

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 15-0400**

**AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON,
AMENDING THE BASTYR UNIVERSITY MASTER PLAN TO
EXTEND THE TERM OF THE PLAN FOR FIVE YEARS, APPROVING
A DEVELOPMENT AGREEMENT WITH BASTYR UNIVERSITY, AND
AMENDING SECTION 1 OF ORDINANCE NO. 09-0304.**

WHEREAS, by Ordinance No. 09-0304, passed on December 14, 2009, the City Council approved the Bastyr University Master Plan (“Master Plan”) for a ten-year period, through December 31, 2020; and

WHEREAS, the Master Plan guides development improvements and implementation phasing over a period of years on the Bastyr University campus; and

WHEREAS, the City Comprehensive Plan states that the purpose of the Master Plan is to guide the development and activities of the Bastyr University property, which shall be limited to the activities and use levels in the Master Plan and in Public and Semi-Public zone; and

WHEREAS, the Master Plan is effective until December 31, 2020; and

WHEREAS, the City and Bastyr desire to modify the Master Plan by extending its term for five years, from December 31, 2020 to December 31, 2025; and

WHEREAS, KMC 18.120.050 authorizes minor amendments to an approved master plan pursuant to a development agreement, where the amendments do not change the nature or level of use or do not require a new environmental review; and

WHEREAS, extending the Master Plan for five years through December 31, 2025 is a minor amendment to the Master Plan; and

WHEREAS, KMC Chapter 18.110 authorizes the City to enter into a development agreement with Bastyr University in accordance with the provisions and procedures of that Chapter; and

WHEREAS, the City and Bastyr desire to enter into a development agreement to extend the term of the Master Plan for five years to December 31, 2025;

WHEREAS, the proposed Development Agreement is consistent with the applicable policies and goals of the City’s Comprehensive Plan and the applicable development regulations; and

WHEREAS, the proposed Development Agreement is binding on the parties and their successors; and

WHEREAS, the City Attorney has reviewed and approved the proposed Development Agreement as to form; and

WHEREAS, as required by KMC 18.110.050, and pursuant to notice published in the Seattle Times on June 19, 2015, the City Council held a public hearing on June 29, 2015 regarding the proposed Development Agreement; and

WHEREAS, Bastyr University signed the Development Agreement before the public hearing; and

WHEREAS, the proposed Development Agreement is consistent with the provisions of KMC Chapter 18.110; and

WHEREAS, having considered the testimony and comments made at the public hearing, having considered the documents introduced at the hearing, and having reviewed the proposed Development Agreement, the City Council determines that the proposed Development Agreement is in the best interests of the City and its residents as a whole and should be approved;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of Recitals. The Recitals of this Ordinance are adopted as City Council findings of fact.

Section 2. Amendment of Master Plan. The Bastyr University Master Plan, adopted by Ordinance No. 09-0304 (“Master Plan”), is amended to extend its expiration date from December 31, 2020 to December 31, 2025. Consistent with the extension of the term of the Master Plan to December 31, 2025, all references to the year “2020” in the Master Plan are changed to the year “2025.” Except as amended in this Section 2, the Master Plan shall remain in effect.

Section 3. Approval of Development Agreement. The City Council, by a vote of at least a majority plus one of the whole City Council, approves the “City of Kenmore and Bastyr University, Development Agreement to Extend the Bastyr University Master Plan,” Attachment A to this Ordinance (“Development Agreement”).

Section 4. Execution of Development Agreement. The City Manager is authorized and directed to execute the Development Agreement on behalf of the City.

Section 5. Amendment of Ordinance No. 09-0304. Section 1 of Ordinance No. 09-0304, which adopts the Master Plan, is amended in accordance with the amendments to the Master Plan stated in Section 2 of this Ordinance. In the event of any conflict between this

Ordinance (including the Development Agreement approved by this Ordinance) and Ordinance No. 09-0304, this Ordinance shall control.

Section 6. Ratification and Confirmation. Any acts made consistent with the authority and prior to the effective date of this Ordinance are ratified and confirmed.

Section 7. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 29TH DAY OF JUNE, 2015.


CITY OF KENMORE


David Baker, Mayor

ATTEST/AUTHENTICATED:


Patty Safrin, City Clerk

Approved as to form:


Rod P. Kaseguma, City Attorney

Filed with the City Clerk: June 19, 2015
Passed by the City Council: June 29, 2015
Ordinance No.: 15-0400
Date of Publication: July 2, 2015
Effective Date: July 7, 2015

ATTACHMENT A

(The City of Kenmore and Bastyr University Development Agreement to Extend the Bastyr
University Master Plan)

**THE CITY OF KENMORE AND BASTYR UNIVERSITY
DEVELOPMENT AGREEMENT
EXTENDING THE BASTYR UNIVERSITY MASTER PLAN**

1. AGREEMENT. THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is made and entered by and between the CITY OF KENMORE, a Washington municipal corporation (“**City**”) and BASTYR UNIVERSITY, a Washington non-profit corporation (“**Bastyr**”). City and Bastyr are each a “Party” and collectively the “Parties” to this Agreement. The Parties agree as follows.

2. RECITALS.

2.1 The City approved the Bastyr University Master Plan (“**Master Plan**”) by Ordinance No. 09-0304 (December 14, 2009). The City’s Comprehensive Plan states that the purpose of the Master Plan is to guide the development and activities of the Bastyr University property, which shall be limited to the activities and use levels in the Master Plan and in Public and Semi-Public zone.

2.2 The Master Plan is currently effective until December 31, 2020. By this Agreement, the City and Bastyr modify the Master Plan to extend its term for five years, from December 31, 2020 to December 31, 2025.

2.3 Kenmore Municipal Code (“**KMC**”) 18.120.050 authorizes minor amendments to an approved master plan pursuant to a development agreement, where the amendments do not change the nature or level of use or do not require a new environmental review. The City has determined that extending the Master Plan for five years through December 31, 2025 is a minor amendment to the Master Plan.

2.4 KMC Chapter 18.110 authorizes the City to enter into a development agreement with persons who have control of real property in accordance with the provisions and procedures of that Chapter. The City and Bastyr desire to enter into this Agreement, which is a development agreement, to extend the term of the Master Plan for five years to December 31, 2025.

3. AMENDMENT OF MASTER PLAN. As approved by the City Council pursuant to KMC Chapter 18.110, the Bastyr University Master Plan, adopted by City Ordinance No. 09-0304 and incorporated herein by this reference (“Master Plan”), is amended to extend its expiration date from December 31, 2020 to December 31, 2025. Consistent with the extension of the term of the Master Plan to December 31, 2025, all references to the year “2020” in the Master Plan are changed to the year “2025.” Except as amended above, the Master Plan remains in effect.

4. REAL PROPERTY. The real property covered by the Master Plan is approximately 50 acres of real property located at 14500 Juanita Drive NE, Kenmore, Washington, which real property is described and depicted in the Master Plan (“**Bastyr Property**”). The legal

description of the Bastyr Property is set forth on **Exhibit A**, attached hereto and incorporated herein. The Bastyr Property is located in the Public and Semi-Public zone.

5. KMC CHAPTER 18.110. This Agreement incorporates by reference the provisions of the Master Plan, and all applicable City ordinances and regulations described in the “Vesting” section of the Master Plan, which constitute the terms and conditions of KMC 18.110.020(F). The Parties agree that KMC Chapter 18.110, relating to Development Agreements, is applicable to this Agreement.

6. TERM AND EFFECTIVE DATE. This Agreement shall commence on the last date that it is signed by both parties, and, subject to Section 5 hereof, shall continue in force until the expiration of the Master Plan on December 31, 2025.

7. EARLY TERMINATION. This Agreement shall expire and be of no further force and effect if the Master Plan is terminated or substantially changed, unless agreed otherwise by the Parties.

8. SUCCESSOR AND ASSIGNS. All of the provisions, conditions, regulations and requirements contained in this Agreement shall be binding upon the successors and assigns of the Parties.

9. NO THIRD PARTY RIGHTS. This Agreement is solely for the benefit of the Parties and gives no right to any other party or person.

10. NO JOINT VENTURE. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other Party.

11. JURISDICTION AND VENUE. This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

12. SEVERABILITY. If any section or part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such action shall not affect the validity or enforceability of any other section or part of this Agreement.


13. ENFORCEMENT; NO WAIVER; PREVAILING PARTY COSTS. In addition to the remedies provided by law, this Agreement shall be specifically enforceable by either Party. If either Party incurs attorney fees, costs or other legal expenses to enforce the provision of this Agreement against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party. The failure of a Party to exercise any right or enforce any provision of this Agreement shall not be considered a waiver of such right or enforcement remedy.

14. COUNTERPARTS. This Agreement may be signed in counterparts, and if so signed, shall be deemed on integrated document.

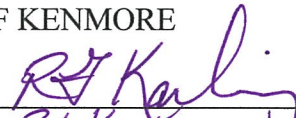
15. **RECORDING REQUIRED.** This Agreement shall be recorded by the City at Bastyr's expense.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth below:

BASTYR UNIVERSITY

By: 
Name: DANIEL K. CHURCH
Its: PRESIDENT
Date: 23 June 2015

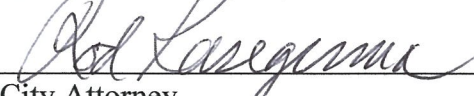
CITY OF KENMORE

By: 
Name: Rob Karlinsey
Its: City Manager
Date: June 29, 2015

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Daniel K. Church is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the President of Bastyr University, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 6-23-15



Teisha Celinda Fischer
Printed: Teisha Celinda Fischer
NOTARY PUBLIC in and for Washington
Residing at: Kenmore, WA
My appointment expires: 8-9-18

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Rob Karlinsey is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Kenmore to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 6/29/2015



Patty Safrin
Printed: Patty Safrin
NOTARY PUBLIC in and for Washington
Residing at: Lake Forest Park
My appointment expires: 08/01/2016

EXHIBIT A
Legal Description of Bastyr University real property

That portion of the N.E. ¼ of Sec. 23 and the N.W. ¼ of Sec. 24, all in Twp. 26N, R 4E., W.M., King County, Washington, described as follows:

Beginning at the N.W. corner of said Sec. 24, thence S89°24'05"E along the N. line thereof a dist. of 933.83 ft. to the SWly. margin of Juanita Drive N.E. (Kenmore-Juanita Road No. 2602); thence S29°19'28"E along said SWly. margin a dist. of 76.37' to a point designated as point "A" for the purposes of this description; thence continuing S29°19'28"E along said SWly. margin a dist. of 100.38 ft. to the true point of beginning of the herein described tract; thence continuing S29°19'28"E along said SWly. margin a dist. of 285.35 ft. to a point of curve; thence SEly. continuing along said SWly. margin along the arc of a curve to the right said curve having a radius of 925.37 ft. through a central angle of 18°00'00" a dist. of 290.71 ft.; thence S11°19'28"E continuing along said SWly. margin a dist of 55.60 ft.; thence S78°40'32"W a dist. of 524.10 ft.; thence S21°28'40"E a dist of 98.71 ft.; thence S19°27'10"W a dist. of 898.00 ft.; thence S56°20'10"W a dist. of 61.00 ft, thence N31°16'50"W a dist. of 101.00 ft.; thence N53°36'40"W a dist. of 350.00 ft.; thence S85°22'30"W a dist. of 62.00 ft.; thence S16°50'30"W a dist. of 139.00 ft.; thence S79°47'00W a dist. of 208.00 ft.; thence S23°20'20"W a dist. of 234.00 ft.; thence W. a dist of 130.00 ft.; thence N46°52'20"W a dist of 103.00 ft.; thence a N22°36'00"W a dist. of 265.00 ft.; thence N5°14'40"W a dist. of 382.00 ft.; thence N6°23'40"E a dist. of 470.00 ft.; thence N34°18'40"E a dist. of 467.32 ft.; thence S55°41'20"E a dist. of 130.00 ft.; thence N34°18'40"E a dist. of 360.00 ft. to a point of curve, thence Nly and Ely along the arc of a curve to the right said curve having a radius of 90.00ft. through a central angle of 69°41'20" a dist of 109.47 ft.; thence S76°00'00" a dist. of 492.15 ft. to a point of curve; thence Ely along the arc of a curve to the left said curve having a radius of 580.00 ft. through a central angle of 38°21'30" a dist. of 388.30 ft.; thence N65°38'30"E a dist. of 149.32 ft. to the true point of beginning. (Tract contains 50.00 acres.)

TOGETHER WITH an easement for ingress and egress over and across a strip of land 60.00 ft. in width the center line of which is described as follows:

Beginning at the above described point "A"; thence S65°38'30"W a dist. of 140.63 ft. to a point of curve, thence Wly along the arc of a curve to the right said curve having a radius of 480.00 ft. through a central angle of 38°21'30" a dist of 321.35 ft., thence N76°00'00"W a dist. of 492.15 ft. to a point of curve; thence Wly along the arc of a curve to the left, said curve having a radius of 190.00 ft. through a central angle of 69°41'20" a dist. of 231.10 ft, thence S34°18'40"W a dist. of 360.00 ft. to the terminus of said centerline.