

OPTION/NEGOTIATION RIGHTS AGREEMENT
(Lots A-C; SAP Center Parking Lots)

THIS OPTION/NEGOTIATION RIGHTS AGREEMENT ("**Agreement**") is dated as of December 4, 2018 ("**Effective Date**"), and is entered into by and between the CITY OF SAN JOSE, a municipal corporation ("**Seller**"), and GOOGLE LLC, a Delaware limited liability company ("**Buyer**"). Seller and Buyer are each a "**party**" and sometimes collectively referred to herein as the "**parties**."

RECITALS

A. Seller owns the land described on Exhibit "A" ("**Property**").

B. The Property is encumbered by that certain Second Amended and Restated Arena Management Agreement between the Seller and San Jose Arena Management, LLC ("**SJAM**") executed as of August 15, 2018 ("**Parking Agreement**").

C. Chapter 4.20 of the San José Municipal Code authorizes the City Council to declare City-owned real property surplus to the needs of the City. Section 4.20.100 allows the Seller to authorize the transfer of such surplus property through direct sale for purposes of economic development. The City Council determines that the Property is surplus to the needs of the Seller and the sale of the Property to Buyer will provide for economic development within the Diridon Specific Plan and surrounding area.

D. Buyer desires to acquire the Property and eventually develop the Property, possibly as part of larger development. Buyer has acquired other property from Seller adjacent to the Property for eventual development.

E. Under the Parking Agreement, SJAM leases the Property for the operation of parking facilities and other activities associated with the SAP Center located at 525 W. Santa Clara Street in San Jose ("**Arena**"), and has the exclusive right to all revenues from the operation of the Property. In addition, the Parking Agreement prohibits Seller from conveying any interest in the Property during the Term of the Parking Agreement. Thus, unless the Parking Agreement is amended, it would prevent Buyer's desired development of the Property.

F. Also under the Parking Agreement, Seller is obligated to take whatever actions may be necessary to ensure that the supply of parking spaces within close proximity to the Arena will continue to be maintained throughout the term of the Parking Agreement, such that a certain minimum number of parking spaces will be available for parking by Arena customers, all as more specifically set forth in the Parking Agreement ("**Seller's Arena Parking Obligations**").

G. Pursuant to the Diridon Station Area Plan adopted by the City Council of San Jose on June 17, 2014, one of the primary objectives was to "ensure the continued vitality of the San Jose Arena, recognizing that the Arena is a major anchor for both Downtown San Jose and the Diridon Station Area, and that sufficient parking and efficient access for Arena customers consistent with the provisions of the Arena Management Agreement, are critical for the Arena's on-going success."

H. Seller and Buyer, along with SJAM, wish to encourage and facilitate Buyer's plans to develop projects in the Diridon Station Area, while at the same time respecting the above-stated

objective, preserving SJAM's prior rights under the Parking Agreement (including without limitation sufficient parking and efficient access for Arena customers as well as operational and revenue-generating aspects of the parking facilities), and providing a substantial source of funding to ensure that Seller will be able to satisfy Seller's Arena Parking Obligations, even with the anticipated reduction in parking supply and increase in parking demand due to the BART project. The parties believe that the purchase price for the Property will be sufficient to provide such source of funding.

I. Subject to the terms and conditions of this Agreement, Buyer and Seller desire to enter into this Agreement to give Buyer the option to purchase the Property, for a period of up to five years from and after the Effective Date (the "**Option Period**"), with the effectiveness of the exercise of the option conditioned upon either (i) the execution by SJAM of an amendment to the Parking Agreement that is also acceptable to both Buyer and Seller ("**Parking Agreement Amendment**") or (ii) the natural expiration or earlier termination of the Parking Agreement for reasons not related to Buyer's acquisition of the Property.

J. Subject to the terms and conditions of this Agreement, Buyer and Seller further desire to give Buyer the right of first offer to purchase the Property, for a period of time commencing upon the Effective Date and continuing until the later of June 30, 2041, or one year following the date the Parking Agreement has terminated (the "**ROFO Period**"), with the effectiveness of the exercise of the right of first offer conditioned upon either (i) the execution by SJAM of a Parking Agreement Amendment or (ii) the natural expiration or earlier termination of the Parking Agreement for reasons not related to Buyer's acquisition of the Property; provided, however, that such right of first offer shall not apply in the event of an Arena-Related Sale, as defined in this Agreement.

IN CONSIDERATION of the above recitals and the Option Consideration (hereafter defined), the sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

ARTICLE 1

GRANT OF OPTION; OPTION CONSIDERATION

Section 1.1 Grant. Seller grants to Buyer an option (the "**Option**") to purchase the Property from Seller, on the terms and subject to the conditions hereafter set forth herein; provided, however, that the Option may not be exercised until the earlier of (i) the execution of the Parking Agreement Amendment or (ii) the date the Parking Agreement is terminated for any reason not related to Buyer's acquisition of the Property (such earliest date being the "**Permitted Exercise Date**").

Section 1.2 Option Consideration. The consideration for such option ("**Option Consideration**") is set forth in the schedule below. The first Option Payment will be paid by Buyer to Seller within three (3) business days after the delivery of executed counterparts of this Agreement. The first three Option Payments (less any refund of the first Option Payment described below) shall be credited against the Fixed Purchase Price at Close of Escrow; the fourth and fifth Option Payments shall not be credited. The Option Consideration shall only be refundable to Buyer in the event of a default by Seller under this Agreement that is not cured within forty-five (45) days after written notice from Buyer.

<u>Payment Date</u>	<u>Amount Due</u>	<u>Total Option Payments</u>
Upon Execution of Agreement	\$1,100,000	\$1,100,000

However, if the Parking Agreement Amendment is not approved and executed by all parties thereto on or before the first anniversary of the Effective Date, then Seller shall promptly refund to Buyer Six Hundred Thousand and No/100 Dollars (\$600,000.00) of the first Option Payment.

Buyer shall have the right, but not the obligation, by depositing the following additional optional Option Payments into Escrow when due (hereinafter, the "**Fixed Price Option Payments**"), to extend the Option and secure the Fixed Purchase Price beyond the first anniversary of the Effective Date of the Agreement, as described in Section 1.5 below.

<u>Payment Date</u>	<u>Amount</u>	<u>Total Option Payments</u>
1 st Anniversary of Effective Date	\$1,100,000	\$2,200,000
2 nd Anniversary of Effective Date	\$1,100,000	\$3,300,000
3 rd Anniversary of Effective Date	\$1,100,000	\$4,400,000
4 th Anniversary of Effective Date	\$1,100,000	\$5,500,000

If Buyer has not exercised the Option prior to the applicable anniversary of the Effective Date of this Agreement as specified above, but has made the first Option Payment theretofore payable, then Buyer shall have the rights described in Section 1.6 below.

Section 1.3 Memorandum. Buyer and Seller shall execute and deliver to the First American Title Insurance Company (hereafter referred to as "**Escrow Holder**" or "**Title Company**") for immediate recording in the Official Records of Santa Clara County, counterparts of a Memorandum of Option Agreement in the form attached as Exhibit "B" attached hereto ("**Memorandum**").

Section 1.4 Exercise of Option. Subject to Sections 1.1 and 1.2, Buyer may exercise the Option by giving Seller written notice (the "**Option Notice**") of its unconditional exercise of the Option by the date that is sixty (60) days following the Permitted Exercise Date. However, in no event may Buyer exercise the Option following the expiration of the Option Period.

Section 1.5 Purchase Price for the Property. If Buyer makes the Fixed Price Option Payment, then for each year for which such Fixed Price Option Payment is made (but not after the fifth anniversary of the Effective Date of this Agreement), the purchase price for the Property shall be Two Hundred Thirty-Seven and 50/100 Dollars (\$237.50) per square foot, and shall be determined based on the actual square footage once the lot line adjustment(s) and street vacation(s) have been approved by SJAM, Buyer, and Seller, and finalized ("**Fixed Purchase Price**"), subject

to the credits hereinafter described. If Buyer fails to make any Fixed Price Option Payment in accordance with the schedule set forth above, then the Option shall terminate and be of no further force or effect.

If the Fixed Purchase Price applies pursuant to this Section 1.5, then Buyer shall be entitled to credit against the Fixed Purchase Price the following:

(i) an amount equal to the increased costs Buyer will incur to develop the Property as a result of the existing environmental condition of the Property (the **"Estimated Development Remediation Costs"**). The Estimated Development Remediation Costs shall include, without limitation, the cost of any vapor barriers which must be constructed as a result of the presence of Hazardous Materials in the soil, soil gas or ground water and the estimated costs to excavate, transport and dispose of soil containing Hazardous Materials present at the Property as of the Closing Date in connection with Buyer's proposed development that exceeds the costs that Buyer would incur for such excavation, transportation and disposal if Hazardous Materials were not present in such excavated soil. The parties shall undertake to mutually agree upon the Estimated Development Remediation Costs within thirty (30) days following Buyer's delivery of the Option Notice. If the parties are unable to mutually agree upon the Estimated Development Remediation Costs within such 30-day period, then within fifteen (15) days following the expiration of such 30-day period, each party shall cause an independent qualified third-party environmental consultant to determine the Estimated Development Remediation Costs (the **"Environmental Consultant Estimate"**). Each party shall submit its Environmental Consultant Estimate to a third independent thirty-party qualified environmental consultant agreed upon by the parties who will determine the Estimated Development Remediation Costs by selecting either Buyer's or Seller's Environmental Consultant Estimate as the most representative of the Estimated Development Remediation Costs and shall not be permitted to determine any other amount. The credit against the Fixed Purchase Price based on the Estimated Development Remediation Costs is hereafter referred to as the **"Remediation Credit"**. The parties agree that there will be no adjustment to the Remediation Credit if the actual increased costs are more or less than the Estimated Development Remediation Costs;

(ii) an amount equal to the **"Estimated Increased Development Costs"**, which shall mean the costs that Buyer is required to incur as a result of the Parking Agreement Amendment, including (A) the increased costs to design, permit and construct Buyer's proposed development of the Property, (B) any increased costs for any onsite or offsite work, (C) any additional payments or obligations Buyer must pay or incur. However, Estimated Increased Development Costs shall not include costs that Buyer incurs in order for Buyer's proposed development to comply with then-applicable legal requirements (such that the costs are not the result of the Parking Agreement Amendment), including in such excluded costs, without limitation, costs of any and all parking required for Buyer's development and costs of any parking required by or as the result of any parking district attributable to Buyer's proposed development. The parties shall undertake to mutually agree upon the Estimated Increased Development Costs within thirty (30) days following Buyer's delivery of the Option Notice. If the parties are unable to mutually agree upon the Estimated Increased Development Costs within such 30-day period, then within fifteen (15) days following the expiration of such 30-day period, each party shall cause an independent, licensed, qualified third-party general contractor to prepare its estimate of the Estimated Increased Development Costs (the **"Contractor's Estimate"**). Each party shall submit

its Contractor's Estimate to a third independent, qualified and licensed general contractor agreed upon by the parties who will determine the Estimated Increased Development Costs by selecting either Buyer's or Seller's Contractor's Estimate as the most representative of the Estimated Increased Development Costs and shall not be permitted to determine any other amount. The credit against the Fixed Purchase Price based on the Estimated Increased Development Costs is hereafter referred to as the **"Increased Development Cost Credit"**. The parties agree that there will be no adjustment to the Increased Development Cost Credit if the actual Increased Development Costs are more or less than the Estimated Increased Development Costs;

(iii) the estimated costs to Buyer (including reasonable opportunity cost and loss of potential revenue) of any and all easements, restrictions, covenants, rights to revenue and any other rights required to be granted to SJAM over the Property by the Parking Agreement Amendment that are not included in the Increased Development Cost Credit (collectively, the **"SJAM Interests"**). The parties shall undertake to mutually agree upon such costs of the SJAM Interests within thirty (30) days following Buyer's delivery of the Option Notice. If the parties are unable to mutually agree upon the costs to Buyer of the SJAM Interests within such 30-day period, then within fifteen (15) days following the expiration of such 30-day period, the costs will be determined through submission by each party of an Appraisal or other written evaluation prepared by an independent, qualified third-party appraiser. Each party shall submit its Appraisal or written evaluation to a third independent, qualified third-party appraiser agreed upon by the parties who will determine the costs only by selecting which Appraisal or written evaluation is the most representative of the costs; such third-party appraiser shall not be permitted to select any other amount. The credit against the Fixed Purchase Price based on the costs is hereafter referred to as the **"SJAM Interests Credit"**. The parties agree that there will be no adjustment to the SJAM Interests Credit if the actual costs of the SJAM Interests are more or less over the SJAM Interests Credit.

The date upon which the Remediation Credit, the Increased Development Cost Credit and the SJAM Interests Credit have all been finally determined as provided above is referred to as the **"Basic Purchase Price Credit Determination Date"**.

The purchase price for the Property shall be paid in immediately available funds to Seller at the closing of the purchase and sale of the Property to the Buyer pursuant to this Agreement (the **"Closing"**), but shall first be used to satisfy any loans secured by deeds of trust and any other liens on Seller's title to the Property such that title will be conveyed free of all deeds of trust and monetary encumbrances (other than liens for property taxes and assessments not yet payable).

Section 1.6 Buyer ROFO Rights. If Buyer does not exercise its Option, and Seller thereafter elects to sell all or any portion of the Property prior to the expiration of the ROFO Period, then Buyer shall have the right of first offer (the **"Buyer's Right of First Offer"**) to purchase the Property on the following terms and conditions; provided, however, that the Buyer's Right of First Offer shall not be effective until the Permitted Exercise Date (defined in Section 1.1 above) and shall not apply in the event of an Arena-Related Sale (defined below), in which case Seller shall have the right to transfer the Property unencumbered by the Buyer's Right of First Offer and Buyer's Right of First Offer shall terminate and be of no further force and effect. Further, when the ROFO Period expires, the provisions of this Section shall automatically terminate and be of no further force and effect.

(a) Seller's Sale Notice. If Seller elects to sell the Property during the ROFO Period, Seller shall notify the Buyer in writing of the terms and conditions upon which Seller is willing to sell the Property ("**Seller's Sale Notice**"). Buyer shall have sixty (60) days after receipt of Seller's Sale Notice ("**Response Period**") to notify Seller in writing of Buyer's desire to purchase the Property on the terms stated in Seller's Sale Notice pursuant to the terms for sale set forth herein and a purchase and sale agreement (the "**Google ROFO PSA**") in substantially the form of purchase and sale provisions set forth in this Option Agreement except to the extent the terms in Seller's Sale Notice differ from the terms in this Option Agreement.

(b) Buyer Election. If Buyer desires to acquire the Property on the terms set forth in Seller's Sale Notice, the Buyer shall notify Seller in writing within the Response Period and the parties shall promptly enter into the Google ROFO PSA. If the Buyer fails to so notify Seller within the Response Period, then subject to Buyer's right of reoffer as set forth below, Buyer shall be deemed to have waived its right to purchase the Property and Seller shall have the right thereafter to offer the Property for sale and to sell the Property to any person or entity without further notice to Buyer.

(c) Seller's Revised Sale Notice. If after the date Buyer waived (or is deemed to have waived) its right to purchase the Property, Seller offers the Property for a purchase price that is less than Ninety-Five Percent (95%) of the purchase price that was set forth in Seller's Sale Notice, Seller shall re-offer the Property to Buyer on such terms ("**Seller's Revised Sale Notice**") and the same procedures shall apply with respect to Seller's Revised Sale Notice as are set forth above with respect to Seller's Sale Notice, except that the sixty (60) day period in Section 1.6 (a) above shall be reduced to thirty (30) days. If Buyer waives (or is deemed to waive) its rights to purchase the Property on the terms offered in Seller's Revised Sale Notice, then Buyer's Right of First Offer and the provisions of this Section shall automatically terminate and be of no force or effect.

(d) Arena-Related Sale. As used in this Agreement, the term "Arena-Related Sale" means any sale, option, or other conveyance of all or any portion of the Property or interest therein to any of the following parties: (i) SJAM or any person or entity that, directly or indirectly, controls, is controlled by, or is under common control with SJAM; (ii) any person or entity that acquires the San Jose Sharks hockey team or another NHL franchise that will play its home games in the City of San Jose; (iii) any other person or entity in connection with the construction, renovation and/or operation of a sports and entertainment facility on or adjacent to the Property; or (iv) any governmental entity, agency or authority.

Section 1.7 Parking Agreement Amendment; SJAM Approval. As long as the Parking Agreement is in effect, it shall be a condition to the closing of any sale of the Property by Seller to Buyer under this Agreement (whether pursuant to the Option or the Buyer's Right of First Offer) that SJAM and Seller shall have entered into the Parking Agreement Amendment (which must include approval by SJAM of this Agreement). If a sale is not closed because of the failure of such condition, Buyer's Right of First Offer shall remain in full force and effect.

(a) No Reliance. Buyer acknowledges agrees as follows:

(i) Nothing in this Agreement obligates either Seller or SJAM to agree to any Parking Agreement Amendment, or to use good faith efforts to come to any agreement regarding a Parking Agreement Amendment, and any such Parking Agreement Amendment may be approved or disapproved by either of them in their sole and absolute discretion;

(ii) Neither Seller nor SJAM, nor any of their respective representatives, has made any representations or warranties of any type regarding the likelihood that Seller and SJAM will agree to a Parking Agreement Amendment, or that any such Parking Agreement Amendment will be acceptable to Buyer; and

(iii) Buyer understands that its Option Consideration will be "at risk" if Seller and SJAM fail to agree upon a Parking Agreement Amendment acceptable to Buyer, and the failure of such condition precedent to the exercise of the Option or the Buyer's Right of First Offer shall not give rise to any right on Buyer's part to a refund of the Option Consideration or to any other legal or equitable claim by Buyer against either Seller or SJAM.

(b) Condition Precedent to Parking Agreement Amendment. As a condition precedent to the effectiveness of any Parking Agreement Amendment, Seller and/or SJAM may in their sole and absolute discretion require that Buyer agree to construct onsite and offsite improvements, pay compensation to SJAM for loss of revenues, and incur other expenses, the aggregate costs of which may exceed any available "SJAM Interests Credit" or other credits against the Fixed Purchase Price as described above. Such condition precedent to the Parking Agreement Amendment shall not be limited by any provisions of this Agreement. However, Buyer shall have the right, in its sole and absolute discretion, to either accept such requirements (if Buyer wishes to proceed to purchase the Property), or reject such requirements (in which case Buyer will not proceed to purchase the Property).

Section 1.8 Subordination to Parking Agreement. This Agreement, and the Option and Buyer's Right of First Offer granted by this Agreement, are subordinate to the Parking Agreement and the rights of Seller and SJAM under the Parking Agreement. Without limiting the foregoing, the following shall apply:

(i) The rights and obligations of Seller and SJAM under the Parking Agreement shall not be diminished or impaired in any way by this Agreement.

(ii) Nothing in this Agreement shall restrict or affect the right of Seller and SJAM to agree between them to make alterations or improvements to the Property, to extend the term of the Parking Agreement, or to otherwise modify the Parking Agreement as they may desire.

Section 1.9 Continuing Obligations under Parking Agreement. Nothing in this Agreement shall relieve Seller of the sole responsibility to fulfill Seller's Arena Parking Obligations, notwithstanding the loss of parking spaces anticipated to occur due to the BART project and development projects on Buyer's other properties within the Diridon area. Buyer shall have no obligation to provide replacement parking spaces except as may be expressly agreed by Buyer in connection with a Parking Agreement Amendment, a development agreement with Seller as described in Article 9 below, or another written agreement, or as may be required in connection

with conditions of approval of Buyer's development projects based on then-applicable legal requirements.

ARTICLE 2 CLOSING AND ESCROW

Section 2.1 New Escrow; Conveyance. Upon Buyer's timely exercise of the Option, or purchase of the Property under the Buyer's Right of First Offer, the parties shall deliver a copy of this executed Agreement and the Buyer's written notice of Buyer's exercise of the Option or Buyer's written notice of Buyer's exercise of the Right of First Offer and the Google ROFO PSA, as applicable, to the Title Company at 1737 North First Street, Suite 500, San Jose CA 95112, and shall open a new escrow at Title Company for the purchase and sale of the Property pursuant to the exercised Option or Buyer's Right of First Offer. Seller shall convey the Property to Buyer by grant deed in the form attached hereto as Exhibit "C" ("**Grant Deed**"). Seller agrees that Seller will, at its sole cost and expense, complete the street vacations and the lot line adjustments for the Property conceptually described and depicted on Exhibit "F" attached hereto, subject to approval by SJAM of such lot line adjustments in accordance with the Parking Agreement Amendment if the Parking Agreement is still in effect, and the date upon which such street vacations and lot line adjustments have been completed is referred to as the "**Lot Line Adjustment/Street Vacation Completion Date**".

Section 2.2 Title. It is a condition to Buyer's obligation to purchase that the Title Company be irrevocably committed to issue to Buyer an ALTA extended coverage owner's title policy ("**Title Policy**") in the amount of the Purchase Price, insuring that the Buyer owns the Property subject only to the Title Exceptions set forth in the owner's pro forma title insurance policy attached hereto as Exhibit "D" (the "**Pro Forma Title Policy**") and, if applicable, the Parking Agreement Amendment.

Section 2.3 Escrow Instructions. This Agreement shall serve as the instructions to the Title Company, as escrow holder, for consummation of the purchase and sale contemplated by this Agreement, but Seller and Buyer shall also execute such reasonable additional supplementary escrow instructions as may be reasonably appropriate to enable the Title Company to comply with the terms of this Agreement.

Section 2.4 Closing; Closing Date. The closing of the purchase and sale of the Property pursuant to the exercised Option ("**Closing**") shall occur as soon as reasonably possible after the Permitted Exercise Date, but no later than 45 days after the later of (i) the Option Notice is delivered, (ii) the Lot Line Adjustment/Street Vacation Completion Date or (iii) the Basic Purchase Price Credit Determination Date ("**Outside Closing Date**"). If the sale is pursuant to Section 1.6, then the Closing shall occur as soon as reasonably possible, but no later than 45 days after the parties enter into the Google ROFO PSA.

Section 2.5 Deposit of Documents and Funds into Escrow.

(a) At least one (1) business day prior to the Closing Date, Seller shall deposit into escrow the following:

- (i) a duly executed and acknowledged Grant Deed conveying the Property to Buyer;
- (ii) a true and correct affidavit, pursuant to Section 1445(b)(2) of the Internal Revenue Code, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code; and
- (iii) a true and correct California Form 593 certifying that Seller is exempt from withholding.

(b) At least one business day prior to the Closing Date, Buyer shall deposit into escrow the Purchase Price and costs payable by Buyer under Section 2.7(b).

(c) Buyer and Seller shall each deposit such other reasonable documents as are reasonably required by the Title Company to consummate the purchase and sale of the Property.

Section 2.6 Escrow Actions. Subject to Section 2.2, Title Company as escrow holder shall record the Grant Deed and apply or deliver all funds in accordance with a preliminary settlement statement consistent with this Agreement prepared by Title Company as escrow holder and reasonably approved by Buyer and Seller.

Section 2.7 Prorations; Costs.

(a) Assessments (if any) shall be prorated as of 12:01 a.m. on the date the Grant Deed is recorded. Seller is exempt from property taxes.

(b) Each party shall pay fifty percent (50%) of the escrow fees and local (City of San Jose) transfer taxes. The cost of the standard coverage owner's title policy and County of Santa Clara transfer taxes shall be paid by Seller. The cost of an ALTA survey and extended coverage (i.e., deletion of survey exception) and any endorsements shall be paid by Buyer.

Section 2.8 Possession. Seller shall deliver possession of the Property to Buyer upon the recording of the Grant Deed, subject to the Approved Title Exceptions.

ARTICLE 3 CONDITION OF PROPERTY

Section 3.1 Further Due Diligence. Buyer acknowledges that Buyer has had access to the Property under one or more right of entry agreements between Buyer and Seller and has thoroughly inspected the Property. Buyer shall nevertheless have fifteen (15) business days after the date of exercise of its Option to further inspect the Property for the purpose of confirming that no material adverse change in the physical or environmental condition of the Property has occurred since Buyer last inspected the Property. If Buyer determined that such material adverse change shall have occurred, Buyer may terminate this Agreement by written notice to Seller given within such fifteen (15) business day period describing the material adverse change.

Section 3.2 Hazardous Materials. **Hazardous Materials** means any chemical, material or substance now or hereafter defined as or included in the definition of hazardous substances, hazardous wastes, hazardous materials, extremely hazardous waste, restricted hazardous waste, toxic substances, pollutant or contaminant, imminently hazardous chemical substance or mixture, hazardous air pollutant, toxic pollutant, or words of similar import under any local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto applicable to the Property, including, without limitation: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. (“**CERCLA**”); the Hazardous Materials Transportation Act, as amended, 49 U.S.C. 1801, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.; and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq. (“**RCRA**”). The term Hazardous Materials shall also include any of the following: any and all toxic or hazardous substances, materials or wastes listed in the United States Department of Transportation Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR. Part 302) and in any and all amendments thereto in effect as of the Close of Escrow; oil, petroleum, petroleum products (including, without limitation, crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel, not otherwise designated as a hazardous substance under CERCLA; any substance which is toxic, explosive, corrosive, reactive, flammable, infectious or radioactive (including any source, special nuclear or by-product material as defined at 42 U.S.C. 2011, et seq.), carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority; asbestos in any form; urea formaldehyde foam insulation; transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls; radon gas; or any other chemical, material or substance (i) which poses a hazard to the Property, to adjacent properties, or to persons on or about the Property, (ii) which causes the Property to be in violation of any of the aforementioned laws or regulations, or (iii) the presence of which on or in the Property requires investigation, reporting or remediation under any such laws or regulations.

Section 3.3 Seller’s Representations and Warranties. Subject to the provisions of this Agreement, Seller hereby represents and warrants to Buyer, as of the date of this Agreement and as of the close of escrow:

Section 3.3.1 Authority. Seller has the full power and authority to execute, deliver and perform this Agreement and all documents to be executed at the close of escrow pursuant to this Agreement (the “**Closing Documents**”). The individual(s) executing this Agreement and the Closing Documents on behalf of Seller have the full power and authority to bind Seller thereto. Seller has taken all necessary actions and has obtained all necessary authorization actions to execute, deliver and perform this Agreement and the Closing Documents.

Section 3.3.2 Violations of Law. To Seller’s actual knowledge without investigation or inquiry, neither the Property nor the use thereof is in violation of any applicable laws, except as set forth on Schedule X attached hereto.

Section 3.3.3 Hazardous Materials. Except as disclosed in the environmental reports set forth on Schedule X attached hereto, Seller has not received any written notice regarding Hazardous Materials existing in, on or under the Property.

Section 3.3.4 Litigation. There is no litigation, arbitration or other legal or administrative action or proceeding (including, without limitation, any condemnation proceeding) pending and served, against or involving Seller and related to the Property, except as set forth on Schedule X attached hereto.

Section 3.3.5 Leases. Seller is not a party to any lease, license or other agreement for the occupancy or use of the Property or any portion thereof that would be binding upon the Property from and after the close of escrow.

Section 3.3.6 Contracts. Seller is not currently a party to any contracts or other agreements with respect to the operation or maintenance of or the provision of services to the Property or any portion thereof that would be binding upon the Property from and after the close of escrow, except as set forth on Schedule X attached hereto (the agreements disclosed on Schedule X being referred to herein as the “Existing Contracts”). With respect to the Existing Contracts, if any: (i) Seller has provided Buyer with complete copies of the Existing Contracts and all amendments thereto to the extent they are in Seller’s possession or control; and (ii) to Seller’s actual knowledge, there are no uncured defaults existing under the Existing Contracts, except as set forth on Schedule X attached hereto.

Section 3.3.7 Parking Agreement. With respect to the Parking Agreement between Seller and SJAM executed as of August 15, 2018 with a commencement date of July 1, 2015: (i) Seller has provided Buyer with a complete copy of the Parking Agreement; (ii) the Parking Agreement is in full force and effect, and has not been amended, supplemented, assigned or terminated, except for a First Amendment thereto entered into between Seller and SJAM concurrently with this Agreement, a copy of which has been approved by Buyer; (iii) to Seller’s actual knowledge, there are no uncured defaults existing under the Parking Agreement, except as set forth on Schedule X attached hereto; and (iv) to Seller’s actual knowledge, there are no claims or disputes outstanding in connection with the Parking Agreement, except as set forth on Schedule X attached hereto.

Seller’s representations and warranties shall survive the closing for period of one (1) year. If an action is not commenced by Buyer against Seller within such period, then no such action on the express representation and warranty may be brought by Buyer.

Section 3.4 AS-IS. Buyer is acquiring the Property in its “AS-IS” condition. Except for the express representations and warranties set forth in this Agreement, the Seller makes no representations or warranties, express or implied, whatsoever to the Buyer as to the condition of the Property, including but not limited to whether the Property contains any Hazardous Materials, or the suitability of the Property for the purposes for which it is acquired by Buyer. If the Property is not in a condition suitable for the use or uses to which they shall be put, then it is the sole responsibility and obligation of the Buyer to take such action (or cause another responsible or obligated party to take such action) as may be necessary to place the Property in a condition suitable to Buyer. Except for Seller’s Retained Environmental Liabilities (as defined below), Buyer acknowledges and agrees specifically that the Seller shall have no responsibility or obligation with respect to the suitability of the Property for the purposes for which it is acquired by the Buyer or the existence of any Hazardous Materials on, under, in or about the Property. Buyer is responsible for any claims brought its invitees, occupants and/or lessees during Buyer’s

period of ownership of the Property regarding the condition of the Property as of the Close of Escrow and shall install, to the extent required by law or governmental order, vapor barriers in any new buildings constructed on the Property by Buyer.

Section 3.5 Disclosure. Buyer acknowledges that the Seller has delivered to Buyer the documents described on Exhibit "E". Seller intends that such delivery constitutes, among other things, written notice of the release of hazardous materials under California Health and Safety Code Section 25359.7. The environmental condition of the Property existing as of the date of this Agreement and as of the Closing of Escrow hereunder shall be described and referred to as the **"Pre-Existing Condition."**

Section 3.6 Buyer Indemnity. If the Closing occurs, then Buyer agrees to indemnify, protect, defend (with counsel selected and engaged by Buyer which counsel does not have a conflict of interest with Seller in undertaking such defense; if Seller elects to retain independent counsel, it shall do so at Seller's own cost and expense) and hold harmless the Seller, including, but not limited to, the Seller's servants, employees, agents, representatives, successors, administrators, assigns, and attorneys (collectively, **"Seller Parties"**), and of each of them alone, from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, damage, or expense, resulting from, arising out of, or based upon a third-party claim to the extent proximately caused by (i) the presence, discharge or release of any Hazardous Materials which first came to exist on or about the Property after the Close of Escrow and during Buyer's period of ownership of the Property (but excluding any Hazardous Materials which migrate to the Property from any adjacent properties or any Hazardous Materials released by Seller or any of the Seller Parties) (**"Buyer Caused Release"**) or (ii) Buyer's excavation, transportation or disposal of any Hazardous Materials present at the Property as of the Closing Date in connection with Buyer's development of the Property (**"Buyer's Development Activities"**). The provisions of this Section shall survive the Close of Escrow. Notwithstanding anything to the contrary in this Agreement, in no event will Buyer's indemnification obligations include diminution in value claims of Seller.

Section 3.7 Seller Retained Environmental Liabilities. Notwithstanding anything to the contrary in this Agreement, except for Buyer's Development Activities and costs that are or would be the basis for determining Estimated Development Remediation Costs and costs of relocating any existing monitoring wells on the Property to accommodate Buyer's development (and Buyer and Seller shall reasonably cooperate as to the new location of such wells to be relocated), Seller retains liability and responsibility for claims and response actions relating to the Pre-Existing Condition of the Property (**"Seller's Retained Environmental Liabilities"**) including, without limitation, ongoing environmental monitoring, new groundwater well installation (excluding costs of relocation of existing wells to accommodate Buyer's development), repair, replacement and monitoring of wells, and removal or remedial actions of any kind (**"Pre-Existing Environmental Work"**) and Seller shall execute manifests for disposal of contaminated soil off-site in connection with Seller's Retained Environmental Liabilities and Buyer's Development Activities. Seller covenants to continue undertaking the Pre-Existing Environmental Work during the Term and following Buyer's acquisition of the Property, at Seller's sole cost and expense. Buyer agrees to provide Seller with reasonable access to the Property to perform the Pre-Existing Environmental Work, and Buyer and Seller shall have the right to further reasonably relocate from time to time, at the relocating party's expense, any monitoring or other wells and any other remediation equipment so long as such relocation has been approved by the applicable governmental agency

overseeing the Pre-Existing Environmental Work and is consistent with Buyer's proposed development of the Property. If the Closing occurs, then Seller agrees to indemnify, protect, defend (with counsel selected and engaged by Seller which counsel does not have a conflict of interest with Buyer in undertaking such defense; if Buyer elects to retain independent counsel, it shall do so at Buyer's own cost and expense) and hold harmless Buyer, including, but not limited to, Buyer's members, employees, agents, representatives, successors, administrators, assigns, and attorneys (collectively, "**Buyer Parties**"), and each of them alone, from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, damage, or expense, arising out of, related to or connected with a third-party claim based on the Pre-Existing Condition except for claims or response actions arising out of the Buyer's Development Activities. The provisions of this Section shall survive the Close of Escrow. Notwithstanding anything to the contrary in this Agreement, in no event will Seller's indemnification obligations include diminution in value claims of Buyer.

Section 3.8 Release. Except as expressly provided herein, Buyer hereby waives, releases, acquits, and forever discharges Seller, and Seller's agents, directors, officers, and employees to the maximum extent permitted by law, of and from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs, expenses, compensation, attorneys' fees, consultants' fees and costs and expert fees (collectively "**Claims**") whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has or that may arise in the future because of or in any way growing out of or connected with the physical condition of the Property, including without limitation, the physical and environmental condition of the Property or any law or regulation applicable thereto, including, without limitation, any Claim or matter (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, (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, and (iv) the presence, release and/or remediation of asbestos and asbestos containing materials in, on or about the Property regardless of when such asbestos and asbestos containing materials were first introduced in, on or about the Property. Buyer hereby waives and agrees not to commence any action, legal proceeding, cause of action or suit 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. Section 9601 et seq. and California Health and Safety Code section 25300 et seq. (as such laws and statutes may be amended, supplemented or replaced from time to time), directly or indirectly, against Seller or Seller's agents, directors, officers, and employees in connection with the Property, except (i) matters arising from Seller's fraud, intentional misrepresentation, or concealment of a material fact about Hazardous Materials on or under the Property not known to Buyer; (ii) any claims arising from a breach of Seller's express covenants, obligations, representations and warranties set forth in this Agreement or in any documents delivered by Seller under Section 2.5 above; (iii) any claims for personal injury, death or damage to personal property based on events prior to Closing and not covered by Buyer's indemnity under Section 4.1(a) below; (iv) any Hazardous Materials which migrate from, to or under the Property after the Close of Escrow to the extent originating from any real property owned by the Seller from and after closing; and/or (v) Seller's Retained Environmental Liabilities (collectively, "**Excluded Claims**").

IT IS UNDERSTOOD AND AGREED THAT EXCEPT FOR ANY EXPRESS REPRESENTATIONS AND WARRANTIES OR OBLIGATIONS OF SELLER SET FORTH IN THIS AGREEMENT, SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT UPON THE CLOSING DATE SELLER SHALL SELL AND CONVEY THE PROPERTY TO BUYER "IN ITS THEN EXISTING CONDITION AS IS, WHERE IS, WITH ALL FAULTS," BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY SELLER OR ANY AGENT PURPORTING TO REPRESENT SELLER.

BUYER REPRESENTS TO SELLER THAT BUYER HAS CONDUCTED SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS BUYER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS MATERIALS ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS. UPON CLOSING, BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS, AND BUYER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND COUNCIL MEMBERS, BOARD MEMBERS, SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY EXISTING AT OR OCCURRING PRIOR TO CLOSING EXCEPT FOR EXCLUDED CLAIMS. IN CONNECTION THEREWITH, BUYER EXPRESSLY WAIVES ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES THAT:

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

BUYER'S INITIALS: JH

THE RELEASES SET FORTH IN THIS SECTION SHALL SURVIVE CLOSE OF ESCROW AND DELIVERY OF THE GRANT DEED.

ARTICLE 4
INDEMNITY

Section 4.1 Non-Hazardous Materials Indemnity. From and after the Effective Date with respect to claims covered by subsections (i) and (iii) below, and from and after the Closing with respect to claims covered by subsections (ii) and (iv) below, Buyer shall indemnify, defend, protect, and hold harmless Seller and any and all Seller's board members, council members, officials, agents, employees and representatives ("Indemnitees"), from and against all losses, liabilities, claims, damages, penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) and demands of any nature whatsoever (but excluding punitive, consequential and speculative damages), related directly or indirectly to, or arising out of or in connection with:

(i) Buyer's investigations of the Property under Section 3.1 above or otherwise, excluding the mere discovery of any pre-existing adverse physical or environmental conditions impacting the Property;

(ii) any claims for personal injury or damage to personal property based on any acts, occurrences, omissions or other matters that take place on or with respect to the Property after the Close of Escrow and during Buyer's period of ownership or the period of ownership of any entity owned directly or indirectly, in whole or in part, by Buyer (except for acts by Seller);

(iii) third-party challenges to the validity of this Agreement; and

(iv) third-party claims based on any failure to comply with California Labor Code Sections 1720 et seq., with respect to construction on the Property that are based in whole or in part upon any claim that the Purchase Price was below the fair market value of the Property as of the Close of Escrow or that the option consideration or consideration for Buyer's Right of First Offer was inadequate.

This Section 4 shall not apply to any claims based on or arising out of Hazardous Materials, which are governed solely by Section 3.4 relative to Buyer's obligations to Seller. Notwithstanding anything to the contrary in this Agreement, in no event will Buyer's indemnification obligations include diminution in value claims of Seller. The provisions of this Section shall survive the Close of Escrow.

ARTICLE 5
BROKERS

The parties represent and warrant to each other that except for CBRE, no broker or finder was engaged or used in arranging or bringing about this transaction and that there are no other claims or rights for brokerage commissions or finders' fees in connection with the transactions contemplated by this Agreement. Buyer shall pay any and all commissions, fees and changes payable to CBRE. If any other person or entity brings a claim for a commission or finders' fee based upon any contact, dealings or communication with Buyer or Seller, then the party through whom such person makes his claim shall defend the other party (the "**Indemnified Party**") from such claim, and shall indemnify the Indemnified Party and hold the Indemnified Party harmless from any and all claims, liabilities, damages, costs and expenses (including without limitation, reasonable attorneys' fees and costs). The provisions of this Article shall survive the close of escrow, or, if the purchase and sale is not consummated, any termination of this Agreement.

ARTICLE 6
NOTICES

When notices are provided for herein, the same shall be in writing and served on the parties at the addresses listed below. Any notice shall be either (a) sent by certified mail, return receipt requested, in which case it shall be deemed delivered as shown on the return receipt as the date of delivery (or attempted delivery/refusal of acceptance); or (b) sent by nationally recognized overnight courier, in which case it shall be deemed delivered one (1) business day after deposit with such courier. The addresses listed below may be changed by written notice to the other party.

SELLER:

City of San Jose
200 E. Santa Clara Street, 16th Floor
San Jose, California 95113
Attn: City Manager

BUYER:

Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043
Attn: Vice President, Real Estate and Workplace
Services

Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043
Attn: Legal Department/RE Matters
Allen Matkins Leek Gamble Mallory & Natsis LLP
1900 Main Street, Fifth Floor
Irvine, CA 92614
Attn: Richard E. Stinehart, Esq.

ARTICLE 7 MISCELLANEOUS

Section 7.1 Applicable Law. This Agreement shall be construed and enforced according to the laws of the State of California.

Section 7.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter.

Section 7.3 Successors and Assigns. Neither this Agreement nor any interest herein may be assigned by Buyer without the prior written consent of Seller (which consent may be withheld in Seller's sole and absolute discretion). Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, assigns and successors-in-interest.

Section 7.4 Time. Time is of the essence of every provision of this Agreement in which time is a factor.

Section 7.5 Counterparts; Electronic Delivery. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Executed copies of this Agreement may be delivered by email (PDF).

Section 7.6 City Manager Authority. This Agreement may be amended or modified only by a written instrument signed by Buyer and Seller, provided, however, that Buyer and Seller shall not have the power to amend any of the provisions described in Section 7.7 below without the express written consent of SJAM. The City Manager of Seller may amend this Agreement on behalf of Seller provided the Option Consideration and the Purchase Price are not decreased and the amendment is in writing. The City Manager of Seller shall also have the power and authority to give all notices, make all elections and give approvals and consents on behalf of Seller provided they are in writing.

Section 7.7 SJAM as Third Party Beneficiary. Buyer and Seller acknowledge and agree that SJAM is an intended third party beneficiary of Subsection 1.6(d), Sections 1.7, 1.8, and 1.9, and all other provisions of this Agreement concerning, affecting or relating to: (i) the execution of a Parking Agreement Amendment as a condition of the effectiveness of the Option or the Buyer's Right of First Offer (if the Parking Agreement is still in effect); (ii) an Arena-Related Sale as a carve-out to the Buyer's Right of First Offer; and (iii) the fact that SJAM's rights under the Parking Agreement are superior to Buyer's rights under this Agreement. SJAM shall have the right to enforce all of such provisions directly to the extent that SJAM deems such enforcements necessary or advisable to protect its rights.

ARTICLE 8

CITY/SELLER ROFO

For purposes of this Article 8, the term "Google" means Buyer (i.e., Google LLC), and the term "City" means Seller (i.e., the City of San Jose).

If Google acquires the Property under this Agreement, and then subsequently elects to sell all or any portion of the Property other than as part of an Affiliated Transaction described in subsection (d) below (hereinafter, "**Third Party Transaction**"), whether individually or as part of a portfolio of properties which may include properties other than the Property in the Diridon Station Planning Area (the properties Google elects to sell with the Property being hereinafter referred to as the "**Sale Property**") prior to the date Google obtains a permit to commence grading on the Property (the "**Google Infrastructure Commencement Date**") (hereinafter, "**City ROFO Period**"), then City shall have the right of first offer (the "**City Right of First Offer**") to purchase the Sale Property on the following terms and conditions. The provisions of this Article shall automatically terminate and be of no further force and effect upon the Google Infrastructure Commencement Date.

(a) Google's Sale Notice. If Google elects to sell the Sale Property during the City ROFO Period, Google shall notify the City in writing of the terms and conditions upon which Google is willing to sell the Sale Property ("**Google's Sale Notice**"). City shall have sixty (60) days after receipt of Google's Sale Notice and all non-privileged, material third party prepared documents in Google's possession relating to the Sale Property that was not previously owned by the City, which Google shall provide to the City without representation or warranty, and a reasonably current title report or reports for the Sale Property ("**City Response Period**") to notify Google in writing of City's desire to purchase the Sale Property on the terms stated in Google's Sale Notice pursuant to the purchase and sale agreement in the form attached hereto as Exhibit "G" (the "**City ROFO PSA**"). During such sixty (60) day period, City may enter the Sale Property that was not previously owned by the City to conduct reasonable due diligence inspections (including a reasonable Phase II inspection), and shall defend, indemnify and hold Google harmless from and against any claims, liabilities, losses, damages, costs and expenses arising from such entry or inspections (excluding those that relate to matters discovered during the inspections).

(b) City Election. If City desires to acquire the Sale Property on the terms set forth in Google's Sale Notice, City shall return the executed City ROFO PSA to Google within the City Response Period. If City fails to deliver the executed City ROFO PSA within the City Response Period, then subject to City's right of reoffer as set forth below, City shall be deemed to have waived its right to purchase the Sale Property and Google shall have the right thereafter to offer the Sale Property for sale and to sell the Sale Property to any Third Party without further notice to City. If City delivers the executed City ROFO PSA within the City Response Period and then defaults by failing to close escrow, the provisions of this Article shall automatically terminate and be of no further force and effect.

(c) Google's Revised Sale Notice. If after the date City waived (or is deemed to have waived) its right to purchase the Sale Property, Google offers the Sale Property in a proposed Third Party Transaction for a purchase price that is less than Ninety-Five Percent (95%) of the purchase price that was set forth in Google's Sale Notice, Google shall re-offer the Sale Property to City on the terms offered to such Third Party ("**Google's Revised Sale Notice**") and the same procedures shall apply with respect to Google's Revised Sale Notice as are set forth above with respect to Google's Sale Notice, except that the sixty (60) day period in clause a. above shall be reduced to thirty (30) days. If City waives (or is deemed to waive) its rights to purchase the Sale Property on the terms offered in Google's Revised Sale Notice, then City's Right of First

Offer and the provisions of this Section shall automatically terminate and be of no further force or effect.

(d) Affiliated Transactions. Notwithstanding the foregoing, the City Right of First Offer shall not apply to any sale or contribution of the Property or any portion thereof by Google to an entity, including a joint venture or other entity in which Google (or an affiliate of Google) will be an owner, if the terms of such sale or joint venture require the vertical development of the Property to be sold or contributed within a reasonable period of time; however, the City Right of First Offer shall apply to any subsequent proposed Third Party Transaction sale by such entity.

ARTICLE 9 DEVELOPMENT AGREEMENT; COSTS

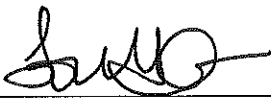
Following the Close of Escrow for the sale of the Property by Seller to Buyer pursuant to the Option, the parties seek to enter into a development agreement pursuant to Chapter 18.02 of the San Jose Municipal Code for the properties that Buyer is acquiring from Seller (including the Property), and Buyer shall reimburse Seller for Seller's costs in connection with the development agreement to the extent provided in an amendment to that certain Funding and Reimbursement Agreement between Buyer and Seller dated June 17, 2018 ("Reimbursement Agreement"). Buyer's and Seller's obligations under this Section and the Reimbursement Agreement shall survive the Close of Escrow and the delivery and recording of the deeds by Seller to Buyer for the properties being acquired by Buyer from Seller (including the deed for the Property).

[Remainder of this page intentionally left blank]

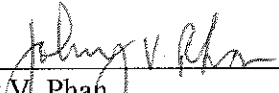
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

SELLER:

CITY OF SAN JOSE,
a municipal corporation


By: 
Toni J. Taber, CMC
City Clerk

APPROVED AS TO FORM:


Johnny V. Phan
Senior Deputy City Attorney

BUYER:

GOOGLE LLC

By: 
Print Name: David Radcliffe
Title: Authorized Signatory



List of Exhibits

<u>Exhibit "A"</u>	Legal Description of Land
<u>Exhibit "B"</u>	Memorandum of Option
<u>Exhibit "C"</u>	Form of Grant Deed
<u>Exhibit "D"</u>	Owner's Pro Forma Title Policy and Endorsements
<u>Exhibit "E"</u>	Documents Delivered/Disclosures to Buyer
<u>Exhibit "F"</u>	Conceptual Description and Depiction of Street Vacations and Lot Line Adjustments for Lots A,B, And C
<u>Exhibit "G"</u>	Form of City ROFO PSA

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel One

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being all of Parcels A, B, X and Y as described in that certain Grant Deed recorded on May 14, 1935 in Book 730, Page 255 of Official Records, Santa Clara County, a portion of the land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 77 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 79 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 81 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on June 12, 1974 in Book 0939, Page 700 of Official Records, Santa Clara County, and a portion of the land as described in that certain Quitclaim Deed recorded on June 26, 2003 as Document No. 17140351 of Official Records, Santa Clara County, said above described property being shown on that certain Record of Survey filed for record on _____, _____ in Book _____ of Maps at Pages _____, Santa Clara County Records, and being more particularly described as follows:

Commencing at the intersection of the westerly line of North Autumn Street with the northerly right of way line of West Santa Clara Street as shown on said Record of Survey;

Thence along said northerly right of way line South $87^{\circ}38'14''$ West, 489.94 feet to the Point of Beginning;

Thence continuing along said northerly right of way line South $87^{\circ}38'14''$ West, 289.41 feet to a point on the easterly line of the lands of Peninsula Corridor Joint Powers Board as shown on said Record of Survey;

Thence along said easterly line the following ten (10) courses and distances:

1. North $13^{\circ}53'49''$ West, 162.78 feet;
2. North $6^{\circ}00'56''$ West, 142.79 feet;
3. North $14^{\circ}47'22''$ West, 144.81 feet;
4. North $24^{\circ}39'45''$ West, 14.49 feet;
5. North $49^{\circ}47'59''$ East, 37.34 feet;
6. North $40^{\circ}08'42''$ West, 195.34 feet;
7. North $34^{\circ}08'42''$ West, 99.45 feet;
8. North $33^{\circ}36'47''$ West, 90.81 feet;
9. North $40^{\circ}10'46''$ West, 60.03 feet;
10. North $34^{\circ}56'36''$ West, 120.53 feet to a point in the southeasterly right of way line of Julian Street as shown on said Record of Survey;

Thence along said southeasterly right of way line the following four (4) courses and distances:

1. North $49^{\circ}40'07''$ East, 261.99 feet;
2. Along a curve to the right having a radius of 240.00 feet, through a central angle of $15^{\circ}15'37''$ for an arc distance of 63.92 feet;
3. North $64^{\circ}55'44''$ East, 66.94 feet;
4. Along a curve to the right having a radius of 30.00 feet, through a central angle of $74^{\circ}54'30''$ for an arc distance of 39.22 feet to a point on the southwesterly right of way line of Montgomery Street as shown on said Record of Survey;

Thence along said southwesterly right of way line South $40^{\circ}09'46''$ East, 733.65 feet;

Thence leaving said southwesterly right of way line South $42^{\circ}32'40''$ West, 211.25 feet;

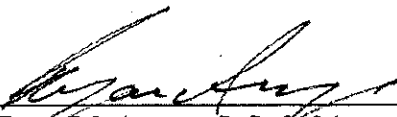
Thence South $2^{\circ}21'46''$ East, 425.88 feet to the Point of Beginning.

Containing $10.775 \pm$ acres.

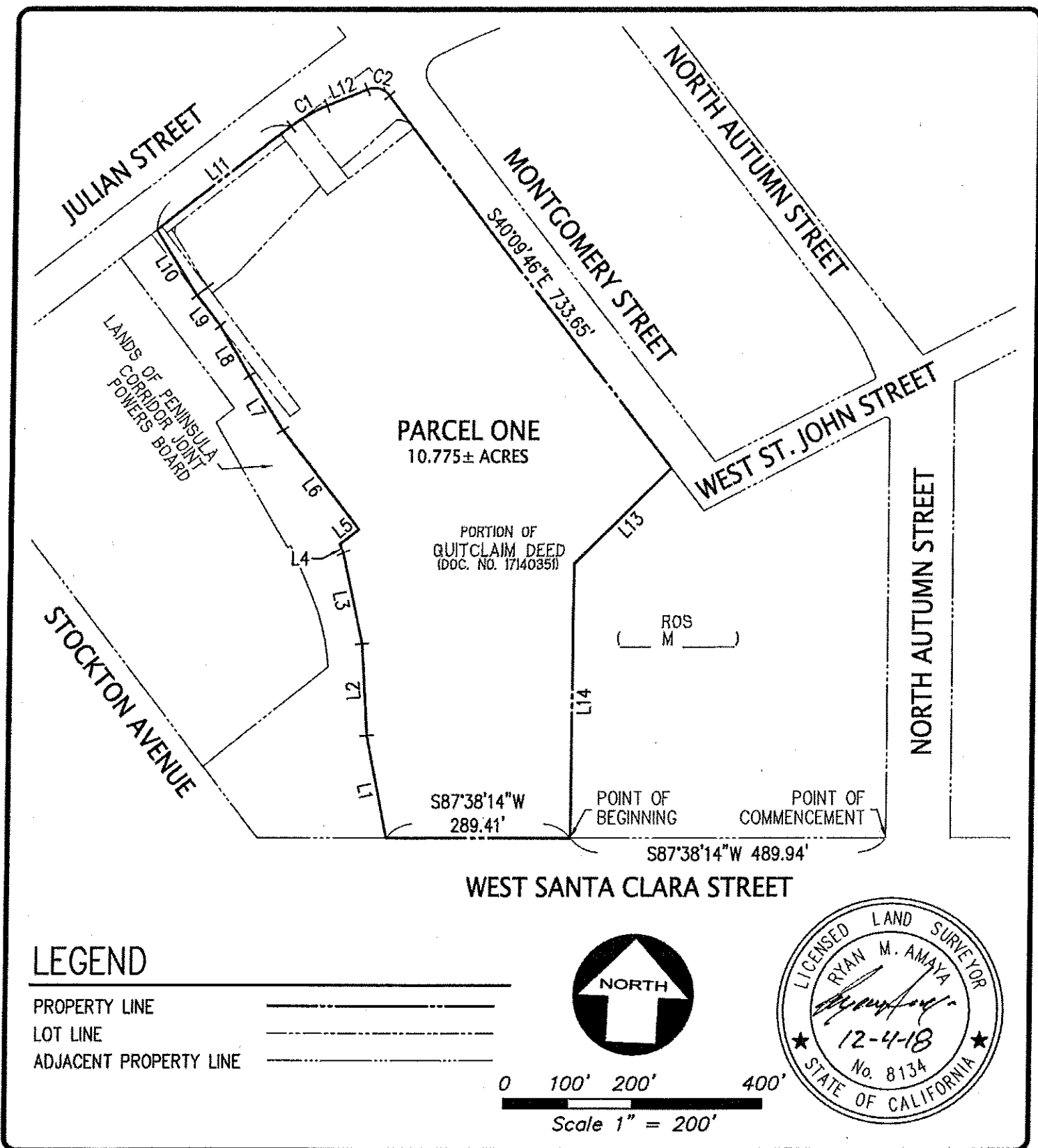
As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Legal Description prepared by Kier & Wright Civil Engineers and Surveyors, Inc.

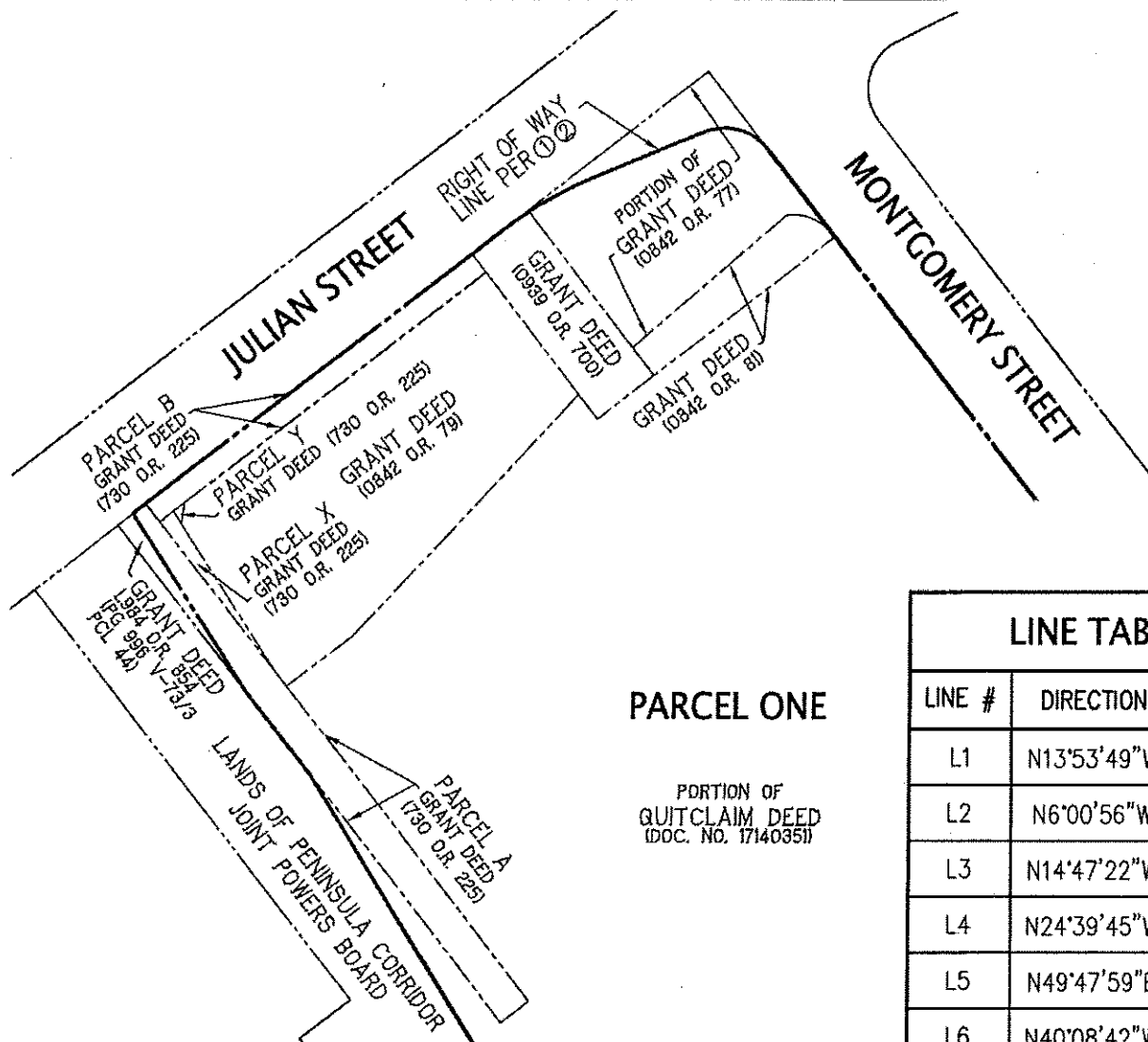
12-4-18
Date


Ryan M. Amaya, L.S. 8134





PLAT TO ACCOMPANY LEGAL DESCRIPTION		DATE	DEC., 2018
SAN JOSE		SCALE	1" = 200'
CALIFORNIA		DR. BY	EK
EXHIBIT "B"		JOB	A18056
 KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC. 3350 Scott Boulevard, Building 22 Santa Clara, California 95054		SHEET NO.	1 OF 2



PARCEL ONE

PORTION OF
QUITCLAIM DEED
(DOC. NO. 17140351)

REFERENCES

- ① RECORD OF SURVEY (623 M 36-37)
- ② RECORD OF SURVEY (___ M ___)

CURVE TABLE

CURVE #	RADIUS	DELTA	LENGTH
C1	240.00'	15°15'37"	63.92'
C2	30.00'	74°54'30"	39.22'

LINE TABLE

LINE #	DIRECTION	LENGTH
L1	N13°53'49"W	162.78'
L2	N6°00'56"W	142.79'
L3	N14°47'22"W	144.81'
L4	N24°39'45"W	14.49'
L5	N49°47'59"E	37.34'
L6	N40°08'42"W	195.34'
L7	N34°08'42"W	99.45'
L8	N33°36'47"W	90.81'
L9	N40°10'46"W	60.03'
L10	N34°56'36"W	120.53'
L11	N49°40'07"E	261.99'
L12	N64°55'44"E	66.94'
L13	S42°32'40"W	211.25'
L14	S2°21'46"E	425.88'



PLAT TO ACCOMPANY LEGAL DESCRIPTION

SAN JOSE

CALIFORNIA

EXHIBIT "B"



KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22 (408) 727 6665
Santa Clara, California 95054 fax (408) 727 5641

DATE DEC., 2018

SCALE NOT TO SCALE

DR. BY EK

JOB A18056

SHEET NO.

2 OF 2

Parcel Map Check Report

Client:
Prepared by:
Kier & Wright Civil Engineers & Surveyors, Inc.
3350 Scott Boulevard, Bldg. 22
Date: 12/4/2018 12:57:26 PM

Parcel Name: BNDRY - PARCEL ONE
Description:
Process segment order counterclockwise: False
Enable mapcheck across chord: False
North: 1943446.2397' East: 6154158.1993'

Segment #1 : Line
Course: S87°38'14"W Length: 289.41'
North: 1943434.3083' East: 6153869.0354'

Segment #2 : Line
Course: N13°53'49"W Length: 162.78'
North: 1943592.3236' East: 6153829.9395'

Segment #3 : Line
Course: N6°00'56"W Length: 142.79'
North: 1943734.3274' East: 6153814.9753'

Segment #4 : Line
Course: N14°47'22"W Length: 144.81'
North: 1943874.3399' East: 6153778.0100'

Segment #5 : Line
Course: N24°39'45"W Length: 14.49'
North: 1943887.5081' East: 6153771.9637'

Segment #6 : Line
Course: N49°47'59"E Length: 37.34'
North: 1943911.6096' East: 6153800.4837'

Segment #7 : Line
Course: N40°08'42"W Length: 195.34'
North: 1944060.9305' East: 6153674.5433'

Segment #8 : Line
Course: N34°08'42"W Length: 99.45'
North: 1944143.2373' East: 6153618.7231'

Segment #9 : Line
Course: N33°36'47"W Length: 90.81'
North: 1944218.8634' East: 6153568.4524'



Segment #10 : Line
Course: N40°10'46"W Length: 60.03'
North: 1944264.7280' East: 6153529.7220'

Segment #11 : Line
Course: N34°56'36"W Length: 120.53'
North: 1944363.5287' East: 6153460.6865'

Segment #12 : Line
Course: N49°40'07"E Length: 261.99'
North: 1944533.0906' East: 6153660.4051'

Segment #13 : Curve
Length: 63.92' Radius: 240.00'
Delta: 15°15'37" Tangent: 32.15'
Chord: 63.73' Course: N57°17'56"E
Course In: S40°19'53"E Course Out: N25°04'16"W
RP North: 1944350.1353' East: 6153815.7349'
End North: 1944567.5212' East: 6153714.0340'

Segment #14 : Line
Course: N64°55'44"E Length: 66.94'
North: 1944595.8865' East: 6153774.6670'

Segment #15 : Curve
Length: 39.22' Radius: 30.00'
Delta: 74°54'30" Tangent: 22.98'
Chord: 36.49' Course: S77°37'01"E
Course In: S25°04'16"E Course Out: N49°50'14"E
RP North: 1944568.7130' East: 6153787.3793'
End North: 1944588.0614' East: 6153810.3081'

Segment #16 : Line
Course: S40°09'46"E Length: 733.65'
North: 1944027.3949' East: 6154283.4840'

Segment #17 : Line
Course: S42°32'40"W Length: 211.25'
North: 1943871.7558' East: 6154140.6448'

Segment #18 : Line
Course: S2°21'46"E Length: 425.88'
North: 1943446.2379' East: 6154158.2024'

Perimeter: 3160.64' Area: 10.775acres 469371 Sq. Ft.
Error Closure: 0.0036 Course: S59°18'32"E
Error North: -0.00182 East: 0.00307

Precision 1: 877141.67

EXHIBIT "B"

FORM OF MEMORANDUM OF OPTION AGREEMENT

Recording requested by,
and after recording return to:
Google LLC

Attn: _____

With a copy to:

City of San Jose
200 E. Santa Clara Street, 16th Floor
San Jose, California 95113
Attn: City Clerk
APN's: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT ("**Memorandum**") is dated for reference purposes as of _____, 20__, and is entered into by and between the CITY OF SAN JOSE, a California municipal corporation ("**Optionor**") and GOOGLE LLC, a Delaware limited liability company ("**Optionee**").

1. Optionor and Optionee have entered into that certain Option/Negotiation Rights Agreement dated _____, 2018 (the "**Option Agreement**") in which Optionor has granted to Optionee an option with a duration of up to five (5) years (the "**Option**") to purchase the property described on Exhibit "A" (the "**Property**"), in accordance with the terms and conditions set forth in the Option Agreement.

2. Optionee may exercise the Option for the period and upon the terms, covenants and conditions set forth in the Option Agreement. All of the terms, covenants and conditions of the Option are hereby incorporated into this Memorandum by reference.

3. Owner and Optionee desire to record this Memorandum so that successors-in-interest to Owner as to any portion of or interest in the Property shall have constructive notice of the existence of and be bound by the Option Agreement, which is intended to and shall run with the land and bind any person or entity acquiring any portion of or interest in the Property.

4. Upon the expiration of the Option period without exercise of the Option, Optionee shall promptly execute, acknowledge and deliver to Optionor for recording a reasonable Termination of Memorandum of Option Agreement.

5. In the event of a conflict between this Memorandum and any of the terms and conditions of the Option Agreement, the terms and conditions of the Option Agreement shall govern, and nothing herein contained shall be construed to be a modification of or amendment to any of such terms and conditions.

IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed as of the date first above written for the purpose of providing an instrument for recording.

OPTIONOR:

CITY OF SAN JOSE,
a municipal corporation

By: _____

Toni J. Taber, CMC
City Clerk

APPROVED AS TO FORM:

Johnny V. Phan
Senior Deputy City Attorney

OPTIONEE:

GOOGLE LLC

By: _____

Print Name: _____

Title: _____

EXHIBIT "A"

DESCRIPTION OF LAND

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel One

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being all of Parcels A, B, X and Y as described in that certain Grant Deed recorded on May 14, 1935 in Book 730, Page 255 of Official Records, Santa Clara County, a portion of the land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 77 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 79 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 81 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on June 12, 1974 in Book 0939, Page 700 of Official Records, Santa Clara County, and a portion of the land as described in that certain Quitclaim Deed recorded on June 26, 2003 as Document No. 17140351 of Official Records, Santa Clara County, said above described property being shown on that certain Record of Survey filed for record on _____, _____ in Book _____ of Maps at Pages _____, Santa Clara County Records, and being more particularly described as follows:

Commencing at the intersection of the westerly line of North Autumn Street with the northerly right of way line of West Santa Clara Street as shown on said Record of Survey;

Thence along said northerly right of way line South 87°38'14" West, 489.94 feet to the Point of Beginning;

Thence continuing along said northerly right of way line South 87°38'14" West, 289.41 feet to a point on the easterly line of the lands of Peninsula Corridor Joint Powers Board as shown on said Record of Survey;

Thence along said easterly line the following ten (10) courses and distances:

1. North 13°53'49" West, 162.78 feet;
2. North 6°00'56" West, 142.79 feet;
3. North 14°47'22" West, 144.81 feet;
4. North 24°39'45" West, 14.49 feet;
5. North 49°47'59" East, 37.34 feet;
6. North 40°08'42" West, 195.34 feet;
7. North 34°08'42" West, 99.45 feet;
8. North 33°36'47" West, 90.81 feet;
9. North 40°10'46" West, 60.03 feet;
10. North 34°56'36" West, 120.53 feet to a point in the southeasterly right of way line of Julian Street as shown on said Record of Survey;

Thence along said southeasterly right of way line the following four (4) courses and distances:

1. North 49°40'07" East, 261.99 feet;
2. Along a curve to the right having a radius of 240.00 feet, through a central angle of 15°15'37" for an arc distance of 63.92 feet;
3. North 64°55'44" East, 66.94 feet;
4. Along a curve to the right having a radius of 30.00 feet, through a central angle of 74°54'30" for an arc distance of 39.22 feet to a point on the southwesterly right of way line of Montgomery Street as shown on said Record of Survey;

Thence along said southwesterly right of way line South 40°09'46" East, 733.65 feet;

Thence leaving said southwesterly right of way line South 42°32'40" West, 211.25 feet;

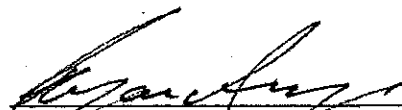
Thence South 2°21'46" East, 425.88 feet to the Point of Beginning.

Containing 10.775 ± acres.

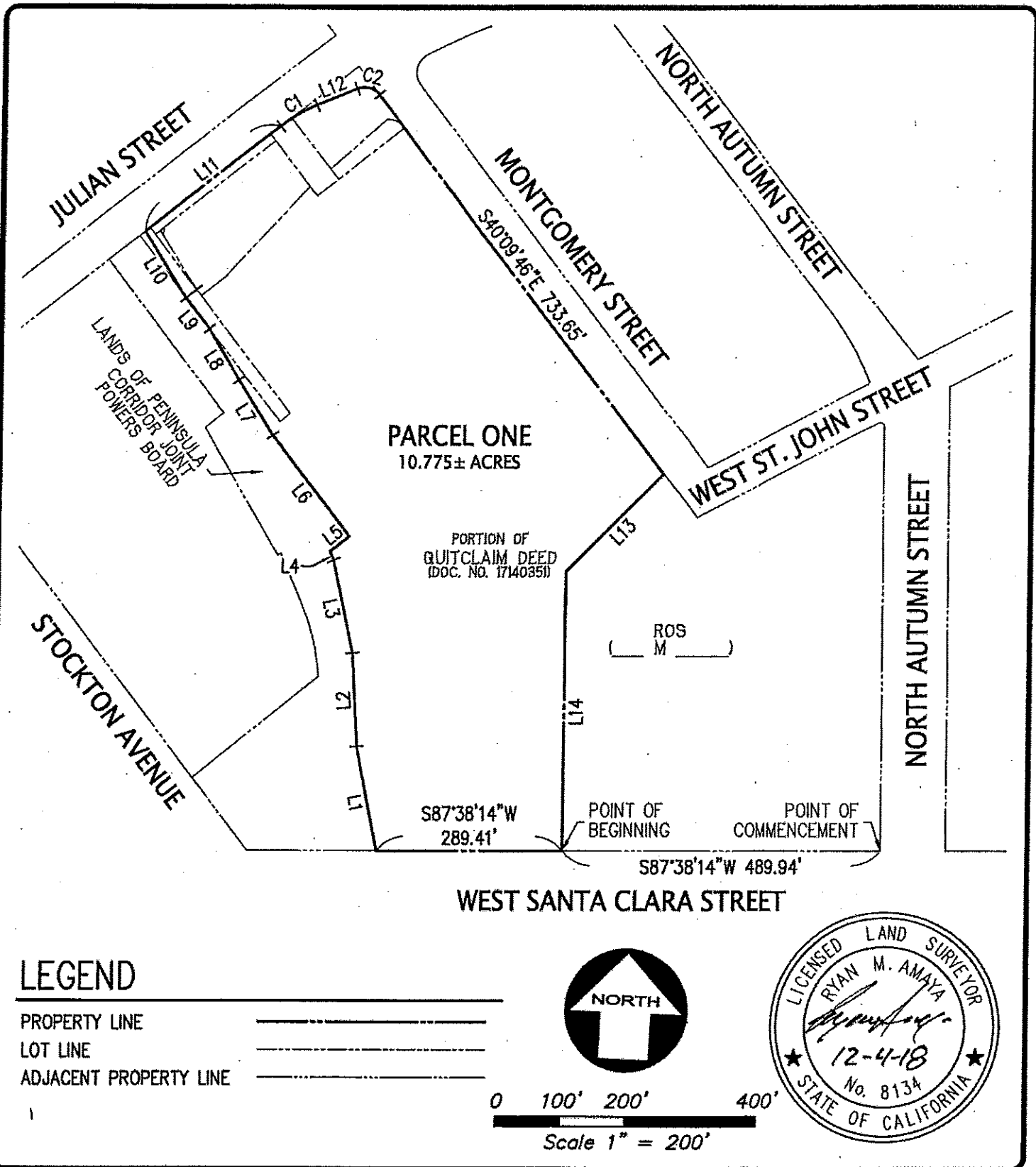
As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Legal Description prepared by Kier & Wright Civil Engineers and Surveyors, Inc.

12-4-18
Date


Ryan M. Amaya, L.S. 8134





PLAT TO ACCOMPANY LEGAL DESCRIPTION

SAN JOSE

CALIFORNIA

EXHIBIT "B"



KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 3350 Scott Boulevard, Building 22 (408) 727 6665
 Santa Clara, California 95054 fax: (408) 727 5641

DATE DEC., 2018

SCALE 1" = 200'

DR. BY EK

JOB A18056

SHEET NO.

1 OF 2

Parcel Map Check Report

Client: Prepared by:
Kier & Wright Civil Engineers & Surveyors, Inc.
3350 Scott Boulevard, Bldg. 22
Date: 12/4/2018 12:57:26 PM

Parcel Name: BNDRY - PARCEL ONE

Description:

Process segment order counterclockwise: False

Enable mapcheck across chord: False

North: 1943446.2397' East: 6154158.1993'

Segment #1 : Line

Course: S87°38'14"W Length: 289.41'

North: 1943434.3083' East: 6153869.0354'

Segment #2 : Line

Course: N13°53'49"W Length: 162.78'

North: 1943592.3236' East: 6153829.9395'

Segment #3 : Line

Course: N6°00'56"W Length: 142.79'

North: 1943734.3274' East: 6153814.9753'

Segment #4 : Line

Course: N14°47'22"W Length: 144.81'

North: 1943874.3399' East: 6153778.0100'

Segment #5 : Line

Course: N24°39'45"W Length: 14.49'

North: 1943887.5081' East: 6153771.9637'

Segment #6 : Line

Course: N49°47'59"E Length: 37.34'

North: 1943911.6096' East: 6153800.4837'

Segment #7 : Line

Course: N40°08'42"W Length: 195.34'

North: 1944060.9305' East: 6153674.5433'

Segment #8 : Line

Course: N34°08'42"W Length: 99.45'

North: 1944143.2373' East: 6153618.7231'

Segment #9 : Line

Course: N33°36'47"W Length: 90.81'

North: 1944218.8634' East: 6153568.4524'



Segment #10 : Line
Course: N40°10'46"W Length: 60.03'
North: 1944264.7280' East: 6153529.7220'

Segment #11 : Line
Course: N34°56'36"W Length: 120.53'
North: 1944363.5287' East: 6153460.6865'

Segment #12 : Line
Course: N49°40'07"E Length: 261.99'
North: 1944533.0906' East: 6153660.4051'

Segment #13 : Curve
Length: 63.92' Radius: 240.00'
Delta: 15°15'37" Tangent: 32.15'
Chord: 63.73' Course: N57°17'56"E
Course In: S40°19'53"E Course Out: N25°04'16"W
RP North: 1944350.1353' East: 6153815.7349'
End North: 1944567.5212' East: 6153714.0340'

Segment #14 : Line
Course: N64°55'44"E Length: 66.94'
North: 1944595.8865' East: 6153774.6670'

Segment #15 : Curve
Length: 39.22' Radius: 30.00'
Delta: 74°54'30" Tangent: 22.98'
Chord: 36.49' Course: S77°37'01"E
Course In: S25°04'16"E Course Out: N49°50'14"E
RP North: 1944568.7130' East: 6153787.3793'
End North: 1944588.0614' East: 6153810.3081'

Segment #16 : Line
Course: S40°09'46"E Length: 733.65'
North: 1944027.3949' East: 6154283.4840'

Segment #17 : Line
Course: S42°32'40"W Length: 211.25'
North: 1943871.7558' East: 6154140.6448'

Segment #18 : Line
Course: S2°21'46"E Length: 425.88'
North: 1943446.2379' East: 6154158.2024'

Perimeter: 3160.64' Area: 10.775acres 469371 Sq. Ft.
Error Closure: 0.0036 Course: S59°18'32"E
Error North: -0.00182 East: 0.00307

Precision 1: 877141.67

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____
Notary Public, personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity, and that by his/her/their signature(s) on the
instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed
the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____
Notary Public, personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity, and that by his/her/their signature(s) on the
instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed
the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

EXHIBIT "C"

FORM OF GRANT DEED

RECORDING REQUESTED BY, AND
WHEN RECORDED MAIL TO AND MAIL
TAX STATEMENTS TO:

Google LLC

APNs: _____

(Space above for Recorder's use only)

This document is exempt from the payment of a recording fee pursuant to Government Code §6103.

City Documentary Transfer Tax: \$_____; County Documentary Transfer Tax: \$_____
Property is in the City of San Jose, County of Santa Clara.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the CITY OF SAN JOSE, a municipal corporation ("**Grantor**"), hereby GRANTS to GOOGLE LLC, a Delaware limited liability company ("**Grantee**"), that certain real property located in the City of San Jose, County of Santa Clara, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference including all improvements thereon.

SUBJECT TO, a lien to secure payment of general and special real property taxes and assessments, not delinquent; the lien of supplemental taxes assessed pursuant to Chapter 3.5 commencing with California Revenue and Taxation Code Section 75; and

FURTHER SUBJECT TO, any and all matters of record and all matters apparent from an inspection of the Property.

IN WITNESS WHEREOF, the Grantor has executed this Grant Deed as of the date set forth below.

GRANTOR:

CITY OF SAN JOSE,
a municipal corporation

By: _____

Toni J. Taber, CMC
City Clerk

APPROVED AS TO FORM:

Johnny V. Phan
Senior Deputy City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel One

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being all of Parcels A, B, X and Y as described in that certain Grant Deed recorded on May 14, 1935 in Book 730, Page 255 of Official Records, Santa Clara County, a portion of the land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 77 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 79 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 81 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on June 12, 1974 in Book 0939, Page 700 of Official Records, Santa Clara County, and a portion of the land as described in that certain Quitclaim Deed recorded on June 26, 2003 as Document No. 17140351 of Official Records, Santa Clara County, said above described property being shown on that certain Record of Survey filed for record on _____, _____ in Book _____ of Maps at Pages _____, Santa Clara County Records, and being more particularly described as follows:

Commencing at the intersection of the westerly line of North Autumn Street with the northerly right of way line of West Santa Clara Street as shown on said Record of Survey;

Thence along said northerly right of way line South $87^{\circ}38'14''$ West, 489.94 feet to the Point of Beginning;

Thence continuing along said northerly right of way line South $87^{\circ}38'14''$ West, 289.41 feet to a point on the easterly line of the lands of Peninsula Corridor Joint Powers Board as shown on said Record of Survey;

Thence along said easterly line the following ten (10) courses and distances:

1. North $13^{\circ}53'49''$ West, 162.78 feet;
2. North $6^{\circ}00'56''$ West, 142.79 feet;
3. North $14^{\circ}47'22''$ West, 144.81 feet;
4. North $24^{\circ}39'45''$ West, 14.49 feet;
5. North $49^{\circ}47'59''$ East, 37.34 feet;
6. North $40^{\circ}08'42''$ West, 195.34 feet;
7. North $34^{\circ}08'42''$ West, 99.45 feet;
8. North $33^{\circ}36'47''$ West, 90.81 feet;
9. North $40^{\circ}10'46''$ West, 60.03 feet;
10. North $34^{\circ}56'36''$ West, 120.53 feet to a point in the southeasterly right of way line of Julian Street as shown on said Record of Survey;

Thence along said southeasterly right of way line the following four (4) courses and distances:

1. North $49^{\circ}40'07''$ East, 261.99 feet;
2. Along a curve to the right having a radius of 240.00 feet, through a central angle of $15^{\circ}15'37''$ for an arc distance of 63.92 feet;
3. North $64^{\circ}55'44''$ East, 66.94 feet;
4. Along a curve to the right having a radius of 30.00 feet, through a central angle of $74^{\circ}54'30''$ for an arc distance of 39.22 feet to a point on the southwesterly right of way line of Montgomery Street as shown on said Record of Survey;

Thence along said southwesterly right of way line South $40^{\circ}09'46''$ East, 733.65 feet;

Thence leaving said southwesterly right of way line South $42^{\circ}32'40''$ West, 211.25 feet;

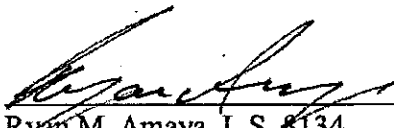
Thence South $2^{\circ}21'46''$ East, 425.88 feet to the Point of Beginning.

Containing $10.775 \pm$ acres.

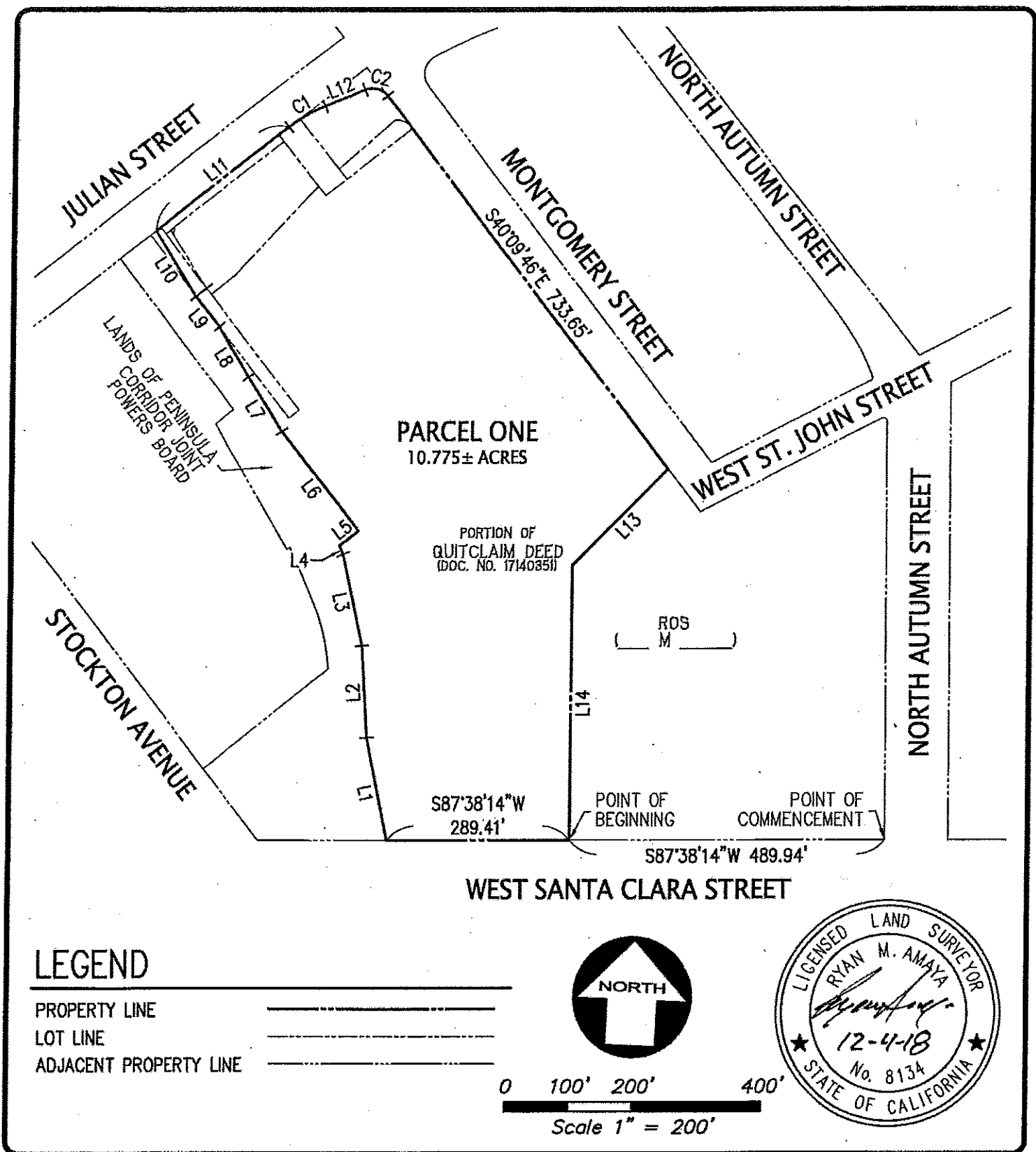
As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Legal Description prepared by Kier & Wright Civil Engineers and Surveyors, Inc.

12-4-18
Date


Ryan M. Amaya, L.S. 8134





PLAT TO ACCOMPANY LEGAL DESCRIPTION		DATE	DEC., 2018
SAN JOSE		SCALE	1" = 200'
CALIFORNIA		DR. BY	EK
EXHIBIT "B" <small>USER: ekw\comp 2\2018\MISSING\SURVEY\PLATS\A18056-FB-SAP OPT.dwg DECEMBER 04, 2018 12:58 PM</small>		JOB	A18056
		SHEET NO.	1 OF 2
 KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC. 3350 Scott Boulevard, Building 22 (408) 727 6665 Santa Clara, California 95054 fax: (408) 727 5641			

Parcel Map Check Report

Client: Prepared by:
Kier & Wright Civil Engineers & Surveyors, Inc.
3350 Scott Boulevard, Bldg. 22

Date: 12/4/2018 12:57:26 PM

Parcel Name: BNDRY - PARCEL ONE

Description:

Process segment order counterclockwise: False

Enable mapcheck across chord: False

North: 1943446.2397' East: 6154158.1993'

Segment #1 : Line

Course: S87°38'14"W Length: 289.41'

North: 1943434.3083' East: 6153869.0354'

Segment #2 : Line

Course: N13°53'49"W Length: 162.78'

North: 1943592.3236' East: 6153829.9395'

Segment #3 : Line

Course: N6°00'56"W Length: 142.79'

North: 1943734.3274' East: 6153814.9753'

Segment #4 : Line

Course: N14°47'22"W Length: 144.81'

North: 1943874.3399' East: 6153778.0100'

Segment #5 : Line

Course: N24°39'45"W Length: 14.49'

North: 1943887.5081' East: 6153771.9637'

Segment #6 : Line

Course: N49°47'59"E Length: 37.34'

North: 1943911.6096' East: 6153800.4837'

Segment #7 : Line

Course: N40°08'42"W Length: 195.34'

North: 1944060.9305' East: 6153674.5433'

Segment #8 : Line

Course: N34°08'42"W Length: 99.45'

North: 1944143.2373' East: 6153618.7231'

Segment #9 : Line

Course: N33°36'47"W Length: 90.81'

North: 1944218.8634' East: 6153568.4524'



Segment #10 : Line
Course: N40°10'46"W Length: 60.03'
North: 1944264.7280' East: 6153529.7220'

Segment #11 : Line
Course: N34°56'36"W Length: 120.53'
North: 1944363.5287' East: 6153460.6865'

Segment #12 : Line
Course: N49°40'07"E Length: 261.99'
North: 1944533.0906' East: 6153660.4051'

Segment #13 : Curve
Length: 63.92' Radius: 240.00'
Delta: 15°15'37" Tangent: 32.15'
Chord: 63.73' Course: N57°17'56"E
Course In: S40°19'53"E Course Out: N25°04'16"W
RP North: 1944350.1353' East: 6153815.7349'
End North: 1944567.5212' East: 6153714.0340'

Segment #14 : Line
Course: N64°55'44"E Length: 66.94'
North: 1944595.8865' East: 6153774.6670'

Segment #15 : Curve
Length: 39.22' Radius: 30.00'
Delta: 74°54'30" Tangent: 22.98'
Chord: 36.49' Course: S77°37'01"E
Course In: S25°04'16"E Course Out: N49°50'14"E
RP North: 1944568.7130' East: 6153787.3793'
End North: 1944588.0614' East: 6153810.3081'

Segment #16 : Line
Course: S40°09'46"E Length: 733.65'
North: 1944027.3949' East: 6154283.4840'

Segment #17 : Line
Course: S42°32'40"W Length: 211.25'
North: 1943871.7558' East: 6154140.6448'

Segment #18 : Line
Course: S2°21'46"E Length: 425.88'
North: 1943446.2379' East: 6154158.2024'

Perimeter: 3160.64' Area: 10.775acres 469371 Sq. Ft.
Error Closure: 0.0036 Course: S59°18'32"E
Error North: -0.00182 East: 0.00307

Precision 1: 877141.67

EXHIBIT "D"

PRO FORMA TITLE POLICY

(Attached.)

Form No. 1402.06
ALTA Owner's Policy (6-17-06)
1100302P050600



Policy Page 1
Policy Number: 898964

OWNER'S POLICY OF TITLE INSURANCE

ISSUED BY

First American Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or Incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk Includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental

police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the Instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this policy, but only to the extent provided in the Conditions.

First American Title Insurance Company

Dennis J. Gilmore
President

Jeffrey S. Robinson
Secretary

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

CONDITIONS**1. DEFINITION OF TERMS**

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
 - (i) The term "Insured" also includes
 - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
 - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
 - (C) successors to an Insured by its conversion to another kind of Entity;
 - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
 - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
 - (2) if the grantee wholly owns the named Insured,
 - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
 - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

- (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in

Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as Insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as Insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay. Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.
(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or
(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs,

attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
(i) the Amount of Insurance; or
(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as Insured,
(i) the Amount of Insurance shall be increased by 10%, and
(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as Insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as Insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.
If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION - NOT AVAILABLE IN LOUISIANA

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

- (a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefore in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.
- (b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 1 First American Way, Santa Ana, CA 92707, Attn: Claims Department.

POLICY OF TITLE INSURANCE



SCHEDULE A

First American Title Insurance Company

Name and Address of the issuing Title Insurance Company:
First American Title Insurance Company
1737 North First Street, Suite 500
San Jose, CA 95112

File No.: **NCS-898964-SC**

Policy No.: **898964**

Address Reference: 525 West Santa Clara Street, San Jose, CA

Amount of Insurance: \$ _____

Date of Policy: _____, 2018 at _____

1. Name of Insured:

Google LLC, a Delaware limited liability company

2. The estate or interest in the Land that is insured by this policy is:

Fee simple

3. Title is vested in:

Google LLC, a Delaware limited liability company

4. The Land referred to in this policy is described as follows:

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being all of Parcels A, B, X and Y as described in that certain Grant Deed recorded on May 14, 1935 in Book 730, Page 255 of Official Records, Santa Clara County, a portion of the land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 77 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 79 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on April 10, 1974 in Book 0872, Page 81 of Official Records, Santa Clara County, all that land as described in that certain Grant Deed recorded on June 12, 1974 in Book 0939, Page 700 of Official Records, Santa Clara County, and a portion of the land as described in that certain Quitclaim Deed recorded on June 26, 2003 as Document No. 17140351 of Official Records, Santa Clara County, said above described property being shown on that certain Record of Survey filed for record on , in Book of Maps at Pages , Santa Clara County Records, and being more particularly described as follows:

Commencing at the intersection of the westerly line of North Autumn Street with the northerly right of way line of West Santa Clara Street as shown on said Record of Survey;

Thence along said northerly right of way line South 87°38'14" West, 489.94 feet to the Point of Beginning;

Thence continuing along said northerly right of way line South 87°38'14" West, 289.41 feet to a point on the easterly line of the lands of Peninsula Corridor Joint Powers Board as shown on said Record of Survey;

Thence along said easterly line the following ten (10) courses and distances:

1. North 13°53'49" West, 162.78 feet;
2. North 6°00'56" West, 142.79 feet;
3. North 14°47'22" West, 144.81 feet;
4. North 24°39'45" West, 14.49 feet;
5. North 49°47'59" East, 37.34 feet;
6. North 40°08'42" West, 195.34 feet;
7. North 34°08'42" West, 99.45 feet;
8. North 33°36'47" West, 90.81 feet;
9. North 40°10'46" West, 60.03 feet;
10. North 34°56'36" West, 120.53 feet to a point in the southeasterly right of way line of Julian Street as shown on said Record of Survey;

Thence along said southeasterly right of way line the following four (4) courses and distances:

1. North 49°40'07" East, 261.99 feet;
2. Along a curve to the right having a radius of 240.00 feet, through a central angle of 15°15'37" for an arc distance of 63.92 feet;
3. North 64°55'44" East, 66.94 feet;
4. Along a curve to the right having a radius of 30.00 feet, through a central angle of 74°54'30" for an arc distance of 39.22 feet to a point on the southwesterly right of way line of Montgomery Street as shown on said Record of Survey;

Thence along said southwesterly right of way line South 40°09'46" East, 733.65 feet;

Thence leaving said southwesterly right of way line South 42°32'40" West, 211.25 feet;

Thence South 2°21'46" East, 425.88 feet to the Point of Beginning.

APN: 259-28-031 and 259-28-041 and 259-28-043 (Portion) and 259-28-044

NOTICE: This is a pro-forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insure. The inclusion of endorsements as part of the pro-forma policy in no way evidences the willingness of the Company to provide any affirmative coverage shown therein.

There are requirements which must be met before a final policy can be issued in the same form as this pro-forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

SCHEDULE B

File No.: **NCS-898964-SC**

Policy No.: **898964**

EXCEPTIONS FROM COVERAGE

This Policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. General and special taxes and assessments for the fiscal year 2018-2019 are exempt. If the exempt status is terminated an additional tax may be levied. A.P. No.: 259-28-031 and 259-28-041 and 259-28-043 and 259-28-044 .

2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code, arising as a result of a change in ownership or new construction occurring on or after the Date of Policy.

3. An easement for existing sewer line and access to the existing sewer line and the right to connect thereto and incidental purposes, recorded January 10, 1975 in Book B239, Page 736 of Official Records.

In Favor of: Donald W. Anderson and Evelyn Anderson, his wife, and Robert H. Geisler, a single man

Affects: Refer to said document for full particulars.

4. The terms and provisions contained in the document entitled "Memorandum of Management Agreement" recorded April 07, 1992 as Instrument No. 11305489, in Book M129, Page 1451 of Official Records.

As amended by that certain Amendment to Memorandum of Management Agreement recorded August 16, 2018 as Instrument No. 24004426, Official Records.

5. A Deed of Trust to secure an original indebtedness of \$35,000,000.00 recorded February 22, 1993 as Instrument No. 11784104, in Book M635, Page 1650 of Official Records.

Dated: February 19, 1993

Trustor: San Jose Arena Management Corp., a California corporation

Trustee: First American Title Insurance Company, a California corporation

Beneficiary: Nationsbank of North Carolina, National Association, as agent for and on behalf of Nationsbank of North Carolina, National Association, Comerica Bank-California and the Fuji Bank, LTD., San Francisco Agency

6. The interest, if any, of Southern Pacific Transportation Co., by reason of a gap between Parcels 1 and 2 described in Final Order of Condemnation:

Recorded: June 27, 1995

Book: N898

Page: 567

Affects: Portion of APN 259-28-044

7. The terms and provisions contained in the document entitled "Covenant to Restrict Use of Property Environmental Restriction" recorded May 23, 2003 as Instrument No. 17062264 of Official Records.
8. The following matters disclosed by an ALTA/NSPS survey made by Kier & Wright Civil Engineers & Surveyors, Inc. on June 27, 2018, last revised _____, 2018, designated Job No. A18056:

NONE
9. The terms and provisions contained in the document entitled "Grant Deed" recorded May 14, 1935 as Book 730, Page 225 of Official Records.

End of Schedule B

ENDORSEMENT**Attached to Policy No. 898964****Issued by*****First American Title Insurance Company***

The Company insures against loss or damage sustained by the Insured by reason of an environmental protection lien that, at Date of Policy, is recorded in the Public Records or filed in the records of the clerk of the United States district court for the district in which the Land is located, unless the environmental protection lien is set forth as an exception in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

American Land Title Association
Endorsement 8.2-06 (Commercial Environmental Protection Lien)
Adopted 10/16/08

**COVENANTS, CONDITIONS AND RESTRICTIONS -
IMPROVED LAND - OWNER'S POLICY ENDORSEMENT**

Issued by

First American Title Insurance Company

Attached to Policy No.: 898964

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For the purposes of this endorsement only,
 - a. "Covenant" means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
 - b. "Improvement" means a building, structure located on the surface of the Land, road, walkway, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
3. The Company insures against loss or damage sustained by the Insured by reason of:
 - a. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation;
 - b. Enforced removal of an Improvement as a result of a violation, at Date of Policy, of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or
 - c. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.
4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
 - a. any Covenant contained in an instrument creating a lease;
 - b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
 - c. except as provided in Section 3.c, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls.

Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

ENDORSEMENT**Attached to Policy No. 898964****Issued by*****First American Title Insurance Company***

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) Parcel One of the Land does not abut and have both actual vehicular and pedestrian access to and from **N. Montgomery Street, W. St. John Street, N. Autumn Street and W. Santa Clara Street** (the "Street(s)"), (ii) the Street(s) is/are not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that/those portion(s) of the Street(s) abutting Parcel One of the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

American Land Title Association
Endorsement 17-06 (Access and Entry)
Adopted 6/17/06

ENDORSEMENT**Attached to Policy No. 898964****Issued by*****First American Title Insurance Company***

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) Parcel Three of the Land does not abut and have both actual vehicular and pedestrian access to and from **N. Montgomery Street** (the "Street(s)"), (ii) the Street(s) is/are not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that/those portion(s) of the Street(s) abutting Parcel Three of the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

American Land Title Association
Endorsement 17-06 (Access and Entry)
Adopted 6/17/06

ENDORSEMENT**Attached to Policy No. 898964****Issued by*****First American Title Insurance Company***

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land as described in Schedule A to be a portion of that land identified on the survey made by Kier & Wright Civil Engineers & Surveyors, Inc. dated June 27, 2018, last revised _____, 2018, and designated Job No. A18056.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

American Land Title Association
Endorsement 25-06 (Same as Survey)
Adopted 10/16/08

ENDORSEMENT**Attached to Policy No. 898964****Issued by*****First American Title Insurance Company***

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land to constitute a lawfully created parcel according to the subdivision statutes and local subdivision ordinances applicable to the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

American Land Title Association
Endorsement 26-06 (Subdivision)
Adopted 10/16/08

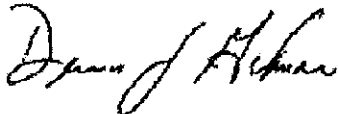
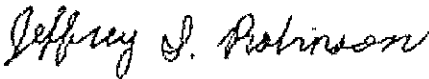
POLICY AUTHENTICATION ENDORSEMENT**Issued by*****First American Title Insurance Company***

Attached to Policy No.: 898964

When the policy is issued by the Company with a policy number and Date of Policy, the Company will not deny liability under the policy or any endorsements issued with the policy solely on the grounds that the policy or endorsements were issued electronically or lack signatures in accordance with the Conditions.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Date: _____, 2018

First American Title Insurance CompanyDennis J. Gilmore
PresidentJeffrey S. Robinson
Secretary

ENDORSEMENT**Attached to Policy No. 898964****Issued by*****First American Title Insurance Company***

The policy is amended by deleting paragraph 14 of the Conditions.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

CLTA Form 110.1-06 (03-09-07)
ALTA - Owner or Lender



First American Title

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

EXHIBIT "E"

DOCUMENTS DELIVERED / DISCLOSURES TO BUYER

1. Documents that are available at <http://geotracker.waterboards.ca.gov>
2. Site-Wide Management Plan for San Jose Arena Complex and Guadalupe Park Confluence West Site (NTP #69) by Rust Environment and Infrastructure Inc. (Human Health Risk Assessment and Site-Wide Management Plan, including deed restrictions and "As-Built" Drawings) dated in 1997.
3. Ambient Air Monitoring Results, San Jose Multipurpose Arena, by RRM, Inc. dated in 2004.
4. Phase I Environmental Site Assessment (120 South Montgomery Street and 530 West San Fernando Street) by Lowney Associates dated in 1995 (Project No. 2184-1D).
5. Soil and Ground Water Quality Evaluation (105 South Montgomery Street) by TRC Lowney dated January 16, 2006 (Project No. 2814-1H).
6. Phase I Environmental Site Assessment (150 South Montgomery Street) by Lowney Associates dated in 2005 (Project No. 2184-1D).
7. Phase I Environmental Site Assessment (645 Park Avenue) by Lowney Associates dated in 2005 (Project No. 2184-1D).
8. Soil and Ground Water Quality Evaluation (510 West San Fernando Street and 115 South Autumn Street) by TRC Lowney dated May 18, 2006 (Project No. 2184-1H).
9. Case Closure Letter and Memorandum for Butcher Electric Facility, 510 West San Fernando Street, by Santa Clara Valley Water District dated March 30, 1992.
10. Underground Storage Tank Removal report by TRC (510 West San Fernando Street and 115 South Autumn Street) dated December 9, 2009 (Project No. 162160/2184-5).

EXHIBIT "F"

**CONCEPTUAL DESCRIPTION AND DEPICTION OF STREET VACATIONS AND
LOT LINE ADJUSTMENTS FOR LOTS A, B AND C**

See Exhibit "A"; subject to modification in accordance with a Parking Agreement Amendment.

EXHIBIT "G"

FORM OF CITY ROFO PSA

(Attached.)

PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS
[INSERT PROPERTIES SUBJECT TO ROFO]

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (the "**Agreement**"), is dated as of _____, 20__ ("**Effective Date**") and is entered into by and between GOOGLE LLC, a Delaware limited liability company ("**Seller**") and the CITY OF SAN JOSE, a California municipal corporation ("**Buyer**"). Buyer and Seller are sometimes collectively referred to herein at the "**parties**."

RECITALS

A. Seller is the owner of the land described on Exhibit "A" attached hereto [INSERT PROPERTIES SUBJECT TO ROFO] (the "**Property**").

B. Buyer wishes to acquire the Property, and Seller is willing to sell the Property to Buyer, upon and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1. CERTAIN DEFINITIONS

The following capitalized terms as used in this Agreement shall have the respective meanings set forth below:

Section 1.1 Escrow Holder and Title Company shall mean First American Title Company located at 1737 North First Street, Suite 500, San Jose, California 95112.

Section 1.2 Grant Deed shall mean a grant deed in the form attached hereto as Exhibit "B".

Section 1.3 Hazardous Materials means any chemical, material or substance now or hereafter defined as or included in the definition of hazardous substances, hazardous wastes, hazardous materials, extremely hazardous waste, restricted hazardous waste, toxic substances, pollutant or contaminant, imminently hazardous chemical substance or mixture, hazardous air pollutant, toxic pollutant, or words of similar import under any local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto applicable to the Property, including, without limitation: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. ("**CERCLA**"); the Hazardous Materials Transportation Act, as amended, 49 U.S.C. 1801, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.; and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq. ("**RCRA**"). The term "Hazardous Materials" shall also include any of the following: any and all toxic or hazardous substances, materials or wastes listed in the United States Department of Transportation Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and in any and all amendments thereto in effect as of the Close of Escrow; oil, petroleum, petroleum products (including, without limitation, crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas or synthetic gas

usable for fuel, not otherwise designated as a hazardous substance under CERCLA; any substance which is toxic, explosive, corrosive, reactive, flammable, infectious or radioactive (including any source, special nuclear or by-product material as defined at 42 U.S.C. 2011, et seq.), carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority; asbestos in any form; urea formaldehyde foam insulation; transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls; radon gas; firefighting foams such as, but not limited to, sodium alkyl sulfate, fluorosurfactant, fluorotelomers, perfluorooctanoic acid, or perfluorooctanesulfonic acid or any other chemical, material or substance (i) which poses a hazard to the Property, to adjacent properties, or to persons on or about the Property, (ii) which causes the Property to be in violation of any of the aforementioned laws or regulations, or (iii) the presence of which on or in the Property requires investigation, reporting or remediation under any such laws or regulations.

ARTICLE 2. PURCHASE AND SALE OF PROPERTY.

Section 2.1 Sale of the Property by Seller to Buyer; Purchase Price. Seller hereby agrees to sell the Property to Buyer, and Buyer hereby agrees to buy the Property, for the sum of _____ and No/100 Dollars (\$____.00) (the "**Purchase Price**").

Section 2.2 Escrow.

Section 2.2.1 Opening of Escrow. Within five (5) business days after the Effective Date, Buyer and Seller shall deliver a copy of this executed Agreement to Escrow Holder and will open an escrow (the "**Escrow**") with the Escrow Holder for the conveyance of the Property to Buyer.

Section 2.2.2 Close of Escrow. "**Close of Escrow**" or "**Closing**" means the date Escrow Holder causes the Grant Deed to be recorded in the Official Records of the County of Santa Clara. Close of Escrow shall occur within thirty (30) days after the Effective Date (the "**Outside Date**"). If for any reason other than a default by Seller or Buyer the Closing does not occur on or before the Outside Date, this Agreement shall automatically terminate, unless extended in writing by both parties (the "**Parties**"), and all documents and monies previously deposited into the Escrow shall be promptly returned to the appropriate Party, and each Party shall pay one-half (1/2) of any Escrow charges and fees in connection with such termination. If the Closing does not occur due to a default by a Party, the defaulting party shall pay all escrow and title cancellation changes.

Section 2.3 Conditions of Buyer's Obligations. The following are conditions precedent to Buyer's obligation to purchase the Property (collectively, "**Buyer's Contingencies**"), which may be waived in writing in whole or in part by Buyer:

(i) At the Closing, the issuance of the Title Policy (defined in Section 2.5) to Buyer, which will insure Buyer's fee simple interest in the Property in the amount of the Purchase Price.

(ii) As of the Closing, the absence of an Event of Default by Seller hereunder.

(iii) As of the Closing, the representations and warranties of Seller set forth in Section 3.1 below shall be true and correct in all material respects.

Section 2.4 Conditions of Seller's Obligations. The following are conditions precedent to Seller's obligation to sell the Property (collectively, "**Seller's Contingencies**"), which may be waived in writing in whole or in part by Seller:

(i) As of the closing, the absence of an Event of Default by Buyer hereunder;

Section 2.5 Title Policy. Escrow Holder shall, following the recording of the Grant Deed, provide Buyer with an ALTA extended coverage policy of title insurance in the amount of the Purchase Price, issued by the Title Company, showing the title to the Property vested in Buyer, subject only to the title exceptions that existed as of the Effective Date (the "**Title Policy**"). Seller shall on or before the Close of Escrow remove any liens encumbering the Property except for the lien of ad valorem real property taxes and general and special assessment not yet due and payable and any liens created by Buyer.

Section 2.6 Deposit of Documents and Funds In Escrow. Seller and Buyer, as applicable, hereby covenant and agree to deliver at least one (1) day prior to the Close of Escrow the following instruments, documents, and funds, the delivery of each of which shall be a condition to the Close of Escrow.

Section 2.6.1 Seller shall deliver to Escrow:

(i) an original of the Grant Deed, duly executed by Seller and acknowledged;

(ii) a FIRPTA affidavit and a California form 593-C (indicating that no withholding is required); and

(iii) such proof of Seller's authority and authorization to enter into this transaction as the Title Company may reasonably require in order to issue the Title Policy, including Title Company's standard owner's affidavit.

Section 2.6.2 Buyer shall deliver to Escrow:

(i) the Purchase Price;

(ii) any additional funds that are required to pay for costs and expenses payable by Buyer hereunder;

(iii) such proof of Buyer's authority and authorization to enter into this transaction as the Title Company may reasonably require to issue the Title Policy.

Section 2.7 Authorization to Record Documents and Disburse Funds. Escrow Holder shall record the Grant Deed, and disburse the funds and distribute the documents called for

hereunder upon the Close of Escrow (with the FIRPTA affidavit and California form 593-C) provided each of the following conditions has then been fulfilled:

Section 2.7.1 The Title Company is irrevocably committed to issue in favor of Buyer the Title Policy, with a liability amount equal to the Purchase Price, showing fee simple title to the Property vested in Buyer, subject only to the applicable title exceptions set forth in the Pro Forma Title Policy;

Section 2.7.2 Seller and Buyer shall have deposited in Escrow the documents and funds required to be deposited in Escrow pursuant to Section 2.6.1 and 2.6.2.

Unless otherwise instructed in writing, Escrow Holder is authorized to record at the Close of Escrow any instrument delivered to Escrow Holder if necessary or proper for the issuance of the Title Policy.

Section 2.8 Escrow Charges and Prorations.

Section 2.8.1 Seller shall pay for fifty percent (50%) of all local (City of San Jose) documentary transfer taxes, all County of Santa Clara transfer taxes, all recording fees (if any), fifty percent (50%) of the escrow fees, and the premium for the standard coverage portion of the Title Policy. Buyer shall pay the premiums for all extended title insurance coverage and endorsements, fifty percent (50%) of the local (City of San Jose) documentary transfer taxes, and fifty percent (50%) of the escrow fees.

Section 2.8.2 Assessments shall be apportioned/prorated with respect to the Property as of 12:01 a.m., on the day on which the Close of Escrow occurs, as if Buyer were vested with title during the entire day upon which the Close of Escrow occurs. The parties acknowledge that Seller is exempt from property taxes and no property taxes shall be allocated to Seller.

Section 2.9 Brokers' Commissions. Buyer represents and warrants to Seller that Buyer has used no broker, agent, finder or other person in connection with the transaction contemplated hereby to whom a brokerage or other commission or fee may be payable. Seller represents and warrants to Buyer that Seller has used no broker, agent, finder or other person in connection with the transaction contemplated hereby to whom a brokerage or other commission or fee may be payable. Each party indemnifies and agrees to defend and hold the other harmless from any claims, liabilities, damages, losses, costs and expenses resulting from its breach of its representations and warranties in this Section.

ARTICLE 3. PROPERTY CONDITION; HAZARDOUS MATERIALS

Section 3.1 AS-IS. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the date of this Agreement and as of the Close of Escrow:

Section 3.1.1 Authority. Seller has the full power and authority to execute, deliver and perform this Agreement and all documents to be executed at the Close of Escrow pursuant to this Agreement (the "**Closing Documents**"). The individual(s) executing this Agreement and the Closing Documents on behalf of Seller have the full power and authority to bind Seller thereto. Seller has taken all necessary actions and has obtained all necessary authorization actions to execute, deliver and perform this Agreement and the Closing Documents.

Section 3.1.2 Violations of Law. To Seller's actual knowledge without investigation or inquiry, neither the Property nor the use thereof is in violation of any applicable laws, except as set forth on Schedule X attached hereto.

Section 3.1.3 Hazardous Materials. Except as disclosed in the environmental reports set forth on Schedule X attached hereto, Seller has not received any written notice regarding Hazardous Materials existing in, on or under the Property.

Section 3.1.4 Litigation. There is no litigation, arbitration or other legal or administrative action or proceeding (including, without limitation, any condemnation proceeding) pending and served, against or involving Seller and related to the Property, except as set forth on Schedule X attached hereto.

Section 3.1.5 Leases. Except as set forth on Schedule X attached hereto, Seller is not a party to any lease, license or other agreement for the occupancy or use of the Property or any portion thereof that would be binding upon the Property from and after the Close of Escrow.

Section 3.1.6 Contracts. Seller is not currently a party to any contracts or other agreements with respect to the operation or maintenance of or the provision of services to the Property or any portion thereof that would be binding upon the Property from and after the Close of Escrow, except as set forth on Schedule X attached hereto (the agreements disclosed on Schedule X being referred to herein as the "**Existing Contracts**"). With respect to the Existing Contracts, if any: (i) Seller has provided Buyer with complete copies of the Existing Contracts and all amendments thereto to the extent they are in Seller's possession or control; and (ii) to Seller's actual knowledge, there are no uncured defaults existing under the Existing Contracts, except as set forth on Schedule X attached hereto.

Seller's representations and warranties shall survive the Closing for period of one (1) year. If an action is not commenced by Buyer against Seller within such period, then no such action on the express representation and warranty may be brought by Buyer.

Section 3.2 AS IS. Buyer is acquiring the Property in its "AS-IS" condition. Except for the express representations and warranties of Seller in this Agreement, Seller makes no representations or warranties, express or implied, whatsoever to Buyer as to the condition of the Property, including but not limited to whether the Property contains any Hazardous Materials, or the suitability of the Property for the purposes for which it is acquired by Buyer. If the Property is not in a condition suitable for the use or uses to which they shall be put, then it is the sole responsibility and obligation of Buyer to take such action (or cause another responsible or obligated party to take such action) as may be necessary to place the Property in a condition suitable to Buyer. Buyer acknowledges and agrees specifically that Seller shall have no responsibility or obligation with respect to the suitability of the Property for the purposes for which it is acquired by Buyer or the existence of any Hazardous Materials on, under, in or about the Property. Buyer is responsible for any claims brought by its invitees, occupants, lessees and/or persons or entities who acquire interests in the Property or airspace (such as condominium owners) during Buyer's period of ownership of the Property (or the period of ownership of any entity owned directly or indirectly in whole or in part by Buyer or any entity who owns directly or indirectly any interest in Buyer; each, an "**Affiliate**") regarding the condition of the Property as of the Closing

and shall install, to the extent required by law or governmental order, vapor barriers in any new buildings constructed on the Property by Buyer or any Affiliate.

Section 3.3 Disclosure. Buyer acknowledges that the Seller has delivered to Buyer the documents described on Exhibit "C". Seller intends that such delivery constitutes, among other things, written notice of the release of hazardous materials under California Health and Safety Code Section 25359.7.

Section 3.4 Buyer Indemnification. If the Closing occurs, then Buyer agrees to indemnify, protect, defend (with counsel selected and engaged by Buyer which counsel does not have a conflict of interest with Seller in undertaking such defense; if Seller elects to retain independent counsel, it shall do so at Seller's own cost and expense) and hold harmless the Seller, including, but not limited to, Seller's servants, employees, agents, representatives, successors; administrators, assigns, and attorneys (collectively, "**Seller Parties**"), and of each of them alone, from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, damage, or expense, resulting from, arising out of, or based upon a third-party claim based on the environmental condition of (i.e., Hazardous Materials on) the Property, except for (i) any Hazardous Materials first released onto the Property by a Seller Party after the Closing; or (ii) any Hazardous Materials which migrate to or under the Property after the Close of Escrow to the extent originating from any real property owned by Seller from and after the Closing. Notwithstanding anything to the contrary in this Agreement, in no event will Buyer's indemnification obligations include diminution in value claims of Seller.

Section 3.5 Release. Except as expressly provided herein, Buyer hereby waives, releases, acquits, and forever discharges Seller, and Seller's agents, directors, officers, and employees to the maximum extent permitted by law, of and from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs, expenses, compensation, attorneys' fees, consultants' fees and costs and expert fees (collectively "**Claims**") whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has or that may arise in the future because of or in any way growing out of or connected with the physical condition of the Property, including without limitation, the physical and (environmental condition of the Property or any law or regulation applicable thereto, including, without limitation, any Claim or matter (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, (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, and (iv) the presence, release and/or remediation of asbestos and asbestos containing materials in, on or about the Property regardless of when such asbestos and asbestos containing materials were first introduced in, on or about the Property. Buyer hereby waives and agrees not to commence any action, legal proceeding, cause of action or suit 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. Section 9601 et seq. and California Health and Safety Code section 25300 et seq. (as such laws and statutes may be amended, supplemented or replaced from time to time), directly or indirectly, against Seller or Seller's agents, directors, officers, and employees in connection with the Property, except (i) matters arising from Seller's fraud, intentional misrepresentation, or concealment of a material

fact about Hazardous Materials on or under the Property not known to Buyer; (ii) any claims arising from a breach of Seller's express covenants, obligations, representations or warranties set forth in this Agreement, or in any documents delivered by Seller under Section 2.6 above; (iii) any claims for personal injury, death or damage to personal property based on events prior to Closing and not covered by Buyer's indemnity under Section 4.1(i); and (iv) any Hazardous Materials which migrate to or under the Property after the Close of Escrow to the extent originating from any real property owned by Seller from and after Closing (collectively, "**Excluded Claims**").

IT IS UNDERSTOOD AND AGREED THAT EXCEPT FOR ANY EXPRESS REPRESENTATIONS AND WARRANTIES OF SELLER SET FORTH IN THIS AGREEMENT, SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT UPON THE CLOSING DATE SELLER SHALL SELL AND CONVEY THE PROPERTY TO BUYER "IN ITS THEN EXISTING CONDITION AS IS, WHERE IS, WITH ALL FAULTS," BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY SELLER OR ANY AGENT PURPORTING TO REPRESENT SELLER.

BUYER REPRESENTS TO SELLER THAT BUYER HAS CONDUCTED SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS BUYER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS MATERIALS ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS. UPON CLOSING, BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS, AND BUYER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND COUNCIL MEMBERS, BOARD MEMBERS, SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY EXISTING AT OR OCCURRING PRIOR TO CLOSING EXCEPT FOR EXCLUDED CLAIMS. IN CONNECTION THEREWITH, BUYER EXPRESSLY WAIVES

ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES THAT:

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

BUYER'S INITIALS: _____

THE RELEASES SET FORTH IN THIS SECTION SHALL SURVIVE CLOSE OF ESCROW AND DELIVERY OF THE GRANT DEED.

ARTICLE 4. INDEMNITY

Section 4.1 Non Hazardous Materials Indemnity. From and after the Effective Date with respect to claims covered by subsections (i) and (iii) below, and from and after the Closing with respect to claims covered by subsections (ii) and (iv) below, Buyer shall indemnify, defend, protect, and hold harmless Seller and any and all Seller's officers, directors, agents, employees and representatives ("**Indemnitees**"), from and against all losses, liabilities, claims, damages, penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) and demands of any nature whatsoever (but excluding punitive, consequential and speculative damages), related directly or indirectly to, or arising out of or in connection with

(i) Buyer's investigation of the Property under Article 5 below, excluding the mere discovery of any pre-existing adverse physical or environmental conditions impacting the Property;

(ii) any claims for personal injury or damage to personal property based on any acts, occurrences, omissions or other matters that take place on or with respect to the Property after the Close of Escrow and during Buyer's period of ownership or the period of ownership of any Affiliate (except for acts by Seller); and

(iii) third-party challenges to the validity of this Agreement.

This Section 4 shall not apply to any claims based on or arising out of Hazardous Materials, which are governed solely by Section 3.4. Notwithstanding anything to the contrary in this Agreement, in no event will Buyer's indemnification obligations include diminution in value claims of Seller. The provisions of this Section shall survive the Close of Escrow.

ARTICLE 5. DUE DILIGENCE

Buyer acknowledges that Buyer has had access to the Property under one or more right of entry agreements between Buyer and Seller and has thoroughly inspected the Property.

ARTICLE 6. EVENTS OF DEFAULT AND REMEDIES

Section 6.1 Events of Default. Any breach of this Agreement by a party which is not cured within five (5) business days after written notice from the other party setting forth the nature of the default and the actions, if any, required to cure such default shall constitute an “**Event of Default**” by the breaching party.

Section 6.2 Remedies. If any Event of Default by a party occurs, then the other party shall be entitled to all remedies available at law or in equity, including, without limitation, specific performance, it being acknowledged by Seller with respect to a specific performance action that the Property is unique and that monetary damages will not adequately compensate Buyer for its loss of the Property. Nothing contained in this Paragraph shall be deemed to affect or limit defence or indemnity obligations, or rights to attorneys’ fees and costs, which shall survive any termination of this Agreement.

Section 6.3 Inaction Not a Waiver of Default. Except as expressly provided in this Agreement to the contrary, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

ARTICLE 7. GENERAL PROVISIONS

Section 7.1 Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

Section 7.2 Governmental Powers. Nothing contained herein shall be deemed to limit, restrict, amend or modify, or to constitute a waiver or release of, any ordinances, notices, orders, rules, regulations or requirements (now or hereafter enacted or adopted and/or as amended from time to time) of Buyer, or its departments, commissions, agencies and boards and the officers thereof, including, without limitation, any governmental powers, rights, privileges and discretion of Buyer.

Section 7.3 Time of the Essence. Time is of the essence of this Agreement and all Parties’ obligations hereunder.

Section 7.4 Notices. Notices, demands and communications between Seller and Buyer shall be deemed sufficiently given if addresses as set forth below and (i) sent by certified mail, postage prepaid, return receipt requested, or (ii) sent by nationally-recognized reputable overnight delivery service for overnight delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses or to such other address as any party may from time to time designate by mail as provided in this Section, and shall be deemed received upon delivery or refusal of delivery, as shown on the return receipt, if sent by certified mail, or one (1) business day after deposit of same with a nationally recognized reputable overnight delivery service for overnight delivery if sent by such a delivery service.

To Buyer: City of San Jose
200 E. Santa Clara Street, 16th Floor
San Jose, California 95113
Attn: _____

To Seller: Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043
Attn: Vice President, Real Estate and Workplace Services

Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043
Attn: Legal Department/RE Matters

Section 7.5 Authority of City Manager. The City Manager of Buyer is authorized to give all consents and approvals and sign all documents contemplated hereunder on behalf of Buyer provided they are in writing, and may extend deadlines, and enter into other, non-substantive amendments provided the extensions and amendments are express and in writing.

Section 7.6 Venue. In the event of any litigation hereunder, all such actions shall be instituted in the Superior Court of the County of Santa Clara, State of California, or in an appropriate municipal court in the County of Santa Clara, State of California or an appropriate District Court in the Northern District of California.

Section 7.7 Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

Section 7.8 No Right to Assign. Neither party may assign this Agreement without the prior written consent of the other in its sole and absolute discretion.

Section 7.9 Successors and Assigns. Subject to the restrictions on transfers set forth in this Agreement, the provisions hereof shall be binding upon, and shall inure to the benefit of, Seller and Buyer and their successors and assigns.

Section 7.10 No Joint Venture. Nothing contained herein shall be construed to render the parties in any way or for any purpose a partner, joint venture, or associated in any relationship with the other party, nor shall this Agreement be construed to authorize either party to act as agent for the other.

Section 7.11 Waiver. The waiver by Seller or Buyer of any breach by the other party of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. Either party's acceptance of any performance by the other party after the due date of such performance shall not be deemed to be a waiver by either party of any preceding breach by the other party of any term, covenant, or condition of this Agreement, regardless of such party's knowledge of such preceding breach at the time of acceptance of such performance.

Section 7.12 Entire Agreement; Waivers and Amendments. This Agreement, together with all attachments and exhibits hereto and all documents to be executed and delivered pursuant to this Agreement, constitutes the entire understanding and agreement of the parties hereto. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. Any waiver, amendment, or modification of any provision of this Agreement must be in writing and signed by both parties.

Section 7.13 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Section 7.14 Severability. Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first above written.

SELLER:

GOOGLE LLC

By: _____

Print Name: _____

Title: _____

BUYER:

CITY OF SAN JOSE

By: _____

Print Name: _____

Title: _____

ATTEST:

Print Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Print Name: _____
Title: _____

List of Exhibits

<u>Exhibit "A"</u>	Legal Description of Land
<u>Exhibit "B"</u>	Form of Grant Deed
<u>Exhibit "C"</u>	Documents Delivered/Disclosures to Buyer
<u>Schedule X</u>	Disclosures

EXHIBIT "A"
LEGAL DESCRIPTION OF THE LAND

The land described herein is situated in the State of California, County of Santa Clara,
City of San Jose, described as follows:

[INSERT PROPERTIES SUBJECT TO ROFO]

EXHIBIT "B"
FORM OF GRANT DEED

(Attached.)

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO AND
MAIL TAX STATEMENTS TO:

Google LLC

APNs: _____

(Space above for Recorder's use only)

This document is exempt from the payment of a recording fee pursuant to Government Code §6103.

City Documentary Transfer Tax: \$ _____; County Documentary Transfer Tax:
\$ _____

Property is in the City of San Jose, County of Santa Clara.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, GOOGLE LLC, a Delaware limited liability company ("**Grantor**"), hereby GRANTS to the CITY OF SAN JOSE, a municipal corporation ("**Grantee**"), that certain real property located in the City of San Jose, County of Santa Clara, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference including all improvements thereon.

SUBJECT TO, a lien to secure payment of general and special real property taxes and assessments, not delinquent; the lien of supplemental taxes assessed pursuant to Chapter 3.5 commencing with California Revenue and Taxation Code Section 75; and

FURTHER SUBJECT TO, any and all matters of record and all matters apparent from an inspection of the Property.

IN WITNESS WHEREOF, the Grantor has executed this Grant Deed as of the date set forth below.

GRANTOR:

GOOGLE LLC, a Delaware limited liability
company

By: _____
Print Name: _____
Title: _____

State of California)
County of Santa Clara)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(Seal)

Exhibit A To Grant Deed
Legal Description

EXHIBIT "C"

PRO FORMA OWNER'S TITLE POLICY WITH ENDORSEMENTS

(Attached.)

EXHIBIT "D"

DOCUMENTS DELIVERED/DISCLOSURES TO BUYER

SCHEDULE X (TO ROFO PSA FORM)

DISCLOSURES AND EXCEPTIONS TO SELLER REPRESENTATIONS AND
WARRANTIES

SCHEDULE X

(Option)

- | | |
|-------|---|
| 3.3.2 | None |
| 3.3.3 | See <u>Exhibit "E"</u> |
| 3.3.4 | None |
| 3.3.5 | The Replacement Parking Agreement (and First Amendment thereto) |
| 3.3.6 | None |
| 3.3.7 | None |