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MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF SAN JOSE AND  
THE CITY OF SANTA CLARA REGARDING

RESPONSIBILITIES FOR PLANNING, BUILDING AND INSPECTION  
ACTIVITIES, AS WELL AS RELATED PUBLIC WORKS IMPROVEMENTS,  
FOR THE PROPOSED RESIDENTIAL DEVELOPMENT ALONG  
CAMPBELL AVENUE BY SOBRATO DEVELOPMENT COMPANY

PREAMBLE

This Memorandum of Understanding ("MOU") is made and entered into this 18th day of November, 2008 (the "Effective Date"), by and between the City of San Jose, a chartered municipal corporation of the State of California with its primary business address located at 200 E. Santa Clara Street, San Jose, California 95113 ("San Jose"), and the City of Santa Clara, a chartered municipal corporation of the State of California with its primary business address located at 1500 Warburton Avenue, Santa Clara, California 95050 ("Santa Clara"). San Jose and Santa Clara may be referred to collectively herein as the "Cities" and may be referred to individually as a "City."

RECITALS

**WHEREAS**, Sobrato Development Company ("Sobrato") proposes to develop a multi-family residential development of up to 259 dwelling units on 1270 Campbell Avenue an approximately 5.11 grossacre parcel (Assessor's Parcel No. 230-14-026) which site is partially located within the boundaries and jurisdiction of San José and partially located within the boundaries and jurisdiction of Santa Clara, all as more particularly shown upon that certain "Site Map" attached hereto as Exhibit A and incorporated herein by this reference (the "Project Site"); and

**WHEREAS**, Sobrato has submitted various development permit applications to San José (File No[s]. PDC07-081, PD08-039) and to Santa Clara (File No[s]. PLN2008-07068) seeking to allow for the proposed Project described herein to be developed on the Project Site, all as more fully described within that certain "Project Description" attached hereto as Exhibit B and incorporated herein by this reference (the "Project"); and

**WHEREAS**, both San José and Santa Clara will consider taking discretionary actions related to the Project, but mutually desire San Jose to act as the lead agency and Santa Clara to act as a responsible agency in analyzing the Project under and pursuant to the provisions of the California Environmental Quality Act of 1970, together with related guidelines and local regulations promulgated there under, all as amended from time to time; and

**WHEREAS**, for the sake of clarity and cooperation, San Jose and Santa Clara desire to outline their respective rights and responsibilities and mutual understandings with regard to reviewing, processing and planning for construction, inspection and related development activities for the Project, including but not limited to plan check, permit processing and issuance, public works inspections, fire safety inspections, and levy of

and collection of fees or taxes related to all such activities.

**NOW, THEREFORE,** the Cities understand and agree as follows:

## AGREEMENT

### 1. Scope of Agreement.

- A. This MOU applies exclusively to the activities of San José and Santa Clara in connection with those certain development approvals to be considered by each City in connection with the Project, including without limitation plan check, permit issuance, Building Division inspections, public works inspections, fire safety inspections, and levy of and collection of fees in connection with such activities. The plan check, permit issuance, Building Division inspections, fire safety inspections, and levy of and collection of fees in connection with such activities shall be performed by the City of San Jose in perpetuity for the life of the subject project. This MOU is not intended to govern the provision of emergency services by either City on the Project Site. Similarly, the City of San Jose will not provide their Code Enforcement services to City of Santa Clara.
- B. The Cities expressly understand and agree that nothing contained in this MOU is intended to, nor shall, in any way bind either City to act in any particular manner upon any of the development approval applications submitted to that City for the Project and that this MOU in no way binds a City to approve, nor presupposes that a City shall approve, any particular development permit or approval application submitted to that City in connection with the Project.
- C. The Cities expressly understand and agree that nothing contained in this MOU is intended to, nor shall, in any way delegate or grant any legislative or police power of a City to another City, including but not limited to any authority regarding land use matters.

### 2. Definitions.

- A. "Certificate of Occupancy" means a final certificate issued by San Jose entitling occupation of any part of the Project on the Project Site.
- B. "Cross-boundary Structure" means a structure within the Project that is built across the jurisdictional boundary line between San Jose and Santa Clara, specifically Structure(s) as shown upon Exhibit A, the Site Map.
- C. "Cross-boundary Tenant Space," means tenant space within the Project that is built across the jurisdictional boundary line between San Jose and Santa Clara, located within Structure(s) as shown upon Exhibit A, the Site Map.
- D. "Future Tenant Improvements" means any improvement to a portion of a