

KENT B. CHRISTENSEN
Merced County Recorder

RECORDING REQUESTED BY:

City of Merced, A California charter
municipal corporation

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

CM City of Merced

G

Doc#: 2009-025660



Titles:	1	Pages:	11
Fees		0.00	
Taxes		0.00	
Other		0.00	
PAID		\$0.00	

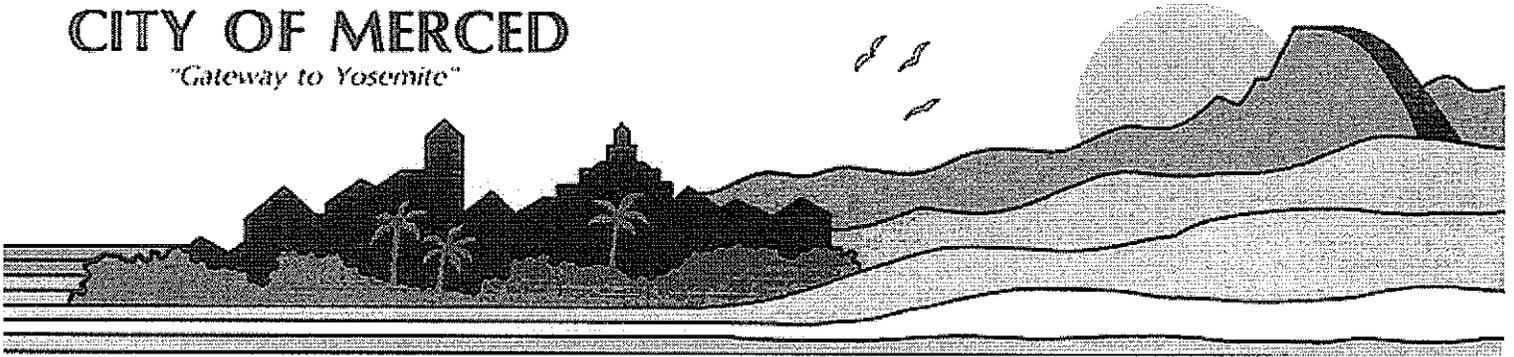
(Above for Recorder's Use Only)

Ordinance No. 2331

An Ordinance of the City Council of the City of Merced, California, Amending Ordinance No. 1906 to Terminate the Development Agreement for Bellevue Ranch as to Villages 1, 2, 3, 4, 5, and 10, and Modify the Term of the Development Agreement for Bellevue Ranch for the Remaining Portion of Bellevue Ranch West from 40 Years to 20 Years

CITY OF MERCED

"Gateway to Yosemite"



CITY CLERK'S CERTIFICATE

I, JOHN M. BRAMBLE, City Clerk of the City of Merced, California, do hereby certify that the attached document, entitled:

ORDINANCE NO. 2331

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, AMENDING ORDINANCE NO. 1906 TO TERMINATE THE DEVELOPMENT AGREEMENT FOR BELLEVUE RANCH AS TO VILLAGES 1, 2, 3, 4, 5, AND 10 AND MODIFY THE TERM OF THE DEVELOPMENT AGREEMENT FOR BELLEVUE RANCH FOR THE REMAINING PORTION OF BELLEVUE RANCH WEST FROM 40 YEARS TO 25 YEARS.

is a true and correct copy of the original on file in the Office of the Merced City Clerk, Merced, California.

JOHN M. BRAMBLE, CITY CLERK

DATED: May 18, 2009

BY:

Jamie Fanconi
Deputy City Clerk



ORDINANCE NO. 2331

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING ORDINANCE NO. 1906 TO
TERMINATE THE DEVELOPMENT
AGREEMENT FOR BELLEVUE RANCH AS TO
VILLAGES 1, 2, 3, 4, 5, AND 10 AND MODIFY THE
TERM OF THE DEVELOPMENT AGREEMENT
FOR BELLEVUE RANCH FOR THE REMAINING
PORTION OF BELLEVUE RANCH WEST FROM
40 YEARS TO 25 YEARS**

WHEREAS, Pursuant to Ordinance No. 1906 adopted on June 5, 1995, the City Council approved a Development Agreement for Bellevue Ranch between the City of Merced and Bellevue Ranch (the "Development Agreement"); and,

WHEREAS, Pursuant to Ordinance No. 1929 adopted on February 5, 1996, the City Council approved a First Amendment to the Development Agreement that made minor changes to the Development Agreement; and,

WHEREAS, Pursuant to Ordinance No. 1944 adopted on September 16, 1996, the City Council approved a Second Amendment to the Development Agreement that made additional minor changes to the Development Agreement; and,

WHEREAS, The rights, duties, and obligations under the Development Agreement as it relates to the portion of Bellevue Ranch commonly known as Bellevue Ranch West have been transferred to Woodside Homes and its related entities, Woodside Meadows, Walnut Creek Development, and Danville Land Investments (hereafter, collectively "Woodside"); and,

WHEREAS, Under the provisions of Section 20.3 of the Development Agreement, the City is entitled to conduct an annual review of the Development Agreement to review the extent of good faith compliance by Woodside and the other developers within Bellevue Ranch; and,

WHEREAS, On March 4, 2009, the Planning Commission held an annual review pursuant to Section 20.3 of the Development Agreement to determine if

Woodside was in compliance with the terms of the Development Agreement, providing all those who wished to speak on the item the opportunity to do so; and,

WHEREAS, The Planning Commission recommended that the City Council terminate the Development Agreement for Villages 1, 2, 3, 4, 5, and 10 and reduce the term of the Development Agreement for the remaining parcels in Bellevue Ranch West owned by Woodside from the existing 40-year term (terminating in 2035) to a 25-year term (terminating in 2020); and,

WHEREAS, On April 20, 2009, the City Council held an annual review pursuant to Section 20.3 of the Development Agreement to determine if Woodside was in compliance with the terms of the Development Agreement, providing all those who wished to speak the opportunity to do so.

THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The City Council finds that:

A. As the master developer of Bellevue Ranch West, Woodside has specific obligations to construct various public improvements within Bellevue Ranch pursuant to the provisions of the Bellevue Ranch Master Development Plan, as well as the City's General Plan. One of these obligations is to construct a bike path and related improvements along Cottonwood Creek between "R" Street (extended) and "G" Street. By failing to construct this bike path, Woodside is in violation of the Development Agreement, which requires Woodside to comply with the provisions of the Bellevue Ranch Master Plan (Section 4.2(b) and Plan conditions (Section 4.2(c).)

B. Woodside is in violation of Section 4.4 of the Development Agreement, which requires Woodside to pay assessments from maintenance assessment districts formed in connection with the subdivision of Bellevue Ranch West, as well as a public safety fee. Woodside is currently delinquent in payments to CFD 2005-1 (Bellevue Ranch West).

C. Woodside is not in good-faith compliance with the terms of the Development Agreement, as it relates to the properties in Bellevue Ranch West, which are more fully described in Exhibits "A" and "B" attached to this Ordinance and incorporated herein by this reference.

SECTION 2. TERMINATION OF DEVELOPMENT AGREEMENT AS TO VILLAGES 1, 2, 3, 4, 5 AND 10 OF BELLEVUE RANCH. Based upon the findings in Section 1 of this Ordinance and pursuant to Section 20.3 of the Development Agreement and Government Code Section 65865.1, the City Council hereby amends Ordinance No. 1906 to terminates the Development Agreement as to Villages 1, 2, 3, 4, 5, and 10 of Bellevue Ranch, the legal descriptions of which are attached to this Ordinance as Exhibit "A". The Development Agreement is hereby terminated as to Villages 1, 2, 3, 4, 5, and 10.

SECTION 3. MODIFICATION OF THE TERM OF THE DEVELOPMENT AGREEMENT FOR BELLEVUE RANCH AS TO A PORTION OF BELLEVUE RANCH WEST. Based upon the findings in Section 1 of the Development Agreement and pursuant to Section 20.3 of the Development Agreement and Government Code Section 65865.1, the City Council hereby amends Ordinance No. 1906 to modify the term of the Development Agreement from forty (40) years to twenty-five (25) years as to those portions of Bellevue Ranch West that are more fully described in Exhibit "B". The Development Agreement is hereby modified from 40 years to 25 years as to those parcels described in Exhibit B.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 5. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 20th day of April, 2009, and was passed and adopted at a regular meeting of said City Council held on the 4th day of May, 2009, by the following called vote:

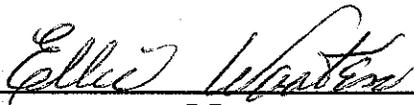
AYES: **Council Members:** SANDERS, CORTEZ, CARLISLE, GABRIAULT-ACOSTA, LOR, SPRIGGS, WOOTEN

NOES: **Council Members:** NONE

ABSTAIN: **Council Members:** NONE

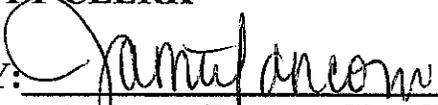
ABSENT: **Council Members:** NONE

APPROVED:



Mayor

ATTEST:
CITY CLERK

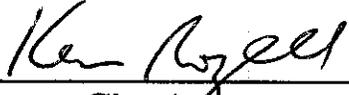
BY: 

Assistant/Deputy City Clerk

(SEAL)



APPROVED AS TO FORM:

 4/14/09

City Attorney **Date**

All that real property situated in a portion of Section 6 and Section 7, Township 7 South, Range 14 East, M.D.B.& M., City of Merced, County of Merced, State of California, said real property being more particularly described as follows:

All that portion of Lot 1 through Lot 100, Lot A, Lot B, Lot C, and Lot D, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5286 BELLEVUE RANCH WEST VILLAGE 1", recorded on August 25, 2005 in Book 68, of Official Plats, at Pages 41 through 51, Merced County Records.

TOGETHER WITH all that portion of Lot 1 through Lot 137, Lot A, and Lot B, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5307 BELLEVUE RANCH WEST VILLAGE 2", recorded on October 06, 2005 in Book 70, of Official Plats, at Pages 18 through 26, Merced County Records.

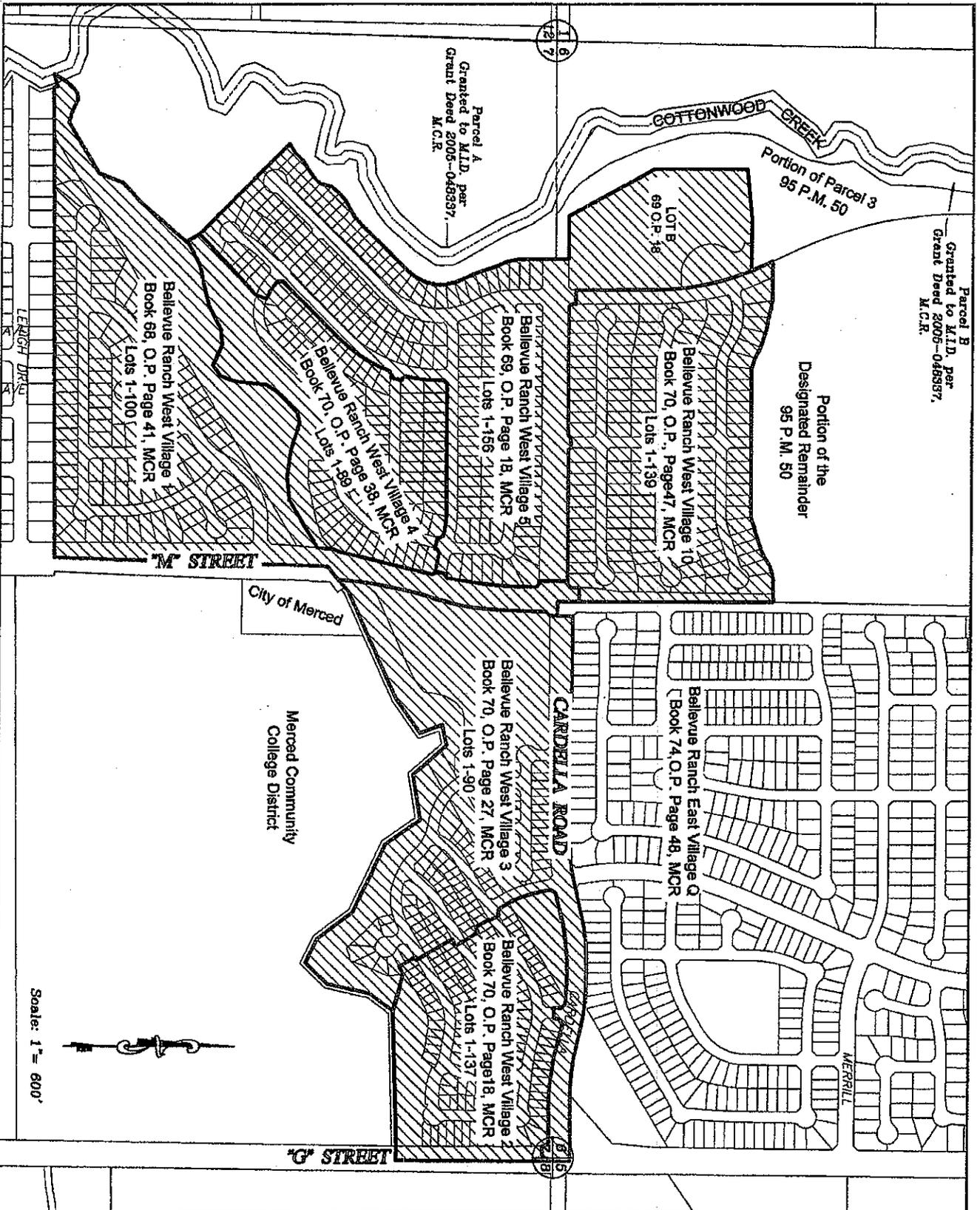
TOGETHER WITH all that portion of Lot 1 through Lot 90, Lot A, Lot B, Lot C, Lot D, Lot E, Lot F, and Lot G, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5308 BELLEVUE RANCH WEST VILLAGE 3", recorded on October 06, 2005 in Book 70, of Official Plats, at Pages 27 through 37, Merced County Records.

TOGETHER WITH all that portion of Lot 1 through Lot 89, and Lot A, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5296 BELLEVUE RANCH WEST VILLAGE 4", recorded on October 06, 2005 in Book 70, of Official Plats, at Pages 38 through 46, Merced County Records.

TOGETHER WITH all that portion of Lot 1 through Lot 156, Lot A, Lot B, and Lot C, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5327 BELLEVUE RANCH WEST VILLAGE 5", recorded on September 07, 2005 in Book 69, of Official Plats, at Pages 18 through 28, Merced County Records.

TOGETHER WITH all that portion of Lot 1 through Lot 139, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5302 BELLEVUE RANCH WEST VILLAGE 10", recorded on October 06, 2005 in Book 70, of Official Plats, at Pages 47 through 55, Merced County Records.

EXHIBIT A



City of Merced
 "Gateway to Yosemite"
 DEVELOPMENT SERVICES
 ENGINEERING PROJECTS AND STANDARDS
 675 W. 16th Street (209) 385-8846

BELLEVUE RANCH WEST VILLAGE

DR. BY:	CR00DSU
DATE:	2/25/08
CH. BY:	
DATE:	
File No.	
SCALE:	AS SHOWN

PARCEL # 1

All that real property situated in a portion of Section 6, Township 7 South, Range 14 East, M.D.B.& M., City of Merced, County of Merced, State of California, said real property being more particularly described as follows:

All that portion of Parcel 2, Parcel 3 and the Designated Remainder, as said Parcels are delineated on that certain map entitled "PARCEL MAP CITY OF MERCED SUBDIVISION NO 04-02", recorded on March 23, 2004 in Book 95, of Parcel Maps, at Pages 50 through 51, Merced County Records.

EXEPTING THEREFROM all that portion of Lot 1 through Lot 139, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5302 BELLEVUE RANCH WEST VILLAGE 10", recorded on October 06, 2005 in Book 70, of Official Plats, at Pages 47 through 55, Merced County Records.

EXEPTING THEREFROM all that portion of Lot 1 through Lot 156, Lot A, Lot B, and Lot C, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5327 BELLEVUE RANCH WEST VILLAGE 5", recorded on September 07, 2005 in Book 69, of Official Plats, at Pages 18 through 28, Merced County Records.

PARCEL # 2

All that real property situated in a portion of Section 7, Township 7 South, Range 14 East, M.D.B.& M., City of Merced, County of Merced, State of California, said real property being more particularly described as follows:

BEGINNING at the Northwest corner of said Section 7; thence South 01°25'30" West for 3752.55 feet along the West line of said Section 7, to a point thereon and the center line of Fahrens Creek; thence the following courses and distances along the center line of said Fahrens Creek, South 70°04'30" East, for 351.57 feet; thence North 57°14'30" East, for 158.55 feet; thence North 02°31' East, for 257.22 feet; thence North 35°12'30" West, for 244.85 feet; thence North 06°56'30" West, for 164.86 feet; thence North 12°17' East, for 252.63 feet; thence North 50°51'30" East, for 253.91 feet; thence North 15°33'30" East, for 71.47 feet; thence North 75°27' West, for 91.04 feet; thence North 57°04' West, for 366.68 feet; thence North 30°26'30" East, for 177.57 feet; thence North 18°27' West, for 59.88 feet; thence leaving the center line of said Fahrens Creek, North 89°32'25" East, for 2173.69 feet to a point on the center line of a traveled road; thence North 00°23'15" East,

for 1213.04 feet along the center line of said traveled road, to a point on the center line of Cottonwood Creek; thence the following courses and distances along the center line of said Cottonwood Creek, North 49°20'45" East, for 145.48 feet; thence North 65°59'15" East, for 535.28 feet; thence North 54°30'30" East, for 189.47 feet; thence North 19°54'15" West, for 106.85 feet; thence North 79°07'30" East, for 94.15 feet; thence South 41°14' East, for 197.05 feet; thence North 80°49'15" East, for 204.90 feet; thence South 34°06'45" East, for 187.45 feet; thence South 64°30' East, for 339.93 feet; thence South 36°50'30" East, for 198.23 feet; thence S63°44'45" East, for 119.20 feet; thence North 43°55'15" East, for 138.88 feet; thence North 12°53'45" East, for 214.51 feet; thence North 36°48'45" East, for 138.31 feet; thence North 88°30'15" East, for 666.90 feet to a point on the East line of said Section 7; thence North 00°18'15" East, for 729.23 feet along the East line of said Section 7 to the Northeast corner thereof; thence South 89°23'30" West, for 5025.01 feet along the North line of said Section 7, to the POINT OF BEGINNING.

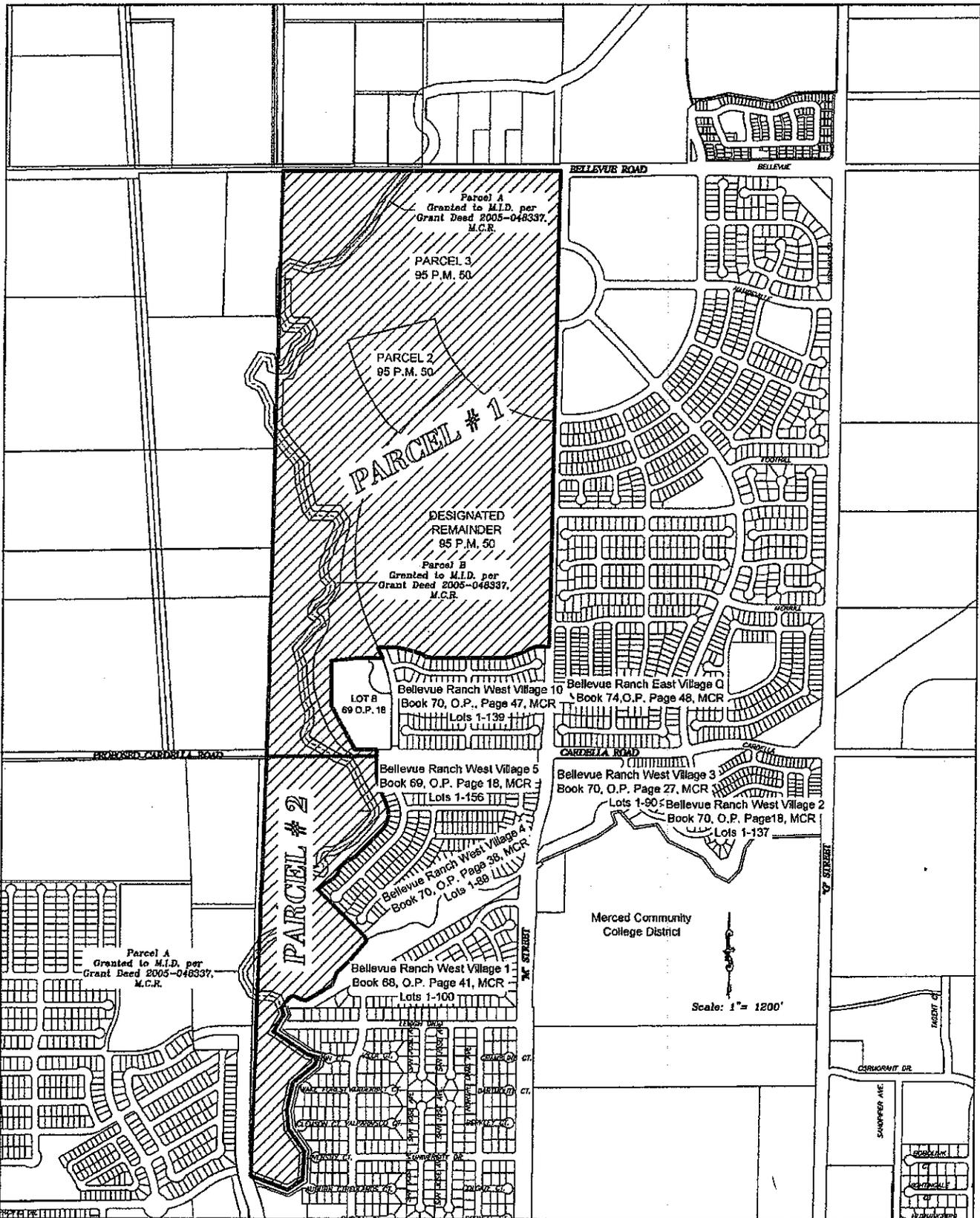
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EXEPTING THEREFROM all that portion of Lot 1 through Lot 90, Lot A, Lot B, Lot C, Lot D, Lot E, Lot F, and Lot G, as said Lots are delineated on that certain map entitled "SUBDIVISION MAP NO. 5308 BELLEVUE RANCH WEST VILLAGE 3", recorded on October 06, 2005 in Book 70, of Official Plats, at Pages 27 through 37, Merced County Records.

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City of Merced
"Gateway to Yosemite"
DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
878 W. 18th Street (209) 385-6848

BELLVUE RANCH WEST VILLAGE

DR. BY: CARDOSO
DATE: 2/25/09
CH. BY:
DATE:
FILE NO.
SCALE: AS SHOWN

35411

RECORDED BY

City of Merced

RECORDING REQUESTED BY:

OCT 16 1996 AT 3:10pm

RETURN TO:

VOL 3523 PAGE 634

OFF'L RECORDS OF
MERCED COUNTY
CALIFORNIA
JAMES L. BALL

Recorder

DL

CITY CLERK'S OFFICE
CITY OF MERCED
678 W. 18th STREET
MERCED, CA 95360

DOCUMENT TITLE(S)

CITY OF MERCED ORDINANCE NO. 1944

ORDINANCE NO. 1944

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED
APPROVING SECOND AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF MERCED AND BELLEVUE RANCH

WHEREAS, the Planning Commission of the City of Merced has recommended that the City Council approve the Second Amendment to the Development Agreement by and between the City of Merced and Bellevue Ranch Associates and Bellevue Ranch Partners, attached hereto and herein incorporated into the provisions of this ordinance; and

WHEREAS, after due notice, the City Council did conduct a public hearing on this matter, wherein all persons desiring to be heard were heard; and

WHEREAS, the City Council has reviewed and considered the attached Second Amendment to Development Agreement and determined the content of the Second Amendment and the actions of the Planning Commission to be complete and correct; and

WHEREAS, the attached Second Amendment to Development Agreement is in the public interest and is consistent with the Merced General Plan;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the facts stated above to be true.

SECTION 2. The City Council further finds, with respect to the attached Second Amendment to Development Agreement, that:

a. It is consistent with the objective policies and programs specified in the General Plan.

b. It is compatible with the uses authorized in the regulations prescribed for the zone in which the real property is located.

c. It will not be detrimental to the public health, safety and general welfare.

d. It will promote the orderly development of property or the preservation of the property values in accordance with good land use practice.

SECTION 3. The City Council hereby approves the Second Amendment to Development Agreement in the form attached hereto and authorizes and directs the Mayor to enter into that Agreement in the name of the City of Merced and further directs the City Clerk to record said Second Amendment to the Agreement and this Ordinance with the County Recorder within ten (10) days of its effective date of adoption.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a copy of this ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 3rd day of September 1996 and was passed and adopted at a regular meeting of said Council

SECOND AMENDMENT TO DEVELOPMENT
AGREEMENT FOR BELLEVUE RANCH

This Second Amendment to Development Agreement was made and entered into in the City of Merced on this 3rd day of Sep, 1996 by and between the City of Merced, a municipal corporation ("CITY") and Bellevue Ranch Associates, a California limited partnership, Bellevue Ranch Partners, a California limited partnership ("Bellevue").

W I T N E S S E T H

WHEREAS City and Bellevue entered into a Development Agreement dated June 5, 1995 and recorded at Volume 3370, Page 576, Instrument No. 21102, Merced County Records on July 11, 1995 affecting the land described in Exhibit A hereto; and

WHEREAS the parties desire to amend said Agreement to extend the time for annexation,

NOW, THEREFORE CITY AND BELLEVUE agree to amend the Development Agreement as follows:

1. Section 19 of the Development Agreement is amended to provide that the deadline for annexation of the Initial Annexed Property is extended twelve (12) months from the date this Second Amendment to Development Agreement is recorded.

2. Except as herein amended, the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF City and Bellevue have executed and approved this Second Amendment to Development Agreement as of the date set forth above.

"CITY"

CITY OF MERCED, a Municipal Corporation

BY: [Signature]
CITY MANAGER

ATTEST:
BY: [Signature]
DEPUTY CITY CLERK

APPROVED AS TO FORM:

BY: [Signature]
CITY ATTORNEY

950303
FUNDS/ACCOUNTS/VERIFIED

BY: [Signature]
FINANCE OFFICE

DATE: 9-24-96

no funds required 9/27/96 paid

AMDDABELL2

"BELLEVUE"

BELLEVUE RANCH PARTNERS NO. 20, LTD., a California limited partnership, General Partner

BY: D. R. STEPHENS & PARTNERS NO. 19 (MERCED), LTD., a California limited partnership, General Partner

BY: D. R. STEPHENS & COMPANY, a California limited partnership, General Partner

BY: D. R. STEPHENS SEPARATE PROPERTY TRUST U/A/D/ MAY 1, 1983, General Partner

BY: [Signature]
D. R. STEPHENS, Trustee

BELLEVUE RANCH ASSOCIATES, a California limited partnership

BY: D. R. STEPHENS & PARTNERS NO. 19 (MERCED), LTD., a California limited partnership, General Partner

BY: D. R. STEPHENS & COMPANY, a California limited partnership, General Partner

BY: D. R. STEPHENS SEPARATE PROPERTY TRUST U/A/D MAY 1, 1983, General Partner

BY: [Signature]
D. R. STEPHENS, Trustee

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Francisco

On 9/24/96 before me, Terry Lee Dela Cruz, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Donald R. Stephens
Name(s) of Signer(s)

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



WITNESS my hand and official seal.

Terry Lee Dela Cruz
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Second Amendment to Development agreement for Bellevue Ranch

Document Date: _____ Number of Pages: 4

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: Donald R. Stephens

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:
Bellevue Ranch Partners 20, LLC
Bellevue Ranch Associates

Signer's Name: _____

- Individual
- Corporate Officer
- Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

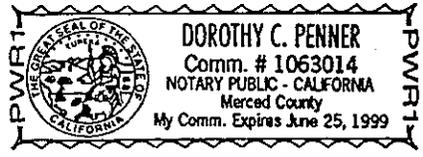
State of California

County of Merced

On October 9, 1996 before me, Dorothy C. Penner, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared James G. Marshall
NAME(S) OF SIGNER(S)

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



WITNESS my hand and official seal.

Dorothy C. Penner
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- INDIVIDUAL
- CORPORATE OFFICER
- _____ TITLE(S)
- PARTNER(S) LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____
- _____
- _____

_____ TITLE OR TYPE OF DOCUMENT

_____ NUMBER OF PAGES

_____ DATE OF DOCUMENT

_____ SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

ATTACHMENT 3 - Page 19

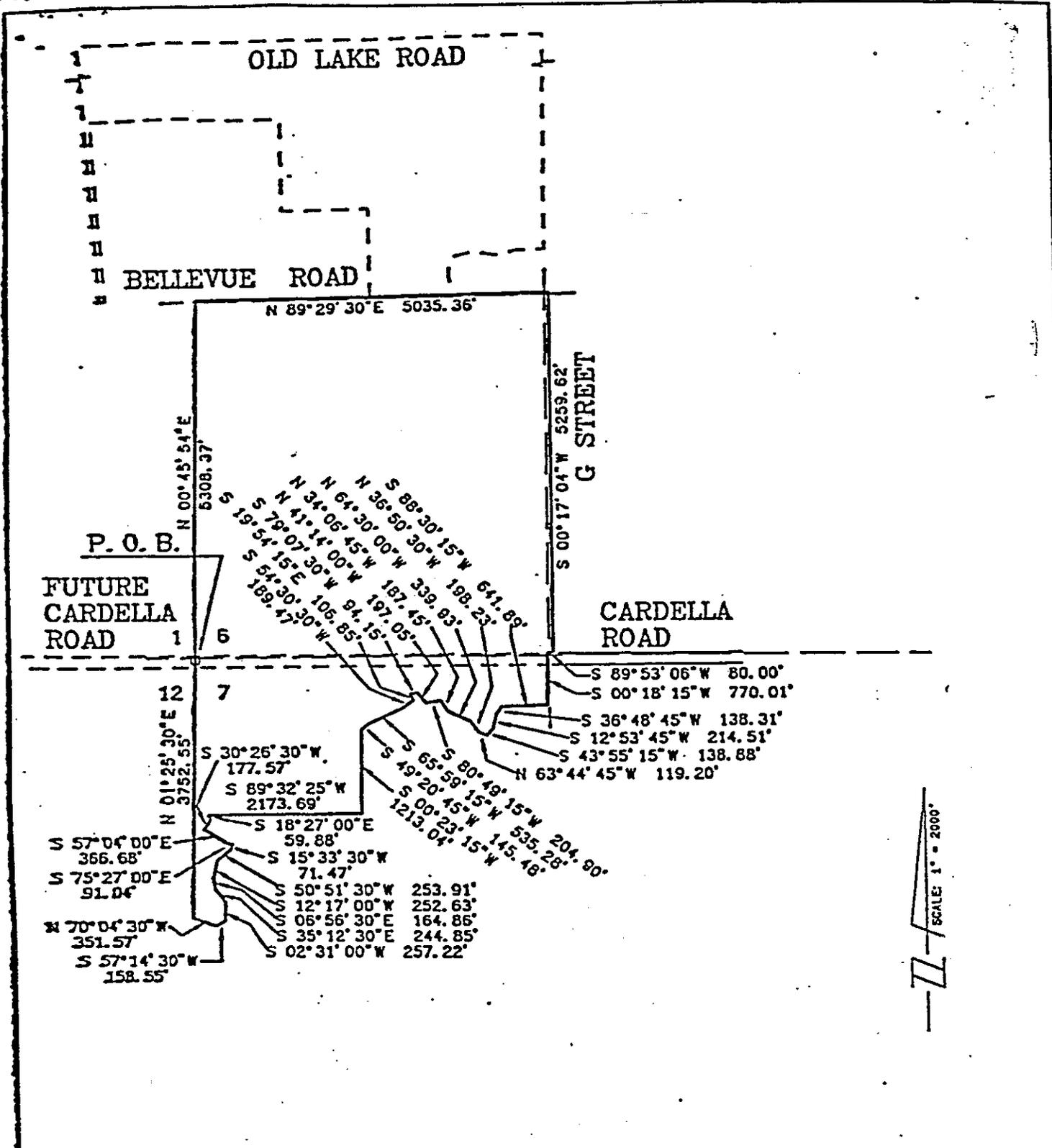
VOL 3523 PAGE 641

EXHIBIT A

DESCRIPTION OF BELLEVUE RANCH ANNEXATION

All that portion of Sections 5, 6 and 7, Township 7 South, Range 14 East, M.D.M., and Section 31, Township 6 South, Range 14 East M.D.M., described as follows:

Beginning at the Southwest corner of said Section 6; thence from said point of beginning along the West line of said Section 6 and the Northerly extension thereof North $00^{\circ}45'54''$ East 5308.37 feet to a point located on Northerly right of way line of Bellevue Road, said right of way being 30.00 feet North of the North line of said Section 6; thence along said Northerly right of way line of Bellevue Road and the Easterly extension thereof and parallel to the North line of said Section 6 North $89^{\circ}29'30''$ East 5035.36 feet to a point located on the Easterly right of way line of "G" Street, said right of way line being 55.00 feet East of the East line of said Section 6; thence along said Easterly right of way of "G" Street and parallel to the East line of said Section 6 South $00^{\circ}17'04''$ West 5259.62 feet to a point located on the Northerly right of way line of Cardella Road, said right of way line being 40.00 feet North of the South line of said Section 5 being a point located on the existing City Limit line of the City of Merced; thence along the existing City Limit line the following two (2) courses: (1) along said Northerly right of way line of Cardella Road and the Westerly extension thereof parallel to the South line of said Section 5, South $89^{\circ}53'06''$ West 80.00 feet to a point located on the Westerly right of way line of said "G" Street, said right of way line being 25.00 feet West of the East line of said Section 6 and (2) along the Westerly right of way line of "G" Street, parallel with the East line of said Sections 6 and 7 South $00^{\circ}18'15''$ West 770.01 feet to a point located on the centerline of Cottonwood Creek; thence along said centerline the following fifteen (15) courses: (1) South $88^{\circ}30'15''$ West 641.89 feet, (2) South $36^{\circ}48'45''$ West 138.31 feet, (3) South $12^{\circ}53'45''$ West 214.51 feet, (4) South $43^{\circ}55'15''$ West 138.88 feet, (5) North $63^{\circ}44'45''$ West 119.20 feet, (6) North $36^{\circ}50'30''$ West 198.23 feet, (7) North $64^{\circ}30'00''$ West 339.93 feet, (8) North $34^{\circ}06'45''$ West 187.45 feet, (9) South $80^{\circ}49'15''$ West 204.90 feet, (10) North $41^{\circ}14'00''$ West 197.05 feet, (11) South $79^{\circ}07'30''$ West 94.15 feet, (12) South $19^{\circ}54'15''$ East 106.85 feet, (13) South $54^{\circ}30'30''$ West 189.47 feet, (14) South $65^{\circ}59'15''$ West 535.28 feet, and (15) South $49^{\circ}20'45''$ West 145.48 feet; thence South $00^{\circ}23'15''$ West 1213.04 feet to a point located on the boundary of the existing City Limit Line of the City of Merced; thence along the said City Limit Line South $89^{\circ}32'25''$ West 2173.69 feet to a point located on the centerline of Fahrens Creek; thence along the centerline of said Fahrens Creek and along said City Limit Line the following twelve (12) courses: (1) South $18^{\circ}27'00''$ East 59.88 feet, (2) South $30^{\circ}26'30''$ West 177.57 feet, (3) South $57^{\circ}04'00''$ East 366.68 feet, (4) South $75^{\circ}27'00''$ East 91.04 feet, (5) South $15^{\circ}33'30''$ West 71.47 feet, (6) South $50^{\circ}51'30''$ West 253.91 feet, (7) South $12^{\circ}17'00''$ West 252.63 feet, (8) South $06^{\circ}56'30''$ East 164.86 feet, (9) South $35^{\circ}12'30''$ East 244.85 feet, (10) South $02^{\circ}31'00''$ West 257.22 feet, (11) South $57^{\circ}14'30''$ West 158.55 feet and (12) North $70^{\circ}04'30''$ West 351.57 feet to a point located on the West line of said Section 7; thence along said West line North $01^{\circ}25'30''$ East 3752.55 feet to the point of beginning, containing 801.16 acres, more or less.



SCALE: 1" = 2000'

UNPUBLISHED WORK
 © 1995
 THE SPINK CORPORATION

856014/1895

TITLE BELLEVUE RANCH ANNEXATION	DATE: 6-5-95 JOB NO.: 8560-014	REVISION
	DRAWN BY: T.M. CHECKED BY: R.N.	
OWNER D.R. STEPHENS COMPANY	The Spink Corporation 2590 VENTURE OAKS WAY SACRAMENTO, CA 95833 PHONE: (916) 926-5650 FAX: (916) 926-9274	
	SCALE: 1" = 2000' COOE MERCED DR. NO.: H-7680	

VOL 3523 PAGE 043

CITY CLERK'S CERTIFICATE

I, JAMES G. MARSHALL, City Clerk of the City of Merced, California, do hereby certify that the attached documents, entitled:

ORDINANCE NO. 1944

Ordinance of the City Council of the City of Merced Approving Second Amendment to Development Agreement between the City of Merced and Bellevue Ranch

is a true and correct copy of the original on file in the Office of the City Clerk, Merced, California.

JAMES G. MARSHALL, CITY CLERK

DATED: September 23, 1996

BY: Carol Brigaman
Carol Brigaman
DEPUTY CITY CLERK

CERTIFY



6-5-95

8426

RECORDING REQUESTED BY:

RECORDED BY

City of Merced

RETURN TO:

MAR - 8 1996 AT 2:45 pm

CITY CLERK'S OFFICE
CITY OF MERCED
678 W. 18th Street
MERCED, CA 95340

VOL 3448 PAGE 992

OFF'L RECORDS OF
MERCED COUNTY
CALIFORNIA
JAMES L. BALL
Recorder

DH

DOCUMENT TITLE(S)

ORDINANCE NO. 1929

Approving First Amendment to Development Agreement
between the City of Merced and Bellevue Ranch

CITY CLERK'S CERTIFICATE

I, JAMES G. MARSHALL, City Clerk of the City of Merced, California, do hereby certify that the attached documents, entitled:

ORDINANCE NO. 1929

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED APPROVING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MERCED AND BELLEVUE RANCH

is a true and correct copy of the original on file in the Office of the City Clerk, Merced, California.

JAMES G. MARSHALL, CITY CLERK

DATED: February 12, 1996

BY: Carol Brigaman
CAROL BRIGAMAN
DEPUTY CITY CLERK

CERTIFY



ORDINANCE NO. 1929

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED
APPROVING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF MERCED AND BELLEVUE RANCH

WHEREAS, the Planning Commission of the City of Merced has recommended that the City Council approve the First Amendment to the Development Agreement by and between the City of Merced and Bellevue Ranch Associates and Bellevue Ranch Partners, attached hereto and herein incorporated into the provisions of this ordinance; and

WHEREAS, after due notice, the City Council did conduct a public hearing on this matter, wherein all persons desiring to be heard were heard; and

WHEREAS, the City Council has reviewed and considered the attached First Amendment to Development Agreement and determined the content of the First Amendment and the actions of the Planning Commission to be complete and correct; and

WHEREAS, the attached First Amendment to Development Agreement is in the public interest and is consistent with the Merced General Plan;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the facts stated above to be true.

SECTION 2. The City Council further finds, with respect to the attached First Amendment to Development Agreement, that:

a. It is consistent with the objective policies and programs specified in the General Plan.

b. It is compatible with the uses authorized in the regulations prescribed for the zone in which the real property is located.

c. It will not be detrimental to the public health, safety and general welfare.

d. It will promote the orderly development of property or the preservation of the property values in accordance with good land use practice.

SECTION 3. The City Council hereby approves the First Amendment to Development Agreement in the form attached hereto and authorizes and directs the Mayor to enter into that Agreement in the name of the City of Merced and further directs the City Clerk to record said First Amendment to the Agreement and this Ordinance with the County Recorder within ten (10) days of its effective date of adoption.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a copy of this ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 16th day of January, 1996 and was passed and adopted at a regular meeting of said Council held on the 5th day of February, 1996, by the following called vote:

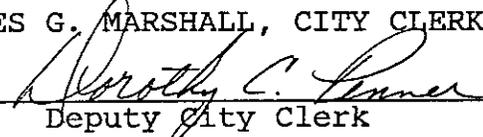
AYES: Council Members: AMEY, KNUDSEN, MOORE, SULLIVAN, THURSTON,
WALSH, BERNASCONI
NOES: Council Members: NONE
ABSTAIN: Council Members: NONE
ABSENT: Council Members: NONE

APPROVED:


Mayor

ATTEST:

JAMES G. MARSHALL, CITY CLERK

BY: 
Deputy City Clerk

(SEAL)

DA1AMAPPL



FIRST AMENDMENT TO DEVELOPMENT
AGREEMENT FOR BELLEVUE RANCH

This First Amendment to Development Agreement was made and entered into in the City of Merced on this 21 day of February, 1996 by and between the City of Merced, a municipal corporation ("CITY") and Bellevue Ranch Associates, a California limited partnership, Bellevue Ranch Partners, a California limited partnership ("Bellevue").

W I T N E S S E T H

WHEREAS City and Bellevue entered into a Development Agreement dated June 5, 1995 and recorded at Volume 3370, Page 576, Instrument No. 21102, Merced County Records on July 11, 1995 affecting the land described in Exhibit A hereto; and

WHEREAS the parties desire to amend said Agreement to extend the time for annexation,

NOW, THEREFORE CITY AND BELLEVUE agree to amend the Development Agreement as follows:

1. Section 19 of the Development Agreement is amended to provide that the deadline for annexation of the Initial Annexed Property is extended six (6) months from the date this First Amendment to Development Agreement is recorded.

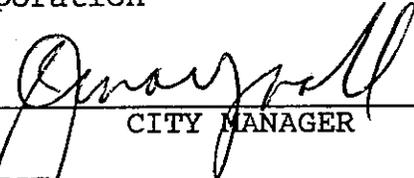
2. Subsection c. of Section 4.6 of the Development Agreement is amended to provide that the City shall develop a fee or reimbursement program/ordinance within six (6) months following annexation of the Initially Annexed Property.

3. Except as herein amended, the Development Agreement shall remain in full force and effect.

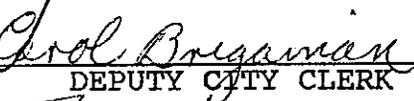
IN WITNESS WHEREOF City and Bellevue have executed and approved this First Amendment to Development Agreement as of the date set forth above.

"CITY"

CITY OF MERCED, a Municipal Corporation

BY: 
CITY MANAGER

ATTEST:

BY: 
DEPUTY CITY CLERK

APPROVED AS TO FORM:

BY: 
CITY ATTORNEY

FUNDS/ACCOUNTS/VERIFIED

950308
BY: 
FINANCE OFFICE

DATE: 3-4-96

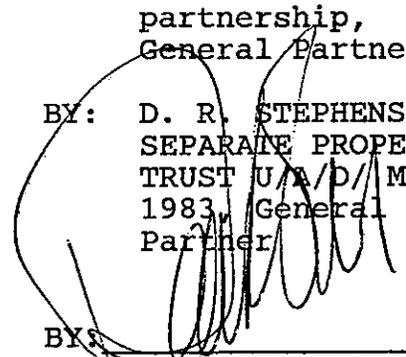
no funds required 3/4/96 plid

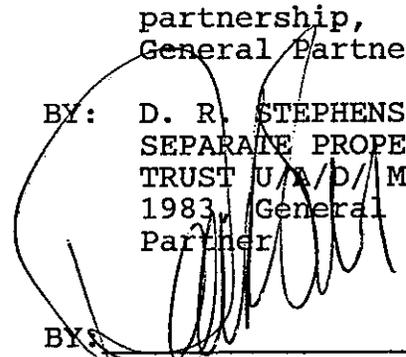
"BELLEVUE"

BELLEVUE RANCH PARTNERS NO. 20, LTD., a California limited partnership, General Partner

BY: D. R. STEPHENS & PARTNERS NO. 19 (MERCED), LTD., a California limited partnership, General Partner

BY: D. R. STEPHENS & COMPANY, a California limited partnership, General Partner

BY: 
D. R. STEPHENS
SEPARATE PROPERTY TRUST U/A/D/ MAY 1, 1983, General Partner

BY: 
D. R. STEPHENS, Trustee

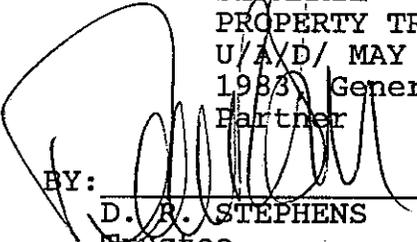
BELLEVUE RANCH ASSOCIATES, a California limited partnership

BY: D. R. STEPHENS & PARTNERS NO. 19 (MERCED), LTD., a

California limited
partnership, General
Partner

BY: D. R. STEPHENS
& COMPANY, a
California limited
partnershp,
General Partner

BY: D. R. STEPHENS
SEPARATE
PROPERTY TRUST
U/A/D/ MAY 1,
1983, General
Partner

BY: 
D. R. STEPHENS
Trustee

AMDDABELL1

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

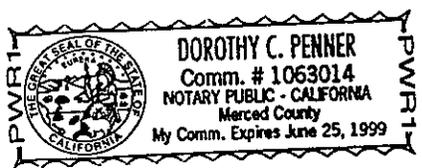
State of California

County of Merced

On March 7, 1996 before me, Dorothy C. Penner, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared James G. Marshall
NAME(S) OF SIGNER(S)

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



WITNESS my hand and official seal.

Dorothy C. Penner
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- _____ TITLE(S)
- PARTNER(S) LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

_____ TITLE OR TYPE OF DOCUMENT

_____ NUMBER OF PAGES

_____ DATE OF DOCUMENT

_____ SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

ATTACHMENT 3 - Page 21

VOL 3448 PAGE 1000

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On Febr. 21, 1996, before me, Bonnie C. Pinkham
Notary Public, personally appeared Donald R. Stephens
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/she executed the same in his/her
authorized capacity, and that by his/her signature on the instrument, the persons, or the entity upon behalf of
which the person acted, executed the instrument.

Bonnie C. Pinkham
Notary Public



CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On Febr. 21, 1996, before me, Bonnie C. Pinkham
Notary Public, personally appeared Donald R. Stephens
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/she executed the same in his/her
authorized capacity, and that by his/her signature on the instrument, the persons, or the entity upon behalf of
which the person acted, executed the instrument.

Bonnie C. Pinkham
Notary Public

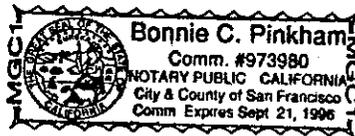


EXHIBIT A

DESCRIPTION OF BELLEVUE RANCH ANNEXATION

All that portion of Sections 5, 6 and 7, Township 7 South, Range 14 East, M.D.M., and Section 31, Township 6 South, Range 14 East M.D.M., described as follows:

Beginning at the Southwest corner of said Section 6; thence from said point of beginning along the West line of said Section 6 and the Northerly extension thereof North $00^{\circ}45'54''$ East 5308.37 feet to a point located on Northerly right of way line of Bellevue Road, said right of way being 30.00 feet North of the North line of said Section 6; thence along said Northerly right of way line of Bellevue Road and the Easterly extension thereof and parallel to the North line of said Section 6 North $89^{\circ}29'30''$ East 5035.36 feet to a point located on the Easterly right of way line of "G" Street, said right of way line being 55.00 feet East of the East line of said Section 6; thence along said Easterly right of way of "G" Street and parallel to the East line of said Section 6 South $00^{\circ}17'04''$ West 5259.62 feet to a point located on the Northerly right of way line of Cardella Road, said right of way line being 40.00 feet North of the South line of said Section 5 being a point located on the existing City Limit line of the City of Merced; thence along the existing City Limit line the following two (2) courses: (1) along said Northerly right of way line of Cardella Road and the Westerly extension thereof parallel to the South line of said Section 5, South $89^{\circ}53'06''$ West 80.00 feet to a point located on the Westerly right of way line of said "G" Street, said right of way line being 25.00 feet West of the East line of said Section 6 and (2) along the Westerly right of way line of "G" Street, parallel with the East line of said Sections 6 and 7 South $00^{\circ}18'15''$ West 770.01 feet to a point located on the centerline of Cottonwood Creek; thence along said centerline the following fifteen (15) courses: (1) South $88^{\circ}30'15''$ West 641.89 feet, (2) South $36^{\circ}48'45''$ West 138.31 feet, (3) South $12^{\circ}53'45''$ West 214.51 feet, (4) South $43^{\circ}55'15''$ West 138.88 feet, (5) North $63^{\circ}44'45''$ West 119.20 feet, (6) North $36^{\circ}50'30''$ West 198.23 feet, (7) North $64^{\circ}30'00''$ West 339.93 feet, (8) North $34^{\circ}06'45''$ West 187.45 feet, (9) South $80^{\circ}49'15''$ West 204.90 feet, (10) North $41^{\circ}14'00''$ West 197.05 feet, (11) South $79^{\circ}07'30''$ West 94.15 feet, (12) South $19^{\circ}54'15''$ East 106.85 feet, (13) South $54^{\circ}30'30''$ West 189.47 feet, (14) South $65^{\circ}59'15''$ West 535.28 feet, and (15) South $49^{\circ}20'45''$ West 145.48 feet; thence South $00^{\circ}23'15''$ West 1213.04 feet to a point located on the boundary of the existing City Limit Line of the City of Merced; thence along the said City Limit Line South $89^{\circ}32'25''$ West 2173.69 feet to a point located on the centerline of Fahrens Creek; thence along the centerline of said Fahrens Creek and along said City Limit Line the following twelve (12) courses: (1) South $18^{\circ}27'00''$ East 59.88 feet, (2) South $30^{\circ}26'30''$ West 177.57 feet, (3) South $57^{\circ}04'00''$ East 366.68 feet, (4) South $75^{\circ}27'00''$ East 91.04 feet, (5) South $15^{\circ}33'30''$ West 71.47 feet, (6) South $50^{\circ}51'30''$ West 253.91 feet, (7) South $12^{\circ}17'00''$ West 252.63 feet, (8) South $06^{\circ}56'30''$ East 164.86 feet, (9) South $35^{\circ}12'30''$ East 244.85 feet, (10) South $02^{\circ}31'00''$ West 257.22 feet, (11) South $57^{\circ}14'30''$ West 158.55 feet and (12) North $70^{\circ}04'30''$ West 351.57 feet to a point located on the West line of said Section 7; thence along said West line North $01^{\circ}25'30''$ East 3752.55 feet to the point of beginning; containing 801.16 acres, more or less.

OLD LAKE ROAD

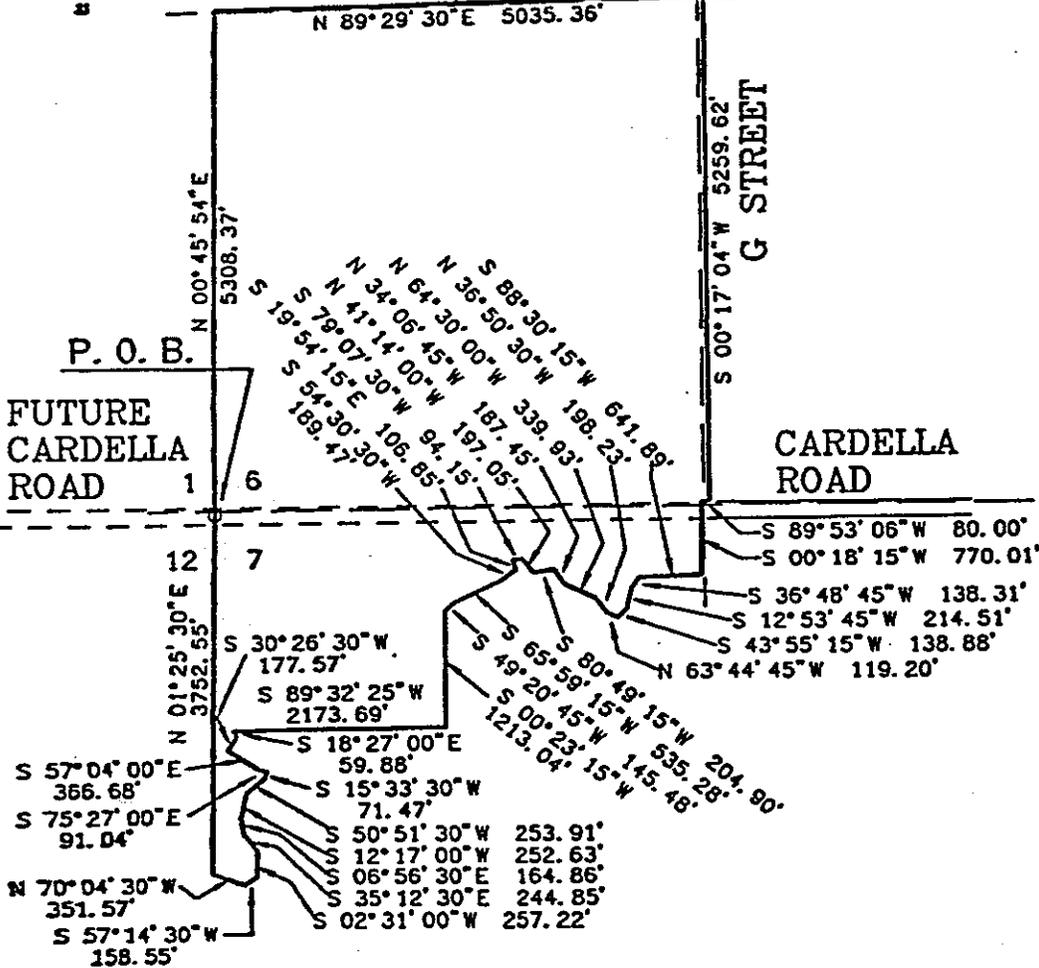
BELLEVUE ROAD

G STREET

CARDELLA ROAD

P. O. B.

FUTURE CARDELLA ROAD



SCALE: 1" = 2000'

UNPUBLISHED WORK
© 1995
THE SPINK CORPORATION

856014/1895

TITLE: BELLEVUE RANCH ANNEXATION

CLIENT: D.R. STEPHENS COMPANY

DATE: 6-5-95 **JOB NO.:** 8560-014
DRAWN BY: T.M. **CHECKED BY:** R.N.

REVISION

The Spink Corporation

2590 VENTURE OAKS WAY SACRAMENTO, CA 95833
 PHONE: (916) 925-5550 FAX: (916) 921-9274

SCALE: 1" = 2000' ATTACHMENT 2 DR. NO. Page 3480

3448-1003

21101

RECORDING REQUESTED BY:

RETURN TO:

CITY CLERKS OFFICE
CITY OF MERCED
678 W 18TH ST
MERCED, CA 95340

RECORDED BY

City of Merced

JUL 11 1995 AT 9:00 am

VOL 3370 PAGE 571

OFFL RECORDS OF
MERCED COUNTY
CALIFORNIA
JAMES L. BALL

Recorder *JH.*

DOCUMENT TITLE(S)

ORDINANCE NO.1906

ORDINANCE NO. 1906

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED
APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY
OF MERCED AND BELLEVUE RANCH

WHEREAS, the Planning Commission of the City of Merced has recommended that the City Council approve a Development Agreement by and between the City of Merced and Bellevue Ranch Associates and Bellevue Ranch Partners, attached hereto and hereby incorporated into the provisions of this ordinance; and

WHEREAS, after due notice the City Council did conduct a public hearing on this matter, wherein all persons desiring to be heard were heard; and

WHEREAS, The City Council has reviewed and considered the attached Agreement and determined the content of the Agreement and the actions of the Planning Commission to be complete and correct; and

WHEREAS, the attached Agreement is in the public interest and is consistent with the Merced General Plan; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the facts stated above to be true, and finds and certifies the approval of an Environmental Impact Report, in accordance with the provisions of Public Resources Code Sections 21000 et seq. of the State of California.

SECTION 2. The City Council further finds, with respect to the attached Agreement, that:

a. It is consistent with the objectives, policies and programs specified in the General Plan.

b. It is compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located.

c. It will not be detrimental to the public health, safety and general welfare.

d. It will promote the orderly development of property or the preservation of property values in accordance with good land use practice.

SECTION 3. The City Council hereby approves the Development Agreement, in the form attached hereto, and authorizes and directs the Mayor to enter into said Agreement in the name of the City of Merced, and, further, directs the City Clerk to record said Agreement and this Ordinance with the County Recorder within ten (10) days of its effective date of adoption.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a copy of this ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 15th day of May, 1995, and was passed and adopted at a regular meeting of said

Council held on the 5th day of June, 1995, by the following called
vote:

AYES: Council Members: GARCIA, DIAS, CARDOZA, KNUDSEN, BERNASCONI

NOES: Council Members: NONE

ABSTAIN: Council Members: NONE

ABSENT: Council Members: HASSETT,)ONE VACANCY)

ATTEST:
JAMES G. MARSHALL, CITY CLERK

Carol Brennan
Deputy City Clerk

APPROVED:

Richard Bernasconi
Mayor

(SEAL)
DEVBELRNH

CITY CLERK'S CERTIFICATE

I, JAMES G. MARSHALL, City Clerk of the City of Merced, California, do hereby certify that the attached documents, entitled:

ORDINANCE 1906

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MERCED AND BELLEVUE RANCH

are true and correct copies of the original on file in the Office of the City Clerk, Merced, California.

JAMES G. MARSHALL, CITY CLERK

DATED: July 6, 1995

BY: *Carol Brigaman*
CAROL BRIGAMAN
DEPUTY CITY CLERK



CERTIFY

RECORDING REQUESTED BY

1985-6-14-1
301-85-308
eff 6-5-85

21102

RECORDED BY

City of Merced

JUL 11 1995 AT 9:00am

VOL 3370 PAGE 576

OFFL RECORDS OF
MERCED COUNTY
CALIFORNIA
JAMES L. BALL

J.H.

Recorder

AND WHEN RECORDED MAIL TO
CITY CLERK'S OFFICE
CITY OF MERCED
678 W. 18th STREET
MERCED, CA 95340

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEVELOPMENT AGREEMENT
FOR
BELLEVUE RANCH**

THIS DEVELOPMENT AGREEMENT is made and entered into in the City of Merced on this 5th day of June, 1995, by and between the CITY OF MERCED, a municipal corporation (hereinafter referred to as "City"), and BELLEVUE RANCH ASSOCIATES, a California Limited Partnership, BELLEVUE RANCH PARTNERS, a California Limited Partnership (hereinafter collectively referred to as "Bellevue").

RECITALS

This Agreement is predicated upon the following facts:

1. Government Code Sections 65864 - 65869.5 authorize the City of Merced to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;
2. Under Section 65865 the City of Merced has adopted rules and regulations establishing procedures and requirements for consideration of development agreements;
3. Bellevue has requested the City of Merced to consider entering into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;
4. The City Council has found that the Development

Agreement is consistent with the General Plan;

5. Bellevue owns fee title to those certain parcels of land, consisting of 1,366 acres, located in the County of Merced expected to be annexed to the City of Merced (the Property more particularly described in Exhibit A.)

The real property that is subject to this Agreement is described in Exhibit "B" of this Agreement, and such other portions of the real property, described in Exhibit "A", when, and if such property, is in fact, annexed to the City of Merced;

6. Development of the Property in accordance with the Plan and in particular the phasing conditions thereof will provide for orderly growth in accordance with the policies and goals set forth in the City's General Plan;

7. For the reasons cited herein Bellevue and the City have determined that development of the Property is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty in planning, provide for orderly development, insure the installation of the necessary public improvements, provide for public services appropriate to the Development of the property, and otherwise achieve the goals and purposes for which the Development Agreement statute was enacted; and

8. On June 5, 1995, the City Council of the City of Merced adopted Ordinance No. 1906, approving this Development Agreement and that Ordinance will take effect July 5,

1995,

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, the City and Bellevue agree as follows:

SECTION 1. DEFINITIONS.

Section 1.1. "Category 1 Improvements" will be constructed as a part of the Bellevue Ranch Project and will be fully attributable to benefiting Bellevue Ranch. This category of improvements include the following: Curb, gutter and sidewalk, all local and collector street paving, street lighting, local sanitary sewer collection systems, local on-site storm drainage collection systems, including pump stations, detention facilities, pipes, manholes, inlet structures and outlet structures, domestic water and fire flow distributions systems, piping, valves and hydrants, arterial, road, curb, gutter, sidewalk, and street lighting. In addition, such other improvements as are necessary to effectively and safely serve the Bellevue Ranch Project are included."

Section 1.2. "Category 2 Improvements" refer to public improvements required to develop the Property where oversizing of facilities is required due to the expectation that said facilities will not only be used by Bellevue Ranch but also adjacent parcels which may develop in the future and will require service from the improvements or facilities. Such improvements include:

- a. "G" Street trunk sewer from Yosemite Avenue north to Cardella Road and the M Street and R Street trunk sewers in accordance with the North Merced Sewer Master Plan,
- b. Sanitary sewer pump station located in accordance with the North Merced Sewer Master Plan and the Master Development Plan.
- c. Water transmission mains within "G" Street and "R" Street from Yosemite to Old Lake Road, including but not limited to all valving, and looping facilities required to meet California Department of Health Services requirements, right-of-way acquisition and installation costs.
- d. Water transmission mains in Bellevue Road, and Old Lake Road between "R" Street and "G" Street along with all valving and looping facilities required to meet California Department Services requirements, right-of-way acquisition and installation costs.
- e. "M" Street extension along the northbound lanes from its existing terminus point to the south boundary of the project including median curb, paving and median landscaping.
- f. Bridge structures crossing Fahrens and Cottonwood Creeks.

- g. Traffic signal and intersection widening including all the facilities as identified in the Bellevue Ranch EIR and summarized in Appendix B including but not limited to curb, gutter, sidewalk, paving striping, signal equipment and controllers, detector loops, median curb and right-of-way acquisition if needed.
- h. Major and divided arterial oversizing improvements on "R" street, "M" Street, "G" Street, Cardella Road and Bellevue Road including grading, paving, median curbs, median landscaping, roadside ditches or curb and gutter, and minor drainage culverts.
- i. Cottonwood Creek Drainage Bypass system.
- j. Old Lake Road from G Street to R Street, culverts including grading, paving, striping, and roadside ditches.

Section 1.3. "Category 3 Improvements" shall refer to improvements of local off-site as well as regional facilities that will be impacted by the ultimate build out of the project. These improvements shall include the following:

- a. Highway 59 expansion from West Olive Avenue to Bellevue Road including paving, grading median curbs, striping, roadside ditches and culverts.

- b. Yosemite Bypass extension from Highway 59 to Highway 99 including grading, paving, striping, median curb, roadside ditches and culvert crossings.
- c. Cardella Road extension from Kansas Street to "R" Street including grading, paving, striping, median curb, roadside ditches and culvert crossings.
- d. Yosemite Avenue extension from "R" Street to Highway 59 including grading, paving, striping, median curb, roadside ditches and culvert crossings.
- e. Old Lake Road extension from "R" Street to Highway 59 including grading, paving, striping, median curb, roadside ditches and culvert crossings.
- f. Cardella Road extension from Kansas Street to Highway 59 including grading, paving, striping, median curb, roadside ditches, and culvert crossing.
- g. Highway 59 (Southbound) at 16th Street; right turn lane and intersection improvement.
- h. Highway 59 Railroad Crossing Protection Signals at Santa Fe Railroad.
- i. Highway 59 (Southbound) widening from north of Cooper Avenue to Santa Fe Railroad.

- j. Highway 59 Bypass grade separation at Yosemite Avenue including right of way.
- k. Highway 59 Bypass grade separation at Santa Fe Drive, including right of way.
- l. Highway 99 and Highway 59 interchange as defined by Caltrans.
- m. Bridge crossings on all roads necessary on Category 3 roads.
- n. Traffic signals and intersection widening including all facilities as identified in the EIR and summarized in Master Development Plan Appendix B including, but not limited to, curb, gutter, sidewalk, paving, striping, signal equipment and controllers, vehicle detection systems, median curb and right of way acquisition for all locations which are not covered under Category 2 improvements.

Section 1.4. "The City" means City of Merced.

Section 1.5. "The Developer" means Bellevue.

Section 1.6. "The Development Agreement" means this Agreement, which is alternatively referred to as "this Agreement: or "the Development Agreement".

Section 1.7. "The Effective Date if this Agreement" shall be the date of execution by Bellevue and the City.

Section 1.8. "Phases" refers to the phases of development of the Plan and more clearly defined in the Plan.

Section 1.9. "The Plan" refers to the Bellevue Ranch Master Development Plan, approved by the City on May 15, 1995.

Section 1.10. "The Property" means the entire project area consisting of 1365 acres more or less as described in Section 1.2 of the Plan for Bellevue Ranch.

- a. "Initial Annexed Property" means the real property annexed in the year 1995 consisting of that portion of the Property situated south of Bellevue Road as further defined in Exhibit "B" to this Agreement and depicted on the Map included in Exhibit "B".
- b. "Future Annexed Property" means the remainder of the Property excluding Initial Annexed Property as depicted on the Map included on Exhibit "B".

SECTION 2. BINDING EFFECT OF AGREEMENT. The benefits and burdens of this Agreement shall apply to the Initial Annexed Property as of the Effective Date. Thereafter, this Agreement shall apply to all Future Annexed Property as of the date of any such annexation(s). This Agreement shall be recorded by the City at Bellevue's expense at the Office of the Recorder of Merced County not more than ten (10) days following execution of this Agreement by all parties.

The City, by electing to enter into contractual agreements such as this one, acknowledges that the obligations of the City shall survive beyond the term or terms of the present

City Council members, and that such action will serve to bind the City and future councils to the obligations thereby undertaken, and this Agreement shall limit the future exercise of certain governmental and proprietary powers of the City. By approving this Agreement, the City Council 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 the City and its Counsel and have been found to be fair, just and reasonable, and the City has concluded that the pursuit of the development will serve the best interest of its citizens and the public health, safety and welfare will be best served by entering into this obligation. The City acknowledges that Bellevue would not engage in the development and infrastructure improvements without the assurances of development entitlement which this Agreement is designed to provide.

SECTION 3. TERM OF AGREEMENT.

Section 3.1. Term. This Agreement shall remain in effect for a term of forty (40) years unless earlier canceled by mutual consent of the parties hereto; provided, however, that this Agreement shall automatically terminate if annexation of the Initial Annexed Property does not occur within six (6) months of the Effective Date.

SECTION 4. DEVELOPMENT OF PROPERTY.

Section 4.1. Right to Proceed with Development.

Bellevue shall have the right to develop the property in accordance with the terms and conditions of this Agreement, the Plan and such amendments to the Plan and this Agreement as shall from time to time be approved by the City and Bellevue as provided for in this Agreement.

Section 4.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height, bulk and size of proposed buildings, provisions for reservation or dedication of land for public purposes and location of public improvements, location of public utilities, and other terms and conditions of development applicable to the Property shall be those set forth in this Agreement, the Plan, and amendments thereto.

The parties shall comply with the conditions and terms of:

- a. This Agreement,
- b. The Plan, and the Plan conditions as may be amended,
- c. The City's General Plan and any amendments thereto or revisions thereof,
- d. The Environmental Impact Report for the Bellevue Ranch Master Development, prepared by Willdan Associates (1994), Project Mitigation Measures,

- e. The Merced Municipal Code, including without limitation the Planned Development Zone requirements of Chapter 20 of the Merced Municipal Code,
- f. The Standard Designs of Common Engineering Structures, and
- g. Multi-family Design Guidelines, and all amendments to any of the above referenced documents.

All of the above documents are intended to cooperate so that any conditions contained in one and mentioned in the other, or vice versa, are to be followed as if mentioned in all such documents. In case of conflict between any of the documents, the order of documents first listed above shall be the order of precedence, with the first item listed having the highest precedence.

Section 4.3. Improvement Design and Construction Standards. During the first ten (10) years of this Agreement, the City may apply only such new or modified rules, regulations, resolutions, ordinances, laws, general or specific plans, community plans, and official policies which are not in conflict with those in effect on the Effective Date of this Agreement, or the terms, spirit and intent of this Agreement. Thereafter, the rules, regulations, specifications, and official policies of the City governing all design and construction standards for all public and private improvements on the property shall be those in

effect at the time of building permit issuance, unless otherwise provided in the Plan. Building requirements set forth in the Uniform Building Code, Uniform Fire code, Uniform Mechanical Code, Uniform Plumbing Code, and other City adopted Uniform Codes as they now exist or may be revised or adopted during the term of the Agreement shall apply to all development on the Property.

This section, however, shall not preclude pursuant to Government Code Section 65869.5, the applications to development of the subject property of any changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws, rules or regulations. In the event such changes in State or Federal laws prevent or preclude compliance with one or more provisions of this Agreement in implementation of the development of the Project, the parties shall take action to amend this Agreement consistent with the intent of this Agreement.

This Section shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit discretion of the City or any of its officers or officials, with regard to rules, regulations, resolutions, ordinances, laws and entitlements of use which require the exercise of discretion by the City or any of its officers or officials, provided that subsequent discretionary actions contemplated by this Agreement shall not prevent development of the subject property for the uses and intensity of development set forth in the Master Development Plan and this Agreement.

Section 4.4. Fees and Taxes. Except as may be otherwise provided in the Plan and/or State law, Bellevue shall pay to the City those fees, charges, and taxes in effect at the time of building permit approval; unless such fee, charge, or tax is payable at an earlier date, in which case Bellevue shall pay the fee, charge, or tax in effect as of the date of payment. City and Bellevue agree that there will be no new fees, charges or taxes imposed upon Bellevue for new development or construction which are not in existence as of the Effective Date for a period of ten years from the Effective Date. Bellevue agrees that it will pay any increases in existing fees, charges or taxes (existing as of the Effective Date), plus any assessments pursuant to maintenance assessment districts formed in connection with any subdivision of property hereunder as currently required by the City and any assessments required for the local area share of the Corps of Engineers flood control project. Payment of the following fees, charges and taxes shall be deferred until occupancy: Capital fees (not including Category 3 fees) and any school fees as may be agreed to with the affected school districts. Notwithstanding the foregoing, Bellevue acknowledges that the City is developing a public safety fee, and Bellevue agrees that it will pay such public safety fee as adopted by the City.

Section 4.5. Life of Subdivision Maps, Development Approvals, and Permits. Any planned development permit, final development plan, other permit, grant, agreement, or entitlement

for the general development of all or any part of the Property shall be effective in accordance with the terms thereof. The term of the tentative maps, or any other parcel, tentative or vesting parcel, or tentative map relating to the Property filed prior to or subsequent to the Effective Date of this Agreement are in effect for such time periods as are set forth in the California Subdivision Map Act and City ordinance, except that tentative maps shall be valid for five (5) years. Any conditional use permit, use permit, and site utilization plan shall be valid for an initial period of two (2) years, subject to further extensions as may be agreed to by the City.

Section 4.6. Bellevue's Right to Fee

Offset/Reimbursement for Public Facility Improvements. Bellevue will be required to construct certain public improvements which may benefit an area larger than the Property. These improvements are identified in the plan as Category 2 Improvements. It is the intent of the City and Bellevue that Bellevue shall be reimbursed for certain infrastructure and oversizing of construction of facilities it constructs beyond its fair share, as such fair share is determined by the City Engineer. Such fair share determination may be appealed to the City Council.

Bellevue shall be reimbursed in one of the following ways based upon Bellevue's actual costs or the reasonable cost of the improvements as determined by the City Engineer, whichever is less:

- a. Bellevue shall be entitled to fee offsets for

- improvements which Bellevue constructs in lieu of payment of an existing fee. For example, if Bellevue constructs a water well it shall receive water connection fee offsets to the extent of the cost of the well; or
- b. The City shall collect fees or charges from third parties and reimburse Bellevue for oversizing pursuant to existing City oversizing and reimbursement ordinances; or
 - c. For those improvements which Bellevue is required to construct beyond their fair share and not covered by reimbursement or fee offsets under A or B above, the City shall develop a fee or reimbursement program/ordinance, within 1 year of the Effective Date of this Agreement so as to provide a mechanism to collect funds from other benefiting properties to reimburse Bellevue. Said fees and charges shall be collected from other benefiting properties no later than the time a final map or parcel map is recorded on the benefiting properties, unless, legally, said benefiting property owner is required to pay the fee or charge at a later date. In the event the benefiting Property does not file a parcel map or final

map, said fees and charges shall be collected at the time of issuance of a building permit. In no event shall City be required to provide reimbursement to Bellevue from the City's General Fund or until the City collects such reimbursements from the other benefiting properties.

Section 4.7. Subsequent "Slow/No Growth" Measures.

Consistent with this development, the City and Bellevue specifically agree that any subsequently enacted initiatives, referendums, or amendments to the City's General Plan and/or Zoning Code which contain "slow/no growth" measures, moratorium or other limitations on growth, or which by their terms are intended to, or have such effect shall have no application to the Property or any aspect of the Project or the Project Approvals. Notwithstanding any such measures, the mitigation measures required for the development are limited to those established by this Development Agreement or approved in accordance with the Plan.

SECTION 5. DISTRICTS.

Section 5.1. District Formation.

Bellevue may apply to the City for the commencement of proceedings to create assessment and/or maintenance districts under the Improvement Act of 1911, the Municipal Act of 1913, the Landscaping and Lighting Act of 1972, Mello-Roos Community Facilities Act of 1982 or other appropriate legislative authority

for the purpose of paying for, and for financing some or all of the costs of maintenance and/or construction of public facilities hereunder. Nothing herein shall be deemed to require City to approve the formation of such districts, provided that City acknowledges that the formation of the district or districts for these purposes may be appropriate.

Section 5.2. Utilities. Nothing herein shall be construed to limit the City's ability to impose reasonable conditions and future discretionary approvals which require developers to install water wells, water and sewer lines and appurtenances servicing the Property. Notwithstanding any other provision of this Agreement, if Bellevue requests, City shall issue a minimum number of building permits equating to 200 single family dwelling units or 20% of the City's sewer plant capacity (as determined by the City), whichever is less, unless the City is enjoined from doing so by a court of competent jurisdiction. The permits shall be available to Bellevue on a calendar year basis and shall not accumulate from year to year.

SECTION 6. PHASING. The Property should be developed in thirty-six (36) phases as shown in the Plan.

Section 6.1. Development by Phases.

The development of the Property is anticipated to be phased as shown on the Plan. However, minor phasing changes are expected to occur in the course of development of the Property. Bellevue may not proceed with any phase out of sequence unless all Category 2 improvements for the prior phase and all

intervening phases have been completed. For example, if Bellevue wishes to develop Phase 20, Bellevue must have completed all Category 2 improvements for Phases 1-19. Notwithstanding the above, Bellevue may apply to the City Engineer to have certain of the Category 2 improvements deferred or to modify the phasing plan or sequence of phasing. The City Engineer shall, in his sole discretion, determine any modifications to the improvement requirements required for the requested deferral. The City Engineer may also require, as a condition of any such deferral, that Bellevue post adequate security in the form of cash, bonds and/or letters of credit in an amount sufficient to guarantee the construction of the deferred improvements, and establish a performance schedule for the construction of the deferred improvements.

Any determination with regard to required Category 2 improvements to be completed by Bellevue made by the City Engineer may be appealed to the City Council. Upon such appeal, the City Council shall, in its sole discretion, determine any modifications to the improvement requirements required for the requested deferral. The City Council may also require as a condition of any such deferral that Bellevue post adequate security in the form of cash, bonds and/or letters of credit in an amount sufficient to guarantee the construction of the deferred improvements, and establish a performance schedule for the construction of the deferred improvements.

Category 3 fees and charges shall be reviewed annually

and adjusted to reflect current cost estimates determined in a similar manner as 1600 fees (Government Code section 66018). Any fee collected shall only be used for the purpose for which it was collected and shall be refunded (without interest) to Bellevue should City determine that construction of the facility or improvement is not needed.

Section 6.2. The City and Bellevue agree that the phasing of various aspects of the Project and the infrastructure for the Project may require further refinement and City and Bellevue agree to work together to attempt to refine the phasing and infrastructure sequencing and to develop threshold levels of infrastructure requirements with certain triggering points based upon the number of units to be developed.

Section 6.3. In the event that Bellevue is required to construct Category 1 or 2 Improvements which are not under the control of Bellevue or the City (for example, if said improvement is to be located on property that has not been annexed to the City), Bellevue may nonetheless proceed with development (if all other terms and conditions of this Agreement are met) if Bellevue provides security in the form of cash, a bond or letter of credit in an amount determined by the City Engineer to be sufficient to complete the improvements once the land comes under the control of Bellevue or the City, and agrees to promptly construct said improvements when control is obtained. Notwithstanding the above, the City Engineer, in his sole discretion, may determine that the required improvement needs to be completed prior to

further development provided that the off-site improvements will be located pursuant to Government Code §66462.5 or other applicable law on land in which Bellevue or City has or is able to obtain sufficient title or interest.

Should Bellevue request that the City undertake proceedings by condemnation, negotiation, or otherwise to acquire control of the land, City will consider said request but shall be under no obligation to act upon Bellevue's request except as set forth in Section 8. Should City determine to proceed, Bellevue shall enter into a Reimbursement Agreement with City agreeing to pay for all costs associated with the undertaking, including without limitation all staff time, out-of-pocket expenses, etc. associated with City's efforts to obtain control of the land authorized by Government Code § 66462.5. The provisions contained in Government Code §66462.5 shall govern the applications of this Section 6.3.

SECTION 7. CURE/REAPPROVAL.

In the event that a court enters a judgment requiring reconsideration by City of any matter pertaining to the Project, the Project Approvals, or this Agreement, then City shall reconsider that matter in a manner consistent with the intent of this Agreement. If any such judgment invalidates all or any portion of any of the Project, the Project Approvals, or this Agreement, City and Bellevue shall work together to attempt to cure any deficiencies identified in any such judgment. Upon City and Bellevue reaching agreement City shall then readopt the

Project, the Project Approvals, or this Agreement, as may be needed to remedy the deficiency or deficiencies consistent with such judgment.

SECTION 8. COOPERATION-IMPLEMENTATION.

8.1. Processing. If necessary or required, upon satisfactory completion by Bellevue of all required preliminary actions and payments of appropriate processing fees, if any, City shall promptly commence and diligently proceed to complete all steps required or necessary for the implementation of this Agreement and the development by Bellevue of the Project Site in accordance with the Project Approvals. City and Bellevue acknowledge that in order to develop the Project, significantly more entitlements may be required, including but not limited to, General Plan Amendments, Specific Plan Amendments, zoning, final development plans, tentative maps, parcel maps, final maps, resubdivisions, amendments to maps, subdivision improvement agreements, lot line adjustments, encroachments, grading and building permits, and related matters, all as necessary for the completion of the development of the Project. In connection with such entitlement processing, City agrees that all legislative and non-legislative actions by the City pursuant to applications made regarding the foregoing entitlements shall be concluded within six (6) months from the date upon which the application is complete.

Bellevue will, in a timely manner, provide City with all documents, applications, plans and other information

necessary for the City to carry out its obligations hereunder and cause Bellevue's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents therefor. It is the express intent of Bellevue and City to cooperate and diligently work to implement any General Plan amendment, zoning, final development plan and/or other land use, grading or building permits or approvals which are necessary or desirable in connection with the development of the Project Site in substantial conformance with the Development Plan (as it may be amended from time to time pursuant to the terms of this Agreement) and the Conditions of Approval.

8.2. Other Governmental Permits. In addition, Bellevue shall apply in a timely manner for such other permits and approvals as may be required by other governmental or quasi-governmental agencies having jurisdiction over the Project in connection with the development of, or provision of services to, the Project. City shall cooperate with Bellevue in its efforts to obtain such permits and approvals and shall, from time to time at the request of Bellevue, attempt with due diligence and in good faith to enter into binding agreements with any such entity necessary to assure the availability of such permits and approvals of services, provided such agreements are reasonable and not detrimental to City.

SECTION 9. COOPERATION IN THE EVENT OF LEGAL CHALLENGE. In the event of any legal action instituted by a third party or other governmental entity or official challenging the approval or

validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action. Bellevue agrees to provide and cover the cost of a defense and indemnify the City in the event legal action is commenced against the City to set aside this Agreement.

SECTION 10. DEDICATIONS. Bellevue shall reserve for dedication, dedicate, and/or construct those public improvements in accordance with the Plan and existing City policies as required to service the Project. Bellevue will dedicate property for fire stations as identified in the Plan, and will receive a credit against the public safety fee, more particularly described in section 4.4 in connection with such dedication. The value of the property dedicated hereunder shall be determined in accordance with City ordinances relating to park dedication. Bellevue will reserve, but not dedicate or construct, transit station areas, as identified in the Plan.

SECTION 11. ASSIGNMENT. The rights and obligations of Bellevue hereunder shall not be assigned or transferred, except that on thirty (30) days written notice to City, Bellevue may assign all or a portion of Bellevue's rights and obligations hereunder to any person or persons, partnership or corporation who purchases all or a portion of Bellevue's right, title and interest in the Property, provided such assignee or grantee agrees in writing to be bound by this Agreement, and further provided that Bellevue obtains the consent of City to the assignment, which consent shall not be unreasonably withheld.

The notice to City shall include the identity of any such assignee and a copy of the written assumption of assignor's obligations hereunder pertaining to the portion assigned or transferred. Any reimbursements pursuant to this Agreement arising after said assignment shall be paid directly to Bellevue. After such notice and the receipt of such consent, the assignor shall have no further obligations or liabilities hereunder. The City Manager shall act on behalf of City regarding any actions concerning the assignment of this Agreement. Bellevue may appeal to the City Council, the action of the City Manager regarding the assignment of this Agreement.

SECTION 12. EFFECT OF ASSIGNMENT OR TRANSFER IN OWNERSHIP.

It is specifically agreed and understood by and between the parties that upon assignment or transfer by Bellevue of part or all of the Property; that all notices required to be given or which may be given regarding said assigned or transferred property shall be deemed to have been duly given when made in writing and deposited in the United States mail, certified or registered and postage prepaid addressed to the transferee or assignees.

Upon any amendment or modification of the Plan affecting the transferred property, the City is only required to directly deal with Assignee of the Transferred Property and has no obligation to obtain approval from the other owners of real property in the Bellevue Project area.

SECTION 13. STATUS OF AGREEMENT. This Agreement shall

supersede, replace and render null and void any and all prior oral or written representations, contracts, agreements, or understandings between or among any of the parties hereto relating to or arising out of any of the matters referred to herein that are inconsistent with the terms and provisions of this Agreement.

SECTION 14. AGREEMENT IS ENTIRE AGREEMENT. This written Agreement contains the sole and entire agreement between the parties. This Agreement supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representation including the execution and delivery hereof, except such representation as are specifically set forth herein, and each party acknowledges that he or it has relied on its own judgment in entering into this Agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and neither of them has relied thereon in connection with their dealings with each other.

SECTION 15. WAIVER OF MODIFICATION OF TERMS. No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged herewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding or litigation between the

parties arising out of or affecting this Agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

SECTION 16. AMENDMENT. Except as provided in SECTIONS 23.01 and 23.02 this Agreement and the Plan may be amended from time to time by mutual consent of the parties hereto and in accordance with the provisions of Government Code Sections 65867 and 65868, provided that any such amendment shall only require a public hearing if then required by state or federal law.

SECTION 17. RELATIONSHIP OF PARTIES. It is hereby specifically understood and acknowledged that the development is a private project and that neither the City nor Bellevue will deem to be the agent of the other for any purpose whatsoever.

SECTION 18. CANCELLATION OF THIS AGREEMENT. Except as otherwise permitted herein, this Development Agreement and the Plan may not be amended, canceled in whole or in part without the mutual agreement of the parties or their successors-in-interest, or in the event of a violation of any material term hereof, in the manner set forth in California Government Code Sections 65865.1, 65867, 65867.5, and 65868.

SECTION 19. INITIAL ANNEXATION WITHIN SIX MONTHS. This Agreement shall be effective upon execution; provided however that if the annexation of the Initial Annexed Property is not completed within six (6) months of the Effective Date, this

Agreement shall automatically terminate and be of no further force or effect. Said six (6) month deadline may be extended by mutual agreement of City and Bellevue. In the event of any termination pursuant to this section, any property which has been rezoned shall be rezoned to agricultural use, and any tentatively approved mapping shall be null and void.

SECTION 20. DEFAULT, REMEDIES, TERMINATION.

Section 20.1. General Provisions. Subject to extensions of time by mutual consent in writing, failure or delay by either party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement, or give notice of intent to termination of the Agreement pursuant to California Government Code Section 65868 and regulations of the City implementing said Government Code Section. Following notice of intent to terminate, the matter shall be scheduled for consideration and reviewed in the manner set forth in Government Code Section

65865, and 65868, and City regulations implementing said sections by the Council within thirty (30) calendar days. Following consideration of the evidence presented in said review before the Council, either party alleging the default by the other party may be given written notice of termination of this Agreement to the other party. Evidence of default may also arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code Section 65865.1. If either party determines that the other party is in default following the completion of the normally scheduled periodic review, said party may give written notice of termination of this Agreement specifying in said notice the alleged nature of the default and potential actions to cure said default, where appropriate. If the alleged default is not cured within thirty (30) days, or within such longer period specified in the notice, or the defaulting party waives its right to cure such alleged default, this Agreement shall be deemed terminated at the option of the non-defaulting party.

Section 20.2. Damages Upon Default/Specific

Performance. In no event shall Bellevue be entitled to any of the following damages against the City upon the City's default under this Agreement:

- a. Punitive damages;
- b. Damages for loss of profits;
- c. Damage for expenditures for costs incurred prior to date of this Agreement;

- d. Damages if this agreement is terminated for any reason other than by default by the City.

In addition to any other rights or remedies which may be available and consistent with the foregoing limitations, either party may institute an equitable action to cure, correct or remedy any default, and enforce any covenant or agreement herein, and enjoin any threatened or attempted violation hereof, and enforce by specific performance the obligations and rights of the parties hereto, or to obtain any other remedies consistent with the foregoing and the purposes of this Agreement. In no event shall City be entitled to recover any damages in excess of the assets of Bellevue; there shall be no personal liability of any of the Partners of Bellevue pursuant to this Agreement.

Section 20.3. Annual Review. City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Bellevue with the terms of this Agreement. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. A finding by City of good faith compliance by Bellevue with the terms of this Agreement shall conclusively determine said issue up to and including the date of said review. City's failure in any year to review the extent of compliance by Bellevue shall be deemed a finding by City of good faith compliance by Bellevue

with the terms of this Agreement. Bellevue shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council, or if the matter is referred to the City Planning Commission, before said Commission.

Section 20.4. Estoppel Certificate. Within ten (10) days following any written request which either party may make from time to time, the other party shall execute and deliver to the requesting party a statement certifying that:

- a. This Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect, as modified, and stating the date and nature of such modification;
- b. There are no current uncured defaults under this Agreement or specifying the dates and nature of any such defaults and the manner for their cure; and
- c. Any other reasonable information requested.

The failure to deliver such statement within such time shall be conclusive upon the party which fails to deliver such statement that this Agreement is in full force and effect without modifications except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party.

Section 20.5. Legal Action to Interpret and/or Enforce the Agreement. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, or to interpret the provisions hereof and declare the rights and obligations of the parties hereto.

SECTION 21. HOLD HARMLESS AGREEMENT. Bellevue hereby agrees to save and hold City and its elected and appointed representatives, officers, agents, and employees, harmless from claims, costs and liabilities for any personal injury, death, or property damage which arises, directly or indirectly, from operations performed under this Agreement by Bellevue or Bellevue's contractors, subcontractors, agents, or employees, whether such operations were performed by Bellevue or by any of Bellevue's contractors, subcontractors, by any one or more persons directly or indirectly employed by, or acting as agent for Bellevue or any of Bellevue's contractors or subcontractors. In addition, Bellevue shall defend City and its elected and appointed representatives, officers, agents, and employees against actions arising out of such personal injury, death, or property damage which is caused, or alleged to have been caused by reason of Bellevue's activities in connection with the Property.

SECTION 22. INSURANCE. Before beginning any development of public improvements on the Property, Bellevue shall obtain the

insurance required under this paragraph in the form, amount and carrier in accordance with City regulations. Bellevue shall maintain the insurance during the term of this Agreement. The insurance shall extend to the City its elective and appointed boards, commissions, officers, agents, employees and representatives and to Bellevue and each contractor and subcontractor performing work on the Property.

22.1. Compensation Insurance. Bellevue shall maintain workers' compensation insurance for all persons employed on the Property. Bellevue shall require each contractor and subcontractor similarly to provide workers' compensation insurance for their respective employees. Bellevue agrees to indemnify the City for damage resulting from its failure to take out and maintain such insurance.

22.2. Public Liability and Property Damage Insurance. Bellevue shall maintain public liability insurance in an amount of not less than \$500,000 for injuries (including death) to any one person and subject to the same limit for each person in an amount of not less than \$500,000 on account of any one occurrence; and Property Damage insurance in an amount of not less than \$500,000 for damage to the property of each person on account of any one occurrence.

22.3. Contractual Liability Insurance. Bellevue shall maintain an insurance policy in an amount of \$500,000 insuring against damages sustained by reason of any action, claim or demand made by reason of breach or claim for breach of contract

or by reason of any contractual liability or alleged contractual liability on any contract entered into by Bellevue or its contractors, subcontractor, agent or employee.

22.4. Bellevue shall furnish City concurrently with the execution of this Agreement satisfactory evidence of the insurance required and evidence that the carrier is required to give the City at least thirty (30) days prior written notice of cancellation or reduction in coverage in the policy.

SECTION 23. ATTORNEYS FEES AND COSTS. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party is entitled to reasonable attorneys fees and court costs.

SECTION 24. IMPROVEMENT SECURITY. By the terms of this Agreement and the Plan, Bellevue is required to construct certain public improvements which are not normally required as part of a subdivision map. At the time that the first subdivision final map is approved within a phase, the Bellevue shall secure any such improvements required within that phase in the same manner as though said improvement was required to be secured by the Subdivision Map Act.

SECTION 25. NOTICES. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have fully been fully given when made in writing and deposited in the United States mail, certified or registered and postage prepaid, addressed as follows:

"CITY"

City of Merced
ATTN: City Manager
678 West 18th Street

Merced, CA 95340

"BELLEVUE"

D. R. Stephens & Company
ATTN: Glenn Matsuhara
500 Sansome Street, Suite
600

San Francisco, CA 94111

SECTION 26. MISCELLANEOUS. All section headings contained herein are for convenience only and are not intended to define or limit the scope of any provision of this Agreement. This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of California as the same from time to time exist. The waiver by either party of any breach by the other shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

SECTION 27. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision, covenant, condition, or term of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

SECTION 28. COVENANT OF GOOD FAITH AND FAIR DEALING. Neither party shall do anything which shall have the effect of harming or injuring the right of the other party to receive the benefits of this Agreement. Each party shall refrain from doing anything which would render impossible its performance, or the performance of the other party.

SECTION 29. GOVERNING LAW. This Agreement, and rights and obligations of the parties hereunder, shall be governed by and interpreted in accordance with the laws of the State of California.

SECTION 30. COUNTERPARTS. For convenience, the signatures of the parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement.

SECTION 31. TIME. Time is of the essence of this Agreement and each and every term and condition hereof.

IN WITNESS WHEREOF, City and Bellevue have executed and approved this Development Agreement as of the date set forth above.

"CITY"

"BELLEVUE"

CITY OF MERCED, A Municipal Corporation

BELLEVUE RANCH PARTNERS NO. 20, LTD., a California limited partnership, General Partner

By: [Signature]
CITY MANAGER

By: D.R. STEPHENS & PARTNERS NO. 19 (MERCED), LTD., a California limited partnership, General Partner

ATTEST:

By: [Signature]
DEPUTY CITY CLERK

By: D.R. STEPHENS & COMPANY, a California limited partnership, General Partner

APPROVED AS TO FORM:

By: [Signature]
CITY ATTORNEY

By: D.R. STEPHENS SEPARATE PROPERTY TRUST U/A/D/ MAY 1, 1987, General Partner

950308
FUNDS/ACCOUNTS/VERIFIED
no funds required 6/14/95 pld

By: [Signature]
D.R. STEPHENS, Trustee

By: [Signature]
FINANCE OFFICE

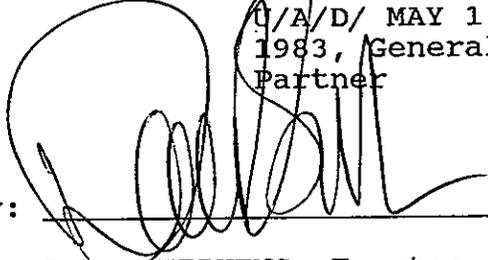
DATE:

BELLEVUE RANCH ASSOCIATES, a California limited partnership

By: D.R. STEPHENS & PARTNERS NO. 19 (MERCED), LTD., a California limited partnership, General Partner

By: D.R. STEPHENS &
COMPANY, a
California limited
partnership,
General Partner

By: D.R. STEPHENS
SEPARATE
PROPERTY TRUST
O/A/D/ MAY 1,
1983, General
Partner

By: 
D.R. STEPHENS, Trustee

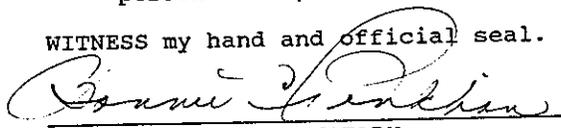
CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

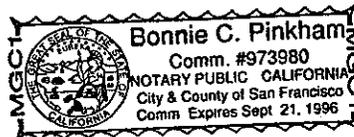
STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

On June 5 1995 before me, Bonnie C. Pinkham,
personally appeared D. R. Stephens

- personally known to me
 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 their 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.


SIGNATURE OF NOTARY



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Merced

On June 15, 1995 before me, Mildred A. White
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared James L. Marshall
NAME(S) OF SIGNER(S)

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



WITNESS my hand and official seal.
Mildred A. White
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- _____ TITLE(S)
- PARTNER(S) LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

_____ TITLE OR TYPE OF DOCUMENT

_____ NUMBER OF PAGES

_____ DATE OF DOCUMENT

_____ SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

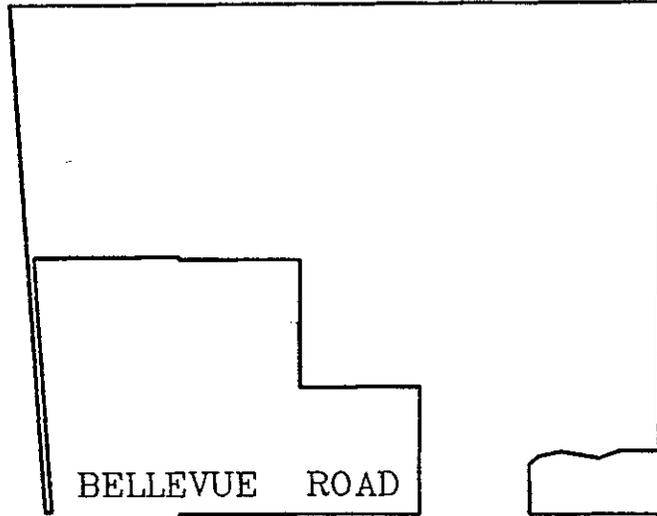
EXHIBIT A

DESCRIPTION OF BELLEVUE OVERALL

All that portion of Sections 6 and 7, Township 7 South, Range 14 East, M.D.M., Section 36, Township 6 South, Range 13 East, M.D.M., and Section 31, Township 6 South, Range 14 East, M.D.M., described as follows:

Beginning at the Northwest corner of said Section 7; thence from said point of beginning along the West line of said Section 7 South 01°49'30" West 3752.55 feet to a point located on the centerline of Fahrens Creek; thence along said centerline the following twelve (12) courses: (1) South 69°40'30" East 351.57 feet, (2) North 57°38'30" East 158.55 feet, (3) North 02°55'00" East 257.22 feet, (4) North 34°48'30" West 244.85 feet, (5) North 06°32'30" West 164.86 feet, (6) North 12°41'00" East 252.63 feet, (7) North 51°15'30" East 253.91 feet, (8) North 15°57'30" East 71.47 feet, (9) North 75°03'00" West 91.04 feet, (10) North 56°40'00" West 366.68 feet, (11) North 30°50'30" East 177.57 feet and (12) North 18°03'00" West 59.88 feet; thence North 89°56'25" East 2173.69 feet; thence North 00°47'15" East 1213.04 feet to a point located on the centerline of Cottonwood Creek; thence along said centerline the following fifteen (15) courses: (1) North 49°44'45" East 145.48 feet, (2) North 66°23'15" East 535.28 feet, (3) North 54°54'30" East 189.47 feet, (4) North 19°30'15" West 106.85 feet, (5) North 79°31'30" East 94.15 feet, (6) South 40°50'00" East 197.05 feet, (7) North 81°13'15" East 204.90 feet, (8) South 33°42'45" East 187.45 feet, (9) South 64°06'00" East 339.93 feet, (10) South 36°26'30" East 198.23 feet, (11) South 63°20'45" East 119.20 feet, (12) North 44°19'15" East 138.88 feet, (13) North 13°17'45" East 214.51 feet, (14) North 37°12'45" East 138.31 feet and (15) North 88°54'15" East 666.90 feet to a point located on the East line of said Section 7; thence along said East line North 00°42'15" East 729.23 feet to the Southeast corner of said Section 6; thence along the boundary of said Section 6 the following two (2) courses: (1) North 00°41'04" East 5269.42 feet and (2) South 89°53'30" West 1335.16 feet; thence North 00°06'30" West 519.08 feet; thence North 49°24'24" East 121.72 feet; thence North 78°00'00" East 240.68 feet; thence South 80°43'33" East 407.57 feet; thence North 69°14'23" East 223.44 feet; thence South 89°52'05" East 404.57 feet to a point located on the Easterly boundary of said Section 31; thence along the boundary of said Section 31 the following three (3) courses: (1) North 00°38'55" East 1995.76 feet, (2) North 00°41'15" East 2654.59 feet and (3) South 89°32'15" West 5055.39 feet to the Northeast corner of said Section 36; thence along the North line of said Section 36 South 89°39'15" West 1747.66 feet; thence South 03°57'02" East 5264.69 feet; thence North 89°21'24" East 70.13 feet; thence North 03°57'02" West 2643.83 feet; thence North 89°22'03" East 1504.03 feet; thence South 00°07'24" East 28.60 feet; thence North 89°48'08" East 1254.61 feet; thence South 00°04'09" West 1321.31 feet; thence North 89°48'16" East 1249.61 feet; thence South 00°16'12" West 1323.23 feet to a point located on the North line of said Section 6; thence along the boundary of said Section 6 the following two (2) courses: (1) South 89°53'30" West 2490.68 feet and (2) South 01°09'54" West 5278.37 feet to the point of beginning; containing 1372 acres, more or less.

OLD LAKE ROAD



BELLEVUE ROAD

R STREET

G STREET

GARDELLA ROAD

GARDELLA ROAD

COTTONWOOD CREEK

FARHENS CREEK



SCALE: 1" = 2000'

UNPUBLISHED WORK
© 1995
THE SPINK CORPORATION

856014/152

TITLE: BELLEVUE RANCH
OVERALL

DATE: 4-4-95 JOB NO.: 8560-014

DRAWN BY: T.M. CHECKED BY: R.N.

REVISION

CLIENT: D.R. STEPHENS COMPANY

The Spink Corporation

2590 VENTURE OAKS WAY SACRAMENTO, CA 95833
PHONE: (916)925-5550 FAX: (916)921-9274

SCALE: 1" = 2000' ATTACHMENT 9- Page 79 of 632

EXHIBIT B
DESCRIPTION OF BELLEVUE RANCH ANNEXATION

All that portion of Sections 5, 6 and 7, Township 7 South, Range 14 East, M.D.M., and Section 31, Township 6 South, Range 14 East M.D.M., described as follows:

Beginning at the Southwest corner of said Section 6; thence from said point of beginning along the West line of said Section 6 and the Northerly extension thereof North 00°45'54" East 5308.37 feet to a point located on Northerly right of way line of Bellevue Road, said right of way being 30.00 feet North of the North line of said Section 6; thence along said Northerly right of way line of Bellevue Road and the Easterly extension thereof and parallel to the North line of said Section 6 North 89°29'30" East 5035.36 feet to a point located on the Easterly right of way line of "G" Street, said right of way line being 55.00 feet East of the East line of said Section 6; thence along said Easterly right of way of "G" Street and parallel to the East line of said Section 6 South 00°17'04" West 5259.62 feet to a point located on the Northerly right of way line of Cardella Road, said right of way line being 40.00 feet North of the South line of said Section 5 being a point located on the existing City Limit line of the City of Merced; thence along the existing City Limit line the following two (2) courses: (1) along said Northerly right of way line of Cardella Road and the Westerly extension thereof parallel to the South line of said Section 5, South 89°53'06" West 80.00 feet to a point located on the Westerly right of way line of said "G" Street, said right of way line being 25.00 feet West of the East line of said Section 6 and (2) along the Westerly right of way line of "G" Street, parallel with the East line of said Sections 6 and 7 South 00°18'15" West 770.01 feet to a point located on the centerline of Cottonwood Creek; thence along said centerline the following fifteen (15) courses: (1) South 88°30'15" West 641.89 feet, (2) South 36°48'45" West 138.31 feet, (3) South 12°53'45" West 214.51 feet, (4) South 43°55'15" West 138.88 feet, (5) North 63°44'45" West 119.20 feet, (6) North 36°50'30" West 198.23 feet, (7) North 64°30'00" West 339.93 feet, (8) North 34°06'45" West 187.45 feet, (9) South 80°49'15" West 204.90 feet, (10) North 41°14'00" West 197.05 feet, (11) South 79°07'30" West 94.15 feet, (12) South 19°54'15" East 106.85 feet, (13) South 54°30'30" West 189.47 feet, (14) South 65°59'15" West 535.28 feet, and (15) South 49°20'45" West 145.48 feet; thence South 00°23'15" West 1213.04 feet to a point located on the boundary of the existing City Limit Line of the City of Merced; thence along the said City Limit Line South 89°32'25" West 2173.69 feet to a point located on the centerline of Fahrens Creek; thence along the centerline of said Fahrens Creek and along said City Limit Line the following twelve (12) courses: (1) South 18°27'00" East 59.88 feet, (2) South 30°26'30" West 177.57 feet, (3) South 57°04'00" East 366.68 feet, (4) South 75°27'00" East 91.04 feet, (5) South 15°33'30" West 71.47 feet, (6) South 50°51'30" West 253.91 feet, (7) South 12°17'00" West 252.63 feet, (8) South 06°56'30" East 164.86 feet, (9) South 35°12'30" East 244.85 feet, (10) South 02°31'00" West 257.22 feet, (11) South 57°14'30" West 158.55 feet and (12) North 70°04'30" West 351.57 feet to a point located on the West line of said Section 7; thence along said West line North 01°25'30" East 3752.55 feet to the point of beginning; containing 801.16 acres, more or less.

