

## **Attachment A**

### **Real Property Donation Agreement**

## REAL PROPERTY DONATION AGREEMENT

This REAL PROPERTY DONATION AGREEMENT (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 2023 (“**Agreement Date**”) by and between the Victorville Water District, a County water district and subsidiary district of the City of Victorville (“**District**”), and Sergio L. Carcelen, a single man (“**Donor**”). District and Donor are sometimes referred to hereinafter individually as a “**Party**” and collectively as the “**Parties**.”

### RECITALS

**A.** Donor owns that certain real property in the City of Victorville, San Bernardino County, State of California (APN 0478-144-01), legally described on Exhibit A attached hereto (“**Property**”). The Property is a vacant lot.

**B.** Donor has offered to donate the Property to District, and District wishes to accept donation of the Property under the terms and conditions stated in this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt insufficiency of which is acknowledged, the Parties mutually agree as follows:

### TERMS AND CONDITIONS

#### 1. INCORPORATION OF RECITALS; EFFECTIVE DATE.

**1.1 Recitals.** The Recitals are an integral part of this Agreement and incorporated herein.

**1.2 Effective Date.** Donor shall deliver two (2) executed copies of this Agreement to District. This Agreement shall be effective upon execution of this Agreement by District, following approval of the Agreement by the Board of Directors of the District, and delivery of one (1) original to Donor (“**Effective Date**”).

#### 2. DONATION AND ACCEPTANCE OF PROPERTY.

Upon the terms and conditions of this Agreement, Donor hereby agrees to donate the Property to District by a grant deed in a form approved by the District General Manager (“**Grant Deed**”) as depicted in Exhibit B. Upon the condition that the Title Policy (defined in Section 4 below) is issued to District, District agrees to accept the Property in **AS-IS** condition except that Donor represents and warrants to District that Donor owns the Property and there are no leases or third-party claims against the Property. District acknowledges that it has not provided any payment, goods or services, or other consideration (in whole or in part) to Donor for the Property. Donor understands and agrees that he is estopped to revoke this Agreement as a result of the due diligence and other expenses incurred by the District.

#### 3. NO ESCROW; CLOSING; TITLE POLICY.

**3.1 No Escrow.** No escrow shall be required under this Agreement.

**3.2 Closing.** Within ten (10) days from the Effective Date, the Parties shall consummate this transaction through the Title Company (defined in Section 4 below).

(a) **Delivery of Deed.** Within three (3) days of the Effective Date, Donor shall execute, acknowledge and deliver the Grant Deed to the District.

(b) **Preliminary Change of Ownership Statement.** Prior to the Closing, District shall complete a Preliminary Change of Ownership Statement (“**PCOR**”) and deliver same to the Title Company to be delivered to the County concurrently with the recordation of the Grant Deed.

(c) **Recordation.** Promptly upon District’s receipt of the original executed Grant Deed, District shall execute a Certificate of Acceptance, attached to Grant Deed, and promptly deliver it to the Title Company for recordation in the Official Records of San Bernardino County.

(d) **Closing Defined.** This transaction shall be deemed closed upon confirmation from the Title Company that the Grant Deed has been recorded and the Title Company has issued the Title Policy (as defined in Section 4) (“**Closing**”).

(e) **Cooperation.** Donor agrees to cooperate with District in the event any additional documents are required to cause the Title Company to issue the Title Policy, if applicable.

**3.3 Costs.** District shall pay all fees with respect to this transaction, including, but not limited to, the premium for the Title Policy, documentary transfer taxes (if applicable), etc.

#### **4. TITLE POLICY.**

District shall promptly obtain and review a preliminary title report (“**Title Report**”) from Commonwealth Title Insurance Company (“**Title Company**”) with respect to the Property. At Closing, District shall require that the Title Company issue to District an ALTA non-extended coverage owner’s title policy insuring the Property vested in District for the fair value of the Property and subject to such exceptions as acceptable to the District (“**Title Policy**”).

#### **5. MISCELLANEOUS.**

**5.1 District General Manager Authority.** On behalf of District, the District General Manager, or such designee as he shall have designated in writing, shall have the authority to (i) extend any dates under this Agreement, (ii) execute documents required to effect this transaction, and (iii) agree to any non- material modifications of this Agreement.

**5.2 No Conflict of Interest.** No officer or employee of District or the City of Victorville shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his or her financial interest or the financial interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. District and Donor each warrant that they have not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

**5.3 Notices.** All notices shall be in writing and delivered personally, by overnight air courier service, by facsimile transmission, or by U.S. certified mail, return receipt requested, postage prepaid, to the Parties at their respective addresses set forth herein, and the same shall be effective upon receipt if delivered personally, one (1) business day after depositing with an overnight air courier, or two (2) business days after depositing in the mail.

**District:** Victorville Water District  
c/o Keith C. Metzler  
General Manager  
City of Victorville  
14343 Civic Drive  
Victorville, CA 92392  
(760) 245-3220

With copy to: Green de Bortnowsky, LLP  
30077 Agoura Court Suite 210  
Agoura Hills CA, 91301  
Attn: Andre de Bortnowsky  
District Counsel

**Donor:** Sergio L. Carcelen  
6065 Purisima Place  
Rancho Cucamonga, CA 91739

**5.4 Interpretation; Governing Law.** This Agreement shall be construed according to its fair meaning and as if prepared by both parties. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neutral gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

**5.5 No Waiver.** No delay or omission by either Party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other Party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions.

**5.6 Amendment.** The Agreement may only be modified or amended by a written document executed by both Parties.

**5.7 Severability.** If any term, provision, condition, or covenant of this Agreement or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**5.8 Merger of Prior Agreements and Understandings.** This Agreement and other documents incorporated herein by reference contain the entire understanding between the Parties relating to the transaction contemplated by this Agreement and all prior to contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein and shall be of no further force or effect.

**5.9 Qualification; Authority.** Each individual executing this Agreement on behalf of a Party represents, warrants, and covenants to the other Party that (a) such person is duly authorized to execute and deliver this Agreement on behalf of such Party; and (b) such Party is bound under the terms of this Agreement.

**5.10 Time of Essence.** Time is of the essence in this Agreement.

**5.11 Execution in Counterparts.** This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on both Parties, notwithstanding that both Parties are not signatories to the original or the same counterpart.

**5.12 Attorney's Fees.** In the event any action or suit is brought by a Party hereto against another Party hereunder by reason of any breach of this Agreement, the prevailing Party shall be entitled to have and recover from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees and related costs.

**5.13 Incorporation of Exhibit.** Exhibit A attached hereto is incorporated herein by reference.

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

**DONOR:**

Sergio L. Carcelen, a single man

By: \_\_\_\_\_  
Sergio L. Carcelen

Date: \_\_\_\_\_

**DISTRICT:**

**Victorville Water District**

By: \_\_\_\_\_  
Keith C. Metzler, District General Manager

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Andre de Bortnowsky, District Counsel

Date: \_\_\_\_\_

**RISK MANAGEMENT:**

By: \_\_\_\_\_  
Sandra Bostick, District Risk Manager

Date: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PORTION SOUTHWEST ONE-QUARTER SOUTHWEST ONE-QUARTER SECTION 9 TOWNSHIP 5 NORTH RANGE 4 WEST SAN BERNARDINO BASE AND MERIDIAN COMMENCING AT THE SOUTHWEST CORNER SAID SECTION 9 THENCE NORTH 89 DEGREES 25 MINUTES 35 SECONDS EAST 505 FEET THENCE NORTH PARALLEL TO WEST LINE OF SAID SECTION TO A POINT ON NORTH LINE MOJAVE DRIVE THENCE CONTINUING NORTH 125 FEET TO TRUE POINT OF BEGINNING THENCE SOUTH 89 DEGREES 25 SECONDS 35 MINUTES WEST 15.90 FEET THENCE ON A TANGENT CURVE TOP THE LEFT WITH A RADIUS OF 20 FEET THROUGH A CENTRAL ANGLE OF 44 DEGREES 24 MINUTES 55 SECONDS A DISTANCE OF 15.50 FEET THENCE NORTHEASTERLY ALONG A TANGENT CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 50 FEET A DISTANCE OF 35.77 FEET THENCE NORTH 89 DEGREES 25 MINUTES 35 SECONDS EAST 15.30 FEET THENCE SOUTH PARALLEL WITH WEST LINE SAID SECTION 9 A DISTANCE OF 25 FEET TO POINT OF BEGINNING.

[APN 0478-144-01-0-000](#)

**EXHIBIT B**  
**GRANT DEED & CERTIFICATE OF**  
**ACCEPTANCE**

**RECORDING REQUESTED BY:**

**VICTORVILLE WATER DISTRICT**

**WHEN RECORDED RETURN TO:  
VICTORVILLE WATER DISTRICT  
c/o CITY OF VICTORVILLE  
14343 CIVIC DRIVE  
VICTORVILLE, CA 92392**

**ATTN: CITY CLERK**

Exempt from recording fees pursuant to California Government Code Section 6103 and/or 27383 [Space above for Recorder's Use]

APN: 0478-144-01

## **GRANT DEED**

The Undersigned grantor(s) declare(s):

- This transfer is exempt from the documentary transfer tax.
- The document transfer tax is \$0.00 and is computed on:
- The full value of the interest or property conveyed, or
- The full value less the liens or encumbrances remaining thereon at the time of sale.
- The property is located in the City of Victorville

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**Sergio L. Carcelen, a single man** (“GRANTOR”), hereby GRANT(S) to the **Victorville Water District**, a county water district organized under the laws of the State of California, (“GRANTEE”), the following real property in the City of Victorville, County of San Bernardino, State of California described as follows:

**See Exhibit “A” legal description of property attached hereto and incorporated herein.**

IN WITNESS WHEREOF, the undersigned state that they are the person(s) whose signature is required to convey the interest stated within this instrument and has/have caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

GRANTOR

\_\_\_\_\_  
Sergio L. Carcelen

**EXHIBIT A**  
**To Grant Deed**

**LEGAL DESCRIPTION**

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[APN 0478-144-01-0-000](#)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by grant deed dated \_\_\_\_\_, 2023 from Sergio L. Carcelen, a single man (“Grantor”), to the Victorville Water District , a county water district organized under the laws of the State of California (“Grantee”), is hereby accepted by the undersigned officer/agent on behalf of the Board of Directors of the Victorville Water District pursuant to authority conferred by resolution of the Victorville Water District adopted on \_\_\_\_\_ and the Grantee consents to recordation thereof by its duly authorized officer/agent.

Victorville Water District,  
a county water district

By: \_\_\_\_\_  
Keith C. Metzler, General Manager

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

ATTEST:

By: \_\_\_\_\_  
Jennifer Thompson, District Secretary

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