



# CITY OF SAN JOSÉ, CALIFORNIA

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City Clerk

STATE OF CALIFORNIA)  
COUNTY OF SANTA CLARA)  
CITY OF SAN JOSE)

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that **“Ordinance No. 28766”**, the original copy of which is attached hereto, was passed for publication of title on the **22<sup>nd</sup> day of June, 2010**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **3<sup>rd</sup> day of August, 2010**, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA,  
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **3<sup>rd</sup> day of September, 2010**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **9<sup>th</sup> day of August, 2010**.

(SEAL)

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LEE PRICE, MMC  
CITY CLERK & EX-OFFICIO  
CLERK OF THE CITY COUNCIL

/rmk

**ORDINANCE NO. 28766**

**AN ORDINANCE OF THE CITY OF SAN JOSE APPROVING AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT WITH CISCO TECHNOLOGIES, INC. RELATIVE TO THE DEVELOPMENT OF REAL PROPERTIES LOCATED IN NORTH SAN JOSE, TO PRESERVE THE ABILITY TO CONSTRUCT UP TO 2.5 MILLION SQUARE FEET OF INDUSTRIAL PARK DEVELOPMENT UNDER THE PROVISIONS OF THE NORTH SAN JOSE AREA DEVELOPMENT POLICY, AND AUTHORIZING THE CITY CLERK TO EXECUTE THE AMENDED DEVELOPMENT AGREEMENT**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1.** This Ordinance is adopted under the authority of California Government Code Section 65868 and pursuant to the provisions of City of San Jose ("City") Ordinance No. 24297 (the "Enabling Ordinance"), both of which provide for the ability to adopt and amend development agreements and set forth procedures and requirements for the consideration of those agreements.

**SECTION 2.** This Ordinance incorporates by reference as though fully set forth herein that certain form of an "Amended and Restated Development Agreement By and Between the City of San José and Cisco Technology, Inc., Relative to the Development of Certain Real Properties Located in North San José," which agreement is attached hereto as "Attachment 1" (the "Agreement").

**SECTION 3.** The project described in the Agreement (the "Project") and the Agreement are included within the subject of the Final Program Environmental Impact Report for the North San Jose Development Policies Update ("EIR") prepared in conformance with the California Environmental Quality Act of 1970, together with guidelines promulgated thereunder and Title 21 of the San Jose Municipal Code (collectively, "CEQA"). CITY prepared and reviewed an Addendum to the EIR for the Project and the Agreement, entitled "Master Site Development Permits and Development Agreement for Cisco Site 4 Campus," in May of 2010 (the "Addendum") due to the fact that neither the Project nor the Agreement result in any new or substantially more severe significant impacts or new

or substantially different feasible alternatives or mitigation measures than identified in the EIR. On June 21, 2010, the Planning Commission of CITY reviewed and considered the EIR, together with the Addendum, as an adequate, accurate and objective analysis of the environmental impacts that would result from the Project and the Agreement prior to recommending approval of this Agreement to City's City Council. On June 21, 2005, the City Council of City adopted a resolution making certain findings regarding the EIR and adopted a statement of overriding considerations and a mitigation monitoring and reporting program in connection with the EIR ("Resolution No. 72768"). The EIR, together with Resolution No. 72768, analyzed the environmental impacts of the entire project as described in that EIR, which encompasses the Project and the Agreement, and, together with the Addendum, provides environmental review as required by CEQA for the Project and the Agreement as those elements are known to date.

**SECTION 4.** The City Council finds that the following are the relevant facts concerning the proposed Agreement:

- A. The General Plan designation for the real properties described in the Agreement is Industrial Park.
- B. The real properties that are the subject of the Agreement are approximately 137 acres in size and described in more detail in the Agreement (the "Subject Properties"), are currently are owned by Cisco Technology, Inc., a California corporation ("CISCO"), and will be subject to those certain vested elements enumerated in Section 2 of the Agreement, which vested elements provide for certain industrial park uses on the Subject Properties.
- C. CISCO proposes to reserve under the North San José Area Development Policy up to 2.5 Million square feet of development capacity on the Subject Properties in order to facilitate further development on or intensification of the Subject Properties, consistent with those Development Approvals and other Vested Elements described in the Agreement.

- D. CISCO requests the Agreement from City in order to enable and assure the orderly development or intensification of the Subject Properties, all in a manner consistent with the Agreement.
- E. Consistent with the Enabling Ordinance and as described in the Agreement:
1. Development or intensification of the Subject Properties as described in the Agreement is consistent with City's General Plan and all applicable specific and area plans and policies, as amended to date, including without limitation the North San José Area Development Policy.
  2. Development or intensification of the Subject Properties as described in the Agreement should be encouraged in order to meet important economic goals of the City, including without limitation City's Economic Development Strategy, Strategic Initiative #5 – Creating an Entrepreneurial Environment – Support the Growth of Local Businesses, Small and Large, in Technological Fields, locating jobs near housing to reduce commutes for City residents, facilitating the City as a viable and desirable location for development of new technologies and innovations and associated industrial job opportunities, redeveloping underutilized property near transit investment with jobs so as to encourage use of transit, contributing toward the intensification of existing industrial development areas in proximity to public transit, provide funding for transportation improvements in the area that will alleviate existing traffic congestion, and facilitating increases in sales and property tax revenues necessary to provide services to City residents.
  3. The Agreement will facilitate the development of the Project in the manner proposed in the Agreement for the reasons further set forth in the recitals of the Agreement.
  4. The development of the Project described in the Agreement will make a substantial contribution to the economic development of the City in that: (i) the Project will expand and have as its primary use on the Subject Properties those uses that are consistent with the IP - Industrial P zoning district, which uses include research and development and business and

administrative offices; (ii) the Project is located on the Subject Properties that are approximately 137 acres in size; (iii) the Project will create at least 150,000 square feet and up to 2.5 Million square feet of new industrial development or intensification on the Subject Properties, which amount of square footage translates into at least 500 new jobs in City based upon the analyses and provisions of the North San Jose Area Development Policy; (iv) the Project qualifies as a "Special Handling" project under City Council Policy 6-17 because development of the Project will create at least 500 new jobs in City; (v) the Project will be used as a corporate headquarters by CISCO and by Cisco Systems, Inc., a California corporation ("CSI") which corporation is the corporate parent and sole shareholder of CISCO, as the primary users of the Project on the Subject Properties.

**SECTION 5.** This Council, based upon analysis of the facts set forth above, finds and concludes that CISCO's development of the Project on the Subject Properties as described in the Agreement will make a substantial contribution to the economic development of City through the creation of jobs in City, together with related generation of fees, revenues and taxes to City, as well as due to the factors enumerated in Section 4.E.4 hereinabove.

**SECTION 6.** The City Council hereby adopts the following as its findings required by Section 10 of the Enabling Ordinance, based upon all of the facts and analyses enumerated hereinabove:

- A. The proposed Agreement is consistent with City's General Plan and all applicable specific or area plans of City.
- B. The Project should be encouraged in order to meet important economic goals of City.
- C. The Agreement will facilitate development of the Project on the Subject Properties in the manner proposed in the Agreement.

D. The Project will make a substantial contribution to the economic development of City in that the Project will have industrial park uses as its primary use; the Project is located on the Subject Properties that comprise approximately 137 acres; the Project will create at least 500 new jobs in City; the Project qualifies as a "Special Handling" project under City Council Policy 6-17, and the Project will be used as a corporate headquarters by CISCO and CSI, the primary users of the Project.

**SECTION 7.** Based upon all of the foregoing, the City Council finds that the Agreement is consistent with the Enabling Ordinance. The City Council hereby approves the Agreement in substantially the form attached hereto as "Attachment 1" and hereby authorizes and directs the City Clerk to execute the Agreement in substantially the form approved by this Ordinance on behalf of the City of San Jose within a reasonable period of time after this Ordinance becomes effective.

**PASSED FOR PUBLICATION** of title this 22<sup>nd</sup> day of June, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED  
Mayor

ATTEST:



LEE PRICE, MMC  
City Clerk