

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Redwood City
1017 Middlefield Road
City of Redwood City, CA 94063-0391
Attention: City Clerk

Recorded for the Benefit of
City of Redwood City
Pursuant to Government Code
Section 27383

2023-063042 CONF

1:12 pm 11/29/2023 AG Fee: NO FEE

Count of Pages 7

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



Conformed Copy

Space Above Reserved for Recorder's Use Only

**AGREEMENT REGARDING IMPROVEMENTS IN RIGHT-OF-WAY, WAIVER,
RELEASE AND HOLD HARMLESS**

THIS AGREEMENT REGARDING IMPROVEMENTS IN RIGHT-OF-WAY, WAIVER, RELEASE AND HOLD HARMLESS (“**Agreement**”) is entered into as of OCTOBER 25, 2022 (the “**Effective Date**”), by and between the City of Redwood City, a charter city and municipal corporation of the State of California (“**City**”) and SI XX, a California limited liability company (“**Owner**”). City and Owner may hereinafter be referred to individually as a “**Party**” or collectively as the “**Parties**”.

RECITALS

A. Owner is the owner of that certain real property located at 1401 Broadway, Redwood City, California, as more particularly described in Exhibit “A”, attached hereto and incorporated herein by this reference (the “**Property**”). Owner applied to the City for an encroachment permit to install *piles, CSM panels, tieback anchors* and other improvements (the “**Improvements**”) within the City’s right-of-way (“**Right-of-Way**”) adjacent to the Property.

B. Owner is installing the Improvements as part of, and as necessary with respect to, the construction of structures on the Property.

C. Special Provision No. 10 of Encroachment Permit No. CP20-0318 and CP22-0284 (the “**Encroachment Permit**”), granting the permit and allowing the construction of the Improvements within the Right-of-Way, requires that Owner remove all of its Improvements, at its own expense, when directed to do so by City.

D. Owner desires to abandon in place the shoring piles at least four feet below grade or to the depth of the bottom of the adjacent public watermain within Broadway, whichever is less (the “**Removal Depth**”), and leave the anchors permanently in the Right-of-Way, and City agrees to such abandonment subject to the terms and conditions herein.

E. City and Owner desire to enter into this Agreement to set forth an exception to Special Provision No. 10 of the Encroachment Permit. In addition, City and Owner desire to set forth the agreement between the Parties with respect to Owner's obligations regarding the Improvements to be abandoned in place, including the portions of Owner's Improvements that must be removed, Owner's waiver, release and hold harmless, and the costs of removal.

A G R E E M E N T

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Owner hereby agree as follows:

1. Removal of Improvements. Upon completion of the construction of the building located at 1401 Broadway, and prior to issuance of a Certificate of Completion, Owner shall remove all Improvements, including piles, CSM panels, and tieback anchors installed or placed in the Right-of-Way within the Removal Depth.

2. Improvements to Remain in Right-of-Way. Notwithstanding Special Provision No. 10 of the Encroachment Permit, but subject to the terms and conditions herein, Owner may abandon in place only those Improvements located deeper than the Removal Depth, and in no event shall Owner be required to de-tension any anchors entering the Right-of-Way at or below 15 feet below grade.

3. Reimbursement for Costs of Future Removal. Owner agrees and acknowledges that a portion of any Improvements abandoned pursuant to Section 2 will remain and be located within the Right-of-Way and that City may, from time to time, perform work and maintenance within the Right-of-Way, which work or maintenance may require the removal of the remaining Improvements. Prior to issuance of the Encroachment Permit, Owner shall pay to the City a lump sum payment of One Hundred Eighty-Three Thousand, Seven Hundred Fifty Dollars (\$183,750) ("Maintenance/Removal Fee") to compensate City for potential future removal of the Improvements, including anchors. Notwithstanding anything to the contrary, City hereby agrees and acknowledges that the Maintenance/Removal Fee shall be the sole consideration due by Owner in connection with respect to the Improvements, and in no event shall Owner owe City additional amounts even if the Maintenance/Removal Fee is diminished.

4. Waiver and Release. Owner agrees and acknowledges that a portion of the Improvements will remain and be located within the Right-of-Way and that City may, from time to time, perform work and maintenance within the Right-of-Way, which work or maintenance may damage buildings and structures located on the property adjacent to the Improvements. To the fullest extent provided by law, Owner, for itself, its assigns and successors in interest, hereby fully waives, releases and discharges the City of Redwood City, and its officers, officials, employees, volunteers, agents, consultants, attorneys, and representatives ("**City Parties**"), from any and all claims, liens, demands, causes of action, actions, debts, damages and liabilities, including attorneys' fees and costs ("**Claims**") related to, caused by or arising from the removal of the Improvements or the presence of the Improvements during work within the Right-of-Way performed by City or its contractors. Such Claims include without limitation damage to waterproofing or the foundation of any structure on the Property. This waiver and release includes all Claims whether at this time known or unknown, anticipated or unanticipated, direct or indirect,

fixed or contingent. Owner expressly waives and relinquishes any and all rights and benefits under Section 1542 of the Civil Code of the State of California with respect to this waiver and release. Section 1542 reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

5. Indemnification. To the fullest extent provided by law, Owner, for itself, its assigns and successors in interest, hereby holds harmless and indemnifies the City Parties from and against any and all Claims arising from work within the Right-of-Way performed by City or its contractors, except to the extent of City's gross negligence or willful misconduct.

6. Encroachment Permit in Full Force and Effect. Except for the exception provided in Section 2 above, the Encroachment Permit remains in full force and effect.

7. Acknowledgment. Owner expressly agrees that it has read the entirety of this Agreement and understands all of its terms and provisions. The contents and effects of this Agreement have been explained to the Owner by counsel of its own choice, or Owner has had an opportunity to seek counsel of his/her own choice, and this Agreement is executed voluntarily and with full knowledge of its significance.

8. Runs with the Land. The covenants and agreements contained in this Agreement shall run with the Property and be binding upon and inure to the successors to the Property.

9. Notification upon Conveyance or Transfer. Upon the conveyance or transfer of the Property, Owner shall advise the purchaser or transferee of the existence of this Agreement.

10. Integration. This Agreement constitutes a single integrated written document expressing the entire agreement of the Parties regarding this subject matter, and supersedes any and all prior written and oral agreements between them. Any statement, promise, or commitment about this subject matter which is not contained in this Agreement shall be void and invalid.

11. Governing Law. This Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without reference to its choice of law provisions.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

OWNER:

Matthew V. Sansini

By: SI XX, LLC
Name: Matthew V. Sansini
Its: Manager

[Signature must be notarized]

CITY:

CITY OF REDWOOD CITY, a municipal corporation

By: *Melissa Stevenson Diaz*
Melissa Stevenson Diaz, City Manager

[Signature must be notarized]

ATTEST:

Jessika Castro
Pamela Aguilar, City Clerk
JESSIKA CASTRO, INTERIM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

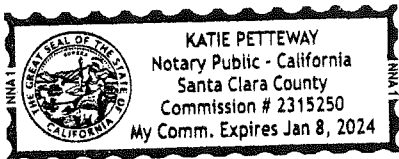
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
 }
County of Santa Clara } ss.

On December 12, 2022, before me, KATIE PETTEWAY, a Notary Public in and for said County and State, personally appeared **MATTHEW W. SONSINI**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal



Katie PetteWAY
NOTARY PUBLIC, STATE OF CALIFORNIA
My Commission #2315250
Expires: January 8, 2024

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

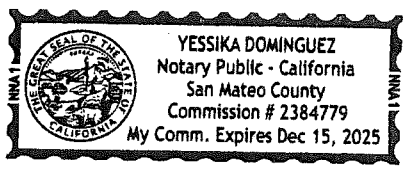
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of SAN MATEO

On OCTOBER 25, 2023 before me, YESSIKA DOMINGUEZ, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared MELISSA STEVENSON DIAZ
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature [Handwritten Signature]
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

Signer's Name: _____
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

**EXHIBIT "A"
LEGAL DESCRIPTION**

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

LOTS 1, 2, 3, 4, 5, AND 6, AS SHOWN ON THAT CERTAIN MAP ENTITLED "REDWOOD PLAZA SHOPPING CENTER SUBDIVISION BEING A RESUBDIVISION OF PARCELS 1 & 4 AS SHOWN ON AMENDED PARCEL MAP NO. 70710AB RECORDED AUGUST 28, 1968 IN VOLUME 6 OF PARCEL MAPS AT PAGE 16 OFFICIAL RECORDS OF SAN MATEO COUNTY, REDWOOD CITY, SAN MATEO COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON JULY 05, 1972 IN BOOK 75 OF MAPS, PAGES 44 AND 45.

Legal Description prepared by Kier & Wright Civil Engineers and Surveyors, Inc.

11-30-2022

Date


Ryan M. Amaya, LS 8134

