

**PURCHASE AND SALE AGREEMENT AND JOINT ESCROW  
INSTRUCTIONS BETWEEN CITY OF TEMECULA AND EVAN TISS  
AND DAVID TISS, SUCCESSOR CO-TRUSTEES IN CONNECTION  
WITH THE I-15/FRENCH VALLEY PARKWAY IMPROVEMENTS -  
PHASE II (PORTIONS OF APNs 910-060-004, 910-060-008, & 910-060-014)**

This Agreement for Purchase and Sale and Joint Escrow Instructions between the City of Temecula and Evan and David Tiss, Successor Co-Trustees in Connection with I-15/French Valley Parkway Improvements - Phase II (Portions of APNs 910-060-004, 910-060-008, & 910-060-014) ("Agreement") is entered into by and between the City of Temecula, a municipal corporation ("Buyer" or "City") and Evan Tiss and David Tiss, Successor Co-Trustees of the Pauline J. Brown Revocable Trust Agreement, dated March 6, 2001 (collectively "Seller") and constitutes an agreement to purchase and sell certain real property interests between Seller and Buyer and the joint escrow instructions directed to First American Title Company ("Escrow Holder"). Seller and Buyer are referred to below collectively as the "Parties". The Agreement is effective on the date it is fully executed by the Parties ("Effective Date").

**RECITALS**

A. Seller is the record owner of that certain real property located at 26101 Jackson Avenue, Murrieta, and identified as Riverside County Tax Assessor's Parcel Numbers 910-060-004, 910-060-008, & 910-060-014 ("Larger Parcel"). The Larger Parcel is approximately 164,359 square feet (3.77 acres) in size. The Larger Parcel is improved with two (2) manufactured homes that are not impacted by Phase II. A billboard structure ("subject billboard") is located on the property line of the portion of the Larger Parcel identified as APN 910-060-004 that abuts the adjacent parcel identified as APN 910-060-002. The owners of the Larger Parcel receive income from the subject billboard's south advertising side based on a ground lease between Lamar Advertising Company (successor to the interests of Lamar Companies) and Don Vernon Tiss. The lease is dated November 1, 2014 and is for a term of 30-years. Seller is the successor to the interests of Don Vernon Tiss in said ground lease. Said ground lease provides rent which is the greater of a base of \$36,000 per year or 25% of net advertising revenues generated by both faces of the billboard structure.

B. City, in cooperation with the California Department of Transportation ("Caltrans"), seeks to construct the I-15/French Valley Parkway Improvements - Phase II ("Phase II") to improve traffic congestion and improve operational efficiency within the limits of the I-15/French Valley Parkway Improvements Project ("Project"). City completed Phase I of the Project, which was designed to provide interim relief by widening the existing southbound off-ramp at Winchester Road, construction of the southbound off-ramp at the French Valley Parkway and construction of the westbound portion of French Valley Parkway between the new off-ramp and Jefferson Avenue. As part of Phase II, City proposes to construct a two-lane northbound collector/distributor system along I-15 from the Winchester Road/I-15 interchange northerly on-ramps to just north of the I-15/I-215 junction with connectors to I-15 and I-215.

C. Pursuant to Cooperative Agreement 08-1667 ("Cooperative Agreement"), City is the implementing agency for right of way and is responsible for acquisition of the property interests needed for Phase II.

D. City extended to Seller a written offer dated October 11, 2021 pursuant to Government Code Section 7267.2 to purchase in fee an approximate 1,226 square foot portion of the Larger Parcel (“Subject Fee Property”) for public use, namely public street and highway purposes, retention wall construction, drainage, public utilities, and all uses necessary or convenient thereto in connection with the City’s proposed construction of Phase II. The approximate 1,226 square foot Subject Fee Property that the City seeks to acquire in fee is identified as Caltrans Parcel No. 24625-1 and described more particularly on Exhibit “A” hereto and depicted on Exhibit “B” hereto, which are incorporated herein by this reference. A rough depiction of the subject billboard impacted by Phase II is attached as Exhibit “B-1” hereto and incorporated herein by this reference. Phase II and the City’s acquisition of the Subject Fee Property will not impact the dwellings located on the Larger Parcel. The City’s offer letter also included compensation for the impact of Phase II on the subject billboard. It is the understanding of the Parties that the subject billboard cannot be relocated due to the City of Murrieta’s sign regulations and thus the lease for the subject billboard for which Seller receives rent will be impacted by Phase II and the acquisition of the Subject Fee Property.

E. The Parties negotiated City’s purchase in fee of the Subject Fee Property, and have reached an agreement regarding the terms of City’s purchase of the Subject Fee Property, improvements thereon, and impact to the lease for the subject billboard, subject to ratification by the City Council.

F. The Parties acknowledge that City is authorized to acquire real property by eminent domain for a public use, including public street and highway purposes, and all uses necessary or convenient thereto, including, but not limited to, public street, highway, retention walls, drainage, and utilities, pursuant to the authority conferred upon the City of Temecula by California Constitution Article 1, Section 19, California Government Code Sections 37350, 37350.5, 37351, 40401 and 40404 and California Code of Civil Procedure Section 1230.010 *et seq.* (Eminent Domain Law). Phase II is a public use for which City has the authority to exercise the power of eminent domain. Pursuant to Section 41 of the Cooperative Agreement, City, as the implementing Agency, is responsible for hearing any resolutions of necessity for Phase II. The City Council of the City of Temecula, as City’s governing body, has sole discretion to make the findings required by Code of Civil Procedure Section 1240.030 for the adoption of a resolution of necessity pursuant to the Eminent Domain Law. (Code of Civil Procedure Section 1245.220). If Seller and City had not reached agreement for the City’s purchase of the Subject Fee Property, City Staff would have recommended that the City Council consider the adoption of a resolution of necessity authorizing the initiation of eminent domain proceedings to acquire the Subject Fee Property in accordance with the Eminent Domain Law. The City Council, however, has the exclusive discretion to adopt a resolution of necessity. The adoption of any such resolution of necessity would require City’s compliance with applicable law, including Government Code Section 7260 *et seq.* and the Eminent Domain Law. This Agreement is not a commitment or announcement of intent to acquire any other real property interests that City may need for Phase II. Seller is solely responsible for consulting its tax advisors or seeking a letter ruling from the Internal Revenue Service regarding the applicability of 26 U.S.C. Section 1033 to Seller’s sale of the Subject Fee Property to City in connection with the Phase II. City makes no express or implied representation regarding the applicability of 26 U.S.C. Section 1033 to this transaction.

G. Seller desires to sell to City the Subject Fee Property, and City desires to purchase the Subject Fee Property, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above Recitals and for other valuable consideration, the sufficiency of which is hereby acknowledged, City and Seller agree as follows.

1. **Purchase and Sale.** On the Close of Escrow, as defined in Section 2 below, Seller agrees to sell in fee the Subject Fee Property (Caltrans Parcel No. 24625-1) described in Exhibit "A" and roughly shown on Exhibit "B" to the City and City agrees to purchase the Subject Fee Property in fee from Seller on the terms and conditions set forth in this Agreement.

2. **Opening and Close of Escrow.** Within five (5) business days after the Effective Date, City will deliver a copy of the fully-executed Agreement to Escrow Holder. Opening of Escrow means the date on which Escrow Holder receives a copy of the fully-executed Agreement. The Parties can execute the Agreement in counterparts as set forth in Section 19.d. below. This Agreement shall serve as the instructions to Escrow Holder for consummation of the transactions contemplated hereby. City and Seller agree to execute such additional and supplementary escrow instructions as may be appropriate to enable Escrow Holder to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of any supplementary escrow instructions, the terms and provisions of this Agreement shall control. For the purposes of this Agreement, "Close of Escrow" shall be the date on which the Grant Deed for the Subject Fee Property in favor of City is recorded in the Official Records of the Riverside County Recorder's Office. Provided all of Seller's and City's obligations to be performed on or before Close of Escrow have been performed and all the conditions to the Close of Escrow set forth in this Agreement have been satisfied, escrow shall close thirty (30) calendar days after the Opening of Escrow ("Closing Date"). All risk of loss or damage with respect to the Subject Fee Property shall pass from Seller to City at the Close of Escrow. Possession of the Subject Fee Property shall be delivered to Buyer upon the Close of Escrow.

3. **Purchase Price.** The total purchase price that City will pay to Seller for the Subject Fee Property is the sum of \$614,000.00 (Six Hundred Fourteen Thousand Dollars) ("Purchase Price") for the fair market value of the Subject Fee Property and the compensation for the impact of Phase II on the subject billboard.

a. Specifically, the Purchase Price includes \$14,000 (rounded) for the land value of the Subject Fee Property. The \$14,000.00 (rounded) is calculated as follows: 1,226 square foot @ \$11.00 per square foot = \$13,486.00.

b. It also includes \$600,000.00 for the impact to Seller for the loss of the ground lease rent in connection with the impact to the subject billboard and loss of the ground lease rent for the subject billboard as a result of Phase II, calculated as follows:

Potential Gross Income	\$36,000.00
Less Vacancy & Collection Loss	- \$0.00
Effective Gross Income	\$36,000.00
Less Operating Expenses	- \$0.00
Net Operating Income (NOI)	\$36,000.00
Concluded Capitalization Rate	÷ 6%
<b>Billboard Value Conclusion</b>	<b>\$600,000.00</b>

c. Thus, the Purchase Price is the total price for the Subject Fee Property without distinction or separation for various interests that may be held in the Subject Fee Property, except for any compensation due by the City to Lamar Advertising Company in connection with the impact of Phase II on the subject billboard structure. The billboard structure is owned by Lamar Advertising Company. The Purchase Price does not include any compensation that is owed to Lamar Advertising Company in connection with the impact of Phase II on said subject billboard structure. Except as otherwise provided herein, Seller is responsible for any apportionment or allocation of the Purchase Price if required for any separately held interests that may exist in the Subject Fee Property.

#### 4. Title and Title Insurance.

a. Title Insurance. Upon the Opening of Escrow, Escrow Holder will obtain and issue a title commitment for the Subject Fee Property. Escrow Holder will also request two copies each of all instruments identified as exceptions on said title commitment. Upon receipt of the foregoing, Escrow Holder will deliver these instruments and the title commitment to City and Seller. Escrow Holder will insure City's interest in the Subject Fee Property described in Exhibit "A" and depicted on Exhibit "B" to this Agreement at the Close of Escrow by a CLTA Standard Coverage Policy of Title Insurance (or an ALTA Extended Coverage Form of Title Policy ("Alta Extended Policy")) if the City elects such coverage as provided below in Section 4.b.) in the amount of the Purchase Price ("Title Policy"), with liability in the full amount of the Purchase Price, insuring title to the Subject Fee Property as vested in City, free and clear of all monetary liens and encumbrances and other matters affecting title to the Subject Fee Property, except for the permitted title exceptions defined below and any permitted conditions of title that Buyer approves in writing (collectively "Permitted Title Exceptions):

i. General and special real property taxes and assessments for the then current tax fiscal year which are a lien not then due and payable;

ii. The applicable zoning, building, and development regulations of any municipality, county, state, or federal jurisdiction affecting the Larger Parcel;

iii. Such other non-monetary exceptions listed in the Preliminary Title Report that City has approved within ten (10) business days after the date the City receives the title commitment and legible copies of instruments noted as exceptions therein. If City conditionally disapproves any exceptions, then Seller will use good faith efforts to seek to cause such exceptions to be removed by the Close of Escrow. In no event will Seller be required to file any legal action to seek to remove any exception conditionally disapproved by the City. If such

conditionally disapproved non-monetary exceptions are not removed by the Close of Escrow, the City may, at the City's option, either accept the Subject Fee Property subject to such encumbrances or terminate the Escrow. In the event Escrow is terminated, within ten (10) business days of the written notice of termination to Escrow, Escrow will disburse the City any funds deposited into Escrow by City less any escrow cancellation charges.

iv. Any exceptions directly or indirectly caused by City or City's agents, employees or contractors.

b. The City will have the option of obtaining an ALTA Extended Policy or a CLTA Standard Coverage Policy of Title Insurance. If the City, in its sole discretion, determines to obtain an ALTA Extended Policy, the City will, at its expense, procure an ALTA survey. The City will also pay for the cost of any such ALTA Extended Policy.

c. Acts After Date of Agreement. During the period from the date of this Agreement through the Close of Escrow, Seller shall not encumber the Subject Fee Property, record or permit to be recorded any document or instrument relating to the Subject Fee Property, or physically alter the Subject Fee Property or permit or cause to be altered without the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

## **5. Escrow.**

a. Deposit of Funds in Escrow. City covenants and agrees to deposit with Escrow Holder the Purchase Price and any such escrow funds that are required within five (5) business days of receiving written notice from Escrow holder regarding the confirmation of the completion of the conditions required herein for the Close of Escrow.

b. Deposit of Documents in Escrow by Seller. Seller covenants and agrees to deposit with Escrow Holder the following documents within ten (10) business days of the Opening of Escrow:

i. *Grant Deed.* The Grant Deed in the form attached as Exhibit "C" hereto ("Grant Deed") duly executed and acknowledged by Seller. Exhibit "C" is attached hereto and incorporated herein by this reference.

ii. *California 593 Certificate.* A California 593 certificate and federal non-foreign affidavit.

iii. *Certificates of Trust.* Seller shall deliver to Escrow the following:

(a) A certification pursuant to California Probate Code Section 18100.5 in a form satisfactory to Escrow Holder demonstrating that Evan Tiss and David Tiss, Successor Co-Trustees are duly authorized to legally bind the Pauline J. Brown Revocable Trust Agreement, dated March 6, 2001; and

(b) Copies of those excerpts from the original trust documents and amendments thereto that Escrow Holder may require, which designate the trustee(s) and confer up on the trustee(s) the power to act in this transaction.

iii. Any other documents reasonably required by Escrow Holder or the Title Company to be deposited by Seller to carry out this escrow.

c. Deposit of Documents in Escrow by City.

i. *Certificate of Acceptance.* An executed Certificate of Acceptance in the form attached to the Grant Deed (attached hereto as Exhibit "C").

ii. Any other documents reasonably required by Escrow Holder to be deposited by Buyer to carry out this escrow.

d. Recordation of Grant Deed; Delivery of Funds and Possession. Upon receipt of the funds and instruments described in Section 5, Escrow Holder shall cause the Grant Deed to be recorded in the Office of the County Recorder of Riverside County, California. Thereafter, Escrow Holder shall deliver the proceeds of this escrow (less appropriate charges as shown on a preliminary Settlement Statement executed by City and Seller) to Seller, and Seller shall deliver to City possession of the Subject Fee Property free and clear of all occupants.

e. Prorations. Real property taxes for the Subject Fee Property shall not be prorated, but must be paid by Seller for the current tax period. Seller may apply for a refund of property taxes in the event any property taxes paid are allocable to the period after the Close of Escrow and City shall reasonably cooperate therewith. City, as a municipal corporation acquiring property for Phase II, is exempt from property taxes pursuant to Revenue and Taxation Code Section 11922, and other provisions of law. All property assessments shall be prorated between Buyer and Seller as of the Close of Escrow based on the latest available tax information. All prorations for such assessments shall be determined on the basis of a 365-day year. Escrow Holder is authorized to pay from the Purchase Price any unpaid delinquent taxes and/or penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds recorded against the Subject Fee Property.

f. Costs of Escrow. City will pay for the cost of the Title Policy (or ALTA Extended Policy if City elects to obtain such extended coverage). City will also pay for escrow fees and Escrow Holder's customary out-of-pocket expenses for messenger services, long distance telephone calls, etc. City will pay for recording the Grant Deed, and any documentary or other local transfer taxes, if any, and for any recording costs (if any). City will also pay for the costs of an ALTA survey if it determines to obtain an ALTA Extended Policy.

g. Escrow Cancellation Charges. If escrow fails to close through no fault of either party, City will pay all escrow and title cancellation charges. In the event that this escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for all escrow and title cancellation charges

6. **Conditions to the Close of Escrow.** Escrow shall not close unless and until both Parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in Section 5. Additionally, City's obligation to proceed with the transaction contemplated by this Agreement is subject to the satisfaction of all of the following conditions precedent, which are for City's benefit and may be waived only by City:

a. Seller shall have performed all obligations to be performed by Seller hereunder.

b. Title Company shall have issued or shall have committed to issue the Title Policy to City, for the amount of the Purchase Price, showing fee title to the Subject Fee Property to be vested in City subject only to the Permitted Title Exceptions. Escrow Holder will use the proceeds of the Purchase Price to obtain a full reconveyance of any monetary liens encumbering the approximate 1,226 square foot Subject Fee Property, so that said Subject Fee Property is free and clear of monetary liens and encumbrances at the Close of Escrow. Escrow Holder will obtain final approval from Seller regarding the disbursement of the proceeds prior to disbursing any such proceeds to the holder(s) of the monetary liens encumbering the Subject Fee Property.

c. If any of the conditions to Close of Escrow are not timely satisfied for a reason other than a default of City or Seller under this Agreement, and this Agreement is terminated, then upon termination of this Agreement, Escrow Holder will promptly return to City all funds (and all interest accrued thereon, if any) and documents deposited by City in escrow and return to Seller the documents deposited by Seller in escrow that are held by Escrow Holder on the date of the termination (less any escrow cancellation charges).

7. **Permission to Enter/Due Diligence Testing.** During the period commencing on the Effective Date (“commencement date”) and ending at 5:00 p.m. fifteen (15) business days after said commencement date (referred to as the “Due Diligence Period”), City may inspect the Subject Fee Property as necessary for the purpose of making inspections and other examinations of the Subject Fee Property, including, but not limited to, the right to perform soil and geological tests of said Subject Fee Property and an environmental site assessment thereof. City will give Seller written notice twenty-four (24) hours before going on the Subject Fee Property to conduct such due diligence testing. City’s physical inspection of the Subject Fee Property shall be conducted during normal business hours. No invasive testing or boring shall be done by City without the prior written notification to Seller and obtaining Seller’s written permission of the same, which permission shall not be unreasonably withheld. City does hereby indemnify and forever save Seller, Seller’s heirs, successors and assigns free and harmless from and against any and all liability, loss, damages, costs, expenses, demands, causes of action, claims or judgments, arising from or occurring out of any damage to the Subject Fee Property in connection with any accident or other occurrence at the Subject Fee Property in connection with City’s due diligence testing and environmental site assessments involving entrance onto the Subject Fee Property pursuant to this Section. If City fails to acquire the Subject Fee Property due to City’s default, this license/permission to enter will terminate upon the termination of City’s right to purchase said Subject Fee Property. In such event, City will remove or cause to be removed any personal property, facilities, tools, and equipment from the Subject Fee Property left in the area comprising the Subject Fee Property in connection with the due diligence testing and restore said area to as close as possible to the condition of said area prior to City’s due diligence testing.

8. **Representation and Warranties of Seller.** Seller hereby represents and warrants to City the following, it being expressly understood and agreed that all such representations and warranties are to be true and correct as of the Close of Escrow and will survive the Close of Escrow:

a. That to the best of Seller's knowledge on the Close of Escrow (i) the Subject Fee Property will be free and clear of Hazardous Materials (defined in Section 14.a. below) or toxic substances and waste, including, but not limited to, asbestos; (ii) businesses, if any, on the Subject Fee Property have disposed of their waste in accordance with all applicable statutes, ordinances, and regulations; and (iii) Seller has no notice of any pending or threatened action or proceeding arising out of the condition of the Subject Fee Property or alleged violation of Environmental Laws (defined in Section 14.b. below), health or safety statutes, ordinance, or regulations.

b. That Seller is the sole owner of the Subject Fee Property free and clear of all liens, claims, encumbrances, easements, encroachments from adjacent properties, encroachments by improvements or vegetation on the Subject Fee Property onto adjacent property, or rights of way of any nature, other than those that may appear on the title commitment. Seller will not further encumber the Subject Fee Property or allow the Subject Fee Property to be further encumbered prior to the Close of Escrow.

c. Neither this Agreement nor anything provided to be done hereunder, including the transfer of the Subject Fee Property to City, violates or will violate any contract, agreement, or instrument to which Seller is a party, or which affects the Subject Fee Property, and the Seller's grant to City of the Subject Fee Property pursuant to this Agreement does not require the consent of any party not a signatory hereto.

d. Except as disclosed in the title commitment referred to in Section 4.a, there are no claims or liens presently claimed or that will be claimed against the Subject Fee Property by contractors, subcontractors, or suppliers, engineers, architects, surveyors or others that may have lien rights for work performed or commenced prior to the Effective Date. Seller agrees to hold City harmless from all costs, expenses, liabilities, losses, charges, fees, including reasonable attorneys' fees, arising from or relating to any such lien or any similar lien claimed against the Subject Fee Property and arising from work performed or commenced prior to the Close of Escrow.

e. There are no written or oral leases or contractual rights or options to lease, purchase, or otherwise enjoy possession, rights, or interest of any nature in and to the Subject Fee Property, or any part thereof, and no persons have any right of possession to the Subject Fee Property, or any part thereof. Seller agrees to hold City harmless from all costs, expenses, liabilities, losses, charges, fees, including attorneys' fees, arising from or relating to any claims by any person or entity claiming rights to possession of any portion of the Subject Fee Property.

f. Seller has no knowledge of any pending, threatened or potential litigation, action or proceeding against Seller or any other party before any court or administrative tribunal that involves the Subject Fee Property.

**9. Representations and Warranties of City.** City hereby represents and warrants to Seller the following, it being expressly understood and agreed that all such representations and warranties are to be true and correct as of the Close of Escrow and will survive the Close of Escrow:

a. City has taken all required action to permit it to execute, deliver, and perform its obligations under this Agreement.



b. City has the power and authority to execute and deliver this Agreement and carry out its obligations hereunder and consummate the transaction contemplated herein.

10. **Total Consideration.** City's payment to Seller of the Purchase Price set forth in this Agreement is an all-inclusive settlement and is the full and complete consideration and payment of just compensation for the fair market value of the Subject Fee Property and improvements thereon, including the interests of Seller in connection with the subject billboard impacted by Phase II, severance damages, inverse condemnation, precondemnation damages, attorneys' fees, interest, appraisal costs, loss of rents, lost profits, ground lease interest in connection with subject billboard, impact to subject billboard, any other damages of every kind and nature suffered by Seller by reason of City's acquisition of the Subject Fee Property, improvements in said area, or Phase II for which City is acquiring the Subject Fee Property, and all costs and expenses whatever in connection therewith.

11. **Business Goodwill.**

a. No Loss of Business Goodwill. Seller agrees and acknowledges that Seller will not suffer any loss of business goodwill under Code of Civil Procedure Section 1263.510 as a result of City's acquisition of the Subject Fee Property or the construction of Phase II because Seller does not operate a business on the Larger Parcel. Under Code of Civil Procedure Section 1263.510, the owner of a business conducted on the property taken, or on the remainder if the property is part of a larger parcel, will be compensated for loss of goodwill if the owner proves that (i) the loss is caused by City's acquisition of the property or the injury to the remainder; (ii) the loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill; (iii) compensation for the loss will not be included in payments under Government Code Section 7262; and (iv) compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.

12. **Releases.**

a. This Agreement is a voluntary agreement and Seller on the Close of Escrow, on behalf of Seller, Seller's successors and assigns, fully releases City, its Councilmembers, officers, counsel, employees, representatives and agents, from all claims and causes of action by reason of any damage that has been sustained, or may be sustained, as a result of City's efforts to acquire the Subject Fee Property, or any preliminary steps thereto. Seller further releases and agrees to hold City harmless from any and all claims and causes of action asserted by any party claiming to have rights to possession of any portion of the Subject Fee Property.

b. Seller acknowledges that it may have sustained damage, loss, costs or expenses that are presently unknown and unsuspected, and such damage, loss, costs or expenses that may have been sustained, may give rise to additional damages, loss, costs or expenses in the future. Nevertheless, Seller hereby acknowledges that this Agreement has been negotiated and agreed upon in light of that situation, and hereby expressly waives any and all rights that Seller may have under California Civil Code Section 1542 as it relates to the releases set forth in this Section 12, or under any statute or common law or equitable principle of similar effect. California Civil Code Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Seller's Initials:

D.T.

E

City's Initials: \_\_\_\_\_

Seller's waiver of rights and release of claims set forth above in Section 12.a. and Section 12.b. will not extend to and is not intended to extend to claims related to or alleged to arise out of negligence on the part of City, its agents or contractors, in connection with the physical construction of Phase II.

This Section 12 will survive the Close of Escrow.

13. **City's Contingencies.** For the benefit of City, the Close of Escrow and City's obligation to consummate the purchase of the Subject Fee Property is contingent upon and subject to the occurrence of all of the following (or City's written waiver thereof, it being agreed that City can waive any or all such contingencies) on or before the Close of Escrow:

a. That as of the Close of Escrow the representations and warranties of Seller contained in this Agreement are all true and correct;

b. The delivery to Escrow Holder of all documents pursuant to Section 5 of this Agreement;

c. Escrow Holder's commitment to issue, in favor of City, the Policy with liability equal to the Purchase Price showing City's interest in the Subject Fee Property, subject only to the Permitted Title Exceptions; and

d. City's approval prior to the Close of Escrow of any due diligence testing, environmental site assessment, soils or geological reports, or other physical inspections of the Subject Fee Property that City might perform prior to the Close of Escrow.

14. **Certain Definitions.**

a. The term "Hazardous Materials" will mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq.*; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 *et seq.*; asbestos and asbestos-containing materials, PCBs and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.*; source material, special nuclear material, by-product

material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act of 1982; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. Section 1910.1200 *et seq.*; industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; any substance defined as a “hazardous substance” in California Civil Code Section 2929.5(e)(2) or California Code of Civil Procedure Section 736(f)(3); and any other substance or material regulated by any Environmental Laws.

b. The term “Environmental Laws” will mean and include all federal, state and local statutes, ordinances, regulations and rules in effect on or prior to the Effective Date relating to environmental quality, health, safety, contamination and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act 7 U.S.C. Section 136 *et seq.*; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 *et seq.*; the National Environmental Policy Act, 42 U.S.C. Section 4321 *et seq.*; the Noise Control Act, 42 U.S.C. Section 4901 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. Section 651 *et seq.*; the Resource Conservation and Recovery Act 42 U.S.C. Section 6901 *et seq.*; as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act 42 U.S.C. Section 9601 *et seq.* as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act and the Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act 15 U.S.C. Section 2601 *et seq.*; the Atomic Energy Act, 42 U.S.C. Section 2011 *et seq.*; and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 *et seq.*; and state and local environmental statutes and ordinances, with implementing regulations and rules in effect on or prior to the Effective Date.

15. **Evidence in Court Proceeding.** The Parties agree that the total Purchase Price of \$614,000.00 or any inference of per square foot value of the Subject Fee Property on said Purchase Price will not be admissible as evidence of the fair market value of the Subject Fee Property in any eminent domain or other proceeding or litigation concerning the Subject Fee Property, or any portion thereof.

16. **Default.** In the event of a breach or default under this Agreement by either City or Seller, the non-defaulting party will have, in addition to all rights available at law or equity, the right to terminate this Agreement and the Escrow for the purchase and sale of the Subject Fee Property, by delivering written notice thereof to the defaulting party and to Escrow Holder, and if City is the non-defaulting party, City will thereupon promptly receive a refund of all of the deposits it deposited with Escrow Holder, if any, less City’s share of any escrow cancellation charges. Such termination of the escrow by a non-defaulting party will be without prejudice to the non-defaulting party’s rights and remedies at law or equity.

17. **Notices.** All notices and demands will be given in writing by personal delivery, certified mail, postage prepaid, and return receipt requested, or by Federal Express or other overnight carrier. Notices will be considered given upon the earlier of (a) personal delivery, (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or

registered, return receipt requested, or (c) one (1) business day following deposit with Federal Express or other overnight carrier. A copy of all notices will be sent to Escrow Holder. The Parties will address such notices as provided below or as may be amended by written notice:

BUYER: City of Temecula  
41000 Main Street  
Temecula, California 92590  
Attention: Aaron Adams, City Manager

COPY TO: Richards, Watson & Gershon  
350 South Grand Avenue, 37th Floor  
Los Angeles, California 90071  
Attention: Peter M. Thorson, City Attorney

SELLER: Evan Tiss, Successor Co-Trustee  
David Tiss, Successor Co-Trustee  
Pauline J. Brown Revocable Trust  
Agreement, dated March 6, 2001  
18221 Magnolia Avenue  
Shafter, California 93263

ESCROW  
HOLDER: First American Title Insurance Company  
One Ridgeway Drive Suite 225  
Temecula, California 92590  
Telephone No. 951.296.2948  
Attention: Debbie Fritz, Escrow Officer  
Electronic Mail: dfritz@firstam.com

18. **Broker Commissions.** No brokers represented the Parties in connection with this transaction. Seller will be solely responsible for the payment of any and all broker's commissions or similar compensation due to any broker representing Seller, if any, and Seller will defend, indemnify and hold the City harmless from and against any and all claims for any broker's commissions or similar compensation that may be payable to any broker claiming it represented Seller in connection with this transaction. Each party will defend, indemnify and hold harmless the other party from and against all claims of any agent, broker, finder or other similar party based upon such party's own acts in connection with this transaction. The provisions of this Section 18 will survive the Close of Escrow.

19. **Miscellaneous.**

a. Amendments. Any amendments to this Agreement will be effective only when duly executed by both City and Seller and deposited with Escrow Holder.

b. Attorneys' Fees. In any action between Buyer and Seller seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and

expenses, not limited to taxable costs, reasonable attorneys' fees and reasonable fees of expert witnesses.

c. Entire Agreement. This Agreement contains all of the agreements of the Parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

d. Counterparts, Facsimile, and Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Facsimile or electronic signatures/counterparts to this Agreement will be effective as if the original signed counterpart were delivered.

e. Time of the Essence. Time is of the essence of this Agreement.

f. Governing Law. This Agreement is deemed to have been prepared by each of the Parties hereto, and any uncertainty or ambiguity herein will not be interpreted against the drafter, but rather, if such uncertainty or ambiguity exists, will be interpreted according to the applicable rules of interpretation of contracts under the laws of the State of California, and not the substantive law of another state or the United States or federal common law. This Agreement will be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties will be governed by, and construed and enforced in accordance with, the laws of the State of California.

g. Third Parties. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the Parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

h. Additional Documents. Each party hereto agrees to perform any further acts and to execute, acknowledge, and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

i. Authority of City Manager. The City Manager may give any and all notices, consents, and terminations hereunder on behalf of the City provided they are in writing. The City Manager may execute the Agreement, Certificate of Acceptance, escrow documents, and any such documents or instruments that are necessary to effect the transfer of property interests contemplated herein.

j. Interpretation and Construction. Each of the Parties has reviewed the Agreement and each has had the opportunity to have its respective counsel and real estate advisors review and revise this Agreement and any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The recitals and captions of the Sections and Subsections of this Agreement are for convenience and reference only, and the words contained therein will in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

k. Remedies Not Exclusive and Waivers. No remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other remedy and each and every remedy will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies will not constitute a waiver of the right to pursue other available remedies.

l. Severability. If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.

m. Exhibits. The Exhibits attached hereto are incorporated in this Agreement by this reference.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth below.

**SELLER**

**Evan Tiss and David Tiss, Successor Co-Trustees of the Pauline J. Brown Revocable Trust Agreement, dated March 6, 2001**

Dated: 11/10/2021

By: Evan Tiss  
Evan Tiss, Successor Co-Trustee

Dated: 10/22/2021

By: David Tiss  
David Tiss, Successor Co-Trustee

**BUYER**

**City of Temecula, a municipal corporation**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Aaron Adams, City Manager

ATTEST:

By: \_\_\_\_\_  
Randi Johl, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Peter M. Thorson, City Attorney

## Exhibit "A"

Legal Description of Subject Fee Property (Caltrans Parcel 24625-1)

### EXHIBIT "A"

#### LEGAL DESCRIPTION

That portion of Lot 124 per MAP of the TEMECULA LAND AND WATER COMPANY showing the Subdivision of a Portion of the TEMECULA RANCH, situated in the City of Murrieta, County of Riverside, State of California, said map recorded in Book 8 of Maps, page 359, in the Office of the County Recorder of San Diego County, said portion lying northeasterly of the freeway and southwesterly of the following described LINE "A":

**COMMENCING** at the corner common to Lot 123 and Lot 124, of said map, in the centerline of Jackson Avenue as shown on map filed in Book 142 of Records of Survey, pages 89 through 104, in the Office of the County Recorder of Riverside County; thence along the line common to said lots South 48°17'42" West 494.16 feet to the freeway right of way and the southeasterly most corner of that certain parcel of land described in deed to the State of California recorded October 21, 1974, in Book 1974, page 134994 in Official Records of said Riverside County, said corner being the southerly terminus of the segment of line described as South 31°47'59" East 856.15 feet in said deed, said corner also being the **POINT OF BEGINNING** of said LINE "A"; thence departing said common line and proceeding along said freeway right of way and said segment of line North 31°47'58" West 207.48 feet; thence departing said freeway right of way and said segment North 25°00'07" West 457.28 feet to the beginning of a curve concave southwesterly and having a radius of 3550.00 feet; thence along said curve through a central angle of 7°08'21" a distance of 442.34 feet; thence North 23°59'51" West 175.08 feet; thence North 33°28'38" West 212.63 feet; thence South 62°51'13" West 23.24 feet to the freeway right of way and the northeasterly line of that certain parcel of land described in deed to the State of California recorded February 24, 1975 in Book 1975, Page 21238 in said Official Records; thence along said freeway right of way and said northeasterly line North 27°08'47" West 143.81 feet to the northerly most angle point of said northeasterly line, and the southerly most corner of that certain parcel of land described by Director's Deed recorded October 18, 1982 in Book 1982, Page 179874 in said Official Records; thence North 27°08'47" West 396.65 feet along said freeway right of way and the southwesterly line of said Director's Deed to the **POINT OF TERMINUS** of said LINE "A", said terminus being the intersection of said freeway right of way and the southwesterly right of way line of said Jackson Avenue.

Containing 1,226 square feet, more or less.

Together with underlying fee interest, if any, contiguous to the above described property in and to the adjoining freeway.

This conveyance is made for the purpose of a freeway and the GRANTOR hereby releases and relinquishes to the STATE any and all abutter's rights including access rights, appurtenant to GRANTOR's remaining property, in and to the freeway.



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6. Divide distances shown by 0.99991351 to obtain ground level distances.

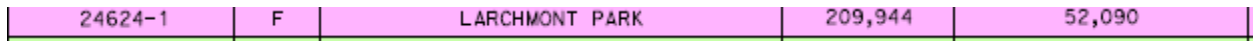
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: Michael A. Haver  
Professional Land Surveyor

Date: September 14, 2021



completeness of digital images of this map.



**Exhibit “B-1”**

Rough Depiction of Subject Billboard Impacted by Phase II

**South Face**



Exhibit “B-1”

**Exhibit “C”**  
Form of Grant Deed

Exhibit “C”

**RECORDING REQUESTED BY**

When Recorded Mail To

City of Temecula  
41000 Main Street  
Temecula, CA 92590  
Attn: City Clerk

**FREE RECORDING:**

This instrument is for the benefit of the City of Temecula,  
and is entitled to be recorded without  
fee or tax. (Govt. Code 6103, 27383 and Rev. &  
Tax Code 11922)

Space above this line for Recorder's Use

APN: 916-060-004

**GRANT DEED**  
(CORPORATION)

District	County	Route	Postmile	Number
08	Riv	15	8.3	

**Evan and David Tiss as Successor Co-Trustees of the Pauline J. Brown Revocable Trust Agreement, dated March 6, 2001**, hereinafter called GRANTOR hereby grants to

**CITY OF TEMECULA, a municipal corporation**

hereinafter called GRANTEE, that real property in the City of Murrieta, County of Riverside, State of California,  
described as follows:

**SEE EXHIBIT "A" ATTACHED**

Number

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**Evan and David Tiss as Successor Co-Trustees of the Pauline J. Brown Revocable Trust Agreement, dated March 6, 2001**

BY \_\_\_\_\_

NAME: \_\_\_\_\_

ITS: \_\_\_\_\_

BY \_\_\_\_\_

NAME: \_\_\_\_\_

ITS: \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

That portion of Lot 124 per MAP of the TEMECULA LAND AND WATER COMPANY showing the Subdivision of a Portion of the TEMECULA RANCH, situated in the City of Murrieta, County of Riverside, State of California, said map recorded in Book 8 of Maps, page 359, in the Office of the County Recorder of San Diego County, said portion lying northeasterly of the freeway and southwesterly of the following described LINE "A":

**COMMENCING** at the corner common to Lot 123 and Lot 124, of said map, in the centerline of Jackson Avenue as shown on map filed in Book 142 of Records of Survey, pages 89 through 104, in the Office of the County Recorder of Riverside County; thence along the line common to said lots South 48°17'42" West 494.16 feet to the freeway right of way and the southeasterly most corner of that certain parcel of land described in deed to the State of California recorded October 21, 1974, in Book 1974, page 134994 in Official Records of said Riverside County, said corner being the southerly terminus of the segment of line described as South 31°47'59" East 856.15 feet in said deed, said corner also being the **POINT OF BEGINNING** of said LINE "A"; thence departing said common line and proceeding along said freeway right of way and said segment of line North 31°47'58" West 207.48 feet; thence departing said freeway right of way and said segment North 25°00'07" West 457.28 feet to the beginning of a curve concave southwesterly and having a radius of 3550.00 feet; thence along said curve through a central angle of 7°08'21" a distance of 442.34 feet; thence North 23°59'51" West 175.08 feet; thence North 33°28'38" West 212.63 feet; thence South 62°51'13" West 23.24 feet to the freeway right of way and the northeasterly line of that certain parcel of land described in deed to the State of California recorded February 24, 1975 in Book 1975, Page 21238 in said Official Records; thence along said freeway right of way and said northeasterly line North 27°08'47" West 143.81 feet to the northerly most angle point of said northeasterly line, and the southerly most corner of that certain parcel of land described by Director's Deed recorded October 18, 1982 in Book 1982, Page 179874 in said Official Records; thence North 27°08'47" West 396.65 feet along said freeway right of way and the southwesterly line of said Director's Deed to the **POINT OF TERMINUS** of said LINE "A", said terminus being the intersection of said freeway right of way and the southwesterly right of way line of said Jackson Avenue.

Containing 1,226 square feet, more or less.

Together with underlying fee interest, if any, contiguous to the above described property in and to the adjoining freeway.

This conveyance is made for the purpose of a freeway and the GRANTOR hereby releases and relinquishes to the STATE any and all abutter's rights including access rights, appurtenant to GRANTOR's remaining property, in and to the freeway.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 6. Divide distances shown by 0.99991351 to obtain ground level distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: Michael A. Havener  
Professional Land Surveyor

Date: September 14, 2021





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)

**CITY OF TEMECULA**  
Office of the City Clerk  
41000 Main Street  
Temecula, CA 92590

**CERTIFICATE OF ACCEPTANCE OF GRANT DEED**

**(Govt. Code § 27281)**

**(Assessor's Parcel Number 916-060-004)**

This is to certify that the attached Grant Deed, which conveys in fee to the City of Temecula that certain real property located in the City of Murrieta, County of Riverside described more particularly in Exhibit "A" to said Grant Deed, is hereby accepted under the authority of the City Council of the City of Temecula, and the City of Temecula consents to the recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_

**CITY OF TEMECULA, a municipal corporation**

By: \_\_\_\_\_  
Aaron Adams, City Manager

ATTEST:

By: \_\_\_\_\_  
Randi Johl, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Peter M. Thorson, City Attorney