

**SECOND AMENDMENT TO TEMPORARY CONSTRUCTION EASEMENT  
AGREEMENT BY AND BETWEEN BICH L NGUYEN AND THE CITY OF SAN JOSE  
(1741 Welch)**

This Second Amendment to Temporary Construction Easement Agreement ("Amendment") is entered into by and between BICH L NGUYEN, a single woman ("Grantor"), and the CITY OF SAN JOSÉ, a municipal corporation, ("Grantee"), effective upon execution by Grantor (the "Effective Date").

**RECITALS**

- A. The CITY and Grantor entered into that certain Temporary Construction Easement Agreement made as of November 6, 2015 (the "Agreement");
- B. Defined terms not otherwise defined herein shall have the meanings given them in the original Agreement;
- C. Pursuant to the terms of the Agreement, Grantee's right to use the Easement Area originally expired on November 6, 2016;
- D. Pursuant to the terms of the first amendment to the original Agreement executed November 6, 2015 ("First Amendment"), Grantor and Grantee agreed to amend the term of the Agreement to allow Grantee to continue to use the Easement Area until November 6, 2017 upon the same term and conditions as set forth in the original Agreement;
- E. Grantee now requests that Grantor amend the term of the Agreement again to allow Grantee to continue to use the Easement Area until December 31, 2018 upon the same terms and conditions set forth in the original Agreement as amended by the First Amendment; and
- F. Grantor is willing to amend the terms and conditions of the Agreement to extend the term until December 31, 2018 upon the terms and conditions set forth in this Amendment;

**NOW THEREFORE**, for good and valuable consideration and the covenants, terms and conditions set forth herein, the receipt and sufficiency thereof which is hereby acknowledged, Grantee and Grantor hereby amend the Agreement as follows:

1) Term:

- a) Section 3 "Term" is hereby deleted in its entirety and replaced with the following:

“Subject to the termination provision set forth in Section 5 below, the term of the Easement shall begin upon the Effective Date and expire on December 31, 2018, at midnight. If requested by Grantor following expiration or earlier termination of the Easement, Grantee shall deliver to Grantor a quitclaim of the interest granted to Grantee pursuant to this Agreement.”

- 2) Reaffirmation. Grantee and Grantor acknowledge and agree that the Temporary Construction Easement Agreement, as amended herein, constitutes the entire agreement by and between the Grantee and Grantor relating to the Easement Area, and supersedes any and all other agreements written or oral between the parties hereto. Furthermore, except as modified herein, all other covenants and provisions of the Temporary Construction Easement Agreement including all amendments shall remain unmodified and in full force and effect.
- 3) Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.
- 4) Submission of Document. No expanded contractual or other rights shall exist between Grantee and Grantor with respect to the Easement Area, as contemplated under this Amendment, until both Grantee and Grantor have executed and delivered this Amendment.
- 5) Governing Law. The Agreement shall be governed by and construed in accordance with the laws of the State of California.

[SIGNATURES APPEAR ON THE NEXT PAGE]

**IN WITNESS WHEREOF**, Grantee and Grantor have duly executed this Amendment, effective as of the date first written above.

**“GRANTOR”**

BICH L NGUYEN,  
a single woman

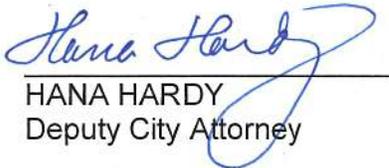
  
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Nov 6<sup>th</sup> 2017  
Date

**“GRANTEE”**

APPROVED AS TO FORM:

CITY OF SAN JOSÉ,  
a municipal corporation

  
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HANA HARDY  
Deputy City Attorney

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JULIE EDMONDS-MARES  
Deputy City Manager

\_\_\_\_\_  
Date