

**CITY AND COUNTY OF SAN FRANCISCO
AIRPORT COMMISSION**

SALE AGREEMENT

between

CITY AND COUNTY OF SAN FRANCISCO and COUNTY OF VENTURA

THIS SALE AGREEMENT (“Agreement”) is made as of _____, 2023, in the City and County of San Francisco, State of California, by and between the **COUNTY OF VENTURA** (“Buyer”) and the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (“City”) acting by and through its Airport Commission (“Commission”),

RECITALS

WHEREAS, Commission desires to sell surplus ARFF Unit #37 1999 Oshkosh Ti1500 (VIN# 10TBK8Z12XA065312) (“Fire Truck”), and Buyer desires to buy the Fire Truck, on the terms here specified; and

WHEREAS, City determined that Buyer is eligible to purchase and use the Fire Truck under 14 CFR Part 139; and

WHEREAS, City desires to sell the Fire Truck based on the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is acknowledged, the parties agree as follows:

1. Approval of Purchaser Required. The City Purchaser approved the sale of the Fire Truck as required by Administrative Code 21.03(i)(1).

2. Terms of Sale.

a. The Buyer will accept the Fire Truck and pay for the Fire Truck in the sum of \$14,000 (“Purchase Price”), paid by ACH or wire transfer pursuant to Section 12 of this Agreement. The Purchase Price is inclusive of sales tax.

b. The Buyer will make payment for the Fire Truck on a date mutually agreeable to the City and the Buyer, but before the Fire Truck is released to the Buyer.

c. The Fire Truck will be shipped to Oxnard by a towing company selected by and paid for by the Buyer. The Fire Truck will be considered received by the Buyer when it has been picked up by such towing company.

d. Once the terms of sale as listed in Sections 2(b) and 2(c) of this Agreement are met, this transaction will be deemed closed. However, Sections 3, 6, 7, 8 and 9 relating to As-Is Condition of Fire

Truck, Release of Claims, Indemnification, Assumption of Risk, and Limitation on Liability of City will survive the term of this Agreement.

3. “As-is” Condition. The City is selling the Fire Truck in an as-is condition and disclaims all liability from the moment the Fire Truck is received by the Buyer in accordance with Section 2(c). Buyer acknowledges that the City makes no representations, warranties, express or implied, or guarantees about the Fire Truck, including, but not limited to, condition, merchantability, fitness for any particular purpose, Hazardous Materials (as defined in Section 7 below) or any implied warranty arising from course of performance, course of dealing or usage of trade. The City will not provide any instructions, follow up services, replacement parts or repairs related to the Fire Truck.

4. Title. Title to the Fire Truck will remain with the City until receipt of the Fire Truck by the Buyer.

5. Buyer to Pay All Taxes. Buyer shall pay to the appropriate governmental authority, as and when due, any and all taxes, fees, assessments or other governmental charges, including possessory interest taxes and California sales and use taxes, levied upon or in connection with this Agreement.

6. Release of Claims. Buyer waives and releases all claims against the City, its officers and employees with respect to any and all injury, disability, death, loss or damage to property resulting from possession, use, non-use or misuse of the Fire Truck, regardless of the cause. Buyer agrees not to sue the City on the basis of these waived and released claims, including without limitation any claims for indemnification of third party claims against Buyer arising from use of the Fire Truck. Buyer waives and releases all other known and unknown claims at the time this document is executed. Buyer hereby waives the provisions of California Civil Code Section 1542, which provides as follows:

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

7. Indemnification. Buyer shall hold City harmless from and against any claims arising from its use or non-use of Fire Truck. Buyer shall indemnify, defend and hold harmless City from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected to: (a) injury to or death of a person; (b) loss of or damage to property; (c) violation of local, state, or federal common law, statute or regulation; or (d) strict liability imposed by any law or regulation, including without limitation clean-up or other remedial costs and attorneys’ fees, resulting or arising from the existence of any Hazardous Materials associated with the Fire Truck. For purposes of this Section 7, Hazardous Materials means (a) any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the air, water or soil and (b) any materials, substances, products, byproducts, waste or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, byproducts, or waste gives rise to liability under any Environmental Laws. For purposes of this Section 7, Environmental Laws means any federal, state, local or administrative law, rule, regulation, order, permit, requirement or applicable and controlling federal and state court decisions relating to human health and safety, environmental conditions (including without limitation ground, air, water, or noise quality, pollution or contamination, and underground or above-ground tanks), or Hazardous Materials, whether now in effect or hereafter adopted or amended from time to time, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C.

Section 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Air Act (42 U.S.C. Section 7401, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (42 U.S.C. Section 300f, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.); the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5, et seq.).

8. Assumption of Risk. Buyer acknowledges there are certain risks of injury that may arise from the use or misuse of the Fire Truck, including the risk of injury, disability or death. Buyer assumes full responsibility for all risks arising directly or indirectly from the possession, use or misuse of the Fire Truck, both known and unknown, regardless of the cause.

9. Limitation on City Obligations. The City has no other obligations to Buyer with respect to this agreement, including but not limited to an absolute prohibition on compensation from the City associated with this agreement. City is not authorized to expend funds in the performance of its obligations under this agreement.

10. Payment. Buyer agrees to transfer the Purchase Price electronically when the requirements of Section 2(b) are satisfied to the City and County of San Francisco's account either through the Federal Wire System or ACH, pursuant to the Wire and ACH Instructions attached to this Agreement as Exhibit A.

11. Counterparts and Digital Signatures. This Agreement may be executed in counterparts. City and Buyer consent to the use of Digital Signatures to execute this Agreement. For this purpose, "Digital Signature" means an electronic identifier, created by a computer, intended by the party using it to have the same force and effect as the use of a manual signature.

12. Governing Law; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

13. Entirety of Agreement. This Agreement constitutes the entire agreement between the City and Buyer and there are no further items or provisions, either oral or otherwise. The Buyer acknowledges that it has not relied upon any representations of the Seller as to prospective performance of the Fire Truck.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first specified herein. The signatories to this Agreement warrant and represent that they have the authority to enter into this agreement on behalf of the respective parties and to bind them to the terms of this Agreement

CITY

BUYER:

CITY AND COUNTY OF SAN FRANCISCO

COUNTY OF VENTURA

By: _____
Name:
Title:

By: _____
Name:
Title:

Approved as to Form:

Federal Tax ID #: _____

David Chiu
City Attorney

Approved:

Sailaja Kurella
Director of the Office of Contract Administration,
and Purchaser

By: _____
Monica Baranovsky
Deputy City Attorney

By: _____
Print Name: