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**AGREEMENT BETWEEN GOOGLE AND THE  
CITY OF SUNNYVALE TO REIMBURSE CITY FOR  
PLANNING, DEVELOPMENT AND ENGINEERING SERVICES  
RELATED TO GOOGLE AND CITY TRANSPORTATION PROJECTS**

This Agreement is entered into this 6 day of April 2016, by and between the CITY OF SUNNYVALE, a California Charter City and municipal corporation, whose address is 456 W. Olive Avenue, Sunnyvale, CA 94086 (hereinafter "CITY"), and GOOGLE INC., whose address is 1600 Amphitheatre Parkway, Mountain View, California 94043 (hereinafter "APPLICANT"), with respect to the following facts:

**RECITALS**

WHEREAS, CITY and APPLICANT has discussed CITY's transportation priority projects; and

WHEREAS, APPLICANT has identified projects that are beneficial to CITY and to APPLICANT'S employees; and

WHEREAS, APPLICANT and CITY would like to accelerate the implementation of CITY transportation priority projects; and

WHEREAS, APPLICANT has also applied to CITY for other transportation projects and has requested processing of the applications and handling of the projects by CITY; and

WHEREAS, APPLICANT anticipates applying to CITY for future transportation and development projects; and

WHEREAS, APPLICANT's transportation projects have and will require services for such current and anticipated future projects; and

WHEREAS, the handling of APPLICANT's current and anticipated future transportation projects will require the dedication of significant staff resources to conduct this review, analysis and handling, and will impact CITY's ability to respond to other requests for service; and

WHEREAS, in view of the use of and capacity of CITY staff to process and handle APPLICANT's current and anticipated transportation projects; and

WHEREAS, APPLICANT will also have non-transportation projects that will require development and civil engineering services; and

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WHEREAS, CITY and APPLICANT desire to accelerate CITY transportation priorities and also have adequate resources to handle APPLICANT's currently scheduled and anticipated transportation projects; and

WHEREAS, APPLICANT has volunteered to reimburse CITY for certain expenditures related to engineering the implementation of CITY transportation priorities and services provided during the review of present and future transportation applications, and the processing of such projects, including CITY staff time, the retention of outside consultants and any other reimbursable expenditures including such costs related to copying and noticing associated with APPLICANT's present and future transportation projects.

NOW, THEREFORE, in consideration of the Recitals and mutual promises contained herein, CITY and APPLICANT agree as follows:

#### **ARTICLE I – REIMBURSEMENT FOR EXPENDITURES**

A. In order to reimburse CITY for the cost of providing such services, APPLICANT shall deposit with the City funds to pay the projected equivalent cost of one (1) full-time Traffic Engineer and one (1) full-time Transportation Manager, for civil and transportation engineering costs incurred including, but not limited to, personnel, outside contractors and administrative overhead charge and any other reimbursable expenditures including such costs related to the implementation of CITY Transportation priorities and to copying and noticing associated with APPLICANT's present and future transportation projects necessary to process APPLICANT's Applications for all transportation permits ("Applications"). CITY shall perform such engineering services to evaluate CITY transportation priorities and the Applications proposed by APPLICANT, including but not limited to, analysis of engineering issues, preparation of documents and attendance at meetings, in addition to any other inquiries regarding engineering services.

B. When APPLICANT submits non-transportation related permits (i.e. Encroachment Permits, Development permits), CITY and APPLICANT will meet to determine the level of fee credit that would be applicable

C. APPLICANT shall have no priority over CITY employee's services funded by this Agreement, nor shall employees be dedicated solely to APPLICANT's projects, regardless of any funding provided by APPLICANT.

## **ARTICLE II – APPLICANT'S OBLIGATIONS FOR FUNDING**

A. By May 1<sup>st</sup> of each year, CITY shall provide APPLICANT with an estimate for the projected equivalent cost of the services for one (1) full-time Traffic Engineer and one (1) full-time Transportation Manager, including administrative overhead charge and any other reimbursable expenditures including such costs related to copying and noticing associated with APPLICANT's present and future projects, ("Estimated Reimbursement Deposit") for the upcoming fiscal year. Should the APPLICANT have any questions or concerns regarding the Estimated Reimbursement Deposit, the APPLICANT and CITY shall meet to discuss the APPLICANT's questions or concerns before the acceptance deadline.

B. By June 1<sup>st</sup> of each year, APPLICANT shall notify CITY in writing acceptance of the Estimated Reimbursement Deposit.

C. Within fifteen (15) days of the execution of this Agreement, and in no event later than June 30, 2016, APPLICANT shall provide CITY with an Estimated Reimbursement Deposit of Four Hundred Forty Thousand Dollars (\$440,000.00) for the fiscal year 2016-2017. No interest shall accrue on the amount deposited.

D. By June 1, 2017, APPLICANT shall pay the Estimated Reimbursement Deposit to CITY for fiscal year 2017–2018. By June 1, 2018, APPLICANT shall pay the Estimated Reimbursement Deposit to City for fiscal year 2018-2019.

E. In acknowledgement of APPLICANT's Estimated Reimbursement Deposit, APPLICANT shall not be required to pay fees to process any applications related to transportation permits submitted to department of Public Works, provided the remaining amount of the Estimated Reimbursement Deposit exceeds the planning application fee by at least fifteen percent (15%).

F. Estimated Reimbursement Deposits paid by APPLICANT to CITY to fund services pursuant to Article I, as set forth above, are nonrefundable unless agreed to by both parties

G. In the event the Estimated Reimbursement Deposit is not sufficient to reimburse CITY for the services provided by CITY for the processing and handling of APPLICANT's Applications and projects for each fiscal year set forth in this Agreement, APPLICANT shall provide additional deposits to CITY for services to complete the processing and handling of its projects. CITY shall notify APPLICANT when the Estimated Reimbursement Deposit or any additional deposits are reduced to fifteen percent (15%) or less of the deposit amount. Within thirty (30) days of receipt of

notification by CITY, APPLICANT shall deposit any additional funds requested by CITY to process and handle APPLICANT's projects.

H. APPLICANT shall designate in writing a representative authorized to act on its behalf and to interact with CITY with respect to this Agreement.

### **ARTICLE III – CITY'S RESPONSIBILITIES**

A. By May 1<sup>st</sup> of each year, CITY shall provide APPLICANT with an estimate for the projected equivalent cost of the services for one (1) full-time Traffic Engineer and one (1) full-time Transportation Manager, including administrative overhead charge and any other reimbursable expenditures including such costs related to copying and noticing associated with APPLICANT's present and future projects ("Estimate Reimbursement Deposit") for the upcoming fiscal year.

B. On March 31, 2017, and on a quarterly basis thereafter, CITY shall provide an accounting report to Applicant showing fund expended by CITY, to process and handle APPLICANT's projects and City Transportation priority projects. The accounting report shall indicate charges on a month to date and fiscal year to date.

C. CITY shall designate in writing a representative authorized to act on its behalf and to interact with APPLICANT with respect to this Agreement.

### **ARTICLE IV -TERM AND TERMINATION**

A. The term of this Agreement shall be from June 30, 2016 through July 1st, 2019, unless terminated earlier.

B. This Agreement may be terminated by either CITY or APPLICANT upon one (1) year's (365 days) written notice to other party unless a shorter termination period is mutually agreed upon by both Parties. Upon receipt of a notice of termination, and expiration of the Agreement, CITY shall process and handle APPLICANT's Applications and projects as CITY's staff and resources allow and per normal fee structure.

C. This Agreement may be extended, by Amendment in writing, signed by both parties.

### **ARTICLE V - GENERAL PROVISIONS**

A. Successors and Assigns. This Agreement is binding on APPLICANT and its respective agents, successors and assigns and legal representatives. APPLICANT shall

not assign or transfer its interest in this Agreement without the prior written consent of CITY, which shall not unreasonably be withheld, and any attempt to do so shall be voidable by CITY.

B. Applicable Laws and Attorneys' Fees. This Agreement shall be construed and enforced pursuant to the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court. Reasonable attorneys' fees of the City Attorney's Office, if private counsel is not used, shall be based on comparable fees of private attorneys practicing in Santa Clara County.

C. Amendment. This Agreement may be amended in writing and signed by both parties.

D. Entire Agreement. This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

E. Public Records. The parties recognize and acknowledge that CITY is subject to the California Public Records Act, California Government Code Section 6250 and following. Public records are subject to disclosure.

F. Notices. Any notice required to be given to APPLICANT shall be deemed to be duly and properly given if mailed to APPLICANT, postage prepaid, addressed to:

Google Inc.  
Attention: VP of Real Estate  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

With a copy of notice to:

Google Inc.  
Attention: Legal Department/RE Matters  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

or personally delivered to APPLICANT at such address or at such other addresses as APPLICANT may designate in writing to CITY.

Any notice required to be given CITY shall be deemed to be duly and properly given if mailed to CITY, postage prepaid, addressed to:

Director of Public Works  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94086


or personally delivered to CITY at such address or at such other addresses as CITY may designate in writing to APPLICANT.

IN WITNESS WHEREOF, this Agreement, dated April \_\_\_\_\_, 2016, between the City of Sunnyvale and Google Inc. for services related to funding of planning, development and engineering services for Google's current and anticipated future projects, is executed by CITY and APPLICANT.

APPROVED AS TO CONTENT:

"CITY":  
CITY OF SUNNYVALE,  
a California Charter City and municipal  
corporation

  
Manuel Pineda, Public Works Director

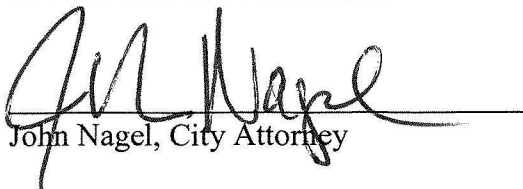
By:   
Deanna J. Santana, City Manager

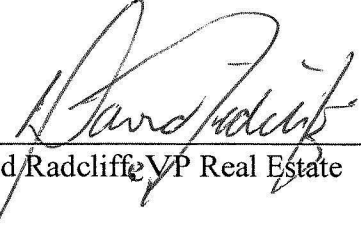
FINANCIAL APPROVAL:

  
Timothy J. Kirby, Finance Director

"APPLICANT"  
GOOGLE INC.

APPROVED AS TO FORM:

  
John Nagel, City Attorney

By:   
David Radcliffe VP Real Estate

