

SUBDIVISION IMPROVEMENT AGREEMENT

WILDWOOD ESTATES – PHASE 4
(Subdivision/Unit No.)

CITY OF CHICO/ SCA DEVELOPMENT CORPORATION
(Subdivider)

THIS SUBDIVISION IMPROVEMENT AGREEMENT (“Agreement”), executed on APRIL 17, 2017, by the City of Chico, a municipal corporation of the State of California, (“City”) and SCA Development Corporation, a California corporation, (“Subdivider”).

WITNESSETH:

WHEREAS, Subdivider seeks to subdivide the property situate in the City of Chico, County of Butte, State of California, as depicted in Exhibit “A-1” and described in Exhibit “A-2,” attached and by this reference incorporated herein (“Subdivision”); and

WHEREAS, Subdivider has filed a tentative map for the Subdivision which has been approved by City subject to any conditions set forth in the resolution of the City Planning Commission or Council approving the tentative map; and

WHEREAS, Subdivider is required to construct and install certain streets, sidewalks, curbs, gutters, storm drainage facilities, sewer collection facilities, street lighting facilities, fire hydrants, landscaping, and such other improvements delineated on the tentative map for the Subdivision or described in any conditions set forth in the resolution of the City Planning Commission or Council approving the tentative map prior to the approval of a final map by City for the Subdivision; and

WHEREAS, Subdivider, in order to obtain approval of the final map for the Subdivision prior to completing such improvements, desires to enter into an agreement with City undertaking to complete the improvements remaining to be constructed and installed, as provided for by Section 66462 of the California Government Code and Section 18.36.090 of the Chico Municipal Code.

NOW, THEREFORE, in consideration of the approval of the final map, Subdivider agrees as follows:

1. Improvements to be Constructed and Installed

Subdivider agrees to construct and install, at Subdivider’s sole cost and expense, all of the streets, sidewalks, curbs, gutters, storm drainage facilities, sewer collection facilities,

street lighting facilities, fire hydrants, landscaping, and all other improvements delineated on the tentative map for the Subdivision or described in any conditions set forth in the resolution of the City Planning Commission or Council approving the Subdivision, which, on the date of this Agreement, remain to be constructed and installed.

2. Improvement Standards

All improvements to be constructed and installed as hereinbefore provided for shall be constructed and installed in accordance with the plans and specifications for the Subdivision which have been or are hereafter approved by City's Public Works Director, the subdivision design criteria and improvement standards adopted in Title 18R of the Chico Municipal Code except to the extent such criteria and standards have been waived in the manner provided by Title 18 of the Chico Municipal Code, and in accordance with the requirements of any other City ordinance or regulation or any applicable federal or state statute or regulation.

3. Time of Completion of Improvements

All improvements to be constructed and installed as hereinbefore provided for shall be completed within two years following the date of this Agreement; provided, however, that the improvements shall not be deemed to be completed until accepted by City's Public Works Director on behalf of City, which acceptance shall not be unreasonably withheld. When good cause for delay in the work of constructing and installing the improvements is shown by Subdivider, City's Public Works Director may extend the time for completion of the improvements for a period or periods not exceeding a total of two additional years.

4. Inspection of Improvements

Subdivider shall permit all authorized employees and agents of City to inspect the improvements constructed and installed pursuant to this Agreement at all times during the performance of the work of constructing and installing such improvements and shall provide such authorized employees and agents of City convenient and safe access to such work as well as all facilities and assistance necessary for such authorized employees to carry out such inspections. Whenever the plans and specifications for the Subdivision, the subdivision design criteria and improvement standards adopted in Title 18R of the Chico Municipal Code, any permit issued by City, and any other City ordinance or regulation or any applicable state or federal statute or regulation requires an inspection to be made by City at a particular stage of the work of constructing and installing such improvements, City shall be given timely notice of Subdivider's readiness for such inspection and Subdivider shall not proceed with additional work until the inspection has been made and the work approved.

5. Indemnification

To the fullest extent permitted by law, Subdivider shall defend (with counsel of City's choosing), indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Subdivider, its officials, officers, employees, subcontractors, consultants or agents in connection with Subdivider's activities under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Subdivider shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

Subdivider's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. Subdivider's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its directors, officials, officers, employees, agents, or volunteers.

Notwithstanding the above, Subdivider's obligation to indemnify, defend and hold harmless the City, its officers, employees and agents for claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) shall be limited to the extent caused by Subdivider's negligent acts, errors or omissions.

6. Warranties

Subdivider warrants all work performed by it under this Agreement against defects in materials and workmanship for a period of one year from the date the improvements are accepted by City and agrees to correct any defect in materials or workmanship that may appear during the period of such warranty without cost to City and to City's satisfaction; provided, however, that the warranty of Subdivider herein provided for shall not be exclusive of or affect any other warranty or guarantee provided for by operation of law.

7. Liability Insurance

On or before Subdivider's execution of this Agreement, Subdivider shall, at its sole cost and expense, obtain and maintain in full force and effect commercial general liability

insurance obtained from one or more U.S. domiciled insurance companies licensed to do business in the State of California and having a financial rating in Best's Insurance Guide of at least "B," or, in the alternative, an unlicensed U.S. domiciled company or companies with a rating of "A," which insures City, City's boards and commissions and members thereof, and City's officers, employees, and agents against any liabilities arising out of this Agreement and/or Subdivider's construction and installation of the improvements provided for by this Agreement. All such insurance shall be in the form or forms approved by the City's Administrative Services Director, shall be in an amount of at least \$1,000,000 per occurrence, with a \$2,000,000 annual aggregate, shall have a maximum policy deductible of \$5,000, and shall name City, City's boards and commissions and members thereof, and City's officers, employees, and agents as additional insureds under the coverage afforded. In addition, such insurance shall be primary to any other insurance or self-insurance available to City, shall include a severability of interests (cross-liability) clause, and shall afford to City at least thirty (30) days' prior notice of cancellation or material change in coverage.

To evidence such coverages, Subdivider shall submit to City's Administrative Services Director for approval as to form and sufficiency, an original certificate of insurance and policy endorsements executed by an authorized official of the insurer. The policy endorsements shall provide that:

- a. The City of Chico, its officers, boards and commissions, and members thereof, its employees and agents, are additional insureds with respect to any liability arising out of this Agreement, or Subdivider's construction and installation of the improvements provided for hereunder; and
- b. The insurance coverage afforded by the policy or policies shall be primary insurance with respect to the additional insureds, and any insurance or self-insurance available to the additional insureds shall be excess and non-contributory to any loss; and
- c. The company or companies shall provide to City at least thirty (30) days' prior notice of cancellation or material change in coverage, except in the case of cancellation for non-payment of premium in which case ten (10) days' notice may be provided. Such notice shall be unqualified as to the liability of the insurer for failure to provide such notice.

Upon the request of City's Administrative Services Director, Subdivider shall provide to City a copy of the insurance policy or policies required herein.

Following execution of this Agreement, the City's Administrative Services Director may, based on an increase in the Consumer Price Index or by reason of the number or types of claims which have resulted or might result from this Agreement and/or Subdivider's construction and installation of the improvements provided for by this Agreement,

require Subdivider to increase the limits of the liability insurance coverage required by this section; provided that the City's Administrative Services Director shall serve Subdivider with a notice of any such change or increase in the limits of public liability insurance coverage at least thirty (30) days prior to the date that such increased insurance coverage must be in effect.

8. Improvement Security - Security Required

- a. Bonds. On or before Subdivider's execution of this Agreement, Subdivider shall obtain and maintain in full force and effect the following bonds on behalf of City:
- (1) A performance bond in an amount equal to 100% of the total cost of the improvements to be constructed and installed by Subdivider pursuant to this Agreement, as estimated in Exhibit "B" attached hereto and incorporated herein, which bond shall guarantee the construction and installation of such improvements, the performance by Subdivider of all of its duties and obligations under the warranty against defects in materials and workmanship, and the payment of any costs, expenses, or fees, including reasonable attorneys' fees, incurred by City in enforcing the obligations guaranteed by such security.
 - (2) A labor and materials bond also in an amount equal to 50% of the total cost of the improvements to be constructed and installed by Subdivider pursuant to this Agreement, as estimated in Exhibit "B" attached hereto and incorporated herein, which bond shall guarantee payment of any contractor or subcontractor employed in the construction and installation of such improvements; the payment for any labor, materials, implements, or machinery used in, upon, for, or about the construction and installation of such improvements; the payment of any sums due under the Unemployment Insurance Code or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board with respect to the wages of employees of any contractor or subcontractor employed in the construction and installation of such improvements; and the payment of any costs, expenses, and fees, including reasonable attorneys' fees, incurred by any person or entity in enforcing performance of the obligations guaranteed by such security.

All bonds furnished to City as hereinbefore provided for shall comply with the requirements relating to the form of a bond given to secure performance under a subdivision improvement agreement provided for by Chapter 5, Division 2, Title 7, of the California Government Code, commencing with Section 66499, and shall be approved as to form by the City Attorney.

- (1) Such bonds shall be furnished by surety companies licensed and admitted to do business in the State of California and which are named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. The surety shall not have less than an "A" minimum current rating by the A.M. Best Company.
 - (2) If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent, its right to do business in California terminated, or its current rating by the A.M. Best Company drops below the "A" minimum rating, Contractor shall, within five (5) days thereafter, substitute another surety and bond, both of which shall be acceptable to City.
- b. Security in Lieu of Bonds. On or before Subdivider's execution of this Agreement, in lieu of the bonds hereinbefore provided for by this section, Subdivider may furnish City with any of the kinds of security hereinafter provided for:
- (1) A deposit with the City of money in an amount equal to 150% of the total cost of the improvements to be constructed and installed by Subdivider pursuant to this Agreement, as estimated in Exhibit "B" attached hereto and incorporated herein, which deposit shall be accompanied by an agreement pledging such deposit to guarantee the construction and installation of such improvements and the performance of any other act to be performed by Subdivider pursuant to this Agreement, and/or payment to any contractor or subcontractor engaged in constructing and installing such improvements and to any person furnishing labor, materials, or equipment for such improvements or the performance of any other act to be performed by Subdivider pursuant to this Agreement; or
 - (2) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government in an amount equal to 150% of the total cost of the improvements to be constructed and installed by Subdivider pursuant to this Agreement, as estimated in Exhibit "B" attached hereto and incorporated herein, which instrument of credit shall provide that such funds have been credited to City to guarantee the construction and installation of such improvements and the performance of any other act to be performed by Subdivider pursuant to this Agreement, and/or payment to any contractor or subcontractor engaged in constructing and installing such improvements and to any person furnishing labor, materials, or equipment for such improvements or the performance of any other act to be performed by Subdivider pursuant to this Agreement.

All security furnished by Subdivider in lieu of bonds as hereinbefore provided for shall be approved as to form by the City Attorney.

- c. Additional Costs, Expenses, and Fees to be Included in Security. As part of the obligations guaranteed by the bond or any other security furnished to City as hereinbefore provided for, and in addition to the face amount thereof, there shall be included costs, reasonable expenses, and fees, including reasonable attorneys' fees, incurred by City in successfully enforcing the obligations secured thereby.

9. Improvement Security - Release of Security

- a. Bonds. If the Subdivider furnished Performance and Labor and Materials Bonds as required improvement security, such bonds shall be released by City in the following manner:
 - (1) Performance Bond. Any bond or bonds furnished to secure the performance of the provisions of this Agreement shall be released at such time as the improvements have been completed and accepted by City's Public Works Director and Subdivider has furnished to City a Warranty Bond in an amount equal to 10% of the estimated cost of the improvements which guarantees Subdivider's performance under the warranty provisions of this Agreement and for costs, reasonable expenses, and fees, including reasonable attorney's fees, incurred by City in enforcing the obligations of this Agreement. Such bond shall be retained by City for one year following the acceptance of such improvements.
 - (2) Labor and Materials Bond. Any bond or bonds furnished to secure payments to any contractor or subcontractor engaged in constructing and installing the improvements and any person furnishing labor, materials, or equipment to them for the improvements or performance of any other act required to be performed by Subdivider pursuant to this Agreement shall be released six months after the completion and acceptance of such improvements by City's Public Works Director; except that an amount of such security equal to the total of all claims on which an action has been filed and notice thereof given in writing to City shall be retained by City and shall not be released until such claims have been satisfied in full.
- b. Security in Lieu of Bonds. If the Subdivider furnished a deposit or an instrument of credit as required improvement security, such security shall be released by City at such time as Subdivider has furnished City with the following:
 - (1) Warranty Security. A deposit or instrument of credit in an amount equal to 10% of the estimated cost of the improvements which guarantees Subdivider's performance under the warranty provisions of this

Agreement and for costs, reasonable expenses, and fees, including reasonable attorney's fees, incurred by City in enforcing the obligations of this Agreement. Such security shall be retained by City for one year following the date of acceptance of such improvements.

- (2) Labor and Materials Security. A deposit or instrument of credit in an amount equal to 50% of the estimated cost of the improvements to secure payments to any contractor or subcontractor engaged in constructing and installing the improvements and any person furnishing labor, materials or equipment to them for the improvements or performance of any other act required to be performed by Subdivider pursuant to this Agreement. Such deposit or security instrument shall be retained by City for six months following the acceptance of the improvements and may then be released; except that an amount equal to the total of all claims on which an action has been filed and notice thereof given in writing to City shall be retained by City and shall not be released until such claims have been satisfied in full.

10. Utility Services

On or before Subdivider's execution of this Agreement, Subdivider agrees to provide to City a letter from the utility companies providing water, gas, electric, telephone, and cable television services to the Subdivision certifying that such utility companies have agreed to install and will install all of the facilities necessary to provide such services to the Subdivision. The letter from the water company providing water to the Subdivision shall include therein a certification that such company will install all fire hydrants necessary to serve the Subdivision.

11. Fees

Subdivider agrees to pay to City each of the fees set forth in Exhibit "C" attached hereto and by this reference incorporated herein.

12. Public Improvements Financed Under a Special Assessment Act or the Mello-Roos Community Facilities Act

Where City causes all or part of the improvements to be constructed and installed by Subdivider pursuant to this Agreement to be financed, constructed, and installed pursuant to an appropriate special assessment act, or the Mello-Roos Community Facilities Act as set forth in Section 53311 et seq. of the California Government Code, the security required to be furnished or provided by Subdivider to City for such improvements shall be offset or released upon the acceptance of security guaranteeing the construction and installation of such improvements and payment to subcontractors or persons furnishing labor, materials, or equipment for such improvements which is furnished to City by the

contractor employed in the course of the special assessment proceedings or the Mello-Roos Community Facilities Act proceedings, and Subdivider shall be released from all obligations under this Agreement to construct such improvements upon the acceptance of the improvements financed, constructed, and installed pursuant to the special assessment act or the Mello-Roos Community Facilities Act by City's Public Works Director. It is understood and agreed by Subdivider that City has no obligation to cause any of the improvements to be constructed and installed by Subdivider pursuant to this Agreement to be financed, constructed, and installed under a special assessment act or the Mello-Roos Community Facilities Act and that the initiation and consummation proceedings to finance, construct, and install such improvements under a special assessment act or the Mello-Roos Community Facilities Act shall be at the sole discretion of City.

13. Personal Nature of Subdivider's Obligations Under This Agreement

All of Subdivider's obligations under this Agreement are and shall remain the personal obligations of Subdivider notwithstanding a transfer of all or any part of the property within the Subdivision subject to this Agreement, and Subdivider shall not be entitled to assign its obligations under this Agreement to any transferee of all or any part of the property within the Subdivision subject to this Agreement or any other third party without the express written consent of City.

14. Default

Upon the failure of Subdivider to complete the improvements to be constructed and installed within the time hereinbefore provided for by this Agreement, or upon Subdivider's failure to perform any other act required to be performed pursuant to this Agreement, City may, at its option, construct and install such improvements or perform such act. If, upon Subdivider's default, City undertakes to complete the construction and installation of the improvements or any other act required by this Agreement, City shall be entitled to recover the full costs and expenses incurred by City in completing such improvements or performing such acts from Subdivider or from any security furnished by Subdivider to City as hereinbefore provided for.

15. Notices

All notices or demands to be given, made, or sent, or which may be given, made, or sent by one party to the other pursuant to this Agreement shall be deemed to have been given, made, or sent and made in writing, and deposited in the U.S. mail, registered and postage prepaid, addressed as follows:

- a. To City: City of Chico
Attention: City Manager
P.O. Box 3420
Chico, CA 95927-3420

b. To Subdivider: SCA Development Corporation
c/o Douglas J. Guillon
2550 Lakewest Drive, Suite 50
Chico, CA 95928

The address to which any notice, demand, or other writing may be given, made, or sent by any party as above provided may be changed by written notice given by such party as above provided.

16. Special Provisions

This Agreement shall include all special provisions attached hereto marked Exhibit "D," which special provisions are incorporated herein.

CITY OF CHICO

SUBDIVIDER



By: Mark Orme, City Manager*



By: Douglas J. Guillon, President
SCA Development Corporation

*Authorized pursuant to Section 2R.04.230
of the Chico Municipal Code

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Vincent C. Ewing, City Attorney*



Brendan Ottoboni, Director of
Public Works - Engineering

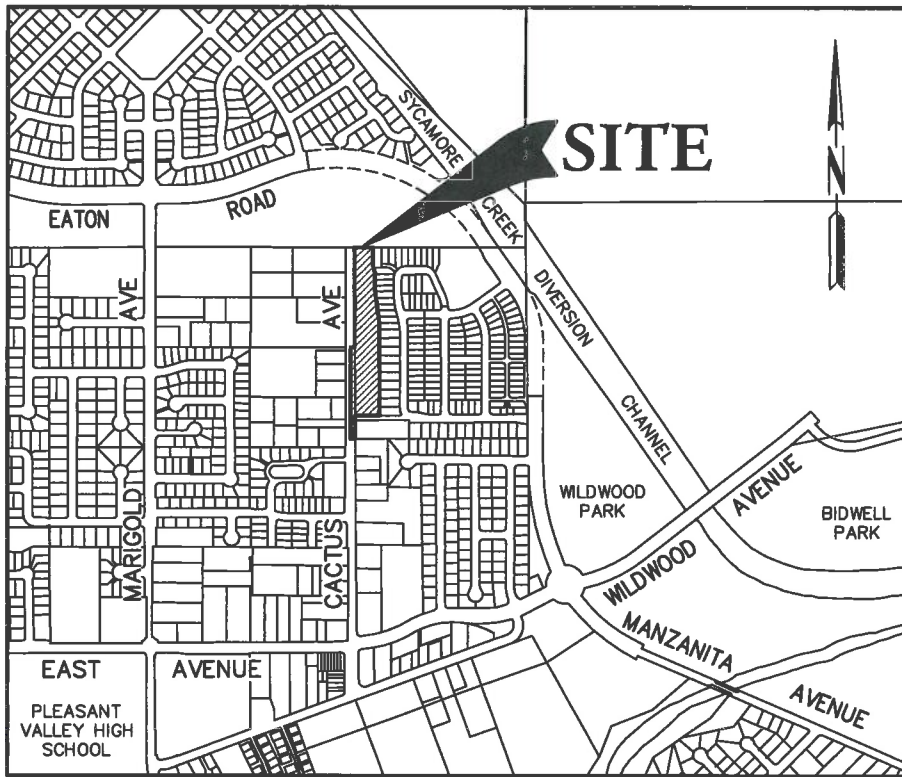
*Pursuant to The Charter of the City
of Chico, Section 906(D)

REVIEWED AS TO CONTENT:




Scott Dowell, Administrative Services Director*

*Reviewed by Risk Management, Human
Resources, Finance and Information Systems



LOCATION MAP

NO SCALE

 WILDWOOD ESTATES SUBDIVISION
PHASE 4



CITY OF CHICO

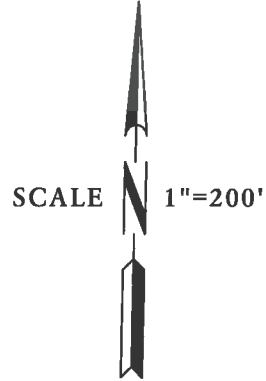
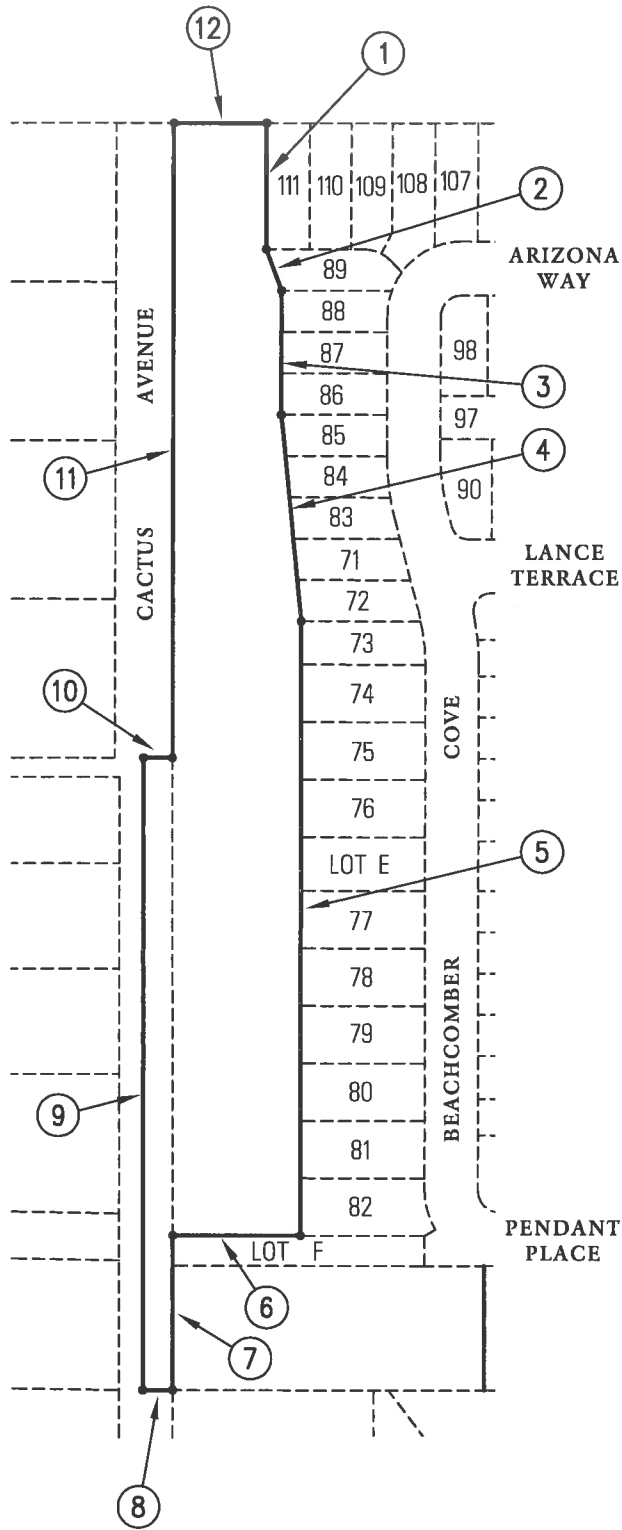
DEPARTMENT OF PUBLIC WORKS

DRAWN BY R.A.R. DATE MARCH, 2017
 CHECKED MS SCALE NO SCALE
 APPROVED [Signature]
 PUBLIC WORKS DIRECTOR

PLAT TO ACCOMPANY
 SUBDIVISION IMPROVEMENT AGREEMENT
 WILDWOOD ESTATES SUBDIVISION, PHASE 4
 SCA DEVELOPMENT CORPORATION

**EXHIBIT
 "A-1"**

SHEET 1 OF 2



LINE AND CURVE TABLE

①	S 00°56'26" E	131.54'
②	S 21°21'02" E	45.88'
③	S 00°56'26" E	128.99'
④	S 06°31'43" E	216.04'
⑤	S 00°56'26" E	641.06'
⑥	S 89°01'56" W	132.27'
⑦	S 00°56'12" E	161.60'
⑧	S 89°01'56" W	31.00'
⑨	N 00°56'12" W	660.22'
⑩	N 89°03'56" E	30.00'
⑪	N 00°56'12" W	661.06'
⑫	N 89°03'45" E	96.15'

CITY OF CHICO

DEPARTMENT OF PUBLIC WORKS

DRAWN BY R.A.R. DATE MARCH, 2017
 CHECKED *MS* SCALE NO SCALE

APPROVED *[Signature]*
 for PUBLIC WORKS DIRECTOR

PLAT TO ACCOMPANY
 SUBDIVISION IMPROVEMENT AGREEMENT
 WILDWOOD ESTATES SUBDIVISION, PHASE 4
 SCA DEVELOPMENT CORPORATION

EXHIBIT
 "A-1"

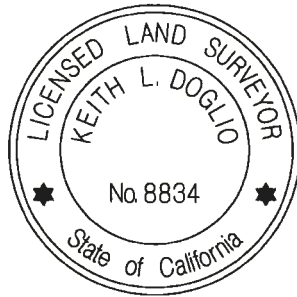
SHEET 2 OF 2

EXHIBIT "A-2"
CITY OF CHICO/SCA DEVELOPMENT
DESCRIPTION OF PROPERTY BEING SUBDIVIDED
WILDWOOD ESTATES PHASE 4

All that certain real property situate in the City of Chico, County of Butte, State of California, described as follows:

Lot Y2 as shown on that certain map entitled "Wildwood Estates Phase 3" recorded in the office of the Recorder of the County of Butte, State of California, in Book 186 of Maps, pages 93 thru 96;

The above-described property contains 3.75 acres, more or less.



Keith L. Doglio
Keith L. Doglio
PLS 8834
Date: 3-27-17

CHECKED : MJ

APPROVED : MJ

DATE : 3/29/17

EXHIBIT "B"

SUBDIVISION IMPROVEMENT AGREEMENT

WILDWOOD ESTATES – PHASE 4
(Subdivision/Unit No.)

CITY OF CHICO / SCA DEVELOPMENT CORPORATION
(Subdivider)

IMPROVEMENTS REQUIRED/COST

<u>Improvement</u>	<u>Estimated Cost</u>
1. Streets	<u>\$ 15,524.00</u>
2. Sidewalks (including driveway approaches)	<u>\$ 36,957.00</u>
3. Curbs and gutters	<u>\$ 2,875.00</u>
4. Storm drainage facilities	<u>\$ 15,436.00</u>
5. Sanitary sewer facilities	_____
6. Subdivision monumentation	_____
7. Other facilities	
A. Street Lights	<u>\$ 6,000.00</u>
B. Landscape/Irrigation	<u>\$ 40,000.00</u>
C. _____	_____
D. _____	_____
8. Contingency allowance (20%)	<u>\$ 23,358.40</u>
9. TOTAL ESTIMATED COST-IMPROVEMENTS REQUIRED	<u>\$140,150.40</u>

EXHIBIT "C"

SUBDIVISION IMPROVEMENT AGREEMENT

WILDWOOD ESTATES – PHASE 4
(Subdivision/Unit No.)

CITY OF CHICO / SCA DEVELOPMENT CORPORATION
(Subdivider)

SUBDIVISION FEES TO BE PAID

<u>Fee</u>	<u>Fund/Acct.</u>	<u>Due</u>	<u>Paid</u>	<u>Balance</u>
1. Sewer Main Installation Rate	322-000-42310	0.00	<0.00>	\$0.00
2. Storm Drainage Fee	309-000-42422	\$33,775.00	<\$33,775.00>	\$0.00
3. Checking of Final Map & Improvement Plans & Specifications	863-000-21212	0.00	<0.00>	\$0.00
4. Public Improvement Inspection Fee	863-000-21212	0.00	<0.00>	\$0.00
5. Other Fees				
6. TOTAL SUBDIVISION FEES REQUIRED		<u>\$33,775.00</u>	<u><\$33,775.00 ></u>	<u>\$0.00</u>

EXHIBIT "D"

SUBDIVISION IMPROVEMENT AGREEMENT

WILDWOOD ESTATES – PHASE 4
(Subdivision/Unit No.)

CITY OF CHICO / SCA DEVELOPMENT CORPORATION
(Subdivider)

SPECIAL PROVISIONS

None.