

OREGON STRATEGIC INVESTMENT PROGRAM AGREEMENT

The City of The Dalles, a political subdivision of the State of Oregon (the “City”), Wasco County, a political subdivision of the State of Oregon (the “County”), and Google LLC, a Delaware limited liability company, Design, LLC, a Delaware limited liability company, and Moraine Industries LLC, a Delaware limited liability company (Google, LLC, Design, LLC, and Moraine Industries LLC collectively referred to herein as the “Company”) hereby enter into this agreement (this “Agreement”) effective as of the date of the last signature below (the “Effective Date”).

RECITALS

A. The Company or an Affiliate of the Company proposes to build and operate data center projects within the County that will support the Company’s data center operations.

B. The Oregon Legislature has established the Strategic Investment Program (“SIP”) to promote industrial competitiveness and to improve employment in the areas where projects are to be located by encouraging businesses engaged in projects to hire local employees. The SIP provides a mechanism for local governments to enter into agreements with companies in key industries to attract and retain long-term investment and employment.

C. The City, the County, and the Company acknowledge that the Site (as defined below) is located in a “rural area” as defined in ORS 285C.600(6).

D. The City, the County, and the Company intend that this Agreement will satisfy the requirements described in ORS 285C.609(4) and that each Project (as defined below) will qualify for the property tax incentives described in ORS 307.123, will be a separate “eligible project” as that term is used in ORS 285C.600(2), and will have its own Exemption Period (as defined below).

E. The City, the County, and the Company have provided and/or will provide public information and an opportunity for public input regarding the Projects and this Agreement at formal public hearings.

F. The Company will enter into a First Source Hiring Agreement consistent with the Strategic Investment Program application requirements described in OAR 123-623-1500.

AGREEMENT

The City, the County, and the Company hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms have the following meanings:

“Affiliate” means the Company and any other entity that, directly or indirectly through one or more intermediaries, is controlled by, or is under common control with Google, LLC.



“GAP Amount” means, for each Project and any Tax Year in the Exemption Period for the Project, the Total Annual Payment Amount minus the sum of the Property Tax Payment and the Community Service Fee.

“GAP Payment” has the meaning set forth in Section 3.5.

“Initial Payment” has the meaning set forth in Section 3.2.

“Non-Exempt Property” means the property in each Project described in ORS 307.123(2)(b).

“OAR” means the Oregon Administrative Rules.

“OBDC” means the Oregon Business Development Commission.

“Offer Notice” has the meaning set forth in Section 6.2.2.

“ORS” means the Oregon Revised Statutes.

“Payment Date” means, for any Tax Year, December 31 of that Tax Year or, if later, thirty (30) days after the Company’s receipt of the Payment Notice.

“Payment Notice” has the meaning set forth in Section 4.3.

“Permitted Transfer” has the meaning set forth in Section 6.2.6.

“Project” means Project 1 or Project 2.

“Project 1” means all property located at the Project 1 Site (including the Project 1 Site) during the term of this Agreement, including during the construction or operation of the property and including all land, buildings (including but not limited to a warehouse), substations, real property machinery and equipment, and personal property of any kind as specified in ORS 307.123(2)(b). Project 1 must include exactly one Data Center. The City, the County, and the Company may amend the definition of “Project 1” by mutual written agreement of the parties. Project 1 may be built over a period of time.

“Project 1 Site” means the portion of the Site designated by the Company as the “Project 1 Site” as more fully described in Exhibit B, as such designation may be amended pursuant to Section 4.2.

“Project 2” means all property located at the Project 2 Site (including the Project 2 Site) during the term of this Agreement, including during the construction or operation of the property and including all land, buildings (including a warehouse), substations, real property machinery and equipment, and personal property of any kind as specified in ORS 307.123(2)(b). Project 2 must include exactly one Data Center. The City, the County, and the Company may amend the definition of “Project 2” by mutual written agreement of the parties. Project 2 may be built over a period of time.

“Project 2 Site” means the portion of the Site (other than the Project 1 Site) designated by the Company as the “Project 2 Site” as more fully described in Exhibit C, as such designation may be amended pursuant to Section 4.2.

“Property Tax Payment” has the meaning set forth in Section 3.3.

“Purchase Agreement” has the meaning set forth in Section 6.2.3.

“ROFR” has the meaning set forth in Section 6.2.

“ROFR Period” has the meaning set forth in Section 6.2.

“ROFR Property” means (a) Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and/or (b) Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records, containing 73.03 acres, more or less, along with any real property improvements constructed on either of the same, but shall not include (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property.

“SIP” has the meaning set forth in the Preamble.

“SIP Applications” means the applications for the exemption pursuant to ORS 307.123 for Project 1 and Project 2 which shall be filed by Company on or before the deadline imposed by OAR 123-623-1400.

“SIP Payments” means the Initial Payments, the Community Service Fees, the Property Tax Payments, and the GAP Payments.

“Site” means the land specified in Exhibit D excluding the Transferred Property.

“Tax Year” means the property tax year beginning July 1 and ending June 30.

“Total Annual Payment Amount” means (i) for Project 1 and any Tax Year in the Exemption Period for Project 1, the greater of (a) fifty (50) percent of the property taxes that would, but for the exemption pursuant to ORS 307.123(2), be due with respect to Project 1 for the Tax Year or (b) \$3,000,000; and (ii) for Project 2 and any Tax Year in the Exemption Period for Project 2, the greater of (a) sixty (60) percent of the property taxes that would, but for the exemption pursuant to ORS 307.123(2), be due with respect to Project 2 for the Tax Year or (b) \$3,000,000. It is the intent of the parties that, for each Tax Year and each Project, the Total Annual Payment Amount will equal the aggregate amounts of the Property Tax Payment, the Community Service Fee, and the GAP Payment. An example of the calculation of the Total Annual Payment Amount, the Property Tax Payment, the Community Service Fee, and the GAP Payment is included in Exhibit A.

“Transfer Agreement” has the meaning set forth in Section 3.1.

“Transferred Property” has the meaning set forth in Section 3.1.

ARTICLE 2 EXEMPTION

2.1 Exemption. Pursuant to ORS 307.123(2)(c), and subject to Section 5.1, the Exempt Property in each Project shall be exempt from property tax during the Exemption Period for the Project. Each Project shall be a separate “eligible project” as that term is used in ORS 285C.600(2).

ARTICLE 3 PAYMENTS

3.1 Land. Following the approval of the SIP Applications by the OBDC, the Company shall transfer, at no cost to the County, a parcel of land with a minimum of thirty-five (35) acres in the approximate area shown on Exhibit E (the “Transferred Property”) to the County pursuant to the terms of and timing set forth in a commercially reasonable mutually agreeable agreement of purchase and sale by and between the County and the Company for the transfer of the Transferred Property “as is” with no representations or warranties (the “Transfer Agreement”). The Company agrees to provide copies of its due diligence materials for the Transferred Property to the County for review. The exact acreage, not less than thirty-five (35) and configuration of the Transferred Property will be determined by the Company based on the Company’s plans for the development of Project 1, Project 2, its warehouse, and any utility infrastructure improvements.

3.2 Initial Payment. Within 60 days after the Company has submitted the first Tax Year’s CIP Exemption form for the Data Center in each Project but no later than 60 days after issuance of the Certificate of Occupancy for each Project, the Company shall pay the Agent \$3,000,000 (the “Initial Payment”).

3.3 Property Tax. Pursuant to ORS 307.123(2) the Company shall pay property tax with respect to the Non-Exempt Property for each Project during the Exemption Period for the Project (the “Property Tax Payment”).

3.4 Community Service Fee. Pursuant to ORS 285C.609(4)(b) and (c), on or before the Payment Date for each Tax Year during the Exemption Period for each Project, the Company shall pay to the Agent an amount equal to twenty-five percent (25%) of the property taxes that would, but for the exemption pursuant to ORS 307.123(2)(c), be due with respect to the Project for the Tax Year, except that such amount shall not exceed \$2,500,000 for that Project for any Tax Year (the “Community Service Fee”).

3.5 GAP Payment. On or before the Payment Date for each Tax Year during the Exemption Period for each Project, the Company shall pay to the Agent an amount equal to the GAP Amount for such Project for the Tax Year (the “GAP Payment”).

3.6 Underpayments. If the Company fails to pay any portion of the SIP Payments for a Tax Year by the Payment Date for that Tax Year, interest shall be charged on the past due balance in the same amount as is provided by Oregon law for late payment of ad valorem property taxes.

3.7 Overpayments. If the Company pays an amount in excess of amounts owed under this Agreement for any Tax Year, the City and the County shall either refund the excess or return the incorrect payment and request that the Company reissue payment in the correct amount. Notwithstanding the previous sentence, if the Company successfully challenges the real market value, maximum assessed value, or other value of any Project for any Tax Year, and such challenge results in a reduction in value that in turn results in a reduction in the amount of SIP Payments owed for the Tax Year, the City and the County may either credit the reduced SIP Payments against future amounts owed by the Company under this Agreement or refund any excess to the Company (but, to the extent no further amounts are owed by the Company under this Agreement, the City and the County shall refund any such excess to the Company). In any event of returned payment, the Assessor shall establish a schedule for payment that provides payment without undue delay and pursuant to Oregon Revised Statutes.

3.8 Disposition of Payments. As between (a) the City and the County and (b) the Company, the City and the County shall be solely responsible for the disposition of the SIP Payments. The Company shall have no liability or obligation to any person other than the City and the County with respect to the SIP Payments. The Company shall also not be responsible for the payment of any taxes, fees, or other payments imposed for land use approvals, permits or other governmental approvals necessary for the construction or operation of the Projects during the Exemption Periods, if such taxes, fees, or other payments are imposed by: (a) the City, (b) the County, or (c) any taxing district or other governmental entity that is exclusively governed by the City or the County (including any local taxing district described in ORS 285C.609(6)(a)(B)). Except as expressly exempted by this Agreement, and notwithstanding anything in the prior sentence to the contrary, nothing contained herein is intended to excuse the Company from any tax, fee, payment of general applicability or payment otherwise required by law, local ordinance or pursuant to this Agreement, including payments related to the SIP for the Projects.

ARTICLE 4 SIP NOTICES

4.1 Property Tax Filings. During the CIP Period and the Exemption Period for each Project, the Company shall file with the County Assessor or the Oregon Department of Revenue, as applicable, such information and reports as are required by law and shall promptly provide copies of such information to the County Assessor. Company shall collaborate with the County Assessor and Oregon Department of Revenue in fulfilling any and all statutory duties of Company.

4.2 Designation of Site. Within the Site the Company may make changes to the designation of the portion of the Site that will be the Project 1 Site or the portion of the Site that will be the Project 2 Site by providing written notice to the County, and such designation shall be effective for the first Tax Year following the first January 1 after delivery of such notice, except that such changes in designation may not be effective for Tax Years beginning after the earlier of (i) the first Tax Year of the CIP Period for Project 2 or (ii) the first Tax Year of the SIP Exemption Period for Project 2.



4.3 County Notices. For each Tax Year in the Exemption Period, the County shall provide the Company with a notice of payment by December 1 of that Tax Year that specifies the SIP Payments due, if any, for the Tax Year, describes the calculations of such amounts due, provides documentation supporting such calculations, and specifies the Payment Date (the “Payment Notice”).

4.4 Termination Notice. If Project 1 has not achieved commercial operation by the fifth tax year after the Effective Date, or the OBDC has not determined that the property in the Projects shall receive the tax exemption in ORS 307.123, the Company may terminate this agreement by providing written notice to the County to that effect. Notwithstanding the previous sentence, 3.1, 8.9, 8.10, and Article 7 shall survive such termination.

ARTICLE 5 FAILURES TO MAKE PAYMENTS

5.1 Loss of Exemption. After the Payment Notice, if the Company does not timely pay any portion of the SIP Payments for a Project for any Tax Year, does not pay any such outstanding amount and any applicable interest pursuant to Section 3.6 by the end of such Tax Year, and does not pay any such outstanding amount and any applicable interest pursuant to Section 3.6 within forty-five (45) days following notice from the County specifying the amount due and failure to pay such amount due will cause a loss of the exemption set forth in this Agreement, the Exempt Property for such Project (i) shall not be exempt from taxation pursuant to ORS 307.123 for the next Tax Year and any subsequent Tax Year in which the Company has not paid such amount and any applicable interest pursuant to Section 3.6 by the Payment Date for that Tax Year and (ii) shall be assessed and taxed as other similar property is assessed and taxed.

5.2 Payments Upon Lost Exemption. Notwithstanding anything in this Agreement to the contrary, if pursuant to Section 5.1 or otherwise the Exempt Property in any Project is not exempt from taxation pursuant to ORS 307.123 for any Tax Year during the Exemption Period for such Project, the Company shall not be required to pay the SIP Payments (other than the Property Tax Payment) for that Project for that Tax Year.

ARTICLE 6 ASSIGNMENTS; RIGHT OF FIRST REFUSAL

6.1 Assignments. The Company may sell, transfer, assign, pledge, mortgage, hypothecate, or otherwise dispose of and encumber all or any of its rights, title, and interests in, to, and under this Agreement with respect to either Project to any lender (or other financing party) as security for the performance of its obligations under any loan agreement with such lender (or financing agreement with such financing party), to any Affiliate or other entity formed for the purpose of developing, constructing, owning, or operating such Project, and to any lessee or third party purchaser, (subject to the County’s ROFR as set forth in Section 6.2 below) of such Project, without the consent of the City or the County, as long as such successor owner assumes and agrees to be bound by this Agreement and provided that Company remain bound by all of the terms of this Agreement unless the County and City consent in writing to release Company, which consent may not be unreasonably withheld. In such an event, the Company or the Company’s assignee, as the case may be, will provide written notice to the other party of such assignment or pledge as



promptly as practicable. The City and the County shall execute and deliver and furnish such consents, documents, certificates, opinions of counsel, and other instruments and information which any lender or financing party may reasonably request as a condition to the financing or refinancing of such Project. Except as set forth in this Article 6, neither this Agreement nor any rights under this Agreement, in whole or in part, shall be assignable or otherwise transferable by any party without the express written consent of the other party, and any attempt by any party to assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party, shall be null and void.

6.2 Right of First Refusal. Except with respect to a Permitted Transfer (as defined below), beginning on the first day of the Exemption Period for Project 1 until the earlier of ten (10) years after (i) the expiration of the Exemption Period for Project 2 (or Project 1 if there is no Project 2), or (ii) the earlier termination of this Agreement by either party hereto (as applicable, the “ROFR Period”), if a Data Center is no longer being operated on the ROFR Property, the County or City shall have a right of first refusal (“ROFR”) to purchase the ROFR Property, or any portion of the ROFR Property, in accordance with the terms and conditions of this Section 6.2.

6.2.1 Recording. The ROFR and provisions of this Section 6.2 shall be recorded in the chain of title of the ROFR Property by Company in substantially the same form as Exhibit F.

6.2.2 In the event that during the ROFR Period, the Company receives a bona fide offer to purchase the ROFR Property, or any portion of the ROFR Property, that the Company intends to accept, which is not a Permitted Transfer (each a “Bona Fide Offer”), the Company shall provide notice and a copy of such Bona Fide Offer to the County and the City (the “Offer Notice”) in accordance with Section 8.1.

6.2.3 The County shall have thirty (30) calendar days from receipt of the Offer Notice (the “County Decision Period”) within which to notify the Company and the City whether the County elects or does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer under the terms and conditions specified in the Offer Notice, by giving written notice to the Company and City (the “County Decision Notice”) of such election. The County shall use good faith efforts to provide the County Decision Notice as quickly as possible, and if the County does not provide the County Decision Notice within thirty (30) calendar days, it shall be deemed an election to not purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer. If the County does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not timely provide the County Decision Notice, then the City shall have thirty (30) calendar days after the earlier of (i) receipt of the County Decision Notice or (ii) the end of the County Decision Period (the “City Decision Period”) within which to notify the Company whether the City elects or does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer under the terms and conditions specified in the Offer Notice, by giving written notice to the Company and City (the “City Decision Notice”) of such election. The City shall use good faith efforts to provide the City Decision Notice as quickly as possible, and if the City does not provide the City Decision Notice within such thirty (30) calendar days, it shall be deemed an election to not purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer. Upon receipt of the County Decision Notice or the City Decision Notice, as the case may be, the Company and the County or

City, as the case may be, shall forthwith proceed to consummate the sale and purchase of the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer within the following time periods: (a) within 30 calendar days of the Company's receipt of the County Decision Notice or the City Decision Notice, as the case may be, the Company and the County or City, as the case may be, shall negotiate and execute an agreement for purchase and sale of the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer (the "Purchase Agreement") on the terms and conditions set forth in the Offer Notice and in Section 6.2.7; and (b) within 60 days of the Company's receipt of the County Decision Notice or the City Decision Notice, as the case may be, the Company and the County or City, as the case may be, shall close on the sale of the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer in accordance with the Purchase Agreement.

6.2.4 In the event that the County does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not deliver the County Decision Notice within the County Decision Period and the City does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not deliver the City Decision Notice within the City Decision Period, or if either the County or City, as the case may be, elects to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer but the party electing to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer fails to consummate a Purchase Agreement or close in accordance with the Purchase Agreement within the time periods above, then the Company may thereafter sell the ROFR Property or any portion thereof free and clear of the ROFR at any time after the expiration of, as the case may be, (i) the City Decision Period, (ii) the time period to consummate a Purchase Agreement or (iii) the time period to close on the purchase and sale pursuant to the Purchase Agreement, but only at the price equal to or greater than ninety percent (90%) of the price set forth in the Bona Fide Offer. If the transaction contemplated by the Bona Fide Offer is not completed within the time period set forth in the Bona Fide Offer, as it may be amended, then Company shall not thereafter sell the ROFR Property, or any portion thereof, unless and until it again complies with the provisions of this Section 6.2.

6.2.5 Upon the Company's request, the County and the City shall timely deliver to the Company written confirmation that the County or the City, as the case may be, has not accepted the terms of the Company's Offer Notice and that the Company has acted in conformance with this Section 6.2.

6.2.6 For the purposes of this Section 6.2, "Permitted Transfer" shall mean any of the following:

(a) A transfer of the ROFR Property, or any portion thereof, to any Affiliate of the Company, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement;

(b) Any change of control of the Company, whether by transfer of stock, membership or partnership interests or by merger or consolidation, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement;

(c) A transfer of the ROFR Property together with a sale of substantially all of the assets of the Company, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement;

(d) A transfer of the ROFR Property, or any portion thereof, to any Company mortgagee, beneficiary of a deed of trust, or any other entity holding an interest in the underlying fee-title of the ROFR Property, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement; or

(e) A transfer of the ROFR Property, or any portion thereof, through foreclosure, bankruptcy, or any deed granted in lieu of foreclosure, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement to the extent allowed by law.

6.2.7 Any Purchase Agreement entered into pursuant to this Section 6.2 shall be upon substantially the terms set forth in the Bona Fide Offer, with the following exceptions:

(a) The closing date will be adjusted to be the date that is 60 days after the Company's receipt of the County Decision Notice or the City Decision Notice, as the case may be;

(b) The County or the City, as the case may be, shall be entitled to a credit against the purchase price as set forth in the Bona Fide Offer in the amount equal to \$500,000 for each of Project 1 Site and Project 2 Site and the real property improvements constructed thereon, capped at \$1,000,000 total for the ROFR Property, which amount is intended to offset demolition or repurposing costs and is payable only with respect to a Project if that Project receives a certificate of occupancy with respect to property in the Project. For example, if Project 1 receives a certificate of occupancy but Project 2 does not receive a certificate of occupancy, then the County or City, as the case may be, will receive a credit of \$500,000, and if both Project 1 and Project 2 receive certificates of occupancy, then the County or the City, as the case may be, will receive a credit of \$1,000,000.

6.3 Change in Law. The parties acknowledge that, due to the length of the Agreement's term, state laws and regulations, including the statutes and administrative rules relating to SIP and ad valorem property taxation, may be enacted, repealed, amended or substantially affected by court cases, and that such legal changes may materially alter the authority, rights or responsibilities of the parties or the benefits anticipated under this Agreement, prior to its expiration. The parties shall work together, reasonably and in good faith, to take such action (including amending this Agreement or entering into a separate agreement) as reasonably necessary to preserve and retain the substantive arrangement and relative and analogous rights, duties, responsibilities and obligations of the parties reflected in this Agreement.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Company. The Company represents and warrants to the City and the County as follows:

7.1.1 Organization. The Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware.

7.1.2 Authority. The Company has full limited liability company power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

7.1.3 Binding Obligation. This Agreement is the legal, valid, and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

7.1.4 No Conflicts. The execution and delivery of this Agreement by the Company and the performance by the Company of its obligations under this Agreement will not:

- (a) conflict with the Company's organizational documents;
- (b) breach any agreement to which the Company is a party, or give any person the right to accelerate any obligation of the Company;
- (c) violate any law, judgment, or order to which the Company is subject; or
- (d) require the consent, authorization, or approval of any person, including, but not limited to, any governmental body.

7.2 Representations and Warranties of the City. The City represents and warrants to the Company as follows:

7.2.1 Organization. The City is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon.

7.2.2 Authority. The City has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. True and correct copies of the resolutions of the City authorizing the City to enter into this Agreement are attached hereto as Exhibit G.

7.2.3 Binding Obligation. This Agreement is the legal, valid, and binding obligation of the City, enforceable against the City in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

7.2.4 No Conflicts. The execution and delivery of this Agreement by the City and the performance by the City of its obligations under this Agreement will not:

- (a) conflict with the City's charter or any other organizational documents;
- (b) breach any agreement to which the City is a party, or give any person the right to accelerate any obligation of the City;
- (c) violate any law, judgment, or order to which the City is subject; or
- (d) require the consent, authorization, or approval of any person, including, but not limited to, any governmental body (other than the City).

7.2.5 Ethics Laws. This Agreement, including the conveyance of the Transferred Property, is in accordance with all relevant government ethics laws. The City is aware and acknowledges that the Company may be a vendor and/or lobbyist employer, and Company employees may be registered lobbyists. This Agreement shall not prevent the Company from supplying products or services to the City under any future request for proposal or contract.

7.3 Representations and Warranties of the County. The County represents and warrants to the Company as follows:

7.3.1 Organization. The County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon.

7.3.2 Authority. The County has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. True and correct copies of the resolutions of the County authorizing the County to enter into this Agreement are attached hereto as Exhibit H.

7.3.3 Binding Obligation. This Agreement is the legal, valid, and binding obligation of the County, enforceable against the County in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

7.3.4 No Conflicts. The execution and delivery of this Agreement by the County and the performance by the County of its obligations under this Agreement will not:

- (a) conflict with the County's organizational documents;
- (b) breach any agreement to which the County is a party, or give any person the right to accelerate any obligation of the County;
- (c) violate any law, judgment, or order to which the County is subject; or
- (d) require the consent, authorization, or approval of any person, including, but not limited to, any governmental body (other than the County).

7.3.5 Ethics Laws. This Agreement, including the conveyance of the Transferred Property, is in accordance with all relevant government ethics laws. The County is aware and acknowledges that the Company may be a vendor and/or lobbyist employer, and Company employees may be registered lobbyists. This Agreement shall not prevent the Company from supplying products or services to the County under any future request for proposal or contract.

ARTICLE 8 MISCELLANEOUS

8.1 Notices. Each notice or other communication provided under this Agreement (i) must be in writing, (ii) must be delivered to the recipient in person, by courier or certified mail, return receipt requested, or by facsimile or other electronic transmission at the addresses set forth below, and (iii) is effective upon receipt by the party receiving it.

If to the County, to:

Administrative Officer
Wasco County
511 Washington St., Suite 201
The Dalles, OR 97058
(541) 506-2700

If to the City, to:

City Manager
City Hall
313 Court Street
The Dalles, OR 97058
(541) 296-5481

If to the Company, to:

Design, LLC
Attention: General Counsel
1600 Amphitheatre Parkway
Mountain View, CA 94043

With a copy to:

Adam C. Kobos
Troutman Pepper Hamilton Sanders LLP
100 SW Main Street
Portland, OR 97204
adam.kobos@troutman.com

8.2 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

8.3 Entire Agreement. This Agreement is the entire agreement between the City, the County, and the Company with respect to the subject matter of this Agreement. There is no other oral or written agreement between the City, the County, and the Company with respect to the subject matter of this Agreement. There are no representations or warranties made by either the City, the County, or the Company, implied or express, other than those contained in this Agreement.

8.4 Severability. If any clause, sentence, or other portion of this Agreement becomes illegal, null, or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

8.5 Amendments. This Agreement may not be amended unless such amendment is in writing and executed by the City, the County, and the Company.

8.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

8.7 Further Assurances. At any time from and after the date of this Agreement, at any party's request and without further consideration, the other party shall take all such further actions, and shall execute and deliver all such further instruments or documents, as a party may reasonably request to carry out and fulfill the transactions contemplated by this Agreement. Without limiting the foregoing, within two weeks after the Effective Date, the County shall request that the OBDC determine that the property in the Project shall receive the tax exemption in ORS 307.123.

8.8 Right to Contest Assessments. Nothing in this Agreement shall limit or restrict the Company from challenging the real market value, maximum assessed value, or other value of any property, or the amount that is or would, but for any exemption, be due for property taxes in the same manner as any other taxpayer pursuant to Oregon law.

8.9 Confidentiality. The parties will to the maximum extent permitted by law: (a) consider the content and nature of discussions culminating in this Agreement, and documentation and information prepared or provided to verify compliance with the terms of this Agreement and the property tax exemption (including but not limited to the notices, reports, information, and documentation required pursuant to ORS 285C.615), as containing confidential commercial and financial information of Company, (b) keep the content and nature of discussions culminating in this Agreement, and documentation and information prepared or provided to verify compliance with the terms of this Agreement and the property tax exemption (including but not limited to the notices, reports, information, and documentation required pursuant to ORS 285C.615), confidential and will not, without the prior written consent of the other party, disclose or use any information obtained in the course of this transaction other than in connection with the transaction; and (c) transmit such information only to such of its representatives who need to know the information for the sole purpose of assisting that party in evaluating this Agreement and who agree to be bound by these terms as if a party.

8.10 Dispute Resolution. Prior to any party to this Agreement instituting any legal action, arbitration, or other proceeding of any nature regarding matters related to this Agreement against any other party to this Agreement, the complaining party will request the other parties'

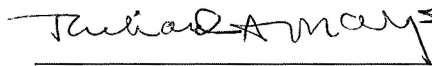
participation in non-binding mediation, and the parties agree to work in good faith to attempt to resolve the dispute in the course of such non-binding mediation. Requests for such non-binding mediation may be made by written notice in the manner provided for in Section 8.1. The expenses of non-binding mediation, including, without limitation of generality, costs of notice thereof, fees of the mediator and of witnesses, and the cost of taking and transcribing testimony shall be shared equally by the parties. Notwithstanding the foregoing, any party may withdraw from such non-binding mediation at any point and, further, may decline to participate in or abstain from requesting such non-binding mediation if, in its sole discretion, doing so will adversely affect the party's interests. If non-binding mediation fails to resolve the dispute, a party withdraws from non-binding mediation, or a party abstains from requesting non-binding mediation pursuant to the foregoing, then each party may pursue any and all legal and equitable remedies available under and according to the laws of the State of Oregon. In such proceeding, and in any non-binding mediation, the parties agree to bear their own attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith.

8.11 Business Firm. Google LLC, Design, LLC, and Moraine Industries LLC elect to be treated as one business firm for purposes of ORS 285C.

[Signature page follows.]

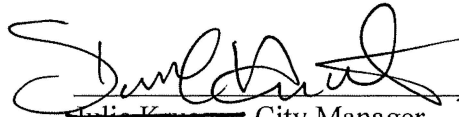
The City, the County, and the Company have executed this Agreement effective as of the date of the last signature set forth below.

CITY OF THE DALLES



Richard A. Mays, Mayor

[10/26], 2021



Julie Krueger, City Manager

[10/27], 2021

Pro-Tem Daniel Hunter

WASCO COUNTY



Scott C. Hege, Commission Chair

[10.20], 2021



Kathleen B. Schwartz, County Commissioner

[10.20], 2021



Steven D. Kramer, County Commissioner

[10.20], 2021

[Signatures continue on the following page.]

DESIGN, LLC

DocuSigned by:

Gary Demasi

FDA14D740D9A4BE...
[, Manager]

[], 2021

MORAIN INDUSTRIES LLC

DocuSigned by:

Gary Demasi

FDA14D740D9A4BE...
[, Manager]

[], 2021

GOOGLE LLC

DocuSigned by:

Gary Demasi

FDA14D740D9A4BE...
[, Manager]

[], 2021



Exhibit A

Example Calculation of Project 1 Total GAP Payment

For illustrative purposes only and not intended as a representation or prediction of future development, the following example depicts how the total payment may be calculated:

Project 1

Value	600,000,000
Taxable amount (with SIP)	50,000,000
Property tax rate	1.10%
Property tax (without SIP)	6,600,000
Property tax (with SIP)	550,000
Community service fee	1,512,500

Total Annual Payment Amount [Greater of (i) or (ii)]	
(i) 50% property tax (without SIP)	3,300,000
(ii) \$3,000,000	3,000,000

Total Annual Payment Amount	3,300,000
Property tax payment (with SIP)	-550,000
Community service fee	-1,512,500
GAP Amount	1,237,500

Property tax payment (with SIP)	550,000
Community service fee	1,512,500
GAP payment	1,237,500
Total Annual Payment	3,300,000

Exhibit B

[Project 1 Site description]

A portion of (a) Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and/or (b) Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property. The parties acknowledge that the final configuration of the foregoing parcels may be adjusted pursuant to a new partition plat or property line adjustment.

Exhibit C

[Project 2 Site Description]

A portion of (a) Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and/or (b) Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, (iv) the Transferred Property, and (v) the Project 1 Site. The parties acknowledge that the final configuration of the foregoing parcels may be adjusted pursuant to a new partition plat or property line adjustment.

Exhibit D

[Site Description]

Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property. The parties acknowledge that the final configuration of the foregoing parcels may be adjusted pursuant to a new partition plat or property line adjustment.

Exhibit E

[Transferred Property]

An at least 35 acres portion of Parcel B – 2N13E33200 similar to the area shown below.

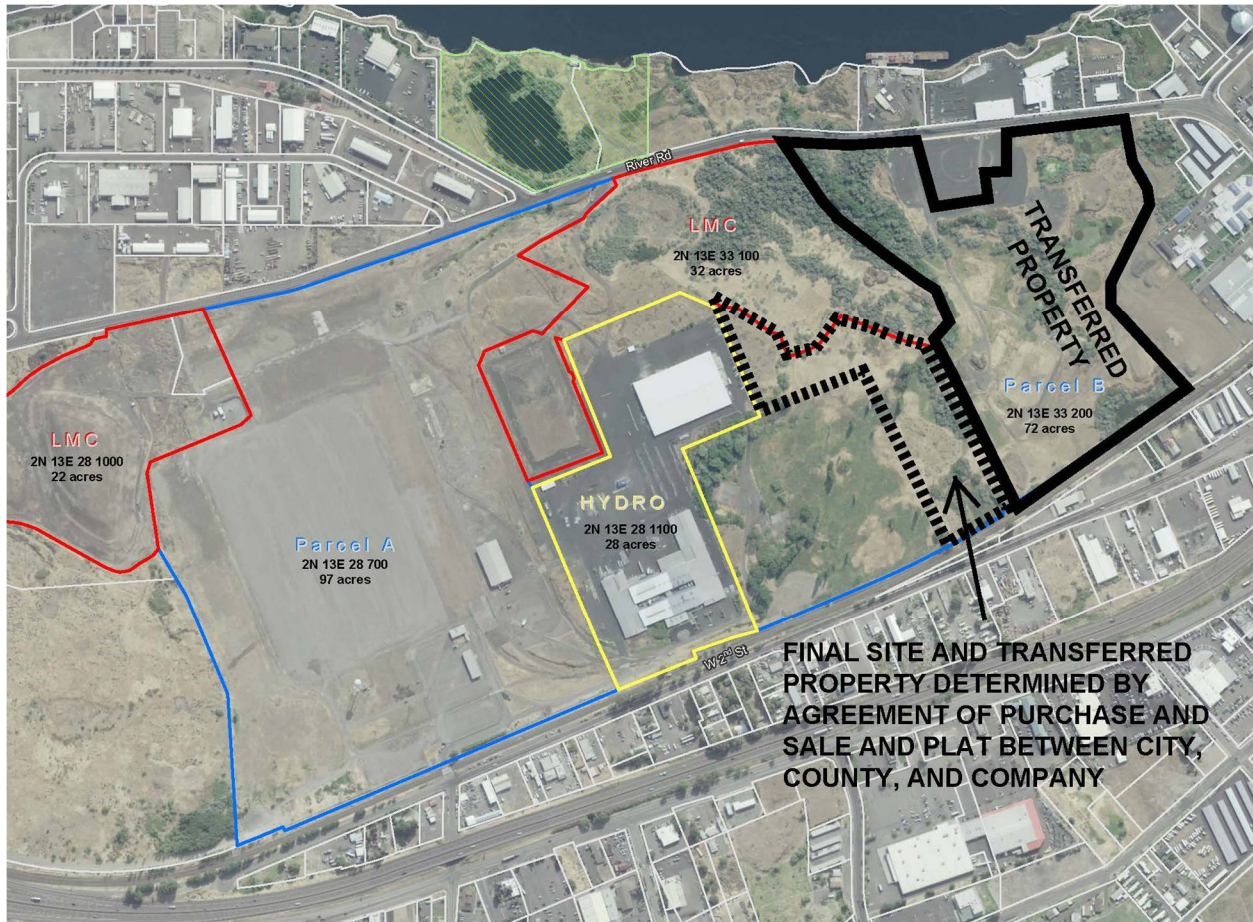


Exhibit F
[ROFR Memorandum]

After Recording Return to:

Wasco County, attn: City Manager
313 Court Street
The Dalles, OR 97058

SPACE ABOVE FOR RECORDERS USE

NOTICE OF RIGHT OF FIRST REFUSAL

THIS Notice of Right of First Refusal (this “**Notice**”) is made and executed by Google, LLC, a Delaware limited liability company, Design, LLC, a Delaware limited liability company, and Moraine Industries LLC, a Delaware limited liability company (collectively the “**Company**”) together with its successors and assigns, Wasco County, a political subdivision of the State of Oregon (the “**County**”), and the City of The Dalles, a political subdivision of the State of Oregon (the “**City**”) this 30th day of September, 2021.

NOTICE:

1. **Owner/ Project Property.** Company is the owner of certain real property in the City of The Dalles, County of Wasco, State of Oregon, as more particularly described in **Exhibit A** attached hereto (the “**Property**”).
2. **Declaration of Right of First Refusal.** Company, County, and City have entered into a Strategic Investment Program (“**SIP**”) Agreement. Pursuant to the terms of the SIP Agreement, County and City may timely record a notice of right of first refusal in the real property records of Wasco County, State of Oregon where the Property is located.
3. **Expiration of Right of First Refusal.** Except with respect to a Permitted Transfer (as defined below), beginning on the first day of the Exemption Period for Project 1 until the earlier of ten (10) years after (i) the expiration of the Exemption Period for Project 2 (or Project 1 if there is no Project 2), or (ii) the earlier termination of this Agreement by either party hereto (as applicable, the “**ROFR Period**”), if a Data Center is no longer being operated on the ROFR Property, County or City shall have a right of first refusal to purchase the ROFR Property, or any portion of the ROFR Property, in accordance with the terms and conditions of Section 6.2 of the SIP Agreement, which timeframe shall be approximately no more than thirty-five (35) years. For purposes of this paragraph, a Permitted Transfer shall mean any of the following: (a) a transfer of the ROFR Property, or any portion thereof, to any Affiliate of the Company, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement; (b) any change of control of the Company, whether by transfer of stock, membership or partnership interests or by merger or consolidation, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement; (c) a transfer of the ROFR Property together with a sale of substantially all of the assets of the Company, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement; (d) a transfer of the ROFR Property, or any portion thereof, to any Company mortgagee,



beneficiary of a deed of trust, or any other entity holding an interest in the underlying fee-title of the ROFR Property, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement; or (e) a transfer of the ROFR Property, or any portion thereof, through foreclosure, bankruptcy, or any deed granted in lieu of foreclosure, in which case the ROFR shall remain in effect pursuant to the terms of this Agreement to the extent allowed by law.

4. **Recording of Right of First Refusal/Prompt Delivery of Recording to Owner.** County, City and Company hereby declare a desire that this NOTICE OF RIGHT OF FIRST REFUSAL be recorded in the county records of Wasco County, State of Oregon.
5. **Exercise of Right of First Refusal.** County shall have thirty (30) calendar days from receipt of the Offer Notice within which to notify Company whether County elects or does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer under the terms and conditions specified in the Offer Notice, by giving written notice to Company of such election. County shall use good faith efforts to provide the County Decision Notice as quickly as possible, and if County does not provide the County Decision Notice within thirty (30) calendar days, it shall be deemed an election to not purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer. If County does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not timely provide the County Decision Notice, then City shall have thirty (30) calendar days after the earlier of (i) receipt of the County Decision Notice or (ii) the end of the County Decision Period within which to notify Company whether the City elects or does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer under the terms and conditions specified in the Offer Notice, by giving written notice to Company and County of such election. City shall use good faith efforts to provide the City Decision Notice as quickly as possible, and if City does not provide the City Decision Notice within such thirty (30) calendar days, it shall be deemed an election to not purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer.
6. **Failure to Exercise Right of First Refusal.** In the event that County does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not deliver the County Decision Notice within the County Decision Period and City does not elect to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer or does not deliver the City Decision Notice within the City Decision Period, or if either County or City, as the case may be, elects to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer but the party electing to purchase the ROFR Property, or portion thereof, that is subject to the Bona Fide Offer fails to consummate a Purchase Agreement or close in accordance with the Purchase Agreement within the time periods above, then Company may thereafter sell the ROFR Property or any portion thereof free and clear of the ROFR at any time after the expiration of, as the case may be, (i) the City Decision Period, (ii) the time period to consummate a Purchase Agreement or (iii) the time period to close on the purchase and sale pursuant to the Purchase Agreement, but only at the price equal to or greater than ninety percent (90%) of the price set forth in the Bona Fide Offer. If the transaction contemplated by the Bona Fide Offer is not completed within the time period set forth in the Bona Fide Offer, as it may be amended, then Company shall not thereafter sell the ROFR Property, or any portion thereof, unless and until it again complies with the provisions of the SIP Agreement.

[Signature Page Follows.]



IN WITNESS WHEREOF, this instrument has been duly executed as of the date and year first above written.

COUNTY:

WASCO COUNTY, a political subdivision of the
State of Oregon

By: _____

STATE OF OREGON)
 : ss
County of Wasco)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by
_____, on behalf of Wasco County.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

[The balance of this page is intentionally left blank]

**Notice of Right of First Refusal
Signature Page**

119833920



CITY:

THE CITY OF THE DALLES, a political
subdivision of the State of Oregon

By: _____

STATE OF OREGON)
 : ss
COUNTY _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by
_____, on behalf of the City of the Dalles.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

[The balance of this page is intentionally left blank]

COMPANY:

DESIGN, LLC, a Delaware limited liability company

DocuSigned by:
Gary Demasi
FD14D740D9A4BE
By: _____

)
: ss
)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by____
_____, on behalf of _____.

NOTARY PUBLIC

My Commission Expires: _____

[The balance of this page is intentionally left blank]

**Notice of Right of First Refusal
Signature Page**

119833920



COMPANY:

GOOGLE, LLC, a Delaware limited liability company

DocuSigned by:
Gary Demasi
ED1A14D740D9A4BE
By: _____

)
: ss
)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by____
_____, on behalf of _____.

NOTARY PUBLIC

My Commission Expires: _____

[The balance of this page is intentionally left blank]

**Notice of Right of First Refusal
Signature Page**

119833920



COMPANY:

MORaine INDUSTRIES, LLC, a Delaware
limited liability company

DocuSigned by:

Gary Demasi

By: _____

)
: ss
)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by____
_____, on behalf of _____.

NOTARY PUBLIC

My Commission Expires: _____

[The balance of this page is intentionally left blank]

**Notice of Right of First Refusal
Signature Page**

119833920



EXHIBIT A
(Legal Description)

Real property in Wasco County, State of Oregon, described as follows:

Lot 3, NORTHWEST ALUMINUM SUBDIVISION, a plat, dated November 30, 2017 as recorded on December 6, 2017 under Microfilm No. 2017-004778, Plat No. 2017-0016, Slide No. D 155A, Wasco County Records lying in Sections 28 and 29, Township 2 North, Range 13 East of the Willamette Meridian, the City of the Dalles, Wasco County, State of Oregon, and Parcel 2 of Partition Plat recorded November 19, 2015 under Microfilm No. 2015-004543, Plat No. 2015-0015, Slide No. D-135B, Wasco County Records along with any real property improvements constructed on either of the same, both less and except (i) any property transferred to a power company for a switchyard, substation or switching station, (ii) any property transferred to the City for a sewer lift station and water or sewer utility improvements, (iii) any property dedicated as right of way, and (iv) the Transferred Property. to a new partition plat or property line adjustment.



Exhibit G
[City Resolutions]

RESOLUTION NO. 21-024

**A RESOLUTION APPROVING THE STRATEGIC INVESTMENT PROGRAM
AGREEMENT BETWEEN THE CITY OF THE DALLES AND
WASCO COUNTY (CO-SPONSORS) WITH DESIGN, LLC**

WHEREAS, the Oregon Legislative Assembly declared a significant purpose of the Strategic Investment Program ("SIP") (ORS 285C.600-285C.620) is to promote industrial competition and improve employment in areas where projects are to be located by encouraging businesses engaged in such projects to hire local employees;

WHEREAS, the SIP encourages local governments to enter agreements with key industries to attract and retain long term investment and employment;

WHEREAS, Google LLC, a Delaware limited liability company, Design, LLC, a Delaware limited liability company, and Moraine Industries LLC, a Delaware limited liability company (collectively, the "Company") proposes to build and operate data center projects within the city limits of The Dalles to support the Company's data center operations; and

WHEREAS, the City of The Dalles ("City"), a municipal corporation of the State of Oregon, and Wasco County, a political subdivision of the State of Oregon, and the Company have negotiated the terms of a mutually agreeable SIP agreement ("SIP Agreement").

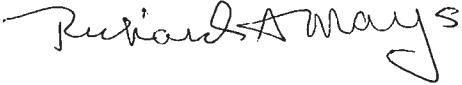
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

1. The City Council hereby approves the City entering the SIP Agreement.
2. The City Council hereby authorizes the City Manager to execute the SIP Agreement.
3. This Resolution is effective upon its adoption.

PASSED AND ADOPTED ON THIS 25TH DAY OF OCTOBER, 2021.

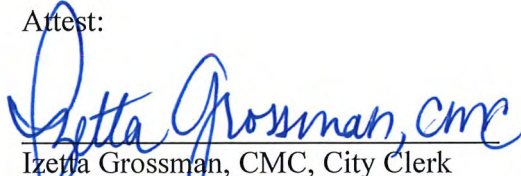
Voting Yes,	Councilors:	<u>Bunyon, Randall, McGlothlin, Long, Richardson</u>
Voting No,	Councilors:	_____
Abstaining,	Councilors:	<u>—</u>
Absent,	Councilors:	<u>—</u>

AND APPROVED BY THE MAYOR THIS 25TH DAY OF OCTOBER, 2021.



Richard A. Mays, Mayor

Attest:



Izetta Grossman, CMC, City Clerk



Exhibit H

[County Resolutions]





IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF STRATEGIC INVESTMENT PROGRAM APPLICATION

RESOLUTION #21-010

WHEREAS, the Legislative Assembly has declared that a significant purpose of the Strategic Investment Program (the "SIP"), ORS 285C.600-285C.620 and ORS 307.123, is to promote industrial competitiveness and to improve employment in the areas where projects are to be located by encouraging businesses engaged in projects to hire local employees.

WHEREAS, the SIP encourages local governments to enter into agreements with key industries to attract and retain long term investment and employment; and

WHEREAS, Google LLC, a Delaware limited liability company, Design, LLC, a Delaware limited liability company, and Moraine Industries LLC, a Delaware limited liability company (Google, LLC, Design, LLC, and Moraine Industries LLC collectively referred to herein as the "Company") or an Affiliate of the Company proposes to build and operate data center projects within the County that will support the Company's data center operations (the "Projects"); and

WHEREAS, The City of The Dalles, a political subdivision of the State of Oregon and Wasco County, a political subdivision of the State of Oregon, and the Company have negotiated the terms of a mutually agreeable SIP agreement; and

WHEREAS, the Oregon Business Development Commission is charged by law with determining eligibility and confirming the description of the proposed project and the property constituting it for purposes of assessment and ad valorem taxation ("SIP exemption") as provided in ORS 307.123.

NOW, THEREFORE, IT IS HEREBY RESOLVED: The Wasco County Commissioners approve the execution of the SIP agreement for the Projects; and

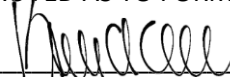
IT IS HEREBY FURTHER RESOLVED: Wasco County shall assist the Company in submitting certified copies of this resolution and other evidence of Wasco County's fulfillment of the provisions under ORS 285C.609 to the Oregon Business Development Department.

Dated this 20th day of October, 2021

ATTEST:

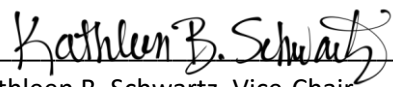

Kathy Clark, Executive Assistant

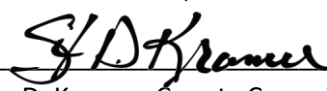
APPROVED AS TO FORM:


Kristen Campbell, County Counsel

WASCO COUNTY
BOARD OF COMMISSIONERS


Scott C. Hege, Commission Chair


Kathleen B. Schwartz, Vice-Chair


Steven D. Kramer, County Commissioner