

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this “Agreement”), dated as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (“Effective Date”), is entered into by and between the Mid-Peninsula Water District (“District”), a county water district, and the County of San Mateo (“County”), a political subdivision of the State of California. District and County are hereinafter collectively referred to as the “Parties.”

### RECITALS

WHEREAS, the District owns certain real property located on F Street in the City of San Carlos and identified as Assessor Parcel Number 045-320-100, as described in Exhibit A attached hereto and incorporated herein (the “Property”);

WHEREAS, by Resolution No. 2018-14 adopted May 24, 2018, District declared the Property to be “surplus property” within the meaning of California Government Code Section 54220 et seq. (“Surplus Lands Act”);

WHEREAS, District has followed all procedures required pursuant to the Surplus Lands Act, and has considered all offers made for the acquisition of the Property;

WHEREAS, District and County staff have evaluated comparable properties, and have determined that the fair market value of the Property is equal to the Purchase Price specified herein; and

WHEREAS, District desires to sell the Property to County, and County desires to purchase from District, the Property, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. Purchase. District shall sell to County, and County shall purchase from District, the Property in accordance with the terms, covenants and conditions set forth herein.

2. Purchase Price. The purchase price for the Property (“Purchase Price”) shall be Seven Hundred Twenty Thousand Dollars (\$720,000).

3. Payment of Purchase Price. The Purchase Price shall be payable on the Closing Date (as defined below) in cash or immediately available funds. Upon the execution of this Agreement, the County shall deliver an earnest money deposit (which, together with interest earned thereon, and as increased as provided below, is referred to in this Agreement as the “Deposit”) in immediately available funds in the amount of Fifty Thousand Dollars (\$50,000.00) with the Escrow Agent (as defined below). The Deposit shall be applied against the Purchase Price at Closing or refunded to County or paid to District as set forth in this Agreement.

4. Escrow; Escrow Instructions. No later than five (5) business days following the Effective Date, the Parties shall open an escrow to consummate the purchase and sale of the Property pursuant to this Agreement at the office of \_\_\_\_\_ Title Company located at \_\_\_\_\_, California (“Title Company” or “Escrow Agent”) or such other title company as may be mutually agreed upon by the Parties. Upon the opening of escrow, the Parties shall deposit with the Escrow Agent an executed copy of this Agreement, which shall serve as the joint escrow instructions of County and District for this transaction, together with such additional instructions as may be executed by the Parties and delivered to the Escrow Agent.

5. Title Documents.

(a) County acknowledges receipt of a preliminary title report for the Property dated February 13, 2018 and issued by the Fidelity National Title Company ("Preliminary Report"). No later than seven (7) days following the opening of escrow, District shall deliver or cause to be delivered to County an updated title report for the Property (“Updated Report”) setting forth all liens, encumbrances, easements, restrictions, conditions, and other matters of record affecting District’s title to the Property (“Title Exceptions”) together with copies of all instruments referred to therein, as requested by County. County shall approve or disapprove each Title Exception within ten (10) days following County’s receipt of the Updated Report and documents relating to the Title Exceptions. Upon County’s failure to object within such period, any Title Exceptions that are not disapproved shall be deemed to be Permitted Exceptions (as defined in Section 7).

(b) If County objects to any Title Exception, District shall use reasonable efforts at District’s sole expense to remove from title or otherwise satisfy each such exception no later than fourteen (14) days prior to the close of escrow. If District fails to remove or satisfy any Title Exception to the reasonable satisfaction of County, County shall have the option, in its sole discretion, to terminate this Agreement or to accept title subject to such exception and proceed to Closing. In the event County elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of County shall be returned to County, and all rights and obligations hereunder shall terminate.

6. Title Policy. It shall be a condition to the close of escrow that Title Company shall deliver to County, within fourteen (14) days after opening of escrow, and in no event later than seven (7) days prior to the close of escrow, a title commitment for a CLTA Owner's Title Insurance Policy (“Title Policy”) to be issued by Title Company in the amount of the Purchase Price for the benefit and protection of County, showing title to the Property vested in County, subject only to the Permitted Exceptions (as defined below), including such endorsements as may reasonably be requested by County, and committing Title Company to issue the Title Policy to County upon the close of escrow. Notwithstanding the foregoing, County may, in its sole discretion, elect not to purchase such Title Policy.

7. Conveyance of Title. At the close of escrow, District shall convey by grant deed to County marketable fee simple title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, restrictions, easements, and leases, except: (i) liens for nondelinquent general and special taxes, assessments and/or bonds; (ii) such other conditions, liens, encumbrances, restrictions, easements and exceptions as set forth in Exhibit B attached hereto or

approved in writing by County or deemed approved by County as provided in Section 5 (all of the foregoing, are collectively hereinafter referred to as the “Permitted Exceptions”).

8. Closing Documents.

(a) District. No later than three (3) business days prior to the Closing Date, District shall deposit into escrow all of the following:

(i) A Grant Deed, substantially in the form attached hereto as Exhibit C, duly executed and acknowledged, sufficient to convey to County good and marketable fee simple title to all of the Property, subject only to the Permitted Exceptions;

(ii) A countersigned copy of the Assignment and Assumption of Rights in the form attached hereto as Exhibit D; and

(iii) Such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transaction contemplated hereby.

(b) County.

(i) No later than three (3) business days prior to the Closing Date, County shall deposit into escrow all of the following:

1. Duly executed and acknowledged Certificate of Acceptance as required by Government Code Section 27281, substantially in the form attached to Exhibit C;

2. A countersigned copy of the Assignment and Assumption of Rights; and

3. Such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transaction contemplated hereby.

(ii) No less than one (1) business day prior to the close of escrow, County shall deposit into escrow immediately available funds in the amount equal to the Purchase Price and all Title Policy costs, escrow fees, conveyance fees, transfer taxes and recording fees (if any).

9. Close of Escrow. Unless this Agreement is terminated pursuant to the terms hereof or extended by mutual written consent of the Parties, escrow shall close no later than the date (“Closing Date”) which is thirty (30) days after expiration of the Due Diligence Period. The Escrow Agent shall close escrow by: (i) causing the Grant Deed to be recorded in the official records of San Mateo County, California; (ii) issuing the Title Policy and delivering same to County (unless County has waived this requirement); and (iii) delivering to County a conformed copy of the Grant Deed, indicating recording information thereon. Possession of the Property shall be delivered to County at the close of escrow.

10. Closing Costs. County shall pay all costs of title insurance and title reports, escrow fees (including the costs of preparing documents and instruments), recording fees, conveyance fees and transfer taxes (if any).

11. Prorations. The Parties agree that the following shall not be subject to proration at Closing:

(a) No provision has been made for the proration of premiums for any insurance policies relating to the Property, whether for liability, fire, theft, damage or other casualty. County shall be responsible for obtaining as of the date of Closing all insurance necessary to insure County for liability, theft, fire and casualty.

(b) No provision has been made for the proration of any real estate or other taxes from which District is exempt. County shall be responsible for any general real estate taxes and any special assessments assessed with respect to any period after the Closing.

12. County's Conditions to Closing. The obligation of the County to purchase the Property from the District is subject to satisfaction on or before Closing of the condition that all actions to be taken by the District in connection with the transactions contemplated by this Agreement shall have been completed in all material respects, which condition may be waived in whole or in part by the County, but only in writing at or prior to Closing.

13. County's Additional Conditions to Closing. County's obligation to purchase the Property is also conditioned upon County's review and approval of the condition of the Property pursuant to this Section.

(a) Feasibility Studies. For a period of sixty (60) days after the Effective Date ("Due Diligence Period") County may, at County's sole expense, undertake an inspection and review of the Property, including without limitation (i) a review of the physical condition of the Property, including but not limited to, inspection and examination of soils, environmental factors, Hazardous Materials (as defined in Section 17), and archeological information relating to the Property; (ii) a review and investigation of the effect of any zoning, maps, permits, reports, engineering data, regulations, ordinances, and laws affecting the Property, and (iii) an evaluation of the Property to determine its feasibility for County's intended use. All of the foregoing are hereinafter collectively referred to as "Feasibility Studies." County may consult with or retain civil engineers, contractors, soils and geologic engineers, architects and other specialists in its investigation, and may consult with or retain other consultants to determine if the Property is suitable for County's intended use. If County's environmental consultants require additional time to determine the existence and extent of any Hazardous Materials on the Property, County shall have the right, exercisable by delivering written notice to District prior to the expiration of the Due Diligence Period, to extend the Due Diligence Period for up to fifteen (15) additional days to complete the testing.

(b) Other matters. During the Due Diligence Period, County shall have the right to perform due diligence regarding the investigation, assessment, and monitoring of the environmental condition of the Property, and County may inspect, examine, survey and review any other matters concerning the Property, including without limitation, any and all studies or

reports provided by District, all contracts, leases, rental agreements and other obligations relating to the Property, and the Property's conformity with all applicable laws and regulations. All of the foregoing are hereinafter collectively referred to as "Due Diligence Materials."

(c) Property Condition. County acknowledges and agrees that if County purchases the Property, then it shall acquire the Property subject to any and all deficiencies, defects and other matters referred to or otherwise set forth in (i) the Feasibility Studies, (ii) the Due Diligence Materials, (iii) any and all documents, studies or reports provided by District, (iv) all contracts, leases, rental agreements and other obligations relating to the Property delivered to County or otherwise made available to County. District makes no representations or warranties with respect to the adequacy or accuracy of any report, study or other information prepared by a third party for or on behalf of District and provided to County. Except for any breach of the representations made by District herein as specified in Section 17, District shall have no liability with respect to any matters disclosed to County or contained in the Feasibility Studies, Due Diligence Materials or other materials developed for or provided to County. For purposes of this Agreement, County shall be deemed to have actual knowledge of the contents of the Feasibility Studies, the Due Diligence Materials and any other materials developed for or provided to County.

(d) Inspections. County acknowledges and agrees that: (i) in County's discretion, County shall inspect the Property and examine the legal, environmental, zoning, land use, seismic, title, survey and physical characteristics and condition of the Property; (ii) by purchasing the Property, County shall be deemed to have approved of all such characteristics and conditions; (iii) upon the close of escrow, County waives any and all right or ability to make a claim of any kind or nature against any of the Releasees (defined below) for any and all deficiencies or defects in the characteristics and condition of the Property which would be disclosed by such inspection; (iv) County's acquisition of the Property shall be with any and all such deficiencies and defects, and subject to all matters disclosed by District herein or in any separate writing delivered to County with respect to the Property; (v) except for any representations expressly made by District in Section 17 of this Agreement, neither District nor any of the Releasees have made any representations, warranties or contracts by or on behalf of District of any kind whatsoever, whether oral or written, express or implied, statutory or otherwise, as to any matters concerning the Property, the condition of the Property, the size of the Property, the present use of the Property or the suitability of County's intended use of the Property; (vi) the Property is to be purchased, conveyed to, and accepted by County in its present condition, "AS IS", "WHERE IS" AND WITH ALL FAULTS, and no patent or latent defect or deficiency in the condition of the Property whether or not known or discovered, shall affect the rights of either District or County hereunder, nor shall the Purchase Price be reduced as a consequence thereof; (vii) any and all information and documents furnished to County by or on behalf of District relating to the Property, including the Feasibility Studies and Due Diligence Materials, shall be deemed furnished as a courtesy to County but without any warranty of any kind from or on behalf of District; (viii) County has performed an independent inspection and investigation of the Property, and has also investigated and has knowledge of operative or proposed governmental laws and regulations including without limitation, land use laws and regulations to which the Property may be subject; and (ix) except for any representations expressly made by District in Section 17 of this Agreement and without any duty of inquiry, County shall acquire the Property solely upon the basis of its independent inspection and investigation of the Property, including without limitation (a) the quality, nature, habitability, merchantability, use, operation, value, marketability, adequacy

or physical condition of the Property or any aspect or portion thereof, including, without limitation, appurtenances, access, landscaping, availability of utility systems, soils, geology and groundwater, or whether the Property lies within a special flood hazard area, an area of potential flooding, a very high fire hazard severity zone, a wildland fire area, an earthquake fault zone or a seismic hazard zone, (b) the development or income potential of the Property, (c) the zoning or other legal status of the Property or any other public or private restrictions on the use of the Property, (d) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or regulatory County or authority or of any other person or entity, (e) the ability of County to obtain any necessary governmental approvals, licenses or permits for County's intended use or development of the Property, (f) the presence or absence of Hazardous Materials (defined below) on, in, under, above or about the Property or any adjoining or neighboring property, or (g) the condition of title to the Property.

(e) Disapproval of Property Condition. Should County fail to approve the condition of the Property or its feasibility for County's intended use in writing by the end of the Due Diligence Period, County shall have the right, exercisable by giving written notice to District, to cancel the escrow, terminate this Agreement, and recover any and all amounts paid by County to District or deposited with the Escrow Agent by or on behalf of County. The exercise of this right by County shall not constitute a waiver by County of any other rights County may have at law or in equity.

14. Studies, Reports and Investigations. County acknowledges receipt of the Due Diligence Materials, including information, studies, reports, investigations, contracts, leases, rental agreements and other obligations concerning or relating to the Property which are in District's possession or which are reasonably available to District, including without limitation surveys, studies, reports and investigations concerning the Property's physical, environmental or geological condition, habitability, or the presence or absence of Hazardous Materials in, on or under the Property and its compliance with Environmental Laws (as defined in Section 17).

15. Right of Entry. During the Due Diligence Period, County and County's agents and employees shall have the right, upon reasonable notice to District, to enter upon the Property for the purpose of inspecting, examining, surveying and reviewing the Property in accordance with Section 13. County's inspection, examination, survey and review of the Property shall be at County's sole expense. County shall obtain District's advance consent in writing to any proposed physical testing of the Property by County or County's agents, which consent shall not be unreasonably conditioned, withheld or delayed. County shall repair, restore and return the Property to its original condition after such physical testing, at County's sole expense. County shall schedule any such physical tests during normal business hours unless otherwise approved by District. County agrees to indemnify District and hold District harmless from and against all liability, loss, cost, damage and expense (including, without limitation, reasonable attorney's fees and costs of litigation) resulting from entry upon the Property by County or its employees (while acting in the capacity of staff to the County), consultants, contractors or agents, except to the extent that such liability, loss, cost, damage and expense arises as a result of the negligence or other wrongful conduct of District or its employees (while acting in the capacity of staff to the District), consultants, contractors or agents. Prior to entering Property, County will provide the District with evidence of insurance, and the District will be named as an additional insured on such policies for

the duration of the Due Diligence Period. Notwithstanding any provision to the contrary, County shall not conduct any invasive tests of the soils of the Property without District's prior written consent, which may be withheld for any or no reason in its sole discretion.

16. District's Conditions to Closing. The close of escrow and District's obligation to sell the Property pursuant to this Agreement are conditioned upon: (i) the performance by County of each obligation to be performed by County under this Agreement within the applicable time period, or waiver by District of such obligation; and (ii) County's representations and warranties contained in this Agreement being true and correct as of the Effective Date and the close of escrow.

17. District's Representations and Warranties.

(a) To the extent any representation or warranty is made "to the best of the District's knowledge," it is made without any independent investigation whatsoever. District hereby represents and warrants that to District's actual knowledge, except as disclosed in writing to County, as of the Effective Date and as of the close of escrow:

(i) Except for any Permitted Exceptions and any agreements that have been disclosed to County in writing, there are no leases, licenses, contracts or other agreements relating to the Property which will be in force after the Closing Date.

(ii) There is no pending (nor has District received notice of any threatened) action, litigation, condemnation or other proceeding against the Property or against District with respect to the Property.

(iii) District has received no notice from any governmental authority having jurisdiction over the Property to the effect that the Property is not in compliance with applicable laws and ordinances (including any laws concerning the use, generation, handling, disposal or storage of Hazardous Materials (as defined below)).

(iv) District has not received any notice from any insurer of defects or conditions relating to the Property that must be corrected.

(v) There has been no release of any Hazardous Material (as defined below) at, under or upon the Property, in an amount which would, as of the date hereof, give rise to an Environmental Compliance Cost (as defined below). The term "Hazardous Material" shall mean asbestos, petroleum products, and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any State or Federal instrumentality authorized to regulate substances in the environment which has jurisdiction over the Property (each being referred to herein as an "Environmental Agency") which substance causes the Property (or any part thereof) to be in material violation of any applicable Environmental Law, and shall include, but not be limited to: (A) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 (14), Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321; (B) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903, 6921; (C) a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (D) a "hazardous air pollutant" under Section 112 of the Clean

Air Act, 42 U.S.C. §7412; (E) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4); (E) a "hazardous material" pursuant to the California Health & Safety Code; or (F) toxic or hazardous pursuant to regulations promulgated under the aforementioned laws (all of the foregoing laws, rules and regulations as any may be amended from time to time being collectively referred to herein as "Environmental Laws"); provided, however, that the term "Hazardous Material" shall not include (x) motor oil and gasoline contained in or discharged from vehicles not used primarily for the transport of motor oil or gasoline, or (y) materials which are stored, used, held, or disposed of in compliance with all applicable Environmental Laws. The term "Environmental Compliance Cost" means any out-of-pocket cost, fee or expense reasonably incurred directly to satisfy any requirement imposed by an Environmental County to bring the Property into compliance with applicable Environmental Laws directly relating to the existence on the Property of any Hazardous Material.

(b) County and District each specifically acknowledge and agree that all references in this Agreement, in any of the exhibits attached hereto and in any document, certificate or statement to be delivered by District to County hereunder to the phrases "to District's actual knowledge," or "known to District" (whether used in the phrase "to the actual knowledge of District," "actually known to District," "District's knowledge," or in similar or other contexts): (1) shall mean the actual (not constructive or imputed) personal knowledge of the management employees of District with knowledge of the Property (which District represents are limited to the persons who as of the Effective Date hold the position of General Manager) (collectively, the "District's Personnel"); (2) shall in no case mean or refer to the actual or constructive knowledge of any other Releasee (as defined below) (the Releasees, together with District's Personnel, are collectively referred to as the "District Representatives"); and (3) shall in no event or circumstance impose upon District or any of the District Representatives any duty or obligation to verify, inquire or make any independent inquiry or investigation of any such representation, warranty or statement, or to otherwise investigate the facts or circumstances relating or otherwise pertinent thereto. County further acknowledges and agrees that (i) none of the District Representatives shall be personally liable, or otherwise have any personal liability, under or in connection with this Agreement, including without limitation, in connection with any of the representations, warranties or statements made in connection with, or pursuant to, this Agreement and (ii) County shall have no right to rely on, and District shall have no liability with respect to, any representation or warranty (including any future certification or statement, actually or deemed made, as to representations or warranties) which County actually knows to be inaccurate or untrue at the time such representation or warranty is given. The foregoing representations of District shall not survive the close of escrow and shall be deemed merged into the Deed.

(c) District further represents and warrants that this Agreement and all other documents delivered or to be delivered in connection herewith prior to or at the close of escrow shall at the time of their delivery: (i) have been duly authorized, executed, and delivered by District; (ii) be the binding obligations of District; (iii) collectively be sufficient to transfer all of District's right, title and interest in and to the Property; and (iv) not be in violation of the provisions of any agreement to which District is a party or which affects the Property. District further represents and warrants that the persons who have executed this Agreement on behalf of District are authorized to do, that District has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that this Agreement is enforceable against District in accordance with its terms.

(d) District shall notify County of any facts that would cause any of the representations contained in this Agreement to be untrue as of the close of escrow. If County reasonably believes that any such fact materially and adversely affects the Property, County shall have the option to terminate this Agreement by delivering written notice thereof to District. In the event County elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of County shall be returned to County, and all rights and obligations hereunder shall terminate.

(e) NO FAILURE OF A DISTRICT'S WARRANTY AFTER THE EFFECTIVE DATE SHALL BE A MISREPRESENTATION OR BREACH OF A WARRANTY UNLESS (I) IT WAS FALSE AS OF THE EFFECTIVE DATE; OR (II) THE CHANGE IN CIRCUMSTANCES WAS WITHIN DISTRICT'S CONTROL, AND DISTRICT OR ITS AGENTS CAUSED SUCH FAILURE OF THE WARRANTY BY ACTS OR OMISSIONS WITHIN THEIR CONTROL. TO THE EXTENT THAT DISTRICT IS OR BECOMES AWARE OF ANY FAILURE IN THE ACCURACY OF ITS WARRANTIES, IT SHALL PROMPTLY DISCLOSE THIS TO COUNTY IN WRITING.

18. District's Covenants. District covenants that from the Effective Date and through the close of escrow, District: (a) shall not permit any liens, encumbrances, or easements to be placed on the Property other than Permitted Exceptions; (b) shall not enter into any agreement regarding the sale, rental, management, repair, improvement, or any other matter affecting the Property that would be binding on County or the Property after the close of escrow without the prior written consent of County; (c) shall not permit any act of waste or act that would tend to diminish the value of the Property for any reason, except that caused by ordinary wear and tear; and (d) shall maintain the Property in its condition as of the Effective Date, ordinary wear and tear excepted, and shall manage the Property substantially in accordance with District's established practices.

19. County's Representations, Warranties and Covenants. County represents, warrants and covenants that this Agreement and all other documents delivered in connection herewith, prior to or at the close of escrow shall at the time of their delivery: (a) have been duly authorized, executed, and delivered by County; (b) be the binding obligations of County; and (c) not be in violation of the provisions of any agreement to which County is a party. County further represents and warrants that the persons who have executed this Agreement on behalf of County have are duly authorized to do, that County has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that Agreement is enforceable against County in accordance with its terms.

NO FAILURE OF A COUNTY'S WARRANTIES AFTER THE EFFECTIVE DATE SHALL BE A MISREPRESENTATION OR BREACH OF THE WARRANTY UNLESS (I) IT WAS FALSE AS OF THE EFFECTIVE DATE; OR (II) THE CHANGE IN CIRCUMSTANCES WAS WITHIN COUNTY'S CONTROL, AND COUNTY OR ITS AGENTS CAUSED SUCH FAILURE OF THE WARRANTY BY ACTS OR OMISSIONS WITHIN THEIR CONTROL. TO THE EXTENT THAT COUNTY IS OR BECOMES AWARE OF ANY FAILURE IN THE ACCURACY OF ITS WARRANTIES, IT SHALL PROMPTLY DISCLOSE THIS TO DISTRICT IN WRITING.

20. Release. County hereby agrees that, upon the close of escrow, each of District and District's Directors, officers, employees, representatives, agents, attorneys, affiliated and related entities, heirs, successors and assigns (collectively, the "Releasees") shall be, and are hereby, fully and forever released and discharged from any and all liabilities, losses, claims (including third party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, attorneys' fees, consultants' fees and costs and experts' fees (collectively, the "Claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Property including, without limitation, the physical, environmental and seismic condition of the Property or any law or regulation applicable thereto, including, without limitation, any Claim (regardless of when it first appeared) relating to or arising from (i) the presence of any environmental problems, or the use, presence, storage, release, discharge, or migration of Hazardous Materials on, in, under or around the Property regardless of when such Hazardous Materials were first introduced in, on or about the Property, (ii) any patent or latent defects or deficiencies with respect to the Property and (iii) any and all matters related to the Property or any portion thereof, including without limitation, the condition and/or operation of the Property and each part thereof, provided, however, that the Releasees shall not be released from any claim involving fraud or intentional misrepresentation of any Releasee or any Claims arising out of the entry into or performance of this Agreement by District. County hereby waives and agrees not to commence any action, legal proceeding, cause of action or suits in law or equity, of whatever kind or nature, including, but not limited to, a private right of action under the federal superfund laws, 42 U.S.C. Sections 9601 et seq. and California Health and Safety Code Sections 25300 et seq. (as such laws and statutes may be amended, supplemented or replaced from time to time), directly or indirectly, against the Releasees or their agents in connection with Claims described above and expressly waives the provisions of Section 1542 of the California Civil Code which provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR**

and all similar provisions or rules of law. County elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by County. County hereby agrees, represents and warrants that (i) factual matters now unknown to it may have given or may hereafter give rise to Claims which are presently unknown, unanticipated and unsuspected, and (ii) the waivers and releases herein have been negotiated and agreed upon in light of that realization and that County nevertheless hereby intends to release, discharge and acquit District from any such unknown Claims. Without limiting the foregoing, if County has actual knowledge of (a) a default in any of the covenants, contracts or obligations to be performed by District under this Agreement, (b) any breach or inaccuracy in any representation of District made in this Agreement, and/or (c) any fact or other matter related to the Property, and County nonetheless elects to proceed to close of escrow, then, upon the consummation of the close of escrow, County shall be conclusively deemed to have waived any such default, breach or inaccuracy and/or fact or matter, and shall have no Claim against District or hereunder with respect thereto. District and County have each initialed this Section to further indicate their awareness and acceptance of each and every provision hereof. The provisions of this Section shall survive the close of escrow and shall not be deemed merged into any instrument or conveyance delivered at the close of escrow.

DISTRICT'S INITIALS:

COUNTY'S INITIALS:

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21. Damage and Destruction. In the event of any damage or other loss to the Property, or any portion thereof, caused by fire, flood or other casualty prior to the close of escrow in an amount not exceeding \$50,000, County shall not be entitled to terminate this Agreement, but shall be obligated to close the escrow and purchase the Property as provided in this Agreement, without abatement in the Purchase Price, provided that District shall: (i) assign and transfer to County all of District's rights under any insurance policy covering the damage or loss, and all claims for monies payable from District's insurer(s) in connection with the damage or loss, and (ii) pay to County at the close of escrow the amount of District's deductible under the insurance policy or policies covering the damage or loss. In the event of damage or destruction of the Property or any portion thereof prior to the close of escrow in an amount in excess of \$50,000, County may elect either to terminate this Agreement upon written notice to District, or to consummate the purchase of the Property, in which case District shall (i) assign and transfer to County all of District's rights under any insurance policy covering the damage or loss, and all claims for monies payable from District's insurer(s) in connection with the damage or loss, and (ii) pay to County at the close of escrow the amount of District's deductible under the insurance policy or policies covering the damage or loss. If County elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of County shall be returned to County, and all rights and obligations hereunder shall terminate.

22. Condemnation. If prior to Close of Escrow, a material portion of the Property is taken by eminent domain (or an action of eminent domain has been commenced against all or any portion of the Property) (excluding for purposes of this Section, the exercise of any eminent domain powers by the County), upon District's receipt of notice thereof District shall promptly notify County of such fact, and County shall have the option to terminate this Agreement upon notice to District given not later than ten (10) days after County's receipt of District's notice. If County elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of County shall be returned to County, and all rights and obligations hereunder shall terminate. If County does not exercise such option to terminate this Agreement, District shall assign to County at the close of escrow, and County shall be entitled to negotiate for, receive, and keep, all awards, and rights to receive future awards, for such taking by eminent domain, and the transaction contemplated by this Agreement shall be consummated pursuant to the terms hereof, without any reduction of the Purchase Price.

23. Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

- (a) personal delivery, in which case notice is effective upon delivery;
- (b) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

(c) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

To District: Mid-Peninsula Water District  
3 Dairy Lane  
Belmont, CA 94002  
Attention: General Manager

With a copy to: Hanson Bridgett LLP  
425 Market Street, 26th Floor  
San Francisco, CA 94105  
Attention: Julie Sherman

To County: County of San Mateo  
264 Harbor Blvd, Building A  
Belmont, CA 94002  
Attention: Bryan Briggs

24. Brokers. County represents to District that County has not engaged any broker or finder in connection with the transactions contemplated under this Agreement. District represents to County that District has not engaged any broker or finder in connection with the transactions contemplated under this Agreement. In the event that any broker or finder claims a commission or finder's fee based upon any contact, dealings or communication, the party through whom the broker or finder makes its claim shall be responsible for said commission or fee and all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by the other party in defending against the same. The party through whom any such other broker or finder makes a claim shall hold harmless, indemnify and defend the other party hereto, its successors and assigns, agents, employees, officers and directors, and the Property from and against any and all obligations, liabilities, claims, demands, liens, encumbrances and losses (including, without limitation, attorneys' fees), whether direct, contingent or consequential, arising out of, based on, or incurred as a result of such claim. The provisions of this Section shall survive the Closing or termination of this Agreement.

25. Attorneys' Fees. If either party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

26. Entire Agreement. This Agreement, together with Exhibits A through C, constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements with respect thereto.

27. No Merger. The obligations stated herein that are intended to operate after the Closing shall not merge with the transfer of title to the Property but shall remain in effect until fulfilled as provided herein.

28. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

29. Interpretation; Captions. The section headings used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

30. Exhibits. Exhibits A through C attached hereto are incorporated herein by this reference and made a part of this Agreement.

31. No Third Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties or by any third person, to be for the benefit of any third party, nor shall any third party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by County or District of any of the provisions of this Agreement.

32. Amendments. This Agreement may be modified or amended only by an instrument in writing executed by both Parties.

33. Assignment Prohibited. This Agreement and the rights conferred hereunder may not be assigned by operation of law or otherwise absent the express written consent of the Parties.

34. Escrow Cancellation Charges. If the escrow fails to close by reason of a default by County or District hereunder, such defaulting party shall pay all escrow or other Title Company charges. If the escrow fails to close for any reason other than default by County or District, then County and District shall each pay one-half of such charges.

35. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, and all of which taken together shall constitute one agreement.

36. Further Assurances. District and County each agree to undertake such other actions as may reasonably be necessary to carry out the intent of this Agreement, including without limitation, the execution of any additional documents which may be required to effectuate the transactions contemplated hereby.

37. Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged thereby.

38. Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of County or District shall be personally liable in the event of any default or breach hereunder by either Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

MID-PENINSULA WATERDISTRICT

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
General Manager

By: \_\_\_\_\_  
David J. Canepa, President  
Board of Supervisors

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
District Legal Counsel

\_\_\_\_\_  
County Counsel

Exhibit A

PROPERTY

(Attach legal description of Property to be purchased by County.)

Exhibit B

PERMITTED EXCEPTIONS

(Attach list of Permitted Exceptions to Title.)

Exhibit C

FORM OF GRANT DEED

(Attach form of Grant Deed with Certificate of Acceptance.)

Exhibit D

FORM OF ASSIGNMENT AND ASSUMPTION OF RIGHTS

**ASSIGNMENT AND ASSUMPTION OF RIGHTS**

THIS ASSIGNMENT AND ASSUMPTION OF RIGHTS (this "**Assignment**") is made as of \_\_\_\_\_, 2021, by Mid-Peninsula Water District, a counter water district ("**Assignor**"), to County of San Mateo, municipal corporation of the State of California ("**Assignee**"). All initial capitalized terms used but not defined in this Assignment have the meanings provided those terms in that certain Agreement of Purchase and Sale dated as of \_\_\_\_\_, 2020 between Assignor and Assignee (the "**Purchase Agreement**").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, Assignor grants, sells, transfers and assigns unto Assignee all of the right title and interest of Assignor in, to and under any and all of the following items, to the extent that they are related to that certain real property located in the City of San Carlos, County of San Mateo, State of California which is more particularly described in the Purchase Agreement (the "**Real Property**"):

- (a) any leases, contracts, licenses and permits held by Assignor pertaining to the Real Property, to the extent assignable;
- (b) any warranties, guarantees and indemnities (including, without limitation, those workmanship, materials, and performance) from, by or against any contractor, subcontractor, manufacturer, supplier or laborer or other service provider relating to the Real Property or the improvement thereof if any, to the extent assignable; and
- (c) all intangible property used or useful in connection with the Real Property or the improvements thereon, including, without limitation, trade names, if any, to the extent assignable.

1. Assignor expressly disclaims all warranties as to the assets conveyed by this Assignment, except that it warrants that its interest in the contracts conveyed by this Assignment is free of liens and encumbrances arising from or under Assignor.

2. Assignee accepts the foregoing assignment as of the date hereof and agrees to assume any executory obligations of Assignor in connection with the contracts to the extent accruing on and after the date hereof and to indemnify, protect, defend and hold Assignor harmless from and against any and all claims, demands, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees at trial and on appeal) arising in connection with the contracts to the extent accruing with respect to the period on or after the date hereof.

3. The provisions of this Assignment will be binding upon, and will inure to the benefit of, the successors and assigns of Assignor and Assignee, respectively.

4. This Assignment will be governed by and construed in accordance with the laws of the State of California.

5. If any lawsuit or arbitration arises between the parties in connection with this Assignment, the prevailing party therein will be entitled to receive from the other party the prevailing party's costs and expenses, including reasonable attorneys' fees, incurred in connection therewith.

6. This Assignment may be executed in any number of counterparts, each of which will be deemed an original, but all of which when taken together will constitute one and the same instrument.

**ASSIGNOR**

**MID-PENINSULA WATER DISTRICT**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

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

Name: \_\_\_\_\_

Title: District Legal Counsel

**ASSIGNEE**

**COUNTY OF SAN MATEO**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

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

Name: \_\_\_\_\_

Title: County Counsel