

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made by and between the SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT (“**Buyer**”), and the TOWN OF LOS GATOS (“**Seller**”) is dated for reference purposes as of the later of the dates set forth by Seller and Buyer on the signature page of this Agreement (the “**Effective Date**”).

RECITALS

A. Seller owns that certain real property located at 14850 Winchester Boulevard, Town of Los Gatos, County of Santa Clara, State of California, referred to as Parcels B and C of APN: 424-31-055, which is more particularly described on Exhibit A attached hereto (the “**Land**”), together with any improvements located thereon, and all rights, privileges, easements and appurtenances to the Land, including without limitation all development rights, mineral and water rights, appurtenant easements, rights-of way and other appurtenances used in connection with or relating to the Land (the Land and all such rights, privileges, easements and appurtenances being collectively referred to herein as the “**Property**”).

B. Pursuant to that certain “Annexation Agreement” between Seller and Buyer dated March 2, 1970 and that certain “Agreement for Sale of Land, For Leaseback of Part of It and Coordinating the Termination Date of the Lease with that of an Earlier Lease” dated [July 22, 1980] (the “**Ground Lease**”), Buyer is the current tenant of the Property and has approximately 16 years remaining under the Ground Lease.

C. Buyer desires to purchase the Property to facilitate a long-term investment by Buyer in the Property for the construction of a new fire station, and Seller desires to sell the Property to Buyer, subject to the terms and conditions of this Agreement.

NOW THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Purchase and Sale. In consideration of their mutual covenants set forth in this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Property for the Purchase Price (defined in Section 2), subject to and on the terms and conditions set forth herein.

2. Purchase Price. The purchase price for the Property is One Million Two Hundred Thousand Dollars (\$1,200,000) (the “**Purchase Price**”), payable as follows:

(a) Within five (5) business days after the Effective Date, Buyer shall deposit, as earnest money, in immediately available funds, the amount of Fifty Thousand Dollars (\$50,000.00) (such amount and any interest earned thereon, the “**Deposit**”) into escrow number [Would like to use Chicago Title or Old Republic]_____ (the “**Escrow**”) opened with _____ with _____ as the designated escrow officer (telephone no.:

_____, email: _____) (the “**Escrow Holder**”). Buyer may, upon delivery of the Deposit into Escrow, instruct the Escrow Holder to invest the Deposit in an interest-bearing money market or savings account with a national banking association or federally chartered savings and loan association. If the Closing does not occur, the Deposit shall be returned to Buyer unless the provisions of Section 14 are applicable, in which case the disposition of the Deposit shall be governed by the provisions of Section 14; and

(b) In sufficient time for the Close of Escrow to occur on the Closing Date (defined below), Buyer shall deposit into Escrow, in immediately available funds, a sum equal to the Purchase Price less the Deposit, and plus or minus adjustments to account for Seller’s and Buyer’s prorations and costs set forth in this Agreement (the “**Net Purchase Price**”).

Notwithstanding anything to the contrary in this Agreement, a portion of the Deposit, in the amount of One Hundred Dollars (\$100) (the “**Independent Consideration**”) shall be earned by Seller upon execution and delivery of this Agreement by Seller and Buyer. The Independent Consideration represents adequate bargained for consideration for Seller’s execution and delivery of this Agreement and Buyer’s right to have inspected the Property pursuant to the terms hereof. The Independent Consideration is in addition to and independent of any other consideration or payment provided for herein and is nonrefundable in all events. Upon the Closing (defined below), or earlier termination of this Agreement, the Independent Consideration shall be paid to Seller, and in the case of a termination of this Agreement in which the Deposit is required to be returned to Buyer, the Deposit shall be returned to Buyer less the Independent Consideration, which shall be paid to Seller.

3. Inspections.

Subject to this Section below, until the earlier to occur of the Close of Escrow or termination of this Agreement, Buyer shall have the right to inspect, investigate and conduct tests upon the Property at its sole cost and expense. Buyer shall keep the Property free and clear of any and all liens related to Buyer’s inspections, tests and investigations. All entry onto and inspections of the Property shall be subject to the following:

(a) Buyer shall have until 5:00 pm PST on the date that is thirty (30) days after the Effective Date to review and approve each and every aspect of the Property (the “**Due Diligence Period**”). If Buyer elects, in Buyer’s sole and absolute discretion, to proceed with the purchase of the Property, then Buyer shall, before the end of the Due Diligence Period, notify Seller in writing (such notice, the “**Approval Notice**”) that Buyer elects to proceed with the purchase of the Property, subject to such title objections made by Buyer that Seller has agreed to remove on or before the Closing Date, if any. If before the end of the Due Diligence Period Buyer fails to give Seller such Approval Notice, then Buyer shall be deemed to have elected to terminate this Agreement, the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except for those obligations of Buyer or Seller which are expressly stated in this Agreement to survive Close of Escrow, Closing or other termination of this Agreement (the “**Surviving Obligations**”).

4. Property Materials. To the extent not already provided to Buyer, not later than two (2) business days after the Effective Date, Seller shall deliver to Buyer for Buyer’s review and copying

the following documents relating to the Property to the extent in the possession or control of Seller or Seller's agents (such documents being collectively, the "**Property Materials**"): (i) all soils, groundwater, environmental, property inspection and other reports and test results relating to the physical condition of the Property, including without limitation engineers', consultants' plans, reports and studies relating to the physical condition of the Property; (ii) all notices of violation of laws, if any, from any governmental or quasi-governmental authorities related to the Property; (iii) other correspondence and notices from any governmental or quasi-governmental authorities related to the Property; (iv) all current leases, rental agreements, service contracts, and other agreements pertaining to use of, service to or the management or operation of the Property; (v) a rental statement including names of tenants and subtenants, period of rental and rental rights, if any; (vi) all permits and other approvals or licenses concerning the Property obtained from any governmental entity, including but not limited to, certificates of occupancy, conditional use permits, development plans, and license and permits pertaining to the operation, management or use of the Property, further including those pertaining to any and all water rights or claims; (vii) information related to any material facts or defects affecting the Property, including insurance claims within the past five years; and (viii) any and all other disclosures required by law.

5. Title.

(a) At Closing, title to the Property shall be conveyed to Buyer subject to only the following exceptions (collectively, the "**Permitted Exceptions**"): (i) non-delinquent real property taxes and assessments, (ii) the standard pre-printed exceptions and exclusions contained in an ALTA extended coverage owner's policy of title insurance, (iii) liens and encumbrances to which Buyer has waived pursuant to 5(b) below or otherwise consented in writing, and (iv) liens and encumbrances directly caused by the acts of Buyer or any of Buyer's Representatives. Notwithstanding anything to the contrary in this Agreement, Seller shall pay or discharge, or cause to be removed, whether or not specifically objected to by Buyer, all monetary liens or encumbrances affecting the Property prior to the recording of the Grant Deed (including all liens evidencing any deed of trust (and related documents) securing financing for or through Seller, all delinquent tax liens, all mechanics' and/or materialmen's' liens relating to work performed by or on behalf of Seller, and all judgment liens against Seller) (collectively, "**Existing Liens**"); and in no event shall Seller be allowed to elect or be deemed to have elected not to pay, discharge or cause to be removed such matters.

(b) Buyer may advise Seller by written notice, not later than five (5) business days prior to the end of the Due Diligence Period (the "**Title Objection Deadline**"), what exceptions to title, if any, will not be accepted by Buyer. Seller shall have two (2) business days after receipt of Buyer's objections to give Buyer: (A) notice that Seller will remove the objectionable exceptions on or before the Closing Date (as defined below); or (B) subject to the obligation to remove the Existing Liens, notice that Seller elects not to cause some or all of such exceptions to be removed. If Seller gives Buyer notice under clause (B), Buyer may elect on or before the expiration of the Due Diligence Period to (X) waive its objections to title (other than Existing Liens) and proceed with the purchase without offset or credit against the Purchase Price, or (Y) terminate this Agreement, in which event the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except as provided in the Surviving Obligations. If Seller fails to give Buyer notice within two (2) business days after receipt of Buyer's objections, then Seller shall be deemed to have elected to give Buyer notice under clause (B). If Buyer fails to give

Seller notice of its election to terminate this Agreement pursuant to (Y) above or Buyer has elected not to make any objections to title prior to the Title Objection Deadline, then, assuming Buyer has delivered an Approval Notice, Buyer shall be deemed to have elected to waive its objections to title except for any objections which Seller has agreed in writing to remove prior to Closing.

(c) Whether or not Buyer shall have furnished to Seller any notice of title objections pursuant to the foregoing provisions of this Agreement, Buyer may, at or prior to Closing, notify Seller in writing of any objections to title first raised by the Title Company between (a) the expiration of the Title Objection Deadline, and (b) the Closing Date, and which: (1) are not the result of Buyer's acts, (2) do not constitute exceptions which Buyer has approved or waived pursuant to Sections 5(a) and/or (b) above, and (3) have a material adverse effect on the marketability, use, value or operation of the Property, as reasonably determined by Buyer. Buyer shall advise Seller of its additional title objections by written notice within two (2) business days of learning of the additional title matter. Seller shall have until the earlier of (x) two (2) business days after receipt of Buyer's objections, or (y) the Closing Date, to give Buyer notice that (i) Seller will remove such objectionable exceptions, or (ii) Seller elects not to cause such exceptions to be removed. If Seller gives Buyer notice under clause (ii), Buyer may elect within two (2) business days after receipt of Seller's notice to (A) waive its objections to title and proceed with the purchase without offset or credit against the Purchase Price, or (B) terminate this Agreement. If Seller fails to give Buyer timely notice as required in this subparagraph (c), then Seller shall be deemed to have elected to give Buyer notice under clause (y)(ii). If Seller gives (or is deemed to have given) Buyer notice under clause (y)(ii), and Buyer fails to give Seller notice of its election within two (2) business days after receipt of Seller's notice, then Buyer shall be deemed to have elected to have elected to waive its objections under clause (A) above. If Buyer elects to terminate this Agreement under this Section 5(c), the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except as provided in the Surviving Obligations.

6. Conditions to Closing.

(a) Buyer's Conditions. In addition to all other conditions to the completion of the transaction described in this Agreement, Seller and Buyer agree that the Closing is subject to satisfaction, approval or waiver by Buyer of the matters specified in this Section 6(a), below, which conditions are solely for the benefit of Buyer and can be unilaterally waived by Buyer:

(i) The Title Company shall be irrevocably committed to issue to Buyer at the Closing an extended coverage ALTA owner's policy of title insurance in the amount of the Purchase Price, insuring the Property is vested in Buyer subject to no exceptions other than the Permitted Exceptions, in the form and with endorsements to be approved by Buyer prior to the end of the Due Diligence Period (the "**Title Policy**");

(ii) There shall have been no material adverse change in the physical condition of the Property from the Effective Date through the Closing Date; and

(iii) Seller shall not be in default of Seller's obligations under this Agreement, and all of Seller's express representations and warranties set forth in this Agreement shall be true and correct when made and as of the Closing.

(b) Seller's Conditions. In addition to all other conditions to the completion of the transaction described in this Agreement, Seller and Buyer agree that the Closing of the sale and purchase contemplated by this Agreement is subject to satisfaction, approval or waiver by Seller of the matters specified in this Section 6(b), below, which conditions are solely for the benefit of Seller and can be unilaterally waived by Seller:

(1) Buyer shall not be in material default of Buyer's obligations under this Agreement, and that all of Buyer's express representations and warranties set forth in this Agreement continue to be true, correct and unchanged in all materials respects as of the Closing.

7. Closing.

(a) The consummation of the purchase and sale of the Property (the "**Closing**" or "**Close of Escrow**") shall take place on the Closing Date, through Escrow. The "**Closing Date**" shall be ten (10) business days from the receipt by Seller of the Approval Notice, or such other date as the parties may mutually agree (without expectation or obligation to so agree). Notwithstanding the foregoing, either Buyer or Seller may elect, with two (2) business days' prior notice to the other party, to extend the Closing Date for up to thirty (30) additional days.

(b) In sufficient time prior thereto to allow Closing to occur on the Closing Date, Seller shall cause to be delivered into the Escrow:

(1) A grant deed executed by Seller, with signature(s) notarized for recording in the official records of Santa Clara County, California ("**Official Records**"), conveying to Buyer title to the Property, in the form of Exhibit B attached hereto ("**Grant Deed**");

(2) An affidavit in compliance with the Foreign Investment and Real Property Tax Act and a California Tax Withholding Form 593-C, executed by Seller (the "**Non-Foreign Status Certificate**" and "**Form 593-C**", respectively), certifying that Seller is not subject to withholding under federal or state law; and

(3) Such additional instruments or documents reasonably required by Escrow Holder in order to consummate the purchase and sale of the Property in accordance with the terms and conditions of this Agreement, to the extent consistent with this Agreement, including without limitation escrow instructions and an owner's affidavit reasonably required by the Title Company to enable the Title Company to issue the Title Policy to Buyer at the Closing (including without limitation certifications or other assurances relating to mechanics' or materialmen's liens, parties in possession and the status and capacity of Seller and persons signing on behalf of Seller).

(c) Prior to Closing, in sufficient time prior thereto to allow Closing to occur on the Closing Date, Buyer shall cause to be delivered into Escrow the following:

(1) The Net Purchase Price;

(2) A Certificate of Acceptance substantially in the form set forth on Exhibit C attached hereto; and

(3) Such additional instruments or documents reasonably required in order to consummate the purchase and sale of the Property in accordance with the terms and conditions of this Agreement, to the extent consistent with this Agreement, including without limitation escrow instructions.

8. Representations, Warranties and Covenants.

(a) Representations By Seller. Seller represents and warrants to Buyer as follows:

(1) This Agreement (i) is and at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) is and at the time of Closing will represent the legal, valid and binding obligations of Seller, and (iii) does not and at the time of Closing will not violate or conflict with any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. All other documents executed by Seller which are to be delivered to Buyer at Closing (i) are or at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) are or at the time of Closing will represent the legal, valid and binding obligations of Seller, and (iii) do not and at the time of Closing will not violate or conflict with any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. No consent or approval is required for the execution and delivery of this Agreement by Seller or the performance by Seller of its obligations hereunder other than those already obtained by Seller.

(2) Seller is not a “foreign person” within the meaning of Section 1445(f)(3) of the Federal Code.

(3) The Property Materials delivered to Buyer are complete copies of the originals of such documents in the possession or control of Seller or Seller’s agents and are all of the Property Materials in the possession or control of Seller or Seller’s agents. The Property Materials constitute all of the documents affecting the Property that disclose potential defects or problems with respect to the condition, use or operation of the Property which remain uncured and there are no documents not in the possession or under the control of Seller or Seller’s Representatives or property manager that disclose defects or problems with respect to the condition, use or operation of the Property which remain uncured. Prior to the Closing, Seller agrees to promptly deliver to Buyer any additional documents received by Seller relating to the physical condition, use and operation of the Property. “**Seller's Representatives**” shall mean, collectively and individually, the agents, employees, officers, directors, property managers, contractors, subcontractors, attorneys, consultants and representatives of Seller.

(4) Seller has not received written notice from any governmental or quasi-governmental authority of existing violations of any laws or other legal requirements applicable to the Property, which remain uncured.

(5) Seller has not received written notice of any action, suit or proceeding pending, and Seller has no actual knowledge of anything threatened against or affecting all or any portion of the Property, or relating to or arising out of the ownership, management, development, proposed development or operation of the Property, or which would affect Seller’s ability to perform its obligations under this Agreement in any court or arbitration or other quasi-judicial

proceeding or before or by any governmental or quasi-governmental authority. Seller has not received written notice from any applicable governmental authority of any pending or, or Seller's knowledge, threatened special assessments or condemnation actions with respect to the Property.

(6) As of the Closing, there shall be no outstanding contracts made by Seller for any improvements to the Property which have not been fully paid for, and Seller shall cause to be discharged and removed as an exception to Title all mechanics' and materialmen's liens arising from any labor and material furnished prior to the Closing (other than those caused by work performed by Buyer).

(7) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any interest in any of the Property or to occupy the Property. There are no contracts, leases or other agreements relating to the ownership, operation and maintenance of the Property that will survive the Closing and which will be binding on Buyer or the Property, other than the Permitted Exceptions. No party, other than Seller, has any right to occupy the Property or any portion thereof.

(8) To Seller's knowledge, the Property Materials delivered to Buyer include all reports relating to whether any Hazardous Materials have been located on the Property or have migrated onto the Property or have been released into the environment, or discharged, placed or disposed of at, on or under the Property. To Seller's knowledge there are no Hazardous Materials on, under, about or affecting the Property in violation of any applicable laws. As used in this Agreement, "Hazardous Materials" shall 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; 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 of 1954, 42 U.S.C. Section 2011 et seq. or the Nuclear Waste Policy Act of 1982, 42 U.S.C.10101 et seq.; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. Section 1910.1200 et seq.; mold; 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.; and any other substance, waste or material which has been determined to be injurious to health, public safety or the environment.

(9) Seller represents and warrants to Buyer that: (i) Seller and Seller's Representatives are not acting, and shall not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation enforced or administered by the federal Office of Foreign Assets Control; and (ii) Seller and Seller's Representatives are not entering into this Agreement, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity, or nation.

The representations and warranties of Seller set forth in this Section 8(a) shall survive the Close of Escrow.

(b) Representations By Buyer. Buyer represents and warrants to Seller that no consent or approval from anyone other than Buyer's Board of Directors is required for the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

The representations and warranties of Buyer set forth in this Section 8(b) shall survive the Close of Escrow.

(c) Covenants of Seller. Seller hereby agrees as follows:

(1) After the Effective Date and prior to the Closing, no part of the Property, or any interest therein, shall be sold, leased, licensed, encumbered or otherwise transferred without Buyer's prior written consent.

(2) Prior to Closing, Seller shall promptly notify Buyer of any fact or circumstance of which Seller becomes aware or should be aware which would make any of Seller's representations and warranties untrue in any material respect, or any covenant of Seller under this Agreement incapable or improbable of being cured or performed.

(3) Seller shall not accept, consider or entertain any offers to acquire or purchase the Property from any third parties as of the Effective Date of this Agreement.

(4) Seller shall cooperate with Buyer in connection with the merger of the Land and Parcel A of 424-31-055 ("**Parcel A**"), as the circumstances may require for the Buyer's future use or sale of the Land or the Buyer's potential combined development of the Land and Parcel A. This subsection (4) will survive the Close of Escrow.

9. Prorations.

(a) Subject to this Section 9 below, all revenues and expenses of the Property, including without limitation real property taxes, special taxes, assessments (if any) shall be prorated and apportioned between Buyer and Seller as of 12:01 a.m. on the Closing Date, so that Seller bears all expenses with respect to the Property, and has the benefit of all income with respect to the Property, through and including the date immediately preceding the Closing Date, and Buyer bears all expenses with respect to the Property, and has the benefit of all income with respect to the Property on and after the Closing Date. If any portion of the Property is affected by any assessment or other charge, whether for taxes or bonds, or interest thereon, which is or may become payable in installments, and an installment payment of such assessment is then a lien due and payable as part of the annual ad valorem property tax bill received for the Property, then such installment shall be prorated as of the Closing Date; and if any such assessment or other charge is not payable in installments or are not billed as part of the annual ad valorem property tax bill for the Property, shall be paid in full (if any) by Seller at the Closing. Notwithstanding the foregoing, Seller shall be solely responsible for clearing all possessory interest taxes, if any, from the Property not later than the Closing. Any necessary adjustment due either party on receipt of a supplemental tax bill will be made by the parties outside of this Escrow within the time required by Section 9(b) below.

(b) Subject to Section 9(a) above, if any of the items to be prorated as of Closing cannot be finally determined as of Closing, the prorations shall be made at Closing based on the last available information, and post-closing adjustments between Buyer and Seller shall be made within twenty (20) days after the date that the actual amounts are determined and the owing party is provided with notice of the amount due, and if payment is not made within this twenty (20) day period the party owing such sums shall pay interest thereon, at the rate of ten percent (10%) per annum, from date of delivery of the notice of amount due to the date of payment. This subsection (b) shall survive the Closing.

10. Title Charges; Other Closing Costs. If this transaction is terminated before Close of Escrow by either party for any reason other than a breach or default by either party hereunder, Buyer and Seller shall share equally all escrow costs billed by the Escrow Holder and Title Company. If this transaction closes as provided in this Agreement, (i) Seller shall pay that portion of the premium for the Title Policy attributable to standard ALTA coverage (exclusive of endorsements), and the escrow fees; (ii) Buyer shall pay recording fees (if any) for the recording of the Grant Deed and shall pay the portion of the premium for the Title Policy attributable to extended ALTA coverage and endorsements issued with the Title Policy; and (iii) all other Closing costs, if any, shall be allocated between Seller and Buyer in accordance with the custom in Santa Clara County, California.

11. Close of Escrow. Upon the Close of Escrow, Seller and Buyer shall instruct Escrow Holder to deliver all funds, instruments and documents as follows:

(a) Escrow Holder shall be instructed to deliver to Seller:

(i) Copies of the fully executed Grant Deed, showing recording information, and certified by the Escrow Holder as being a true and complete copies recorded in the Official Records;

(ii) A copy of the fully executed Non-Foreign Status Certificate, and the Form 593-C;

(iii) A copy of all other documents deposited into Escrow; and,

(iv) The Purchase Price, less the costs and prorations chargeable to Seller pursuant to this Agreement.

(b) Escrow Holder shall be instructed to deliver to Buyer following the Close of Escrow the following:

(i) Copies of the fully executed Grant Deed showing recording information, and certified by the Escrow Holder as being a true and complete copies recorded in the Official Records;

(ii) A copy of the fully executed Non-Foreign Status Certificate and Form 593-C;

(iii) The original Title Policy; and

(iv) A copy of all other documents deposited into Escrow.

(c) Escrow Holder shall be designated the “real estate reporting person” for purposes of Section 6045 of Title 26 of the United States Code and Treasury Regulation 1.6045-4 and any instructions or settlement statement prepared by Escrow Holder shall so provide. Upon the consummation of the transaction contemplated by this Agreement, Escrow Holder shall be directed to file a Form 1099 information return and send the statement to Seller as required under the aforementioned statute and regulation.

12. Condemnation. If between the date of this Agreement and the Closing Date any condemnation or eminent domain proceedings are initiated which would result in the taking of any portion of the Property, then Buyer may terminate this Agreement by written notice to Seller. Seller shall promptly notify Buyer in writing upon receiving written notice of the commencement or occurrence of any condemnation or eminent domain proceedings affecting the Property. If such proceedings are initiated for the taking of any part of the Property, Buyer shall then notify Seller, within ten (10) business days after Buyer’s receipt of Seller’s notice (provided that the Closing Date shall be extended to the extent necessary to accommodate such period), whether or not Buyer elects to terminate this Agreement. If Buyer elects not to terminate this Agreement or fails to make an election within such ten (10) business day period, whichever is earlier, then Buyer shall be deemed to have elected to proceed with the Closing without any reduction to the Purchase Price, in which event Seller shall assign to Buyer at Closing all of Seller’s right, title and interest in and to any award made in connection with such condemnation or eminent domain proceedings, or if such payment has been received by Seller such payment shall be credited to Buyer at the Closing, and Closing shall be delayed, if necessary, until the later to occur of (i) the Closing Date, or (ii) ten (10) days after the expiration of the ten (10) business day period. If this Agreement is terminated in accordance with this Section 12, then the Deposit shall be released to Buyer, and Seller and Buyer shall thereupon be released from all further obligations under this Agreement other than the Surviving Obligations.

13. Risk of Loss. If prior to the Closing, the Property is materially damaged or destroyed, Buyer has the right, exercisable by giving written notice to Seller within ten (10) business days of such damage or destruction (but in any event no later than the Closing Date), either (A) to terminate this Agreement, in which case the Deposit shall be returned to Buyer, and any other money or documents in escrow shall be returned to the party depositing the same, and neither party shall have any further rights or obligations under this Agreement other than the Surviving Obligations, or (B) to accept the Property in its then condition and to proceed with the Closing and all of Seller’s right to insurance proceeds (if any) shall be transferred and assigned to Buyer at the Closing. A failure by Buyer to notify Seller in writing within such ten (10) business day period or the Closing Date, whichever is earlier, will be deemed an election to proceed under clause (B) above. If Buyer elects (or is deemed to elect) to proceed under clause (B) above, then thereafter, Seller shall not compromise, settle or adjust any claims to such insurance proceeds without Buyer’s prior written consent, which consent shall not be unreasonably withheld or delayed.

14. Default.

(a) DEFAULT BY BUYER; LIQUIDATED DAMAGES.

IF CLOSING FAILS TO OCCUR SOLELY BECAUSE OF BUYER'S DEFAULT UNDER THIS AGREEMENT, SELLER SHALL, AT ITS ELECTION, HAVE THE OPTION TO TERMINATE THIS AGREEMENT IN WHICH CASE SELLER AND BUYER SHALL THEREUPON BE RELEASED FROM THEIR RESPECTIVE OBLIGATIONS HEREUNDER (OTHER THAN THE SURVIVING OBLIGATIONS), AND AS LIQUIDATED DAMAGES HEREUNDER, THE DEPOSIT SHALL BE PAID TO AND RETAINED BY SELLER. THE PARTIES ACKNOWLEDGE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT BY BUYER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR SIGNATURES OR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNT DESIGNATED AS LIQUIDATED DAMAGES IN THIS SECTION 14(a) HAS BEEN AGREED UPON AFTER NEGOTIATION AS REASONABLE LIQUIDATED DAMAGES PURSUANT TO THE TERMS HEREOF, CALIFORNIA CIVIL CODE SECTIONS 1671 AND 1677 AND ANY OTHER APPLICABLE LAW, AND TERMINATION OF THIS AGREEMENT AND RETENTION OF LIQUIDATED DAMAGES AS A RESULT THEREOF SHALL CONSTITUTE SELLER'S ONLY AND EXCLUSIVE REMEDY AGAINST BUYER IN THE EVENT OF A DEFAULT ON THE PART OF BUYER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES. THE PROVISIONS OF THIS SECTION 14(a) SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389 WITH RESPECT TO ANY DEFAULT BY PURCHASER OF ITS OBLIGATIONS TO CLOSE THE TRANSACTION. SELLER HEREBY WAIVES THE RIGHT OF SPECIFIC PERFORMANCE WITH RESPECT TO ANY BREACH OR DEFAULT BY PURCHASER UNDER THIS AGREEMENT.

SELLER'S INITIALS: _____

BUYER'S INITIALS: _____

NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL THIS SECTION 14 LIMIT THE DAMAGES RECOVERABLE BY EITHER PARTY AGAINST THE OTHER PARTY DUE TO THE OTHER PARTY'S OBLIGATION TO INDEMNIFY SUCH PARTY IN ACCORDANCE WITH THIS AGREEMENT.

(b) Default by Seller.

If the Closing fails to occur due to Seller's default in the performance of its obligations hereunder or is otherwise in breach of the terms hereof, Buyer shall, at its election, have the right to: (i) specific performance of Seller's obligations under this Agreement, and Seller agrees that, because of the unique nature of the Property, specific performance is an appropriate remedy for enforcement of Seller's obligations under this Agreement; (ii) terminate this Agreement, upon which termination Buyer's remedy shall be the return of the Deposit and recovery of all out of pocket expenses incurred by Buyer in connection with this Agreement and Buyer's due diligence investigations relating to the Property, and all other rights available to Buyer by law or in equity. The provisions of this Section 14(b) shall survive the Close of Escrow or the termination of this Agreement.

15. Notice. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following address:

If to Seller: Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030
Attention: Laurel Prevetti
Phone No.: (408) 354-6832
Email: lprevetti@logatosca.gov

With a copy to: Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030
Attention: Robert Schultz
Phone No.: (408) 354-6818
Email: rschultz@logatosca.gov

If to Buyer: Santa Clara County Central Fire Protection District
14700 Winchester Boulevard
Los Gatos, CA 95032
Attention: Fire Chief Tony Bowden
Phone No.: (408) 341-4411
Email: tony.bowden@sccfd.org

With a Copy to: Office of County Counsel
70 W. Hedding Street, East Wing, 9th Floor
San Jose, CA 95110
Attention: Karen M. Willis, Deputy County Counsel
Phone No.: (408) 299-5982
Email: karen.willis@cco.sccgov.org

Subject to this Section below, any such notices shall be sent either (a) by certified mail, return receipt requested, postage prepaid in the U.S. mail, (b) by personal delivery, or (c) by a nationally recognized overnight courier, or (d) by email, provided that a copy is also sent out not later than one (1) business day thereafter by certified mail, personal delivery or overnight courier as described in (a), (b) or (c) immediately above. The above addresses may be changed by written notice to the other party; provided, however, that in no event shall a change of address include a P.O. Box. Notwithstanding this Section above, if a notice is sent in the manner required by this Section above, it shall be deemed given upon receipt, refusal of delivery by the intended recipient or failure of delivery due to incorrect delivery information provided by the intended recipient to the noticing party.

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

17. Governing Law and Venue. This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the law of

the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Agreement, including arbitration proceedings, shall be brought only in Santa Clara County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN SANTA CLARA COUNTY, CALIFORNIA.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. Captions. The captions in this Agreement are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

20. Assignability. Neither party shall assign this Agreement without the prior written consent of all parties.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of both the parties hereto and their respective legal representatives, successors and permitted assigns.

22. Modifications; Waiver. No waiver, modification, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by both parties.

23. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations or statements, oral or written, are superseded hereby.

24. Partial Invalidity. Any provision of this Agreement which is void, unenforceable or invalid or the inclusion of which would adversely affect the validity, legality or enforcement of this Agreement shall be of no effect, but all the remaining provisions of this Agreement shall remain in full force and effect.

25. Submission of Agreement. The submission of this Agreement by one party to the other or their agents or attorneys for review will not be deemed an offer to sell or purchase the Property, and no agreement with respect to the purchase and sale of the Property will exist unless and until this Agreement is executed and delivered by both Seller and Buyer.

26. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in California, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, “**business day**” shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in California.

27. Waiver. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute

a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

28. Number and Gender; Joint and Several Liability. When required by the context of this Agreement, each number (singular and plural) shall include all numbers, and each gender shall include all genders.

29. Negotiated Terms. Each party has had the opportunity to be advised by legal counsel and other professionals in connection with this Agreement, and each party has obtained such advice as each party deems appropriate. The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its professionals participated in the preparation of this Agreement. In the event either party hereto now or hereafter shall consist of more than one person, firm, or corporation, then and in such event, all such persons, firms, or corporations shall be jointly and severally liable as such party under this Agreement.

30. Signatures. Signatures and initials to this Agreement created by the signer by electronic means and/or transmitted by telecopy or other electronic transmission shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an execution original to this Agreement with its actual signature and initials to the other party, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own electronically created and/or telecopied or electronically transmitted signature and initials and shall accept the electronically created and/or telecopied or electronically transmitted signature and initials of the other party to this Agreement.

31. Relationship of Parties. The parties acknowledge and agree that nothing set forth in this Agreement shall be deemed or construed to render the parties as affiliates, joint-venturers, partners, associations, master-servant, agents, representatives, a joint enterprise, employer-employee, lender-borrower or contractor. Seller shall have no authority to employ any person as employee, agent or representative on behalf of Buyer for any purpose. Neither Seller nor any person using or involved in or participating in any actions or inactions relating to the Agreement, or the Property shall be deemed an affiliate, employee, representative or agent of Buyer, nor shall any such person or entity represent himself, herself or itself to others as an employee, affiliate, agent or representative of Buyer.

32. No Third-Party Rights. The parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of or to this Agreement or of any duty, covenant, obligation, or undertaking established herein. This Agreement shall not be construed as nor deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action herein for any cause whatsoever.

33. Headings. The captions appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Agreement or in any way affect this Agreement.

34. Brokers. The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction for such party and that there are no

claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement.

35. No Permitted Use of Buyer Name. Except as allowed herein or by another written agreement entered into by and between the parties, Seller shall not publicize or use, or allow anyone else to use, the name, trade name, trade dress, seal, logo or other proprietary information of Buyer in any manner.

36. Conflict of Interest. Seller shall, and Seller shall ensure that Seller's Representatives, comply with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so will constitute a material breach of this Agreement and is grounds for immediate termination of this Agreement by the Buyer. A violation of Government Code 1090 may make this Agreement void on its face. In accepting this Agreement, Seller covenants, warrants, represents and agrees that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Seller further covenants that, in the performance of this Agreement, it will not employ any contractor, consultant or person having such an interest.

37. Non-Discrimination. Seller shall comply with all applicable Federal, State and local laws and regulations including the County of Santa Clara's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964, as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code Sections 12900 et sea.); California Labor Code sections 1101 and 1102. Seller shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organization affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Seller or any of Seller's Representatives discriminate in the fulfillment of any of the Agreement terms because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

38. California Public Records Act. All documents and records provided to or made available to Buyer under this Agreement become the property of the Buyer, which is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If proprietary information is contained in documents submitted by Seller or Seller's Representatives to Buyer, and Seller expressly claims that such information falls within one or more CPRA exemptions, Seller must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the confidential information. In the event of a request for such information, the Buyer will make reasonable efforts to provide notice to Seller prior to such

disclosure. If Seller contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required at its own cost, liability and expense to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County at least two (2) days before Buyer's deadline to respond to the CPRA request. If Seller fails to obtain such a remedy before the Buyer responds to the CPRA request, Buyer will disclose the requested information and shall not be liable or responsible for such disclosure. Seller represents, warrants and agrees that it shall defend, indemnify and hold Buyer harmless for, from and against any and all Claims that may or do result from denial by Buyer of a CPRA request for any information arising from any representation, or any action (or inaction), by Seller or Seller's Representatives.

39. Survival. Paragraphs 14 through and including 40 shall survive the Closing or earlier termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as follows:

SELLER:

TOWN OF LOS GATOS

By: _____
Title: _____
Date: _____

BUYER:

SANTA CLARA COUNTY CENTRAL FIRE
PROTECTION DISTRICT, a dependent special
district

CINDY CHAVEZ, President of the Board of
Directors

Date: _____

Signed and certified that a copy of this
document has been delivered by electronic
or other means to the President of the Board of
Directors.

ATTEST:

Name:
Title:

APPROVED AS TO FORM AND LEGALITY:

Karen M. Willis, Deputy County Counsel

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B

GRANT DEED

**RECORD WITHOUT FEE UNDER CALIFORNIA
GOVERNMENT CODE SECTIONS 27383 AND 6103**

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

[INSERT]

Space above this Line for Recorder's Use

A.P.N. _____

Transfer is exempt from documentary transfer tax pursuant to R&T Code Section 11922

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, _____, a _____ ("Grantor"), hereby **GRANTS** to the Santa Clara County Central Fire Protection District, a dependent special district ("Grantee"), all right, title, fee, and interest in and to that real property situated in the City of Los Gatos, County of Santa Clara, State of California, described on Exhibit A attached hereto, together with all buildings and other improvements located on said real property, and all rights, privileges, easements and appurtenances thereto, including without limitation all mineral and water rights, appurtenant easements, rights-of way and other appurtenances used in connection with or relating to such real property, buildings, structures and other improvements.

In Witness Whereof, Grantor has caused this instrument to be executed.

GRANTOR: _____

_____, a _____

Dated: _____

By: _____

Its: _____

Mail tax statements to: Same as above address.

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

(Government Code Section 27281)

Certificate of Acceptance

by

Santa Clara County Central Fire Protection District

THIS IS TO CERTIFY that the interest in real property conveyed by the Grant Deed dated _____, ____ from the Town of Los Gatos, to the Santa Clara County Central Fire Protection District, a fire district authorized by the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Santa Clara County Central Fire Protection District pursuant to authority conferred by Resolution No. _____ of the Board of Directors of the Santa Clara County Central Fire Protection District adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

In witness whereof, I have hereunto set my hand on _____ day of ____.

By: _____

TONY BOWDEN, Fire Chief

Santa Clara County Central Fire Protection District

