

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA APPROVING A DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SANTA CLARA AND KYLLI, INC. FOR
THE PROPERTY LOCATED AT 4995 PATRICK HENRY DRIVE
AND 3005 DEMOCRACY WAY, SANTA CLARA**

SCH#2018072068
PLN2017-12924 (General Plan Amendment)
PLN2018-13400 (Rezoning)
PLN22-00635 (Vesting Tentative Subdivision Map)
PLN21-15387 (Development Agreement)
Revised Project, "Option B"

WHEREAS, California Government Code Sections 65864 through 65869.51 ("Development Agreement Act") authorize cities to enter into binding development agreements with owners of real property and these agreements govern the development of the property; and

WHEREAS, Kylli, Inc., through its wholly-owned subsidiary Innovation Commons Owner, LLC ("Owner") has requested that the City of Santa Clara ("City") enter into the type of agreement contemplated by the Development Agreement Act; and

WEHERAS, City staff have negotiated and recommended for approval a Development Agreement subject to specific conditions of approval, all attached as Exhibit "Development Agreement for Mission Point – Revised Project", with Owner in connection with the proposed development of up to 4,913,000 gross square feet of new development, including up to 2,600 units (up to 1,800 units in Area D, approximately 1.8 million square feet of residential uses, and up to 800 units in Area C with corresponding reduction in office/research-and-development ("R&D") uses in Area C), up to three million square feet of office/R&D, approximately 100,000 square feet of retail, and approximately 10,000 square feet of childcare facilities; public right-of-way improvements, and site infrastructure and utilities ("Revised Project") at 4995 Patrick Henry Drive and 3005 Democracy Way, Santa Clara ("Project Site");

WHEREAS, the Revised Project approvals will include the Environmental Impact Report ("EIR") for the Mission Point Project; General Plan Amendment from High-Intensity Office/Research and

Development (maximum FAR 2.0), to the new Urban Center Mission Point (minimum FAR 1.5) land use designation for Areas “A” and “B” and to the new Urban Center Mixed Use (60 - 250 dwelling units per acre) land use designation for Areas “C” and “D”; Rezoning from High-Intensity Office/Research and Development (“HO-RD”) to Planned Development (“PD”); Vesting Tentative Subdivision Map; and the adoption of this Development Agreement Ordinance (collectively, the “Approvals”);

WHEREAS, Santa Clara City Code Section 17.10.120 requires the Planning Commission to hold a public hearing before making a recommendation on the approval of a Development Agreement;

WHEREAS, on November 6, 2024, the Planning Commission conducted a duly noticed public hearing to consider the proposed Development Agreement, at the conclusion of which, the Planning Commission voted to recommend approval to the City Council;

WHEREAS, the City Council has reviewed the Development Agreement for the Revised Project, and has considered all available facts related to the Development Agreement for the Revised Project;

WHEREAS, before considering the Development Agreement, the City Council reviewed and considered the information contained in the DEIR, Final EIR (“FEIR”) (including Attachment 3 to the FEIR analyzing the Revised Project) and Appendix to the FEIR, that combined constitute the EIR for the Project (SCH#2018072068);

WHEREAS, notice of the November 19, 2024 public hearing on the proposed Development Agreement was published in the *Santa Clara Weekly*, a newspaper of general circulation for the City, on November 6, 2024;

WHEREAS, notices of the November 19, 2024 public hearing on the Development Agreement were mailed to all property owners within a quarter mile of the property, according to the most recent assessor’s roll, on November 7, 2024, and to all local agencies expected to provide essential facilities or services to the Project;

WHEREAS, on November 19, 2024, the City Council conducted a public hearing to consider the

Development Agreement, for the Revised Project and related applications, at which time all interested persons were given an opportunity to give testimony and present evidence, both in favor of and in opposition to the proposed Development Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That the City Council hereby finds and determines that the forgoing recitals are true and correct and by reference makes them a part hereof.

SECTION 2: That the City Council hereby approves the Development Agreement between the City of Santa Clara and Kylli, Inc. for the property located at 4995 Patrick Henry Drive and 3005 Democracy Way (APNs: 104-04-150, 104-04-142, 104-04-143, 104-04-151, 104-04-112, 104-04-113, 104-04-065, 104-04-111, 104-04-064), incorporated by this reference, subject to such minor and clarifying changes consistent with the terms thereof as may be approved by the City Attorney prior to execution thereof.

SECTION 3: Pursuant to Government Code Sections 65867 and 65867.5, the City Council hereby finds that the provisions of the Development Agreement are consistent with the General Plan, in that the proposed project creates a mixed-use development of the scale and character that complements and is supportive of the surrounding uses and existing and planned transit facilities; creates a mixed-use development that maximizes density with accessibility to alternative transportation modes, and integrates pedestrian, bicycle, transit, open space and outdoor uses to encourage active centers.

SECTION 4: The City Council hereby finds and determines that the Development Agreement complies with all requirements of Government Code Section 65865.2, in that the Development Agreement specifies the duration of the Agreement (10 years, with three 5 year extension options), lists the permitted uses of the property (residential, commercial, office/research & development, and mixed use), sets the density and intensity of the proposed uses (60 to 250 dwelling units per acre with up to 3.1 Million square feet of nonresidential development), sets the maximum height and size of the proposed buildings (192 feet, as depicted on the Exhibit "PD

Development Plans - Revised Project” to Resolution No. [REDACTED]), and includes provisions for the dedication of land for public purposes (up to 7.6 acres).

SECTION 5: The City Manager and/or his designee is hereby authorized and directed to perform all acts to be performed by the City in the administration of the Development Agreement pursuant to the terms of the Development Agreement, including but not limited to conducting annual reviews of compliance as specified therein. The City Manager or designee is further authorized and directed to perform all other acts, enter into all other agreements, and execute all other documents necessary or convenient to carry out the purposes of this Ordinance and the Development Agreement.

SECTION 6: Except as specifically set forth herein, this Ordinance suspends and supersedes all conflicting resolutions, ordinances, plans, codes, laws, and regulations.

SECTION 7: This Ordinance shall not be codified in the Santa Clara City Code.

SECTION 7: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

PASSED FOR THE PURPOSE OF PUBLICATION this 19TH DAY OF NOVEMBER, 2024, by the following vote:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit "Development Agreement for Mission Point – Revised Project"

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