GROUND LEASE

THIS GROUND LEASE (the "**Lease**") is dated _____, 2018, and is entered into by and between GOOGLE LLC, a Delaware limited liability company ("**Landlord**"), and the CITY OF SAN JOSE, a municipal corporation ("**Tenant**").

Recitals

A. Tenant has sold to Landlord the land described in Exhibit "A" attached hereto and the improvements thereon. Said land and improvements are hereinafter collectively referred to as the "**Property**".

B. Landlord desires to lease the Property to Tenant concurrently with the sale of the Property by Tenant to Landlord, and Tenant desires to Lease the Property from Landlord, upon the terms set forth below.

NOW THEREFORE, in consideration of the sale of the Property by Tenant to Landlord and the mutual promises contained herein, Landlord and Tenant agree as follows:

1. Lease of Property. Landlord hereby leases the Property to Tenant, and Tenant hereby leases the Property from Landlord, upon the terms hereafter set forth.

2. Term; Possession.

2.1 Term. The term of this Lease (the "**Term**") shall commence (and possession shall be tendered to Tenant) on _____, 201__ [CLOSE OF ESCROW FOR SALE OF PROPERTY TO GOOGLE] and shall expire thirty-six (36) months thereafter on _____, 2021; however: (i) Tenant may terminate this Lease at any time upon written notice to Landlord and (ii) Tenant shall have a license to continue to occupy and use the "burn tower" site (separately identified/described on and as part of Exhibit "A") until Landlord obtains a grading permit for the Property (or such later date as may be mutually agreed to in writing by Landlord and Tenant), and the terms of this Lease shall apply to the "burn tower" site during the license period for such burn tower site.

2.2 Possession. Tenant is currently in possession of the Property and Tenant accepts the Property in its existing "AS IS" condition, subject to all matters of record, without representation or warranty (express or implied). Tenant acknowledges and knowingly accepts possession of the Property with the express understanding that access to the Property from South Montgomery Street is achieved over and through land owned and controlled by the Santa Clara Valley Water District ("**District**") and there is currently no documented and/or recorded easement or license agreement with the District which grants such access rights to the Property. All risk associated with the continued exercise of such access shall be Tenant's risk, with no recourse against Landlord.

3. Net Lease; Property Taxes, Assessments, Maintenance, Repair, Utilities. This Lease is a so-called "triple-net" lease, except that Tenant shall not be obligated to pay any property taxes or any assessments that are based on any assessment district created after the date hereof, but

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Tenant will be responsible to pay for any and all special taxes and assessments accessed by any and all existing assessment districts. Tenant shall be responsible for all aspects of maintaining, restoring, insuring and operating the Property, and obtaining and paying for all utilities to the Property during the Term including electricity, telephone service, water, sewer service and trash removal. However, there is no monthly base rent ("**Base Rent**") to be paid during the Term of the Lease. Tenant shall pay as additional rent ("**Additional Rent**") all sums of money required to be paid pursuant to the terms of this Lease. The Base Rent, if any, and the Additional Rent are collectively referred to herein as "**rent**."

4. Use; Improvements; Inspections by Landlord.

4.1 Use. Tenant may only use the Property as it is currently used (i.e., for fire training purposes). Tenant shall not use or permit the Property or any portion of the Property to be used, or occupied for any other purpose or for any purpose that is in any way in violation of law. Tenant shall comply with all laws concerning the Property or Tenant's use of the Property, including, without limitation, the obligation at Tenant's cost to alter, maintain or restore the Property in compliance and conformity with all laws relating to the condition, use or occupancy of the Property during the Term. Tenant may, subject to Landlord's prior written consent and compliance with applicable law, make improvements to the Property. Landlord shall have no obligations to perform any maintenance or make any repairs, replacements or improvements to the Property, including improvements required by law, all which shall be Tenant's responsibility, at Tenant's sole cost and expense. Further, Landlord shall have no obligation to provide any utilities or services to Tenant, and Landlord shall not be liable in any manner whatsoever for any failure or interruption of any such service.

4.2 Destruction of Improvements. Tenant may reconstruct improvements if destroyed in whole or in part. Landlord shall have no obligation to repair such damage or perform any reconstruction or restoration.

4.3 Inspections. Landlord and Landlord's consultants identified in writing to Tenant shall have the right to enter into the Property at any reasonable time, upon ten (10) days' prior written notice, for the purpose of: (a) inspecting the condition of the Property, and (b) verifying compliance by Tenant with this Lease.

4.4 Signage. Except for any of Tenant's signs existing at the Property as of the date of this Lease, Tenant may not install or permit the installation of any signs at the Project except in the ordinary course of Tenant's fire training operations.

4.5 Hazardous Material. Tenant shall not generate, transport, store, use, treat or dispose of any Hazardous Material in, to or from the Property without in each instance obtaining Landlord's prior written consent, which may be withheld by Landlord in its sole discretion; provided, however, that Tenant may, without Landlord's consent, generate, transport, store, treat or dispose of Hazardous Materials at the Property to the same extent as Tenant has previously done so, so long as such generation, transport, storage, treatment or disposal is in full accordance with all then-existing applicable laws. If, at any time or from time to time during the Term (or any extension thereof), any Hazardous Material is generated, transported, stored, used, treated or disposed of at, to, from, on, or in the Property by, or as a result of any act or omission of, any or

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all of Tenant and any or all of Tenant's Parties (defined below): (i) Tenant shall, at its own cost, at all times comply (and cause all Tenant's Parties to comply) with all laws relating to Hazardous Materials, and Tenant shall further, at its own cost, obtain and maintain in full force and effect at all times all permits and other approvals required in connection therewith; and (ii) Tenant shall promptly provide Landlord with complete copies of all communications, permits or agreements with, from or issued by any governmental authority or agency (federal, state or local) or any private entity relating in any way to the presence, release, threat of release, or placement of Hazardous Materials on or in the Property, or the generation, transportation, storage, use, treatment, or disposal at, on, in or from the Property, of any Hazardous Materials. Except as otherwise expressly provided herein, this paragraph does not authorize the generation, transportation, storage, use, treatment or disposal of any Hazardous Materials at, to, from, on or in the Property. Tenant covenants to investigate, clean up and otherwise remediate, at Tenant's sole expense, any release of Hazardous Materials in violation of existing laws which are caused, contributed to, or created by any or all of (A) Tenant and (B) any or all of Tenant's officers, directors, members, managers, partners, invitees, agents, employees, contractors or representatives (collectively, "**Tenant's Parties**") during the Term. Such investigation and remediation shall be performed only after Tenant has obtained Landlord's prior written consent; provided, however, that Tenant shall be entitled to respond (in a reasonably appropriate manner) immediately to an emergency without first obtaining such consent, if Tenant promptly thereafter delivers to Landlord written notice of the emergency and the action taken to remedy it. All remediation shall be performed in strict compliance with laws and to the reasonable satisfaction of Landlord. Tenant shall not enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected to the Property without first obtaining Landlord's written consent (which consent may be given or withheld in Landlord's sole, but reasonable, discretion) and affording Landlord the reasonable opportunity to participate in any such proceedings. As used herein, the term "**Hazardous Materials**" shall mean any waste, material or substance (whether in the form of liquids, solids or gases, and whether or not airborne) that is or may be deemed to be or include a pesticide, petroleum, asbestos, polychlorinated biphenyl, radioactive material, urea formaldehyde or any other pollutant or contaminant that is or may be deemed to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious, or that presents a risk to public health or to the environment, and that is or becomes regulated by any law. The undertakings, covenants and obligations imposed on Tenant under this paragraph shall survive the termination or expiration of this Lease.

5. Indemnity and Insurance.

5.1 Indemnity. Tenant shall hereby defend, indemnify and hold Landlord and its members and employees, harmless from and against and from any and all claims, liabilities, losses, damages and expenses (including reasonable attorneys' fees and court costs) resulting from or arising out of Tenant's occupation and use of the Property, specifically excluding the cost to repair any damage to or destruction of Improvements (except to the extent repair is required by applicable law), but including, without limitation:

(a) The death or injury of any person,

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(b) Any work performed on the Property or materials furnished to the Property at the instance or request of Tenant or any person or entity acting for or on behalf of Tenant; or

(c) Tenant's failure to comply with any requirement of law or any requirement imposed on Tenant or the Property by any governmental agency or authority;

(d) Tenant's failure to perform any of Tenant's obligations under this Lease.

5.2 Mechanics' Liens. Tenant shall pay all costs for construction done by it or caused to be done by it on the Property as permitted by this Lease. Tenant shall keep the Property free and clear of all mechanics' and other liens resulting from construction done by or for Tenant. If any such liens are filed, Tenant shall, at its sole cost, immediately cause such lien to be released of record or bonded in accordance with applicable California law. If Tenant fails to cause such lien to be so released or bonded within twenty (20) days after receipt by Tenant of written notice from Landlord that such lien has been filed, Landlord may, without waiving its rights and remedies based on such breach, and without releasing Tenant from any of its obligations, cause such lien to be released by any means it shall deem proper, including payment in satisfaction of the claim giving rise to such lien. Tenant shall pay to Landlord within five (5) days after receipt of invoice from Landlord, any sum paid by Landlord to remove such liens. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT, OR TO ANYONE HOLDING THE PROPERTY THROUGH OR UNDER TENANT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN THE PROPERTY.

5.3 Insurance. Tenant is self-insured.

6. Assignment and Subletting. Tenant shall not assign, encumber or otherwise transfer this Lease, or except for licenses and concession agreements entered into in the normal course of Tenant's fire training operations (and then only upon advance written notice to Landlord) sublet all or any portion of the Property, or enter into any license or concession agreements with respect to all or any portion of the Property, or otherwise permit the occupancy or use of all or any portion of the Property by any persons other than Tenant.

7. Tenant Default and Landlord Remedies.

7.1 Events of Default. It shall be an "**Event of Default**" by Tenant under this Lease if Tenant fails to perform any of its obligations under this Lease within thirty (30) days after written notice from Landlord specifying the failure of Tenant, provided that if the notice of the failure is such that more than thirty (30) days after such notice is required for cure, then an Event of Default by Tenant shall not have occurred so long as Tenant commences to cure the failure with reasonable diligence within the thirty (30) days and thereafter reasonably prosecutes the cure to completion.

7.2 Remedies. Upon the occurrence of any Event of Default by Tenant, Landlord may terminate the Lease by written notice to Tenant, and/or pursue any other remedy

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now or hereafter available under the laws or judicial decisions of the State of California. The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the Term or by reason of Tenant's occupancy of the Property. On termination, Landlord has the right to recover from Tenant:

(a) The worth, at the time of the award of the unpaid rent that had been earned at the time of termination of this Lease;

(b) The worth, at the time of the award of the amount by which the unpaid rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided;

(c) The worth, at the time of the award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided; and

(d) Any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default.

"The worth, at the time of the award," as used in (i) and (ii) of this paragraph, is to be computed by allowing interest at the rate of ten percent (10%) per annum. "The worth, at the time of the award," as referred to in (iii) of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

Landlord, at any time after Tenant commits a default, can cure the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear interest at the rate of ten percent (10%) per annum from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest on it, shall be Additional Rent.

8. Surrender. Upon the expiration or any earlier termination of the Term, Tenant shall surrender to Landlord the possession of the Property and all improvements then existing thereon, and shall (i) remove all of its personal property, including, but not limited to, equipment, trade fixtures and furnishings, (ii) remove all Hazardous Materials used or stored by Tenant at the Property, and (iii) close out all open permits with respect to Tenant's use or operation of the Property. Landlord acknowledges that Tenant intends to relocate its fire training operations from the Property prior to the expiration of the Term and may remove fixtures and equipment used in such operations.

9. Holding Over. Tenant has no right to retain possession of the Property or any part thereof beyond the expiration or earlier termination of this Lease.

10. Quiet Enjoyment. Tenant shall and may peacefully and quietly have, hold and enjoy the Property hereby demised, for the Term, upon and subject to the terms in this Lease.

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11. Notices. All notices required or permitted by this Lease shall be in writing and shall be delivered by certified mail, with postage prepaid or by reputable overnight messenger for next business day delivery. Until changed by a notice given in accordance with the provisions of this Section, the respective addresses of Landlord and Tenant for the purpose of receiving notices required or permitted by this Lease are as follows:

Landlord:

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.

Tenant:

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

Any notice sent by certified mail, return receipt requested, shall be deemed given on the date of delivery or attempted delivery shown on the receipt card. If sent by overnight messenger the notice shall be deemed given on the next business day after sending, unless the messenger service's records indicate later delivery, in which case the notice will be deemed given on the date of actual delivery as shown by such records.

12. Time of Essence. Time is of the essence of every provision of this Lease in which time is a factor.

13. Counterparts. This Lease may be executed in counterparts, all of which together shall constitute one and the same document.

14. Partial Invalidity. Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

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15. Entire Agreement. This instrument constitutes the entire agreement between Landlord and Tenant regarding the specific subject matter hereon.

16. Brokers. Neither party has engaged any broker, salesperson, finder or similar person in connection with this transaction for whom a commission will be payable, and each party shall defend, indemnity and defend the other party from claims, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) arising from or relating to any assertion of such engagement by the indemnifying party.

17. Memorandum of Lease; Quitclaim Deed. Concurrently herewith, and a part of the closing of the sale of the Property by Tenant to Landlord, the parties shall execute and cause to be recorded in the Official Records of Santa Clara County, California a Memorandum of Lease (which will not include any financial terms) with a Certificate of Acceptance by Tenant both duly acknowledged. Upon the expiration or earlier termination of this Lease, Tenant shall promptly after written request by Landlord referring to this Section, execute and deliver to Landlord a quitclaim deed in recordable form (and duly acknowledged), quitclaiming to Landlord all right, title and interest of Tenant in, under and to this Lease.

18. City Manager Authority. The City Manager of Tenant shall have the authority to (i) give all notices , consents, estoppel certificates and all requests for consent hereunder on behalf of the Tenant provided they are in writing, and (ii) enter into non-substantial amendments of this Lease provided they are in writing and signed by Landlord.

19. Estoppel. Tenant, within ten (10) days after notice from Landlord, shall execute and deliver to Landlord, in recordable form, a certificate stating that (a) this Lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modifications, (b) the amount of Base Rent, the dates to which the rent has been paid in advance, and the amount of any security deposit or prepaid rent, (c) either that, to the knowledge of Tenant, no default exists hereunder or, specifying each such default of which Tenant has knowledge, and (d) any other information reasonably requested by Landlord. Failure to deliver the certificate within the ten (10) days shall be conclusive upon Tenant that the statements included in the certificate are true and correct.

20. Sale or Transfer by Landlord. If Landlord sells or transfers all or any portion of the Property, Landlord, on consummation of the sale or transfer, shall be released from any liability thereafter accruing under this Lease if Landlord's successor has assumed in writing, for the benefit of Tenant, Landlord's obligations under this Lease. If any prepaid rent or security deposit has been paid by Tenant, Landlord can transfer any prepaid rent and security deposit to Landlord's successor and on such transfer Landlord shall be discharged from any further liability in reference to the same.

21. Approvals and Entitlements. Tenant covenants and agrees that it will not object to or otherwise interfere with or frustrate Landlord's applications for approvals or entitlements for the proposed development of the Property. Landlord agrees that no such applications or approvals shall interfere with Tenant's use of the Property during the Term of this Lease.

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22. CASp Disclosure. For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Property has not undergone inspection by a Certified Access Specialist (CASp). In addition, the following notice is hereby provided pursuant to Section 1938(e) of the California Civil Code:

> "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

In furtherance of and in connection with such notice, Tenant may obtain such a CASp inspection at any time during the Term, at Tenant's sole cost and expense. If such CASp inspection identifies any violations of construction-related accessibility standards, Tenant shall be responsible for making any repairs necessary to correct the same, at Tenant's sole cost and expense.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first above written.

TENANT:

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

LANDLORD:

GOOGLE LLC,
a Delaware limited liability company

By: _____
Print Name: _____
Title: _____

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EXHIBIT "A"

DESCRIPTION OF LAND AND DESCRIPTION OF BURN TOWER SITE

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