

MERCED COUNTY

31271

RECORDED BY

Dept. of Public Works

DEC 01 1989 AT 10:00 AM

VOL 2788 PAGE 553

OFFL RECORDS OF
MERCED COUNTY
CALIFORNIA
JAMES L. BALL
Recorder

DH

When recorded mail to:

Department of Public Works
Road Division
DFW - 800-188

Department of Public Works
County of Merced

AGREEMENT
(Deferment of Construction)

THIS AGREEMENT is made this 30th day of Nov, 1989,
by and between the County of Merced, hereinafter designated
and called the "County", and Spalding G. Wathen and Della
Wathen hereinafter designated and called the "Owner", without
regard for number or gender.

RECITAL

WHEREAS, Owner has filed with the County a certain Minor
Subdivision Application No. 3519 for the development of land
owned by Owner, and

WHEREAS, Owner desires to defer construction of perma-
nent improvements hereinafter specified for a certain parcel
of land situated in the County of Merced, State of Califor-
nia, being described as follows:

VOL 2788 PAGE 553

ATTACHMENT # 2

MERCED COUNTY

All of that parcel of land delineated on "RECORD OF SURVEY FOR SPALDING G. WATHEN" recorded in Volume 18 at Page 38 of Record of Surveys, Merced County Records.

EXCEPTING THEREFROM, that parcel of land shown as Parcel 2 according the "PARCEL MAP FOR SPALDING G. WATHEN" recorded in Volume 50 of Parcel Maps at Page 16, Merced County Records.

NOW, THEREFORE, in consideration of approval of said site plan, the Owner and the County do hereby mutually agree as follows:

I. AGREEMENT BINDING ON SUCCESSORS IN INTEREST

This agreement is an instrument affecting the title or possessions of the real property described herein. All the terms, covenants and conditions herein imposed shall be binding upon and inure to the benefit of the successors in interest of Owner. Upon the sale or division of the property described herein the terms of this agreement shall apply and the owner of said parcel shall succeed to the obligations imposed on Owner of this agreement. Upon annexation to any City, Owner agrees to fulfill all the terms of this agreement upon demand by such City as though Owner has contracted with such City originally. Any annexing City shall have all the rights of a third party beneficiary.

II. STREET AND DRAINAGE IMPROVEMENTS

A. County and Owner agree that the improvements set forth in this section may be deferred.

B. Owner agrees to construct the following improvements on the property described herein as well as required off site improvements in the manner set forth in this agreement:

C. Improvements required by County Department of Public Works shall be those described as Improvement Level 1 in Chapter 16.08.040, IMPROVEMENT REQUIREMENTS, of the Merced County Code. These improvements are generally described as:

1. Construct curbs, gutters, sidewalks and pavement widening along the entire Cardella Road, Yosemite Avenue and "G" Street frontage and construct curbs, gutters, sidewalks and new street paving for all streets to be constructed within the above described parcel of land in conformance with the Merced County Improvement Standards and Specifications.

MERCED COUNTY

2. Install streetlighting. Form, annex to, or include into a lighting maintenance zone of benefit.
3. Design and construct a storm drainage system. Form, annex to, or include into a drainage maintenance zone of benefit.
4. Provide a soils report in conformance with Section 16.08.040.C.

D. When the County Director of Public Works determines that the reasons for the deferment of the improvements no longer exist, he shall notify Owner in writing to commence their installation and construction within ninety (90) days after such written demand is made upon the Owner. The notice shall be mailed to the current owner or owners of the land as shown on the latest adopted county assessment roll. The notice shall describe the work to be done by owners, the time within which the work shall commence and the time within which the work shall be completed.

III. PERFORMANCE OF THE WORK

Owner agrees to perform the work as set forth herein or as modified by the Board of Supervisors. Owner shall cause plans and specifications for the improvements to be prepared by competent persons legally qualified to do the work and submit said improvement plans and specifications for approval prior to commencement of the work described in the notice and to pay County inspection fees. The work shall be done in accordance with County Improvement Standards in effect at the time this agreement is executed. Owner agrees to commence and complete the work within the time specified in the notice give by the Director of Public Works and to notify the County at least 48 hours prior to start of work. In the event Owner fails to construct any improvements required under this agreement, County may, at its option, do the work and collect all the costs from Owner.

Permission to enter onto the property of Owner is granted to County or its contractor as may be necessary to construct such improvements. Where the County causes such work to be performed, the cost thereof shall constitute a special assessment against the property described herein which is benefitted by the improvement and shall become a lien on the land.

IV. REVIEW OF REQUIREMENTS

If Owner disagrees with the requirements set forth in any notice to commence installation of improvements, he shall, within 30 days of the date the notice was mailed,

request a review of the requirements by the Board of Supervisors of the County. The decision of this Board shall be binding upon both County and Owner.

V. BONDS

Prior to approval of improvement plans by the County, Owner may be required to execute and deliver to the County a faithful performance bond and a labor and materials bond in an amount and form acceptable to County to be released by the Board of Supervisors in whole or in part upon completion of the work required and payment of all persons furnishing labor and materials in the performance of the work.

VI. INSURANCE

Owner shall maintain, or shall require any contractor engaged to perform the work to maintain, at all times during the performance of the work called for herein, a separate policy of insurance in a form and amount acceptable to the County.

VII. INDEMNITY

The Owner shall assume the defense and indemnify and save harmless the County, its officers, agents, and employees, from every expense, liability or payment by reason of injury "including death" to persons or damage to property suffered through any act or omission, including passive negligence or act of negligence, or both, or the Owner, his employees, agents, contractors, subcontractors, or anyone directly or indirectly employed by either of them, or arising in any way from the work called for by this agreement, on any part of the premises, or the performance or non-performance of the work. This provision shall not be deemed to require the Owner to indemnify the County against the liability for damage arising from the sole negligence or willful misconduct of the County or its agents, servants or independent contractors who are directly responsible to the County.

MERCED COUNTY

IN WITNESS WHEREOF, County has executed this agreement
as of November 30, 1989.

COUNTY OF MERCED

Paul A. Fillebrown
Paul A. Fillebrown
Director of Public Works

IN WITNESS WHEREOF, Owner has executed this agreement as
of Nov 28, 1989.

Spalding G. Wathen
Spalding G. Wathen

Della Wathen
Della Wathen

APPROVED AS TO LEGALITY AND FORM
MERCED COUNTY COUNSEL

By: B. Clemon
Deputy

MERCED COUNTY

STATE OF CALIFORNIA }
COUNTY OF Fresno } ss.
On this 28th day of November, in the year 1989, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Spalding G. Wathen and Della Wathen personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.



Signature *Emma Kataoka*
Name (Typed or Printed)
Notary Public in and for said County and State

CHICAGO TITLE INDIVIDUAL

F2492 R 6/84

FOR NOTARY SEAL OR STAMP

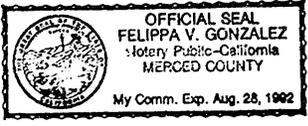
GENERAL ACKNOWLEDGMENT

NO. 201

State of CALIFORNIA }
County of MERCED } ss.

On this the 30 day of NOVEMBER 19 89, before me, FELIPPA V. GONZALEZ the undersigned Notary Public, personally appeared PAUL A. FILLEBROWN

personally known to me
 proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) IS subscribed to the within instrument, and acknowledged that HE executed it.
WITNESS my hand and official seal.



Notary's Signature *Felippa V. Gonzalez*

710 122

NATIONAL NOTARY ASSOCIATION • 23012 Ventura Blvd. • P.O. Box 4625 • Woodland Hills, CA 91364

END OF DOCUMENT