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DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE  
COUNTY OF STANISLAUS  
AND  
THE KEYSTONE PACIFIC BUSINESS PARK, LLC

10/29

DEVELOPMENT AGREEMENT  
TABLE OF CONTENTS

	<u>Page</u>
TABLE OF CONTENTS.....	i
RECITALS .....	1
TERMS AND CONDITIONS .....	3
1. Definitions.....	3
2. Development of the Property .....	4
2.1 Vested Right to Develop .....	4
2.2 Standards.....	4
2.3 Amended Permitted Uses.....	4
2.4 Subsequent Discretionary Actions.....	4
2.5 Fees .....	5
2.6 Flexibility in Building Sizes .....	6
2.7 Minimum Flex Parcels.....	6
2.8 Applicable Ordinances, Rules, Regulations and Policies .....	6
2.9 Certificate of Occupancy .....	8
3. Obligations of Landowner .....	8
3.1 Compliance .....	8
3.2 Mix of Business Uses.....	9
3.3 Construction of the First Flex Phase.....	9
3.4 Security for Construction of First Flex Phase.....	10
3.5 Financing District Annexation.....	11
3.6 Assessment District for Fire Protection Services.....	12
3.7 Public Improvement Maintenance Services.....	12
3.8 Parcel F-1 Public Improvements.....	12
4. Obligations of County.....	15
4.1 Baldwin Road.....	15
4.2 Master Plan Infrastructure.....	16
4.3 Processing of Building Plans and Building Permits .....	16
4.4 Reimbursements – Oversizing .....	16
4.5 Reimbursements – Other Costs.....	16
4.6 I-5/Sperry Interchange .....	16
5. Representations of Parties.....	17
6. Duration of Agreement and Vesting Tentative Parcel Map; Cancellation .....	17
6.1 Term of Agreement and Vesting Tentative Parcel Map .....	17
6.2 Extension of Terms .....	17
6.3 Extension of Term Upon Legal Challenge .....	17
6.4 Cancellation by Mutual Consent.....	18
6.5 Cancellation for Non-Compliance .....	18

6.6	Rights Upon Cancellation or Termination.....	18
7.	Compliance Review and Mortgagee Protection.....	18
7.1	Compliance Review .....	18
7.2	Encumbrances on the Subject Property .....	18
7.3	Mortgage Protection.....	19
7.4	Mortgagee Notice and Right to Cure Default .....	19
7.5	Estoppel Certificate.....	19
8.	No Agency, Joint Venture or Partnership .....	19
8.1	No Relationship Created .....	19
8.2	Representations by Landowner .....	20
8.3	Authority of Parties.....	20
9.	Notice .....	20
10.	Conflict of Interest .....	21
11.	Waiver of Default.....	21
12.	Severability .....	21
13.	Assignment and Transfer of Development Rights.....	22
14.	Successors in Interest/Covenants Run with Land .....	22
14.1	Binding Effect.....	22
14.2	Recordation .....	22
15.	Insurance.....	22
15.1	Coverage .....	22
15.2	Deductibles .....	23
15.3	Additional Insured Endorsement .....	23
15.4	Priority of Policies .....	24
15.5	Compliance .....	24
15.6	Application.....	24
15.7	Notice of Cancellation .....	24
15.8	Insurance Rating .....	24
15.9	Contractors.....	24
15.10	Proof of Insurance.....	24
15.11	Limitation of Liability .....	24
16.	Indemnification.....	25
16.1	Liability.....	25
16.2	Attack of Proceedings.....	25
16.3	Effect of Insurance.....	25
16.4	Defense of Claim .....	25
16.5	Notice of Claim.....	25
16.6	Assumption of Risk .....	25
17.	Amendment.....	26
18.	California Tort Claims Act .....	26
19.	Entire Agreement .....	26
20.	Advice of Attorney .....	26
21.	Construction.....	26

22. Governing Law and Venue .....26  
23. Attorney Fees .....27  
24. Joint and Several Liability .....27  
25. Incorporation of Recitals and Exhibits .....27  
26. Authority .....27  
    26.1 County.....27  
    26.2 Landowner .....27  
  
SIGNATURES.....28

SCHEDULE OF EXHIBITS

## DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement") is made and entered into by and between the COUNTY OF STANISLAUS, a political subdivision of the State of California ("County") and KEYSTONE PACIFIC BUSINESS PARK, LLC, a North Carolina limited liability company ("Landowner") on April 15, 2003.

### RECITALS

A. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Article 2.5 of Chapter 4 of Division 1 of Title 7 of the Government Code, commencing at Section 65864 (the "Development Agreement Statute"), the County adopted Title 22 of the Stanislaus County Code, commencing at Section 22.01.010 (the "County Development Agreement Ordinance") which authorizes the County and an applicant for a development project 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. Property. The subject of this Agreement is the development of those certain two parcels of land in the unincorporated area of the County, consisting of approximately two hundred twenty four acres located in the County of Stanislaus, as described in Exhibit "A" and diagrammed in Exhibit "A-1" (hereinafter the "Property"), attached hereto and incorporated herein by this reference. One parcel is commonly referred to by its Assessor's Parcel Number of APN 21-26-01, as shown in Exhibit "A-2", and may be referred to in this Agreement as "Parcel APN 21-26-01." The other parcel also is commonly referred to by its Assessor's Parcel Number of APN 21-23-10, as shown in Exhibit "A-3", and may be referred to in this Agreement as "Parcel APN 21-23-10".

C. Ownership. Pursuant to Government Code section 65865 (a) and Stanislaus County Code Section 22.02.010 H, Landowner represents and warrants that Landowner owns, as of the date of execution of this Agreement, fee title to the Property.

D. Project. Landowner intends to develop the Property as a business park development of two hundred twenty four (224) acres (the "Project") in accordance with this Agreement and the Development Entitlements.

E. County Entitlements, Permits and Approvals. Pursuant to Stanislaus County Code Section 22.03.040.4, the entitlements, permits, approvals and actions for the Project that have been enacted or that are contemplated by the Board of Supervisors are set forth in Exhibit "B" attached hereto and are, by this reference, made a part of this Agreement. The entitlements, permits, approvals and actions listed in Exhibit "B" are referred to in this Agreement as the "Development Entitlements." The Project shall be developed pursuant to the Project's development plan as is contemplated by the Development Entitlements.

F. Environmental Review. On April 15, 2003, the County, as a Responsible Agency under California Code of Regulations, title 14, section 15381, found and determined, as set forth in section 15096, that the final EIR for the Project certified by the City of Patterson is adequate, made all of the required findings, and filed a notice of determination.

G. Planning Commission. Pursuant to Government Code section 65867 and Chapter 22.04 of the Stanislaus County Code, on March 20, 2003, the Planning Commission of County, at a duly noticed and properly conducted public hearing and following appropriate environmental review, recommended, among other things, that the Board of Supervisors of County approve this Agreement.

H. Board of Supervisors. Pursuant to Government Code section 65867 and Chapter 22.05 of the Stanislaus County Code, on April 15, 2003, at a duly noticed and properly conducted public hearing and following appropriate environmental review, the Board of Supervisors (a) adopted Ordinance No. CS-834 ("Ordinance") approving this Agreement, and, pursuant to Government Code section 65867.5 and Stanislaus County Code Section 22.05.030, (b) found that the provisions of this Agreement are consistent with the Stanislaus County General Plan and the West Patterson Business Park Master Plan and (c) authorized the execution of this Agreement.

I. Substantial Costs to the Parties. The parties, at their sole cost and expense, have incurred and will incur substantial costs in order to process the Development Entitlements, to comply with conditions of approval and environmental mitigation measures of the Development Entitlements, and to assure development of the Property in accordance with the Development Entitlements and the terms of this Agreement.

J. Consistency with General Plan and Master Plan. Having duly examined and considered this Agreement and having held duly noticed and properly conducted public hearing(s) hereon, County finds and declares that this Agreement is consistent with the General Plan of the County and with the West Patterson Business Park Master Development Plan (the "Master Plan").

K. General and Master Plans. Development of the Property in accordance with the conditions of the Development Entitlements and this Agreement will provide orderly growth and development of the area in accordance with the policies set forth in the County General Plan and the Master Plan. For the purposes of the vesting protection granted by this Agreement, the applicable law shall be as set forth in the Development Entitlements in force and effect on the date the application for the Project was deemed complete, unless otherwise provided herein.

L. Exercise of County Contracting Authority. The County, by electing to enter into this contractual agreement, acknowledges that the obligations of the County shall survive beyond the term or terms of the present Board of Supervisors and that such action will serve to bind the County and future boards of supervisors to the obligations thereby undertaken. By approving this Agreement, the Board of Supervisors has elected to exercise certain governmental powers at

the time of entering into this Agreement rather than deferring its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by both the County and the Board of Supervisors and have been found to be fair, just and reasonable, and the County has concluded that the pursuit of the Project will serve the best interests of its citizens, and the public health, safety and welfare will be best served by entering into this obligation.

M. Development Agreement Ordinance. County and Landowner have taken all actions mandated by and fulfilled all requirements set forth in the Development Agreement Statute and the County Development Agreement Ordinance.

NOW, THEREFORE, it is agreed by and between the parties as follows:

### TERMS AND CONDITIONS

#### 1. DEFINITIONS

1.1 Unless the context requires otherwise, any word or phrase defined by the introductory paragraph and Recitals of this Agreement and the following words and phrases hereinafter defined shall apply throughout the Agreement:

1.1.1 "Business Park" is the Keystone Pacific Business Park as described in Recital D.

1.1.2 "City" is the City of Patterson, a California general law city.

1.1.3 "Effective Date" shall mean the 30th day following (a) the date of adoption by the Board of Supervisors of County of the ordinance approving the Agreement, or (b) publication of the ordinance pursuant to Government Code section 25214, whichever occurs last.

1.1.4 "Essential Infrastructure" is the basic backbone infrastructure necessary to serve the West Patterson Business Park Master Plan Development Area and, specifically, the Project, consisting of the infrastructure listed in Exhibit "C" to this Agreement which is attached hereto and incorporated herein by this reference. The parties estimate that reconstruction of Baldwin Road and construction of the Essential Infrastructure, except the wastewater treatment plant expansion, will be completed on August 4, 2004, as such date is revised from time-to-time in applicable construction schedules.

1.1.5 "Landowner" shall also mean Landowner's successor in interest allowed by the Agreement.

1.1.6 "Master Plan Infrastructure" is the infrastructure, not including the Essential Infrastructure, that is necessary for viability of the County plans for the West Patterson

Business Park Master Development Plan area and consists of the expanded Sperry Avenue between the I-5 interchange and Baldwin Road, the Sperry Avenue bridge over the Delta Mendota Canal, I-5/Sperry Avenue interchange improvements, and the Sperry Avenue bridge over the State Water Project, all as depicted in the diagram attached as Exhibit "D".

1.1.7 "Mortgagee" shall mean the holder of any mortgage or the beneficiary of any deed of trust covering all or part of the Property or any successor or assignee of any such mortgage holder or beneficiary, identified by name and mailing address in a written notice received by County by personal delivery or certified mail--return receipt requested. Such notice shall state whether such mortgagee desires to receive a notice of default as provided by this Agreement.

1.1.8 "Party" or "Parties" shall mean Landowner, County or any other party to this Agreement, as the context may require.

1.1.9 "Vesting Tentative Parcel Map" shall mean Vesting Tentative Parcel Map Application No. 2002-30 filed with the Stanislaus County Department of Planning and Community Development and deemed complete on November 18, 2002, including the parcel map submitted with the application.

## 2. DEVELOPMENT OF THE PROPERTY

2.1 Vested Right to Develop. Subject to the terms and conditions of this Agreement, Landowner shall have the vested right to develop the Project on the Property in accordance with the Development Entitlements.

2.2 Standards. The permitted uses of the Property, the density and/or intensity of use, the entitlement to building permits, the maximum height, bulk and size of proposed buildings, provisions for reservation or dedication of land for public purposes and location and design of public improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in the Development Entitlements.

2.3 Amended Permitted Uses. Notwithstanding the Development Entitlements, and Section 21.62.020 of the Master Plan in particular, the permitted uses of the Property have been amended and comprise the list of uses and the level of approval necessary for such uses that are listed in Exhibit "F."

2.4 Subsequent Discretionary Actions. This Project is subject to the County's normal and customary discretionary approvals for the permitted uses set forth in Section 2.3, including any normal and customary conditions, terms, restrictions, and requirements imposed on such uses.

## 2.5 Fees.

2.5.1 County Development Fees. The County development fees imposed on the Business Park are only those in the applicable fee schedule in effect on the date the application for the Vesting Tentative Parcel Map is deemed complete under Section 1.1.9 herein; provided, however, such fees shall be adjusted for inflation each year using the index adopted by the Board of Supervisors for Public Facility Fees. Except as otherwise provided for in this Agreement, the County shall neither impose nor collect any other County development fees, impact fees, hook-up fees or similar fees on the Project. This provision applies only to development of the Project that is consistent with the terms and conditions of this Agreement, including development that is either (1) a minor alteration in land use development which do not result in any changes in land use or density as provided in this Agreement; or (2) a minor land division when the division conforms with the General Plan and zoning, does not require variances or exceptions, and all services and access to the proposed parcels are available and in conformance with the standards set forth in this Agreement.

2.5.2 Fee Deferral Program. Landowner may participate in the County development fee deferral program to defer payment of development fees from building permit to the certificate of occupancy, which requires the affected property to enter into separate agreements secured by a lien against the improved property.

2.5.3 Processing Fees. Landowner shall pay the County processing and plan check fees in effect at the time they are due under the ordinances of the County; provided, however, if the City processes building development plans in lieu of the County, the Landowner shall pay the City processing and plan check fees in effect at the time they are due under the ordinances of the City.

2.5.4 Fee Deferral Program. The City and the Landowner have separately agreed that the development fees in the schedule attached hereto as Exhibit "G" are the only City development fees, impact fees, hook-up fees or similar fees that shall be imposed on the Business Park. This City/Landowner agreement further binds City to neither impose, collect nor provide for the collection of any other City development fees, impact fees, hook-up fees or similar fees on the Project. This City-Landowner agreement further binds City to allow Landowner to defer payment of the City fees pursuant to Section 2.5.2.

2.5.5 Police Power and Taxing Power. The County, through the exercise of either its police power or its taxing power, whether by direct action by the Board of Supervisors or by initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees, and other exactions, policies, standards, laws or regulations which relate or apply, directly or indirectly, to the Project except as provided in other provisions of this Agreement which allow the County to make such changes. Further, the County shall not approve a financing district designed to impose bonded indebtedness on any portion of the Project without Landowner's prior written approval. Nothing herein prohibits the Project from being subjected to a (i) county-wide bond issue, (ii) county-wide special or general tax, or (iii) special

assessment for the construction or maintenance of public improvements or provision of public services as may be voted on by the electorate or otherwise enacted, provided that such tax, assessment or measure does not discriminate against the Property.

2.5.6 Revision of Ministerial Fees. Subject to the following sentence, this Agreement shall not be construed to limit the authority of the County to charge processing fees for land use approvals, building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a county-wide basis at the time other similar permits and entitlements which are in force and effect on a county-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement. Such fees and charges shall not be increased, or new fees added after the Effective Date with respect to the development of the Project, except that the County may increase those fees and charges based on (i) the valuation tables contained in later enacted versions of the Uniform Building Codes, or (ii) any increase in the estimated reasonable cost to the County for performing the work for which the particular fee or charge is paid, by an amount which will compensate County for the estimated reasonable cost of increases incurred.

2.6 Flexibility in Building Sizes. Notwithstanding the Development Entitlements, market conditions may require that Landowner construct buildings larger than those shown on the Schematic Master Plan. Consequently, building permits shall be issued for such larger buildings if the impacts of such buildings are within the scope of the Environmental Impact Report certified for the Project.

2.7 Minimum Flex Parcels. The parties intend that parcel numbers F-1, F-2, F-3, F-4, F-5, F-6, F-7 and F-8, as shown on the Vesting Tentative Parcel Map, shall be a minimum of flex parcels available for the Business Park, and that at buildout of the Business Park, there shall be no less than 500,000 square feet of flex building space. Because flex building development generally has a higher job-to-building ratio than other types of development, and the parties intend to create jobs as represented in Section 5.3 of this Agreement, the minimum requirement for flex building space may be reduced only upon approval of the Board of Supervisors.

2.8 Applicable Ordinances, Rules, Regulations and Policies.

2.8.1 Applicable Rules, Regulations and Policies. Unless otherwise provided in this Agreement, the ordinances, rules, regulations, and official policies governing permitted uses of the Property, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the Property, shall be those ordinances, rules, regulations, and official policies in force at the time of execution by the County of the Agreement.

2.8.2 Section 65866 Provisions. Pursuant to Government Code section 65866 and Stanislaus County Code Section 22.03.060 B, this Agreement does not prevent the County, in subsequent actions applicable to the Property, from applying new ordinances, rules,

regulations, and policies which do not conflict with those ordinances, rules, regulations, and policies applicable to the Property as set forth in the Development Agreement Statute, nor does this Agreement prevent the County from denying or conditionally approving any subsequent development project application on the basis of such existing new ordinances, rules, regulations, and policies. For purposes of this section, Government Code section 65866, and Stanislaus County Code Section 22.03.060 B, the following definitions shall apply:

(a) "Subsequent action" shall include a subsequent legislative act by the County and shall not include subsequent adjudicative and ministerial acts by the County.

(b) "Subsequent development project application" shall include a development project application by Landowner for a legislative act by the County made after the Effective Date of this Agreement that makes a substantial and significant change in the legislative act portions of the Development Entitlements and any development project that is not included in the Business Park.

(c) "Conflict" shall include any act that significantly impairs the economic viability of the Business Park.

Notwithstanding the provisions of this Section 2.8.2, as to development fees, the more specific provisions of Section 2.5 shall control and as to moratoria and similar events, the more specific provisions of Section 2.8.8 shall prevail.

2.8.3 Section 65869.5 Provisions. Pursuant to Government Code Section 65869.5 and Stanislaus County Code Sections 22.03.060.C and 22.09.010, this Agreement shall be subject to the regulation and requirements of the laws of State and of the United States and in the event that State or federal laws or regulations, enacted after this Agreement is entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

2.8.4 Development Agreement Law. Notwithstanding any other provision of this Agreement, this Agreement is subject to the provisions of Article 2.5 (commencing at section 65864) of Chapter 4 of Division 1 of Title 7 of the Government Code, and to the provisions of Title 22 (commencing at section 22.01.010) of the Stanislaus County Code, as such statutory and ordinance provisions exist on the Effective Date of this Agreement, and as they may be amended, provided that State law requires application of such amendments to existing projects, such as this Project, or to development agreements, such as this Agreement.

2.8.5 Architectural Site Review. The parties agree that so long as buildings are substantially similar to those shown in the Development Entitlements and if the architectural review provisions of the West Patterson Business Park Master Plan have been met, the architectural site review under Stanislaus County Code Section 22.00.020 is complete.

2.8.6 Subdivision Improvement Agreement. Pursuant to Government Code section 66462 and Stanislaus County Code Sections 20.56.010 et seq., as a condition precedent to recording a final parcel map for each phase of development in the Business Park, Landowner shall execute and file a subdivision improvement agreement to install all the public improvements required, unless the required improvements have been previously completed and accepted. This Agreement shall serve as a subdivision improvement agreement for the First Flex Phase development on Parcel F-1 as described in Section 3.3 herein.

2.8.7 Applicability of Building Codes. The vesting provisions of this Agreement shall not govern the application to the Project of Title 16 of the Stanislaus County Code, including the Uniform Building Code and other uniform construction codes adopted or modified by the County, except that development fees, impact fees, hook-up fees and similar fees are vested pursuant to Section 2.5 of this Agreement.

2.8.8 No Moratorium, Quotas, Restrictions or Other Growth Limitations. Except as otherwise provided by the terms and conditions of this Agreement or the Development Entitlements, no ordinance, resolution, rule, regulation or policy of the County shall be applied, imposed or enacted by the County or by the people through petition or otherwise, by resolution, ordinance, initiative, or otherwise, which: (i) in any way relates to the rate, timing or sequencing of the development or use of the Property or buildout of the Project, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations; or (ii) in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size, and other provisions set forth in the Development Entitlements.

2.9 Certificate of Occupancy. After completion of each shell building of the project, the County shall provide Landowner with a Certificate of Occupancy for that building limited to the shell. The certification is conclusive determination that the obligations of the Landowner under this Agreement have been met. The certification shall be in such form as will enable it to be recorded in the official records of County by the Landowner. Landowner acknowledges and agrees that it is required to obtain a separate Certificate of Occupancy before using the shell building for any purpose except to construct improvements necessary for the planned use.

### 3. OBLIGATIONS OF LANDOWNER

3.1 Compliance. Landowner shall comply with the Development Plan and with all applicable provisions of federal, state and local laws, ordinances and regulations throughout the term of this Agreement; provided, however, a local provision enacted after the Effective Date shall apply if it (i) is not in conflict with those provisions in effect on the Effective Date as the term "conflict" is defined in Section 2.8.2 herein; (ii) is consistent with the most recent version of the State Building Standards Code as adopted and amended by the County; (iii) is a county-wide change to construction or technical design standards or specifications for public improvements which are reasonably and directly related to durability or longevity of public improvements; (iv) is a change in County law, regulations, plans, or policies, the terms of which

are specifically mandated and required by changes in state or federal law or regional application thereof; (v) is necessary to avoid a condition that is dangerous or detrimental to the health or safety of people of the County; or (vi) is otherwise expressly authorized in this Agreement.

3.2 Mix of Business Uses. Landowner shall develop a mix of business uses in the Business Park in accordance with the Project Description for the Business Park included in the Project application and the Schematic Master Plan, which is composed of three subareas. The F Development area consists of flex buildings; the L Development area consists of light industrial buildings and the W Development area consists of warehouse/distribution buildings. The parties agree that flex buildings may be constructed in any of the sub-areas (F, L or W), that light industrial buildings may be built in either the L or W sub-areas and that warehouse/distribution buildings may be constructed solely in the W sub-area. Except as otherwise provided for in this Agreement, the size of buildings shall conform to the Master Plan. At full buildout of the Business Park, there shall be a minimum of 500,000 square feet of flex building space, and a maximum of 1,211,000 square feet of warehouse building space.

3.3 Construction of the First Flex Phase. The Landowner agrees to construct the First Flex Phase development subject to the following terms:

3.3.1 The "First Flex Phase" means the construction no less than 60,000 square feet of flex building space on Parcel F-1 of the Vesting Tentative Parcel Map with full on-site and necessary off-site improvements, including, but not limited to, the amenity wet pond/storm drainage basin on Parcel B-1 of the Vesting Tentative Parcel Map, internal street improvements, all landscaping and facilities to maintain landscaping in a healthy condition, necessary on-site infrastructure (i.e., sewer, water, street lighting, telecommunications), and the portions of Keystone Pacific Parkway, and associated utility lines and facilities, shown on Exhibit "H."

3.3.2 In addition to the First Flex Phase, the Landowner shall construct a second flex building in the Business Park on Parcel F-2 upon 50 percent pre-lease of this second building (the "Second Flex Phase").

3.3.3 Landowner agrees to construct the First Flex Phase in accordance with the Construction Schedule attached as Exhibit "B" and, by this reference, is made part hereof, which schedule may be revised from time-to-time by written agreement of the parties. Subject to force majeure, Landowner shall complete construction of the first flex building within nine (9) months after issuance by the County of a building permit for the flex building.

3.3.4 The Parties understand and agree that the Business Park cannot be developed until certain prerequisites exist. The following are development prerequisites for construction of the Business Park to begin and are conditions precedent to the obligations of the Landowner under this Agreement:

(a) The Essential Infrastructure, except the Wastewater Treatment Plant Expansion, must be under construction so that Essential Infrastructure capacity is available to serve the Business Park. Subject to Section 3.4.2 regarding reimbursement for costs to reconstruct Baldwin Road, the Essential Infrastructure shall be provided at no cost to Landowner.

(b) The segment of Baldwin Road must be reconstructed as detailed in Section 4.1.

(c) The applicable statute of limitations have run on all Development Entitlements and all other entitlements, permits, approvals and actions required for the Project from the County and any other governmental authority.

3.3.5 The street names in this Section 3.3 are conceptual in nature and are subject to the ordinary street name approval process applicable in Stanislaus County.

#### 3.4 Security for Construction of First Flex Phase.

3.4.1 In addition to performance and payment bonds for public improvements, the Landowner shall furnish a performance bond in the amount of \$6 million to secure the Landowners obligation to construct the First Flex Phase private improvements on Parcel F-1, including, but not limited to, the flex building and on-site infrastructure, subject to the following terms:

(a) The Landowner's obligation to provide a performance bond for private improvements shall occur if (i) the First Flex Phase development is not completed, and (ii) the City of Patterson notifies the County that it received a request to issue building permits for the Patterson Gardens residential development, in accordance with Section C.9 of Addendum No. 1 to Development Cooperation Agreement by and between the City of Patterson and the County, which is incorporated herein by reference. Model homes in Patterson Gardens shall not be covered by the obligations in this Section 3.4.1.

(b) Should construction of the flex building have begun but not be completed prior to residential building permits being needed for Patterson Gardens, then the performance bond will be reduced by the percentage complete of the flex building and on-site infrastructure, as determined and certified by the Landowner's architect for construction loan progress payments. Once a certificate of occupancy is issued for the flex building shell, any remaining portion of the performance bond shall be released by County, and the County shall not impose any further restrictions on residential development in Patterson Gardens. Such certificate of occupancy shall not be unreasonably withheld.

(c) If the Landowner is delayed in building the First Flex Phase development due to County's failure to fund reconstruction of Baldwin Road on time, the County shall reimburse Landowner for its cost for the performance bond attributable to this delay.

(d) No additional performance bonds shall be required on any future buildings in the Business Park, however, in accordance with Section 2.8.6, a subdivision improvement agreement and performance bond may be required to secure construction of other public improvements required as a condition of development for other parcels in the Business Park.

3.4.2 If Landowner defaults in its obligations in Section 3.3, in addition to the other penalties in this Section 3.4, Landowner shall pay to County an amount up to \$3 million that the County actually expends to fund reconstruction of Baldwin Road that is not reimbursed by the City as detailed in Section 4.1. Once a certificate of occupancy is issued for the flex building shell in the First Flex Phase development, this obligation shall be released and extinguished of record and no further obligation for such reimbursement shall exist or otherwise be required for development in the Business Park. Upon default by the Landowner of its obligations under Section 3.3 of the Agreement, the County shall provide written notice to the Landowner of such default, which notice shall describe the facts constituting such default and documentation of the monies expended in the construction of Baldwin road that must be reimbursed by the Landowner. The Landowner shall have 30 days to cure after the date the County gives notice of default. The parties shall execute and record a Baldwin Road Partial Reimbursement Agreement substantially similar in form to that attached hereto as Exhibit "I" to memorialize the obligations of this provision.

3.4.3 If Landowner fails to initiate or to complete the First Flex Phase development within the time period provided in Section 3.3.3, or if work on construction of the First Flex Phase is abandoned or ceases for a period of 90 days, except for force majeure, the County may take any appropriate action to enforce the provisions of this Section 3.4.

3.4.4 The Landowner shall disclose to any purchaser of parcels in the Patterson Gardens residential subdivision that the development of such property is or may be subject to restrictions as set forth in the *Addendum No. 1 To Development Cooperation Agreement* by and between the City and the County. This disclosure obligation shall terminate upon completion of the First Flex Phase development.

3.5 Financing District Annexation. Landowner agrees that each parcel of the Vesting Tentative Parcel Map shall be annexed into a Mello-Roos Community Facilities District or similar financing district as a condition of map approval for that parcel, so long as the annual tax rate does not exceed Two Thousand Five Hundred & No/100 Dollars (\$2,500.00) per net acre, with an appropriate inflationary index consistent with the financing district, to pay for the remaining Master Plan sewer and water facilities to serve the West Patterson Business Park. City sewer, storm drainage and water connection fees, as provided in Exhibit G, will be offset and covered by participation in a Community Facilities District or similar financing district. There shall be no undeveloped land tax levied by the financing district in the Business Park without the written consent of the Landowner.

3.6 Assessment District for Fire Protection Services. Landowner agrees that each parcel of the Vesting Tentative Parcel Map to be annexed into assessment or similar districts to finance provision of fire protection services for buildings constructed on the parcel, such assessment district to be inclusive of the entire West Patterson Business Park Master Plan area.

3.7 Public Improvement Maintenance Services. Landowner agrees to consent to the formation of a benefit assessment district, such as a Landscape and Lighting District, Highway Lighting District or similar district or financing mechanism, for the purpose of financing annual costs to operate and maintain lighting, landscaping, storm drainage and other public improvements. Landowner agrees to the adoption of a formula similar to those used in other County maintenance districts, which is used to calculate the amount of annual assessment based upon the cost of providing the service.

3.8 Parcel F-1 Public Improvements. The following provisions shall apply in order to assure that all the public improvements required as a condition for recording a final parcel map for Parcel F-1 will be constructed in accordance with the Conditions and Specifications. The provisions of this Section 3.8 shall apply only to development on Parcel F-1. As provided in Section 2.8.6, development on parcels other than Parcel F-1 will require a separate subdivision improvement agreement unless required public improvements have been completed and accepted.

3.8.1 Definitions. For purposes of this Section, the following definitions shall apply:

(a) "Acceptance of the Improvements" or "Accept the Improvements" means the Board of Supervisors' formal acceptance of the Improvements or adoption of a resolution reflecting that the Improvements are complete and meet the requirements and conditions imposed upon the Vesting Tentative Parcel Map or any final map recorded for a phase of development within the Business Park.

(b) "Improvements" include the public improvements required by the conditions imposed upon the Vesting Tentative Parcel Map for development of Parcel F-1, including but not limited to road and street improvements, drainage facilities, sidewalks, curbs, gutters, street signs, sanitary sewer system, water system, fire hydrants, street lights, monuments, landscaping, and other facilities, structures, grading, mitigation measures or conditions of development.

(c) "Improvement Plans" mean the plans and specifications applicable to Parcel F-1 approved by the County.

(d) "Conditions and Specifications" includes the Improvement Plans, the Stanislaus County Code, all applicable laws, rules, regulations, ordinances, policies, resolutions, mitigation measures, planned development guidelines, zoning restrictions, conditions of development, tentative map conditions, and any applicable standard for construction of

improvements adopted by the City or, if the City does not have an applicable standard, the 1998 Edition of *County of Stanislaus Department of Public Works Improvement Standards* (amended April 24, 2001).

(e) "Subdivision Costs and Fees" includes all labor, materials, equipment, costs and fees associated with the construction, installation, completion, inspection and acceptance of the Improvements, and all fees imposed or required by the Conditions and Specifications.

3.8.2 Scope of Work. Landowner shall construct, install and complete, at Landowner's sole cost and expense, all Improvements in accordance with the Conditions and Specifications and to the satisfaction of the County. Landowner shall perform or satisfy, in a timely manner, any work or act to be performed as set forth in the Conditions and Specifications.

3.8.3 Improvement Security.

(a) In accordance with Stanislaus County Code Section 20.50.030, prior to the approval of the final parcel map for Parcel F-1 by the Board of Supervisors, Landowner shall file with the County a bond, a letter of credit or cash (the "Improvement Security") in an amount determined by the County pursuant to Government Code section 66499 et seq. as faithful performance and payment security. In the event any changes or alterations in the work exceed ten percent of the original estimated cost of the Improvements, the Landowner shall provide additional security to the County.

(b) The faithful performance security shall include a guarantee of (i) faithful performance of all of the provisions of this Section; (ii) the performance of any changes or alterations in such work provided; (iii) the guarantee and warranty of the work for a period of one year following Acceptance of the Improvements, against any defective work or labor done or defective materials furnished, in the performance of this Agreement; (iv) costs and reasonable expenses and fees, including reasonable attorneys' fees.

(c) The payment security shall secure payment for the contractor, subcontractors, and persons renting equipment or furnishing labor or materials to them for the work required pursuant to this Agreement.

(d) The Improvement Security shall reflect the requirements of Government Code sections 66499 through 66499.10, and any provisions of the Bond and Undertaking Law that are not inconsistent with those Government Code sections.

(e) The Improvement Security shall be released in whole or in part in the manner set forth in Government Code section 66499.7. Prior to releasing the payment security, the Landowner shall provide the County with a mechanics lien guarantee to the benefit of Stanislaus County in the amount of the payment bond, which is dated at least 35 days after recordation of a Notice of Completion. The release shall not apply to any required guarantee and

warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees.

3.8.4 Completion. Landowner shall complete all Improvements within two (2) years from the date of this Agreement in a good and workmanlike manner in accordance with accepted construction practices and in a manner equal or superior to the Conditions and Specifications, and, where there is a conflict among any of the individual Conditions and Specifications, the stricter requirement shall govern. If Landowner fails to complete the Improvements within the two-year period, or if work on construction of the Improvements does not begin within 90-days after the date for construction of the First Flex Phase development as set forth in the Construction Schedule attached as Exhibit "E," or if work on construction of the Improvements is abandoned or ceases for a period of 90 days, the County may take any appropriate action to enforce the provisions of this Section, including but not limited to (i) exercising the County's rights to the Improvement Security; (ii) completing the Improvements and recovering all Subdivision Costs and Fees associated with completion of the Improvements from Landowner or from the Improvement Security; (iii) instituting proceedings for reversion to acreage pursuant to Government Code section 66499.12 et seq.

3.8.5 Improvement Plan Warranty. Landowner warrants that its Improvement Plans are adequate to accomplish the work in accordance with the Conditions and Specifications, and if at any time before the Acceptance of the Improvements the Improvement Plans prove to be inadequate in any respect, Landowner shall make changes necessary to complete the work required in accordance with the Conditions and Specifications.

3.8.6 Guarantee, Warranty and Maintenance. Landowner guarantees and warrants that the work to be performed pursuant to this Section will be free from defects and will meet the requirements of the Conditions and Specifications. Landowner shall maintain, repair or replace defective or damaged work or materials and work that does not meet the requirements of the Conditions and Specifications. Landowner shall be responsible for any work or Improvements damaged by Landowner, its contractors or builders, before or after the work or Improvements are Accepted by the Board. This guarantee and warranty shall extend for a period of one year after Acceptance of the Improvements, and shall be secured for one year after Acceptance of the Improvements by a bond, cash, or letter of credit, in a form and in amounts acceptable to the County.

3.8.7 Inspections. It is the responsibility of the Landowner to request inspections as needed to ensure that the Improvements conform to the Conditions and Specifications. The City and the County reserve the right to inspect all Improvements at any time. The Landowner shall pay the City or the County for the cost of all inspections. The Department of Public Works for either the City or the County shall have the right to reject any or all of the Improvements to be performed under this Agreement if the Improvements do not conform to the Conditions and Specifications. Inspection of the work required under this Agreement or any statement by any officer, agent, or employee of the City or the County indicating the Improvements or any part thereof comply with the requirements of this

Agreement, or Acceptance of the Improvements, shall not relieve Landowner of the obligation to perform the work in accordance with this Agreement; nor shall the County be thereby estopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

3.8.8 Construction Area. The Landowner, its contractors and builders shall keep the construction area for the Improvements clean and free of debris. No construction materials shall be stored in, on or along any County right of way.

3.8.9 Notice of Completion and As Built Drawings. Landowner shall execute, acknowledge and record in the manner provided by law, a notice of completion of the Improvements within 10-days after the Department of Public Works for the City or the County provides written notice to the Landowner that the Improvements have passed the final inspection. Upon completion of the Improvements, the Landowner's Engineer shall supply to the City or the County, whichever one approved project plans, one mylar set of "as built drawings." These drawings shall be certified on each page by a Registered Civil Engineer as being "as built drawings," pursuant to Business and Professions Code section 6735.6 as may be amended from time-to-time.

3.8.10 Acceptance of the Improvements and Occupancy. The Board of Supervisors will not release the Improvement Security until all Improvements are completed to the satisfaction of the County in accordance with the Conditions and Specifications. The Department of Building Inspection for the City or the County shall not provide final inspection or occupancy approval of any structure within Parcel F-1 until all Improvements have been completed to the satisfaction of the County in accordance with the Conditions and Specifications. The Landowner expressly agrees that any structures within Parcel F-1 shall not be occupied until all Improvements have been completed to the satisfaction of the County in accordance with the Conditions and Specifications. The Landowner shall provide a written disclosure of the occupancy restriction to all purchasers of Parcel F-1.

#### 4. OBLIGATIONS OF COUNTY.

##### 4.1 Baldwin Road.

4.1.1 Funding and Reconstruction. County shall fund and cause to be reconstructed at no cost to Landowner, Baldwin Road in the cross-section shown in Exhibit "J" along the alignment shown in Exhibit "K." County shall begin construction of the work, keep the work moving timely and complete construction of the work pursuant to the construction schedule attached hereto as Exhibit "E."

4.1.2 Partial Reimbursement. County shall be reimbursed for a portion of the costs of Baldwin Road pursuant to its agreement with the City. Except as provided in Subsection 3.4.3, County will seek no reimbursement from Landowner or from Patterson Gardens, LLC for Baldwin Road costs. Landowner shall cooperate with County in grant and loan applications to

secure financing for Baldwin Road costs at County's request and at no cost to Landowner, except for internal costs, such as staff or consultant time, incurred by the Landowner while cooperating with the County.

4.2 Master Plan Infrastructure. County shall use its best efforts to provide the Master Plan Infrastructure in a timely manner. The I-5/Sperry Interchange improvements are to be constructed in accordance with the Regional Transportation Plan, the Master Plan and the final Environmental Impact Report for the Master Plan.

4.3 Processing of Building Plans and Building Permits. The County and City shall coordinate the review and processing of building plans and issuance of building permits as provided for under Development Review Process in the West Patterson Master Development Plan and shall provide priority processing to such review, processing, and issuance. If this procedure proves unwieldy in that it creates preventable delays in review, processing and issuance that adversely affects the ability of Landowner to timely provide rentable space or buildings to prospective users, County agrees to work in good faith with City and Landowner to resolve these problems, including, without limitation, amending the West Patterson Business Park Master Development Plan to streamline the process.

4.4 Reimbursements – Oversizing. Whenever development within the Master Plan area, except development in the Keystone Business Park, uses oversized water, wastewater, storm drain lines and any other utilities or public services, the County agrees to require, as a condition of approval, that such other development will pay the incremental, additional cost of oversized improvements, including an amount attributable to interest. As reimbursement to the Landowner for constructing oversized improvements, the County shall forward to the Landowner the funds collected from other development. This reimbursement obligation shall survive the term or termination of this Agreement. Prior to other development being approved in the Master Plan area outside of the Keystone Business Park, the County shall adopt an ordinance under Government Code section 66485 to authorize the payment of reimbursement costs by collection from benefiting landowners or developers in any manner set forth in Government Code section 66487. The County, Landowner and City shall meet and confer to validate and agree upon the cost and amount of incremental, additional cost of oversized improvements that is subject to reimbursement.

4.5 Reimbursements – Other Costs. To the extent allowed by law, County shall collect fees or reimbursement from land within the Master Plan area, except for the Keystone Business Park, to reimburse Landowner for advancing planning, environmental review and similar costs. These reimbursement obligations shall survive the term or termination of this Agreement. The County, Landowner and City shall meet and confer to validate and agree upon the cost and amount of advance planning costs that is subject to reimbursement.

4.6 I-5/Sperry Interchange. Long-term improvements to the I-5/Sperry Avenue interchange are an important factor to the long-term success of the entire West Patterson Business Park. County agrees to work for the improvement of the interchange through inclusion

of the interchange improvements in relevant transportation plans and programs, including, without limitation, the Regional Transportation Plan and the State Transportation Improvement Plan, and seeking state and federal assistance. Notwithstanding and in addition to any fees described in Section 2.5 of this Agreement, the Landowner agrees to pay its fair and proportional share of an interchange improvement fee levied on construction within the Business Park.

## 5. REPRESENTATIONS OF PARTIES

5.1 Landowner represents, that to the best of its current actual knowledge, Landowner would be able to construct a flex building within nine (9) months of the issuance of a building permit by County, subject to force majeure.

5.2 County represents to Landowner that, to the best of its current actual knowledge, County has resolved all tax-sharing, revenue sharing and planning issues with the City of Patterson that would interfere with development of the Business Park.

5.3 The parties represent to each other that the goal for job creation in the Business Park is twenty five (25) jobs per acre upon full buildout of the Business Park. The parties understand that this average is a goal and estimate and has no binding regulatory or legal effect on Landowner's rights under this Agreement to develop the Business Park.

## 6. DURATION OF AGREEMENT AND VESTING TENTATIVE PARCEL MAP; CANCELLATION

6.1 Term of Agreement and Vesting Tentative Parcel Map. This Agreement shall commence on the Effective Date and shall terminate on the twenty-fifth (25<sup>th</sup>) anniversary of the Effective Date ("Termination Date"), unless earlier terminated as provided in the Agreement. The term and effect of the Vesting Tentative Parcel Map shall be coterminous with that of the Agreement.

6.2 Extension of Terms. The Landowner may request in writing, at least sixty (60) days before the Termination Date, as may be extended, that the term of this Agreement and that the term of the Vesting Tentative Parcel Map be extended. Upon the consent of the County, the Agreement and the Vesting Tentative Parcel Map may be extended for up to three (3) extension periods, not to exceed five (5) years for any single period, limited to one extension period at a time and a total of fifteen (15) years for all extension periods. Each extension shall constitute an amendment to this Agreement subject to the provisions of this Agreement regarding amendments, including Government Code section 65868.

6.3 Extension of Term Upon Legal Challenge. If any litigation affecting the Property or Project is filed challenging any of the approvals or Development Entitlements granted pursuant to this Agreement (including but not limited to any environmental determinations relating to any of the foregoing), or otherwise raising issues of the validity and binding nature of this Agreement, the Term of this Agreement shall be extended for the period of time from the date of the filing of such litigation until the conclusion of such litigation by dismissal or final

entry of judgment, and the Landowner and County shall execute an amendment to this Agreement setting forth the period of any such extension and may record a notice to such effect.

6.4 Cancellation by Mutual Consent. This Agreement may be canceled in whole or in part, by mutual consent of the parties to the Agreement or their successors in interest in conformance with Government Code section 65868 and Stanislaus County Code Section 22.08.010.

6.5 Cancellation for Non-Compliance. Pursuant to Stanislaus County Code Section 22.08.020, the County may terminate or cancel this Agreement, or impose new terms or conditions as the County, in its sole discretion, determines reasonable, upon a finding that the Landowner has not complied with the terms and conditions of this Agreement and has failed to cure such noncompliance. This provision is subject to the notice, hearing and cure provisions of Stanislaus County Code Chapters 22.07 and 22.08.

6.6 Rights Upon Cancellation or Termination. The rights of the parties in the event that this Agreement is canceled or otherwise terminated are set forth in Section 22.08.030 of the Stanislaus County Code. In no event shall Landowner be entitled to any damages against County upon cancellation or termination of this Agreement.

## 7. COMPLIANCE REVIEW AND MORTGAGEE PROTECTION

7.1 Compliance Review. In conformance with the provisions of Chapter 22.07 of the Stanislaus County Code, the Director of Planning and Community Development may from time to time, and at least once every twelve (12) months shall, review the Agreement, to ascertain compliance by the Landowner with the terms and conditions of this Agreement. During any such compliance review, it shall be the obligation and burden of the Landowner to demonstrate good faith compliance with the terms of the Agreement. Subject to County's rights under Section 22.07.030 of the County Development Agreement Ordinance, the failure of any review or annual review of the Agreement to occur shall not automatically terminate, void, make voidable or otherwise adversely affect this Agreement.

7.2 Encumbrances on the Subject Property. The parties hereto agree that this Agreement shall not prevent or limit the Landowner, in any manner, at the Landowner's sole and absolute discretion, from encumbering the Property or any portion thereof or any improvements thereon with any mortgage or deed of trust securing financing with respect to the construction, development, use or operation of the Project. The County acknowledges that Mortgagee may request certain modifications to this Agreement, and the County agrees, upon request, from time to time, to meet with Landowner and/or representatives of any such Mortgagee to negotiate in good faith any such request for modification. The County further agrees that it will not unreasonably withhold its consent to any such requested modification to this Agreement provided the proposed modification is consistent with the overall intent of the Master Plan and with any agreements between the County and the City of Patterson related to the Project or to the

West Patterson Business Park. Any Mortgagee and its successor and assigns shall be entitled to the rights and privileges set forth in this section.

7.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any mortgage or deed of trust. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof by a Mortgagee (whether pursuant to foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination or otherwise) shall be subject to all of the terms and conditions of this Agreement. However, notwithstanding these provisions, no Mortgagee shall have any obligation or duty under this Agreement to perform the obligations of the Landowner or other affirmative covenants of Landowner hereunder, or to guarantee such performance, except that, to the extent that any covenant to be performed by the Landowner is a condition to the performance of a covenant by the County, the performance thereof shall continue to be a condition precedent to the County's performance hereunder.

7.4 Mortgagee Notice and Right to Cure Default. A Mortgagee may elect to receive notice of any default or non-compliance under Stanislaus County Code Section 22.07.030 and/or notice of public hearing under Stanislaus County Code Section 22.08.020 by furnishing both the Landowner and the County prior written notice of such election by personal delivery, or by certified mail--return receipt requested. In such case, the Mortgagee shall have the right to (a) cure a default, or (b) show good faith compliance, as provided in the Agreement and Title 22 of the Stanislaus County Code.

7.5 Estoppel Certificate. Either party may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party: (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The County acknowledges that a certificate hereunder may be relied upon by assignees and other persons having an interest in the Property, including Mortgagees. The failure to deliver such a certificate within the time limits in this Section 7.5 shall constitute a conclusive presumption against the party which fails to deliver such certificate that this Agreement is in full force and effect without modifications and a binding obligation of the parties and that there are no uncured defaults in the performance of the requesting party, except as may have been represented by the requesting part in this written request for the certificate.

## 8. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

8.1 No Relationship Created. It is specifically understood and agreed to by and between the parties hereto that:



To Landowner: Keystone Pacific Business Park, LLC  
Attn: Joe Hollowell  
3525 Mitchell Road, Suite G  
Post Office Box 1033  
Ceres, CA 95307

With a copy to: Burns, Day & Presnell, P.A.  
Attn: James M. Day  
2626 Glenwood Avenue, Suite 560  
Raleigh, North Carolina 27608

And with copy to: Keystone Corporation  
Attn: J. Patrick Gavaghan  
630 Davis Drive, Suite 200  
Morrisville, NC 27560

And with a copy to: Petrulakis Jensen Friedrich & Cabral, LLP  
Attn: George A. Petrulakis  
Post Office Box 92  
Modesto, California 95353-0092

10. CONFLICT OF INTEREST

Neither a County employee whose position in County enables such employee to influence the award or administration of this Agreement or any competing Agreement, nor a spouse or economic dependent of such an employee, shall be employed, hired or retained in any capacity, either directly or indirectly, by the Landowner, or have any other direct or indirect financial interest in this Agreement, during the term of this Agreement and for a period of two years after the termination of this Agreement.

11. WAIVER OF DEFAULT

Waiver of any default or breach of any provision of this Agreement by a party shall not be deemed to be waiver of any subsequent default or breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided herein. Either party's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of that party's consent to or approval of any subsequent act by either party.

12. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of

any federal, state or county statute, ordinance or regulation, the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are declared severable.

### 13. ASSIGNMENT AND TRANSFER OF DEVELOPMENT RIGHTS

Landowner shall not voluntarily, by operation of law, or through a change in the controlling interest of Landowner assign, transfer, or otherwise encumber all or any part of Landowner's interest in the Property or Landowner's duties, obligations or interest under this Agreement without County's prior written consent. Any attempted assignment, transfer, or encumbrance without such consent shall be void and shall, at the option of the County, constitute a breach of this Agreement. Landowner shall give County thirty (30) days written notice prior to any proposed assignment, transfer, or sale of Landowner's interest in the Property. County shall have thirty (30) days to approve or deny any proposed successor(s) in interest to Landowner in the Property; provided, however, approval shall not be withheld unless the Board of Supervisors finds substantial evidence that such successor is unwilling or unable to comply with the terms of this Agreement. Notwithstanding this Section 13, Landowner may sale, assign or otherwise transfer parcel numbers W-1, W-2, W-3, W-4, W-5, W-6, W-7 and W-8, or any of them, without County approval.

### 14. SUCCESSORS IN INTEREST/COVENANTS RUN WITH LAND

14.1 Binding Effect. Each and every provision of this Agreement shall constitute covenants which shall run with the land comprising the Property, and, subject to any provisions concerning the transfer of development rights heretofore set forth, all terms of this Agreement and the burdens and benefits hereof shall bind and inure to the benefit of, and be enforceable by, the parties hereto and their respective legal representatives, successors and assigns.

14.2 Recordation. Pursuant to Government Code section 65868.5 and Stanislaus County Code Section 22.09.060 A, the Clerk of the Board of Supervisors shall record a copy of the Agreement with the County Recorder no later than ten days after the ordinance approving the Agreement takes effect.

### 15. INSURANCE

15.1 Coverage. Landowner shall take out, and maintain for one year after completion of the First Flex Phase private improvements on Parcel F-1 and public improvements required as a condition of recording a final parcel map for Parcel F-1, insurance policies with coverage at least as broad as follows:

15.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the

general aggregate limit shall apply separately to any act or omission by Landowner under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

15.1.2 Automobile Liability Insurance. If the Landowner or the Landowner's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

15.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Landowner certifies under section 1861 of the Labor Code that the Landowner is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Landowner will comply with such provisions before commencing the performance of the work of this Agreement.

15.2 Deductibles. Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County, such approval not to be unreasonably withheld. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Landowner shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Landowner agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Landowner's defense and indemnification obligations as set forth in this Agreement.

15.3 Additional Insured Endorsement. The Landowner shall provide a specific endorsement to all required insurance policies, except Workers' Compensation insurance, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Landowner, including the insured's general supervision of the Landowner; (b) services, products and completed operations of the Landowner; (c) premises owned, occupied or used by the Landowner; and (d) automobiles owned, leased, hired or borrowed by the Landowner. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Landowner.

15.4 Priority of Policies. The Landowner's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Landowner's insurance and shall not contribute with Landowner's insurance.

15.5 Compliance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees.

15.6 Application. The Landowner's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

15.7 Notice of Cancellation. Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Landowner shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

15.8 Insurance Rating. Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County. A rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

15.9 Contractors. Landowner shall require that all of its contractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.

15.10 Proof of Insurance. At least ten (10) days prior to the date the Landowner begins performance of its obligations under this Agreement, Landowner shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of the Landowner. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

15.11 Limitation of Liability. The limits of insurance described herein shall not limit the liability of the Landowner and Landowner's officers, employees, agents, representatives or subcontractors.

16. INDEMNIFICATION

16.1 Liability. To the fullest extent permitted by law, including the provisions of Government Code section 66474.9 (a), Landowner shall indemnify, hold harmless and defend, the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Landowner or Landowner's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Landowner's obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Landowner in contributing to such claim, damage, loss and expense.

16.2 Attack of Proceedings. To the fullest extent permitted by law, Landowner shall defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action, or proceeding against the local agency or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the local agency, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 64499.37.

16.3 Effect of Insurance. Landowner's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Landowner to procure and maintain a policy of insurance.

16.4 Defense of Claim. If any such claim, action, or proceeding is brought against County or County's officers, officials, employees, independent contractors, volunteers or agents, Landowner, upon notice from County, shall defend the County at Landowner's expense by counsel satisfactory to County.

16.5 Notice of Claim. County shall promptly notify Landowner of any claim, action, or proceeding against County or County's officers, officials, employees, independent contractors, volunteers, or agents relating to the performance, or omission to perform, any term or condition of this Agreement. County shall cooperate fully in the defense of such claim, action, or proceeding.

16.6 Assumption of Risk. Landowner assumes all risk of damage to property or injury to persons resulting from the performance or omission to perform under this Agreement by Landowner or Landowner's agents, representatives, employees, contractors and subcontractors. Landowner hereby waives all claims in respect thereof against County and County's officers, officials, employees, independent contractors, volunteers and agents.

17. AMENDMENT

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties or their successors in interest, after notice and public hearing in conformance with and pursuant to the provisions of Government Code section 65868 and Chapter 22.08 of the Stanislaus County Code. Any duly adopted amendment or change shall be in written form, executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity. The Director of Planning and Community Development shall have authority to agree to changes in any of the exhibits made a part of this Agreement; all other changes to the Agreement require approval of the Board of Supervisors.

18. CALIFORNIA TORT CLAIMS ACT

Notwithstanding any term or condition of this Agreement, the provisions of the California Tort Claims Act (Division 3.6 (commencing at section 810) of Title 1 of the Government Code) are not waived by the County and shall apply to any claim against County arising out of any acts or conduct by any party under the terms and conditions of this Agreement.

19. ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

20. ADVICE OF ATTORNEY

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

21. CONSTRUCTION

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

22. GOVERNING LAW AND VENUE

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce

the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

23. ATTORNEY FEES

Notwithstanding any contrary provision of law or of this Agreement, each party shall be solely responsible for the cost and expenses, including attorneys' fees, incurred by that party in any proceeding whatsoever brought by any party to this Agreement to enforce or construe the provisions of this Agreement.

24. JOINT AND SEVERAL LIABILITY

If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

25. INCORPORATION OF RECITALS AND EXHIBITS

The parties agree that the recitals to this Agreement are true and correct. The recitals and exhibits to this Agreement are incorporated into the Agreement as if they were set forth in the Agreement.

26. AUTHORITY

26.1 County. County hereby appoints the Director of the Stanislaus County Department of Planning and Community Development or the Director's designee ("Director"), as its authorized representative to administer the terms and conditions of this Agreement. The terms and conditions of this Agreement shall constitute the standards by which the Director, or the Director's designee, shall administer this Agreement. The Director has the authority to bind the County regarding administering the terms and conditions of this Agreement and Landowner may rely on the Director's written representations and decisions.

26.2 Landowner. Each individual executing this Agreement on behalf of Landowner represents and warrants that such individual is duly authorized to execute and deliver this Agreement on behalf of Landowner in accordance under the authority of the Landowner.

--- SIGNATURE LINES ON FOLLOWING PAGE ---

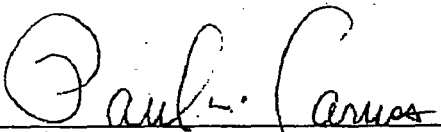
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

"County"

"Landowner"

COUNTY OF STANISLAUS

KEYSTONE PACIFIC BUSINESS  
PARK, LLC

By:   
Name: Paul W. Caruso

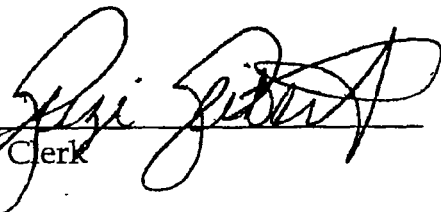
By:   
Name: J. Patrick Gavaghan

Vice-Chairman of the Board of Supervisors

Its: Managing Member

ATTEST:

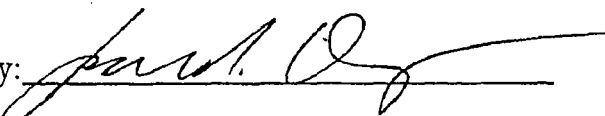
CHRISTINE FERRARO TALLMAN  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By:   
Deputy Clerk

APPROVED AS TO CONTENT:  
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

By:   
Ron E. Freitas  
Director

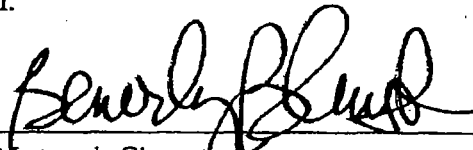
APPROVED AS TO FORM:  
MICHAEL H. KRAUSNICK  
COUNTY COUNSEL

By:   
Deputy County Counsel  
John P. Doering  
Assistant County Counsel

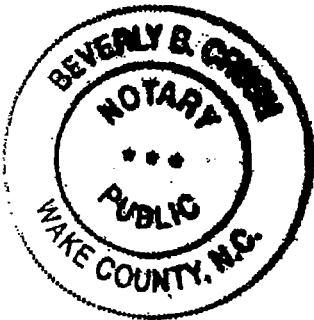
State of North Carolina)  
County of Wake) SS.

On this 16<sup>th</sup> day of January 2003, before me, the undersigned a Notary Public in and for said County and State, personally appeared **J. PATRICK GAVAGHAN**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Notary's Signature

expiration: 1/30/2005



SCHEDULE OF EXHIBITS

Exhibit "A"	Legal Description for Keystone Pacific Business Park
Exhibit "A-1"	Legal Description Sketch for Keystone Pacific Business Park
Exhibit "A-2"	APN 21-26-01
Exhibit "A-3"	APN 21-23-10
Exhibit "B"	Table of Entitlements, Permits, Approvals and Actions
Exhibit "C"	List of Essential Infrastructure
Exhibit "C-1"	Zone II Water Transmission System (that is part of Essential Infrastructure)
Exhibit "C-2"	Sewer Infrastructure (that is part of Essential Infrastructure)
Exhibit "D"	Master Plan Infrastructure (Illustrative)
Exhibit "E"	Construction Schedule
Exhibit "F"	Permitted Uses and Uses Not Permitted in Keystone Pacific Business Park
Exhibit "G"	Schedule of City Development Fees
Exhibit "H"	First Flex Phase Development
Exhibit "I"	Baldwin Road Partial Reimbursement Agreement
Exhibit "J"	Cross-Section and Description of Baldwin Road Improvements
Exhibit "K"	Alignment of Baldwin Road (and Right of Way)

**EXHIBIT "A"**  
**Legal Description for Keystone Pacific Business Park**

A portion of Sections 23 and 26, Township 5 South, Range 7 East, Mount Diablo Base and Meridian, situate in the County of Stanislaus, State of California, more particularly described as follows:

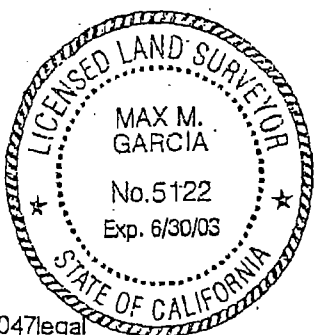
Beginning at the northeast corner of Parcel 3 as shown on the map recorded in Book 32 of Parcel Maps, Page 101, Stanislaus County Records; thence North 89°46'31" West along the north line of said parcel, a distance of 2617.39 feet to the northwest corner of said parcel; thence South 00°21'34" West along the west line of said parcel, a distance of 658.60 feet to the southwest corner of said parcel; thence North 89°44'35" West along the north line of said Section 26, a distance of 1352.97 feet to the northeasterly line of the West Stanislaus Irrigation District Lateral No. 6 South; thence southerly along the northeasterly line of said Lateral No. 6 South the following six (6) courses:

1. South 49°53'00" East, a distance of 350.68 feet;
2. South 30°27'00" East, a distance of 779.06 feet;
3. South 32°27'00" East, a distance of 937.42 feet;
4. South 11°41'00" East, a distance of 497.89 feet;
5. South 42°27'18" East, a distance of 391.46 feet;
6. South 24°00'00" East, a distance of 186.02 feet to the south line of the northeast quarter of said Section 26;

thence South 89°55'45" East along said south line, a distance of 2348.81 feet to the west line of Baldwin Road which lies 25.00 feet west of and parallel with the east line of said Section 26; thence North 00°20'00" East along said west line, a distance of 2620.08 feet to the southeast corner of said Parcel 3; thence North 00°19'20" East along the west line of Baldwin Road which lies 25.00 feet west of and parallel with the east line of said Section 23 and the east line of said Parcel 3, a distance of 660.08 feet to the point of beginning.

Contains 224 acres, more or less.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.



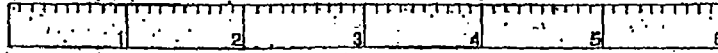
*Max M. Garcia*

Max M. Garcia, L.S. 5122  
License Expires: 06/30/03

*5/23/02*  
Date



1-800-345-7334



SCALE IN 1/10 OF AN INCH

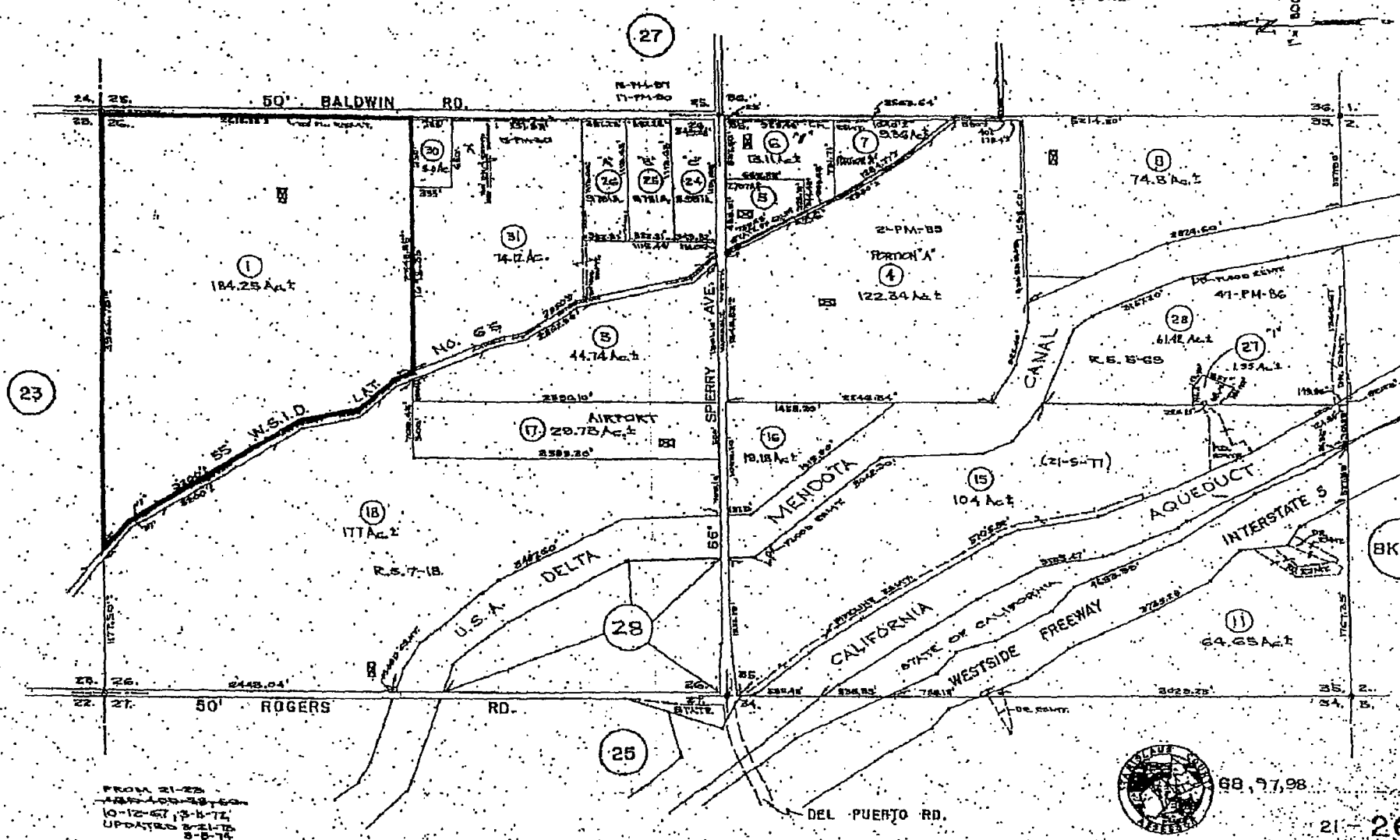
SECTIONS 26 & 35 T.5S. R.7E. M. D. B. & M.

086 000  
086 004  
086 017

21 - 26

THIS MAP FOR  
ASSESSMENT PURPOSES ONLY

EXHIBIT "A-2"  
APN 21-26-01



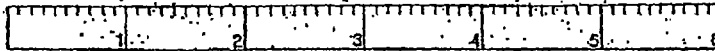
FROM 21-25  
10-12-67, 3-5-72,  
UPDATED 8-21-78  
7-21-71, 5-21-81, 7-1-87



88, 97, 98

21 - 26

1-800-345-7334



SCALE IN 1/10 OF AN INCH

SECTIONS 23, 24 T.5S. R.7E. M.D.B. & M.

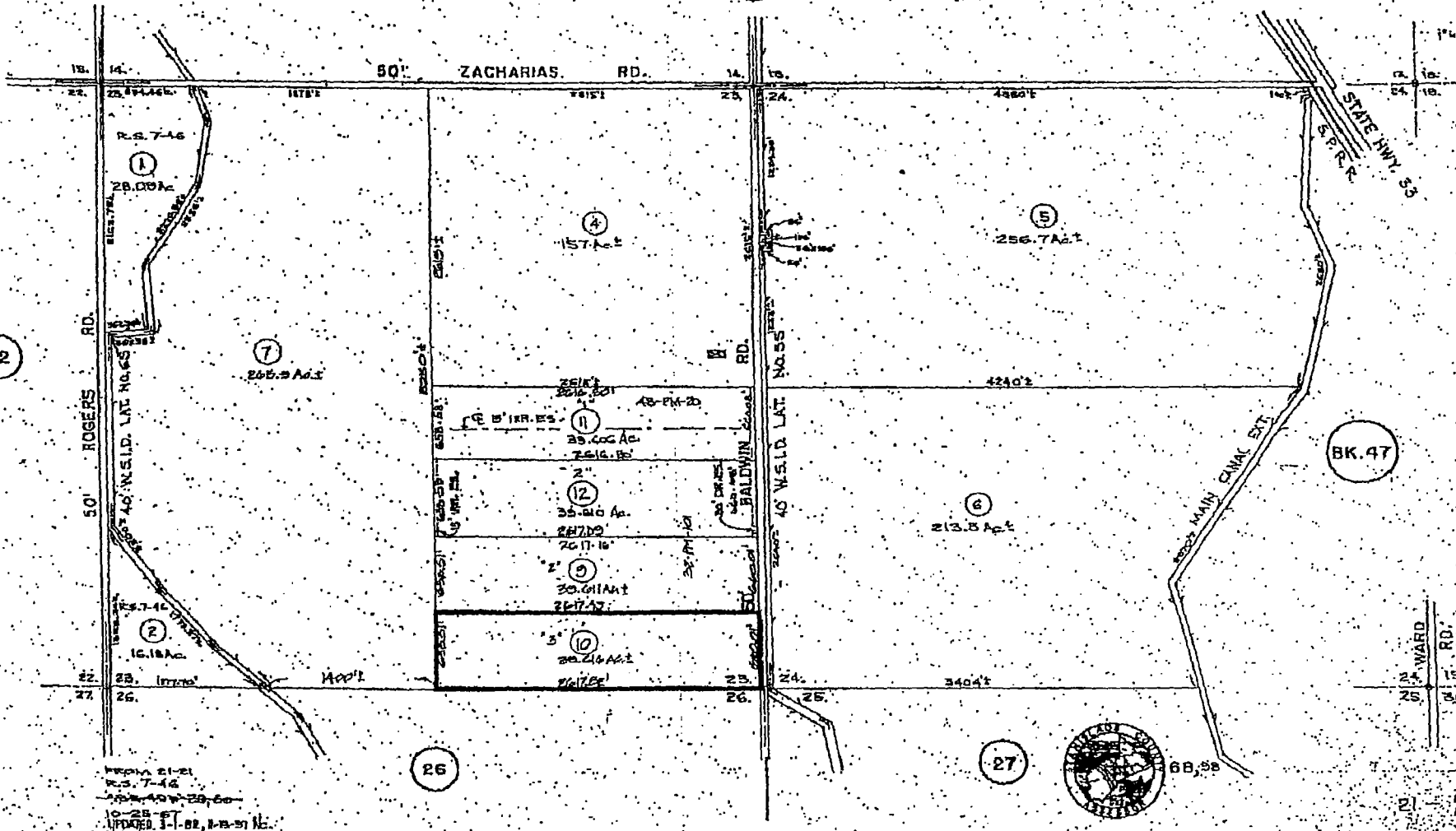
086 004  
086 016  
086 017

21 - 2

THIS MAP FOR  
ASSESSMENT PURPOSES ONLY

EXHIBIT "A-3"  
APN 21-23-10

22



BK. 47

Map 21-21  
R.S. 7-46  
APN 21-23-10  
APPROVED J.T. 02, 1-13-57



N 19  
25 30  
RD.

21 - 2

**EXHIBIT "B"**

**TABLE OF ENTITLEMENTS, PERMITS, APPROVALS AND ACTIONS  
VESTED UNDER THIS DEVELOPMENT AGREEMENT**

1. County General Plan Amendment No. 2002-08, dated \_\_\_\_\_, to amend General Plan designation from "Agriculture" to "Planned Industrial" and amendment of General Plan definition of "Planned Industrial" land use designation to include Industrial Business Park and Light Industrial zoning districts;
2. Ordinance Amendment 2002-02 creating two new zoning districts "Industrial Business Park" and "Light Industrial", Title 21, Chapters 21.61 and 21.62;
3. West Patterson Business Park Master Development Plan dated \_\_\_\_\_;
4. County Rezone No. 2002-20, dated \_\_\_\_\_;
5. The Project Vesting Tentative Parcel Map No. 2002-30, dated \_\_\_\_\_, creating 35 parcels which application was complete on November 18, 2002;
6. The Conditions of Approval for the Project dated \_\_\_\_\_ ("Conditions of Approval");
7. Addendum No. 1 to the Development Cooperation Agreement (West Patterson Business Park Master Development Plan) by and between the County of Stanislaus and the City of Patterson, dated \_\_\_\_\_;
8. The environmental documentation prepared for the Project under the California Environmental Quality Act (Public Resources Code sections 21000 et seq., hereinafter "CEQA"), including the Revised Environmental Impact Report (SCH #2001022031 and 2001032037) findings, statement of overriding considerations, and mitigation and monitoring program;
9. LAFCO adoption of expansion of the Sphere of Influence of the City of Patterson, dated \_\_\_\_\_, Master Services Element and Service Review.

**EXHIBIT "C"**

**LIST OF ESSENTIAL INFRASTRUCTURE**

**1. Zone II Water System**

Zone II Water Transmission System

Zone II Water Storage Tank(s)

Zone II Water Supply, including water well #9 and related facilities

**2. Wastewater Infrastructure**

Walnut Avenue Wastewater Line

Wastewater Treatment Plant Expansion

**EXHIBIT "C-1"**

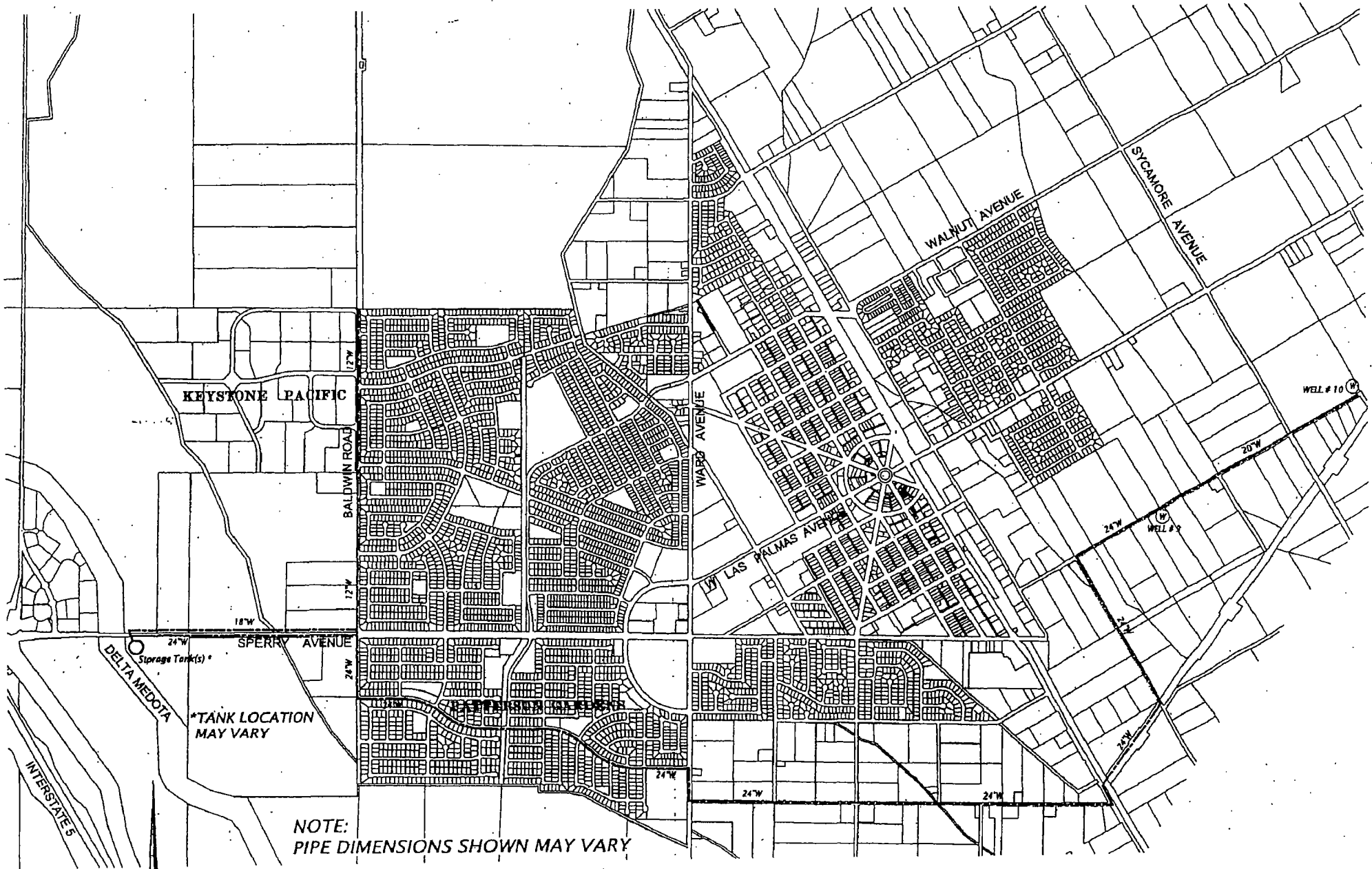
**ZONE II WATER SYSTEM  
(THAT IS PART OF ESSENTIAL INFRASTRUCTURE)**

Zone II Water Transmission System

Zone II Water Storage Tank(s)

Zone II Water Supply, including water well #9 and related facilities

Map is illustrative and conceptual only.  
Pipe diameters may vary.



KEYSTONE PACIFIC

\*TANK LOCATION  
MAY VARY

NOTE:  
PIPE DIMENSIONS SHOWN MAY VARY

**EXHIBIT C-1**  
**ZONE II WATER SYSTEM**  
MAY, 2002

**GDR ENGINEERING, INC.**  
ENGINEERING/SURVEYING/PLANNING  
3525 MITCHELL ROAD, SUITE C CERRITOS, CA 95307  
TELEPHONE: (209) 538-3360 FAX: (209) 538-7370



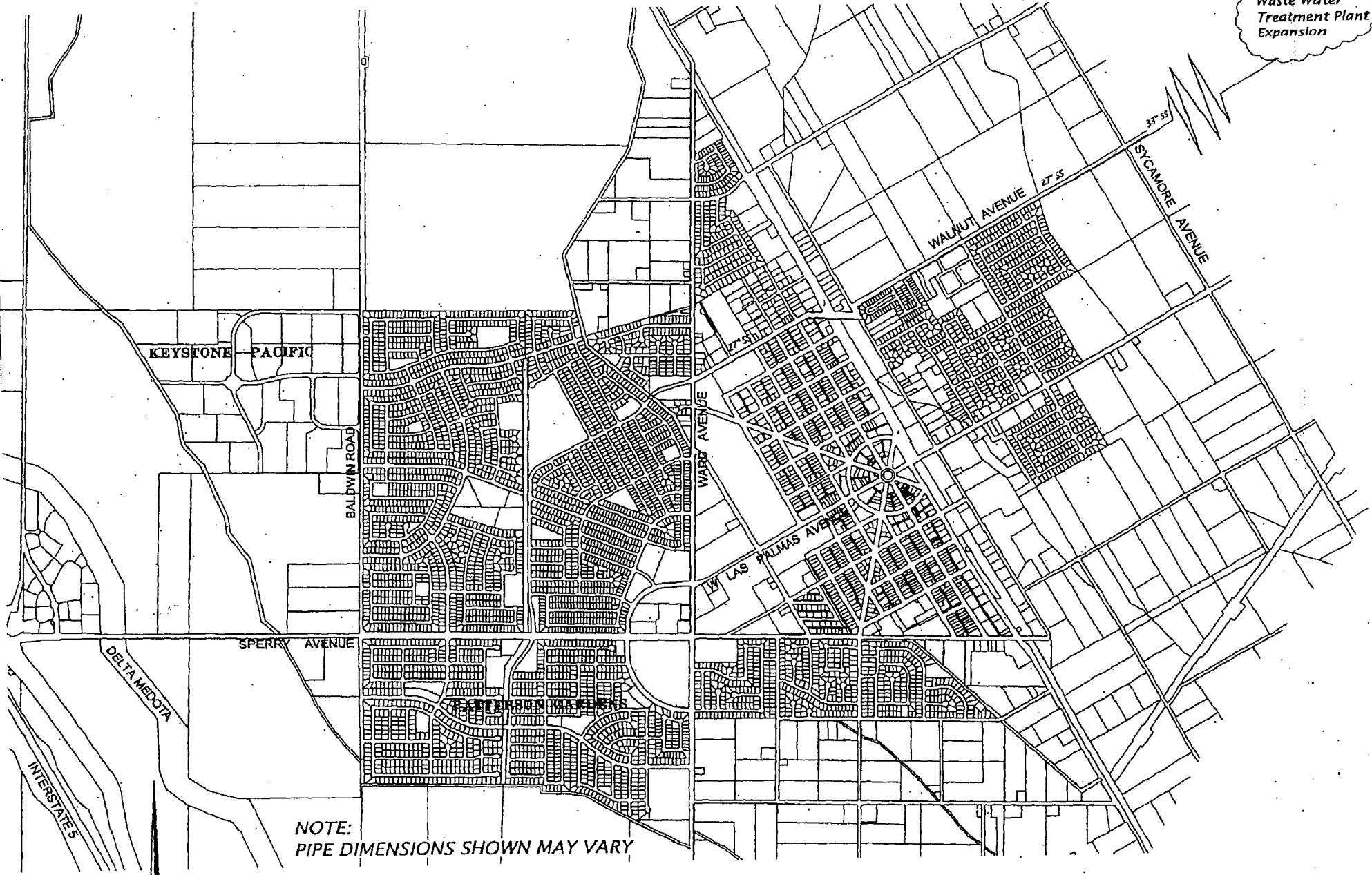
**EXHIBIT "C-2"**

**WASTEWATER INFRASTRUCTURE  
(THAT IS PART OF ESSENTIAL INFRASTRUCTURE)**

1. Walnut Avenue Wastewater Line
2. Wastewater Treatment Plant Expansion

Map is illustrative and conceptual only.  
Pipe diameter may vary.

Waste Water  
Treatment Plant  
Expansion



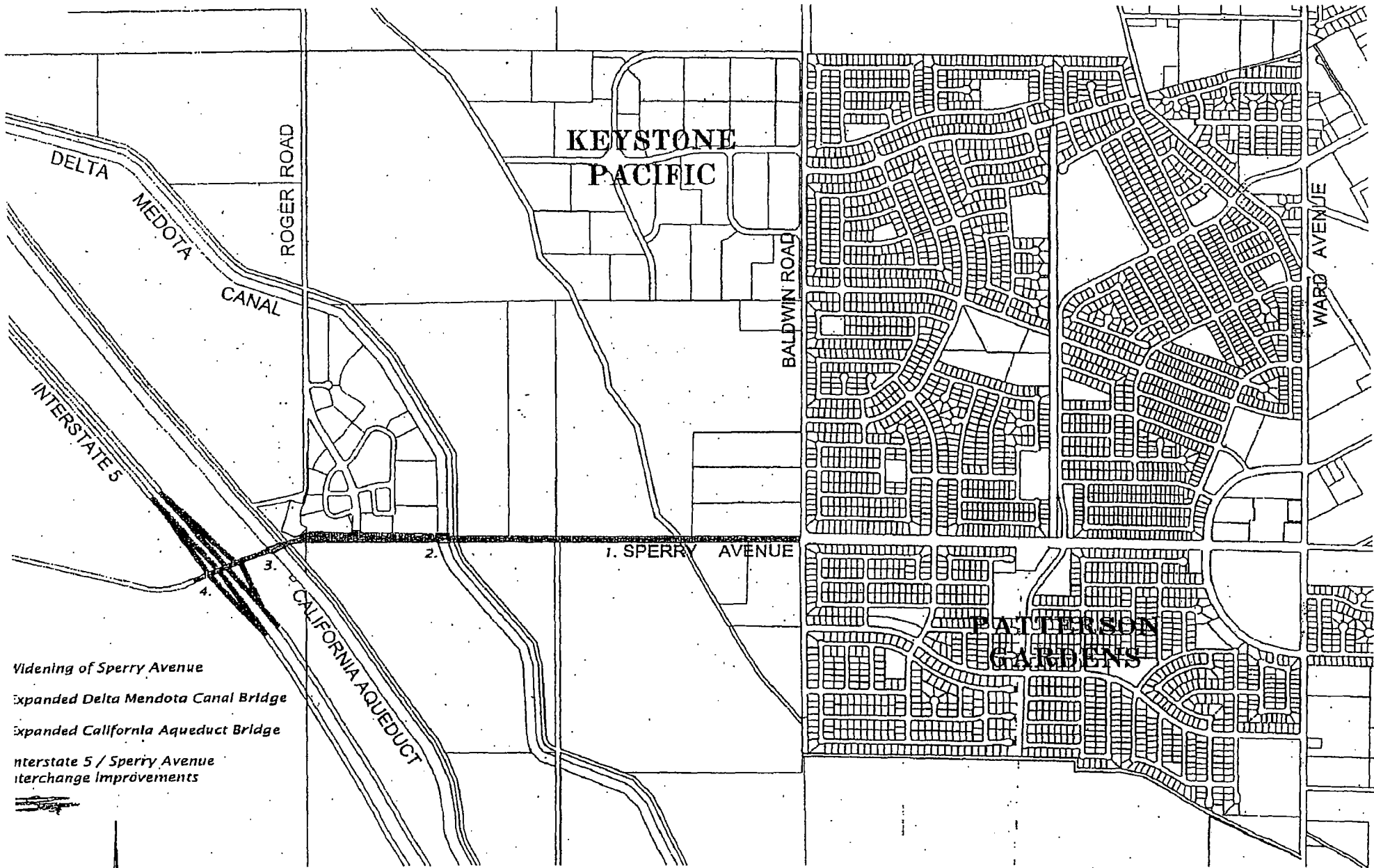
NOTE:  
PIPE DIMENSIONS SHOWN MAY VARY

# EXHIBIT C-2 WASTEWATER INFRASTRUCTURE

MAY, 2002



**GDR ENGINEERING, INC.**  
ENGINEERING/SURVEYING/PLANNING  
3525 MITCHELL ROAD, SUITE G CERES, CA 95307  
TELEPHONE: (209) 538-3360 FAX: (209) 538-7370



- Videning of Sperry Avenue
- Expanded Delta Mendota Canal Bridge
- Expanded California Aqueduct Bridge
- Interstate 5 / Sperry Avenue Interchange Improvements



**EXHIBIT D**  
**MASTER PLAN INFRASTRUCTURE (ILLUSTRATIVE)**

MAY, 2002


**GDR ENGINEERING, INC**  
 ENGINEERING/SURVEYING/PLANNING  
 3525 MITCHELL ROAD, SUITE C Ceres, CA 95307  
 TELEPHONE: (209) 538-3380 FAX: (209) 538-7370



**EXHIBIT "F"**

**KEYSTONE BUSINESS PARK ALLOWABLE USES**

<b>USE</b> P = Permitted, SA= Staff Approval Required, UP=Use Permit Required, N= Not Allowed	<b>INDUSTRIAL BUSINESS PARK ZONE</b>	<b>LIGHT INDUSTRIAL ZONE</b>
Crop Production & Horticulture	P	P
Parks & Playgrounds	P	P
Assembly of Products	P	P
Bakery Wholesale & Distribution	N	P
Bottling Plant	N	P
Business Incubator Centers	P	P
Business Services	P	P
Call Centers	P	P
Ceramic Products Manufacturing	N	SA
Communications systems research & development	P	P
Computer Systems research & development	P	P
Conference Center	UP	N
Contractor Offices with no Outside Storage	N	SA
Contractor or Building supply sales - wholesale or storage without outside storage	SA	P
Corporate Offices	P	P
Furniture Manufacturing	UP	P
Electric Motor Sale and Repair	N	P
Electronic repair and assembly	P	P
Food Packaging	N	P
Foundries, fabrication plants, forging, metal casting	N	UP
Freight Terminal	N	P
Interior design and office equipment sales	SA	SA
Laboratories without outside storage	UP	UP
Manufacturing and technology support industries	P	P
Manufacturing/Storage of Chemicals - if accessory use only	N	UP
Packaging	P	P
Pharmaceutical manufacturing	UP	UP
Printing and Publishing, book binding	P	P
Research & Development Laboratories	SA	SA
Seed Processing and packaging	N	SA
Sheet metal fabrication	N	UP
Sign Fabrication	SA	SA
Software development	P	P
Warehouse as a principal use	N	P
Wholesale distribution and catalog sales	P	P
Banks	SA	SA
Broadcast Studios	SA	SA
Catering Services	SA	SA
Ceramic Products	SA	SA
Contractor or Building supply sales - wholesale or storage without outside storage	SA	P

\*\*\* The Planning Directors have the authority to require a Use Permit rather than a Staff Approval if a project application indicates that potentially significant impacts may occur that have not been analysed in existing environmental documentation

**EXHIBIT "F"**

**KEYSTONE BUSINESS PARK ALLOWABLE USES**

<b>USE</b> P = Permitted, SA= Staff Approval Required, UP=Use Permit Required, N= Not Allowed	<b>INDUSTRIAL BUSINESS PARK ZONE</b>	<b>LIGHT INDUSTRIAL ZONE</b>
Convenience Store	SA	SA
Computer Sales & Repair	SA	SA
Commercial Laundry	SA	SA
Counseling Services	SA	SA
Day Care Center	SA	SA
Furniture finishing & Repair	N	SA
Gymnasium/excersize business/Health Clubs/Gymnastics Schools	SA	SA
Ice or Water Dealers	N	SA
Moving and Storage Service (No Mini-Storage)	N	SA
Offices	P	P
Parcel Delivery Service	P	P
Photographic Studios & Photo Processing for Retail	P	P
Public Buildings	P	P
Copying and Reprographics	P	P
Restaurants, food take-out	SA	SA
Retail Shops - If <25% in a bldg used prim for other uses	SA	SA
Artist Gallery/Studio	SA	SA
Auditoriums - Only as associated with Hotel/Conference Centers	UP	N
Business Services Offices or shops	P	P
Churches	UP	UP
Colleges and Universities	SA	SA
Conference/Retreat Center	UP	N
Exhibition Building	SA	SA
Fire Station/Emergency Services/Police	P	P
Glass Studio	SA	P
Government Facilities	P	P
Health Clubs & Athletic Facilities as a subordinate Activity	P	P
Hotels/Motels	UP	N
Laundry/Dry Cleaning	P	N
Medical Facilities Industrial Doctors/Emergency as Accessory Only	SA	SA
Medical Facilities Prompt or Urgent Care Facility	SA	SA
Museums - Non Profit	SA	SA
Night Clubs - in association with hotel only	P	N
Passenger/Transportation terminals	SA	SA
Private Schools	SA	SA
Public Utilities	SA	SA
Recreation Facilities for Employees	P	P
Technical/Trade Schools	SA	SA
Temporary Outside Events	SA	SA
Communication Facility Towers	SA	SA

\*\*\* The Planning Directors have the authority to require a Use Permit rather than a Staff Approval if a project application indicates that potentially significant impacts may occur that have not been analysed in existing environmental documentation

**EXHIBIT "F"**

**KEYSTONE BUSINESS PARK ALLOWABLE USES**

<b>USE</b> P = Permitted, SA= Staff Approval Required, UP=Use Permit Required, N= Not Allowed	<b>INDUSTRIAL BUSINESS PARK ZONE</b>	<b>LIGHT INDUSTRIAL ZONE</b>
Adult Establishments	N	N
Airports/Heliports	N	N
Appliance Sales and Repair	N	N
Auto/Truck Sales or Repair or Body Shops	N	N
Bed and Breakfast Inns	N	N
Boarding Houses	N	N
Boat, Motorcycle, Jet Ski, Auto and RV Sales and Repair	N	N
Building Materials Sales with outside Storage	N	N
Car Washes automatic and self serve	N	N
Cemeteries, mausoleums, columbaria and memorial gardens	N	N
Coal and wood lots	N	N
Commercial dorms	N	N
Concrete Plants	N	N
Contractor or Building Supply - Retail with or without outside storage	N	N
Convenience stores with gasoline sales	N	N
Correctional Facilities and Jails	N	N
Crematoriums	N	N
Detached single family dwellings	N	N
Drive-in Theaters	N	N
Duplexes, triplexes, and multi-family units	N	N
Exterminators	N	N
Fairgrounds	N	N
Farmers Markets	N	N
Feed and Grain Sales and Storage	N	N
Funeral Homes	N	N
Garden Centers	N	N
Hazardous & Nuclear material storage and disposal unless a very minor accessory to approved use - (UP required)	N	N
Heavy Equipment Sales or Repair	N	N
Hospitals	N	N
Incinerators	N	N
Junk Yards and Wrecking yards	N	N
Kennels	N	N
Landfills	N	N
Manufacture and Storage of Chemicals when not accessory use (UP required)	N	N
Manufacture and storage of fireworks or explosives	N	N
Manufactures home or office sales	N	N
Mini-storage	N	N
Parking as an independent use	N	N
Pet Grooming	N	N
Public Schools (K-12)	N	N
Public Sewer Treatment plants	N	N

\*\*\* The Planning Directors have the authority to require a Use Permit rather than a Staff Approval if a project application indicates that potentially significant impacts may occur that have not been analysed in existing environmental documentation

**EXHIBIT "F"**

**KEYSTONE BUSINESS PARK ALLOWABLE USES**

<b>USE</b> P = Permitted, SA= Staff Approval Required, UP=Use Permit Required, N= Not Allowed	<b>INDUSTRIAL BUSINESS PARK ZONE</b>	<b>LIGHT INDUSTRIAL ZONE</b>
Quarries or mining	N	N
Rendering plants for poultry or animals	N	N
Repair shops with outdoor storage or operation	N	N
Retirement Centers and life care facilities	N	N
Salvage and scrap yards	N	N
Service Stations	N	N
Shopping Centers	N	N
Slaughtering Plants	N	N
Stadiums and Arenas	N	N
Storage yards including bulk storage of flammables	N	N
Storage yards not including bulk storage of flammables	N	N
Theaters, Movie Theaters	N	N
Transfer Stations	N	N
Veterinarian Offices, Clinics, Hospitals	N	N

\*\*\* The Planning Directors have the authority to require a Use Permit rather than a Staff Approval if a project application indicates that potentially significant impacts may occur that have not been analysed in existing environmental documentation.

**EXHIBIT "G"**

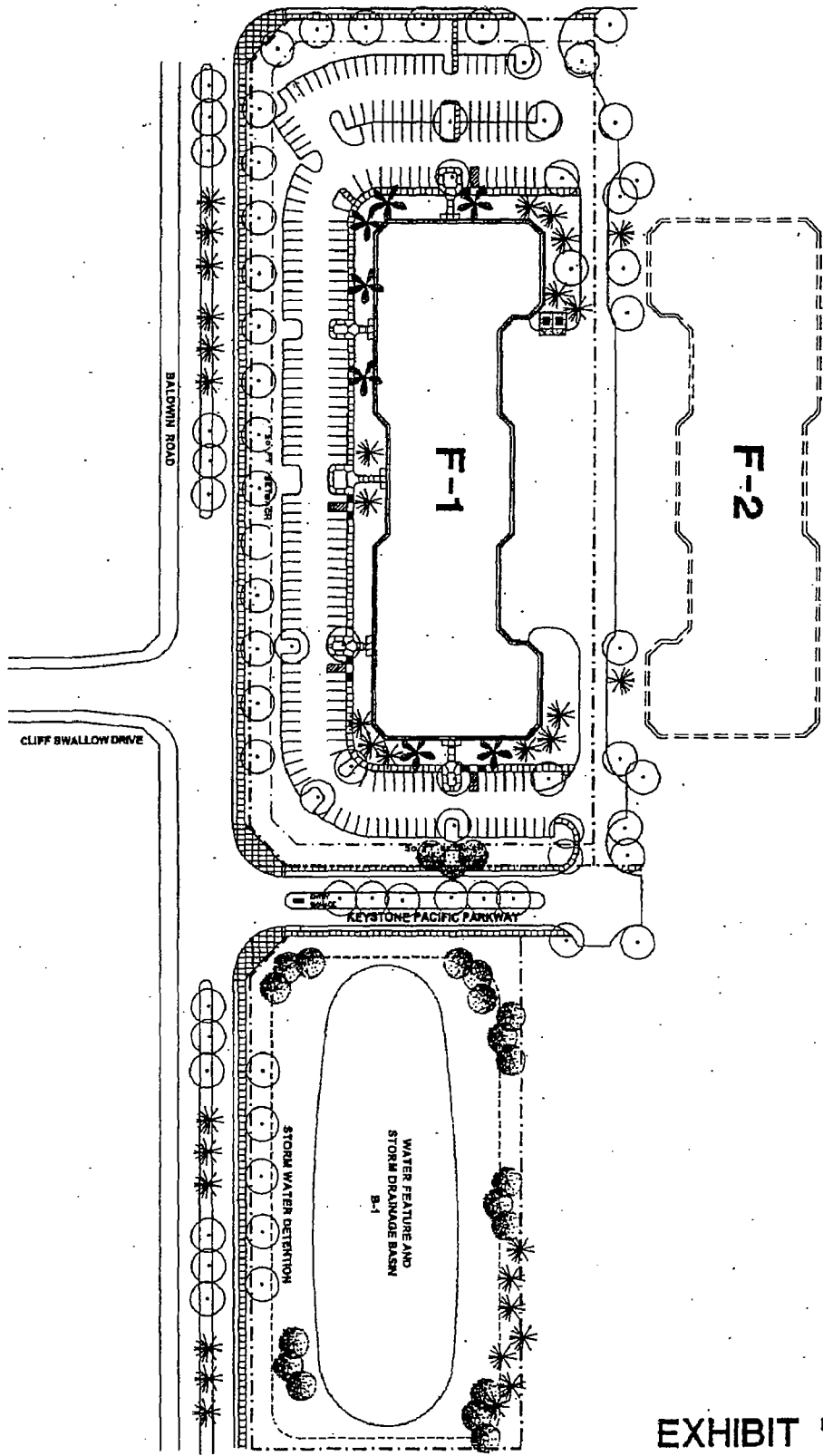
**SCHEDULE OF CITY IMPOSED OR COLLECTED DEVELOPMENT FEES**

(All fees subject to indexing)

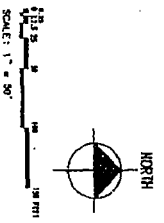
<b>TYPE OF FEE</b>			
	<b>Preliminary City Fee Amount</b>	<b>Credit Source</b>	<b>Fee Amount to be Paid Under Development Agreement</b>
<b>CITY FEES</b>			
General Plan Reimbursement Fee (not paid at annexation)	\$106.00/acre	None needed. Keystone Pacific Business Park not in General Plan area covered by this fee.	-0-
Light Industrial Improvement Impact Fee	\$0.117/sq. ft. of site area	Credit if facilities overlap with EIR mitigation	\$0.117/sq. ft. of site area
Light Industrial Site Fee	\$17,445.00/acre	Developer builds facilities	-0-
Light Industrial Connection Fee	\$15,000.00/acre	Mello-Roos	Per Section 3.5 of Development Agreement
Light Industrial Connection Fee	\$7,079.00/acre	Mello-Roos	Per Section 3.5 of Development Agreement
Water Meter (2" meter - minimum charge)	\$1,200.00 minimum	None	\$1,200
Light Industrial Government Impact Fee/City Hall	\$0.06/sq. ft.	Credit back to Developer if facilities built by Mello-Roos	\$0.06/sq. ft.
Light Industrial Government Impact Fee/Corp. Yard	\$0.08/sq. ft.	None	\$0.08/sq. ft.
Safety Impact Fee/Police	\$0.05/sq. ft.	None	\$0.05/sq. ft.
Safety Impact Fee/Fire	\$0.16/sq. ft.	Existing West Stanislaus fee	-0- since Landowner pays West Stanislaus fee
West Stanislaus Fire District	N/A	N/A	\$0.45/sq. ft. at building permit for capital facilities \$0.04/sq. ft. annual assessment for operations

**EXHIBIT "G"**

I-5 Sperry Avenue Interchange Fee	None	As established per Section 4.6 of Development Agreement	As established per Section 4.6 of Development Agreement
Environmental Mitigation Fees Swainson's Hawk Mitigation	None	None	Pursuant to EIR MMP
Traffic	None	Credit if facilities overlap with City or County fee programs	Pursuant to EIR MMP
Health Care District - Fee (San Juan Health Care District)	None	None	\$0.055/sq. ft.



**EXHIBIT "H"**  
**FIRST FLEX PHASE DEVELOPMENT**



**HagerSmith Design PA**  
 700 North Lincoln Street  
 Harrisburg, PA 17102-1000  
 Phone: 717.633.4000  
 © December 2007

Architecture  
 Landscape Architecture  
 Planning  
 Surveying

**CAUTION:**  
**UNAUTHORIZED CHANGES AND USES**  
 ALL DIMENSIONS SHOWN ON THIS PLAN ARE TO BE CONSIDERED AS APPROVED BY THE PROFESSIONAL ENGINEER OR ARCHITECT AT THE TIME OF THESE PLANS. ANY CHANGES TO THESE PLANS MUST BE APPROVED BY THE PROFESSIONAL ENGINEER OR ARCHITECT AT THE TIME OF THESE PLANS.

DESCRIPTION	DATE	BY

**OWNER:**  
 KEYSTONE PACIFIC BUSINESS PARK, LLC  
 100 FIFTH STREET, SUITE B  
 P.O. BOX 80  
 HARRISBURG, PA 17102-0080  
 DOW CORNING

**KEYSTONE PACIFIC BUSINESS PARK**



**GDR ENGINEERING, Inc.**  
 ENGINEERING/SURVEYING/PLANNING  
 2000 LITTLETON ROAD, SUITE 100  
 HARRISBURG, PA 17102-1000  
 Phone: 717.633.4000  
 Fax: 717.633.4001  
 E-MAIL: gdr@drpe.com

Scale: 1" = 50'  
 Date: Sept. 11, 2007  
 SHEET NO. 01  
 FLEX - PHASE ONE  
 SHEET 01 OF 01

**EXHIBIT "I"**

Recording Requested By  
And For The Benefit Of:  
And When Recorded Mail To:

County of Stanislaus  
Department of Public Works  
Attn: George Stillman  
1010 Tenth Street, Suite 3500  
Modesto, CA 95354

Space Above For Recorder's Use

APN 021-26-01  
APN 021-23-10

**BALDWIN ROAD PARTIAL REIMBURSEMENT AGREEMENT**

This Agreement is made and entered into by and between the COUNTY OF STANISLAUS ("County") and KEYSTONE PACIFIC BUSINESS PARK, LLC, a North Carolina limited liability company ("Landowner"), on April 15, 2003.

WITNESSETH

WHEREAS, County has expended certain monies for the reconstruction of Baldwin Road based upon the representations and covenants of Landowner to construct the First Flex Phase development in the Keystone Pacific Business Park pursuant to Section 3.3 of that certain Development Agreement between the parties dated April 15, 2003; and

WHEREAS, pursuant to Section 3.4.2 of the Development Agreement, Landowner must reimburse County for monies expended by the County should Landowner not fulfill its obligation to construct First Flex Phase development in the Keystone Pacific Business Park;

NOW, THEREFORE, it is mutually agreed as follows:

1. That if Landowner defaults in its obligations under Section 3.3 of the Development Agreement, Landowner shall reimburse to County in cash or cash equivalent the amount of monies expended by the County to construct Baldwin Road, excluding the sum that County expects to be reimbursed from residential developers north of Sperry Avenue pursuant to a County agreement with the City of Patterson. This reimbursement from Landowner to County shall in no event exceed three million and no/100 dollars (\$3,000,000.00).
2. That upon default by Landowner of its obligations under Section 3.3 of the Development Agreement, County shall provide written notice to Landowner of such default together with the facts constituting such default. County shall also provide to Landowner an

itemized and documented list of the monies expended in construction of Baldwin Road that must be reimbursed together with the total amount owed. Landowner shall have thirty (30) days to cure such default.

3. That once a certificate of occupancy has been issued for the flex building shell (thus making the building ready for the construction of tenant improvements), the County shall provide the Landowner with a release and satisfaction exonerating this Agreement in a form suitable for recording.
4. That each and every one of the provisions of this Agreement herein contained shall bind and inure to the benefit of the successors in interest of the parties hereto in the same manner as if they had herein been expressly named.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

KEYSTONE PACIFIC BUSINESS PARK, LLC

By: \_\_\_\_\_

Raymond C. Simón  
Chairman of the Board of Supervisors

“County”

By: \_\_\_\_\_

J. Patrick Gavaghan  
Managing Member

“Landowner”

ATTEST:

CHRISTINE FERRARO TALLMAN  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By: \_\_\_\_\_

Deputy Clerk

APPROVED AS TO CONTENT:  
DEPARTMENT OF PUBLIC WORKS

By: \_\_\_\_\_

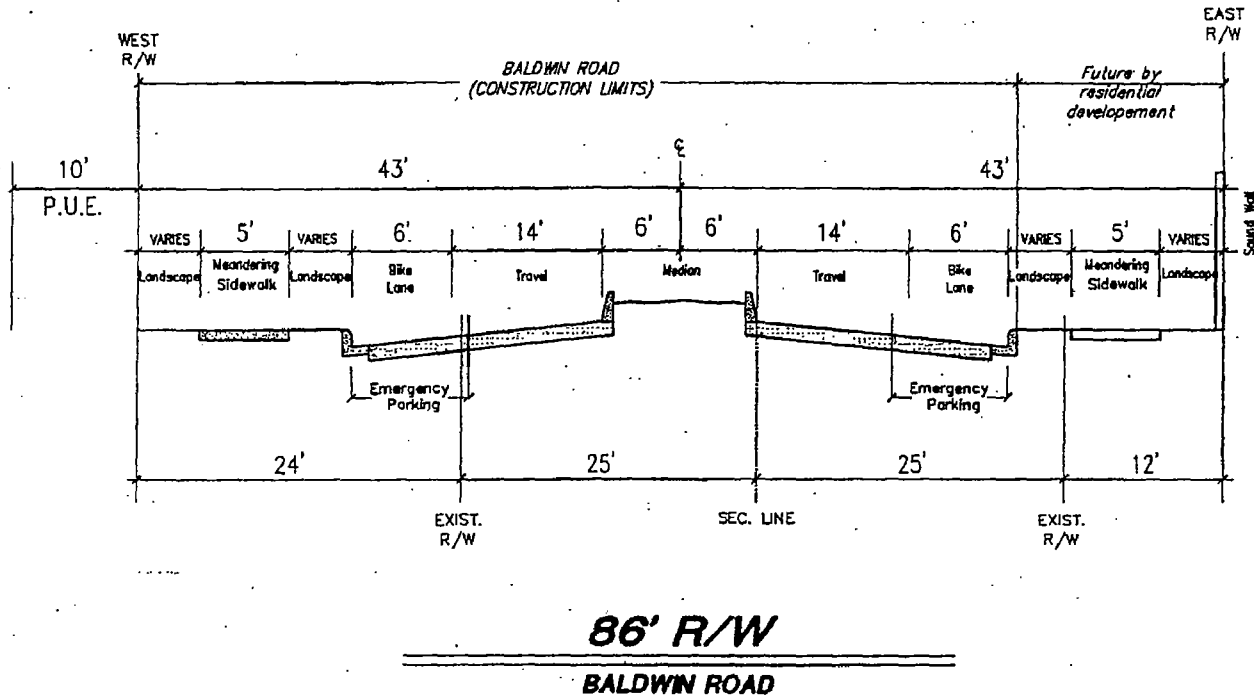
George Stillman  
Director

APPROVED AS TO FORM:  
MICHAEL H. KRAUSNICK  
COUNTY COUNSEL

By: \_\_\_\_\_

John P. Doering  
Assistant County Counsel

NOTARY ACKNOWLEDGEMENT ATTACHED

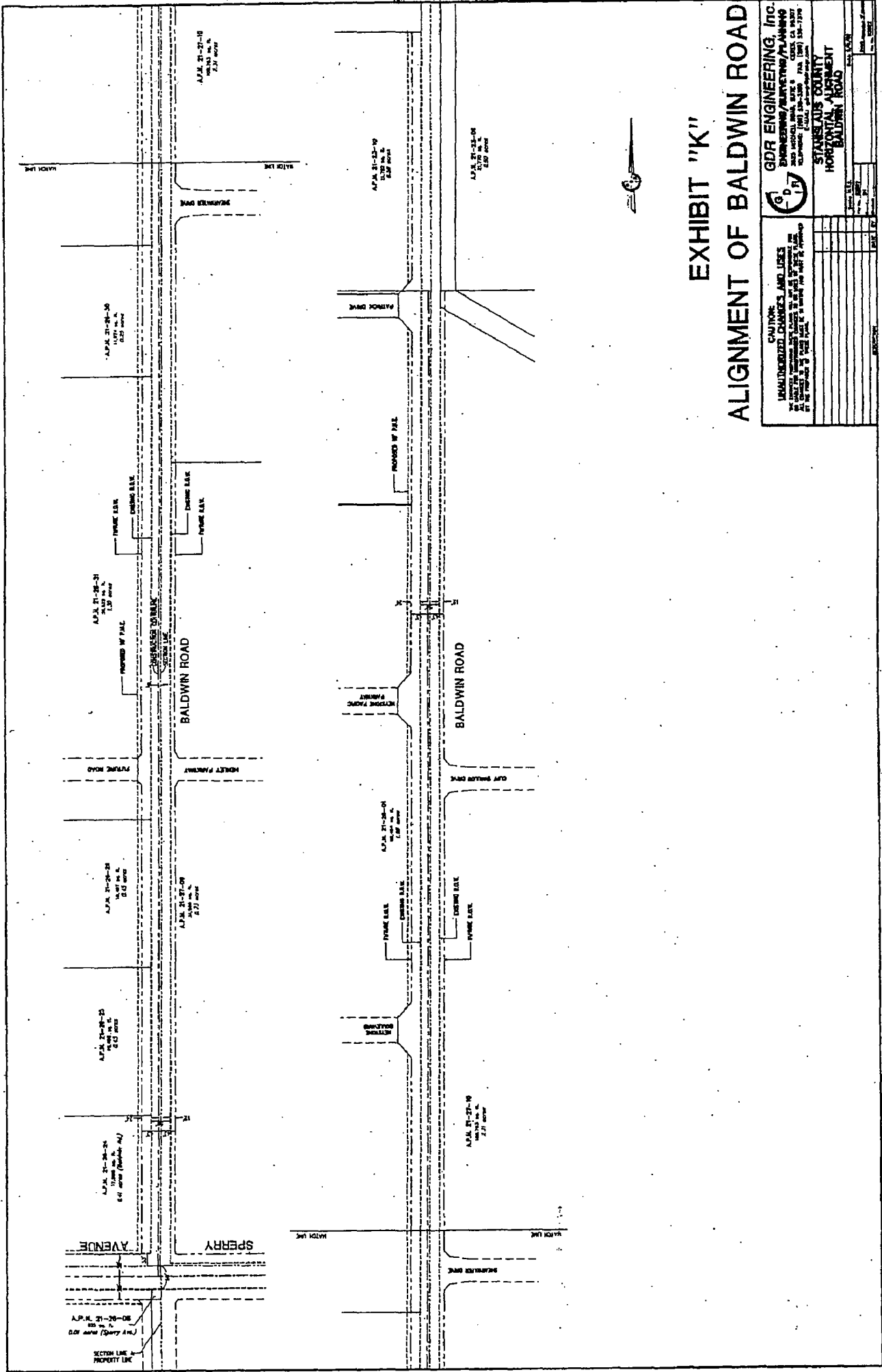


### Baldwin Road Improvements

Baldwin Road improvements include: improvement of an 86-foot right-of-way to create boulevard-like appearance including right-of-way acquisition, two (2) 14-foot wide travel lanes, two (2) 6-foot wide bike lanes, one (1) 12-foot wide landscaped median with appropriate breaks in the median for left turns and emergency vehicle access, two (2) 17-foot wide landscape/sidewalk areas on either side of travel lanes to include curb, gutter, drainage, meandering sidewalk, electroliers, and landscaping. Improvements will include construction, relocation and undergrounding of all utilities, including water (including fire hydrants), sewer, drainage, telephone, CATV and telecom, and power lines. Traffic signals, turn lanes and acceleration/deceleration lanes will be provided as necessary. All landscaping will be pursuant to the landscape and irrigation improvement plans to be prepared as part of the Baldwin Road improvements, and shall include palm trees and all other necessary landscaping features.

## EXHIBIT "J"

### CROSS-SECTION AND DESCRIPTION OF BALDWIN ROAD IMPROVEMENTS



# EXHIBIT "K" ALIGNMENT OF BALDWIN ROAD

	<b>GDR ENGINEERING, INC.</b> ENGINEERING/SURVEYING/PLANNING 10000 W. BALDWIN ROAD, SUITE 100 TAMPA, FLORIDA 33617-1000 TEL: (813) 834-1000 FAX: (813) 834-1001 WWW.GDR-INC.COM
	CALIFORNIA UNLIMITED LICENSES AND USES IN THE STATE OF CALIFORNIA AS AUTHORIZED BY THE BOARD OF REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CALIFORNIA IN THE PROVINCE OF THIS STATE
<b>STARSBAULT COUNTY</b> <b>HORIZONTAL ALIGNMENT</b> <b>BALDWIN ROAD</b>	
SHEET NO. 1 OF 1	DATE: 10/1/00

ORDINANCE NO. C.S. 834

**AN ORDINANCE ADOPTING A DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE COUNTY OF STANISLAUS AND  
KEYSTONE PACIFIC BUSINESS PARK, LLC**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

**Section 1.** Pursuant to Chapter 22.05 of the Stanislaus County Code, the Board of Supervisors hereby approves and adopts the *Development Agreement by and Between the County of Stanislaus and Keystone Pacific Business Park, LLC*, dated April 15, 2003, which is incorporated herein by reference.

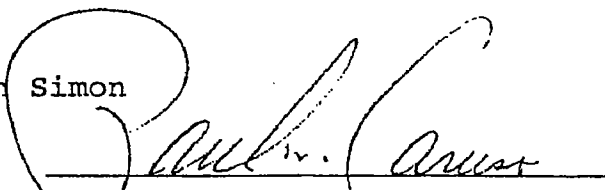
**Section 2.** This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor Grover, seconded by Supervisor Mayfield, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the 29th day of April, 2003, by the following called vote:

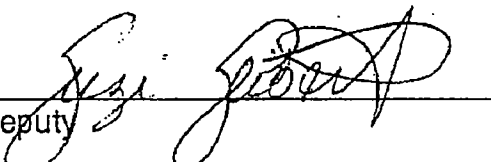
AYES: Supervisors: Paul, Mayfield, Grover, and Vice-Chairman Caruso

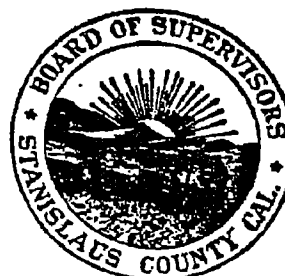
NOES: Supervisors: None

ABSENT: Supervisors: Chairman Simon

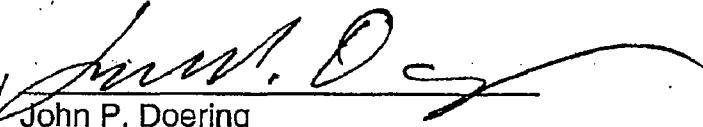
  
Paul W. Caruso,  
Vice-Chair of the Board of Supervisors of the  
County of Stanislaus, State of California

ATTEST:  
CHRISTINE FERRARO TALLMAN  
CLERK OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

By   
Deputy



APPROVED AS TO FORM:  
MICHAEL H. KRAUSNICK  
COUNTY COUNSEL

By   
John P. Doering  
Assistant County Counsel

V:\CO\pd\Documents\ORDINANCE\PLANNING\Development Agreement Ord.wpd

Whereby certify that the foregoing is a full,  
true and correct copy of the Original entered  
in the Minutes of the Board of Supervisors.

**CHRISTINE FERRARO TALLMAN**

Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By 