

## **MAINTENANCE AND PUBLIC ACCESS LICENSE AGREEMENT**

### **Genentech Campus Master Plan**

THIS MAINTENANCE AND PUBLIC ACCESS LICENSE AGREEMENT (“AGREEMENT”) is made and entered into as of \_\_\_\_\_, 20\_\_ (hereinafter, “EFFECTIVE DATE”), by and between the CITY OF SOUTH SAN FRANCISCO, a municipal corporation (“CITY”), and GENENTECH, INC., a Delaware corporation, and its successors in interest, assigns and transferees ( “GENENTECH,” with CITY and GENENTECH collectively referred to herein as the “PARTIES”), with reference to the following facts:

#### **RECITALS**

A. WHEREAS, GENENTECH has a legal and/or equitable interest in certain real property located in the CITY on the approximately 207-acre site commonly known as the “GENENTECH Campus” (the “Campus”). The Campus is more particularly described in Exhibit A of that certain Development Agreement by and between City of South San Francisco and Genentech, Inc., bearing the Effective Date of December 31, 2020, adopted by the City Council of the City of South San Francisco (the “CITY COUNCIL”) in Ordinance No. 1615-2020, and recorded on \_\_\_\_\_, 202\_\_ in the Official Records of San Mateo County as Recorders Document No. \_\_\_\_\_ (“DEVELOPMENT AGREEMENT”).

B. WHEREAS, on November 24, 2020 and December 1, 2020, the CITY COUNCIL unanimously approved GENENTECH’s Campus Master Plan Update project (the “PROJECT”), which approval included, but was not limited to, adoption of the DEVELOPMENT AGREEMENT, certification of that certain Environmental Impact Report for the GENENTECH Master Plan Update, State Clearinghouse No. 2017052064 (“Project EIR”), approval of that certain GENENTECH Master Plan Update (“MASTER PLAN”), and approval of certain amendments to the CITY’s Genentech Master Plan Zoning District so as to facilitate implementation of the MASTER PLAN.

C. WHEREAS, the MASTER PLAN articulates a vision for new growth and development within the Campus that fosters intensification of development and infill development by serving as a general guide for the future placement and design of individual buildings and other Campus improvements over time. Because the MASTER PLAN is an overall development framework that provides the basis for future approvals, it provides for flexibility during implementation. Rather than establishing the location, size or design of individual buildings and improvements, it permits such details to be developed over the course of the MASTER PLAN’s planning horizon.

D. WHEREAS, to promote the MASTER PLAN’s stated objective of establishing an integrated and walkable Campus that implements a more pedestrian-oriented, shared street concept that prioritizes people over motorized vehicles, the MASTER PLAN contemplates the closure of certain internal, public streets and roadways, such contemplated roadways are commonly known as “DNA Way,” “Point San Bruno Boulevard” and “Cabot Road” (collectively, the “ROADWAYS”). All such ROADWAYS pass through the central portion of

the MASTER PLAN's "Upper Campus" planning area, and reconfiguration of such ROADWAYS would thereby improve pedestrian connections between indoor spaces and outdoor spaces so as to activate the Campus core while also permitting continued transit and emergency access through the use of special pavers or other appropriate design treatments in support of the vision of the MASTER PLAN.

E. WHEREAS, to facilitate the implementation of the MASTER PLAN, and the design and future improvement of pedestrian-oriented circulation improvements in accordance with the MASTER PLAN and applicable administrative or discretionary approval processes set forth in the City of South San Francisco Municipal Code, the CITY and GENENTECH entered into a Real Property Purchase, Sale and Maintenance Agreement and Escrow Instructions, dated as of \_\_\_\_\_, 2025 (the "STREETS PURCHASE AGREEMENT"), pursuant to which the CITY agreed to sell and GENENTECH agreed to purchase certain real property interests in the ROADWAYS following the CITY's completion of statutory vacation proceedings to terminate the public streets within the ROADWAYS provided that certain limited rights of public access and use along said formerly public rights-of-way are maintained pursuant to the license granted by this AGREEMENT ("LICENSE"), and further provided that GENENTECH agrees to take on ongoing responsibilities for the improvement, landscaping and maintenance of the internal portions of the Campus that were formerly public rights-of-way consistent with the MASTER PLAN and subject to the terms and conditions hereof.

F. WHEREAS, in connection with the STREETS PURCHASE AGREEMENT and in furtherance of the development of the PROJECT, CITY has formally vacated the public property interests and any and all ownership rights of the public in and to the ROADWAYS in accordance with the applicable statutory procedures; and

G. WHEREAS, as a requirement of the STREETS PURCHASE AGREEMENT and in order to maintain public access to the ROADWAYS after the CITY's vacation, the CITY and GENENTECH agreed to enter into this AGREEMENT to outline the terms and conditions for the LICENSE for continued public access to the ROADWAYS and conditions under which any of said ROADWAYS may be closed to public access in the future; and

H. WHEREAS, except as otherwise stated herein, any future termination of the LICENSE or any portion thereof granted herein and the associated termination of public access rights as to any portion of the ROADWAYS requires a fair market value ("FMV") appraisal of the applicable portion(s) of the ROADWAYS and a supplemental payment to CITY for the FMV of said ROADWAYS or portion(s) thereof; and

I. WHEREAS, pursuant to the STREETS PURCHASE AGREEMENT, CITY shall continue to maintain public utilities and infrastructure located in the ROADWAYS after vacation and GENENTECH shall grant CITY this LICENSE to access the public utilities and infrastructure for purposes of performing said maintenance and GENENTECH shall reimburse CITY for the cost of said maintenance; and

J. WHEREAS, pursuant to the STREETS PURCHASE AGREEMENT, GENENTECH agreed, at its sole cost and expense, to maintain, repair and replace the

ROADWAYS and associated existing infrastructure improvements as needed after conveyance and vacation of the ROADWAYS; and

K. WHEREAS, CITY has determined that the public interests in the limited use and access rights in favor of the public as contemplated herein and in the MASTER PLAN and the PROJECT approvals, are adequately furthered and protected by the LICENSE provided herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises herein contained, the PARTIES hereby agree as follows:

## **AGREEMENT**

1. Grant of License. GENENTECH hereby grants to CITY, for use and enjoyment by CITY and members of the public subject to the terms and conditions set forth herein, this LICENSE providing a permanent and perpetual right of access and non-exclusive use over and across the portions of the Campus (the "LICENSE AREA") improved and designated as the ROADWAYS, as depicted in green, pink, blue, and orange on Exhibit A and described, respectively, on Exhibit A-1 (ROADWAY AREA 1), Exhibit A-2 (ROADWAY AREA 3), Exhibit A-3 (ROADWAY AREA 4) and Exhibit A-4 (ROADWAY AREA 2) hereto, for (i) vehicular and pedestrian ingress to, and egress from, the portions of the Campus as described herein and (ii) the construction, maintenance, operation, testing, inspection, repair, removal, replacement, reconstruction or abandonment of any City-owned public infrastructure and utilities (including CATV facilities) (the "CITY FACILITIES") located or to be located within the ROADWAYS, and such appurtenances thereto as may be necessary or convenient for the operation of such CITY FACILITIES, subject in all respects to the terms, conditions and provisions of this AGREEMENT; reserving, however, unto GENENTECH, its successors and assigns, all other rights in and to the LICENSE AREA.

2. Terms and Conditions of LICENSE. The LICENSE set forth herein is granted by GENENTECH to CITY upon the following express covenants and conditions:

2.1 Continuation of ROADWAYS in Present Form. GENENTECH shall keep and maintain the ROADWAYS in their present form and in the locations depicted in the MASTER PLAN, subject to GENENTECH's obligations to repair, replace and maintain the ROADWAYS pursuant to the Maintenance Obligations outlined in Section 3 below and the STREETS PURCHASE AGREEMENT. GENENTECH shall not alter, obstruct, or modify the ROADWAYS in any way, nor take any action to impede or interfere with public use and enjoyment of the ROADWAYS pursuant to this LICENSE.

2.2 Minor Relocation and Adjustment. Notwithstanding the foregoing, GENENTECH shall at all times following the Effective Date have the right to relocate, adjust or reposition portions of the ROADWAYS in minor, non-material ways, subject to a ministerial approval to be considered and granted on behalf of the CITY by the CITY's Director of Community and Economic Development or Director of Public Works or their respective designees, which approval shall not be subject to notice and public hearing and shall be processed by the CITY in similar fashion to an ADMINISTRATIVE PROJECT APPROVAL pursuant to the DEVELOPMENT

AGREEMENT. The denial by the CITY's Director of Community and Economic Development or Director of Public Works or designees of any such minor relocation or adjustment may be appealed by GENENTECH through a discretionary process to the CITY COUNCIL, Planning Commission or other applicable approval body.

2.3 Indemnity. To the fullest extent permitted by law, GENENTECH hereby agrees to, and does hereby: (a) indemnify, defend, and hold CITY, its officers, employees and agents, harmless from and against any claims, demands, suits, liability or responsibility whatsoever (hereinafter "CLAIMS") for any damage or injury of any kind whatsoever, regardless of fault (subject to the next sentence), to any person or property by reason of use of the LICENSE and GENENTECH's maintenance of the ROADWAYS; and (b) release CITY from any CLAIMS for damage or liability which might occur to the real and personal property underlying the CAMPUS (the "CAMPUS FACILITIES"), by reason of any lawful use of the LICENSE AREA by CITY or the PUBLIC. Notwithstanding any provision herein to the contrary, the indemnity, defend, hold harmless, and release set forth in the preceding sentence shall not apply to the extent any CLAIMS are caused by the gross negligence or willful misconduct of any employee, personnel, contractor; or subcontractor of CITY or to the extent any CLAIMS are caused by CITY's negligence in the maintenance of CITY FACILITIES.

2.4 Future Use of ROADWAYS and Termination of Public Access LICENSE. In the future, GENENTECH may submit an application to the CITY for approval of development permits or modifications to the MASTER PLAN, if required, to change the use of the ROADWAY AREA #2, ROADWAY AREA #3, or ROADWAY AREA #4 (or portions thereof) and provide for reconfiguration and/or redevelopment of one or more of the applicable ROADWAYS for an alternative use. ROADWAY AREA #1 shall remain publicly-accessible pursuant to this LICENSE in perpetuity to ensure access to the Wind Harp and GENENTECH does not intend to seek a change in use for ROADWAY AREA #1. As part of any application for such development permits or required modifications to the MASTER PLAN that impact ROADWAY AREA #3 or ROADWAY AREA #4 (as such terms are defined below), GENENTECH shall under the circumstances set forth below submit an appraisal prepared pursuant to Section 2.4(c) of the fair market value (FMV) of the applicable property if developed as proposed in GENENTECH's application. GENENTECH shall not seek a termination of the LICENSE for public access to ROADWAY AREA #3 or ROADWAY AREA #4 pursuant to this Section 2 until January 1, 2031 or later.

a. ROADWAYS Requiring Appraisal and Supplemental Payment. The Parties understand and agree that the portions of the ROADWAYS depicted in pink and blue on Exhibit A and described, respectively, on Exhibit A-2 (ROADWAY AREA #3) and Exhibit A-3 (ROADWAY Area #4) shall remain as publicly-accessible ROADWAYS subject to this AGREEMENT and shall not be eligible for change in use except as set forth herein. Any application to change the use or configuration (other than minor modifications to location or configuration of the ROADWAYS that do not result in a change to the total acreage of the ROADWAYS provided for public access) of ROADWAY AREA #3 or ROADWAY AREA #4 shall be subject to City Council approval and shall necessitate (a) an amendment to this Agreement acceptable to the parties hereto and approved by the City Council, and (b) the payment of a supplemental amount pursuant to Section 2.4(d) acceptable to the parties hereto and approved by the City Council based upon the FMV of such ROADWAY Areas, as determined by an appraisal

pursuant to Section 2.4(c). For the avoidance of doubt, the portions of the LICENSE applicable to ROADWAY AREA #3 and ROADWAY AREA #4 of the ROADWAYS may not be terminated without a written amendment to this Agreement executed by both Parties and approved by the City Council.

b. ROADWAYS Not Requiring Appraisal and Supplemental Payment. The Parties agree that notwithstanding the foregoing, the portion of the ROADWAYS depicted in orange on Exhibit A and described on Exhibit A-4 (ROADWAY AREA #2) may be subject to a proposed change in use and/or termination of the applicable portions of the LICENSE, subject to applicable City approvals, without change to the Purchase Price (as specified in the STREETS PURCHASE AGREEMENT) because the Purchase Price set forth in the STREETS PURCHASE AGREEMENT represents the FMV of said portions of the ROADWAYS if redeveloped as an alternative use. In light of the foregoing, the Parties agree that if GENENTECH submits a development application or any required application to update/modify the MASTER PLAN to redevelop ROADWAY AREA #2, GENENTECH shall not be required to prepare and submit an appraisal pursuant to Section 2.4(c) as part of such an application, and no change to the Purchase Price shall be made. However, an amendment to this AGREEMENT shall be required to terminate the LICENSE as to ROADWAY AREA #2 as part of any City approvals for the underlying project.

c. Appraisal. The appraisal contemplated in Section 2.4(a) shall be an independent third-party appraisal prepared by a valuation expert selected by the Parties in accordance with this subsection (c). The appraiser shall have the requisite experience and skills necessary to prepare the appraisal and shall be selected by mutual agreement of both Parties. If the Parties cannot agree on an appraiser, then each Party shall propose an appraiser and the two shall select a third appraiser to perform the valuation. The appraisal shall be prepared using appraisal instructions jointly agreed to by CITY and GENENTECH. The appraisal shall be based on the FMV of ROADWAY AREA #3 or ROADWAY AREA #4, as the case may be, for the primary use proposed by GENENTECH in its proposed modifications to the MASTER PLAN (“MODIFIED USE APPRAISAL”). Both Parties assume that the primary use will be Office/R&D.

d. Amount and Timing of Supplemental Payment. If GENENTECH’s proposed modifications to the MASTER PLAN are approved by the CITY, then GENENTECH shall make an additional payment of consideration hereunder (the “SUPPLEMENTAL PAYMENT”) to CITY in an amount that is equal to the FMV of ROADWAY AREA #3 or ROADWAY AREA #4, as the case may be, as identified in the MODIFIED USE APPRAISAL. Under no circumstances shall the per square foot cost included in the SUPPLEMENTAL PAYMENT be less than the per square foot cost utilized in the Purchase Price. The SUPPLEMENTAL PAYMENT shall be paid upon execution of the Amendment to this AGREEMENT providing for termination of the LICENSE for the applicable portion of the ROADWAYS.

e. Required City Approvals and Termination of Public Access. As part of any proposed modifications to the MASTER PLAN that result in the need to terminate the LICENSE as to portion(s) of the ROADWAYS proposed for alternative use, following CITY approval thereof, compliance with all provisions of this Section 2.4, and the passage of any applicable appeal or challenge periods without any such appeal or challenge (or the favorable satisfaction of any such appeal or challenge), the LICENSE shall terminate as to those portion(s) of the ROADWAYS

and said portion(s) will no longer be publicly accessible space. GENENTECH shall install prominent signage at several locations along the ROADWAYS a minimum of ninety (90) days in advance of any closure to the public.

2.5 Termination of License for Default. PARTIES acknowledge and agree that the LICENSE is a license coupled with an interest. Except as otherwise provided in Section 2.4 above, the LICENSE and all privileges granted thereby may only be terminated upon the mutual written agreement of the PARTIES or upon the occurrence of a DEFAULT (as hereinafter defined) by CITY. As used herein, CITY shall be in default under this AGREEMENT (“DEFAULT”) if CITY breaches any material provision of this AGREEMENT and such breach remains uncured for a period of thirty (30) days following receipt by CITY of written notice thereof from GENENTECH; provided, however, CITY shall not be deemed in DEFAULT if CITY commences to cure such breach within such thirty (30) day period and thereafter diligently pursues such cure to completion.

2.6 No Adverse Rights. CITY agrees that, subject to the provisions of this AGREEMENT, the use of the portion of the LICENSE AREA for the LICENSE will in no way create any public or municipal right whatsoever which is adverse to any rights of GENENTECH, and that the rights of GENENTECH are the rights herein given by this AGREEMENT and no other rights in the PUBLIC PROPERTY whatsoever accrue hereunder.

2.7 Binding on Successors. The rights and obligations of this AGREEMENT and the LICENSE shall inure to the benefit of, and be binding upon, GENENTECH’s and CITY’s successors and assigns; the provisions of this LICENSE shall run with the land.

2.8 Relationship to Development Agreement. This AGREEMENT is intended to implement and further the objectives of the MASTER PLAN, STREET PURCHASE AGREEMENT, and the DEVELOPMENT AGREEMENT.

### 3. GENENTECH Maintenance Obligations.

3.1 Maintenance Obligations. GENENTECH shall, at its sole cost and expense, maintain, repair and replace the ROADWAYS and associated infrastructure at the time and manner that is consistent with the same standards that CITY follows for publicly-accessible roads, facilities, and infrastructure as further articulated in Section 3.2 below. The foregoing Maintenance Obligations do not apply to any infrastructure or facilities located within the ROADWAYS that were expressly reserved to CITY as “Excluded Improvements” under the STREETS PURCHASE AGREEMENT and which Genentech shall reimburse CITY for performance of said maintenance.

3.2 Maintenance Standards. At all times while CITY or members of the public enjoy use and access rights in and to the ROADWAYS pursuant to this License, the portions of the LICENSE AREA improved for such use shall be constructed and maintained with a design consistent with CITY standards, pursuant to designs, plans and specifications approved by CITY, and shall be subject to inspection by CITY in the same fashion as are CITY-owned streets and roadways. If GENENTECH fails to maintain the ROADWAYS as provided for in this Section 3, then CITY, after fourteen (14) days prior written notice, may perform such necessary maintenance and charge GENENTECH for the cost thereof.

3.3 Inspections and Report. GENENTECH shall conduct maintenance inspections of the ROADWAYS and associated infrastructure at least once a year and shall retain proof of such inspection and make such inspection report available to CITY within thirty (30) days upon request.

3.4 Maintenance Personnel. To accomplish the Maintenance Obligations, GENENTECH shall either staff or contract with and hire licensed and qualified personnel to perform the Maintenance Obligations, including but not limited to the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Section 3. Notwithstanding the foregoing, CITY agrees in exchange for the payment contemplated herein to fulfill GENENTECH'S Maintenance Obligations for an initial period of five (5) years from the Effective Date of this Agreement, in accordance with the schedule and fees set forth in Exhibit B, the DNA Way Maintenance Exhibit, attached hereto. GENENTECH agrees to deposit the full estimate for the five (5) year period within ( ) days of the execution of this Agreement. Any additional work beyond that contemplated in Exhibit B and requested by Genentech shall be performed by the CITY on a time and materials basis, as mutually agreed to in advance between the parties.

#### 4. General Provisions.

4.1 Entire Agreement. Except as otherwise set forth herein, this AGREEMENT constitutes the entire agreement between the PARTIES with respect to the subject matter hereof. This AGREEMENT may only be amended or modified by a writing executed by both PARTIES.

4.2 Captions; Interpretation. The captions in this AGREEMENT are for reference only and shall in no way define or interpret any provision hereof. This AGREEMENT shall be interpreted and applied fairly as to both PARTIES and without regard as to which Party may have drafted any particular provision.

4.3 Attorneys Fees. The prevailing Party in any action or proceeding to enforce or interpret this AGREEMENT shall be entitled to recover its costs and reasonable attorneys' fees from the other Party.

4.4 Severability. If any provision of this AGREEMENT as applied to either party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this AGREEMENT, the application of any such provision in any other circumstances or the validity or enforceability of this AGREEMENT as a whole.

4.5 Counterparts. This AGREEMENT may be executed by the PARTIES in counterparts, which counterparts shall be construed together and have the same effect as if all of the PARTIES had executed one and the same instrument.

4.6 Governing Law/Venue. This AGREEMENT shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California with venue in the court of competent jurisdiction in San Mateo County.

4.7 No Waiver. No waiver with respect to any provision of this AGREEMENT shall

be effective unless in writing and signed by the Party against whom it is asserted. No waiver of any provision of this AGREEMENT by a party shall be construed as a waiver of any subsequent breach or failure of the same term or condition, or as a waiver of any other provision of this AGREEMENT.

4.8 Signature by CITY. This AGREEMENT is signed on behalf of CITY by the City Manager pursuant to, and limited by, the authority granted by the City Council. The original AGREEMENT shall, upon recordation, be filed in the Office of the City Clerk and a copy thereof shall be provided to GENENTECH.

4.9 Effective Date. This AGREEMENT shall not be effective unless and until executed and delivered by both PARTIES. Subject to the preceding sentence, the effective date of this AGREEMENT shall be the EFFECTIVE DATE first set forth above.

*(Remainder of page intentionally left blank; signatures on next page)*



IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT on the dates set forth below and effective as of the EFFECTIVE DATE.

CITY OF SOUTH SAN FRANCISCO:

\_\_\_\_\_  
Sharon Ranals, City Manager  
Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By: \_\_\_\_\_  
Sky Woodruff, City Attorney

GENENTECH, INC.,  
a Delaware corporation

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

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

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A  
“LICENSE AREA”

EXHIBIT A-1  
“ROADWAY AREA #1”

EXHIBIT A-2  
“ROADWAY AREA #3”

EXHIBIT A-3  
“ROADWAY AREA #4”

EXHIBIT A-4  
“ROADWAY AREA #2”

**EXHIBIT B**  
**“Maintenance Exhibit”**

<b>DNA Way Maintenance Estimates</b>						
<b>Staff Hourly Rates (fully Loaded)</b>	<b>\$/HR</b>	<b>Vehicle Hourly Rates</b>				
Director of Public Works	\$251.77	Electrical Service Truck	\$130.31			
Deputy Director of Public Works	\$196.38	Street Sweeper	\$212.85			
Program Manager	\$149.10	Vactor/Jet Truck	\$170.00			
Maintenance Supervisor	\$117.25	Electrician Van	\$37.19			
Administrative Assistant	\$85.96	Service Truck	\$54.23			
Electrical Technician	\$112.90	Pickup Truck	\$37.19			
Sweeper Operator	\$87.03					
Maintenance Worker	\$80.11					
<b>DNA Way Maintenance Items</b>	<b>Maintenance Required</b>	<b>Performed by</b>	<b>Hours /Month</b>	<b>Vehicle</b>	<b>Vehicle Hours/Month</b>	<b>Total Cost Per Month</b>
2-Lane Miles of Asphalt, Curb & Gutter	Street Sweeping	Sweeper Operator	2.5	Sweeper	2.5	\$749.70
2-Lane Miles of Asphalt, Curb & Gutter	Pothole Patching	Maintenance Worker	1	Service Truck	1	\$134.34
3 - Signalized Intersections	Inspection	Electrical Technician	2.3	Electrical Service Truck	2.3	\$559.38
4- RRFBs	Inspection	Electrical Technician	1	Electrician Van	1	\$150.09
Streetlights	Replacement	Electrical Technician	1	Electrical Service Truck	1	\$243.21
Signs and Traffic Markings	Replacement/painting	Maintenance Worker	1	Service Truck	1	\$134.34
Storm Drains	Cleaning	Maintenance Worker	2	Vactor/Jet Truck	2	\$500.22
Storm Drains	Cleaning	Maintenance Worker	2	Service Truck	2	\$268.68
	Administrative Support	Administrative Assistant	1	None	0	\$85.96
	Supervision	Maintenance Supervisor	2	Pickup Truck	1	\$271.69
	Oversight	Program Manager	1	None	0	\$149.10
	Management	Deputy Director	0.5	None	0	\$98.19
	Management	Director	0.25	None	0	\$62.94
					<b>Total Monthly Estimate</b>	\$3,407.85
					<b>Total Yearly Estimate</b>	\$40,894.15