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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. 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.

4. 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:

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City Attorney

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ATTEST:

JENNIFER YAMAGUMA
Acting City Clerk

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

By: Sobrato Interests 3,
a California limited partnership
Its: Sole Member

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

By: _____
John Michael Sobrato
Its: Manager

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