

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of San Bruno
567 El Camino Real
San Bruno, California 94066
Attention: City Clerk

(Space Above This Line for Recorder's Use Only)
Exempt from recording fee per Gov. Code § 27383.

SUBDIVISION IMPROVEMENT AGREEMENT
Realignment of Eastern Grundy

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("**Agreement**") is made and entered into on this ____ day of August, 2022 ("**Effective Date**") by and between by and between GOOGLE LLC, a Delaware limited liability company ("**Developer**"), and the CITY OF SAN BRUNO, a California general law city and municipal corporation ("**City**"). City and Developer are referred to herein each as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Developer is the owner of that certain real property located at 1150-1250 Bayhill Drive ("**Lakes Parcel**"), 1100 Grundy Lane ("**1100 Grundy Parcel**"), and 950 Elm Street ("**950 Elm Parcel**"), City of San Bruno, California, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference (the "**Property**"). The Lakes Parcel and the 950 Elm Parcel are separated from the 1100 Grundy Parcel by the eastern portion of Grundy Lane as depicted on **Exhibit B-1** attached hereto ("**Existing Eastern Grundy**"). Developer also is the owner of that certain real property located at 900 Cherry Avenue and 1000 Cherry Avenue (together, the "**Phase 1 Parcels**"), which are separated by the western portion of Grundy Lane ("**Western Grundy**"). Grundy Lane terminates at Elm Avenue on its eastern end and at Cherry Avenue on its western end.

B. Developer plans to construct office buildings on the Property, together with parking lots and a multimodal transit hub (the "**Project**"). The Project includes the realignment of Existing Eastern Grundy so that it is linear rather than curved and shifts its connection with Elm Avenue southward approximately 376 feet, as depicted on **Exhibit C** attached hereto ("**New Eastern Grundy**"). The Project includes office buildings on the Phase 1 Parcels and realignment of Western Grundy so that it is linear rather than curved. The Project also includes street and infrastructure improvements on Grundy Lane, Bayhill Drive, Elm Avenue and Cherry Avenue. Realignment of Eastern Grundy will result in the northern approximately 376 feet of Elm Avenue (the "**Elm Stub**") no longer being required for public circulation or connection with Grundy Lane. The central portion of Grundy Lane abutting Existing Eastern Grundy to the east and Western Grundy to the west, consisting of the portion fronting 1250 Grundy Lane ("**Central Grundy**") will undergo improvements but will not be realigned.

C. On September 28 and October 12, 2021, the City Council of the City of San Bruno adopted, among other approvals, Resolution No. 2021-79 approving the Vesting Tentative Map (“VTM”) No. 19-001 for the Project and Architectural Review Permit (“ARP”) No. 19-004 for Phase 1 of the Project, subject to certain conditions of approval (cumulatively, “**Conditions**”), together with a Development Agreement (“DA”) No. 21-002 for the Project.

D. As to the demolition of Existing Eastern Grundy and construction of New Eastern Grundy (an area collectively referenced herein as “**Eastern Grundy**”), the Conditions allow Developer to request City approval of permits to begin the Work (defined below) prior to approval and filing of the Final Map provided that Developer enter into an improvement agreement with City providing for future reconstruction of Grundy Lane and providing the requisite security therefor. This Agreement is intended to fully satisfy VTM Condition No. 40 and ARP Condition No. II. 44 of the Conditions as to Eastern Grundy.

E. On April 19, 2022, the Parties entered into a Street Improvement Agreement relating to the realignment of western Grundy Lane between the Phase 1 Parcels, wherein Grundy Lane is being realigned between Cherry Avenue and the western property line of the parcel located at 1250 Grundy Lane. As part of that ongoing work, Western Grundy has been closed, and to provide adequate public access Developer has constructed a cul-de-sac at the western end of Central Grundy which extends into the Lakes Parcel, as depicted on **Exhibit B-2** attached hereto (the “**Cul-de-Sac**”).

F. Developer has submitted a draft final subdivision map for Phase 1 of the Project (the “**Final Map**”) and applied to City for Final Map approval without having completed the realignment and reconstruction of Eastern Grundy and, therefore, will enter into this Agreement with City providing for future construction and installation of such public improvements, as required by Government Code section 66462(a)(1).

G. Developer has prepared and submitted to City plans, specifications and drawings for development of all off-site improvements for Phase 1 of the Project on all adjacent streets including but not limited to Eastern Grundy (“**Improvement Plans**”). Among other improvements, the Improvement Plans provide for construction of all other off-site improvements as set forth at Section 4.1 through 4.5 below (collectively, “**Street Improvements**”).

H. The Parties intend that concurrently with this Agreement City will approve and record the Final Map. The Final Map in part will include City vacating its public access rights to (1) Existing Eastern Grundy, (2) the western half of the Elm Stub as depicted on **Exhibit B-1** (the “**Developer Elm Segment**”) and (3) the southern half of Central Grundy as depicted on **Exhibit B-1** (the “**Developer Central Grundy Segment**”), each in favor of Developer as the abutting property owner, in return for Developer dedicating New Eastern Grundy in fee to City. City’s public access rights to the eastern half of the Elm Stub and northern half of Central Grundy are not being vacated by the Final Map and are not the subject of this Agreement.

I. The Final Map also will include City vacating certain Public Utility Easements abutting both sides of Existing Eastern Grundy, the southern side of the Developer Central Grundy Segment, and the western side of the Developer Elm Segment (the “**Existing PUEs**”), in return

for Developer dedicating new Public Utility Easements abutting New Eastern Grundy and the Developer Central Grundy Segment (the “**New PUEs**”).

J. In order to allow continued public use of Existing Eastern Grundy, Central Grundy and the Elm Stub and to ensure public use of the Cul-de-Sac, and to allow continued use of the Existing PUEs, all until New Eastern Grundy is completed by Developer and accepted by City, Developer will grant City a temporary easement over Existing Eastern Grundy, the Developer Central Grundy Segment, the Developer Elm Segment and the Cul-de-Sac for public access and over the Existing PUEs for utility maintenance purposes, as further described in this Agreement.

K. City and Developer desire to enter this Agreement providing for:

a. Completion of the Grundy Realignment, including the Grundy Improvements, by Developer in accordance with the Improvement Plans;

b. Dedication of New Eastern Grundy to City, as shown on the approved VTM No. 19-001 and as shown on the Final Map to be concurrently approved and recorded by the City;

c. Delivery to City of improvement security for street improvements including utility lines in the realigned configuration of Eastern Grundy and in compliance with the Conditions and Chapter 12.48 of the San Bruno Code; and

d. Granting of a temporary access easement to City over Existing Eastern Grundy, the Developer Central Grundy Segment, the Developer Elm Segment and the Cul-de-Sac for access and over the Existing PUEs for utility maintenance purposes.

AGREEMENT

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth in this Agreement, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to ensure satisfactory performance of Developer’s Conditions pertaining to the Improvements.

2. Property Subject to Agreement. The Property shall be subject to this Agreement. Furthermore, it is understood by the Parties that the obligations set forth below and in this Agreement in general relate to Existing Eastern Grundy, the Developer Central Grundy Segment, the Developer Elm Segment, the Cul-de-Sac, New Eastern Grundy and the Existing PUEs.

3. Temporary Easements.

3.1 Roadway Easement. Through this Agreement, Developer hereby grants to City a temporary vehicular, and pedestrian access and utilities easement over and under Existing Eastern Grundy, the Developer Central Grundy Segment and the Developer Elm Segment for public access and maintenance and operation of utilities within such rights-of-way, and over the Cul-de-Sac for public access (the “**Temporary Access Easement**”). The location and legal description of the Temporary Access Easement shall be (a) as the rights-of-way being vacated of Existing Eastern Grundy, the Developer Central Grundy Segment and the Developer Elm Segment

are shown on Sheet 3 of the Final Map for the right-of-way areas, and (b) as the location and area of the Cul-de-Sac are depicted on **Exhibit B-2**.

3.2 **PUE Easements.** Through this Agreement, Developer hereby grants to City a temporary easement for utility maintenance purposes within the Existing PUEs (collectively, the “**Temporary PUE Easements**”). The location and legal description of the Temporary PUE Easements shall be as shown on Sheet 3 of the Final Map for each Existing PUE.

3.3 **Term and Termination.** The Temporary Access Easement and Temporary PUE Easements shall remain in effect until (a) completion of New Eastern Grundy and its associated Street Improvements, (b) City approval of such Street Improvements, and (c) City acceptance of (i) dedication of fee title to New Eastern Grundy and (ii) dedication of easements to the New PUEs, all in City’s discretion. The Temporary Access Easement and Temporary PUE Easements shall terminate upon recording of the Notice of Acceptance pursuant to Section 13.2 below.

4. **Duty to Complete Street Improvements.** Developer will construct, install and complete, or cause to be constructed, installed and completed, at Developer’s sole cost and expense: the Street Improvements, in accordance with the Improvement Plans (defined in Recital G above), to the satisfaction of the City Engineer, in his/her reasonable discretion. Developer will also supply all labor and materials therefor, all in strict accordance with the terms and conditions of this Agreement. The Street Improvements shall include all of the following improvements, as shown on the Improvement Plans:

4.1 Sidewalk and street improvements including new curb, gutter, sidewalk and driveway, curb access ramps, street pavement, median modification, signing and striping, and survey monuments;

4.2 Utility improvements including storm drain systems, water main system, water services, fire hydrants, sanitary sewer systems, street lights, and joint trench systems;

4.3 Landscaping and irrigation within or adjacent to streets, including median and frontage street trees, tree wells and tree well grates;

4.4 Stormwater treatment systems related to affected streets and along the Property frontages;

4.5 All other work, improvements, or construction required by or specified in the abovementioned plans and specifications, conditions of the Improvement Plans, and all construction, appurtenances and improvements necessary as reasonably determined by the City Engineer to complete the aforementioned Street Improvements.

The construction, installation and completion of the Street Improvements and all labor and materials furnished in connection therewith are hereinafter referred to collectively as the “**Work.**” The Work shall be in strict compliance with the provisions of Chapter 12.44, Improvement Standards, of the San Bruno Code.

5. Completion Date. Developer will complete the Work within five years of issuance of all encroachment permits required for such (“**Completion Date**”). If these permits are not issued on the same date, this time frame shall run from the latest-issued permit. All Work will be completed in a good and workmanlike manner in accordance with accepted design and construction practices and consistent with the Improvement Plans. This Completion Date may be extended by the City Engineer in his or her sole and absolute discretion at the request of Developer, which request shall be accompanied by a written assurance acceptable to the City Engineer that the securities required by Section 14 shall remain enforceable throughout the term of the extension. This Completion Date shall be extended in the event of a Force Majeure Event, in accordance with and as defined at Section 32 hereof.

6. Estimated Cost of Work. The engineer’s estimated cost of the Work is Five Million Six Hundred Twenty-Four Thousand Twenty-Two Dollars (\$5,624,022) (“**Estimated Cost of Work**”).

7. Modifications to the Plans. Approval of this Agreement by City does not release Developer of its responsibility to correct mistakes, errors or omissions in the Improvement Plans. If at any time the City Engineer, in his/her reasonable discretion, determines that the Improvement Plans are not in compliance with applicable law or regulations (e.g., building codes), Developer agrees to make such modifications, changes or revisions as necessary in order to complete the Work in a good and workmanlike manner in accordance with applicable law, regulations, and Improvement Plans.

8. Repairs. Developer agrees to repair or have repaired in a timely manner at its sole cost and expense all public roads, streets, or other public or private property damaged as a result of or incidental to the Work or in connection with the development of Street Improvements, or to pay to the property owner of any damaged road, street or property the full cost of such repair. In addition, Developer shall obtain the written acceptance of such repair or payment from any owner whose private or public property was repaired by Developer or to whom Developer has paid the full cost of such repair in accordance with this Section 8. City shall be under no obligation whatsoever to accept the Work completed under this Agreement until such time as all repairs have been completed or have been paid for and written acceptances have been provided to the City Engineer.

9. Foreman or Superintendent. A competent foreman or superintendent, satisfactory to the City Engineer in his/her reasonable discretion with authority to act for and on behalf of Developer, shall be named in writing by Developer prior to commencement of the Work, shall be present on the Property during performance of the Work and may not be changed without advance notification to and the concurrence of the City Engineer.

10. Examination of Work. All of the Work shall be consistent with the Improvement Plans, as applicable, and performed to the satisfaction of the City Engineer, in his/her reasonable discretion. Subject to the notice and other requirements set forth below, City and its authorized agents shall, at all times during performance of the Work, have free access to the Property and the Work and shall be allowed to examine the Work and all materials used and to be used in the Work. In the event that the City requires access to the Property: (a) City shall, when it is reasonably possible to do so, provide twenty-four hours advance notice to Developer so that a site visit can be

coordinated; and (b) given that said persons will be entering upon an active construction zone, all City employees or City-authorized agents shall at all times be accompanied by and adhere to all instructions from a representative of Developer's general contractor for the Project.

11. City Costs. Developer shall pay to City the actual cost for all engineering, inspection, administration, plan check, laboratory and field testing, construction, and other services furnished by City in connection with this Agreement, including those performed by consultants under contract with City ("**City Costs**") in accordance with the Reimbursement Agreement executed by the Parties on or about October 26, 2021.

12. Completion of Work. After Developer (a) completes the Work in accordance with the Improvement Plans and/or the terms and conditions of this Agreement, as applicable; (b) repairs any private or public property damaged as a result of the Work or pays the full cost of such repair to the owner whose property was damaged; and (c) obtains the written acceptance of such repair or payment from any owner whose private property was repaired by Developer or to whom Developer paid the full cost of such repair, Developer will provide City with a certificate of substantial completion of the Work, together with copies of all written acceptances ("**Certificate of Substantial Completion**").

13. Final Acceptance.

13.1 Notice of Completion. Within thirty (30) days of receipt of Developer's Certificate of Substantial Completion pursuant to Section 12 above, the City Engineer shall inspect the Work and repairs and review the written acceptances, if any, and send Developer a written notice stating whether the Work and repairs are complete to the satisfaction of the City Engineer, in his/her reasonable discretion, and whether the written acceptances have been provided. If the Work and repairs are, in the opinion of the City Engineer, not complete and satisfactory, written acceptances have not been provided, and/or the Work is burdened by liens or encumbrances, the City Engineer will list the deficiencies that must be corrected to find the Work and repairs complete and satisfactory. Upon satisfactory completion of the Work and repairs and submittal of written acceptances, the City Engineer will notify Developer in writing of satisfactory completion. The requirement for written acceptances may be waived by the City Engineer, in his/her reasonable discretion, if Developer has made commercially reasonable efforts to obtain such acceptances. The City Engineer's failure to respond to Developer's written notification within thirty (30) days will not be deemed either (a) a breach or default under this Agreement or (b) approval of the Work.

13.2 Acceptance of Street Improvements. After notifying Developer of satisfactory completion pursuant to Section 13.1, the City Engineer will recommend acceptance of the Street Improvements to the City Council. Acceptance of the Street Improvements shall be by resolution of the City Council, with the matter placed on the next available agenda for City Council action. Upon the City Council's adoption of such resolution, the City Engineer shall promptly record a notice, in a form to be approved by the City Attorney, in the Official Records of San Mateo County ("**Notice of Acceptance**") (the date of such recording being the "**Acceptance Date**").

(a) Notwithstanding the foregoing, Developer may submit offers of dedication and right-of-way, and easements, if any, via the filing of the Project's Final Map, which may be accepted by the City Council upon its approval of the Final Map.

14. Performance, Labor and Materials and Warranty Security.

14.1 In accordance with Chapter 5 of the Subdivision Map Act and Chapter 12.48, "Improvement Security," of the San Bruno Code, Developer will furnish and deliver to City, within the times set forth below, the following security or such other surety as may be acceptable to the City Engineer.

(a) Letter of Credit. Within ten (10) days of the Parties' execution of this Agreement, Developer shall cause the "Bank" (as that term is defined below) to furnish and deliver to City an irrevocable standby letter of credit (the "**Letter of Credit**") that complies in all respects with the requirements of this Section 14.1(a) in the amount of the Estimated Cost of Work, which is equivalent to one hundred percent (100%) of the approved estimate for the costs of improvements and labor and materials ("**LC Amount**"). Developer acknowledges that City will not issue any permits for the Work until it receives the Letter of Credit. The Letter of Credit shall: (i) be issued by a Bank; (ii) be in the form attached hereto as Exhibit D; (iii) be payable upon presentation of a written demand complying with the express terms of the Letter of Credit; (iv) be maintained in effect, whether through renewal or extension, for the period commencing on the date that the Letter of Credit is first issued and continuing until the date (the "**LC Expiration Date**") that is no less than the earlier to occur of (A) the Final Release Date pursuant to Section 15.2(b) or (B) June 30, 2028; (v) meet the requirements of San Bruno Code Section 12.48, Improvement Security and be acceptable to the City Engineer; (vi) contain a provision that provides that the Letter of Credit shall be automatically extended (but in no event beyond the LC Expiration Date), without amendment, and without any action whatsoever on the part of City, for successive one year periods unless the Bank notifies City that Bank elects not to extend the expiration date (the "**Non-Extension Notice**") at least thirty (30) days prior to the then current expiration of the Letter of Credit; (vii) permit partial draws and multiple presentations and drawings; and (viii) be otherwise subject to the International Standby Practices-ISP 98, International Chamber of Commerce Publication #590. The term "**Bank**" referred to herein shall mean a commercial, solvent, nationally recognized bank, which has a long-term, unsecured, and unsubordinated debt obligations rating of no less than "BBB" by Fitch Ratings Ltd. ("**Fitch**"). City expressly agrees that Barclays Bank PLC, New York Branch is a qualifying Bank hereunder. Developer shall have the right to replace the Letter of Credit with a new Letter of Credit complying with the terms of this Agreement. Upon City's receipt of such new Letter of Credit and City's confirmation that it fully complies with the terms of this Agreement, City shall promptly return the original Letter of Credit to the Bank for cancellation and execute any documents reasonably required by the Bank to evidence such cancellation. The Letter of Credit shall be conditioned upon faithful performance of this Agreement with respect to the Work and City shall return the Letter of Credit to the Bank for cancellation in accordance with Section 14(a)(iv) above and Section 15 below upon the Final Release Date pursuant to Section 15.2(b).

(b) Right to Draw Upon Letter of Credit. City shall have the right, but not the obligation, to draw upon the Letter of Credit in an amount up to the face amount thereof upon the occurrence of one of the following events: (i) City determines that an event of default or breach has occurred (except regarding Section 24.2 which applies only to the Maintenance and Warranty Security); or (ii) if at any time prior to the LC Expiration Date, City receives a Non-Extension Notice from the Bank or City otherwise learns that the Letter of Credit is about to expire. Prior to initiating a draw upon the Letter of Credit as a result of an alleged default under this Agreement, City shall follow the notice and opportunity to cure procedures in Section 24 and 25 of this Agreement. Developer hereby acknowledges and agrees that City is entering into this Agreement in material reliance upon the ability of City to draw upon the Letter of Credit in order to ensure the performance of Developer's obligations under this Agreement. No condition or term of this Agreement shall be deemed to render the Letter of Credit conditional to justify the issuer of the Letter of Credit in failing to honor a drawing upon such Letter of Credit in a timely manner.

(c) Maintenance and Warranty Security. Developer shall furnish and deliver warranty security in the amount of Five Hundred Sixty-Two Thousand Four Hundred Two Dollars and Twenty-One Cents (\$562,402.21), which is the equivalent of ten percent (10%) of the actual final cost of the improvements, upon acceptance of the Improvements and prior to release of the Letter of Credit. The security shall be (i) either a Letter of Credit in the form attached hereto as Exhibit D or a bond in the form attached hereto as Exhibit G; (ii) acceptable to the City Engineer; and (iii) shall guarantee and warrant the Work for a period of one (1) year following the Acceptance Date.

14.2 If Developer replaces the Letter of Credit with a corporate surety bond as the improvement security and, in the opinion of City, any surety or sureties thereon become insufficient, Developer shall renew or replace any such surety with good and sufficient surety or sureties within ten (10) days after receiving from City written demand thereof.

14.3 Improvement security consisting of corporate surety bonds shall be kept on file with the City Engineer. If a corporate surety bond is replaced by another approved bond, the replacement shall be filed with the City Engineer and made a part of and incorporated into this Agreement. Upon filing and approval by the City Engineer of a replacement bond, the former improvement security shall be released.

14.4 Modifications of the Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Cost of Work, shall not relieve or release any improvement security furnished by Developer pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Cost of Work, Developer shall furnish additional improvement security for performance, warranty, and payment, as required by Section 13.1 above, for one hundred percent (100%) of the revised Estimated Cost of Work.

14.5 City has approved the form standby letter of credit attached hereto as Exhibit D, and the bond forms attached hereto as Exhibits E, F and G (to be used if bonds are proposed for security in lieu of a letter of credit).

15. Partial Reduction or Release of Improvement Security.

15.1 Partial releases or reductions in Developer's improvement security may be authorized prior to City's acceptance of all Improvements required hereunder, as provided in this Section 14.

15.2 Upon acceptance of all or any specified category of the Improvements by the City Council and upon request of Developer, the improvement security may be reduced or released as follows:

(a) Security for Performance. Subject to Section 15.2(c), the security for performance shall be released upon final completion of the Work, City's acceptance of the Improvements and Developer's delivery of the warranty security described in Section 14.1(c). At the request of Developer, the Director of Public Works may release a portion of the security for performance in conjunction with acceptance of part of the Improvements; provided, however, that no such release shall be for an amount less than ten percent (10%) of the total security for performance and such security shall not be reduced to an amount less than seventy-five percent (75%) of the total security for performance until final completion and City acceptance of the Improvements. In no event shall the Director of Public Works authorize a release of the security for performance which would reduce such security to an amount below that required to guarantee completion of the remaining Work and any other obligation imposed under this Agreement.

(b) Security for Payment. Security furnished to secure payment to contractors, subcontractors, and to persons providing labor, materials or equipment shall, six (6) months after the Acceptance Date (the "**Payment Security Reduction Date**"), be reduced to an amount equal to the total amount claimed by all claimants for whom liens have been filed and of which notice has been given to City, plus an amount reasonably determined by the City Engineer to be required to assure performance of any other obligations secured by the security. The balance of the payment security shall be released upon settlement or release of all claims and obligations for which the security was given (the "**Final Release Date**").

(c) Letter of Credit as Security. If the security for performance and payment is provided in the form of a single Letter of Credit, it may be reduced in accordance with Section 15.2(a), in which case the City shall consent to either (1) a reduction amendment to the Letter of Credit to reduce the LC Amount by the amount released by the City ("**Reduced LC Amount**") or (2) a replacement Letter of Credit for the Reduced LC Amount that substantially conforms to the form attached hereto as Exhibit D. The Letter of Credit may be further reduced after the Payment Security Reduction Date pursuant to Section 15.2(b). In summary, the Letter of Credit may be reduced pursuant to the terms of this Agreement, but not below seventy-five percent (75%) of the LC Amount prior to the Payment Security Reduction Date, and thereafter as permitted pursuant to Section 15.2(b).

(d) If Developer's obligations relating to any Improvements are subject to the approval of another governmental agency, City shall not release the improvement

security thereof until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have two (2) months after Developer's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period such agency has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that Developer's performance of the obligation was done to its satisfaction.

16. Warranty Period; Repair and Reconstruction. Without limiting the foregoing, Developer expressly warrants and guarantees that all Work performed under this Agreement and all materials used in the Work shall be free from defects, be in compliance with the Improvement Plans, and perform satisfactorily for a period of one (1) year (except for those manufactured products where extended warranties have been provided, in which case the extended warranty period shall apply) after the Acceptance Date. Notwithstanding anything to the contrary, Developer's warranty obligations shall not include defects arising out of abuse by the general public, improper or insufficient maintenance by City or third parties responsible for maintenance, or improper operation by City or third parties responsible for operation. If, within this one year warranty period, any Street Improvement or part of any Street Improvement installed or constructed, or caused to be installed or constructed by Developer, or any of the Work done under this Agreement, fails to fulfill any of the requirements of the Improvement Plans, Developer shall, without delay and without cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Work or Improvement to the satisfaction of the City Engineer. Developer further agrees that for any Street Improvement or part of any Street Improvement that has been repaired, replaced or reconstructed, the one year warranty period and the Maintenance and Warranty Security for the defective improvement shall automatically be extended for an additional year from the date of completion of such repair, replacement, or reconstruction to insure defects have actually been corrected for up to a maximum of two years from the date of the original Notice of Acceptance. Should Developer fail to act promptly or in accordance with the requirement to repair, replace or reconstruct defective or unsatisfactory improvements, City may, at its option, upon written notice to Developer and a 30 day cure period in accordance with Section 25 hereof, make the necessary repairs, replacements or perform the necessary reconstruction and Developer shall pay to City upon demand the actual cost of such repairs, replacements or reconstruction. In the event that the exigencies of the situation require the repairs, replacements or reconstruction to be made before Developer can be notified, City may, at its option, make the necessary repairs, replacements or perform the necessary reconstruction and Developer shall promptly pay to City upon demand the actual cost of such repairs, replacements or reconstruction in accordance with Section 26.3.

17. Developer Not Agent of City. Neither Developer nor Developer's contractors, subcontractors, agents, officers, or employees are agents or employees of City and the Developer's relationship to City, if any, arising herefrom is strictly that of an independent contractor.

18. Indemnification.

18.1 Neither the City, nor its officers, agents nor employees ("**City Parties**"), shall be liable or responsible for any accident, injury, loss, or damage to either property or person attributable to or arising out of the construction or installation of the Grundy Improvements. Developer shall indemnify, hold harmless and defend the City and the City Parties from and against

any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including reasonable attorneys' fees ("**Claims**"), arising out of or attributable to Developer's performance under this Agreement. Notwithstanding the foregoing, Developer shall not be obligated under this Agreement to defend and/or indemnify the City or any City Parties for any Claims to the extent that any Claims are caused by the gross negligence or willful misconduct of City or City Parties.

18.2 Developer's obligations under this Section 18 are not conditioned or dependent upon whether the City or a City Party prepared, supplied or reviewed any Improvement Plans or related specifications in connection with development of Street Improvements, or whether City or a City Party has insurance or other indemnification covering any of these matters. If City tenders an insurance claim or recovers monies from other indemnifying parties, then Developer's obligations under this Section 18 shall be reduced by any amounts City receives from such sources.

18.3 Developer's obligation to indemnify, hold harmless and defend City and the City Parties shall extend to injuries to persons and damages to or alleged taking of property attributable to or arising from Developer's design or construction of the Grundy Improvements, and shall likewise extend to Claims against City by adjacent property owners asserting damages or injury based upon diversion of waters caused by Developer's design or construction of the Improvements, including but not limited to, public drainage systems, streets, and other public facilities. City's acceptance of the Grundy Improvements shall not constitute an assumption by City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Project or the Grundy Improvements constructed or installed pursuant to the approved Improvements Plans or the Final Map. After City's acceptance of the Grundy Improvements, Developer shall remain obligated to correct or eliminate all dangerous conditions arising from defects in design or construction under applicable law. Developer's obligations under this Section 17 shall remain in effect for ten (10) years following the Acceptance Date. Developer acknowledges and agrees that Developer shall be responsible and liable for the design and construction of the Grundy Improvements and other work done pursuant to this Agreement in accordance with the terms hereof, and City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of the Grundy Improvements. Developer's Security shall not be required to secure Developer's obligations under this Subsection 18.3 beyond the one-year guarantee and warranty period. If, in any judicial proceedings involving statutory immunity under the Government Claims Act (Government Code section 810, et seq.) asserted by City, or its officers, agents or employees, the Government Claims Act is determined by a court of competent jurisdiction to be inapplicable or unavailable to immunize the City, or its officers, agents or employees, from potential liability for any alleged acts or omissions under this Subsection 18.3, then such rights or obligations of indemnity hereunder shall be governed by principles of comparative fault.

18.4 Subject to the foregoing, Developer shall not be liable for Claims not attributable to or caused by conditions arising from defects in design or construction alleged against City after the Acceptance Date.

18.5 This Section 18 includes any and all present and future Claims arising out of or in any way connected with Developer's or its contractors' or subcontractors' obligations to comply with any applicable State Labor Code requirements and implementing regulations of the Department of Industrial Relations pertaining to "public works" (collectively, "**Prevailing Wage Laws**"), including but not limited to all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code sections 1726 and 1781. Developer's obligations under this Section 18 shall survive expiration or earlier termination of this Agreement.

19. Insurance.

19.1 Developer shall obtain and maintain, or cause its contractor(s) to obtain and maintain, in full force and effect during the term of this Agreement, Worker's Compensation, a general comprehensive liability insurance policy, and owned, non-owned, and hired automobile liability insurance. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event shall be as follows:

Insurance Category	Minimum Limits
Workers' Compensation	Statutory minimum.
Employer's Liability	\$2,000,000.00 per accident for bodily injury or disease.
Commercial General Liability	\$2,000,000.00 per occurrence, \$4,000,000.00 aggregate for bodily injury, personal injury and property damage.
Automobile Liability	\$2,000,000.00 per occurrence for bodily injury and property damage (coverage required to the extent applicable to vehicle usage in performing work hereunder).

(a) Any deductibles or self-insured retentions must be declared to the City.

(b) Prior to the commencement of construction of the Grundy Improvements, Developer shall furnish City with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

(i) Precluding cancellation or reduction in coverage before the expiration of thirty (30) days after City shall have received written notification of cancellation or reduction in coverage by first class mail, postage prepaid;

(ii) Providing that Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability (cross liability endorsements);

(iii) Naming City, its Council, commissions, boards, committees, officers, employees and agents as additional insureds; and

(iv) Providing that Developer's insurance shall be primary insurance relating to Contractor's work hereunder with respect to City, its Council, commissions, boards, committees, officers, employees and Agents, and further providing that any insurance or self-insurance maintained by City for itself, its Council, commissions, boards, committees, officers, employees and agents shall not be excess of Contractor's insurance and shall not be contributory with it. Such insurance shall also specifically insure any contractual liability assumed by Developer under the terms of this Agreement, including, but not limited to, the provisions of subsection (a) above.

(c) In the event that Developer's insurance is canceled, Developer shall provide replacement coverage or all work must cease as of the cancellation date until replacement insurance coverage is provided.

20. Workers' Compensation Insurance. Developer shall provide, or cause to be provided, Workers' Compensation insurance as required by law, and shall cause its contractors and their subcontractors, agents and representatives to also maintain Workers' Compensation insurance as required by law. No Work shall commence until such Workers' Compensation insurance is obtained and in full force and effect.

21. Compliance with Laws. Developer shall comply with all federal, state and local laws, ordinances and regulations in the performance of this Agreement. Developer shall, at its own cost and expense, obtain all necessary permits and licenses for the Work, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the residential development on the Property. Copies and/or proof of payment of said permits, licenses, notices, fee and tax payments and deposits shall be furnished to the City Engineer upon request.

22. Encroachment Permits. Developer shall obtain, at its sole cost and expense, any encroachment permits required by City in order to perform the Work.

23. Payments. Developer agrees that it will pay, when due, all those furnishing labor or materials in connection with the Work, except for those amounts that Developer is disputing in good faith. Developer further agrees that pursuant to Government Code section 66499.7, the Improvement Security provided by Developer in accordance with Section 14 of this Agreement shall not be released if any mechanics liens or stop notices are outstanding, unless said liens are released by bond in compliance with Civil Code section 8424.

24. Notice of Breach and Default. The occurrence of any of the following constitutes a breach and default of this Agreement:

24.1 If Developer refuses or fails to commence or complete the Work by the Completion Date (as may be extended pursuant to Section 32 hereof) or abandons the Work.

24.2 Developer fails to timely cure any defect in the Street Improvements arising within the one-year contractor warranty and guarantee period.

24.3 Developer fails to perform substantial construction work relating to the Street Improvements for a period of one hundred and twenty (120) calendar days after commencement of the work.

24.4 Prior to completion of Street Improvements, Developer assigns this Agreement in violation of Section 31 of this Agreement.

24.5 Developer is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver is appointed in the event of Developer's insolvency.

24.6 Developer or Developer's contractors, subcontractors, agents or employees, fail to comply in any material respect with the obligations set forth in the following Sections of this Agreement: 4, 8, 9, 10, 11, 13.1, 14, 16, 18, 21, 23, 27 and 28.

24.7 Any delay in the construction of any portion of the Work or repairs, which in the reasonable opinion of the City Engineer, creates a dangerous condition on public or private property.

City shall serve written notice of breach and default upon Developer, including notice regarding breaches and defaults by Developer's contractors, subcontractors, agents or employees.

25. Opportunity to Cure. If City gives Developer notice under Section 24 of breach and default of this Agreement, Developer shall have 30 days within which to correct, remedy or cure the default (or such longer period of time as may reasonably be required, provided that Developer commences to remedy such default within such thirty (30) calendar days period and thereafter diligently prosecutes such remedy to completion). If the written notification states that the problem is urgent and dangerous to the public health and safety, then Developer shall have twenty four (24) hours to correct, remedy or cure the default (or such longer period of time as may reasonably be required, provided that the Developer shall commence to remedy such default within twenty four (24) hours and thereafter diligently prosecute such remedy to completion). If Developer does not cure the default within the applicable timeframe, City may pursue the remedies set forth in Section 26 below.

26. Remedies.

26.1 The Parties reserve all remedies available to it at law. Any remedies specified herein are in addition to and not in lieu of other remedies available to the Parties.

26.2 In the event of a default under this Agreement and after the opportunity to cure period has lapsed, City may proceed to complete the Work by contract or other method City considers advisable, at the sole expense of Developer. Developer, immediately upon demand, shall pay the costs and charges related to the Work and any subsequent repairs. City, without

liability for doing so, may take possession of and utilize in completing the Work and repairs, if any, such materials and other property belonging to Developer as may be on or about the Property and necessary for completion of the Work. In the event of default, the financial institution holding or responsible for the Security shall be liable to City to provide funds as specified in Section 14.

26.3 In the event that the City is required to conduct an emergency repair or address a dangerous condition (pursuant to Sections 16, 24.7 or 25) on public or private property following the provision of only twenty four (24) hours' notice to Developer pursuant to Section 25, City in its discretion may elect to (a) treat the cost of this work by the City as City Costs reimbursable in accordance with Section 10 hereof, or (b) require that Developer pay to City upon demand the actual cost of such work. Developer's failure to promptly reimburse City shall entitle City to draw upon the Letter of Credit pursuant to Section 14 hereof.

26.4 [INTENTIONALLY OMITTED]

26.5 City may bring legal action to recover the costs of completing the Work and/or repairs, if any, including City's administrative and legal costs or pursue any other action at law.

26.6 No failure on the part of City to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that City may have hereunder.

26.7 The rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

27. Final Drawings. Upon completion of the Work and prior to final acceptance, Developer shall deliver to City a set of "as-built" drawings consistent with the Conditions. These drawings shall be in a form acceptable to the City Engineer, shall be certified as being "as-built" and shall reflect the Work as actually constructed, with any and all changes incorporated therein. Said drawings shall be signed and sealed as accurate by the engineer of record.

28. Monuments. All pipes and monuments shown on the Final Map which are destroyed or displaced during construction operations shall be replaced by Developer at the time of final inspection of the Grundy Improvements, if any.

29. Attorneys' Fees. Should any legal action or arbitration be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, each party shall bear its own legal costs and attorneys' fees.

30. Notices. Any notices relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered personally or by generally recognized overnight courier service, or five (5) days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, addressed as follows:

To the Developer: Google LLC
1600 Amphitheater Parkway
Mountain View, CA 94043
Attn: REWS San Bruno

with a copy to: Google LLC
1600 Amphitheater Parkway
Mountain View, CA 94043
Attn: Legal Department / RE Matters

and with a copy to: Allen Matkins
Three Embarcadero Center, 12th Floor
San Francisco, CA 94111
Attn: David H. Blackwell, Esq.

To the City: City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Attn: City Manager

with a copy to: City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Attn: City Attorney

31. Assignment by Developer Prior to Project Completion. Prior to completion of initial construction of the Project, as evidenced by issuance of a certificate of occupancy by City, Developer may only assign this Agreement with prior written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed. The documentation of such assignment shall be in the form of an assignment and assumption agreement acceptable to City. Notwithstanding the foregoing, at any time prior to or following Project completion, Developer may assign its rights under this Agreement to any corporation, limited liability company, partnership or other entity which is directly or indirectly controlling of, controlled by, or under common control with Developer, and “control,” for purposes of this definition, means effective management and control of the other entity, subject only to major events requiring the consent or approval of the other owners of such entity (“**Affiliated Party**”). The Parties agree that a transfer to a qualified Affiliated Party does not require the City’s consent. The Parties acknowledge that the following are qualified as Affiliated Parties of Developer: (i) Alphabet, Inc., parent company of Google LLC; (ii) any affiliate of Google LLC or Alphabet, Inc.; and (iii) any entities related to Google LLC or Alphabet, Inc. as a result of merger, acquisition, operation of law or by order of a court of competent jurisdiction.

32. Permitted Delay for Force Majeure Event.

32.1 The Completion Date and a Party’s performance of its obligations under this Agreement shall be excused during, and extended for a period of time equal to, any period of delay caused by reason of Force Majeure beyond the reasonable control of the Party affected, to

the extent permitted by the terms of this Agreement (“**Permitted Delay**”). Upon the request of any Party, an extension of time will be granted for the period of delay caused by a Force Majeure Event and no Party shall be deemed to be in default under this Agreement where delays in performance or failure to perform are caused by a Force Majeure Event and authorized pursuant to this Section. Promptly after learning of the occurrence of a Force Majeure Event that actually causes or is reasonably anticipated (by the affected Party) to cause delay, the affected Party shall notify the other Party in writing of the occurrence of such Force Majeure Event, the manner in which such occurrence is likely to cause delay, and the anticipated length of delay in performance resulting from the Force Majeure Event. Upon the other Party’s receipt of such notice, the Completion Date then in effect shall be extended by a period of time equal to the number of days during which performance is delayed due to the specified Force Majeure; provided, if a Party provides such notice more than thirty (30) days after commencement of the claimed Force Majeure Event, the Completion Date extension shall commence upon receipt of such notice.

32.2 “**Force Majeure**” or “**Force Majeure Event**”, means, for purposes of this Agreement, any event or condition that: (a) is beyond a Party’s control, (b) prevents the Party’s performance of this Agreement; (c) the Party could not have reasonably foreseen; and (d) arises from one of the following: an act of war or terrorism; insurrection; strikes, walkouts or other material labor disturbances that affect a specific trade on a national or regional level, to the extent not caused by the acts or omissions of the Party; riots or other civil commotion; floods; earthquakes; fires; unusually severe and abnormal climatic conditions (as compared with the five-year average weather statistics compiled by the United States National Oceanic and Atmospheric Administration (NOAA) for the time of year and locality of the Property), but only to the extent that such weather or its effects (including without limitation dry out time) result in delays that cumulatively exceed twenty (20) days for any winter season; casualties; acts of God; governmental restrictions imposed or mandated by governmental entities; enactment of conflicting laws by governmental entities; the general unavailability of construction materials for projects similar to the Project (*i.e.*, a large scale office project) that causes significant construction delays, where Developer is unable to obtain alternative or replacement materials within the same or substantially similar time period at substantially the same cost; and a local, state or federal declaration of emergency based on an epidemic or pandemic, including any quarantine or other health-related orders, laws or other requirements implemented in response to such epidemic or pandemic; in each case provided it actually results in the suspension of development or construction activities. Neither the inability of Developer to obtain construction or other financing for the Project, nor the condition of or changes in the real estate market, nor adverse economic conditions generally, nor other financial circumstances shall constitute a Force Majeure Event.

33. Binding Upon Heirs, Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon all heirs, successors and assigns of the parties hereto.

34. Interpretation. The word “including” shall be construed as if followed by the words “without limitation.” All exhibits and attachments to this Agreement are incorporated by reference as though fully restated herein. This Agreement shall be interpreted as though prepared jointly by both parties. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions contained in this Agreement.

35. Severability. If any provision of this Agreement is held, to any extent, invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provision, and shall remain in full force and effect.

36. Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between City and Developer with respect to the matters addressed in this Agreement. This Agreement may not be altered, amended or modified without the written consent of all parties hereto.

37. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court of the County of San Mateo, State of California.

38. Authority. Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

39. Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

40. Runs with the Land; Recordation. This Agreement pertains to and shall run with the Property. Upon execution, this Agreement shall be recorded in the Official Records of San Mateo County. Upon completion of performance and satisfaction by Developer of its obligations under this Agreement, including warranty obligations, a written statement shall be recorded by City in the Official Records of San Mateo County terminating this Agreement and releasing all of the Property. The recorded written statement does not release the Parties from obligations that survive termination of the Agreement, including indemnification.

[SIGNATURES ON NEXT PAGE.]

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the Effective Date.

DEVELOPER

By: _____

Name: _____

Its: _____

[Signature must be notarized]

CITY

CITY OF SAN BRUNO,
a municipal corporation

Jovan D. Grogan, City Manager

[Signature must be notarized]

ATTEST:

Melissa Thurman, City Clerk

NOTARY 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)

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.

On _____, before me, _____,
(insert name of notary)

WITNESS my hand and official seal.

(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real Property located in the City of San Bruno, County of San Mateo, State of California, and is described as follows:

APN 020-015-030 (1150/1200/1250 BAYHILL DRIVE)

LOT 1, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 27, 1975, IN BOOK 27, OF PARCEL MAPS AT PAGE 45.

APN 020-011-330 (1100 GRUNDY LANE)

PARCEL A, AS SHOWN ON THE MAP ENTITLED, "PARCEL MAP #81-5, CONSISTING OF TWO SHEETS, BEING ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN PARCEL MAP RECORDED FEBRUARY 01, 1980 IN BOOK 49 OF PARCEL MAPS AT PAGES 2 AND 3, SAN MATEO COUNTY RECORDS, AND ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN PARCEL MAP RECORDED DECEMBER 26, 1977 IN BOOK 48 OF PARCEL MAPS AT PAGES 83 AND 84, SAN MATEO COUNTY RECORDS, CITY OF SAN BRUNO, SAN MATEO COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON NOVEMBER 09, 1981 IN BOOK 52 OF PARCEL MAPS AT PAGES 2 AND 3.

APN 020-015-040 (950 ELM AVENUE)

PARCEL B, AS SHOWN ON THE MAP ENTITLED, "PARCEL MAP #81-5 CONSISTING OF TWO SHEETS BEING ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN PARCEL MAP RECORDED FEBRUARY 01, 1980 IN BOOK 49 OF PARCEL MAPS AT PAGES 2 AND 3, SAN MATEO COUNTY RECORDS, AND ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN PARCEL MAP RECORDED DECEMBER 26, 1979 IN BOOK 48 OF PARCEL MAPS AT PAGES 83 AND 84, SAN MATEO COUNTY RECORDS, CITY OF SAN BRUNO, SAN MATEO COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON NOVEMBER 09, 1981 IN BOOK 52 OF PARCEL MAPS AT PAGES 2 AND 3.

EXHIBIT B-1

DEPICTION OF EXISTING EASTERN GRUNDY, DEVELOPER CENTRAL GRUNDY SEGMENT AND DEVELOPER ELM SEGMENT SUBJECT TO VACATION AND TEMPORARY EASEMENT

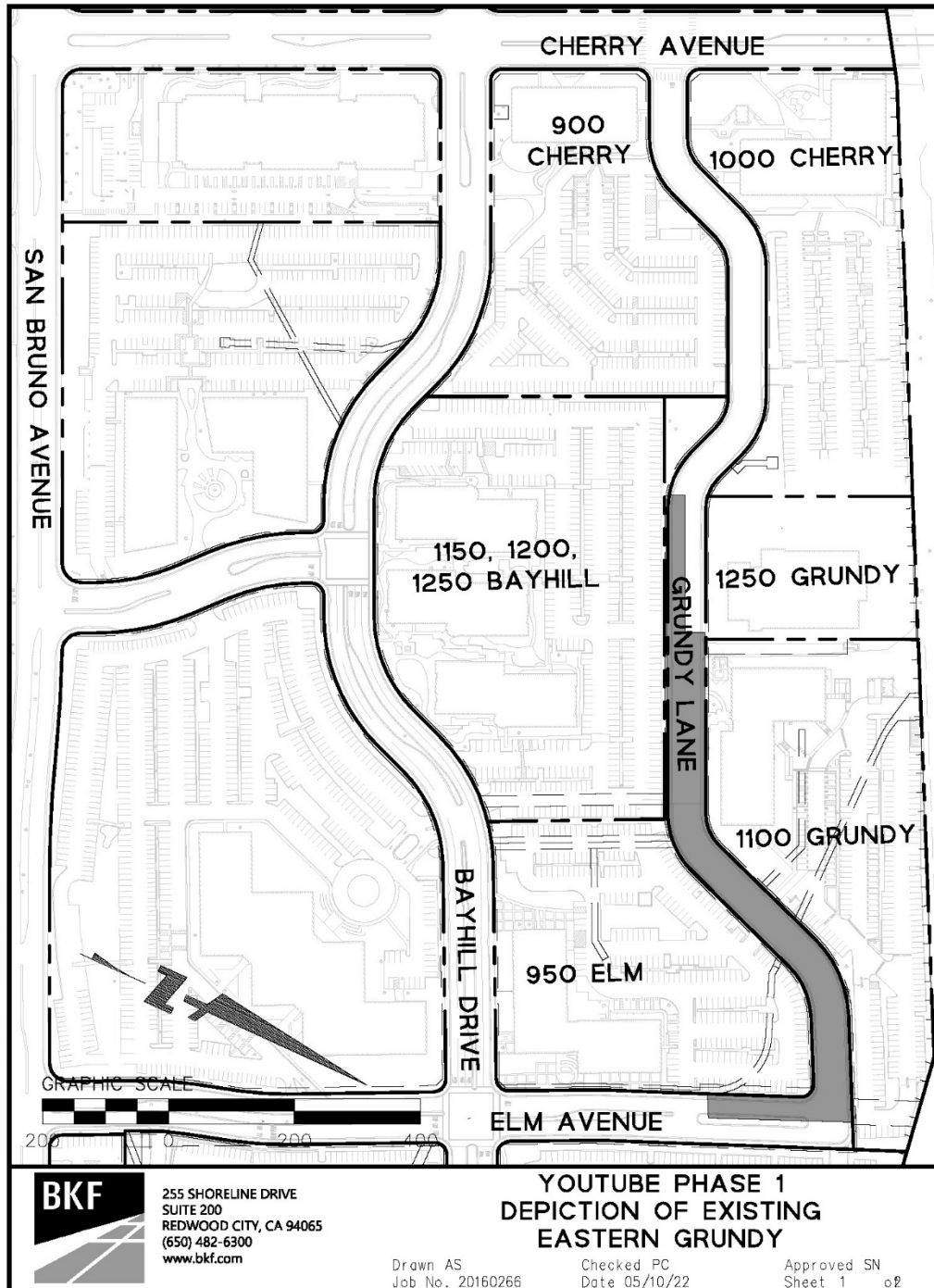


EXHIBIT B-2

DEPICTION OF CUL-DE-SAC SUBJECT TO TEMPORARY EASEMENT

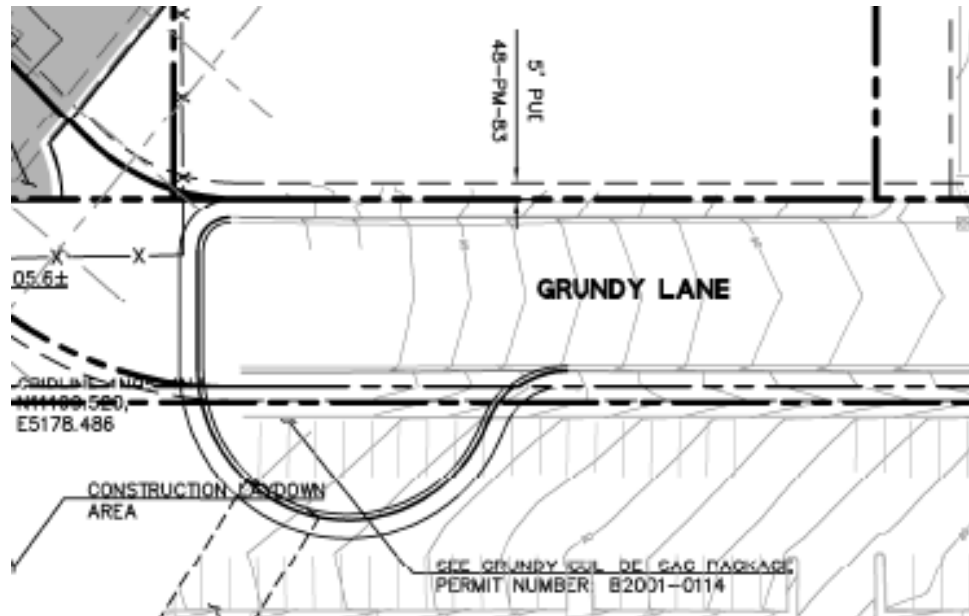


EXHIBIT C

DEPICTION OF NEW EASTERN GRUNDY

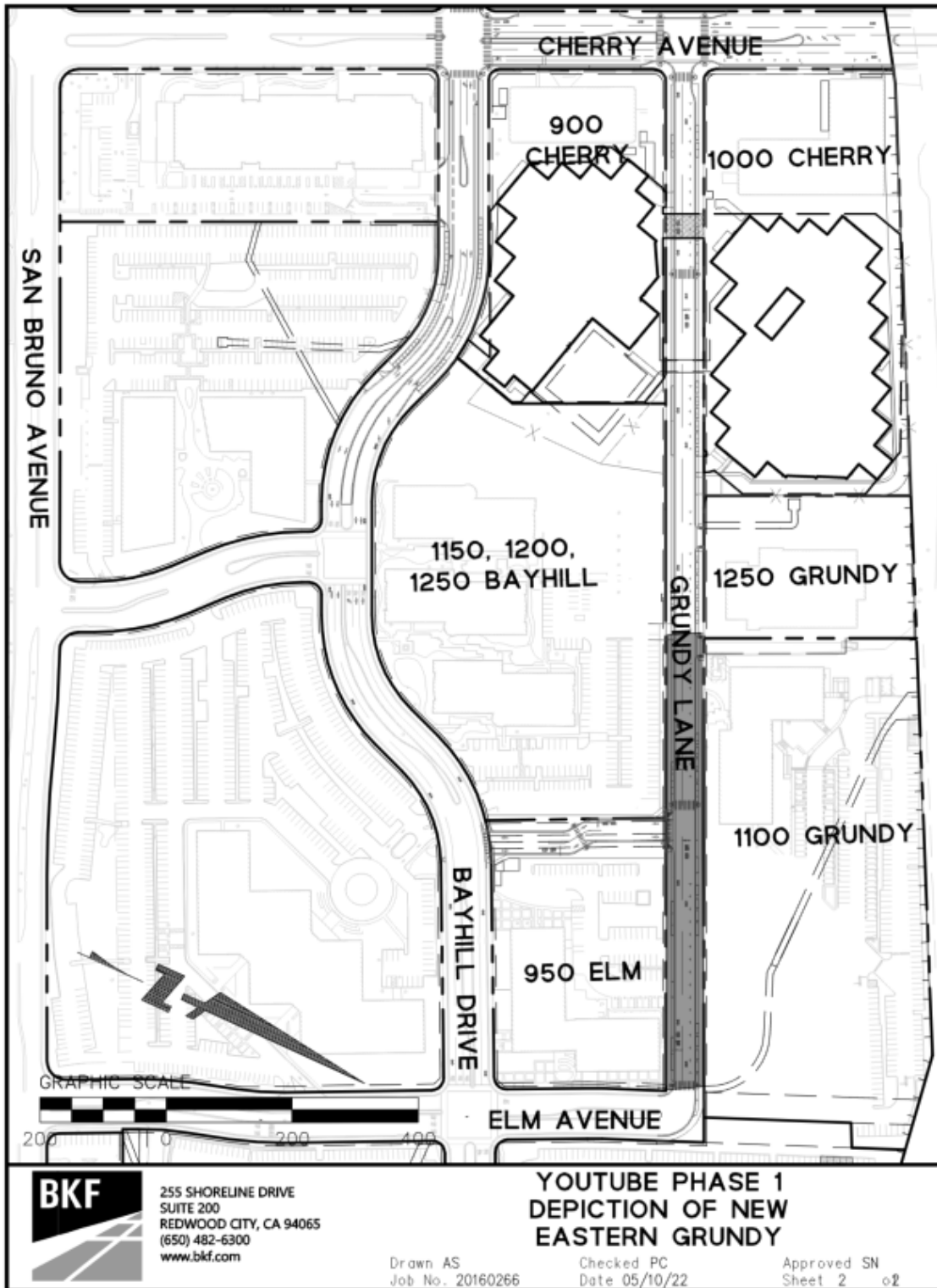


EXHIBIT D

STANDBY LETTER OF CREDIT

[Date of Issuance]

Beneficiary:
City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Attention: City Attorney

Applicant:
Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043

Irrevocable Standby Letter of Credit Number **[LC Number]**

Issuance. At the request and for the account of Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043 (“Applicant”), we, Barclays Bank PLC, New York Branch, 745 Seventh Avenue, New York, NY 10019, USA (“Issuer”), issue this irrevocable standby letter of credit number **[LC Number]** (“Standby”) in favor of City of San Bruno, 567 El Camino Real, San Bruno, CA 94066 (“Beneficiary”), in the maximum aggregate amount of US Five Million Six Hundred Twenty-Four Thousand Twenty-Two Dollars (\$5,624,022.00).

Undertaking. Issuer undertakes to Beneficiary to pay Beneficiary’s demand for payment in the currency and for an amount available under this Standby and in the form of the Annexed Payment/Statement Demand (including, for avoidance of doubt, (i) a reference to our irrevocable standby letter of credit number **[LC Number]** and (ii) one of the two alternative statements specified therein) completed as indicated and presented to Issuer at the following place for presentation: 745 Seventh Avenue, New York, NY 10019, USA, Attn: Letters of Credit, or such other office as Issuer may advise from time to time, on or before the expiration date.

Expiration. The expiration date of this Standby is **[date (one-year anniversary of issuance date)]**.

Extension. The expiration date of this Standby shall be automatically extended, without amendment, for successive one year periods, unless Issuer notifies Beneficiary by nationally recognized courier sent to Beneficiary’s above-stated address 30 or more days before the then current expiration date that Issuer elects not to extend the expiration date. The expiration date is not subject to automatic extension beyond June 30, 2028, and (i) any pending automatic one-year extension shall be ineffective beyond that date and (ii) if this Standby has not already expired prior to such date, it shall automatically expire on such date. The expiration date may also be extended in accordance with ISP98 rules on closure of the place for presentation on the expiration date.

Payment. Payment against a complying presentation shall be made within 3 business days after presentation at the place for presentation or by wire transfer to a duly requested account of Beneficiary.

Drawing. Partial and multiple drawings are permitted.

Reduction. Any payment made under this Standby shall reduce the amount available under it. Beneficiary must approve in writing any other reduction in the amount of this Standby.

Costs. Issuer's charges and fees for issuing, amending or honoring this Standby are for Applicant's account and shall not be deducted from any payment Issuer makes under this Standby or from the amount available under this Standby.

Governing Law. This Standby is issued subject to and governed by the laws of the State of New York and the International Standby Practices 1998 (ISP98) (International Chamber of Commerce Publication No. 590) and in the event of any conflict the laws of the State of New York will control.

Communications. Communications other than demands may be made to Issuer by telephone to (212) 320-7534, fax to (212) 412-5011 or email to xraletterofcredit@barclays.com (or, in each case, such other number or address as Issuer may advise from time to time).

Amendments. Beneficiary requests for amendment of this Standby, including amendment to reflect a change in Beneficiary's address, should be made to Applicant, who may then request Issuer to issue the desired amendment. Any amendment to this Standby shall require Beneficiary's prior written consent; provided, Issuer may make minor, non-substantive amendments without such consent after providing notice to Beneficiary.

BARCLAYS BANK PLC, NEW YORK BRANCH

AUTHORIZED SIGNATURE (SIG NO)

[Insert Name]

Authorized Signatory

Telephone:

Email:

Annexed Payment/Statement Demand

[INSERT DATE]

Barclays Bank PLC, New York Branch, 745 Seventh Avenue, New York, NY 10019, USA, Attn: Letters of Credit

Re: Standby Letter of Credit No. [LC Number], dated [date], issued by Barclays Bank PLC, New York Branch (“Standby”)

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Standby.

[INSERT ONE OF THE FOLLOWING ALTERNATIVE STATEMENTS:

Beneficiary states that Applicant is obligated to complete certain improvements, pay for labor and materials provided in connection with such improvements, and otherwise satisfy Applicant’s obligations pursuant to that certain agreement between Beneficiary and Applicant titled Street Improvement Agreement and dated [date] (the “Agreement”), and that Applicant has failed to satisfy its obligations under the Agreement. Beneficiary further states that the proceeds from this demand will be used to satisfy the above-identified obligations and that Beneficiary will account to Applicant for any proceeds that are not so used.

OR

Beneficiary states that Beneficiary has received notice from Issuer that the Standby is set to expire fewer than 30 days from the date hereof, because Issuer has given a notice of non-extension of the Standby, and the amount demanded is required as cash collateral to secure the unmatured or contingent obligations of Applicant under that certain agreement between Beneficiary and Applicant titled Street Improvement Agreement and dated [date]. Beneficiary further states that the proceeds from this demand will be used to secure the above-identified obligations and then to satisfy them as such becomes necessary under the terms of said agreement, and that Beneficiary will account to Applicant for any proceeds that are not so used.]

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY’S BANK, AND NAME AND NUMBER OF BENEFICIARY’S ACCOUNT].

City of San Bruno

Address:
567 El Camino Real
San Bruno, CA 94066

By its authorized officer:
[INSERT ORIGINAL SIGNATURE]
[INSERT TYPED/PRINTED NAME AND TITLE]

EXHIBIT E

FORM OF FAITHFUL PERFORMANCE BOND

WHEREAS, the City Council of the City of San Bruno ("City"), County of San Mateo, State of California, and _____, (hereinafter designated as "Principal") have entered into a Subdivision Improvement Agreement dated _____, 20__ ("Agreement"), the terms and conditions of which are incorporated herein by reference, whereby Principal agrees to install and complete certain designated public improvements for the following project:

[Project Title]

WHEREAS, said Principal is required under the terms of said Agreement to furnish a bond for the faithful performance of said Agreement;

NOW, THEREFORE, we, the Principal, and _____, organized and existing under the laws of the State of _____ and authorized to execute bonds and undertaking as sole surety in the State of California, as Surety, are held and firmly bound unto the City of San Bruno, County of San Mateo, State of California, in the penal sum of _____ dollars (\$____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

This bond is executed and filed to comply with the provisions of the act of the Legislature of the State of California as designated in Government Code Sections 66499 and 66499.1 and all amendments thereto.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bounden Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions and provisions in the said Agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its Council, Commissioners, boards, committees, officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS THEREOF, the above bounden parties have executed this instrument under their seals this _____ day of _____, 2022 the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

ATTEST:

Principal:

By:_____

(SEAL)

By_____ (s)

(Witness as to Principal)

(Address)

(Address)

Surety

ATTEST:

Witness to Surety

Attorney-in-Fact

(Address)

If **PRINCIPAL** is partnership, all partners must execute **BOND**.

EXHIBIT F

FORM OF PAYMENT BOND

WHEREAS, the City of San Bruno ("City"), County of San Mateo, State of California, and _____, (hereinafter designated as "Principal") have entered into a Subdivision Improvement Agreement dated _____, 20__ ("Agreement"), the terms and conditions of which are incorporated herein by reference, whereby Principal agrees to install and complete certain designated public improvements for the following project:

[Project Title]

WHEREAS, under the terms of the Agreement, the Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

NOW, THEREFORE, we, the Principal and _____, organized and existing under the laws of the State of _____, and duly licensed to trans surety business in the State of California, and authorized to execute bonds and undertaking as sole surety, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California in the sum of _____ dollars (\$ _____), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California, so as to give a right of action to them or their assignees in suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their seals this _____ day of _____, 20__ the name and corporate seal of each corporate party being

hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

ATTEST:

Principal:

By: _____

(SEAL)

By _____(s)

(Witness as to Principal)

(Address)

(Address)

Surety

ATTEST:

Witness to Surety

Attorney-in-Fact

(Address)

If **PRINCIPAL** is partnership, all partners must execute **BOND**.

EXHIBIT G

FORM OF WARRANTY BOND

WHEREAS, the City of San Bruno (“City”), County of San Mateo, State of California, and _____, (hereinafter designated as “Principal”) have entered into a Subdivision Improvement Agreement dated _____, 20__ (“Agreement”), the terms and conditions of which are incorporated herein by reference, whereby Principal agrees to install and complete certain designated public improvements for the following project:

[Project Title]

WHEREAS, said Principal is required under the terms of said Agreement to provide a warranty security.

NOW, THEREFORE, we, the Principal and _____ of _____ organized and existing under the laws of the State of _____, duly licensed to transact surety business in the State of California and authorized to execute bonds and undertaking as sole surety, as Surety, are hereby held and firmly bound unto the City in the amount of _____ dollars (\$ _____), for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents..

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if principal (or its heirs, executors, administrators, successors, or assigns approved by the City) performs the covenants, conditions, and obligations of the warranty requirements of Section 13.1(c) of the Agreement, including the obligation to indemnify, defend, and hold harmless the City, set forth in Section 17, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety’s obligation under this bond shall hold good for a period of one (1) year from the date of the City’s acceptance of said work.

The Surety’s obligation under this bond shall arise after the City has provided written notice to the Surety, at the address set forth below, of the Principal’s default under the Agreement, and the Principal’s failure to cure the default in accordance with the terms of the Agreement.

The Surety hereby agrees, for value received, that its obligations under this bond shall in no way be impaired or modified by any modification to the Agreement by the City and the Principal, and the Surety hereby waives notice of any such modification.

In the event suit is brought upon this bond, the surety shall pay reasonable attorneys’ fees and costs incurred by the prevailing parties in such suit, which fees and costs shall be in addition to the face amount of the bond.

IN WITNESS WHEREOF, the undersigned represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this document on behalf of the Principal and the Surety, and have caused this document to be executed by setting hereto their names, titles, and signatures.

ATTEST:

Principal:

By: _____

(SEAL)

By _____ (s)

(Witness as to Principal)

(Address)

(Address)

Surety

ATTEST:

Witness to Surety

Attorney-in-Fact

(Address)

If **PRINCIPAL** is partnership, all partners must execute **BOND**.