California Environmental Quality Act ("CEQA") because it is not a "project" under State CEQA Guidelines section 15378(a) or 15004(b)(2)(A). In addition, if these actions were to be considered a project under CEQA, they are categorically exempt from further CEQA review under State CEQA Guidelines sections 15301 (existing facilities). In addition, the donation is exempt under section 15061(b)(3) as it can be seen with certainty that there is no possibility that these actions may have a significant effect on the environment. The donation merely involves a change of ownership and no development is proposed. None of the exceptions to these categorical exemptions apply, and consequently, these actions are exempt from further CEQA Review.

**Section 5. Attestations.** The Secretary of the Board or other appropriate Foundation officer is hereby authorized and directed to attest the signature of the Authorized Officer, and to affix and attest the seal of the Foundation, as may be required or appropriate in connection with the execution and delivery of the Donation Agreement and the Certificate of Acceptance.



Section 6. Other Actions. The Authorized Officer and other officers of the Foundation are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all documents, agreements, and certificates which they may deem necessary or advisable in order to carry out, give effect to, and comply with the terms of this Resolution and the Donation Agreement.

Section 7. Effect. This Resolution shall take effect immediately upon its passage.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the following vote:

**AYES:**

**NOES:**

**ABSTENTIONS:**

**ABSENT:**

Approved: \_\_\_\_\_  
President of the Board

Attest: \_\_\_\_\_  
Secretary of the Board

## DONATION AGREEMENT

THIS AGREEMENT (“**Agreement**”) is made this \_\_\_\_ day of December, 2020 (the “**Effective Date**”) by and between the TSG CHERRY VALLEY, L.P., a California limited partnership (“**Donor**”), and the BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION, a California public benefit organization (“**Foundation**”). Foundation and Donor are sometimes individually referred to as “**Party**” and collectively as “**Parties**.”

A. Donor owns approximately 122.7 acres on the north side of Cherry Valley Boulevard adjacent to Foundation’s proposed offices and ball fields as more particularly described on **Exhibit “A”** attached hereto and incorporated herein (the “**Property**”). The Property includes a single family home and agricultural buildings.

B. Donor also owns approximately 243 acres of land adjacent to and west of the Property with Assessor Parcel Nos. 407-210-001, 407-200-011 and 407-200-012 (the “**Development Property**”), which property Donor intends to sell to an affiliate (“**Developer**”) on or prior to the Closing Date (as defined in Section 7.4 below).

C. Donor owns a well near the southwestern corner of the Property and appurtenances related thereto (the “**Well**”), which Developer will rely on during grading activities for Developer’s planned development on the Development Property (the “**Development Project**”).

D. As successor in interest to a portion of the water rights formerly owned by Manheim, Manheim & Berman, a California general partnership, as described in the lawsuit entitled *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197 (“**Adjudication**”), Donor owns overlying water rights (the “**Water Rights**”) associated with the Property. Prior to a recent redetermination of the “safe yield” of the Beaumont Basin 300 acre-feet of overlying Water Rights were allocated to the Property. After the redetermination, the Water Rights were adjusted and currently total 232.4 acre-feet.

E. The Development Property also overlies the Beaumont Basin, but is not one of the properties which was awarded overlying water rights (“**Overlying Water Rights**”) in the Judgment and Stipulation for Entry of Judgment Adjudicating Groundwater Rights in the Beaumont Basin filed February 4, 2004 in the Superior Court of the State of California for the County of Riverside (the “**Judgment**”) entered in connection with the Adjudication. Prior to the Effective Date of this Agreement, Donor has requested that the Watermaster of the Beaumont Basin (the “**Watermaster**”) reallocate the Overlying Rights that are currently designated for use on the Property to the adjacent Development Property.

F. Donor desires to donate the Property to Foundation on the terms and conditions stated herein, for future incorporation into the proposed ball fields and recreational components in the sports complex (the “**Sports Complex**”) and other uses consistent with Foundation’s mission. Foundation desires to accept such donation.

Exhibit “A”

Foundation and Donor agree as follows:

1. Dedication of Property and Well; Reallocation of Water Rights. Donor shall offer to dedicate the Property to Foundation, and Foundation shall accept the offer of dedication of the Property and Well, upon the terms and conditions set forth in this Agreement. Additionally Foundation agrees to cooperate with Donor and its affiliates to effectuate the transfer of the Water Rights to Developer as provided herein.

2. Obligations of Donor and Foundation.

2.1 Road and Drainage Facility Easements. Foundation acknowledges and agrees that prior to the Closing Donor may submit to the County of Riverside (the “**County**”) a “Right of Entry” Letter permitting certain grading activities on the Property to facilitate the construction of the Development Project. Such grading activities will be included in an easement burdening the Property and benefiting the Development Property substantially in the form attached hereto and incorporated herein as Exhibit “B”(the “**Road and Drainage Facilities Easement**”), which easement will be recorded in the Official Records of the County of Riverside (the “**Official Records**”) immediately prior to the Closing ~~and be substantially similar to the form of easement provided by Donor to Foundation prior to the end of the Due Diligence period.~~ By accepting the conveyance of the Property, Foundation acknowledges and agrees that it will take title to the Property subject to the Road and Drainage Facilities Easement. The Road and Drainage Facilities Easement shall run with the land and be for the benefit of the Development Property, and shall include (a) temporary easements for (i) the grading and construction of a rock berm, other drainage facilities, and roadway improvements, and (ii) other grading activities on the Property (including adjusting the Well to grade and potentially moving the well pump within the Well Site), and (b) permanent easements for access to, and the maintenance and repair of, permanent drainage facilities on the Property (the “**Drainage Facilities**”) as required by the Riverside County Flood Control District (the “**County Flood Control**”). Donor and Foundation agree to work together in good faith to minimize disruption to the water service of the tenant on the Property, Hector Gutierrez (the “**Tenant**”), during the grading and construction activities contemplated by the Road and Drainage Facilities Easement. The Road and Drainage Facilities Easement will terminate on the later of the date that (x) the Drainage Facilities are accepted by the relevant governmental or regulatory agency (the “**Approving Agency**”), and (y) a permanent easement is recorded in the Official Records in favor of the County Flood Control (or other Approving Agency) for access to, and the maintenance and repair of, the Drainage Facilities (the “**County Flood Control Easement**”). The County Flood Control Easement will run with the land and be a permanent, non-exclusive easement for purposes of access to, and the maintenance and repair of, the Drainage Facilities. The easement shall be in such form and substance as may be required by the County Flood Control, subject to the reasonable approval of Foundation, and effective upon the acceptance of the Drainage Facilities by the Approving Agency. This Section 2.1 shall survive the Closing.

2.2 Conveyance of Fee Interest in the Property. Upon acceptance by Foundation, Donor agrees to convey, assign and transfer its fee interest in the Property to Foundation on the Closing Date (as defined in Section 7.4 below), free and clear of all monetary liens. Such conveyance shall be made pursuant to a grant deed substantially in the form attached hereto and incorporated herein as Exhibit “C” (the “**Property Deed**”), executed and

Exhibit “A”

acknowledged by Donor, conveying to Foundation good and marketable fee simple title to the Property, subject only to the Road and Drainage Facilities Easement referenced in Section 2.1 above and other Approved Exceptions (as defined in Section 6.3 below).

### 2.3 Well Site.

2.3.1 At the Closing (as defined in Section 7.4 below), the Well will be transferred to Foundation with the rest of the Property. Prior to recording the Property Deed, First American Title Insurance Company (“**Title Company**”) shall record in the Official Records a temporary Grant of Easement substantially in the form attached hereto as **Exhibit “D”** (the “**Well Site Easement**”) granting an easement from Donor encumbering the Property and benefiting the Development Property, to allow Developer to access and use a 400’ x 100’ rectangle of land in the southwestern corner of the Property with the Well, as more particularly described therein (the “**Well Site**”).<sup>1</sup> The Well Site Easement will automatically terminate upon the satisfaction of all of the following conditions: (i) completion of grading activities for the Development Project, (ii) the incorporation of the Development Property into the Yucaipa Valley Water District (the “**YVWD**”), and (iii) the connection of functioning water service from YVWD to the Development Property (the “**Development Water Service Conditions**”). Although the Foundation does not anticipate utilizing water produced from the Well during the period when the Well Site Easement is in effect, nothing in this Agreement is intended to prevent the Foundation from utilizing water produced from the Well for the benefit of the Property prior to the satisfaction of the Development Water Service Conditions,<sup>2</sup> provided such water use is conducted in accordance with the terms of the Judgment and any other applicable law, the use is coordinated with Donor, and the water is used on the Property.

2.3.2 If prior to the satisfaction of the Development Water Service Conditions Donor or Developer decide in their sole discretion that it would be beneficial for Developer to hold fee title to the Well Site, Donor or Developer (as applicable) shall provide written notice thereof to Foundation. Within ~~five-fifteen~~ (15) business days of receipt of such notice, Foundation shall cause to be executed and delivered to Title Company (a) a deed substantially in the form attached hereto as **Exhibit “E-1”** (the “**First Well Site Deed**”) conveying the Well Site to the Beaumont-Cherry Valley Recreation and Park District (“**BCVRPD**”) (which conveyance shall be accepted by BCVRPD), and (b) a deed substantially in the form attached hereto as **Exhibit “E-2”** (the “**Second Well Site Deed**”) from BCVRPD conveying the Well Site to Developer. Foundation shall instruct Title Company to immediately record the First Well Site Deed and the Second Well Site Deed in the Official Records, at which time Foundation will receive a temporary license for ingress and egress over the Well Site for the purposes of (a) connecting to and operating the Well, water line facilities and related 3 Phase power systems and equipment, (b) drawing and moving water from the Well to the Property, and (c) utilizing such water on the Property for the limited purposes of supporting (i) the Tenant (as hereafter defined) and other occupants of the residential home located on the Property, in amounts consistent with past water usage for the house, (ii) agricultural operations on the

<sup>1</sup> Note to Draft: We’ve added provisions to Section 2.3.4 regarding Donor’s responsibility to pay the operating costs for the Well.

<sup>2</sup> Note to Draft: I’ve adjusted the language here to make it clear the Foundation can use water from the Well regardless of whether Foundation or Developer ultimately hold title to the Well Site between now and when we finish grading and get water service to the Development Property.

Property in amounts consistent with past water usage for such operations, and (iii) the construction, operation and maintenance of the Sports Complex; provided, however, that Donor shall retain responsibility for providing water to the Tenant until the later of (x) such time that the Well Site Easement is no longer in effect, (y) the Third Well Site Deed (as defined in Section 2.3.3 below) is recorded in the Official Records, or (z) Donor ceases to utilize the Well for any purpose. Foundation agrees to indemnify, defend and hold Donor, Developer, their affiliates, and their respective directors, officers, shareholders, employees and agents free and harmless from any claims, demands, actions, damages, liability, judgments, expenses and costs (including, reasonable attorneys' fees) attributable to the use of the Well Site by Foundation and/or Foundation's employees, agents, and contractors in connection with the license, including, without limitation, any such losses sustained due to the use of the Well Site and any personal injuries or property damages sustained within the Well Site.

2.3.3 In the event the First Well Site Deed and the Second Well Site Deed are recorded in the Official Records pursuant to the foregoing section, then upon satisfaction of the Development Water Service Conditions, Developer shall promptly execute and, upon acceptance of the Well Site conveyance by BCVRPD, cause Title Company to record in the Official Records a grant deed substantially in the form of Exhibit "E-3" (the "**Third Well Site Deed**") conveying the Well Site to BCVRPD (so BCVRPD can deed it back to the Foundation if desired).

2.3.4 Until the later of (a) satisfaction of the Development Water Service Conditions, (b) the recordation of the Third Well Site Deed in the Official Records, or (c) the recordation in the Official Records of a deed transferring all of the Overlying Water Rights from the Property to the Development Property or to I10 Logistics or a third party (the "**Water Rights Deed**"), Donor (or Developer, as applicable), shall be responsible for all expenses related to, and any charges or penalties levied by government agencies in connection with, Developer's operation of, and consumption of water from, the Well.

This Section 2.3 shall survive the Closing.

## 2.4 Water Rights: ROFR.

2.4.1 If prior to the Closing the Overlying Water Rights are not reallocated to the Development Property and the Water Rights Deed is not recorded in the Official Records, then just prior to (and substantially concurrently with) the Closing, Donor intends to record in the Official Records a Water Rights Agency Agreement in the form attached hereto as Exhibit "F" (the "**Agency Agreement**"). Whether the Water Rights remain associated with the Property or are assigned or transferred to the Development Property, Donor and its affiliates shall remain responsible for all charges and fees associated with ownership of the Water Rights, including but not limited to the payment of all ongoing annual assessments of the Watermaster, until the earlier of (a) the satisfaction of the Development Water Service Conditions, or (b) the recordation of a Water Rights Deed in the Official Records transferring such rights to Developer or a third party; provided, however, that Foundation shall have no responsibility at any time for any charges and fees associated with ownership of a portion or all of the Water Rights unless and until Foundation becomes the owner of the Water Rights, or any portion thereof, and then it shall only be responsible for its proportionate share of any such

charges and fees. Foundation agrees that the Water Rights Deed(s) may be recorded in the Official Records, and that such deed(s) shall be in a form required by the Watermaster and reasonably acceptable to the Parties.

2.4.2 Donor hereby grants to Foundation a Right of First Refusal (“ROFR”) to purchase up to thirty (30) acre-feet of Overlying Water Rights on the terms and conditions stated herein, regardless of whether such Overlying Water Rights are allocated to the Property or the Redevelopment Property. Upon receipt of a bona fide offer from a third party to purchase all or a portion of the Overlying Water Rights, Donor shall promptly provide a written offer to Foundation stating the purchase price, which price shall be commensurate with the acre-foot price offered by the prospective purchaser. Foundation shall have fifteen (15) business days after receipt of Donor’s offer to provide a written response exercising its option to purchase up to thirty (30) acre-feet at the same price (and identifying how many acre-feet Foundation will purchase). In the event Foundation exercises its option, the sale of the Overlying Water Rights to Foundation shall close within ~~ten-fifteen (15)~~ fifteen (15) business days, on terms and conditions acceptable to the Parties in their reasonable discretion. For the purposes of this Section 2.4, “Donor” shall include Developer, any affiliate of Donor or Developer, and their successors or assigns, and “Foundation” shall include any successors-in-interest to Foundation, including BCVRPD. This Section 2.4 shall survive the Closing, but Foundation’s ROFR will terminate upon the first sale of all or part of the Overlying Water Rights to a third party for proceeds (provided that Donor has fulfilled its obligations with respect to this Section 2.4).

This Section 2.4 shall survive the Closing.

## 2.5 Environmental Reports: License for Debris Removal and Cleanup.

2.5.1 Donor has provided to Foundation a Phase I Assessment for the Cherry Valley Sports Center prepared by Langan Engineering and Environmental Services (“Langan”) on January 9, 2018, which Phase I will be updated (as updated, the “Phase I”) at Donor’s cost and provided to Foundation prior to the end of the Feasibility Period. The Parties agree that a Phase II will be prepared for the Property (also at Donor’s expense) if recommended in the Phase I.

2.5.2 Donor has previously disclosed that landscape debris and waste has been disposed of on the Property in the past. ~~To the extent recommended in the Phase I and/or Phase II and requested by Foundation in writing post-Closing, Donor or its affiliate(s)~~ shall remove any landscape debris (including drums and empty containers) (the “Debris”) from the Property. Donor agrees to cause the removal of such Debris by the completion of its grading activities on the adjacent Development Property, and Foundation hereby grants an irrevocable license (the “Landscape Debris Removal License”) to Donor, its affiliates (including Developer) and their agents to enter the Property for the foregoing purpose. Such Landscape Debris Removal License shall automatically terminate one year after the Effective Date of this Agreement. Donor agrees to indemnify Foundation and defend and hold Foundation harmless from all loss, cost, liability, expense, damage or other injury, including without limitation reasonable attorneys’ fees and expenses, to the fullest extent not prohibited by applicable law, and all other actual, reasonable costs and expenses incurred by reason of, or in any manner

resulting from, Donor's or Developer's entry onto the Property under the Landscape Debris Removal License.

This Section 2.5 shall survive the Closing.

2.6 Easement to Connect to Sanitary Sewer Lines on Development Property.

Donor and Foundation agree that, if requested by Foundation or its successor, the parties will enter into and record in the Official Records an easement (the "**Sewer Easement**") benefiting the Property, to allow the owner of the Property to enter onto the Development Property to construct sanitary sewer lines from the western boundary of the Property to a point of connection in a parking lot area on the eastern side of the Development Property, and to utilize, maintain and repair such sewer lines thereafter to the extent reasonably necessary to support Foundation's operations on the Property, provided that construction of the sewer lines must commence within (10) years after the Sewer Easement is recorded and be completed within (6) months, and further provided that the construction and maintenance of the sewer lines will not materially interfere with the business operations of any tenants or occupants of the Development Property or require Developer to upsize its sewer lines. All expenses associated with the Sewer Easement and the construction, use, maintenance, and repair of the sewer lines and other improvements installed by Foundation will be the responsibility of Foundation. The form of the Sewer Easement shall be agreed upon by the parties in good faith and shall be recorded in the Official Records and run with the land. This Section 2.6 shall survive the Closing.

2.7 Representations and Warranties of Donor. Donor represents and warrants to Foundation that to its knowledge, except as disclosed to Foundation in writing (including but not limited to any reports and items provided to Foundation for its due diligence investigations of the Property), as of the date of this Agreement and as of the Closing:

2.7.1 Ownership and Authority. Donor is the sole owner of the fee interest in and to the Property and the individuals who have signed this Agreement on behalf of Donor have the requisite legal power and authority to enter into this Agreement.

2.7.2 Hazardous Substances. The Property is: (i) free from Hazardous Substances; (ii) contains no buried or partially buried storage tanks located on the Property; (iii) has not been used for the generation, storage or disposal of any Hazardous Substance and no Hazardous Substance has been spilled, disposed of, or stored on, under, or at the Property; and (iv) has never been used as a dump or landfill (except for the unauthorized dumping of certain landscape waste, which has previously been disclosed to Foundation, and which will be removed by Donor pursuant to Section 2.5).

2.7.3 Compliance with Law. The Property is in material compliance with all applicable Laws and Environmental Laws.

2.7.4 Leases. Other than a month to month residential lease of a portion of the Property to Hector Gutierrez, a copy of which lease has previously been provided to Foundation ("**Gutierrez Lease**"), no leases, licenses, or other agreements allowing any third party rights to use the Property are or will be in force as of the Closing;

2.7.5 Litigation and Investigations. To the knowledge of Donor, there is no pending or threatened litigation, administrative proceeding, or other legal or governmental action with respect to the Property other than the Adjudication, and Donor has received no written notice, warning, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property are or have been in violation of any Laws or Environmental Laws, or informing Donor that the Property is subject to investigation or inquiry regarding the violation of any Laws or Environmental Laws.

2.7.6 Condition of Property. Donor has not created any conditions upon the Property or any part of the Property that could reasonably be expected to result in a material and adverse change in the condition of the Property.

2.7.7 No Insolvency Proceedings. Donor has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets; (iv) suffered the attachment or other judicial seizure of substantially all of its assets; or (v) admitted in writing its inability to pay its debts as they come due.

2.7.8 No Other Agreements, Undertakings or Tenancies. Except for the Road and Drainage Facilities Easement, the Well Site Easement, the Agency Agreement, and the Water Rights Deed, Donor will not enter into any agreements or undertake any new obligations prior to the Closing which will in any way burden, encumber or otherwise affect the Property in a material way without the prior written consent of Foundation.

2.7.9 Disclosure. Prior to the execution of this Agreement Donor has provided to Foundation copies of all material, written information, records, studies, leases, architectural plans, surveys, specifications, and other material documents pertaining to the physical, geological, or environmental condition of the Property owned by or in the possession or control of Donor (the "**Due Diligence Materials**"), to the extent in Donor's possession or control in connection with the Property, including any reports or studies concerning Hazardous Substances. All of the Due Diligence Materials that Donor has delivered to Foundation, either directly or through Donor's agents, is materially accurate and Donor has disclosed all material facts concerning the operation, development, or condition of the Property.

Donor shall promptly notify Foundation of any facts of which it becomes aware which would cause any of the representations contained in this Agreement to be materially untrue as of the Closing. If Foundation reasonably concludes that such a fact materially and adversely affects the Property, Foundation shall have the option to terminate this Agreement by delivering written notice to Donor. If Foundation terminates this Agreement pursuant to this Section, Donor shall be responsible for all costs owed to the Title Company, and the Parties shall have no further obligations to each other except those which expressly survive the termination of the Agreement.

Whenever Donor's representations or warranties or other provisions in this Agreement make reference to Donor's "knowledge" or words to that effect, such knowledge shall mean the present, actual knowledge of Brian Rupp ("**Donor's Representative**"), without any duty of inquiry or investigation, and in no event shall Donor's Representative have any personal liability



under this Agreement.

2.8 Indemnity. Donor agrees to indemnify Foundation and agrees to defend and hold Foundation harmless from all loss, cost, liability, expense, damage, or other injury, including without limitation, attorneys' fees and expenses, to the fullest extent not prohibited by applicable law, and all other actual, reasonable costs and expenses incurred by reason of, or in any manner resulting from (i) the material breach of any warranties and representations in Section 2.7, and (ii) all third-party claims for Donor's fraudulent acts or willful misconduct related to the Property, in either event to the extent occurring prior to the Closing.

2.9 Definitions.

2.9.1 "**Environmental Laws**" means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as defined subsequently in this Agreement), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property), occupational or environmental conditions on, under, or about the Property, as now in effect, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C.A. §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) and the Solid Waste Disposal Act [42 U.S.C.A. §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 U.S.C.A. §§ 1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 U.S.C.A. §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 U.S.C.A. §§ 1801 et seq.]; the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) [7 U.S.C.A. §§ 136 et seq.]; the Clean Air Act (CAA) [42 U.S.C.A. §§ 7401 et seq.]; the Safe Drinking Water Act (SDWA) [42 U.S.C.A. §§ 300f et seq.]; the Surface Mining Control and Reclamation Act of 1977 (SMCRA) [30 U.S.C.A. §§ 1201 et seq.]; the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA or EPCRTKA) [42 U.S.C.A. §§ 11001 et seq.]; the Occupational Safety and Health Act of 1970 (OSHA) [29 U.S.C.A. §§ 655, 657]; the California laws regarding the underground storage of hazardous substances [H & S C §§ 25280 et seq.]; the Hazardous Substance Account Act [H & S C §§ 25300 et seq.]; the California laws regarding hazardous waste control [H & S C §§ 25100 et seq.]; the Safe Drinking Water and Toxic Enforcement Act of 1986 [H & S C §§ 25249.5 et seq.]; the Porter-Cologne Water Quality Control Act [Wat C §§ 13000 et seq.], and any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect that pertains to occupational health or industrial hygiene, but only to the extent that such occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property.

2.9.2 "**Hazardous Substances**" includes without limitation:

(i) Those substances included within the definitions of "hazardous substance," "hazardous waste," "Hazardous Substances," "toxic substance," "solid

waste,” or “pollutant or contaminant” in CERCLA, RCRA, TSCA, HMTA, or under any other Environmental Law;

(ii) Those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101], or by the Environmental Protection Agency (EPA), or any successor agency, as hazardous substances [40 CFR Part 302];

(iii) Other substances, materials, and wastes that are regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

(iv) Any material, waste, or substance that is: a petroleum or refined petroleum product, asbestos, polychlorinated biphenyl, designated as a hazardous substance pursuant to 33 U.S.C.A. § 1321 or listed pursuant to 33 U.S.C.A. § 1317, a flammable explosive, or a radioactive material.

3. Donor Environmental Indemnity. Donor agrees to indemnify, defend and hold Foundation harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, reasonable attorneys’ fees), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage, or disposal ~~of or failure to remove or remediate~~ of any Hazardous Substances on, under, in or about, or the transportation of any such materials to or from, the Property, to the extent caused by Donor or during Donor’s ownership of the Property, or (ii) the violation by Donor of any statute, ordinance, order, rule, regulation, permit, judgment, or license relating to the use, generation, release, discharge, storage, disposal, or transportation of Hazardous Substances on, under, in, or about, to or from the Property, unless such violation is in any way or part caused or contributed to by Foundation and then such indemnification shall be limited to the extent of Foundation’s contribution. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost, or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease, or death, tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, pollution, contamination, leak, spill, release, or other adverse effect on the environment).

4. Title Company; Foundation’s Agent. Foundation and Donor acknowledge that the transaction contemplated by this Agreement will be closed outside of a traditional escrow, and agree that on the Closing Date, upon the satisfaction of the closing conditions set forth in Section 7 below, the Parties will instruct Title Insurance Company to cause the Property Deed (and any other documents to be recorded pursuant to this Agreement concurrently with the Closing) to be recorded in the Official Records. Foundation’s agent for matters related to the Closing shall be the General Manager or his designee.

5. Feasibility Period; Reliance Letters.

5.1 Due to the limited period of time for due diligence and investigations, Foundation will rely upon representations made by Donor in Section 2.7 above and on reports prepared by consultants for Donor (which are being provided without representation or warranty of Donor except as provided in Section 2.7 above). Subject to events outside of Donor’s control,

during the period commencing on the date of this Agreement and terminating on December 30, 2020 (the “**Feasibility Period**”), Donor shall provide Foundation with the updated Phase I, as more particularly provided in Section 2.5.1 above, and prior to the Closing shall provide a reliance letter from Langan in favor of Foundation for the Phase I. Prior to the execution of this Agreement Donor has also provided an existing ALTA survey for the Property prepared by Langan and dated December 15, 2017 (the “**Survey**”). Donor agrees to use commercially reasonable efforts to obtain a reliance letter from Langan in favor of Foundation for the Survey (but Foundation acknowledges that such a reliance letter may not be available as the Survey was prepared more than three (3) years ago). To the extent Foundation wishes to update the Survey, it shall do so at its sole cost and expense. Foundation agrees that the Closing will not be delayed because the Survey has not been updated.

5.2 If Foundation disapproves of the results of the inspection and review or the results of the Phase I, Foundation may elect to terminate this Agreement by giving Donor written notification no later than the last day of the Feasibility Period (or any extension thereof). If Foundation fails to properly notify Donor of its intent to terminate this Agreement, Foundation shall be deemed to be satisfied with the results of the inspection and shall be deemed to have waived the right to terminate this Agreement pursuant to this provision.

## 6. Title.

6.1 Prior to the execution of this Agreement, Title Company has issued to Foundation (with a copy to Donor) a preliminary report for an Owner’s Policy of Title Insurance dated as of December 3, 2020 (Order No. NHSC-6456988), setting forth all liens, encumbrances, easements, restrictions, conditions, pending litigation, judgments, administrative proceedings, and other matters of record affecting Donor’s title to the Property (“**Preliminary Report**”), together with copies of all documents relating to title exceptions referred to in the Preliminary Report.

6.2 Prior to the execution of this Agreement, Donor has delivered to Foundation copies of any existing survey(s) of the Property in the possession of Donor.

6.3 Prior to the expiration of the Feasibility Period, Foundation shall have the right to approve or disapprove, in writing to Donor with a copy to Title Company, each exception shown on the Preliminary Report (each an “**Exception**”). Foundation’s failure to object prior to the end of the Feasibility Period shall be deemed to be an approval of the Exceptions.<sup>3</sup> Each Exception (except for monetary liens and any Exceptions explicitly disapproved by Foundation in writing prior to the end of the Feasibility Period), including without limitation the Road and Drainage Facilities Easement, the Well Site Easement, the Agency Agreement, and the Water Rights Deed (and the future Sewer Easement, the easement to the County Flood Control, and any other conveyance or encumbrance contemplated by this Agreement) shall be referred to as an “**Approved Exception**” (collectively, the “**Approved Exceptions**”).

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<sup>3</sup> Note to Draft: As the Feasibility Period ends on December 30, 2020 and we need to close the next day, I’ve changed this provision to say no title objections means you’re signed off on the Preliminary Report. If you would prefer to switch it back, that’s OK; I was thinking it might be more convenient for everyone this way. Please note Section 2.2 requires that monetary liens, including the existing DOT, be paid off prior to the Closing.

6.4 If any Exception is disapproved or deemed disapproved (each a **“Disapproved Exception”**), Donor shall have the right, but not the obligation, within three (3) business days following expiration of the three (3) business day period provided under Section 6.3 above, to cause each Disapproved Exception to be discharged, satisfied, released, or terminated, as the case may be, of record, and in a form that is reasonably satisfactory to Foundation and Title Company, all at Donor’s sole cost and expense. Donor agrees to deliver to Title Company the sum sufficient to discharge any Disapproved Exception that may be discharged only by the payment of money. If Donor is unable or unwilling to obtain a discharge, satisfaction, release, or termination of any Disapproved Exception within the period specified above, then this Agreement shall automatically terminate. If this Agreement terminates pursuant to the foregoing sentence, then Donor shall pay any charges owed to the Title Company in connection with this transaction, including the charges of the surveyor and environmental engineering company; and the Parties shall be relieved of all further obligations and liabilities to each other under this Agreement except as otherwise provided herein, and all funds and documents deposited with Title Company shall be promptly refunded or returned, as the case may be, by Title Company to the depositing Party.

7. Closing.

7.1 Title. It shall be a condition to the Closing for Foundation’s benefit that the Title Company shall have unconditionally committed to issue to Foundation an ALTA standard coverage owner’s policy of title insurance (the **“Title Policy”**) in the amount of \$8,325,000.00, showing fee simple title to the Property to be vested in Foundation subject only to (i) liens for real property taxes, bonds, and assessments not then due, and (ii) the Approved Exceptions. Donor shall pay the premium for the issuance of the Title Policy. Foundation, at Foundation’s sole option so long as the Closing is not thereby delayed, may elect to obtain and require as a condition to the Closing an ALTA extended coverage Title Policy, provided the existing Survey or another ALTA survey timely prepared at Foundation’s direction and cost is satisfactory to the Title Company. In such event, Donor shall pay for the standard coverage portion of the premium for the Title Policy and the cost of any curative endorsements Donor has agreed to provide, and Foundation shall pay the portion of the cost of the Title Policy attributable to extended coverage, including the cost of any title endorsements requested by Foundation.

7.2 Donor’s Deliveries. Donor shall deliver to Title Company on or prior to the Closing Date the following documents:

- (i) [One (1) original, duly executed and notarized Road and Drainage Facilities Easement;]<sup>4</sup>
- (ii) One (1) original, duly executed and notarized Well Site Easement;
- (iii) If applicable, one (1) original, duly executed and notarized Agency Agreement;

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<sup>4</sup> Gromet to confirm whether the Road and Drainage Facilities Easement will be recorded just prior to our Closing or earlier in the week, when Shopoff conveys the Development Property to its Developer affiliate.

(iv) One (1) original, duly executed and notarized Property Deed;

(v) One (1) PDF copy of an executed assignment and assumption of the Gutierrez Lease substantially in the form attached hereto as **Exhibit "G"** (the **"Lease Assignment"**);

(vi) Any funds required to be paid to Title Company in connection with the documents listed in subsections (i) through (iv) above; and

(vii) A PDF copy of a closing statement prepared by and signed by Donor.

7.3 **Foundation's Deliveries.** Foundation shall deposit with Title Company on or prior to the Closing the following documents:

(i) Evidence of Foundation's board approval of the donation;

(ii) Evidence of Foundation's approval of the draft of the closing statement prepared by Donor;

(iii) One (1) duly executed original of the Executed Certificate of Acceptance for the Property Deed;

(iv) One (1) PDF copy of an executed Lease Assignment; and

(v) If applicable, one (1) duly executed and notarized Water Rights Agency Agreement.

7.4 **Closing Date.** The conveyance of the Property to Foundation and the closing of this transaction other than conveyance of the Well Site (the **"Closing"**) shall take place on or before December 31, 2020 (**"Closing Date"**).

7.5 **Closing Statements.** No more than one day prior to the Closing Date, Donor shall deliver to Foundation for its approval a closing statement showing all amounts to be paid by Donor and Foundation pursuant to this Agreement in connection with the Closing.

7.6 **Closing Instructions.** On the Closing Date (or any extension thereof), upon the instruction of both Donor and Foundation, Title Company shall cause the Closing to occur as follows:

(i) [record the Road and Drainage Facilities Easement in the Official Records];

(ii) record the Well Site Easement in the Official Records;

(iii) if confirmed by Donor and Foundation in email or other writing, record the Water Rights Agency Agreement in the Official Records;

- (iv) record the Property Deed (marked for return to Foundation) in the Official Records; and
- (v) issue the Title Policy.

If Title Company is unable to simultaneously perform all of the instructions set forth above, it shall notify Foundation and Donor and retain all documents and any funds collected pending receipt of further instructions jointly issued by Foundation and Donor.

7.7 Closing Costs and Prorations. Donor shall pay the following closing costs and prorations associated with the Closing:

- (i) All governmental conveyancing fees and taxes due upon transfer of the Property;
- (ii) Any charges in connection with recordation of the Property Deed; and
- (iii) All charges in connection with issuance of the Title Policy in the amount of \$8,325,000.00, to the extent provided in Section 7.1 above. Donor and Foundation shall each pay their own legal and professional fees and the fees of their consultants in connection with this transaction. All other costs and expenses shall be allocated as is customary in the County (or if not applicable, equally between Buyer and Seller), except for the costs of performing the obligations of each party to this Agreement, which costs shall be borne solely by the party incurring such costs.

7.8 Real Estate Taxes, Bonds, and Assessments. Donor shall be responsible for any bond, assessment, or past due real property tax that constitutes a lien on the Property at the Closing and Foundation will be responsible for any such item that is assessed following the Closing.

7.9 Possession. Possession of the Property shall be delivered to Foundation at the Closing, subject to the rights of the Tenant.

8. Acceptance. The acceptance of the Property by Foundation and the Closing (as defined in Section 7.4) are subject to the satisfaction of the following no later than the Closing Date:

- (i) Foundation's approval of the condition of the Property as provided in Section 5 and title to the Property as provided in Section 6;
- (ii) The representations and warranties of Donor set forth in Section 2.7 shall be true and accurate as of the Closing Date;
- (iii) Donor's and Foundation's performance of all of their respective obligations under this Agreement;

(iv) No adverse material change shall have occurred with respect to the condition of the Property from the end of the Feasibility Period through the Closing Date; and

(v) Title Agent being prepared to issue the Title Policy on the Closing Date as provided in Section 7.1 above.

9. This Agreement may be terminated by Foundation immediately upon written notice to Donor if the conditions to Closing for Foundation's benefit set forth in Sections 7 and 8 have not been fulfilled on or before the Closing Date. Upon termination by Foundation pursuant to this Section 7, Donor shall be responsible for any costs and expenses due to Title Company. This Agreement may be terminated by Donor immediately upon written notice to Foundation if the conditions to Closing for Donor's benefit set forth in Sections 7 and 8 have not been fulfilled on or before the Closing Date. Upon termination by Donor pursuant to this Section 9, Foundation shall be responsible for any costs and expenses due to Title Company.

10. As used in this Agreement, notice includes but is not limited to, the communication of any notice, request, demand, approval, statement, report, acceptance, consent, waiver and appointment. All notices must be in writing. Notice is given either (i) when delivered in person to the intended person or company named below, (ii) when delivered via facsimile or email with confirmation from the receiving party via return fax or email; or (iii) when sent via reputable overnight courier (such as Federal Express), addressed by name and addressed to the party or persons intended, as follows:

To Foundation:                    Beaumont-Cherry Valley Recreation & Park Improvement Corporation  
390 W. Oak Valley Parkway  
P.O. Box 490  
Beaumont, CA 92223  
Attn: General Manager  
Phone: (951) 845-9555  
FAX: (951) 845-9557

With a copy which shall not constitute notice to: Best Best & Krieger LLP  
2855 E. Guasti Rd., Suite 400  
Ontario, CA 91761  
Attn: Albert J. Maldonado  
(909) 989-8584  
FAX: (909) 944-1441

To Donor:                            TSG Cherry Valley, L.P.  
2 Park Plaza, Suite 700  
Irvine, CA 92614  
Attn: Brian Rupp, Executive Vice President – Real Estate  
Phone: (949) 231-5068  
FAX: (949) 417-1399

With a copy which shall    Gromet & Associates

not constitute notice to: 114 Pacifica, Suite 250  
Irvine, CA 92618  
Attn: Jessie Kempf  
(949) 261-1110 (ext 225)  
FAX: (949) 261-1818

until such time as a party gives notice of the change of address in accordance with the terms of this Section.

11. This Agreement shall not be changed, modified or amended except upon the written amendment of the Parties hereto.

12. This Agreement is the result of negotiations between the Parties and is intended by the Parties to be a final expression of their understanding with respect to the matters herein contained. This Agreement supersedes any and all other prior agreements and understandings, oral or written, in connection therewith. No provision contained herein shall be construed against Foundation solely because it prepared this Agreement in its executed form.

13. Donor, and its assigns and successors in interest, shall be bound by all the terms and conditions contained in this Agreement, and shall be jointly and severally liable hereunder.

14. Notwithstanding any other provision of this Agreement or any other agreement between any of the Parties hereto, except as set forth in Section 2.3.2, once the Property is conveyed to and accepted by Foundation, Foundation shall have no obligation or right to return the Property to Donor under any circumstances.

15. Foundation acknowledges that Donor is donating the Property in lieu of paying \$400,000.00 in cash to the County at the time of the issuance of building permits for the Development Project, as previously agreed between Donor and the County and approved at a public hearing for the Development Project. Foundation acknowledges that the donation is an in-kind gift, and Foundation (or its successor, if it no longer holds fee title to the Property) agrees to take reasonable steps to cooperate with Donor, the County, and/or BCVRPD to provide such information, execute and deliver such further documents and instruments, and take such further actions as necessary or desirable, to confirm that the donation of the Property is an in-kind donation and all obligations to the County in connection with the Development Project have been fully satisfied by the donation of the Property, all at the sole cost and expense of Donor. This Section 15 will survive the Closing.

16. Foundation hereby warrants and represents that it is a public benefit corporation organized in the State of California for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, and that it is in good standing. Foundation (or its successor) shall execute an Internal Revenue Form 8283 (Non-Cash Charitable Contributions), prepared by Donor, before the Closing Date, and shall provide such further documents and instruments, and take such further actions as necessary or desirable, to confirm Foundation's 501(c)(3) status and to provide any other forms or documents reasonably requested by Donor in connection with Donor's efforts to claim the donation of the Property as a tax-



exempt gift, all at Donor's expense. Foundation agrees to return any such forms to Donor within thirty (30) days of Donor's written request. This Section 16 will survive the Closing.

17. If any provision of this Agreement is deemed to be invalid or unenforceable, the remainder of the Agreement shall not be affected and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. This Agreement and all document execution in connection herewith shall be governed by and construed in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be brought and maintained exclusively in the courts of Riverside County, California.

19. This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument. This Agreement may also be delivered by facsimile or electronic mail transmission (in pdf or similar format) with the same force and effect as if an original executed counterpart "hard" copy of this Agreement had been delivered by the delivering party. The parties acknowledge and agree that execution of this Agreement by an authorized officer may be accomplished by electronic signature utilizing DocuSign or any similar technology.

*[Signature page(s) attached]*

IN THE WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly-authorized representatives on the date and year set forth below.

Dated: December \_\_, 2020

**“DONOR”**

TSG CHERRY VALLEY, L.P., a California limited partnership

By: TSG GP, LLC, a Delaware limited liability company, its General Partner

By: \_\_\_\_\_  
Name:  
Title:

Dated: December \_\_, 2020

**“FOUNDATION”**

BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION, a California public benefit corporation

By: \_\_\_\_\_  
Duane Burk  
General Manager

**EXHIBIT “A”**

**LEGAL DESCRIPTION OF PROPERTY**

All of the real property in the unincorporated area of the County of Riverside, State of California, described as follows:

PARCEL A-1: (APN: 407-200-011 AND PORTION OF APN: 407-210-001)

THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THE EAST 1000 FEET OF THE SOUTH 915 FEET.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

Exhibit “A”

PARCEL A-2: (PORTION OF APN: 407-210-001)

THE WEST 28 ACRES OF THE SOUTH 56 ACRES OF THE EAST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF WOODLAND AVENUE, DISTANT NORTH 89° 34' 30" EAST ALONG SAID CENTER LINE, 1374.35 FEET FROM THE 1/4 CORNER IN THE WEST LINE OF SAID SECTION 29, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF SAID WEST 28 ACRE;

THENCE NORTH 0° 58' 15" EAST ALONG THE WESTERLY LINE OF SAID WEST 28 ACRES, 1311.10 FEET;

THENCE NORTH 52° 36' 40" EAST, 744.41 FEET TO A POINT IN THE NORTHERLY LINE OF SAID WEST 28 ACRES;

THENCE NORTH 89° 34' 30" EAST ALONG SAID NORTHERLY LINE, 116.26 FEET TO THE NORTHEAST CORNER OF SAID WEST 28 ACRES;

THENCE SOUTH 1° 23' 35" WEST 1759.23 FEET TO THE SOUTHEAST CORNER OF SAID WEST 28 ACRES IN THE CENTER LINE OF WOODLAND AVENUE;

THENCE SOUTH 89° 34' 30" WEST, 687.17 FEET TO THE POINT OF BEGINNING.

PARCEL B: (APN'S: 407-200-009 AND 407-210-004)

THAT PORTION OF THE WEST 28 ACRES OF THE SOUTH 56 ACRES OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF WOODLAND AVENUE DISTANT NORTH 89° 34' 30" EAST, ALONG SAID CENTER LINE 1374.35 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 29, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF SAID WEST 28 ACRES;

THENCE NORTH 0° 58' 15" EAST, ALONG THE WESTERLY LINE OF SAID WEST 18 ACRES, 1311.10 FEET;

THENCE NORTH 52° 36' 40" EAST, 744.41 FEET TO A POINT IN THE NORTHERLY LINE OF SAID WEST 28 ACRES;

THENCE NORTH 89° 34' 30" EAST ALONG SAID NORTHERLY LINE 116.26 FEET MORE OR LESS, TO THE NORTHEAST CORNER OF SAID WEST 28 ACRES;

THENCE SOUTH 1° 23' 35" WEST, 1759.23 FEET TO THE SOUTHEAST CORNER OF SAID WEST 28 ACRES, SAID POINT BEING IN THE CENTER LINE OF WOODLAND AVENUE:

THENCE SOUTH 89° 34' 30" WEST, 687.17 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE PORTION INCLUDED IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

PARCEL C: (APN: 407-210-002)

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION, AT THE NORTHWEST CORNER OF THAT CERTAIN 28 ACRE PARCEL OF LAND GRANTED TO PAUL HYNEY AND MARY HYNEY, HIS WIFE, BY DEED RECORDED NOVEMBER 8, 1920 IN BOOK 537 PAGE 191 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID 28 ACRE PARCEL OF LAND, TO THE NORTHEAST CORNER THEREOF;

THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 28 ACRE PARCEL OF LAND, PROLONGED NORTHERLY, BEING ALSO THE WEST LINE OF THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29, TO A POINT ON SAID LINE, DISTANT 300 FEET SOUTHERLY FROM THE NORTHERLY LINE OF SAID SECTION, SAID POINT BEING ALSO THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO JOSEPH E. HANNON BY DEED RECORDED JANUARY 31, 1927 IN BOOK 704 PAGE 294 OF DEEDS, RECORDS OF RIVERSIDE COUNTY CALIFORNIA;

THENCE AT A RIGHT ANGLE WESTERLY, ALONG THE SOUTHERLY LINE OF SAID LAST DESCRIBED PARCEL, 300 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE AT A RIGHT ANGLE NORTHERLY, ALONG THE WESTERLY LINE OF SAID PARCEL, 300 FEET TO POINT ON THE NORTHERLY LINE OF SAID SECTION 29;

THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID SECTION 29, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION;

Exhibit "A"

THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29, TO THE POINT OF BEGINNING.

PARCEL D: (APN: 407-200-012)

PARCEL 2 AS SHOWN ON LOT LINE ADJUSTMENT NO. 4312 AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 14, 2000 AS INSTRUMENT NO. 00-497943 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 1000 FEET OF THE SOUTH 915 FEET OF THE WEST ONE HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

APNs: 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2

**Exhibit "B"**

**Form of Road and Drainage Facilities Easement**

{Reserved}

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Exhibit "C"

**Form of Property Grant Deed**

Recorded at request of and return to

Beaumont-Cherry Valley Recreation & Park  
Improvement Corporation  
390 W. Oak Valley Parkway  
P.O. Box 490  
Beaumont, CA 92223  
Attn: Duane Burk, General Manager

(Space above this line reserved for Recorder's use)

APN: \_\_\_\_\_

**GRANT DEED**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **TSG CHERRY VALLEY, L.P.**, a California limited partnership, herein called "**Grantor**", hereby GRANTS to **BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION**, a California public benefit corporation ("**Grantee**"), the real property in the County of Riverside, State of California, described as:

See Exhibit "1" attached hereto and made a part hereof

[together with any and all improvements, easements, privileges and rights appurtenant thereto, including but not limited to water rights now associated with the Property granted in that certain Judgment entitled "San Timoteo Watershed Management Authority v. City of Banning, et. Al", Riverside County Superior Court Case No. RIC 389197 filed on February 4, 2004, adjudicating water rights in the Beaumont Basin; and that certain Resolution 2006-02 (A Resolution of the Beaumont Basin Watermaster Recognizing the Designation of a Specific Amount of Overlying Water Rights to Specific Parcels) recorded on February 15, 2006 as Instrument 2006-0112028 in the Official Records of the County of Riverside;]<sup>5</sup>

Subject to covenants, conditions, restrictions, easements, reservations, rights and rights-of-way and other matters of record and or apparent by inspection or survey.

*[Signature page attached]*

<sup>5</sup> Include if the Overlying Water Rights cannot be reallocated to the Development Property prior to Closing.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the \_\_\_\_ day of December, 2020.

**“GRANTOR”**

TSG CHERRY VALLEY, L.P., a California limited partnership

By: TSG GP, LLC, a Delaware limited liability company, its General Partner

By: \_\_\_\_\_  
Name:  
Title:



ACKNOWLEDGEMENT

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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 \_\_\_\_\_

(Seal)

**EXHIBIT "1"**

**Legal Description of Property**

All of the real property in the unincorporated area of the County of Riverside, State of California, described as follows:

PARCEL A-1: (APN: 407-200-011 AND PORTION OF APN: 407-210-001)

THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THE EAST 1000 FEET OF THE SOUTH 915 FEET.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

PARCEL A-2: (PORTION OF APN: 407-210-001)

THE WEST 28 ACRES OF THE SOUTH 56 ACRES OF THE EAST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF WOODLAND AVENUE, DISTANT NORTH 89° 34' 30" EAST ALONG SAID CENTER LINE, 1374.35 FEET FROM THE 1/4 CORNER IN THE WEST LINE OF SAID SECTION 29, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF SAID WEST 28 ACRE;

THENCE NORTH 0° 58' 15" EAST ALONG THE WESTERLY LINE OF SAID WEST 28 ACRES, 1311.10 FEET;

THENCE NORTH 52° 36' 40" EAST, 744.41 FEET TO A POINT IN THE NORTHERLY LINE OF SAID WEST 28 ACRES;

THENCE NORTH 89° 34' 30" EAST ALONG SAID NORTHERLY LINE, 116.26 FEET TO THE NORTHEAST CORNER OF SAID WEST 28 ACRES;

THENCE SOUTH 1° 23' 35" WEST 1759.23 FEET TO THE SOUTHEAST CORNER OF SAID WEST 28 ACRES IN THE CENTER LINE OF WOODLAND AVENUE;

THENCE SOUTH 89° 34' 30" WEST, 687.17 FEET TO THE POINT OF BEGINNING.

PARCEL B: (APN'S: 407-200-009 AND 407-210-004)

Exhibit "B"

THAT PORTION OF THE WEST 28 ACRES OF THE SOUTH 56 ACRES OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

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THENCE SOUTH 89° 34' 30" WEST, 687.17 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE PORTION INCLUDED IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

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THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION, AT THE NORTHWEST CORNER OF THAT CERTAIN 28 ACRE PARCEL OF LAND GRANTED TO PAUL HYNEY AND MARY HYNEY, HIS WIFE, BY DEED RECORDED NOVEMBER 8, 1920 IN BOOK 537 PAGE 191 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID 28 ACRE PARCEL OF LAND, TO THE NORTHEAST CORNER THEREOF;

THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 28 ACRE PARCEL OF LAND, PROLONGED NORTHERLY, BEING ALSO THE WEST LINE OF THE EAST

Exhibit "B"

HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29, TO A POINT ON SAID LINE, DISTANT 300 FEET SOUTHERLY FROM THE NORTHERLY LINE OF SAID SECTION, SAID POINT BEING ALSO THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO JOSEPH E. HANNON BY DEED RECORDED JANUARY 31, 1927 IN BOOK 704 PAGE 294 OF DEEDS, RECORDS OF RIVERSIDE COUNTY CALIFORNIA;

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THENCE AT A RIGHT ANGLE NORTHERLY, ALONG THE WESTERLY LINE OF SAID PARCEL, 300 FEET TO POINT ON THE NORTHERLY LINE OF SAID SECTION 29;

THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID SECTION 29, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION;

THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29, TO THE POINT OF BEGINNING.

PARCEL D: (APN: 407-200-012)

PARCEL 2 AS SHOWN ON LOT LINE ADJUSTMENT NO. 4312 AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 14, 2000 AS INSTRUMENT NO. 00-497943 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 1000 FEET OF THE SOUTH 915 FEET OF THE WEST ONE HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

APNs: 407-200-011-1, 407-210-001-3 (portion), 407-210-001-3 (portion), 407-200-009-0, 407-210-004-6, 407-210-002-4, and 407-200-012-2

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the real property conveyed by **TSG CHERRY VALLEY, L.P.**, a California limited partnership (“**Grantor**”) on the Grant Deed dated December \_\_, 2020, to the **BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION**, a California public benefit corporation (“**Grantee**”), is hereby accepted by the undersigned officer on behalf of the Grantee, pursuant to authority conferred by \_\_\_\_\_, as adopted by the Board of Directors on \_\_\_\_\_, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: December \_\_, 2020

**GRANTEE:**

BEAUMONT-CHERRY VALLEY  
RECREATION & PARK IMPROVEMENT  
CORPORATION, a California public benefit  
corporation

By:

\_\_\_\_\_  
Duane Burk  
General Manager

**Exhibit "D"**

**Form of Well Site Easement**

*[Attached]*

Exhibit "D"

RECORDING REQUESTED BY:

WHEN RECORDED, MAIL TO:

(Space above for Recorder's Use Only)

### TEMPORARY GRANT OF EASEMENT

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, **TSG CHERRY VALLEY, L.P.**, a California limited partnership ("**Grantor**"), being the fee owner of that certain real property located in Riverside County, California and being more particularly described in Exhibit "A" attached hereto ("**Grantor's Property**"), hereby grants to **I10 LOGISTICS OWNER, LLC**, a Delaware limited liability company ("**Grantee**"), being the fee owner of certain real property located in Riverside County, California, situated adjacent to Grantor's Property (the "**Benefited Property**") and being more particularly described in Exhibit "B" attached hereto, the following non-exclusive easement (the "**Easement**") for the use and benefit of Grantee, as the owner of the Benefited Property, and Grantee's successors and assigns, over the following described area (the "**Easement Area**"):

A strip of land 100' wide running a distance of 400', the southwest corner of which is co-terminus with the southwest corner of Grantor's Property. The Easement Area is graphically depicted on Exhibit "C" attached hereto.

1. Rights Included in Grant. The foregoing grant includes the following rights:
  - (a) a non-exclusive easement to take and use, for the benefit of the Benefited Property, water from the existing water well (the "**Water Well**") (or any replacement thereof) located within the Easement Area,
  - (b) a non-exclusive easement of ingress and egress over the Easement Area to access the Water Well Facilities;
  - (c) a non-exclusive easement to install, use, operate, maintain repair and replace a water line and associated facilities (collectively, the "**Water Line Facilities**") connecting to the Water Well and running from the Water Well through the Easement Area to the Benefited Property; and
  - (d) a non-exclusive easement to use, operate, maintain, repair and replace, the Water Well and Water Line Facilities in furtherance of the above.

Exhibit "D"

2. Grantee's Use: Termination. Grantor and Grantee acknowledge and agree that the Easement is granted to Grantee for the express purpose of allowing Grantee to use the water pumped from the Water Well in connection with grading activities on the Benefitted Property by Grantee and for other construction-related uses, and to provide water to a Tenant on the Property, until such time as all of the following conditions have been satisfied:

(a) Grading activities have been completed on the Benefitted Property; and

(b) The Benefitted Property has been incorporated into the Yucaipa Valley Water District and an active potable water line has been established for the Benefitted Property.

Within thirty (30) days of the satisfaction of the foregoing conditions, Grantee shall remove the Water Line Facilities and restore any surface damage to the Easement Area.

3. Cooperation by Grantor. Grantor hereby agrees that Grantor shall not challenge or otherwise contest Grantee's use of the Water Well and water taken from the Water Well pursuant to this Grant of Easement, and shall cooperate with Grantee.

4. Covenants Run with the Land. The rights, duties and obligations created by this Temporary Grant of Easement shall constitute covenants running with the land, shall be binding on all subsequent owners of Grantor's Property, and shall be binding upon and inure to the benefit of each owner of the Benefitted Property and its successors and assigns. This document shall be recorded in the Real Property Records of Riverside County, California. In addition, any person or entity who hereafter acquires any right, title or interest in all or any portion of Grantor's Property shall be deemed to have adopted, accepted and agreed to be bound by all of the provisions of this Agreement, and such right, title and interest shall be subject to the provisions of this Agreement.

5. Modification of Agreement. Except as otherwise provided herein, this Agreement may be amended only by a document executed by all owners of the Properties as of the date of such amendment and recorded in the Real Property Records of Riverside County, California.

6. Provisions Severable. If any term or provision or portion of this Temporary Grant of Easement Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of hereof, or the application of such term or provision or portion thereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Temporary Grant of Easement shall be valid and enforced to the fullest extent permitted by law.

7. Governing Law. This Temporary Grant of Easement shall be construed in accordance with and governed by the laws of the State of California and is performable in Riverside County, California.



IN WITNESS WHEREOF, the Grantor has executed this Temporary Grant of Easement as of December \_\_, 2020.

**GRANTOR**

TSG CHERRY VALLEY, a California limited partnership

By: TSG GP, LLC, a Delaware limited liability company  
General Partner

By: \_\_\_\_\_  
Name:  
Title:

**ACKNOWLEDGEMENT**

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 )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name 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: \_\_\_\_\_

(Seal)

Exhibit "D"

EXHIBIT "A"

Legal Description of Grantor's Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED TERRITORY OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Exhibit "D"

EXHIBIT "B"

Legal Description of the Benefited Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF  
| VENTURA RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Exhibit "D"

EXHIBIT "C"

Depiction of Easement Area

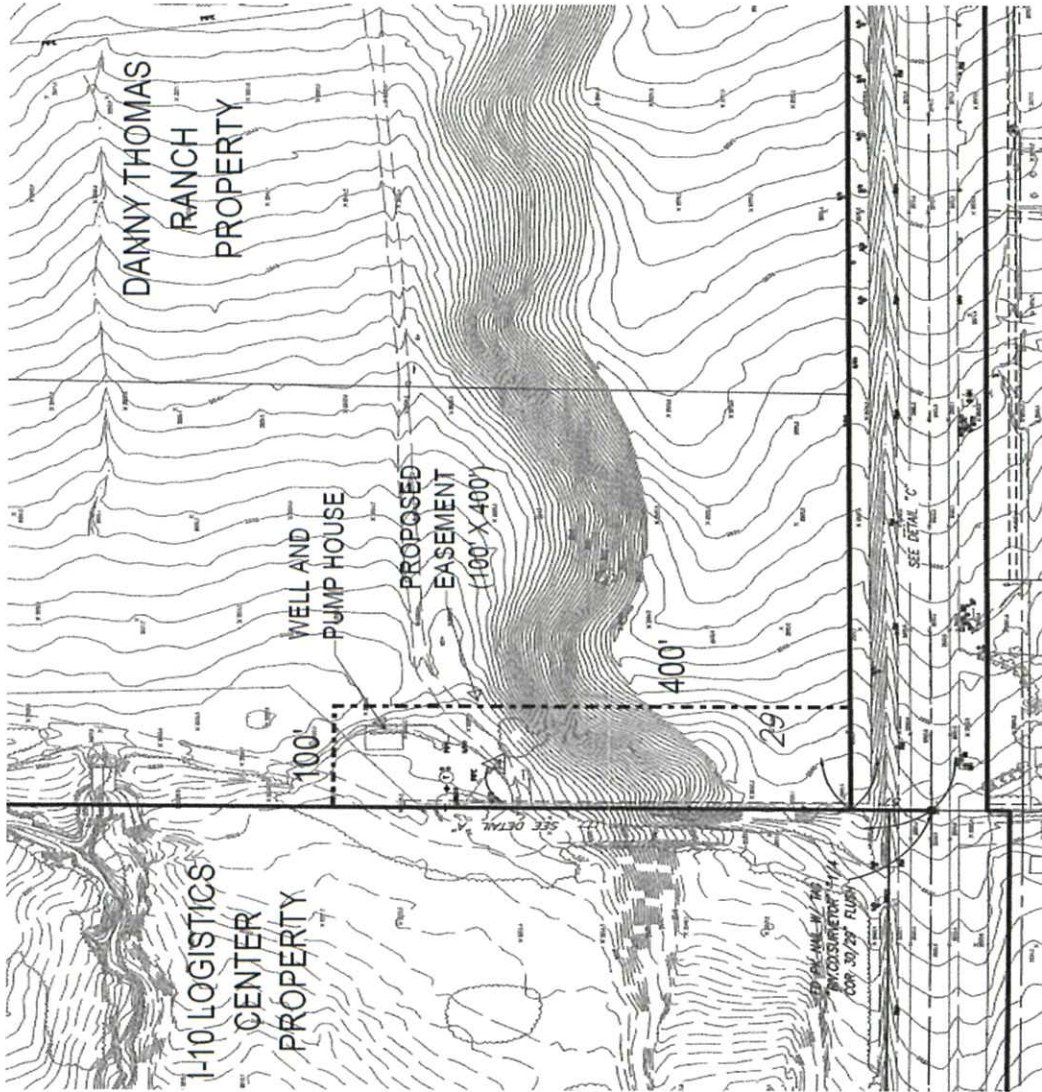


Exhibit "D"

EXHIBIT "D"

Terms of Use of Easement; Reservation of Rights

The following terms and conditions shall apply to Grantee's use of the Easement Area:

1. Grantor shall not grant or assign to others any right for the use of any water well located within the Easement Areas.
2. Grantor reserves the right to use the Easement Areas in a manner not inconsistent with Grantee's use and enjoyment of the Easement Areas for purposes included within the scope of the Easements.
3. Any improvements constructed by Grantee, and all related work shall be performed, in a good and workmanlike manner, lien-free, by competent contractors licensed in the State of California pursuant to a written contract with each contractor. Grantee shall provide Grantor sufficient written notice prior to the commencement of construction to afford Grantor the opportunity to timely post a notice of non-responsibility with respect to the construction of any improvements. Prior to the commencement of such construction, Grantee shall provide to Grantor appropriate written evidence that Grantor has been included as a named insured by policies of comprehensive public liability insurance with liability coverage of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage, and automobile liability insurance, including owned and hired vehicles, with a combined single limit of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage, insuring against any injury or damage to persons or property that may result from or be related to the work of construction. Such policies shall also prohibit cancellation upon less than thirty (30) days' prior written notice to all insured parties. In addition, Grantee hereby further undertakes and agrees that at the time any such construction work is performed, Grantee shall indemnify and hold Grantor free and harmless from and against any and all liability, claims, loss, damage or expenses resulting from such construction work, including without limitation, reasonable attorneys' fees and costs.
4. Grantee shall, at its sole cost and expense, and on a lien-free basis, maintain in good condition the Water Well and any subsequently installed improvements in good working order. Grantee accepts the Easement Area and the Water Well strictly in their as-is condition without any representation or warranty by Grantor. Notwithstanding the foregoing or any other provisions hereof, any damage to the Water Well and/or any improvements caused solely by the Grantor or Grantor's agents, employees, tenants, successors, or assigns following the recordation hereof, shall be repaired by Grantor within a reasonable time after the damage has occurred and at Grantor's sole cost and expense.
5. Grantee agrees to indemnify, defend and hold the Grantor's Property owner, its affiliates, and their respective directors, officers, shareholders, employees and agents free and

harmless from any claims, demands, actions, damages, liability, judgments, expenses and costs (including, reasonable attorneys' fees) attributable to the use of the Easement Area by Grantee and/or Grantee's employees, agents, and contractors, including, without limitation, any such losses sustained due to the use of the Easement Areas and any personal injuries or property damages sustained within the Easement Area.

6. The obligations of Grantee herein shall be binding upon any and all successors and assigns of Grantee in the Benefited Property (including any portions thereof) and shall, by acceptance of a deed of conveyance with respect to the Benefited Property (including any portions thereof), constitute the personal obligation of such successors and assigns.
7. The water obtained by Grantee from the Existing Water Well, and any future additional water wells or related Improvements within the Easement Area, may only be used for the benefit of the Benefited Property and no other properties.
8. Grantee's and its employees', agents' and contractors' use of the Easement Area and their exercise of any rights and obligations hereunder must at all times conform to all applicable state, federal, and local laws, rules, regulations, and orders.

**Exhibit "E-1"**

**Form of First Well Site Deed**

Recorded at request of and return to:

Beaumont-Cherry Valley Recreation & Park  
District  
390 W. Oak Valley Parkway  
P.O. Box 490  
Beaumont, CA 92223  
Attn: Duane Burk, General Manager

[FREE RECORDING

This instrument is for the benefit of the  
Beaumont-Cherry Valley Recreation & Park  
District, and is entitled to be recorded without  
fee. (Gov. Code, § 27383)]<sup>6</sup>

(Space above this line reserved for Recorder's use)

APN: \_\_\_\_\_

Space above this line for Recorder's Use

**GRANT DEED**

Documentary Transfer Tax is:<sup>7</sup> \$ \_\_\_\_\_

unincorporated area  City of \_\_\_\_\_

Parcel No. \_\_\_\_\_

computed on full value of interest or property conveyed, or

computed on full value of liens or encumbrances remaining at time of sale

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
**Beaumont-Cherry Valley Recreation & Park Improvement Corporation**, a California public  
benefit corporation ("**Grantor**"), does hereby GRANT to **Beaumont-Cherry Valley  
Recreation & Park District**, a special district of the State of California ("**Grantee**"), all that  
real property situated in the County of Riverside, State of California, which is described as  
follows ("**Property**"):

<sup>6</sup> Note to Draft: Albert, I'm not sure if this applies to a deed into BCVRPD; please feel free to remove it if not.

<sup>7</sup> Note to Draft: Title Officer to weigh in on tax disclosures in the Well Site Deeds and confirm each deed is in recordable form.

[INSERT LEGAL DESCRIPTION OF WELL AND WELL SITE]<sup>8</sup>

together with (i) all structures, improvements, equipment and pipelines associated with the well on the Property; (ii) all rights, privileges, and easements appurtenant to the Property, including all mineral rights, rights-of-way, easements, roadways, reservations and reversions or other appurtenances used in connection with the beneficial use of the Property; and (iii) any existing rights, privileges and easements which are personal to the grantor and used in connection with the beneficial use of the Property, including all easements in gross and rights of way.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the \_\_\_\_\_ day of December, 2020.

**“GRANTOR”**

BEAUMONT-CHERRY VALLEY  
RECREATION & PARK IMPROVEMENT  
CORPORATION, a California public benefit  
corporation

By: \_\_\_\_\_

Name: Duane Burk

Title: General Manager

---

<sup>8</sup> Note to Draft: Metes and bounds description to be prepared for Well Site Deeds.



ACKNOWLEDGEMENT

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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 \_\_\_\_\_

(Seal)

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the real property conveyed by **BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION**, a California public benefit corporation (“Grantor”), on the Grant Deed dated \_\_\_\_\_ 202\_, to the **BEAUMONT-CHERRY VALLEY RECREATION & PARK DISTRICT**, a special district of the State of California (“Grantee”), is hereby accepted by the undersigned officer on behalf of the Grantee, pursuant to authority conferred by \_\_\_\_\_, as adopted by the Board of Directors on \_\_\_\_\_, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 202\_

**GRANTEE:**

BEAUMONT-CHERRY VALLEY  
RECREATION & PARK DISTRICT, a special  
district of the State of California

By:

\_\_\_\_\_  
Duane Burk  
General Manager

**Exhibit "E-2"**

**Form of Second Well Site Deed**

Recorded at request of and return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FREE RECORDING**

[This instrument is for the benefit of the  
Beaumont-Cherry Valley Recreation & Park  
District, and is entitled to be recorded without  
fee. (Gov. Code, § 27383)]<sup>9</sup>

(Space above this line reserved for Recorder's use)

APN: \_\_\_\_\_

Space above this line for Recorder's Use

**GRANT DEED**

Documentary Transfer Tax is: \$ \_\_\_\_\_

unincorporated area  City of \_\_\_\_\_

Parcel No. \_\_\_\_\_

computed on full value of interest or property conveyed, or

computed on full value of liens or encumbrances remaining at time of sale

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
**Beaumont-Cherry Valley Recreation & Park District**, a special district of the State of  
California ("**Grantor**"), does hereby GRANT to \_\_\_\_\_, a \_\_\_\_\_  
("**Grantee**"), all that real property situated in the County of Riverside, State of California, which  
is described as follows ("**Property**");

[INSERT LEGAL DESCRIPTION OF WELL AND WELL SITE]

together with (i) all structures, improvements, equipment and pipelines associated with the well  
on the Property; (ii) all rights, privileges, and easements appurtenant to the Property, including  
all mineral rights, rights-of-way, easements, roadways, reservations and reversions or other  
appurtenances used in connection with the beneficial use of the Property; and (iii) any existing

<sup>9</sup> Note to Draft: Albert, please feel free to remove this one too if it doesn't apply.

rights, privileges and easements which are personal to the grantor and used in connection with the beneficial use of the Property, including all easements in gross and rights of way.

*[Signature Page Attached]*

Exhibit "E-2"

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the \_\_\_\_\_ day of December, 2020.

**“GRANTOR”**

BEAUMONT-CHERRY VALLEY  
RECREATION & PARK DISTRICT, a special  
district of the State of California

By: \_\_\_\_\_  
Name: Duane Burk  
Title: General Manager

ACKNOWLEDGEMENT

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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 \_\_\_\_\_

(Seal)

Exhibit "E-3"

**Third Well Site Deed**

Recorded at request of and return to:

Beaumont-Cherry Valley Recreation & Park  
District  
390 W. Oak Valley Parkway  
P.O. Box 490  
Beaumont, CA 92223  
Attn: Duane Burk, General Manager

[This instrument is for the benefit of the  
Beaumont-Cherry Valley Recreation & Park  
District, and is entitled to be recorded  
without fee. (Gov. Code, § 27383)]

Space above this line reserved for Recorder's use)

APN: \_\_\_\_\_

Space above this line for Recorder's Use

GRANT DEED

Documentary Transfer Tax is: \$ \_\_\_\_\_

unincorporated area     City of \_\_\_\_\_

Parcel No. \_\_\_\_\_

computed on full value of interest or property conveyed, or

computed on full value of liens or encumbrances remaining at time of sale

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
\_\_\_\_\_, a \_\_\_\_\_ ("Grantor"), does hereby GRANT to **Beaumont-Cherry  
Valley Recreation & Park District**, a special district of the State of California ("Grantee"), all  
that real property situated in the County of Riverside, State of California, which is described as  
follows ("**Property**"):

[INSERT LEGAL DESCRIPTION OF WELL AND WELL SITE]

together with (i) all structures, improvements, equipment and pipelines associated with the well  
on the Property; (ii) all rights, privileges, and easements appurtenant to the Property, including

all mineral rights, rights-of-way, easements, roadways, reservations and reversions or other appurtenances used in connection with the beneficial use of the Property, including but not limited to appurtenant water rights now associated with the Property granted in that certain Judgment entitled "San Timoteo Watershed Management Authority v. City of Banning, et. al", Riverside County Superior Court Case No. RIC 389197 filed on February 4, 2004, adjudicating water rights in the Beaumont Basin; that certain Resolution 2006-02 (A Resolution of the Beaumont Basin Watermaster Recognizing the Designation of a Specific Amount of Overlying Water Rights to Specific Parcels) recorded on February 15, 2006 as Instrument 2006-0112028 in the Official Records of the County of Riverside; and that certain Resolution \_\_\_\_\_ (A Resolution of the Beaumont Basin Watermaster Recognizing the Designation of a Specific Amount of Overlying Water Rights to Specific Parcels) recorded on \_\_\_\_\_, 2021 as Instrument 2021-\_\_\_\_\_ in the Official Records of the County of Riverside; and (iii) any existing rights, privileges and easements which are personal to the grantor and used in connection with the beneficial use of the Property, including all easements in gross and rights of way.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

**"GRANTOR"**

\_\_\_\_\_, a \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:



ACKNOWLEDGEMENT

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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 \_\_\_\_\_

(Seal)

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the real property conveyed by \_\_\_\_\_, a \_\_\_\_\_  
\_\_\_\_\_ (“Grantor”), on the Grant Deed dated \_\_\_\_\_ 202\_, to the  
**BEAUMONT-CHERRY VALLEY RECREATION & PARK DISTRICT**, a public district  
of the State of California (“Grantee”), is hereby accepted by the undersigned officer on behalf  
of the Grantee, pursuant to authority conferred by \_\_\_\_\_, as adopted by the Board of  
Directors on \_\_\_\_\_, and the Grantee consents to recordation thereof by its duly  
authorized officer.

Dated: \_\_\_\_\_, 202\_

**GRANTEE:**

BEAUMONT-CHERRY VALLEY  
RECREATION & PARK DISTRICT, a special  
district of the State of California

By: \_\_\_\_\_  
Duane Burk  
General Manager

Exhibit "F"

**Form of Water Rights Agency Agreement**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

---

(Above Space for Recorder's Use Only)

**WATER RIGHTS AGENCY AGREEMENT**

THIS WATER RIGHTS AGENCY AGREEMENT (this "**Agreement**") is entered into between **I10 LOGISTICS OWNER, LLC**, a Delaware limited liability company ("**I10 Logistics**"), and TSG CHERRY VALLEY, L.P., a Delaware limited partnership ("**Owner**"). I10 Logistics and Owner are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**".

RECITALS

A. Owner is successor in interest to Manheim, Manheim & Berman, a California general partnership in the lawsuit entitled *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197 ("**Adjudication**"), which allocated 300 acre-feet of overlying water rights (the "**Water Rights**") associated with land owned by Owner located in the unincorporated area of the County of Riverside (the "**County**"), California, containing approximately 122.7 acres (the "**Property**") described in Exhibit "A". The Water Rights were later adjusted and currently total 232.4 acre-feet.

B. Owner acquired the Property from TSG Cherry Valley, L.P., a California limited partnership ("**TSG**") and an affiliate of I10 Logistics, as a donation pursuant to that certain Donation Agreement dated December \_\_, 2020 (the "**Donation Agreement**").

C. By this Agreement, Owner desires to permanently designate I10 Logistics as its exclusive agent, with power of attorney, to cause the performance of certain actions relating to the Water Rights.

NOW THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises and agreements herein contained, the Parties agree as follows:

1. Owner hereby designates I10 Logistics as its exclusive agent, and the exclusive agent of its assigns and successors in interest, to cause the performance of any and all actions relating to: the allocation, lease, sale, assignment, and/or other disposition of the

Water Rights to, in I10 Logistic's sole discretion, any municipal, public, or private corporation or other entity for the purpose of putting said Water Rights to beneficial use to the fullest extent of which they are capable on the Property and/or off-site property(ies) ("**Authorized Actions**"). I10 Logistics shall receive all compensation for the allocation, lease, sale, assignment and/or other disposition of the Water Rights. Owner shall not receive any compensation or realize any profits or losses whatsoever from the allocation, lease, sale, assignment and/or other disposition of the Water Rights.

2. Owner, on behalf of itself and its assigns and successors in interest, hereby grants to I10 Logistics an irrevocable power of attorney coupled with an interest, and proxy, for purposes of exercising any and all rights and taking any and all actions specifically relating and limited to the Authorized Actions. Owner agrees that any consents, approvals, amendments or similar actions taken by I10 Logistics specifically relating and limited to the Authorized Actions pursuant to this Agreement shall bind Owner for all purposes. To the fullest extent permitted by law, the power of attorney under this Section 2 shall be deemed to be coupled with an interest, shall be irrevocable, and shall extend to Owner's assigns and successors in interest.

3. The provisions of this Agreement shall constitute covenants that run with the Property and shall inure to the benefit of and be binding upon the assigns and successors in interest of I10 Logistics and Owner. The Parties agree that this Agreement shall be recorded at the County Recorder's Office concurrently with the recordation of the grant deed by which TSG grants the Property to Owner (the "**Grant Deed**"). It is further agreed that this Agreement shall not be effective until it is recorded at the Office of the County Recorder ("**Effective Date**"), and consent for its recordation concurrently with recordation of the Grant Deed is hereby given.

4. Each Party to this Agreement ("**Indemnitor**") hereby indemnifies the other Party ("**Indemnitee**") against any loss, cost, damage, liability or expense suffered by the Indemnitee as a result of such Indemnitor's negligence or willful misconduct under this Agreement, including reasonable attorney fees and costs in connection therewith and in enforcing this indemnity. This indemnity shall survive the termination of this Agreement.

5. The provisions of this Agreement are severable, and if one or more provisions or subcomponents should be determined to be judicially unenforceable, in whole or in part, the remaining provisions or subcomponents thereof shall nevertheless be binding and enforceable and the Parties will in good faith negotiate amendments to replace the unenforceable provisions and restore the original purpose and intent of this Agreement.

6. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

7. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the Water Rights, Property, or associated wells or water facilities to the general public, or for any public use or purpose whatsoever. No right, privileges or immunities

of either of the Parties shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the provisions contained herein.

8. The Parties agree to execute and deliver to the Party or Parties requesting the same such other documents as may be necessary or appropriate.

9. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as any original instrument and as if both of the Parties to the aggregate counterparts had signed the same instrument. Any signature page of this Agreement may be detached by any Party from any counterpart hereof without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.

10. The validity and interpretation of this Agreement and the legal relations of the Parties to it shall be governed by the laws of the State of California.

11. This Agreement contains the entire agreement between the Parties regarding agency and supersedes all prior agreements and undertakings, whether oral or written.

12. This Agreement will commence as of the Effective Date and terminate upon the earlier to occur of (a) the delivery of ten (10) days' advance, written notice from I10 Logistics to Owner, or (b) the Beaumont Basin Watermaster's approval of the reallocation of the Overlying Water Rights from the Property to the Development Property or to I10 Logistics or a third party and the recordation of a deed at the County Recorder's Office transferring all of the Overlying Water Rights from the Property to the Development Property or to I10 Logistics or a third party. Upon any such termination, at the written request of Owner, I10 Logistics will cause a notice of termination of this Agreement to be recorded at the County Recorder's Office.

*[Signature Page(s) Attached]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates of execution indicated below.

**“OWNER”**

TSG CHERRY VALLEY, L.P., a California limited partnership

By: TSG GP, LLC, a Delaware limited liability company, its General Partner

By: \_\_\_\_\_  
Name:  
Title:

ACKNOWLEDGEMENT

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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 \_\_\_\_\_

(Seal)

*[Signatures Continue on Next Page]*

**“I10 LOGISTICS”**

I10 LOGISTICS OWNER, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Its:

ACKNOWLEDGEMENT

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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(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 \_\_\_\_\_

(Seal)

EXHIBIT "A"  
Legal Description of Property

Real property in the unincorporated area of the County of Riverside, State of California, described as follows:

PARCEL A-1: (APN: 407-200-011 AND PORTION OF APN: 407-210-001)

THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THE EAST 1000 FEET OF THE SOUTH 915 FEET.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

PARCEL A-2: (PORTION OF APN: 407-210-001)

THE WEST 28 ACRES OF THE SOUTH 56 ACRES OF THE EAST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF WOODLAND AVENUE, DISTANT NORTH 89° 34' 30" EAST ALONG SAID CENTER LINE, 1374.35 FEET FROM THE 1/4 CORNER IN THE WEST LINE OF SAID SECTION 29, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF SAID WEST 28 ACRES;

THENCE NORTH 0° 58' 15" EAST ALONG THE WESTERLY LINE OF SAID WEST 28 ACRES, 1311.10 FEET;

THENCE NORTH 52° 36' 40" EAST, 744.41 FEET TO A POINT IN THE NORTHERLY LINE OF SAID WEST 28 ACRES;

THENCE NORTH 89° 34' 30" EAST ALONG SAID NORTHERLY LINE, 116.26 FEET TO THE NORTHEAST CORNER OF SAID WEST 28 ACRES;

THENCE SOUTH 1° 23' 35" WEST 1759.23 FEET TO THE SOUTHEAST CORNER OF SAID WEST 28 ACRES IN THE CENTER LINE OF WOODLAND AVENUE;

THENCE SOUTH 89° 34' 30" WEST, 687.17 FEET TO THE POINT OF BEGINNING.

PARCEL B: (APN'S: 407-200-009 AND 407-210-004)

THAT PORTION OF THE WEST 28 ACRES OF THE SOUTH 56 ACRES OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF WOODLAND AVENUE DISTANT NORTH 89° 34' 30" EAST, ALONG SAID CENTER LINE 1374.35 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 29, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF SAID WEST 28 ACRES;

THENCE NORTH 0° 58' 15" EAST, ALONG THE WESTERLY LINE OF SAID WEST 18 ACRES, 1311.10 FEET;

Exhibit "F"



THENCE NORTH 52° 36' 40" EAST, 744.41 FEET TO A POINT IN THE NORTHERLY LINE OF SAID WEST 28 ACRES;

THENCE NORTH 89° 34' 30" EAST ALONG SAID NORTHERLY LINE 116.26 FEET MORE OR LESS, TO THE NORTHEAST CORNER OF SAID WEST 28 ACRES;

THENCE SOUTH 1° 23' 35" WEST, 1759.23 FEET TO THE SOUTHEAST CORNER OF SAID WEST 28 ACRES, SAID POINT BEING IN THE CENTER LINE OF WOODLAND AVENUE:

THENCE SOUTH 89° 34' 30" WEST, 687.17 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE PORTION INCLUDED IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

PARCEL C: (APN: 407-210-002)

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION, AT THE NORTHWEST CORNER OF THAT CERTAIN 28 ACRE PARCEL OF LAND GRANTED TO PAUL HYNEY AND MARY HYNEY, HIS WIFE, BY DEED RECORDED NOVEMBER 8, 1920 IN [BOOK 537 PAGE 191](#) OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID 28 ACRE PARCEL OF LAND, TO THE NORTHEAST CORNER THEREOF;

THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID 28 ACRE PARCEL OF LAND, PROLONGED NORTHERLY, BEING ALSO THE WEST LINE OF THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29, TO A POINT ON SAID LINE, DISTANT 300 FEET SOUTHERLY FROM THE NORTHERLY LINE OF SAID SECTION, SAID POINT BEING ALSO THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO JOSEPH E. HANNON BY DEED RECORDED JANUARY 31, 1927 IN [BOOK 704 PAGE 294](#) OF DEEDS, RECORDS OF RIVERSIDE COUNTY CALIFORNIA;

THENCE AT A RIGHT ANGLE WESTERLY, ALONG THE SOUTHERLY LINE OF SAID LAST DESCRIBED PARCEL, 300 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE AT A RIGHT ANGLE NORTHERLY, ALONG THE WESTERLY LINE OF SAID PARCEL, 300 FEET TO POINT ON THE NORTHERLY LINE OF SAID SECTION 29;

THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID SECTION 29, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION;

THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29, TO THE POINT OF BEGINNING.

PARCEL D: (APN: 407-200-012)

PARCEL 2 AS SHOWN ON LOT LINE ADJUSTMENT NO. 4312 AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 14, 2000 AS INSTRUMENT NO. [00-497943](#) OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Exhibit "F"

THE EAST 1000 FEET OF THE SOUTH 915 FEET OF THE WEST ONE HALF OF THE NORTHWEST  
QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF IN CHERRY VALLEY BOULEVARD ON THE SOUTH.

Exhibit "F"

Exhibit "G"

**Form of Assignment and Assumption of Lease**

**ASSIGNMENT AND ASSUMPTION OF LEASE**

THIS ASSIGNMENT AND ASSUMPTION OF LEASE ("**Assignment**"), dated as of December \_\_, 2020, is entered into by and between **TSG CHERRY VALLEY, L.P.**, a California limited partnership ("**Assignor**"), and **BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION**, a California public benefit corporation ("**Assignee**"), with reference to the following facts:

A. Assignor and Assignee are parties to that certain *Donation Agreement* dated as of December \_\_, 2020 (as the same may be amended from time to time, the "**Donation Agreement**"), pursuant to which Assignor is donating, and Assignee is accepting, the Property as described therein. Capitalized terms used herein and not separately defined have the meanings ascribed to them in the Donation Agreement.

B. A portion of the Property is subject to that certain *Lease* dated as of May 15, 2006 (as the same may have been amended from time to time, the "**Lease**"), by and between Assignor, as successor-in-interest to Albor Properties III, LP, a California limited partnership, as "Landlord", and Hector Gutierrez, an individual, as "Tenant".

C. Pursuant to the terms of the Donation Agreement, Assignor and Assignee are entering into this Assignment concurrently with the Closing in order to assign to Assignee all of Assignor's rights under the Lease and for Assignee to assume all obligations of Assignor thereunder arising from and after the Effective Date (as defined below).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment.** Effective as of the date of recordation of the Grant Deed conveying the Property to Assignee (the "**Effective Date**"), Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Lease.

2. **Assumption.** Effective as of the Effective Date, Assignee hereby assumes the foregoing assignment and accepts all of Assignor's obligations under the Lease arising from and after the Effective Date; provided that Assignor shall remain responsible for providing water to Tenant as and to the extent described in the Donation Agreement.

3. **Indemnity.** Assignee shall defend, protect, indemnify and hold harmless Assignor and its affiliates from and against any and all loss, cost, liability, expense, claim, action, damages, and fines (including those arising from loss of life, personal injury and/or property damage), together with Assignor's attorneys' fees reasonably incurred, arising from or out of any breach, default or

failure by Assignee to perform Assignee's obligations under the Lease occurring from and after the Effective Date. Assignor shall defend, protect, indemnify and hold harmless Assignee and its affiliates from and against any and all loss, cost, liability, expense, claim, action, damages, and fines (including those arising from loss of life, personal injury and/or property damage), together with Assignee's attorneys' fees reasonably incurred, arising from or out of any breach, default or failure by Assignor to perform Assignor's obligations under the Lease occurring prior to the Effective Date.

4. **Counterparts.** This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. This Assignment may also be delivered by electronic mail transmission (in pdf or similar format) with the same force and effect as if an original executed counterpart "hard" copy of this Amendment had been delivered by the delivering party.

5. **Amendment to This Assignment.** The terms of this Assignment may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

6. **Applicable Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of California.

7. **Entire Agreement.** This Assignment supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between Assignor and Assignee as to the subject matter hereof.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the day and year first written above.

**“Assignor”**

TSG CHERRY VALLEY, L.P., a California limited partnership

By: TSG GP, LLC, a Delaware limited liability company, its General Partner

By: \_\_\_\_\_

Name:

Its:

**“Assignee”**

BEAUMONT-CHERRY VALLEY RECREATION & PARK IMPROVEMENT CORPORATION, a special district of the State of California

By: \_\_\_\_\_

Name: Duane Burke

Title: General Manager

Exhibit “G”