

RESOLUTION NO. 24-4794

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, APPROVING THE EXCHANGE OF A PORTION OF CITY-OWNED REAL PROPERTY (APN 963-060-086) FOR THE REAL PROPERTY LOCATED AT APN 963-060-065 PLUS PAYMENT OF \$1,000,000 FOR THE PURPOSE OF DEVELOPING A NEW FIRE STATION TO SERVE THE COMMUNITY

WHEREAS, the City of Murrieta (“City”) has identified a critical need to establish a new fire station to enhance emergency response capabilities and ensure the safety and well-being of our community; and

WHEREAS, the proposed site for the new fire station (“New Fire Station”) is located at the southeast quadrant of Clinton Keith Road and Los Alamos Road identified as APN 963-060-065 as depicted on Exhibit A (“New Fire Station Parcel”); and

WHEREAS, the Fire Station Parcel is currently owned by Scott-Murrieta Service Station, LP, a California limited partnership, Bonsall Service Station, LP, a California limited partnership and Murrieta Marketplace Holdings, LP, a California limited partnership (collectively the “Private Owner”) and has a fair market value of \$1,500,000 as determined by an appraisal; and

WHEREAS, the City owns that certain unimproved real property located at the Southwest corner of Clinton Keith Road and Porth Road identified as APN 963-060-079 (“City Parcel”); and

WHEREAS, a portion of the City Parcel as depicted on Exhibit A (“City Exchange Parcel”) is an undeveloped property and has a fair market value of \$500,000 as determined by an appraisal; and

WHEREAS, to facilitate the establishment of the New Fire Station, Staff recommends the City exchange the City Exchange Parcel for the New Fire Station Parcel in accordance with the Exchange Agreement and Joint Escrow Instructions attached hereto as Exhibit B (“Exchange Agreement”) which will require City to also pay the sum of \$1,000,000 to the Private Owner which is the difference in the fair market values of the respective properties; and

WHEREAS, pursuant to the Surplus Property Land Act (Government Code Sections 54220 et seq (“SLA”), the California Department of Housing & Community Development (“HCD”) issued a letter dated October 16, 2024 confirming that the proposed exchange qualifies as exempt from the SLA pursuant to exemption in Government Code Sections 54221(f)(1)(C).

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF MURRIETA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Recitals set forth above are incorporated herein as if set forth in full.

Section 2. The Fire Station Parcel is an appropriate and authorized location to develop the New Fire Station.

Section 3. The City Exchange Parcel is surplus land not needed for any City use.

Section 4. The City Exchange Parcel is approved for transfer to the Private Owner in exchange for the concurrent transfer of the Fire Station Parcel to the City plus the payment of \$1,000,000 to the Private Owner pursuant to the Exchange Agreement.

Section 5. The City Manager or designee is hereby authorized and directed to proceed to conduct due diligence on the New Fire Station Parcel and to execute all documents on behalf of the City, including execution of the Exchange Agreement and all related escrow, closing, and similar documents necessary to finalize the exchange pursuant to the Exchange Agreement.

PASSED, APPROVED, AND ADOPTED this 19th day of November, 2024.

Lori Stone, Mayor

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

Tiffany Israel, City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)§
CITY OF MURRIETA)

I, Cristal McDonald, City Clerk of the City of Murrieta, California, do hereby certify that the foregoing Resolution No. 24-4794 was duly passed and adopted by the City Council of the City of Murrieta at the regular meeting thereof, held on the ___ day of _____, 2024, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cristal McDonald, City Clerk

Attachments

Exhibit A – Depiction of Exchange Properties

Exhibit B – Exchange Agreement

**EXHIBIT A
DEPICTION OF EXCHANGE PARCELS**



EXHIBIT B
EXCHANGE AGREEMENT

EXCHANGE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS EXCHANGE AGREEMENT AND JOINT ESCROW INSTRUCTIONS is made this ___ day of _____, 2024, by and between CITY OF MURRIETA, a California municipal corporation (“**City**”), and SCOTT-MURRIETA SERVICE STATION, LP, a California limited partnership, as to a 40% interest, BONSALL SERVICE STATION, LP, a California limited partnership as to a 40% interest and MURRIETA MARKETPLACE HOLDINGS, LP, a California limited partnership as to a 20% interest (jointly and severally the “**Private Owner**”).

RECITALS

A. City owns unimproved real property located at southwest corner of Clinton Keith Road and Porth Road in the City of Murrieta, Riverside County, State of California (a portion of APN 963-060-079), which property is legally described and depicted on **Exhibit A**, (“**City Property**”).

B. The Private Owner owns real property located at the southeast quadrant of Clinton Keith Road and Los Alamos Road improved only as a parking lot with lights in the City of Murrieta, County of Riverside (APN 963-060-065) and legally described and depicted on **Exhibit B** (“**Private Owner Property**”).

C. The City Property and the Private Owner Property are sometimes hereinafter jointly referred to as the “**Properties**.”

D. Upon the covenants, terms, conditions and provisions set forth in this Agreement, the parties desire to transfer (i) the City Property to the Private Owner, and (ii) the Private Owner Property to the City.

AGREEMENTS

NOW, THEREFORE, in consideration of the promises, covenants, representations and warranties hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and the Private Owner agree as follows:

1. **DEFINITIONS.** All capitalized terms which are not otherwise defined herein shall have the meanings set forth in **Addendum 1**.

2. **EXCHANGE OF PROPERTIES.** The parties agree to exchange the City Property and the Private Owner Property in AS-IS condition and upon the terms and conditions in this Agreement. For purposes of this Agreement, the Party that is acquiring a Property is hereinafter referred to as the “**Acquiring Party**,” the transferring Party is referred to as the “**Transferring Party**” and the respective Property being acquired by the Acquiring Party is referred to as the “**Acquisition Property**” and the respective Property being

conveyed is referred to as the “**Transfer Property.**” The parties hereby agree that it is a condition to the Closing that each party performs with respect to its respective conveyance of its Transfer Property and acquisition of the respective Acquisition Property, and that one party’s breach with respect to a conveyance of its Transfer Property or the acquisition of the Acquisition Property shall be deemed the failure of a condition precedent to Closing for the benefit of the other party hereto and this Agreement shall terminate at the election of the other party.

3. VALUATION OF PROPERTIES; ADDITIONAL CONSIDERATION.

3.1. Exchange Values of Properties. The parties agree that the value of the Properties are as follows:

- (i) **City Property Valuation.** The City Property has a value of Five Hundred Thousand Dollars (\$500,000).
- (ii) **Private Owner Property Valuation.** The Private Owner Property has a value of One Million Five Hundred Thousand Dollars (\$1,500,000).

3.2. Valuation Difference. At Closing, City owes to the Private Owner the sum of One Million Dollars (\$1,000,000) which is the difference in the values of the Properties (“**Valuation Difference**”) to Private Owner.

4. DEPOSIT.

4.1 Deposit. City shall deliver the sum of Fifty Thousand Dollars (\$50,000) (“**Deposit**”) to the Escrow Agent within three (3) Business Days of the Effective Date.

4.2 Payment at Closing. City shall deposit in Good Funds the Valuation Difference less the Deposit with Escrow Agent on or before the Closing Date.

4.3 Escrow Agent. All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Agent with any bank doing business in California and may be disbursed to any other general escrow account or accounts.

5. INSPECTION REVIEW PERIOD. During the Inspection Review Period, Acquiring Party shall have the right to inspect the Acquisition Property and to conduct the Inspection Review as more fully set forth below.

5.1 Inspection Review. Commencing upon Opening of Escrow, Transferring Party grants Acquiring Party, its agents and employees, a limited license to enter upon the Acquisition Property for the purpose of conducting engineering surveys, soil tests, investigations or other studies reasonably necessary to evaluate the condition

of the Acquisition Property, which studies, surveys, reports, investigations and tests shall be done at Acquiring Party's sole cost and expense.

Prior to entry onto the Acquisition Property, Acquiring Party shall (i) notify Transferring Party the date and purpose of each intended entry together with the names and affiliations of the persons entering the Acquisition Property; (ii) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Acquisition Property during or after such investigation; (iii) comply with all applicable laws and governmental regulations; (iv) allow an employee of Transferring Party to be present at Transferring Party's election; (v) keep the Acquisition Property free and clear of all materialmen's liens, lis pendens and other liens arising out of the entry and work performed under this provision; (vi) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) on all persons entering the Acquisition Property in the amounts required by the State of California; (vii) provide to Transferring Party prior to initial entry a certificate of insurance evidencing that Acquiring Party has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than TWO MILLION DOLLARS (\$2,000,000) which insurance names Transferring Party as additional insured; (viii) return the Acquisition Property to substantially its original condition following Acquiring Party's entry; (ix) provide Transferring Party copies of all third party studies, surveys, reports, investigations and other tests derived in conjunction with this Agreement with the right to use same ("**Reports**"); and (x) to take the Acquisition Property at closing subject to any title exceptions caused by Acquiring Party exercising this right to enter.

Acquiring Party agrees to indemnify, and hold Transferring Party free and harmless from and against any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) which Transferring Party may suffer or incur as a consequence of Acquiring Party's exercise of the license granted pursuant to this Section 5.1 or any act or omission by Acquiring Party, any contractor, subcontractor or material supplier, engineer, architect or other person or entity acting by or under Acquiring Party (except Transferring Party and its agents) with respect to the Acquisition Property, excepting any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) arising from the mere discovery by Acquiring Party of any hazardous materials or conditions, and excepting any claims that arise out of the negligence or misconduct of Transferring Party. Acquiring Party's obligations under this Section shall survive termination of this Agreement for any reason.

The parties agree that breach of any entry or restoration conditions in this Section by a party shall constitute a material breach of this Agreement by that party.

5.2 Inspection Materials.

- a. **City to Deliver.** City, at City's expense, on or before the City's

Delivery Date, shall deliver or cause to be delivered to the Private Owner the Inspection Materials (listed on **Exhibit C-1**). To City's actual knowledge, none of the information contained in any of the Inspection Materials is false, untrue, or misleading. Further, City agrees to immediately update the Inspection Materials from the Effective Date until Closing upon City's obtaining of any new or additional information or documentation constituting any of the foregoing.

b. **Private Owner to Deliver.** The Private Owner, at the Private Owner's expense, on or before the Private Owner's Delivery Date, shall deliver or cause to be delivered to the City the Inspection Materials (listed on **Exhibit C-2**). To Private Owner's actual knowledge, none of the information contained in any of the Inspection Materials is false, untrue, or misleading. Further, the Private Owner agrees to immediately update the Inspection Materials from the Effective Date until Closing upon the Private Owner's obtaining of any new or additional information or documentation constituting any of the foregoing.

5.3 Natural Hazard Disclosure Report. Within three (3) Business days of the Opening of Escrow, Escrow Agent shall cause a commercial natural hazard disclosure report with environmental information to be issued by Disclosure Source ("**NHD Report**") for each Property to be delivered to the Acquiring Party to review and approved during the Inspection Review Period.

5.4 Notice of Acceptance of Property Condition and Termination Right. At any time prior to the expiration of the Inspection Review Period, Acquiring Party shall have the right to approve the condition of the Acquisition Property in its sole and absolute discretion by delivering to the Transfer Party a Notice of Acceptance of Property Condition. If Acquiring Party has not delivered to Transferring Party, a Notice of Acceptance of Property Condition, in the time and manner provided for the giving of notice as set forth in this Agreement, prior to the expiration of the Inspection Review Period, then (a) this Agreement shall be deemed terminated, except for any agreements or covenants that survive termination, and (b) the Deposit less any cancellation charges shall be returned to party which delivered to Escrow the Deposit pursuant to Section 4.1.

5.5 Transferring Party's Cooperation. The Transferring Party shall reasonably cooperate (at no cost, expense, or liability to the Transferring Party) with Acquiring Party and Acquiring Party's consultants, agents, employees, and contractors in connection with Acquiring Party's Inspection Review, including without limitation, in any requests to obtain information about the Transfer Property then in the possession of the Transferring Party or its consultants, agents, employees, and contractors. In addition, the Transferring Party shall aid Acquiring Party in obtaining any reliance letters from Transferring Party's consultants, agents, and representatives and the Deposit less any cancellation charges shall be returned to City.

5.6 Certificate of Compliance. With respect to the transfer of the City Property to the Private Owner, City shall provide a certificate of compliance for the Private

Owner Property to be recorded at the Closing after recordation of the City Property Deed (“**Certificate of Compliance**”).

6. TITLE REVIEW.

6.1. Title Review. The Title Company shall deliver a current Title Report within five (5) Business Days of the Opening of Escrow to the Acquiring Party for the Acquisition Property. Acquiring Party shall have until the expiration of the Title Objection Period to review the Title Report and provide Title Objections thereto. If Acquiring Party fails to provide any response either (i) accepting all items described or shown on the Title Report, or (ii) indicating its Title Objections within the Title Objection Period, then the condition of title to the Property reflected on the Title Report will be deemed disapproved. If the Title Objections are made within the Title Objection Period, City shall determine, in its sole discretion as to each Title Objection, whether or not the Transferring Party is willing or able to eliminate or obtain affirmative coverage over each of the Title Objections. Within ten (10) days after receipt of Acquiring Party’s Title Objections, Transferring Party shall notify Acquiring Party in writing as to those Title Objections that Transferring Party will cause to be cured, eliminated or insured over at the Closing. Notwithstanding the foregoing, Transferring Party shall be obligated to eliminate any deeds of trust, mortgages, judgment liens, mechanics’ liens, materialmen’s liens and other liens (collectively, “**consensual liens**”) recorded against the Property. If: (A) Transferring Party’s written notice indicates that Transferring Party is unable or unwilling to eliminate or provide affirmative coverage over any Title Objections (other than consensual liens), upon terms acceptable to Acquiring Party in Acquiring Party’s sole discretion, or (B) Transferring Party fails to respond to the Title Objections within the period of time provided above, then Acquiring Party may (i) waive the Title Objections that Transferring Party was unwilling or unable to cure by delivering a Notice of Acceptance of Property Condition, or (ii) Acquiring Party may terminate this Agreement by either delivering a termination notice or failing to deliver a Notice of Acceptance of Property Condition, whereupon the Deposit (less cancellation charges) shall be returned to Acquiring Party, and except as otherwise provided herein, neither Acquiring Party nor Transferring Party shall have any further right, liability, duty or obligation under this Agreement, except for agreements or covenants that specifically survive termination.

6.2. Amendments to Title Report. If at any time during the effective period of this Agreement the Title Report is amended, modified or changed, Acquiring Party shall have until the later of (a) the Title Objection Period, or (b) the earlier of (i) ten (10) Business Days after receipt of such amended Title Report and all documentation referred to therein, or (ii) the Closing Date, in which to review such amendment, modification or change and provide any Title Objections related thereto to Transferring Party. Not more than (5) days after Transferring Party’s receipt of any such Title Objections, Transferring Party shall notify Acquiring Party in writing as to those Title Objections that Transferring Party will cause to be cured, eliminated or insured over at the Closing. If Transferring Party’s written notice indicates that Transferring Party is unable or unwilling to eliminate or provide affirmative coverage over any such Title Objections to the amended Title Report, upon terms acceptable to Acquiring Party in

Acquiring Party's sole discretion, then Acquiring Party within ten (10) Business Days, and notwithstanding Acquiring Party's delivery of any prior Notice of Acceptance of Property Condition, may (1) waive the Title Objections that Transferring Party was unwilling or unable to cure and consummate the Exchange Agreement subject to the other terms and conditions in this Agreement, or (2) Acquiring Party may terminate this Agreement by either giving a termination notice or failing to deliver a Notice of Acceptance of Property Condition, whereupon the Deposit less cancellation charges shall be returned to Acquiring Party, and except as otherwise provided herein, neither Acquiring Party nor Transferring Party shall have any further right, liability, duty or obligation under this Agreement, except for agreements or covenants that specifically survive termination.

6.3. Title Policies. At Closing, the Title Company shall issue to the Acquiring Party the Title Policy for the Acquisition Property in the amount of the valuation of the Acquisition Property (as set forth in Section 3.1 subject only to the Permitted Exceptions, to be paid pursuant to Section 7.4.2 ("**Title Policy**"). Acquiring Party may obtain such endorsements as Acquiring Party may reasonably require or desire (to be paid for by the party referenced in Section 7.4.2, except to the extent Transferring Party has agreed to pay for any such endorsements with respect to Transferring Party's curing of any Title Objection). If Acquiring Party desires to obtain an ALTA extended coverage Acquiring Party's title policy, Acquiring Party shall pay the additional cost for the extended coverage and shall provide a Survey at its sole cost to the Title company. The Title Policy to be delivered to each Acquiring Party are jointly referred to as the "**Title Policies.**"

7. CLOSING DELIVERIES; ESCROW INSTRUCTIONS; CLOSING COSTS.

7.1. City's Closing Deliveries. At least two (2) Business Days prior to the Closing, City shall deliver, or cause to be delivered, to Escrow Agent and the Private Owner, as applicable:

- 7.1.1. The City Property Deed fully executed and properly acknowledged by City;
- 7.1.2. A Certificate of Acceptance executed by the City to be attached to the Private Owner Property Deed prior to recordation;
- 7.1.3. A settlement statement signed by City, which is reasonably acceptable to City and accurately reflects the payments, credits, and prorations required herein;
- 7.1.4. Any documents including an owner's certificate as reasonably required by the Title Company as reasonably required;
- 7.1.5. The Certificate of Compliance for the City Property;
- 7.1.6. Such other funds, instruments and documents as may be reasonably requested by The Private Owner or Escrow Agent, or reasonably

necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to City's prior approval thereof, which approval shall not be unreasonably withheld, delayed or conditioned).

7.2. Private Owner's Closing Deliveries. At least two (2) Business Days prior to the Closing, the Private Owner shall deliver to Escrow Agent:

- 7.2.1 All funds required to be paid by the Private Owner including, but not limited to, the Valuation Difference less the Deposit and all expenses to be paid by the Private Owner;
- 7.2.2 The Private Owner Property Deed fully executed and acknowledged by the Private Owner;
- 7.2.3 A settlement statement signed by the Private Owner, which is reasonably acceptable to the Private Owner and accurately reflects the payments, credits and prorations required herein; and
- 7.2.4 Such other funds, instruments and documents as may be reasonably requested by City or Escrow Agent, or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to the Private Owner's prior approval thereof, which approval shall not be unreasonably withheld, delayed or conditioned).

7.3. Escrow Provisions.

7.3.1 Escrow Instructions. Sections 1 through 4, 6, 7, 8, 11, and 14 through 33 constitute the escrow instructions to Escrow Agent. If required by Escrow Agent, the Private Owner and City agree to execute Escrow Agent's standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail. The terms and conditions in sections of this Agreement not specifically referenced above are additional matters for information of Escrow Agent, but about which Escrow Agent need not be concerned. The Private Owner and City will receive Escrow Agent's general provisions directly from Escrow Agent and will execute such provision upon Escrow Agent's request. To the extent that the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Agent only. The Private Owner and City agree to execute additional instructions, documents and forms provide by Escrow Agent that are reasonably necessary to close Escrow.

7.3.2 General Escrow Provisions. Escrow Agent shall deliver the Title Policy for the Acquisition Property to the Acquiring Party and instruct the Riverside County Recorder to mail (i) the City Property Deed and the Certificate of Compliance to the

Private Owner; and (ii) the Private Owner Property Deed to the City, at the applicable address for said party as set forth in Section 15 after recordation.

7.3.3 Termination and Cancellation of Escrow. If Escrow fails to close as provided in this Agreement, either party may elect to cancel this Escrow upon written notice to the other party and Escrow Agent. Upon cancellation, Escrow Agent is instructed to return all funds and documents then in Escrow to the respective depositor of the same with Escrow Agent. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights the Private Owner or City may have against each other arising from the Escrow or this Agreement.

7.3.4 Information Report. Escrow Agent shall file and the Private Owner and City agree to cooperate with Escrow Agent and with each other in completing any report (“**Information Report**”) and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form 1099-B as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto. The Private Owner and City also agree that the Private Owner and City, their respective employees and attorneys, and Escrow Agent and its employees, may disclose to the Internal Revenue Service, whether pursuant to such Information Report or otherwise, any information regarding this Agreement or the transactions contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e), and further agree that neither the Private Owner nor City shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

7.3.5 No Withholding as Foreign City. The Transferring Party represents and warrants to the Acquiring Party that the Transferring Party is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 and that it will deliver to Acquiring Party on or before the Close of Escrow a non-foreign affidavit on Escrow Agent's standard form pursuant to Internal Revenue Code Section 1445(b)(2) (“**FIRPTA Affidavit**”).

7.3.6 Prorations and Closing Costs.

7.3.6.1 Attorney's Fees. Except as expressly set forth in this Agreement, each party must bear its own costs (including attorneys' fees) in connection with its negotiation, due diligence investigation and conduct of this transaction.

7.3.6.2 Title Costs. At Closing, the Transferring Party shall pay the premium for a standard ALTA non-extended (standard) owner's title policy (“**Standard Coverage**”) insuring the Transfer Property in the amount of the valuation of the respective Property as set forth in Section 3.1. The

Acquiring Party will be responsible for the cost of any extended coverage in an amount equal to the difference between the extended coverage and the Standard Coverage, and any endorsements, to the extent the Transferring Party does not agree to purchase such endorsements in order to cure any title defects.

7.3.6.3 Recording Fees. Recording fees for the City Property Deed to the Private Owner (and the Certificate of Compliance) shall be paid by the Private Owner. Recording fees for the Private Owner Property to the City shall be the responsibility of City which, as a governmental entity, is exempt from recording fees.

7.3.6.4 Escrow Fees. Escrow fees shall be split equally between the parties.

7.3.6.5 Real Estate Taxes. As City is exempt from real estate taxes, no proration of such taxes shall be made for the City Property. Real estate taxes for the Private Owner Property shall be prorated to the Closing.

7.3.6.6 NHD Reports. The Transferring Party shall be responsible for the cost of the NHD Report for the Transfer Property.

7.3.6.7 Utility Charges. All municipal charges or utilities shall be prorated to the parties as of the Closing Date for Private Owner Property. The Private Owner shall provide a summary of any utility charges to the City with a copy to Escrow at least five (5) days prior to the Closing Date.

7.3.6.8 Documentary Transfer Taxes. City shall pay documentary transfer taxes for the transfer of the City Property to the Private owner. The transfer of the Private Owner Property to City is exempt under R&T Code 11922.

7.3.6.9 Other Charges. All other closing costs shall be allocated between parties in the manner customary for commercial real estate transactions in the metropolitan area or city in which the Properties are located.

7.4. Possession. The Acquiring Party shall be entitled to possession of the Acquisition Property on the Closing Date free of any third party's claims of possession.

7.5. Authority of City Manager. City designates its City Manager or his designee, in his sole and exclusive discretion on behalf of the City, shall have the authority to approve written requests for extending any deadline under this Agreement. All extensions shall be in writing and executed by the City Manager or his designee.

8. CONDITIONS PRECEDENT AND CONTINGENCIES TO THE CLOSING.

8.1 Conditions Precedent to Private Owner's Obligations. The Private Owner's obligation to close, fund, and consummate the exchange transaction is specifically conditioned and contingent on the fulfillment, satisfaction, and/or completion of all of the following:

- a. City's delivery of each of the items described in Section 7.2 above.
- b. The Title Company commits to issue the Title Policies pursuant to Section 6.
- c. City's delivery of the City Property Deed for recordation at the Closing.
- d. City's delivery of a Certificate of Compliance for the City Property which shall be recorded at the Closing.
- e. City's satisfaction of all other obligations of City described in this Agreement.
- f. The parties agreeing on other agreements that will be assigned and/or terminated at Closing and then negotiating the terms of any assignment or termination agreement necessary to effectuate such.
- g. City is not in breach of its obligations under this Agreement.

The conditions set forth in this Section 8.1 are for the benefit of the Private Owner, and the Private Owner may waive any or all of the conditions and proceed to Closing

8.2 Conditions Precedent to City's Obligations. City's obligation to close and consummate the exchange transaction is specifically conditioned and contingent on the fulfillment, satisfaction, and/or completion of all of the following:

- a. The Private Owner's delivery of the Valuation Difference (less the Deposit) as provided in Section 3 of this Agreement.
- b. The Private Owner's delivery of all documents required in Section 7.1 including the Private Owner Property Deed recordation at Closing.
- c. The Title Company commits to issue the Title Policies pursuant to Section 6.
- d. The Private Owner's satisfaction of all other obligations of the Private Owner described in this Agreement.
- e. The Private Owner is not in default under this Agreement.

The conditions set forth in this Section 8.2 are for the benefit of City, and City may waive any or all of the conditions and proceed to Closing.

9. REPRESENTATIONS, WARRANTIES AND COVENANTS.

9.1. Representations and Warranties. Each Transferring Party, to the best of knowledge of the Transferring Party, as of the Effective Date and as of the Closing, represents and warrants to the Acquiring Party each of the following.

- a. **Authority and/or Capacity.** Transferring Party is duly formed, validly existing and authorized to do business under the laws of the State of California.
- b. **Binding Agreement.** Upon Transferring Party's execution of this Agreement, this Agreement shall be binding and enforceable against Transferring Party in accordance with its terms, and upon Transferring Party's execution of the additional documents contemplated by this Agreement, such additional documents shall be binding and enforceable against Transferring Party in accordance with their terms.
- c. **Good and Marketable Title.** Transferring Party has good, marketable, and insurable sole, fee simple, record title to the Transfer Property.
- d. **Encumbrances.** The Transfer Property is not currently encumbered by any mortgages or leases and no third party is in possession or has the right to possession of same.
- e. **No Condemnation.** Transferring Party has not received any written notice of condemnation or eminent domain proceedings with respect to the Transfer Property, and no condemnation or eminent domain proceedings or negotiations have been commenced or threatened in connection with the Transfer Property.
- f. **No Litigation or Investigation.** There are no actions, suits, proceedings or investigations, at law or in equity, or before any governmental agency, courts, tribunals, panels, or similar adjunctive bodies pending or threatened, affecting or involving the Transfer Property or any portion thereof.
- g. **Hazardous Materials.**
 - i. Except as expressly set forth in any of the Inspection Materials or otherwise disclosed in the NHD Report, to Transferring Party's knowledge, (i) there are no Hazardous Materials in, on, over, under or around the Transfer Property, (ii) there are no wells, underground storage tanks, covered surface impoundments or other potential sources of Hazards Materials on the Transfer Property, (iii) there has

been no storage, use, manufacture, generation, distribution, refinement, production, transportation, disposal, treatment or release of any Hazardous Materials in, on, over, under or around the Transfer Property, and (iv) and all previous owners of the Transfer Property, have complied with all Environmental Laws with respect to the Transfer Property.

- ii. From the Effective Date through the Close of Escrow, the Transferring Party shall not cause or permit the presence, storage, use, manufacture, generation, distribution, refinement, production, transportation, disposal, treatment or release of any Hazardous Materials in, on, over, under or around the Transfer Property.
 - iii. Except as expressly set forth in any of the Inspection Materials, to Transferring Party's knowledge without any investigation, there are no Hazardous Materials on, under, or in any neighboring or adjacent properties which, through soil or groundwater migration, or through any other transfer, seepage, or leakage, could have moved to (or could be currently moving to) the Transfer Property.
- h. **Inspection Materials.** Transferring Party has delivered or will deliver within the time period described in Section 5.2, to the Acquiring Party copies of all Inspection Materials of any kind in Transferring Party's (or its agents') possession. Except as disclosed in the Inspection Materials, Transferring Party has not entered into, and has no knowledge of, any other contracts, leases, or other agreements of any kind (whether written or oral) with respect to the Transfer Property or any portion(s) thereof. In addition, as of the Closing, Transferring Party has delivered to the Acquiring Party any and all updated information and documentation of any kind related to the Inspection Materials (i) that have been received by Transferring Party during the effective period of this Agreement, or (ii) of which Transferring Party has received notice during the effective period of this Agreement.
- i. **No Defaults.** Transferring Party is not in default under any contracts or agreements of any kind related to the Transfer Property which contracts or agreements will survive the Closing.
- j. **Utilities.** There are no utilities supplied to the City Property. Only electricity and water are supplied to the Private Owner Property.
- k. **Current Compliance.** To the Transferring Party's knowledge, the Transfer Property is currently in compliance with all applicable federal, state, and local laws, codes, statutes, ordinances, rules, and regulations.
- l. **Floodplain/Endangered Species.** Transferring Party has no knowledge of any endangered species, wetland, protective plant life, geophysical feature

or attribute or other physical attribute of the Transfer Property that may prohibit or limit the development thereof. The Transfer Property is not within the 100-year flood plain.

All representations and warranties by Transferring Party set forth in this Agreement shall survive for a period of one (1) year following the Closing.

9.2. Covenants. Commencing on the Effective Date, Transferring Party shall:

- a. Not enter into any contracts, leases, or agreements related in any way to the Transfer Property which would survive the Closing;
- b. Not cause, permit, or allow any encumbrance or lien to be placed on the Transfer Property, or any document or agreement to be recorded against the Transfer Property which would survive the Closing; and
- c. Maintain the Transfer Property in the state as of the Effective Date.

10. RISK OF LOSS. The risk of loss with respect to the Transfer Property will be upon Transferring Party until the Close of Escrow.

11. BROKERS. Each party represents and warrants to the other party that they have not dealt with any other broker or finder in connection with this Agreement or the Exchange Transaction. Each party indemnifies the other against, and agree to hold the other harmless from, any claim, demand or suit for any brokerage or real estate commission, finder's fee or similar fee or charge with respect to this Agreement or the Exchange Transaction based on any act by or agreement or contract with the indemnifying party asserted by anyone, and for all losses, obligations, costs, expenses and fees (including reasonable attorneys' fees) incurred by the other party on account of or arising from any such claim, demand or suit.

12. REMEDIES. In the event of a Default by a party, the non-defaulting party shall give defaulting party written notice of such default and thereafter defaulting party shall have ten (10) Business Days to cure such default (or such longer period if such is reasonably necessary in order to cure the default, not to exceed thirty (30) days, and then only if non-defaulting party commences such cure within the initial ten (10) Business Day period and thereafter diligently pursues the cure to completion). In the event that the non-defaulting party fails to cure a Default within the cure period, the non-defaulting party may, as its remedies for such Default: (i) waive the effect of such Default and proceed to consummate this Agreement; (ii) cancel this Agreement in accordance with Section 13 below; (iii) bring an action for specific performance of this Agreement; and/or (iv) seek and obtain any other remedy at law or in equity. The non-defaulting party's rights and remedies set forth in this Section 12 shall be cumulative and the pursuit or obtaining of any one remedy does not preclude the pursuit or obtaining of any other remedy.

13. TERMINATION. If the Private Owner or City elects to terminate this Agreement

pursuant to a right granted herein, the terminating party shall give written notice of the termination to the other party and Escrow Agent. Upon termination by notice as set forth in the preceding sentence, or upon an automatic termination in accordance with the terms of the Agreement, Escrow Agent shall disburse the Deposit less cancellation charges and return all documents deposited in the Escrow to the party who supplied the documents. Upon delivery of money and documents, this Agreement and the Escrow will be deemed terminated, and except as expressly provided in this Agreement, neither party will have any further liability or obligation under this Agreement. Upon termination of the Agreement because of a default by a party, the provisions of Section 12 shall apply and the defaulting party shall be liable for and shall pay any escrow termination fees or costs.

14. ATTORNEYS' FEES. If there is any litigation between the parties to enforce or interpret any provisions or rights under this Agreement, the unsuccessful party in such litigation, as determined by the court, shall pay to the successful party, as determined by the court, all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the successful party, such fees to be determined by the court sitting without a jury.

15. NOTICES. Except as otherwise required by law, any notice, demand or request given in connection with this Agreement shall be in writing and shall be given by (i) personal delivery, (ii) overnight courier service, or (iii) certified US mail, return receipt requested, postage or other delivery charge prepaid. In all events, notice shall only be deemed given if properly addressed to City or the Private Owner, as applicable. Such notices will be deemed properly addressed if the following addresses (or at such other address as City or the Private Owner or the person receiving copies may designate in writing given in accordance with this Section) are used:

City: City of Murrieta
1 Town Square
Murrieta, CA 92562
Attn: Scott Agajanian
Director of Economic Development

With a copy to: Aleshire & Wynder, LLP
1 Park Plaza Suite 1000
Irvine, CA 92614
Attn: Tiffany Israel, City Attorney

Private Owner: Scott-Murrieta Service Station, LP
Bonsall Service Station, LP
Murrieta Marketplace Holdings LP
c/o J & T Management
139 Radio Road
Corona, CA 92879
Attn: Jack Kofdarali

With a copy to:

Escrow Agent:

Fidelity National Title Insurance Company
3237 E. Guasti Rd., Ste. 105
Ontario, CA 91761
Mary Lou Adame, Escrow Officer

Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery; on the date of delivery to the overnight courier service, if such a service is used; and on the date of deposit in the mail, if mailed. Notice shall be deemed to have been received on the date on which the notice is either actually received or delivery is refused. Copies of all notices given to City or the Private Owner shall be given to Escrow Agent; provided, however, any omission on the part of either party to provide a copy of the applicable notice to Escrow Agent shall not affect the effectiveness of the notice if properly provided to the other parties as described above.

16. ADDITIONAL ACTS. The parties agree to promptly execute and deliver such other documents and perform such other acts as may be reasonably necessary to carry out the purposes and intent of this Agreement.

17. GOVERNING LAW; JURISDICTION. To the fullest extent possible, this Agreement shall be governed by, and construed and enforced in accordance with, the laws of California, without regard to any conflicts of law issues. Jurisdiction for any actions shall be in Riverside County.

18. BUSINESS DAYS. If this Agreement requires any act to be done or action to be taken on a date which is not a Business Day, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding Business Day after such date.

19. WAIVER. The waiver by any party hereto of any right granted to it hereunder shall not be deemed to be a waiver of any other right granted hereunder, nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.

20. SURVIVAL. Only where specifically so provided herein shall any of the covenants, agreements, representations, and warranties set forth in this Agreement survive the Closing. All indemnity provisions shall survive termination of this Agreement for any reason and shall survive the Closing. Any such matters that survive Closing pursuant to the terms of this Agreement shall be subject to any time limitations set forth herein and shall not merge into the deed conveying the Transfer Property, assignment or other instrument executed or delivered pursuant hereto.

21. COUNTERPARTS. This Agreement may be executed in multiple counterparts,

each of which shall be deemed an original, and all of which when taken together shall constitute one and the same document and agreement.

22. ASSIGNMENT. Neither party may assign, transfer or convey any of its rights and interests under this Agreement without the prior written consent of the other party. Notwithstanding any consent to an assignment, the assigning party shall not be relieved of liability under this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

23. ENTIRE AGREEMENT; AMENDMENT. This Agreement sets forth the entire understanding of the parties with respect to the matters set forth herein as of the date hereof, and supersedes all prior oral and written agreements, discussions and understandings of the parties hereto as to the matters set forth herein, and cannot be altered or amended except pursuant to an instrument in writing signed by both the Private Owner and City.

24. CONSTRUCTION. This Agreement is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. City and the Private Owner hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

25. INTERPRETATION. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intentions as expressed in this Agreement, which shall be deemed to prevail and control.

26. HEADINGS. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

27. NO THIRD-PARTY BENEFICIARY. No term or provision of this Agreement or the Exhibits hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, partnership, company, corporation or other entity that not a party hereto (including, without limitation, any broker), and no such other person, firm, partnership, company, corporation or other entity shall have any right or cause of action hereunder.

28. SEVERABILITY. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable

from all other provisions hereof so long as removing the severed portion does not materially alter the overall intent of this Agreement.

29. TIME OF ESSENCE. City and the Private Owner hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof and that failure to timely perform any of the conditions, obligations, or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable by the non-defaulting party) default under this Agreement by the party so failing to perform.

30. ELECTRONIC EXECUTION. This Agreement may be electronically executed by the parties in accordance with UETA and ESIGN using either DocuSign or AdobeSign. The parties understand that the documents to be recorded cannot be electronically executed.

31. AUTHORIZATION. Each individual executing this Amendment on behalf of Private Owner represents, warrants and covenants to City that (a) Private Owner is duly formed and authorized to do business in the state of its formation, (b) such person is duly authorized to execute and deliver this Amendment on behalf of Private Owner in accordance with authority granted under the organizational documents of Private Owner, and (c) Private Owner is bound under the terms of this Amendment.

32. REPRESENTATION. Each party has consulted their own attorney for advice on this Agreement and this transaction and is not relying on any advice from the other party.

33. EXHIBITS. The exhibits and addendum summarized below are attached hereto and incorporated herein by reference.

Addendum	Definitions
Exhibit A	Legal Description & Depiction of City Property
Exhibit B	Legal Description & Depiction of Private Owner Property
Exhibit C-1	Summary of Inspection Materials from City
Exhibit C-2	Summary of Inspection Materials from Private Owner
Exhibit D	City Property Grant Deed
Exhibit E	Private Owner Property Grant Deed
Exhibit F-1	Notice of Acceptance of Property Condition by City
Exhibit F-2	Notice of Acceptance of Property Condition by Private Owner

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, City and the Private Owner have executed this Agreement as of the Effective Date.

CITY:

CITY OF MURRIETA,
a California municipal corporation

By: _____
Kim Summers, City Manager

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Tiffany Israel, City Attorney

READ AND ACCEPTED:

ESCROW HOLDER:

FIDELITY NATIONAL TITLE INSURANCE
COMPANY

By: _____
MaryLou Adame, Escrow Officer

PRIVATE OWNER:

SCOTT-MURRIETA SERVICE
STATION, LP, a California limited
partnership

By: _____
Gregory Hann, General Partner

BONSALL SERVICE STATION, LP,
a California limited partnership

By: RKJK A NEVADA CO, LLC,
a Nevada limited liability company
General Partner

By: _____
Hagop Kofdarali
Managing Member

MURRIETA MARKETPLACE
HOLDINGS, LP, a California limited
partnership

By: RKJK A NEVADA CO, LLC,
a Nevada limited liability company
General Partner

By: _____
Hagop Kofdarali
Managing Member

ADDENDUM 1

DEFINITIONS

- 1.1 Acquiring Party** - The Party that is acquiring a Property.
- 1.2 Acquisition Property** - The respective Property being acquired by the Acquiring Party from the Transferring Party.
- 1.3 Agreement** – This Exchange Agreement, including all exhibits attached hereto.
- 1.4 Business Day** – A day other than a Saturday, Sunday or day on which banking institutions in California are authorized or required by law to be closed.
- 1.5 Certificate of Compliance** – A Certificate of Compliance under the Subdivision Map Act for the City Property.
- 1.6 City's Delivery Date** – Five (5) Business Days after the Opening of Escrow.
- 1.7 City Property** - The City Property (as defined in Recital A), together with (i) any landscaping and other improvements related thereto; (ii) City's right, title and interest as the property owner in any land lying in any street, road or avenue adjacent to the City Property, but excluding all easements and other rights held by City as a governmental agency; (iii) the water, oil, gas, sand, gravel, and mineral rights of any kind whatsoever related or appurtenant to such City Property, if any, which may be described in the Title Report; and (iv) the Inspection Materials.
- 1.8 City Property Deed** – A grant deed for the City Property in form attached as **Exhibit C** conveying the title of the Property from City to The Private Owner which includes the Construction Covenant.
- 1.9 Closing or Close of Escrow** - The consummation of the Exchange Transaction, as evidenced by: (i) satisfaction of all conditions to closing set forth herein; (ii) recording of the City Property Deed and the Private Owner Property Deed and the Certificate of Compliance, in that order; and (iii) the delivery to, and distribution by, Escrow Agent of all required funds and documents.
- 1.10 Closing Date** – On or before the date that is thirty (30) days after the expiration of the Inspection Review Periods but, in no event, later than _____, 20__.
- 1.11 Default** – Any default by a party of its agreements, covenants, representations, warranties or obligations under this Agreement.
- 1.12 Deposit** – The Deposit which is to be delivered by the City to Escrow Agent pursuant to Section 3.2.
- 1.13 Effective Date** – The date of this Agreement is executed by City after approval by the City Council of the City of Murrieta at a public hearing.
- 1.14 Environmental Laws** – Any and all federal, state, local, or municipal environmental law, act, edict, directive, decree, rule, statute, ordinance, or regulation, including without limitation, (i) the Comprehensive Environmental Response,

Compensation and Liability Act, 42 U.S.C.A. Section 9601, et. seq., (ii) the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 5101, et. seq., (iii) the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et. seq., (iv) the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et. seq., (v) the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et. seq., and (vi) state or local environmental laws, and (vii) any regulations related to any of the foregoing.

1.15 Escrow – The escrow created with the Escrow Agent pursuant to this Agreement.

1.16 Escrow Agent – Fidelity National Title Insurance Company, 3237 E. Guasti Rd., Ste. 105, Ontario, CA 91761 909.978.3020 MarylouAdame@fnf.com

1.17 Exchange Transaction – The exchange transaction contemplated by this Agreement.

1.18 Good Funds - A wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California.

1.19 Hazardous Materials – Any (a) hazardous, harmful, or toxic waste, substance, material, or product (including, without limitation, any and all petroleum based products) as presently defined by or under any Environmental Laws, or (b) other substance, material, or product prohibited, limited, or regulated by or under any such Environmental Laws.

1.20 Inspection Materials –The materials, writings, documents, leases, contracts, agreements, correspondence, notices, memorandums, letters, surveys, title reports, title commitments, plans, plats, reports, studies, and other information described in Section 5.2 and specifically listed on **Exhibits C-1 & C-2**.

1.21 Inspection Review – The right of the Acquiring Party to conduct, review, and approve any investigations, inspections, tests, reports, analyses, studies, or other matters deemed necessary, prudent, or desirable by Acquiring Party (in the Acquiring Party's sole discretion) to determine (i) the condition and/or fitness of the Acquisition Property, and (ii) the feasibility and/or desirability of acquiring the Acquisition Property.

1.22 Inspection Review Period – The period of time from the Effective Date through the date that is sixty (60) days after the Effective Date (or the next Business Day if such date lands on a weekend or holiday).

1.23 Local Authorities – Any and all governmental and other entities, agencies, and/or authorities with jurisdiction of any kind over all or any portion of the Properties. Any one of the Local Authorities may be referred to herein as a "**Local Authority**."

1.24 Notice of Acceptance of Property Condition – A written notice delivered from the Acquiring Party to the Transferring Party set forth in Section 5.3 of this Agreement stating the Acquiring Party's intent to purchase the Acquisition Property in accordance with the terms and conditions of this Agreement. The form of such notices is attached hereto as **Exhibits F-1 & F-2**.

1.25 Opening of Escrow – The date of delivery to and acceptance by Escrow Agent of a fully executed original of this Agreement together with Deposit and Escrow

Agent executes the “Escrow Agent Acceptance” form following the signature page(s) of this Agreement.

1.26 Private Owner Property Deed - A grant deed for the Private Owner Property in form attached as **Exhibit D** conveying the title of the Property from Private Owner to City.

1.27 Private Owner’s Delivery Date – Five (5) Business Days after the Opening of Escrow.

1.28 Private Owner Property – The Private Owner Property (as defined in Recital A) which is owned by the Private Owner as of the Effective Date together with (i) all landscaping and other improvements, if any, related thereto; (ii) Private Owner’s right, title and interest as the property owner in any land lying in any street, road or avenue in front of or adjoining thereto; (iii) the water, oil, gas, sand, gravel, and mineral rights of any kind whatsoever related or appurtenant to such property, if any, which may be described in the Title Report; and (iv) the Inspection Materials.

1.29 Private Owner Property – Valuation – The amount described in Section 3 as the agreed value of each Property.

1.30 Permitted Exceptions – All taxes and assessments against the Acquisition Property which are not yet due and payable as of the Closing Date, all other matters affecting title to the Acquisition Property contained in the applicable Title Report or shown on the Survey to the extent such matters are accepted by the Acquiring Party pursuant to the provisions of Section 6.1 of this Agreement and any exception caused by the Acquiring Party’s entry onto the Acquisition Property.

1.31 Properties – Both parcels of Property being exchanged under this Agreement.

1.32 Property – The City Parcel and the Private Owner Property which are being exchanged under this Agreement

1.33 Survey – An ALTA survey of the City Property, prepared at a party’s request and sole cost and expense which shall be certified to the requesting party by an experienced surveyor who is licensed in California.

1.34 Title Company – Fidelity National Title Insurance Company.

1.35 Title Objections – The Acquiring Party’s objections to any easements, liens, encumbrances, survey items, or other exceptions or matters in the Title Report and/or the Survey for the Acquisition Property. Any one of the Title Objections may be referred to individually as a “**Title Objection.**”

1.36 Title Objection Period – Same as the Inspection Review Period.

1.37 Title Policy – An ALTA non-extended owner’s policy of title insurance (or, in the Acquiring Party’s discretion, the Acquiring Party may elect to obtain an extended owner’s policy of title insurance) for the Acquisition Property in the amount of the applicable valuation set forth in Section 3.1, insuring the Acquiring Party as the fee owner of the Acquisition Property, subject only to the Permitted Exceptions. The costs of the Title Policy shall be allocated between the parties as set forth in Section 7.4.2.

1.38 Title Report – A preliminary report for each Acquisition Property issued by the Title Company together with links to legible copies of all instruments or documents referred to in such preliminary report with a plotting of any easements.

1.39 Transfer Property – The Property owned by the Transferring Party which is being transferred under this Agreement to the Acquiring Party.

1.40 Transferring Party – The Property owned by the party as of the Effective Date which is being transferred to the Acquiring Party.

1.41 Valuation Difference – The difference in the Valuations of the Properties which amount is to be paid by the City at Closing.

EXHIBIT A

LEGAL DESCRIPTION OF CITY PROPERTY

That certain real property in the City of Murrieta, County of Riverside, State of California legally described as:

(To be completed prior to execution of the Exchange Agreement)

EXHIBIT B

LEGAL DESCRIPTION OF PRIVATE OWNER PROPERTY

That certain real property in the City of Yuma, County of Riverside, State of California legally described as:

(To be completed prior to execution of the Exchange Agreement)

EXHIBIT C-1

SUMMARY OF INSPECTION MATERIALS FROM CITY

(To be completed prior to execution of the Exchange Agreement)

EXHIBIT C-2

SUMMARY OF INSPECTION MATERIALS FROM PRIVATE OWNER

(To be completed prior to execution of the Exchange Agreement)

EXHIBIT D

CITY PROPERTY DEED

**Recording requested by and
When Recorded Return to:**

Murrieta Marketplace Holdings, LP
c/o J & T Management
139 Radio Road
Corona, CA 92879
Attn: Jack Kodfarali

APN. _____
THE UNDERSIGNED GRANTOR DECLARES that
the documentary transfer tax (computer on full value)
is \$ _____

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code §6103)

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged and subject to the covenants set forth below the CITY OF MURRIETA, a municipal corporation ("**Grantor**") grants to SCOTT-MURRIETA SERVICE STATION, LP, a California limited partnership, as to a 40% interest, BONSALL SERVICE STATION, LP, a California limited partnership as to a 40% interest and MURRIETA MARKETPLACE HOLDINGS, LP, a California limited partnership as to a 20% interest ("**Grantee**"), all of its rights, title, and interest in that certain real property in the City of Murrieta, County of Riverside, State of California, as more particularly described in Exhibit A attached hereto and incorporated by this reference ("**Property**") **BUT EXCLUDING** all rights of way and other public easements.

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed on its behalf as of the date written below.

GRANTOR:

CITY:

CITY OF MURRIETA,
a California municipal corporation

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Kim Summers, City Manager

ATTEST:

By: _____
Tiffany Israel, City Attorney

Cristal McDonald, City Clerk

Exhibit A

Legal Description of the Property

That certain real property located in the City of Murrieta, County of Riverside, State of California, and is described as follows:

(To be completed prior to execution of the Exchange Agreement)

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 _____)

On _____, 20__ before me, _____, a 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.

Notary Public

SEAL:

EXHIBIT E

PRIVATE OWNER PROPERTY DEED

**Recording requested by and
When Recorded Return to:**

City of Murrieta
1 Town Square
Murrieta, CA 92562
Attn: _____

APN. _____
THE UNDERSIGNED GRANTOR DECLARES that
the documentary transfer tax (computer on full value)
is \$ _____

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code §6103)

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged and subject to the covenants set forth below SCOTT MURRIETA SERVICE STATION, LP, a California limited partnership, as to a 40% interest, BONSALL SERVICE STATION, LP, a California limited partnership as to a 40% interest and MURRIETA MARKETPLACE HOLDINGS, LP, a California limited partnership as to a 20% interest (collectively tenants in common as "**Grantor**") grants to the CITY OF MURRIETA, a municipal corporation (jointly and severally "**Grantee**"), all of its rights, title, and interest in that certain real property in the City of Murrieta, County of Riverside, State of California, as more particularly described in Exhibit A attached hereto and incorporated by this reference ("**Property**").

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed on its behalf as of the date written below.

GRANTOR:

SCOTT-MURRIETA SERVICE STATION, LP, a
California limited partnership

By: _____
Gregory Hann, General Partner

SIGNATURES CONTINUED ON NEXT PAGE

BONSALL SERVICE STATION, LP, a
California limited partnership

By: RKJK A NEVADA CO, LLC,
a Nevada limited liability company
General Partner

By: _____
Hagop Kofdarali
Managing Member

MURRIETA MARKETPLACE HOLDINGS, LP,
a California limited partnership

By: RKJK A NEVADA CO, LLC,
a Nevada limited liability company
General Partner

By: _____
Hagop Kofdarali
Managing Member

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by SCOTT-MURRIETA SERVICE STATION, LP, a California limited partnership, BONSALL SERVICE STATION, LP, a California limited partnership and MURRIETA MARKETPLACE HOLDINGS, LP, a California limited partnership (“Grantor”) to the CITY OF MURRIETA (“City”), is hereby accepted by the undersigned officer and agent of City and the City consents to the recording of the Grant Deed.

Signed and dated on _____, 2024 at City of Murrieta, California

GRANTEE

CITY OF MURRIETA, a municipal corporation

By: _____
Kim Summers, City Manager

Exhibit A

Legal Description of the Property

That certain real property located in the City of Murrieta, County of Riverside, State of California, and is described as follows:

(To be completed prior to execution of the Exchange Agreement)

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 _____)

On _____, 20__ before me, _____, a 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.

Notary Public

SEAL:

EXHIBIT F-1

PRIVATE OWNER'S NOTICE OF ACCEPTANCE OF PROPERTY CONDITION

_____, 2024

City of Murrieta
1 Town Square
Murrieta, CA 92562
Attn: _____

RE: NOTICE OF ACCEPTANCE OF PROPERTY CONDITION
APN. _____("Property")

Dear _____:

_____ ("**Private Owner**") hereby notifies the City of Murrieta, a municipal corporation ("**City**"), of its approval of the condition of the Property and its intent to proceed to closing pursuant to Section 5.4 of that certain Exchange Agreement and Joint Escrow Instructions dated as of _____, 2024 between the City and the Private Owner.

Very truly yours,

EXHIBIT F-2

CITY'S NOTICE OF ACCEPTANCE OF PROPERTY CONDITION

_____, 2024

**RE: NOTICE OF ACCEPTANCE OF PROPERTY CONDITION
Portion of APN. _____ ("Private Owner Property")**

Dear _____:

The City of Murrieta ("**City**") hereby notifies _____ ("**Private Owner**"), of its approval of the condition of the Private Owner Property and its intent to proceed to closing pursuant to Section 5.4 of that certain Exchange Agreement and Joint Escrow Instructions dated as of _____, 2024 between the City and the Private Owner ("**Exchange Agreement**").

Very truly yours,

CITY OF MURRIETA, a municipal corporation

By: _____
Name: _____
Title: City Manager