FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MOUNTAIN VIEW AND THE LOS ALTOS SCHOOL DISTRICT (TRANSFER OF DEVELOPMENT RIGHTS PROGRAM)

This First Amended Memorandum of Understanding is entered into by and between the CITY OF MOUNTAIN VIEW, a California municipal corporation, 500 Castro Street, Mountain View, California, 94039-7540 (the "City"), and the LOS ALTOS SCHOOL DISTRICT, a California public school district, 201 Covington Road, Los Altos, California 94024 (the "District"), (City and District hereinafter collectively the "Parties" or individually "Party").

RECITALS

A. Between December 2014 and June 2018, the City of Mountain View City Council and City staff took several actions for the purpose of generating a funding source to support the District's acquisition and development of property for a new public school within the Los Altos School District.

B. These actions included discretionary approvals that resulted in the creation of a Transfer of Development Rights Program ("TDR Program") that would allow the District to sell unused development rights to third parties and use the proceeds from those sales to purchase and construct a new school and related recreational facilities (10th School Site) within the City's San Antonio Precise Plan ("SAPP") area.

C. On January 29, 2019, the Parties entered into a Memorandum of Understanding ("MOU") to create and implement the above-mentioned TDR Program.

E. Due to the onset of the COVID 19 pandemic in March 2020 and the resulting suspension of some routine operations within both the City and the District, development of the 10th School Site has been significantly delayed.

F. In light of the unforeseen delays, the Parties now wish to amend the MOU to extend the Term.

AGREEMENT

NOW, THEREFORE, it is mutually understood and agreed by and between the undersigned Parties that the FJUA is hereby amended as follows:

1. **Amended Section 7, Term and Effectiveness. Section 7 of the MOU** is hereby amended to read as follows:

This MOU is at-will and may be modified by mutual consent of the City Council and the District Board of Trustees. This MOU shall become effective upon signature by the City Manager and District Superintendent and will remain in effect for a period of ~~ten years~~ twenty (20) years from the Effective Date unless (i) modified or terminated by any one of the partners by mutual consent or (ii) the District does not acquire a School Site within eighteen months after the Effective Date, in which case this MOU shall terminate automatically. In the event that any litigation is filed that delays District's ability to acquire title to a School Site beyond three years from the Effective Date, including but not limited to any eminent domain action filed by the District, then District shall be entitled to an automatic day-for-day extension (until final resolution of the litigation, including any appeals) for each day that District's acquisition of a School Site is delayed due to litigation.

2. **Ratification of Agreement.** The MOU, except as modified by this First Amendment, remains in full force and effect, and the Parties hereby ratify the same.

3. **Effective Date.** This First Amended Memorandum of Understanding shall become effective on the date it is executed by all Parties. If this First Amended Memorandum of Understanding is not executed by all Parties on the same date, it shall become effective on the date it is last executed by a Party.

4. **Counterparts.** This First Amended Memorandum of Understanding may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same agreement. The Parties shall be entitled to electronically sign and transmit this agreement (whether by facsimile, PDF or other electronic transmission), which signature shall be binding on the signing party or the party on whose behalf the document has been signed. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed agreement upon request.

5. **Authority.** The persons signing below represent and warrant that they have authority to bind their respective Party, and all necessary approvals to sign on behalf of their respective party have been obtained.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, this First Amended Memorandum of Understanding is hereby executed by City and District.

"CITY":
CITY OF MOUNTAIN VIEW,
a California charter city and municipal corporation

By: _____

Print Name: _____

Title: _____

"DISTRICT":
LOS ALTOS SCHOOL DISTRICT

By: _____

Print Name: _____

Title: _____

_____
Taxpayer I.D. Number

FINANCIAL APPROVAL:

_____
Finance and Administrative
Services Director

APPROVED AS TO FORM:

_____
City Attorney