



Sacramento County Recorder  
Craig A. Kramer, Clerk/Recorder  
BOOK **20130923** PAGE **0396**

Monday, SEP 23, 2013 10:44:53 AM  
Ttl Pd \$0.00 Ropt # 0007959496

MML/18/1-15

OFFICIAL BUSINESS  
Document entitled to free recording  
Government Code §6103

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

City of Rancho Cordova  
2729 Prospect Park Drive  
Rancho Cordova, CA 95670  
Attn: City Clerk

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(SPACE ABOVE LINE RESERVED FOR RECORDER'S USE)

**THIRD AMENDMENT TO DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF RANCHO CORDOVA AND MONTELENA DOUGLAS, LLC  
RELATIVE TO MONTELENA**

ordinance 23-2013

**THIRD AMENDMENT TO DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF RANCHO CORDOVA AND MONTELENA DOUGLAS, LLC  
RELATIVE TO MONTELENA**

This Third Amendment (the "Third Amendment") to Development Agreement is dated August 19, 2013, for references purposes only, and is made by and between the **CITY OF RANCHO CORDOVA**, a California municipal corporation ("City"); and **MONTELENA DOUGLAS, LLC**, a California limited liability company (the "Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as a "Party."

**RECITALS**

A. The City and the Landowner's predecessor in interest, CP Sunridge, LLC, a Delaware limited liability company, are parties to a Development Agreement that is dated April 3, 2006 and was recorded on July 18, 2006 in the Official Records of Sacramento County at Book 20060718, Page 0966 (the "Agreement") establishing certain development rights for real property located in the City of Rancho Cordova, California, as more particularly described in Exhibit A-1 and Exhibit A-2 of the Agreement (the "Property").

B. The Agreement was subsequently amended by the City and CP Sunridge, LLC on November 19, 2007 by an instrument entitled "First Amendment to Development Agreement By and Between the City of Rancho Cordova and CP Sunridge, LLC relative to Montelena" and was recorded on January 31, 2008, in the Official Records of Sacramento County at Book 20080131, Page 1582 (the "First Amendment") to clarify that the terms and provisions of the Agreement were not applicable to the wetland preserve area established within the Property.

C. Landowner was assigned all of the interest of CP Sunridge, LLC in the Agreement in 2008 by virtue of that certain "Assignment and Assumption Agreement Relative to Montelena" dated February 14, 2008, and recorded on February 15, 2008 in the Official Records of Sacramento County at Book 20080215, Page 0899 (the "Assignment").

D. On June 18, 2012, City and Landowner subsequently entered into the "Second Amendment to Development Agreement by and between the City of Rancho Cordova and Montelena Douglas LLC relative to Montelena" that was recorded on September 6, 2012, in the Official Records of Sacramento County at Book 20120906 at Page 1316 (the "Second Amendment") to memorialize a change in the Project Approvals that City had approved for the Property. The Development Agreement, as amended by the First Amendment and by the Second Amendment, are hereinafter collectively referred to as the "Amended Development Agreement."

E. Pursuant to Government Code section 65868, City and Landowner now desire to revise the Amended Development Agreement to reflect certain further changes and modifications to the obligations of the Landowner to pay certain fees for park renovations at existing City parks and for park improvements at new City parks, to revise the Landowner's park dedication obligations, and to

provide for the installation of a pedestrian bridge at the Property by Landowner, all as more fully set forth below in this Third Amendment.

F. This Third Amendment that amends certain provisions of the Amended Development Agreement applicable to the entire Property was adopted by City Ordinance No. 23-2013 on August 19, 2013.

## AGREEMENT

**1. Incorporation of Recitals.** Recitals A through F are hereby incorporated herein, including all documents referred to in said Recitals.

**2. Restatement of Section 6.4.1 concerning the "New Park Development Obligation."** City and Landowner agree that Section 6.4.1 of the Amended Development Agreement is hereby deleted and replaced with the following:

**"6.4.1 New Park Development Obligation.** City and Landowner agree that Landowner's obligation to dedicate land for new parks and open space shall be satisfied by Landowner's dedication of 15.4± net acres of park land within the Project, set forth more specifically in the revised Exhibit 1 (the "Dedicated Land"). The Dedicated Land consists of 10.8 acres for a community park (Park Site A on Exhibit 1) and two neighborhood parks consisting of a total of 4.6 acres (Park Sites B and C on Exhibit 1 hereto).

Landowner shall pay a park development impact fee for each single-family residential parcel or residential parcel equivalent on the Property to mitigate the costs for the Cordova Recreation and Park District and the City to design, construct and install park improvements (the "Park Development Impact Fee"). The Park Development Impact Fee will be paid prior to issuance of each residential building permit within the Project.

The amount of the Park Development Impact Fee will depend on which parks the Landowner constructs.

Prior to the recordation of the first final small lot subdivision map on any portion of the Property, the Landowner, in its sole discretion, shall decide, whether it will construct: (1) none of the three parks in Exhibit 1; (2) the two neighborhood parks (Park Sites B and C on Exhibit 1), but not the community park (Park Site A on Exhibit 1); or (3) both neighborhood parks and the community park (all three parks on Exhibit 1).

For any parks the Landowner decides to construct, its obligation is to design, construct and install park facility improvements (i.e., "turnkey parks") consistent with (i) the "Park Development Agreement" being negotiated between the Landowner and the Cordova Recreation and Park District, and (ii) then applicable

City standards. The Landowner shall inform the City of its decision about which parks it will construct in writing prior to the approval of the first final small lot subdivision map on any portion of the Property such that the City may reflect that decision in approval documents and/or subdivision improvement agreements for final small lot subdivision maps on the Property. The Landowner's decision shall be a one-time decision which shall fix the Park Development Impact Fee for all residential units in the Project.

If the Landowner decides to construct none of the three parks in Exhibit 1, the Park Development Impact Fee will be \$10,460 for each single-family residential parcel or residential parcel equivalent.

If the Landowner decides to construct the two neighborhood parks (Park Sites B and C on Exhibit 1), but not the community park (Park Site A on Exhibit 1), the Park Development Impact Fee will be \$8,079 for each single-family residential parcel or residential parcel equivalent.

If the Landowner decides to construct both neighborhood parks and the community park (all three parks on Exhibit 1), the Park Development Impact Fee will be \$2,215 for each single-family residential parcel or residential parcel equivalent.

Regardless of the Landowner's decision about which parks to construct, the Park Development Impact Fee shall be adjusted on March 1, 2014 and annually thereafter no later than March 15<sup>th</sup> by the method provided in City Ordinance No. 24-2004 as follows:

- (a) A "mean" index will be computed by averaging the index for 20 U.S. cities with the index for San Francisco by resort to the January issue of the Engineering News Record magazine Construction Cost Index of the year in which the calculation is being made.
- (b) An adjustment factor shall be computed by dividing the "mean" index as calculated in subsection (a) of this section by the "mean" index for the previous January, however the March 2014 adjustment factor shall be computed by dividing the "mean" index for January 2013.

The Park Development Impact Fee shall not include the cost of park street frontage improvements at parks. If and when the City amends the Citywide Park Improvement Fee, the Landowner and City agree to explore adjustments to the Park Development Impact Fee. Under no circumstances shall the Landowner be required to pay any new Citywide Park Improvement Fee in addition to the Park Development Impact Fee as set forth in this Third Amendment.

City further agrees and acknowledges that the 15.4 acres of park land dedication being provided at the Project pursuant to this Third Amendment will satisfy the park land dedication requirements of Resolution No. 28-2005. "

**4. Restatement of Section 6.4.2 concerning the "Timing of Dedications and Improvements of Parks."** City and Landowner agree that Section 6.4.2 of the Amended Development Agreement is hereby deleted and replaced with the following:

**"6.4.2 Timing of Dedications of Parks.** Prior to the recordation of any residential small lot final subdivision map in the Project which contains a portion of the Dedicated Land, but not prior to construction of model homes, Landowner shall irrevocably offer for dedication to the Cordova Recreation and Park District that portion of the Dedicated Land that is encompassed within such residential small lot final subdivision map, and either (a) enter into a park development agreement with the Cordova Recreation and Park District for the improvement of the applicable Park Site(s) within that portion of the Dedicated Land situated within said residential small lot final subdivision map if the Landowner has elected to construct park facility improvements under Section 6.4.1 above at any Park Site and pay the Park Development Impact Fee in the applicable amount, or (b) be required to only pay the applicable Park Development Impact Fee if the Landowner has elected pursuant to Section 6.4.1 not to construct improvements at any of the Park Sites."

**5. Restatement of Section 6.4.3 concerning the "In-fill Park and Open Space Renovation and Acquisition Fee."** City and Landowner agree that Section 6.4.3 of the Amended Development Agreement is hereby deleted and replaced with the following:

**"6.4.3 In-fill Park and Open Space Renovation and Acquisition Fee.** Landowner agrees that it shall pay City the total sum of One Thousand Dollars (\$1,000) for each residential parcel shown on the final maps for the Property (the "Park Renovation Fee"). Beginning January 1, 2014, the fee shall be adjusted annually on each January 1 based upon the percentage change in the United States Department of Labor Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area between April and April of each year. This fee shall be paid to City no later than prior to issuance of the building permit for each residential parcel for the Property. It shall be used by City, at its sole discretion, to acquire, renovate, repair, improve or maintain parks or open space in that portion of the City outlined in Exhibit G to the Amended Development Agreement. This payment is made voluntarily by Landowner. It is in addition to all other existing park fees, and construction and dedication obligations, including without limitation any fees paid pursuant to California Government Code Section 66477 (the "Quimby Act"). Landowner agrees that it shall not claim any credit or right to reimbursement of any other existing park fees, and construction and dedication obligations, including Quimby Act fees, as a result of paying the Park Renovation Fee required under this Section 6.4.3. If and when

the City reduces or eliminates the Park Renovation Fee on a Citywide basis (by adoption of a park tax, special sales tax or other measure), then the Park Renovation Fee under this Section 6.4.3 shall be automatically adjusted to correspond to the new Citywide funding mechanism, provided that the Landowner does not challenge or oppose the approval or implementation of the new Citywide funding mechanism.

**6. Addition of New Section 6.4.9 Concerning Installation of new Pedestrian Bridge.** City and Landowner agree to add a new Section 6.4.9 to the Amended Development Agreement as follows to provide for the Landowner's obligation to install a new pedestrian bridge at the Project:

**"6.4.9 New Pedestrian Bridge.** City and Landowner agree the Landowner shall have the obligation to install a new pedestrian bridge (the "Bridge") over the drainage canal located in the southwest corner of the park identified as Park Site A on the diagram attached as Exhibit 1 to this Third Amendment. The Bridge shall be a steel H-5 loading "Bow truss" design bridge with a ten foot wide wood deck travel lane for pedestrian use (as measured inside rail to inside rail). Plans and specifications for the Bridge shall be prepared by Landowner in substantial compliance with the design in Exhibit 2, and be approved by the City; such City approval will not to be unreasonably withheld, conditioned or delayed. The Bridge shall be installed when the park improvements are constructed at the park in Park Site A shown on Exhibit 1 to this Third Amendment."

**7. Replacement of Exhibit E "Diagram of Park Land Dedication."** City and Landowner agree to delete Exhibit E of the Amended Development Agreement and replace it with the new Exhibit 1 "Diagram of Park Land Dedication" attached hereto and hereby incorporated herein by reference.

**8. Detention Basin Improvements.** Exhibit 3 and Exhibit 4 attached hereto and incorporated by reference identify improvements that Landowner will construct to the detention basin and its surrounding edge and it is hereby agreed that they replace Exhibit "I" of the Second Amendment in its entirety. The trails and other landscaping improvements are conceptually shown on Exhibit 3. The construction of improvements within the detention basin are shown in Exhibit 4 and will satisfy the detention basin improvement obligation described in Section 10 of the Second Amendment to the Development Agreement. City agrees with Landowner that due to grading and the hydrology of the detention basin trails will not be placed inside or routed through the detention basin.

**9. Landscape Corridor Lots.** City and Landowner agree that whenever Landowner records a final map for any of the Landscape Corridor Lots "H" through "T" as shown on the Tentative Map for the Property attached as Exhibit C to the Second Amendment, after all the improvements have been completed and accepted by the City, the Landowner shall within thirty (30) days thereafter transfer ownership of said lots to the City, and the City will accept ownership and maintenance responsibility for said lots from and after the date of transfer. City agrees to accept title to the Landscape Corridor Lots subject to any public utility easements that may have been granted therein, including, but not limited to, easements granted to the Sacramento County Water Agency.

**10. Definition of Terms.** All capitalized terms used in this Third Amendment shall have the same definition as provided in the Amended Development Agreement, except where a different definition has been supplied in this Third Amendment.

**11. All Other Terms Remain in Force.** Except as amended by Sections 1 through 8 above, all terms and conditions of the Amended Development Agreement remain in full force and effect.

**12. Effective Date.** This Third Amendment takes effect on the effective date of the ordinance that approves it (the "Effective Date") (Gov. Code, § 65868).

**13. Recording.** Within ten (10) days after the Effective Date, City shall record this Third Amendment with the Sacramento County Recorder's Office.

**14. Counterparts.** The Parties may execute this Third Amendment in counterparts, each of which will be considered an original, but all of which will constitute the same instrument.

**15. Entire Agreement.** This Third Amendment sets forth the Parties' entire understanding regarding the matters set forth above. It supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those matters (whether written, oral, express, or implied) and may be modified only by another written agreement signed by all Parties. This Third Amendment will control if any conflict arises between it and the Amended Development Agreement.

**IN WITNESS WHEREOF**, the City of Rancho Cordova, a municipal corporation, has authorized the execution of this Third Amendment in duplicate by its City Manager and attested to by its City Clerk under the authority of Ordinance No. 23-2013, adopted by the Council of the City on this 19<sup>th</sup> day of August 2013, and Landowner has caused this Third Amendment to be executed.

**SIGNATURES ON FOLLOWING PAGE**

**"CITY"**  
City of Rancho Cordova

By: Ted G. Gaebler

Name: Ted Gaebler

Title: City Manager

Date: 9-17, 2013

**"LANDOWNER"**  
Montelena Douglas, LLC  
By: Pilatus Properties, LLC  
Its: Manager

By: Ronald Alvarado

Name: Ronald Alvarado

Title: Manager

Date: August 26, 2013

ATTEST:

Mindy Cuppy  
Mindy Cuppy, City Clerk

APPROVED AS TO FORM:

Adam U. Lindgren  
Adam U. Lindgren  
City Attorney

Date: 9/12, 2013



**[Attach Certificates of Acknowledgment – Civil Code § 1189]**

STATE OF CALIFORNIA        )  
  ) ss.  
COUNTY OF SACRAMENTO    )

On Aug. 26, 2013 before me, WRENN BRAXTON, (here insert name and title of the officer), personally appeared RONALD ALVARADO, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Wrenn Braxton (Seal)



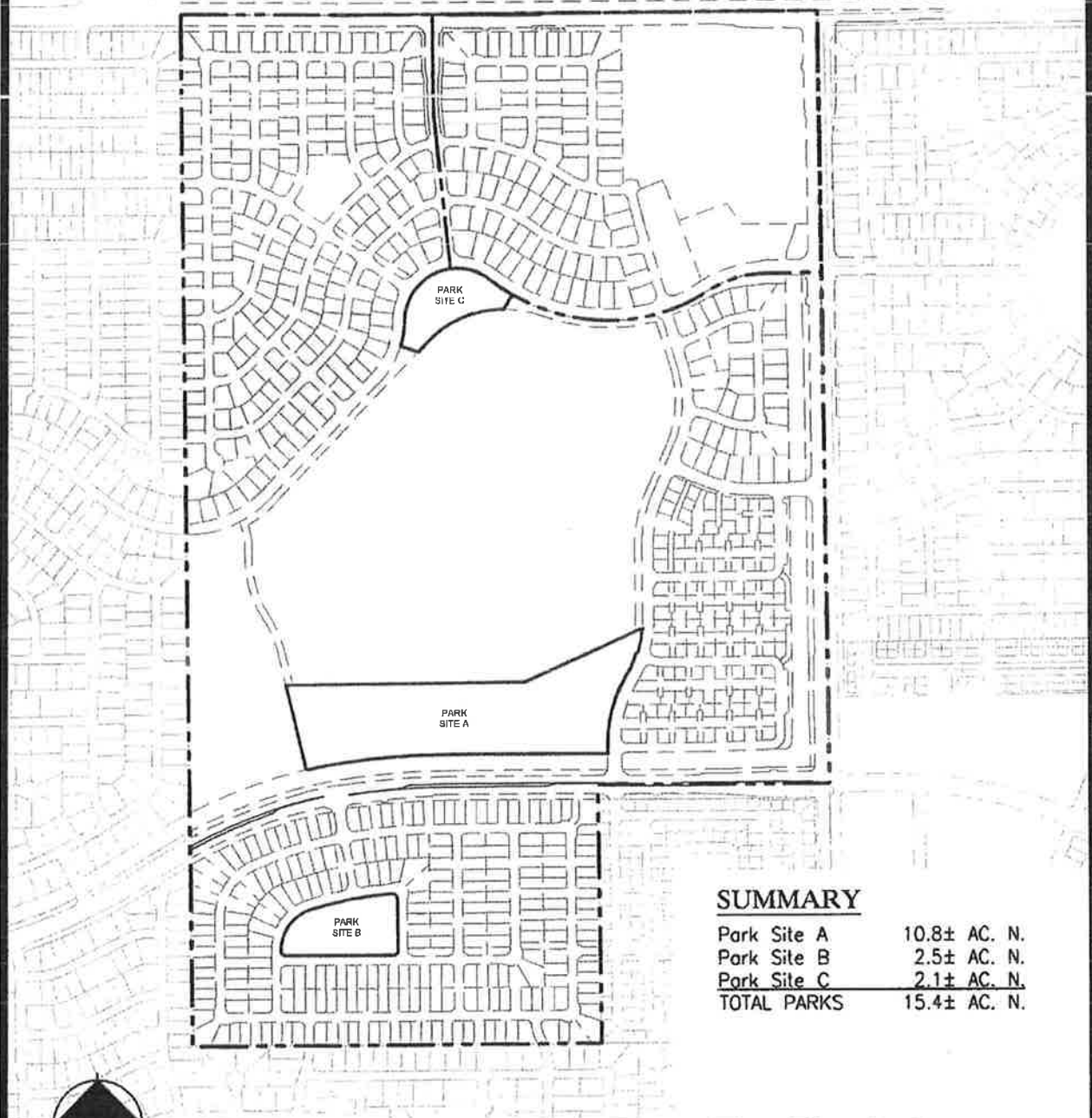


# EXHIBIT 1

## Park Site Dedications

### MONTELENA

June 19, 2013



**SUMMARY**

Park Site A	10.8± AC. N.
Park Site B	2.5± AC. N.
Park Site C	2.1± AC. N.
<b>TOTAL PARKS</b>	<b>15.4± AC. N.</b>

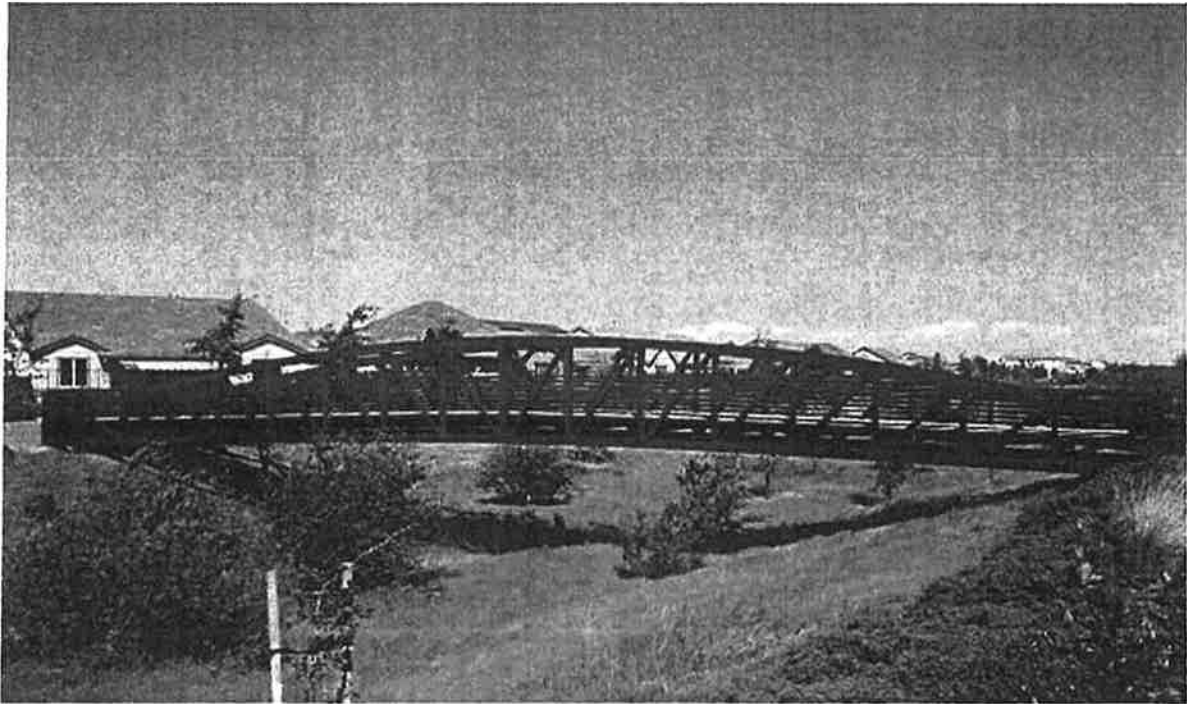
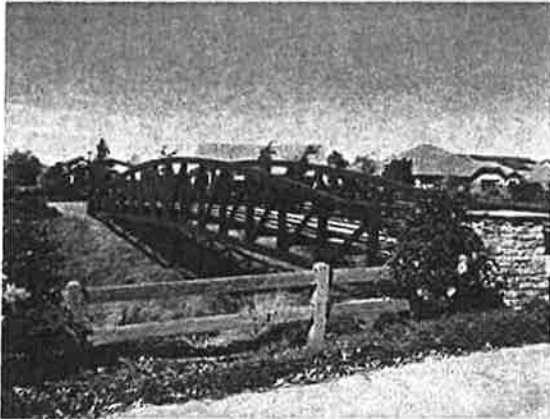


**Mackay & Somp**  
PLANNERS SURVEYORS  
 1582 Eureka Road, Suite 100, Roseville, CA 95661 (916) 773-1100

27042.00

4-18-2013 12:52:37 © [Users] [Users] [Applicant] [Local] [Userman] [Users] [Temporary] [Account] [Files] [Contract] [Default] [MCHS] [VSP] [Plan] [Agreement] - Exhibit 1.dwg  
 Users are not authorized to add drawings

**EXHIBIT 2**  
**Pedestrian Bridge Design**  
**MONTELENA**  
June 19, 2013



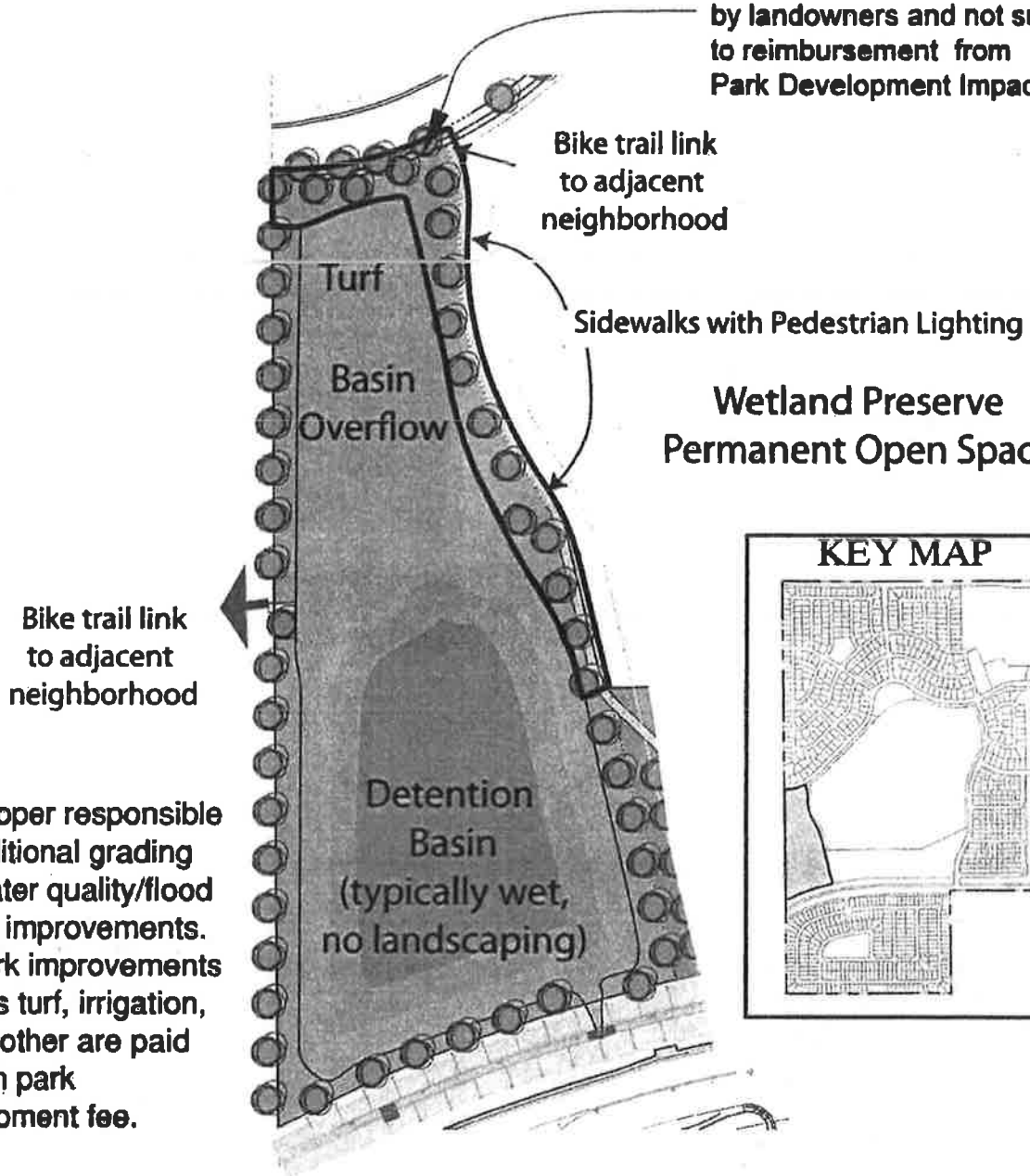
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There are no references in this drawing

**MACKEY & SOMPS**  
ENGINEERS PLANNERS SURVEYORS  
1562 Eureka Road, Suite 100, Roseville, CA 95661 (916) 773-1180

27042.00

# EXHIBIT "3"

Improvements constructed by landowners and not subject to reimbursement from Park Development Impact Fee

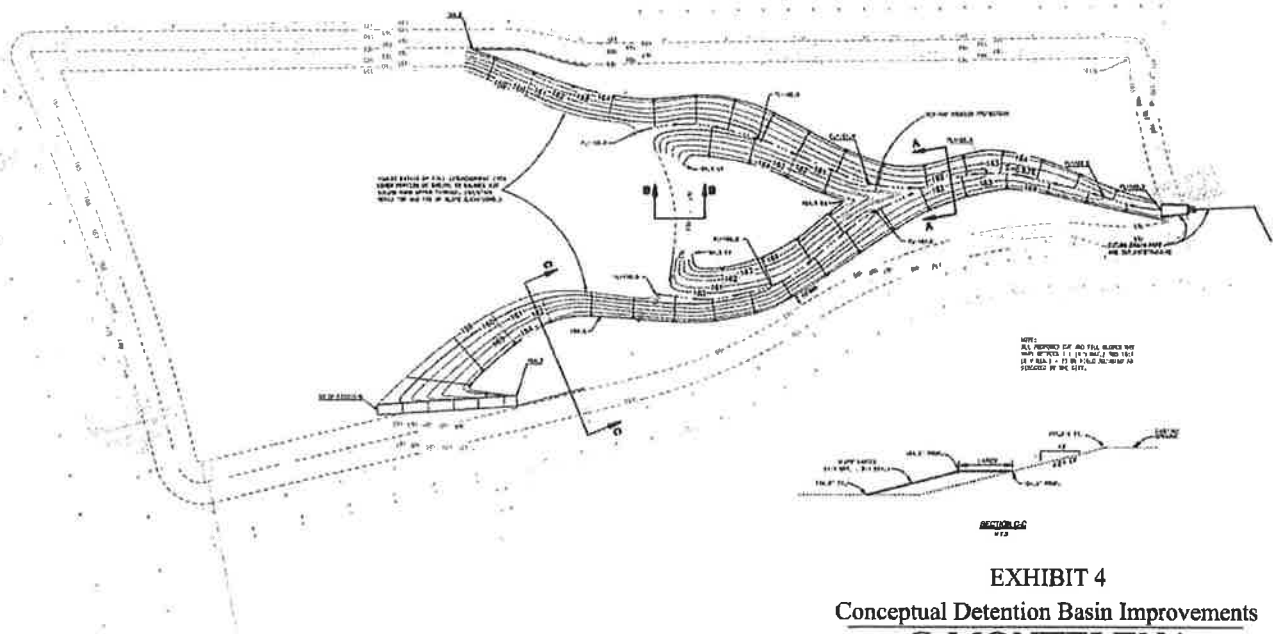


**Notes:**

- 1) Developer responsible for additional grading and water quality/flood control improvements.
- 2) All park improvements such as turf, irrigation, trail, & other are paid through park development fee.

## Montelena Recreation Amenities Concept Diagram Detention/Open Space 9.5 acres

July 5, 2013



MAINTENANCE ROAD (10' WIDE) TO BE LOCATED AT THE WEST END OF THE BASIN. SEE SHEET 27042.01 FOR DETAILS.

NOTE: ALL DIMENSIONS OF AND THE ELEVATIONS OF THE STRUCTURES SHOWN ON THIS PLAN SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.

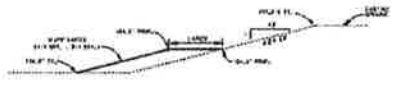
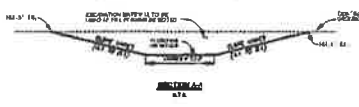


EXHIBIT 4  
Conceptual Detention Basin Improvements  
@ MONTELENA

City of Rancho Cordova, California  
Scale 1"=40' December 4, 2012



