

ORDINANCE NO. 1978

**AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA,
APPROVING THE AMENDMENT NO. 2 TO THE DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF SANTA CLARA AND SI
55, LLC (PREVIOUSLY SOBRATO DEVELOPMENT COMPANIES
NO. 70 LP) FOR THE PROPERTY LOCATED AT 2200, 2211 AND
2231 LAWSON LANE, SANTA CLARA**

[Original Ordinance No. 1838 Adopted May 6, 2008]

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, Sobrato Development Companies No. 70, LP and the City of Santa Clara ("City") are parties to that certain Development Agreement effective June 5, 2008 and recorded on June 19, 2008 as document number 19892167 in the Official Records of Santa Clara County (the "2008 Agreement" or "2008 Development Agreement") concerning that certain real property that consists of two lots. The west project site ("West Site") is comprised of approximately seven and 55/100 (7.55) acres, and is bounded by San Tomas Expressway, Lawson Lane and Central Expressway. The east project site ("East Site") which site consists of approximately eight and 80/100 (8.80) acres is located directly across Lawson Lane from the West Site. Both sites are further described in the 2008 Development Agreement;

WHEREAS, concurrently with the submission of its Development Agreement application, Sobrato Development Companies No. 70, LP submitted to the City a Planned Development ("PD") zoning application for development of the East and West Sites (collectively, the "Property"). The PD application requested to develop the West Site of the Property as a six (6) story office building containing approximately two hundred nine thousand one hundred (209,100) square feet of office space along with a related parking garage ("West Site Project") and the East Site as two (2) five (5) story buildings together consisting of approximately three hundred six thousand nine hundred

(306,900) square feet of office space along with a related parking garage ("East Site Project"). The West Site Project and East Site Project are referred to herein, collectively, as the "Project";

WHEREAS, the 2008 Development Agreement contemplated that the Project would be developed in several phases which are outlined in more detail in the Development Plan and the Conditions of Approval, as those terms are defined in the 2008 Development Agreement. Phase I was to consist of two (2) five (5) story office buildings, totaling a combined approximately three hundred six thousand nine hundred (306,900) square feet of office space, a 8,000 square foot commons building, and a parking structure that would have accommodated approximately six hundred ninety-four (694) parking spaces, in addition to approximately three hundred twenty-nine (329) surface parking spaces;

WHEREAS, under the 2008 Development Agreement, Phase II was to consist of a single six (6) story office building consisting of approximately two hundred nine thousand one hundred (209,100) square feet of office space, and would have included a parking structure that would have accommodated approximately four hundred sixty-five (465) parking spaces, in addition to approximately two hundred thirty-two (232) surface parking spaces;

WHEREAS, on September 5, 2010, Sobrato Development Companies No. 70, LP conveyed all of its right, title, and interest in the Property to SI 55, LLC, a California limited liability company, through a grant deed recorded as Document No. 20894354 in the Official Records of Santa Clara County;

WHEREAS, SI 55, LLC is the successor in interest to Sobrato Development Companies No. 70, LP under the Original Development Agreement;

WHEREAS, on May 21, 2013 and June 11, 2013, respectively, the City Council approved an amendment to the PD zoning designation and a First Amendment to the Development Agreement (collectively, the "Revised Project"). Under the Revised Project, Phase II increased in size by 97,800 square feet of office space plus 17,158 square feet of common space on the West Site, for a total of up to 324,058 square feet of office/commons space. The Revised Project will result in a total of up to 638,958 square feet of development over the entire 16-acre project site. The Revised Project also

increased the parking on the Property, providing a ratio of four (4) spaces per 1,000 square feet of development on the West Site. Development on the East Site was modified to include a fifth level of parking and to add square footage to the common building. The 2008 Development Agreement, as modified by the First Amendment to the Development Agreement, shall be referred to herein as the "Original Agreement";

WHEREAS, Section 10.4 of the Original Development Agreement provides that the Parties, by mutual consent, may modify the terms of the Original Agreement, and the Parties negotiated a proposed Second Amendment to Development Agreement, attached hereto and incorporated herein by this reference ("Amendment No. 2");

WHEREAS, on April 15, 2008, in Resolution 08-7508, the City Council certified the Environmental Impact report ("EIR") for the Project;

WHEREAS, on April 23, 2013, in Resolution 13-8034, the City Council adopted the Mitigated Negative Declaration ("MND") for the Revised Project;

WHEREAS, on January 22, 2018, SI 55, LLC applied for a "Second Amendment to Development Agreement", attached hereto and incorporated by this reference ("Amendment No. 2") to extend the term of the Original Development Agreement for two additional years, with expiration of the Development Agreement on June 23, 2020;

WHEREAS, as a result of the application for Amendment No. 2 to the Original Development Agreement, City staff prepared an Addendum to the 2008 Final Environmental Impact Report and 2013 MND for the Lawson Lane Development Agreement Extension Project:

WHEREAS, on March 21, 2018, the City published notice of a public hearing to be conducted on April 3, 2018 to consider the Amendment No. 2 in the Santa Clara Weekly, a newspaper of general circulation, and on March 23, 2018, the City mailed notice to all property owners located within 300 feet of the Project Site and posted a notice of the public hearing in three locations;

WHEREAS, on March 28, 2018, the Planning Commission conducted a duly noticed public hearing to consider Amendment No. 2, at the conclusion of which, the Planning Commission voted to

recommend that the City Council approve Amendment No. 2;

WHEREAS, on April 3, 2018, the City Council reviewed and considered the Addendum to the 2008 Final Environmental Impact Report and 2013 MND; and

WHEREAS, on April 3, 2018, the City Council conducted a public hearing, 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: Pursuant to Government Code section 65867.5, the City Council hereby finds that the provisions of the Amendment No. 2 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.

SECTION 3: The City Council has reviewed the Amendment No. 2, and based on its review finds that the 2008 Development Agreement, as amended by Amendment No. 2, complies with all requirements of Government Code section 65865.2 [entitled "Contents" (of a Development Agreement)].

SECTION 4: The City Council hereby approves Amendment No. 2, substantially in the form attached hereto.

SECTION 5: The City Manager is hereby authorized to execute Amendment No. 2 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 Manger, 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 annual review of compliance as specified therein.

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

SECTION 7: Within ten (10) days after the City Manager executes Amendment No. 2, the Acting City Clerk shall cause Amendment No. 2 to be recorded with the Santa Clara County recorder.

SECTION 8: This Ordinance shall not be codified in the Santa Clara City Code.

SECTION 9: 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 10: 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 3rd day of APRIL, 2018, by the following vote:

| | | |
|------------|-------------|---|
| AYES: | COUNCILORS: | Caserta, Davis, Kolstad, Mahan, O'Neill, and Watanabe and Mayor Gillmor |
| NOES: | COUNCILORS: | None |
| ABSENT: | COUNCILORS: | None |
| ABSTAINED: | COUNCILORS: | None |

ATTEST:

Jennifer Yamaguma
FOR JENNIFER YAMAGUMA
ACTING CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Amendment No. 2 to the Development Agreement with SI 55, LLC

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
Click and Type name and address

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF SANTA CLARA,
a chartered California municipal corporation
and
SI 55, LLC,
a California limited liability company

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (“**Second Amendment**”) is dated for reference purposes as, _____ 2018, and is made by and between THE CITY OF SANTA CLARA (“**City**”), a chartered California municipal corporation, and SI 55, LLC, a California limited liability company (“**Sobrato**”).

Recitals

- A. Sobrato Development Companies No. 70, LP and the City were parties to that certain Development Agreement effective June 5, 2008 and recorded on June 19, 2008 as document number 19892167 in the Official Records of Santa Clara County (the “2008 Agreement”) concerning that certain real property that consists of two lots. The west project site (“**West Site**”) comprises approximately seven and 55/100 (7.55) acres, and is bounded by San Tomas Expressway, Lawson Lane and Central Expressway. The east project site (“**East Site**”) site consists of approximately eight and 80/100 (8.80) acres and is located directly across Lawson Lane from the West Site. Both sites are further described in the 2008 Agreement. The West Site Project and East Site Project are referred to herein, collectively, as the “**Project.**”
- B. The 2008 Agreement contemplated that the Project would be developed in several phases (Phase I and Phase II) which are outlined in more detail in the Development Plan and the Conditions of Approval, as those terms are defined in the 2008 Agreement.
- C. On June 11, 2013, the City Council adopted Ordinance No. 1907 enacting the First Amendment to the 2008 Agreement, and the Ordinance became effective thirty (30) days later on July 11, 2013. The 2008 Agreement, as amended by the 2013 First Amendment, shall be referred to hereinafter as the “Original Agreement”.
- D. The First Amendment modified Phase II of the Project (“Revised Project”) and recognized that SI 55 LLC is the successor-in-interest to Sobrato Development Companies No. 70, LP under the Original Agreement.
- E. Section 10.1 of the Original Agreement provides that City and Sobrato, by mutual consent, may modify the terms of the Original Agreement, and the parties intend to do so by this Second Amendment.
- F. On April 3, 2018, the City Council held a duly noticed public hearing on this Second Amendment and (i) determined that consideration of this Second Amendment based on the Mitigated Negative Declaration adopted on April 23, 2013, complies in all respects with CEQA and therefore an Addendum was prepared; (ii) determined that this Second Amendment is consistent with the City’s General Plan; and (iii) approve this Second Amendment.

NOW, THEREFORE, pursuant to the authority contained in Section 65864 et seq., of the California Government Code and “The Code of the City of Santa Clara, California” (“SCCC”) Section 17.10.010 et seq., and in consideration of the mutual covenants and promises of the parties, the Parties agree as follows:

1. Modification to Term.

Section 1.2 of the Original Agreement is replaced with a new Section 1.2 to read as follows:

“1.2 Term. The term (“Term”) of this Agreement commenced on the effective date of Ordinance No. 1838 approving the Original Agreement, which was June 5, 2008. The Term of the Original Agreement was extended for two (2) periods of five (5) years, or until June 4, 2018. The Term will be extended for an additional two (2) years, or until June 4, 2020 (“Extension”). Following expiration of the Extension, or if sooner terminated, this Agreement shall have no force and effect, subject, however, to post-termination obligations of Sobrato.”

2. Additional Fee Provisions

New Sections 3.5 through 3.6 are hereby added to read as follows:

“3.5 Regional Traffic Fee. For Phase II of the Project, Developer agrees to the sum of two dollars and fifty cents (\$2.50) per square foot of new construction payable to the City prior to the issuance of Building Permits for that square footage.

3.6 Water Fees. For Phase II of the Project, Developer agrees to pay a water connection fee for the new construction, in the amount established by resolution of the City Council. The water connection fee shall be paid prior to the issuance of Building Permits for Phase II.”

3. Modified Conditions of Approval. Conditions of Approval P2 and P15 are hereby amended to read as follows. Developer agrees to comply with these revised conditions of approval notwithstanding any more lenient language that appears in the conditions of the PD zoning:

“P2. Developer shall employ green building standards and materials in the site design and construction of Phase II of the campus development project in order to meet the USGBC ‘LEED v4 for Building Design and Construction’ Gold standard or equivalent.”

“P15. The Developer/Owner shall develop and implement a Transportation Demand Management (TDM) program. Prior to issuance of the first occupancy permit for Phase II, the Developer/Owner shall prepare and receive approval of a TDM program to reduce vehicle trips by at least ten percent (10%). On the annual anniversary of the issuance of the first occupancy permit for Phase II, the Developer/Owner shall prepare and provide to the Planning Division an annual report outlining the performance of the TDM program.”

4. Additional Condition of Approval. Developer agrees to comply with a new condition of approval P18, which shall be added to the Agreement to read as follows:

“P18. Developer shall install electric vehicle charging stations at six percent (6%) of the total parking spaces in Phase II, and prewire an additional nine percent (9%) of the parking spaces for future installation of charging stations.”

5. Counterparts; Facsimile Signatures.

This Second Amendment may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one instrument. The signatures of any party or parties on this Second Amendment transmitted by facsimile shall be deemed the same as an original signature and shall be binding on the party transmitting the same.

6. Modification.

Except as modified above, the terms and conditions of the Original Agreement shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms of this Second Amendment and the terms of the Original Agreement, the terms of this Second Amendment shall control.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

ATTEST:

JENNIFER YAMAGUMA
Acting City Clerk

**SI 55, LLC
a California limited liability company**

By: Sobrato Interests 3,

Its: a California limited partnership
Sole Member

By: Sobrato Development Companies, LLC,
a California limited liability company
Its: General

By: _____
John Michael Sobrato
Its: Manager

Local Address: 10600 North De Anza Blvd., Suite 600
Cupertino, CA 95014
Telephone: (408) 446-0700
Fax: (408) 446-0583