

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA,
APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF SANTA CLARA AND
INNOVATION COMMONS OWNER LLC (PREVIOUSLY YAHOO)
FOR THE PROPERTY LOCATED AT 5010 OLD IRONSIDES
DRIVE, SANTA CLARA**

[Original Ordinance No. 1858 Adopted May 11, 2010]

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

WHEREAS, California Government Code sections 65864 through 65869.51 (collectively, the “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;

WHEREAS, the City of Santa Clara (“City”) and Yahoo!, Inc., a Delaware corporation (“Yahoo”) entered into a Development Agreement dated May 25, 2010, recorded June 28, 2010 as Document No. 2075596, and re-recorded on October 1, 2010 as Document No. 20896671 in the Official Records of Santa Clara County (the “Development Agreement”), as well as an Operating Memorandum between the City and Yahoo, recorded June 17, 2015 as Document No. 22989859, in the Santa Clara County Clerk-Recorder’s Office, which was amended by that certain First Amendment to Operating Memorandum between City and Yahoo, recorded December 2, 2015 as Document No. 23106419, in the Santa Clara County Clerk-Recorder’s Office (collectively, the “Memoranda”). The Development Agreement and Memoranda concerned that certain real property consisting of nine lots located at 5010 Old Ironsides Drive (the “Project Site”);

WHEREAS, the Development Agreement authorizes the development of the Project Site with up to 3.06 million square feet of office/R&D/commercial uses consisting of 13 six-story buildings, three two-story commons buildings, surface parking, two levels of below grade parking, site circulation, landscaping, and public and private improvements (the “Project”);

WHEREAS, on May 10, 2010, in Resolution 10-7724, the City Council certified an Environmental Impact Report (“EIR”) for the Project;

WHEREAS, on or about June 16, 2016, Yahoo and LeEco Real Estate Group, LLC, a Delaware limited liability company (“LeEco”) entered into an Assignment of Development Agreement wherein Yahoo conveyed all of its rights, title and interests under the Development Agreement to LeEco and LeEco agreed to be bound by and perform all of Yahoo’s obligations under the Development Agreement and Memoranda. On or about June 28, 2018, LeEco transferred all of its rights and obligations in the Development Agreement to Innovations Commons Owner LLC, a Delaware limited liability company (“Developer”);

WHEREAS, Developer is the successor in interest to Yahoo under the 2010 Development Agreement;

WHEREAS, Section 11.1 of the Original Development Agreement provides that City and Yahoo, by mutual consent, may modify the terms of the Original Agreement;

WHEREAS, on May 6, 2019, Andrea Jones (“Applicant”), on behalf of Developer, applied for a “First Amendment to Development Agreement” , attached hereto and incorporated herein by this reference (“Amendment No. 1”) to extend the term of the Development Agreement for three additional years, with the proposed new expiration date of the Development Agreement of June 24, 2023;

WHEREAS, as a result of the application for Amendment No. 1, City staff prepared an Addendum to the 2010 Final EIR for the Yahoo Santa Clara Campus Project, attached hereto and incorporated herein by this reference;

WHEREAS, Santa Clara City Code (SCCC) Section 17.10.130 provides for the review and recommendation of the City’s Planning Commission of all development agreements before action is to be taken by the City Council;

WHEREAS, on October 23, 2019, the Planning Commission conducted a duly noticed public hearing to consider Amendment No. 1, at the conclusion of which, the Planning Commission voted to recommend that the City Council approve Amendment No. 1;

WHEREAS, on December 18, 2019, the City published notice of a public hearing to be conducted on January 14, 2020 to consider Amendment No. 1 in the Weekly, a newspaper of general circulation, and on December 10, 2019, the City mailed notice to all property owners located within 1,000 feet of the Project Site and posted a notice of the public hearing in three conspicuous locations within 300 feet of the Project Site;

WHEREAS, on December 10, 2019, the City also mailed notice to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the Project; and

WHEREAS, on January 14, 2020, the City Council conducted a public hearing to consider Amendment No. 1, at which time the Council received and considered all written testimony and evidence submitted.

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

SECTION 1: The City Council hereby finds that all of the foregoing recitals are true and correct.

SECTION 2: The City Council finds that consideration of Amendment No. 1 is based on the Addendum to the 2010 Final EIR for the Yahoo Santa Clara Campus Project. The City Council has reviewed the Addendum, and based upon its independent judgment, finds that it is complete and complies in all aspects with CEQA.

SECTION 3: Pursuant to Government Code section 65867.5, the City Council hereby finds that the provisions of Amendment No. 1 are consistent with the General Plan, in that it would locate an industrial office campus development in proximity to workforce housing, commercial uses, services, and major transportation corridors. The General Plan's stated goals include locating higher-intensity employment centers near major transit services and major transportation corridors to reduce vehicle miles traveled and providing sufficient industrial land to meet the demand for local employment and retention of the City's economic base.

SECTION 4: The City Council has reviewed Amendment No. 1 and based on its review finds that

the Development Agreement, as amended by Amendment No. 1, complies with all requirements of Government Code section 65865.2 [entitled "Contents" (of a Development Agreement)].

SECTION 5: The City Council hereby approves Amendment No. 1, substantially in the form attached hereto.

SECTION 6: The City Manager is hereby authorized to execute Amendment No. 1 on behalf of the City upon adoption of this Ordinance, together with such minor and clarifying changes consistent with the terms thereof as may be approved by the City Attorney prior to execution thereof. The City Manager, or designee, is also authorized and directed to take any action and execute any documents or agreements necessary to implement the Development Agreement as amended, including but not limited to conducting an annual review of compliance as specified therein.

SECTION 7: Except as specifically set forth herein, this ordinance suspends and supersedes all conflicting resolutions, ordinances, plans, codes, laws and regulations.

SECTION 8: Within ten (10) days after the City Manager executes Amendment No. 1, the City Clerk shall cause Amendment No. 1 to be recorded with the Santa Clara County recorder.

SECTION 9: This Ordinance shall not be codified in the Santa Clara City Code.

SECTION 10: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 11: 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 ____ day of _____, 2020, by the following vote:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

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

Attachments incorporated by reference:

1. Amendment No. 1 to the Development Agreement with Innovation Commons Owner LLC

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