

Recording Requested by and  
Please Return to:

City Clerk  
City of Sunnyvale  
603 All America Way  
Sunnyvale, CA 94086

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

APNs: 110-34-007; 110-34-008

Address: 1190 Borregas Avenue and 1196 Borregas Avenue, Sunnyvale, CA 94089

### **DECLARATION OF RESTRICTION AND PARKING USE AGREEMENT**

THIS DECLARATION OF RESTRICTION AND PARKING USE AGREEMENT  
("**Declaration**") is made as of \_\_\_\_\_, 2020, by GOOGLE LLC ("**Google**").

### **RECITALS**

A. Google is the fee title owner of those certain real properties in the City of Sunnyvale ("**City**"), State of California located at 1190 Borregas Avenue and 1196 Borregas Avenue, Sunnyvale, CA 94089 (the "**Parking Property**"), more particularly described on Exhibit A attached hereto and made a part hereof.

B. Google is the fee title owner of, and holder of an access easement for, those certain real properties in the City of Sunnyvale, State of California located at 1265 Borregas Avenue and 160 Gibraltar Court, Sunnyvale, CA 94089 (the "**Building Property**"), more particularly described on Exhibit B attached hereto and made a part hereof.

C. Google has received a Major Moffett Park Design Review Permit and Minor Moffett Park Special Development Permit for a development project on the Building Property and the Parking Property (the "**Project**"). The Project includes construction of a 5-story 182,500 square foot research and development and office building at 1265 Borregas Avenue ("**Office Building**"), a lot line adjustment for the 160 Gibraltar Court parcel and the 1265 Borregas Avenue parcel to create a single parcel, and demolition of the buildings at 1190 Borregas Avenue and 1196 Borregas Avenue to create offsite surface parking to serve the combined parcel at 1265 Borregas Avenue (i.e., to serve the Building Property's uses, including the Office Building).

D. In addition to parking that will be provided on the Building Property, Google proposes to provide 362 parking stalls on the Parking Property as part of the Project and in fulfillment of City parking requirements. The proposed 362 parking stalls on the Parking Property would be available for use on the Office Building's first day of business. The proposed

location and configuration of the parking stalls on the Building Property and the Parking Property approved with issuance of the Project's entitlements is depicted in Exhibit C.

E. At the request of the City, Google desires to confirm that as part of the Project, the Parking Property's parking stalls will serve the Building Property as described herein and during the term of this Declaration.

NOW, THEREFORE, Google declares that the Parking Property shall be restricted as hereinafter set forth.

### **DECLARATION**

1. **Incorporation of Recitals.** The above Recitals are hereby incorporated into this Declaration by this reference.

2. **Project Approvals:** On \_\_\_\_\_, 20\_\_, the City approved Google's application for a Major Moffett Park Design Review and Minor Moffett Park Special Development Permit for the Project.

3. **Term.** This Declaration shall be in effect for a term (the "***Term***") commencing upon City's issuance of a Certificate of Occupancy for the Office Building and continuing so long as the Office Building is fully built and occupied until such time as: (i) parking on the Parking Property for the Project, not to exceed 362 parking stalls (not including parking stalls on the Building Property), is provided elsewhere, subject to written confirmation by the City, which shall not be unreasonably withheld; (ii) the Office Building is demolished or the Project is substantially modified; (iii) offsite parking for the Building Property is no longer needed, subject to written confirmation by the City, which shall not be unreasonably withheld; or (iv) casualty renders the Parking Property unfit or unavailable for parking use. The Term, as defined herein, is specifically not tied to, or limited by, the termination of Google's use or ownership of the Project, the Building Property, or the Parking Property.

4. **Parking Property.** Google agrees to provide up to 362 parking stalls on the Parking Property during the Term, in such locations as Google reasonably determines from time to time, for the benefit of the owners, tenants, and occupants of the Building Property, and their respective officers, directors, employees, agents, licensees and invitees (collectively, "***Entitled Parkers***"). During the Term, the number of parking spaces provided on the Parking Property may be reduced by the number of parking spaces for the Building Property provided elsewhere, subject to written confirmation by the City, which shall not be unreasonably withheld. The owner of the Parking Property shall have the right to change the size, configuration, design, layout and all other aspects of the parking facilities located on the Parking Property from time to time so long as the required number of parking spaces continue to be provided for the Building Property.

5. **Alternate Parking Site.** If, prior to or during the Term, Google identifies an alternate site owned in fee by Google, which Google determines would be more appropriate for providing parking for the Building Property than the Parking Property ("***Alternate Parking Site***"), Google may, subject to written approval by the City, which shall not be unreasonably withheld, record a declaration of restriction in substantially the same form as this Declaration against such Alternate Parking Site, providing for the Building Property parking required under

this Declaration to be provided at the *Alternate Parking Site*. Before approving the *Alternate Parking Site*, the City may review the location of the *Alternate Parking Site*, and determine if additional ADA compliant pedestrian improvements and lighting improvements are required to facilitate pedestrian access between the *Alternate Parking Site* and the *Office Building*. In addition, the City may also review the traffic operations to/from the *Alternate Parking Site* to determine if additional roadway improvements are required. The review may include but not limited to driveway vision triangle, corner vision triangle, throat length, traffic control, etc. If additional pedestrian and roadway improvements are required, Google shall be responsible to implement these improvements upon the City's review and approval of the off-site improvement plans. Upon the recordation of such a declaration of restriction against an Alternate Parking Site and provision of such recorded declaration to the City, this Declaration shall be cancelled and null, void, and of no further effect, and notice of such cancellation shall be recorded against the Parking Property.

6. **Obligations of the Parking Property Owner.** It shall be the obligation of the owner of the Parking Property to maintain any and all parking spaces required at the Parking Property pursuant to this Declaration in reasonable repair, and to provide access between such parking spaces and public roads and/or rights of way, such that individuals parking at the Parking Property may readily access sidewalks and other pedestrian pathways to the Building Property.

7. **Obligations of the Building Property Owner.** It shall be the obligation of the owner of the Building Property, anticipated to be Google during the Term, to indemnify, hold harmless, and defend the owner of the Parking Property and its directors, officers, employees, agents, stockholders and affiliates from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to reasonable attorney's fees and costs), whether or not involving a third party claim, which arise out of or relate to (a) the parking provided at the Parking Property for the Project pursuant to this Declaration, or (b) any acts, omissions, or negligence of any Entitled Parkers in, on, or about the Parking Property. The Entitled Parkers shall abide by all reasonable rules and regulations, which are prescribed from time to time for the orderly operation and use of the parking facilities located on the Parking Property, including, without limitation, any valet service and/or any sticker or other identification system reasonably established by the owner of the Parking Property or its agent (which may include a tenant of the Parking Property or a third-party parking operator); provided that, without limiting the generality of the foregoing, any such rules and regulations shall be deemed to be reasonable if the same are enforced against Entitled Parkers and others parking on the Parking Property in a non-discriminatory fashion.

8. **Declaration Runs With the Land.** This Declaration shall constitute covenants running with the land and shall be binding on and for the benefit of Google, its transferees, successors, and assigns, and any other present or future interest holders or estate holders of any portion or all of the Building Property.

9. **Land Use and Regulatory Changes.** This Declaration shall survive any subsequent land use or regulatory changes that increase the amount of parking permitted or required for the Building Property.

10. **Governing Law.** This Declaration is governed by and shall be construed under the laws of the State of California.

[signature on following page]

IN WITNESS WHEREOF, Google has executed this Declaration as of the day and year first written above.

GOOGLE LLC

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

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, \_\_\_\_\_,  
(insert name of notary)

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.

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 \_\_\_\_\_

(Seal)

**Exhibit A**

**PARKING PROPERTY LEGAL DESCRIPTION**

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

ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP LYING WITHIN THE CITY OF SUNNYVALE, BEING A RESUBDIVISION OF A PORTION OF PARCEL A AS SHOWN UPON THAT CERTAIN PARCEL MAP RECORDED IN BOOK 242 OF MAPS AT PAGE 42, SANTA CLARA COUNTY RECORDS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON NOVEMBER 9, 1976 IN BOOK 383 OF MAPS, AT PAGE 19.

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ALL OF PARCEL 3, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP LYING WITHIN THE CITY OF SUNNYVALE BEING A RESUBDIVISION OF PORTION OF PARCEL A AS SHOWN UPON THAT CERTAIN PARCEL MAP RECORDED IN BOOK 242 OF MAPS AT PAGE 42, SANTA CLARA COUNTY RECORDS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON NOVEMBER 9, 1976 IN BOOK 383 OF MAPS, AT PAGE 19.

APN: 110-34-008

**Exhibit B**

**BUILDING PROPERTY LEGAL DESCRIPTION**

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

**PARCEL ONE :**

ALL OF PARCEL 1, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP BEING A RESUBDIVISION OF PARCEL 5, OF PARCEL MAP RECORDED IN BOOK 347 OF MAPS AT PAGE 31, SANTA CLARA COUNTY RECORDS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON APRIL 26, 1976 IN BOOK 370 OF MAPS AT PAGE 47.

**PARCEL TWO:**

AN EASEMENT 13.00 FEET IN WIDTH FOR THE PURPOSE OF INGRESS AND EGRESS AND DRIVEWAY, THE EASTERLY LINE OF SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 IN THE SOUTHERLY LINE OF GIBRALTAR COURT AS SAID PARCEL AND COURT ARE SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP" RECORDED APRIL 26, 1976 IN BOOK 370 OF MAPS AT PAGE 47, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING ALONG THE WESTERLY LINE OF SAID PARCEL 1, SOUTH 14° 51' 05" WEST 37.00 FEET AND THE TERMINUS OF THIS EASEMENT.

APN: 110-35-006

ALL OF PARCEL B, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP BEING A RESUBDIVISION OF PARCEL 2, OF PARCEL MAP RECORDED IN BOOK 370 OF MAPS AT PAGE 47, SANTA CLARA COUNTY RECORDS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON JANUARY 31, 1977 IN BOOK 388 OF MAPS, AT PAGE 32.

APN: 110-35-005



**Exhibit C**

**PROPOSED LOCATION AND CONFIGURATION OF PARKING STALLS**

1265  
BORREGAS

PLANNING  
RESUBMITTAL 6

1265 BORREGAS AVE /  
160 GIBRALTAR CT  
SUNNYVALE, CA 94089

ARCHITECT OF RECORD/  
INTERIOR ARCHITECT  
**SERA ARCHITECTS**  
304 12TH ST SUITE 3A  
OAKLAND, CA 94607  
510.480.4988  
CONTACT: ELIZABETH BISHOP  
EMAIL: ELIZABETHB@SERADESIGN.COM

CORE AND SHELL  
DESIGN ARCHITECT  
**MICHAEL GREEN ARCHITECTURE, INC.**  
1535 WEST 3RD AVE  
VANCOUVER, BC V6J 1J8  
604.336.4770  
CONTACT: NATALIE TELEWIAK  
EMAIL: NTELEWIAK@REWSPROJECTS.COM

LANDSCAPE ARCHITECT  
**SWA GROUP**  
2200 BRIDGEWAY  
SAUSALITO, CALIFORNIA 94965  
415.332.5100  
CONTACT: SHAUN LOOMIS  
EMAIL: SLOOMIS@SWAGROUP.COM

CIVIL ENGINEER  
**KIER & WRIGHT CIVIL ENGINEERS  
& SURVEYORS, INC.**  
3350 SCOTT BLVD, BUILDING 22  
SANTA CLARA, CA 95054  
408.727.6665  
CONTACT: MARK KNUDSEN  
EMAIL: MKNUDSEN@KIERWRIGHT.COM

TRANSPORTATION  
AND LOGISTICS  
**ARUP**  
560 MISSION STREET, SUITE 700  
SAN FRANCISCO CA 94105  
415.957.9445  
CONTACT: MEGAN GEE  
EMAIL: MEGAN.GEE@ARUP.COM

CONTRACTOR  
**XL CONSTRUCTION**  
851 BUCKEYE CT  
MILPITAS, CA 95035  
408.240.6377  
CONTACT: CHAD HAMILTON  
EMAIL: CHAMILTON@XLCONSTRUCTION.COM

SERA

2020.05.15

CAMPUS PARKING  
& CIRCULATION  
PLAN

EXHIBIT C

PARKING PLAN

SCALE: 1" = 60'

