

LEGAL NOTICE

CITY OF PATTERSON

SUMMARY

Ordinance No. 790

An Ordinance of the City Council of the City of Patterson Approving a Second Amendment to the First Amended and Restated Development Agreement by and between the City of Patterson, Keystone Pacific Business Park West, LLC.

Ordinance No. 791

An Ordinance of the City Council of the City of Patterson Adding Chapter 1.26 Filing Methods of Campaign Disclosure Statements of the Patterson Municipal Code.

NOTICE IS HEREBY GIVEN that this document along with the full/complete copy of Ordinance Nos. 790 and 791 are available for public review at the City of Patterson City Hall, City Clerk's Office, 2nd Floor, during normal business hours and/or available On-Line on the City of Patterson Web Site www.ci.patterson.ca.us listed under Popular Links; Legal Notices & Public Hearings and Agenda Center, City Council meetings of February 16, 2016 and March 1, 2016. City Hall is located at 1 Plaza in the City of Patterson. Said Ordinance Nos. 790 and 791 were adopted at a regular meeting of the City Council on March 1, 2016 by the following roll call vote:

AYES: Councilmembers McCord, Farinha and Mayor Pro Tem Novelli
NOES: None
EXCUSED: Councilmember Lustgarten and Mayor Molina

FURTHER INFORMATION on the above Ordinance Nos. 790 and 791 may be obtained at the City of Patterson City Hall, City Clerk's Office, 2nd Floor or by calling (209) 895-8014 or by email at cityclerk@ci.patterson.ca.us

Maricela Vela, City Clerk
City of Patterson

DATE ADVERTISED: March 10, 2016

CERTIFICATION OF ORDINANCES

I hereby certify that the foregoing is a full, correct and true copy of Ordinance Nos. 790 and 791 introduced by the City Council of the City of Patterson, a Municipal Corporation in the County of Stanislaus, State of California, at a regular meeting held on the 16th day of February 2016 at 7:00 p.m. in City Hall, City Council Chambers, 1 Plaza, Patterson, California. Second Reading and Adoption of Ordinance Nos. 790 and 791 was held on the 1st day of March 2016 at 7:00 p.m. in City Hall, City Council Chambers, 1 Plaza, Patterson, California.

Maricela Vela, City Clerk
City of Patterson

ORDINANCE NO. 790

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON
APPROVING A SECOND AMENDMENT TO THE FIRST AMENDED AND
RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF
PATTERSON, KEYSTONE PACIFIC BUSINESS PARK, LLC, AND KEYSTONE
BUSINESS PARK WEST, LLC,**

WHEREAS, in order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development, the Legislature of the State of California adopted the Development Agreement Statute (Gov. Code § 65864 et seq.), and the City of Patterson ("City") adopted Patterson Municipal Code § 18.20.070, authorizing any person or entity having a legal or equitable interest in real property to enter into a development agreement with the City establishing certain development rights in and obligations with respect to the property; and

WHEREAS, on or about April 15, 2003, Keystone Pacific Business Park, LLC, and Keystone Business Park West, LLC ("Landowner") and the County of Stanislaus ("County") entered into a development agreement; and

WHEREAS, on January 3, 2006, upon annexation of the property, the City Council adopted Ordinance No. 670, approving an amended and restated development agreement, and on March 9, 2010, the City Council adopted Ordinance No. 710, approving a subsequent amendment to the development agreement; and

WHEREAS, City staff recently received a request to amend the development agreement, to remove the specific provisions for the development of Flex Parcels within Keystone Business Park (the "Amendment"); and

WHEREAS, the Planning Commission of the City of Patterson held a duly noticed public hearing on January 28, 2016, to consider the Amendment and make recommendations to the City Council; and

WHEREAS, the City Council finds that the Amendment is exempt from further CEQA analysis because the Amendment falls within the scope of the previously approved West Patterson Projects EIR (SCN #2001022031) and Revised Environmental Impact Report (SCH#2001032037), and under the general rule that CEQA only applies to projects that are reasonably foreseen to have a direct or indirect impact on the environment; no new or greater density is permitted and the proposed activity is within the intensity of use type analyzed by the previous studies; as a result, no new significant impacts would occur and no new mitigation is required; and

WHEREAS, based on its independent review and analysis, the staff analysis, oral and written testimony, the previously certified environmental review, and the Planning Commission's recommendation, the City Council finds, after due study, deliberation and public hearing that the Amendment:

A. Is consistent with the objectives, policies, land uses, and programs specified in the City's general plan and the West Patterson Business Park Master Development Plan;

B. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

C. Is in conformity with the public convenience and general welfare and good land use practices;

D. Will not be detrimental to the health, safety, and general welfare;

E. Will not adversely affect the orderly development of property or the preservation of property values; and

F. Will provide sufficient benefit to the city to justify entering into this agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PATTERSON ORDAINS AS FOLLOWS:

The City Council hereby approves the Second Amendment to the First Amended and Restated Development Agreement By and Between the City of Patterson, Keystone Pacific Business Park, LLC, and Keystone Business Park West, LLC, and instructs the City Manager to execute the Amendment along with the necessary technical revisions, if any, suggested by the City Attorney.

This Ordinance shall be published by one insertion in The Patterson Irrigator, a newspaper of general circulation, printed and published in the City of Patterson, within fifteen (15) days after its final passage, and shall take effect and be in force thirty (30) days after its final passage.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the 16th day of February 2016, and given its first reading at said meeting. Said Ordinance was given a second reading at a meeting of the City Council held on the 1st day of March 2016, and after such reading, _____, who moved its adoption, seconded by _____, and said ordinance was thereupon adopted by the following roll call vote:

AYES:
NOES:
EXCUSED:

APPROVED:

Luis I. Molina
Mayor of the City of Patterson

ATTEST:

Maricela Vela
City Clerk of the City of Patterson

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Patterson
P.O. Box 667
Patterson, CA 95363

Recording fees exempt pursuant to
Government Code §§ 6103, 27383

(Space Above For Recorder's Use Only)

APN: 021-085-013
021-085-015
021-085-017
021-085-020
021-088-015

SECOND AMENDMENT

TO THE FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT

BY AND BETWEEN THE CITY OF PATTERSON,

AND KEYSTONE PACIFIC BUSINESS PARK, LLC, AND

KEYSTONE BUSINESS PARK WEST, LLC

(Amendment to Recorded Document No. 2006-0084746-00)

Ordinance No. ___ Adopted on _____, 2016

SECOND AMENDMENT TO THE
FIRST AMENDED AND RESTATED
DEVELOPMENT AGREEMENT BY AND BETWEEN THE
CITY OF PATTERSON, KEYSTONE PACIFIC BUSINESS PARK, LLC, AND
KEYSTONE BUSINESS PARK WEST, LLC

This SECOND AMENDMENT TO THE FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF PATTERSON, KEYSTONE PACIFIC BUSINESS PARK, LLC, AND KEYSTONE BUSINESS PARK WEST, LLC ("Amendment") is made and entered into on _____, 2016, by and between the CITY OF PATTERSON, a California municipal corporation ("City"), and KEYSTONE PACIFIC BUSINESS PARK, LLC, a North Carolina limited liability company ("Landowner"), pursuant to Government Code section 65864 *et seq.* Landowner and City may herein be referred to individually as a "Party" and collectively as the "Parties." Keystone Business Park West, LLC no longer owns any legal or equitable interest in the property subject to this Amendment and is therefore not a party to this Amendment. There are no other parties to this Agreement.

This Agreement is entered into with reference to the following facts:

RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development, the Legislature of the State of California adopted Government Code section 65864 *et seq.* ("Development Agreement Statute"), and the City adopted Section 18.20.070 of the Patterson Municipal Code, authorizing the City and any person or entity having a legal or equitable interest in real property to enter into a development agreement establishing certain development rights in and obligations with respect to the property which is the subject of a development project application.

B. On or about April 15, 2003, Landowner and the County of Stanislaus ("County") entered into a development agreement (the "Original Agreement"). The subject property of the original Agreement involved approximately two hundred twenty four (224) acres of land.

C. On January 3, 2006, the City Council adopted Ordinance No. 670, approving an amended and restated development agreement (the "First Restated Agreement").

D. On March 9, 2010, the City Council adopted Ordinance No. 710, approving an amendment to the First Restated Agreement. The First Restated Agreement and amendment to the First Restated Agreement shall be collectively referred to herein as the "Development Agreement".

E. Since the execution of the Development Agreement, new parcels have been created, parcels have been sold by Landowner to new landowners and land users, and new parcels have been added to be included under the Development Agreement. The Parties do not

intend this Amendment to effect parcels that have been sold to third parties; the Development Agreement will still apply, as applicable, to those parcels. Consequently, the subject property of this Amendment shall be the parcels constituting approximately 51.25 acres of land remaining in the ownership of Landowner as of the date of execution of this Amendment. Such parcels are known as Stanislaus County APN 021-085-013, 021-085-015, 021-085-017, 021-085-020 and 021-088-015.

F. These subject properties are more particularly described in **Exhibit A** and shall be collectively referred to in this Amendment as the "Property."

G. Pursuant to Government Code section 65865(a), and as of the date of execution of this Amendment, Landowner owns either fee title or a legal or equitable interest to the remaining undeveloped Property.

H. Landowner intends to continue development of the Property as a business park development (the "Project") in accordance with this Amendment, the Development Entitlements, and the West Patterson Business Park Master Development, as it may be amended from time to time if such amendments are in accord with the First Restated Agreement, as amended.

I. Pursuant to Government Code sections 65867 and 65868, the Planning Commission of the City held a duly noticed and properly conducted public hearing on January 28, 2016, where it issued its recommendation to approve this Amendment to the City Council.

J. Pursuant to Government Code sections 65867 and 65868, the City Council of the City held a duly noticed and properly conducted public hearing on _____, 2016, regarding this Amendment. Pursuant to Government Code § 65867.5, the City Council found the provisions of this Amendment to be consistent with the City's General Plan and the West Patterson Business Park Master Plan, and authorized execution of this Amendment.

K. Development of the Property in accordance with the conditions of the Development Entitlements and this Amendment will provide orderly growth and development of the area in accordance with the policies set forth in the City's General Plan and the West Patterson Master Plan.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the Parties agree as follows:

AGREEMENT

1. Recitals and Exhibits. The above recitals and exhibits attached to this Amendment are incorporated by this reference and hereby made a part of this Amendment and the First Restated Agreement.

2. Effect of Agreement. Except as provided herein, the defined terms used in this Amendment shall have the same meaning as the terms have in the Development Agreement. Unless expressly amended by this Amendment, all other terms and provisions

of the Development Agreement shall remain in full force and effect. If any terms or provisions of this Amendment conflict with terms and provisions of the Development Agreement, the terms and provisions of this Amendment shall control.

3. Effective Date. This Amendment shall be effective (the “Effective Date”) only after (a) thirty (30) days have passed from the City Council’s adoption of the ordinance approving this Amendment; and (b) all parties have executed this Amendment. This Amendment shall be recorded in the County of Stanislaus within ten (10) days following the Effective Date.

4. Property Not Subject to Amendment. The Property shall be the only property subject to this Amendment. This Amendment shall in no way affect any parcel that has been sold to third parties and shall in no way affect land not defined within the Property.

5. Amendments.

- (a) Section 2.7 of the First Restated Agreement is hereby deleted.
- (b) Section 3.2 of the First Restated Agreement is hereby deleted.
- (c) Exhibit L to the First Restated Agreement is hereby deleted.
- (d) Section 9 to the First Restated Agreement is hereby deleted and replaced

as follows:

9. NOTICE

Except as otherwise specifically provided herein or required by law, all notices, requests, demands, and other communications required to or permitted to be given under the Agreement shall be in writing and shall be conclusively deemed to have been duly given (i) when hand delivered to the other Party; or (ii) three business days after the same have been deposited in a United States post office with first class or certified mail return receipt requested postage prepaid and addressed to the Parties as set forth below; or (iii) the next business day after same have been deposited with a national overnight delivery service reasonably approved by the Parties (Federal Express and DHL Worldwide Express being deemed approved by the Parties), postage prepaid, addressed to the Parties as set forth below with the next-business-day delivery guaranteed, provided that the sending Party receives a confirmation of delivery from the delivery service provider.

To City:

City of Patterson
P.O. Box 667
Patterson, CA 95363
Attn: City Manager

And with a copy to: Churchwell White LLP
1414 K Street, Third Floor
Sacramento, CA 95814
Attn: Douglas L. White, Esq.

To Landowner: Keystone Pacific Business Park, LLC
1700 Keystone Pacific Parkway, Suite C-3
Patterson, CA 95363
Attn: Keith Schneider

And with copies to: Keystone Corporation
5410 Trinity Road, Suite 215
Raleigh, NC 27607
Attn: J. Patrick Gavaghan

Burns, Day & Pressnell, P.A.
2626 Glenwood Avenue, Suite 560
Raleigh, NC 27608
Attn: James M. Day, Esq.

Petrolakis Law & Advocacy, APC
P.O. Box 92
Modesto, CA 95353-0092
Attn: George A. Petrolakis, Esq.

6. Processing Costs. Pursuant to Patterson Municipal Code section 18.14.020, Landowner shall pay all processing costs incurred by the City in connection with this Amendment prior to City's execution of this Amendment.

7. Third Party Legal Challenge. In the event that legal action or special proceedings are commenced by any person or entity challenging this Amendment, the Parties agree to cooperate with each other as set forth herein. City may elect to tender the defense of any lawsuit filed and related to this Amendment, with legal counsel satisfactory to City. Landowner will indemnify, hold City harmless from and defend City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. Landowner shall pay all litigation fees to City within thirty (30) days of receiving a written request and accounting of such fees and expenses from City. Unless prevented by law or court order, City shall continue to process any applications related to this Amendment and the Development Agreement, and any delay or failure to process such approvals or to take such other actions shall be considered a default by City of this Amendment and the Development Agreement.

8. Counterparts. This Amendment may be executed in several counterparts, each which shall be deemed an original, but which together shall constitute one and the same instrument.

9. Authority. The Parties and their signatories below warrant and represent that they have the power and authority to enter into this Amendment and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purposed to be represented by such entities, persons, states or firms and that all former requirements necessary or required by state or federal law in order to enter into this Amendment have been fully complied with. Further, by entering into this Amendment, each Party represents that this Amendment has not caused any breach of the terms or conditions of any other contract or agreement to which such Party is obligated.

IN WITNESS WHEREOF, this Agreement by the Parties shall take effect upon the Effective Date provided above.

CITY:

CITY OF PATTERSON, A California
municipal corporation

By: _____
Ken Irwin, City Manager

LANDOWNER:

KEYSTONE PACIFIC BUSINESS PARK, LLC,
a North Carolina limited liability company

By: _____
J. Patrick Gavaghan, Manager

ATTEST:

By: _____
Marisela Vela, City Clerk

APPROVED AS TO FORM:

By: _____
Tom Hallinan, City Attorney

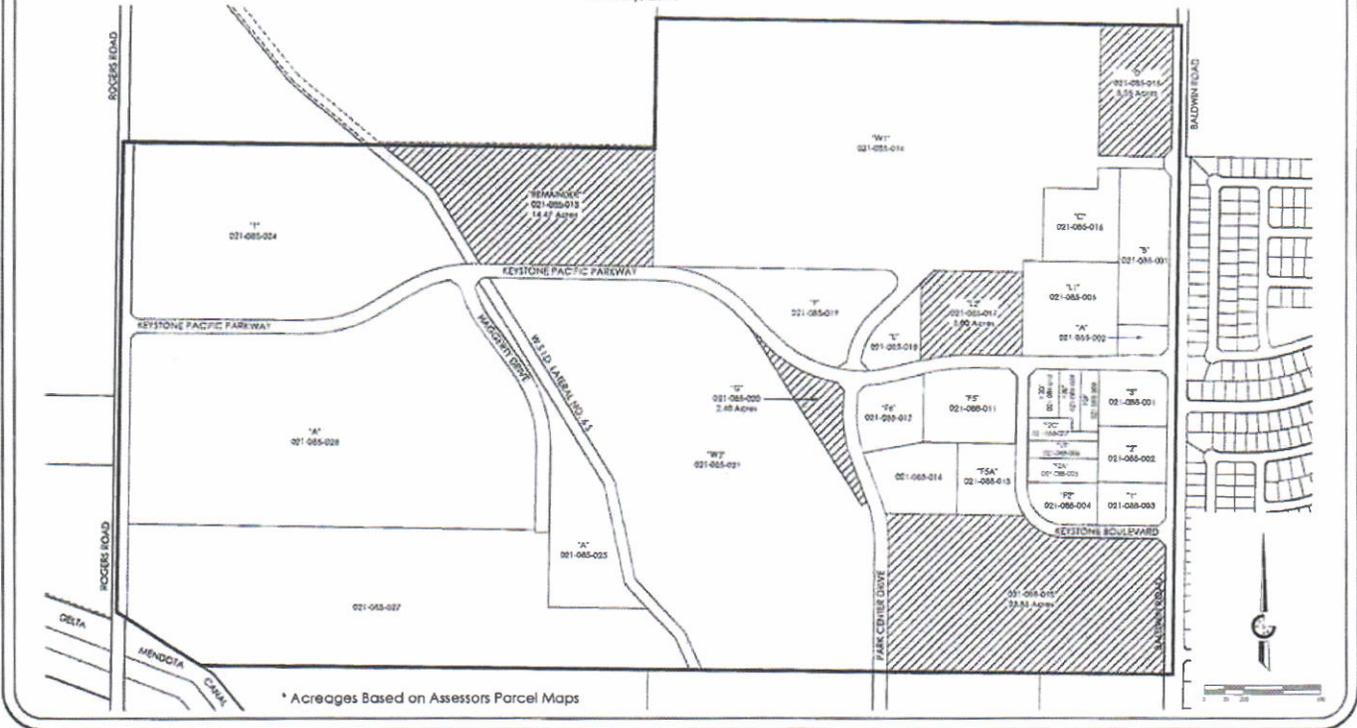
EXHIBIT A

Properties Subject to this Amendment

Stanislaus County APN's: 021-085-013
021-085-015
021-085-017
021-085-020
021-088-015

KEYSTONE PACIFIC BUSINESS PARK
 EXHIBIT A-1
 Map Of Properties Subject To This Amendment
 City of Patterson, Stanislaus County, California
 January, 2016

GDR
 GDR ENGINEERING, Inc.
 ENGINEERING/SURVEYING/PLANNING
 303 HOPKINS ROAD, SUITE 200, PATTERSON, CA 95762
 P: (209) 227-8800 FAX: (209) 227-8800
 WWW.GDRENGINEERING.COM



ORDINANCE NO. 791

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PATTERSON ADDING CHAPTER 1.26 FILING METHODS OF
CAMPAIGN DISCLOSURE STATEMENTS OF THE PATTERSON
MUNICIPAL CODE**

The City Council of the City of Patterson does hereby ordain as follows:

WHEREAS, California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, committee, or other person required to file statements, reports or other documents required by Chapter 4 of the Political Reform Act, except those whose contributions and expenditure each total less than one thousand dollars (\$1,000) in a calendar year, to file such statements, reports, or other documents online or electronically with the City Clerk; and

WHEREAS the City Council expressly finds and determines that the City Clerk's web-based system contains multiple safeguards to protect the integrity and security of the data, and will operate securely and effectively and will not unduly burden filers; and

WHEREAS the software used by the City Clerk's electronic filing system has been certified by the Secretary of State and meets the requirements set by Government Code Section 84615; and

WHEREAS the City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code Section 84615 and any other applicable laws.

THE CITY COUNCIL OF THE CITY OF PATTERSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1: Title 1, General Provisions, of the Patterson Municipal Code shall be amended to add Chapter 1.26, Filing Methods of Campaign Disclosure Statements, which shall read as follows:

Chapter 1.26 Filing Methods of Campaign Disclosure Statements

1.26.010 Electronic Filing of Campaign Statements.

A. Any elected officer, candidate, committee or other person required to file specified statements, reports, or other documents with the City Clerk as required by Chapter 4 (commencing with Section 84100) of Title 9 of the California Government Code, also known as the Political Reform Act, and that has received contributions or made expenditures of \$1,000 or more, may electronically file such statement using the City Clerk's online system according to procedures established by the City Clerk.

B. Any elected officer, candidate, committee or other person desiring to file specified statements, reports or other documents using the City Clerk's online system must first opt in through the registration procedures established by the City Clerk. To ensure reporting continuity, once a statement, report or other document is filed electronically on behalf of any elected officer, candidate, or committee, all future statements, reports and other documents on behalf of that officer, candidate or committee shall be filed electronically using the City Clerk's

online system. Once registered, an elected officer, candidate, committee or other person may choose to opt-out of the electronic filing system.

C. Any elected officer, candidate, committee or other person who has electronically filed a statement, report, or other document using the City Clerk's online system is not required to file a copy of that document in paper format with the City Clerk.

1.26.020 Paper Filing of Campaign Statements.

Any elected officer, candidate, committee or other person required to file specified statements, reports, or other documents with the City Clerk as set forth above, must file such statement in paper format if such elected officer, candidate, committee or other person has not opted to use the City Clerk's online system.

1.26.030 Filing of Other Election Statements, Reports or Documents.

In any instance in which an original statement, report, or other document must be filed with the Secretary of State or Stanislaus County Registrar of Voters, and a copy of that document is required to be filed with the City Clerk of the City of Patterson, the filer may file a copy with the City Clerk electronically or by paper format.

If the City Clerk's system is not capable of accepting a particular type of statement, report or other document, an elected officer, candidate, committee or other person shall file that document in paper format with the City Clerk.

Section 2: Except as expressly amended by the provisions of this ordinance, Chapter 1.26 of the City of Patterson Municipal Code shall remain in full force and effect.

Section 3: If any article, chapter, section, subsection, paragraph, clause or phrase of this Ordinance for any reason shall be held to be invalid or unconstitutional, the decision shall not affect the remaining portions of this Ordinance. The City Council of the City of Patterson hereby declares that it would have enacted this Ordinance and each article, chapter, section, subsection, paragraph, clause or phrase hereof, irrespective of the fact that any one or more articles, sections, subsections, paragraphs, clauses or phrases are declared to be invalid or unconstitutional.

This Ordinance shall be published by one insertion in The Patterson Irrigator, a newspaper of general circulation, printed and published in the City of Patterson, within fifteen (15) days after its final passage, and shall take effect and be in force thirty (30) days after its final passage.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the 16th day of February 2016, and given its first reading at said meeting. Said Ordinance was given a second reading at a meeting of the City Council held on the 1st day of March 2016, and after such reading, who moved its adoption, seconded by _____ and said ordinance was thereupon adopted by the following vote:

AYES:
NOES:
EXCUSED:

APPROVED:

Luis I. Molina, Mayor
City of Patterson

ATTEST:

Maricela Vela, City Clerk
City of Patterson