

TO: BOARD OF DIRECTORS
 FROM: MICHAEL S. LEBRUN *MSL*
 GENERAL MANAGER
 DATE: APRIL 6, 2012

AGENDA ITEM
E-1
APRIL 11, 2012

**CONSIDER DISTRICT'S SUPPLEMENTAL WATER PROJECT
 ASSESSMENT BALLOTS WITH COLLECTIVE VALUE OF \$13,476.73**

ITEM

Consider vote on Supplemental Water Project ballots for six District owned properties with a total value of \$13,476.73 [RECOMMEND BY MOTION AND ROLL CALL VOTE CAST A SUPPORT VOTE ON ALL DISTRICT BALLOTS].

BACKGROUND

On March 14, 2012, your Board initiated assessment district formation proceedings to fund the \$26M Supplemental Water Project. On March 23, 2012, ballots mailed to the owners of 8,000 parcels across the four proposed assessment zones. Over 2,000 ballots have been voted and returned to the District.

Ballots must be received by the close of the May 9, 2012 Public Hearing. The Hearing is scheduled to begin at 1pm. Following the Hearing, all ballots received prior to the close of the Hearing will be opened and counted. The ballot result is scheduled to be announced at a public meeting on May 10, 2012 at 3pm. Both meetings will be held in the District's Board Room at 146 South Wilson Street, Nipomo.

The District owns six properties subject to the assessment district formation as summarized in the table below.

APN	PHYSICAL ADDRESS	SITE USE	PROPOSED ASSESSMENT
090-271-025	0 RANGE PLACE	SOUTHLAND SEWER PONDS	\$1,447.96
090-271-026	0 RANGE PLACE	SOUTHLAND SEWER PONDS	\$1,447.96
090-142-006	148 S. WILSON	MAIN OFFICE	\$2,316.74
092-152-030	509 SOUTHLAND ROAD	UTILITY YARD	\$5,791.84
091-371-022	0 LEMA DRIVE	LIFT STATION SITE	\$0.00
090-441-020	0 PRICE STREET	WELL SITE	\$2,472.23
		TOTAL	\$13,476.73

FISCAL IMPACT

Once the ballot is successful, the District will have the option of paying a lump sum and receiving an ~15% discount (pay ~ \$11,000, save ~\$2000), or finance the cost over 30 years at an annual cost of ~\$1,000 annually.

Funds would be budgeted from the District water fund. Lump sum payment would represent less than 1% of the District water fund annual budget.

STRATEGIC PLAN

Strategic Plan Goal 1.2 – Secure New Water Supplies

RECOMMENDATION

Staff recommends your Board, by motion and roll call vote, direct staff to cast a vote of support on all District ballots.

ATTACHMENTS

- District ballots

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of **\$1,447.96** for my property for a supplemental water project.

No, I OPPOSE the proposed assessment for my property for a supplemental water project.



Property: APN No. 090271025
 Owner: NIPOMO COMMUNITY SERVICES DISTRICT
 Site: 0 RANGE PL

Signature: _____
 Printed Name: _____
 Date: _____

I hereby declare under penalty of perjury that I am a/the record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted. Only one property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCS D bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is **\$ 108.88** per year.

N4502

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of **\$1,447.96** for my property for a supplemental water project.

No, I OPPOSE the proposed assessment for my property for a supplemental water project.



Property: APN No. 090271026
 Owner: NIPOMO COMMUNITY
 SERVICES DISTRICT
 Site: 0 RANGE PL

Signature: _____
 Printed Name: _____
 Date: _____

I hereby declare under penalty of perjury that I am a/the record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted. Only one property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCSD bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is **\$ 108.88** per year.

N4503

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of **\$2,316.74** for my property for a supplemental water project.

No, I OPPOSE the proposed assessment for my property for a supplemental water project.



Property: APN No. 090142006
Owner: NIPOMO COMMUNITY
SERVICES DISTRICT
Site: 148 SO WILSON ST

Signature: _____
Printed Name: _____
Date: _____

I hereby declare under penalty of perjury that I am a/the record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted. Only one property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCSD bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is **\$ 174.21** per year.

N2681

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of **\$5,791.84** for my property for a supplemental water project.

No, I OPPOSE the proposed assessment for my property for a supplemental water project.



Property: APN No. 092152030
Owner: NIPOMO COMMUNITY SERVICES DISTRICT
Site: 509 SOUTHLAND RD

Signature: _____
Printed Name: _____
Date: _____

I hereby declare under penalty of perjury that I am a/the record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted. Only one property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCSD bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is **\$ 435.52** per year.

N4445

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of
\$ 0.00 for my property for a supplemental water
project.

No, I OPPOSE the proposed assessment for my
property for a supplemental water project.



Property: APN No. 091371022
Owner: NIPOMO COMMUNITY
SERVICES DISTRICT
Site: 0 LEMA DR

Signature: _____
Printed Name: _____
Date: _____

I hereby declare under penalty of perjury
that I am a/the record owner of the parcel
listed hereon. (Ballots must be marked and
signed in ink to be counted. Only one
property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCS D bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is \$ 0.00 per year.

N2387

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of \$2,472.23 for my property for a supplemental water project.

No, I OPPOSE the proposed assessment for my property for a supplemental water project.



Property: APN No. 090441020
Owner: NIPOMO COMMUNITY SERVICES DISTRICT
Site: 0 PRICE ST

Signature: _____
Printed Name: _____
Date: _____

I hereby declare under penalty of perjury that I am a/the record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted. Only one property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCS D bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is \$ 189.69 per year.

N2725

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: APRIL 6, 2012



**CONSIDER DISTRICT'S BILL PAYMENT POLICY CONSIDER
REQUEST FROM CUSTOMER VITAZ FOR RELIEF FROM POLICY**

ITEM

Consider District policy pertaining the payment of residential water bills and relief of payment.
[RECOMMEND CONSIDER INFORMATION AND PROVIDE STAFF DIRECTION]

BACKGROUND

Current District policy holds that all water metered to a customer is the customers responsibility regardless of circumstance. When leaks occur and go undetected on the customer side of the water meter, high water use and high water bills can result.

Chapter 3.04.290 of District Code, Water receiving equipment – Responsibility, holds the customer solely responsible for connecting to the District water meter stating; "The customer shall furnish and install at his own risk and expense that portion of the water system which begins at the outlet side of the meter." In addition; "Such water receiving equipment shall remain the property of the customer and he shall be responsible for its maintenance and repair."

Chapter 3.03.110 of District Code allows for amortizing a customer's high water bill over a period not to exceed twelve months. One amortization is allowed per customer every eighteen months.

In August 2011, customer Vitaz water use was 8.33 times above the same periods average use over the previous three years. The resulting water use charge of \$1,191.20 was 15 times higher than the same period average water use charge the previous two years. In September 2011, customer Vitaz entered into an amortization agreement to pay the outstanding balance on the high bill over a period of eleven months. Customer Vitaz has made four payments in accordance with the agreement.

At your Board's March 28, 2012 Regular Meeting, customer Vitaz spoke to your Board during public comment and requested forgiveness from the remainder of the outstanding water bill. Subsequently, your Board directed staff to suspend the amortization agreement with customer Vitaz and bring information regarding District policy, Vitaz account, and other amortization agreements currently in place and bill relief policies used by other Districts.

There are currently seven amortization agreements active with the District as follows:

- Next Page -

Summary of Outstanding Payment Plans				
Customer Account Number	Total of the High Bill	Date of the High Bill	Amount Paid to Date	Amount Running
VIT0001	\$1,310.18	8/10/2011	\$420.18	\$890.00
GOO0006	\$951.68	9/9/2011	\$829.92	\$121.76
LEO0008	\$1,279.88	9/9/2011	\$1,026.72	\$253.16
SMI0035	\$2,237.82	11/9/2011	\$984.00	\$1,253.32
MAL0024	\$1,759.64	11/9/2011	\$875.00	\$884.64
LOW0001	\$810.57	1/10/2012	\$400.00	\$410.57
RUG0003	\$1,244.41	3/10/2012	\$180.00	\$1,064.41

Staff researched how other Districts and Cities address high bill relief. A number of agencies, like the District, have no formal relief policy. Few seem to be effective at rigid enforcement with the result being unpaid bills and uncollected debt. (In contrast, the District has been highly effective over the years implementing its policy and has incurred no uncollected debt). Many agencies allow for the General Manager or equivalent level staff to grant measured relief (relive 50% of cost over average/typical bill) based on specific criteria (leak reported and repaired promptly, no negligence, limited to once over a period of years). Often policies will allow a staff level decision to be appealed to the Board of Directors (or equivalent policy body) for further consideration. Attached, are examples of policies used by two local agencies.

FISCAL IMPACT

Approximately seventy percent of the District costs for delivering water are fixed. Leaks will happen and can often go undetected for extended periods.

When a customer is relieved of costs incurred by the District on their behalf, the burden of those costs fall to all other customers collectively.

STRATEGIC PLAN

- Strategic Plan Goal 5.1 – Maintain clear and functional policies and procedures.
- Strategic Plan Goal 5.3 – Provide excellent customer service.
- Strategic Plan Goal 6.3 – Ensure that decisions consider short and long term fiscal impacts.

RECOMMENDATION

Staff recommends your Board consider the information presented and direct staff.

ATTACHMENTS

- Draft Los Osos CSD Leak Adjustment Policy
- Heritage Ranch CSD Fee Waiver Memorandum

**LOS OSOS COMMUNITY SERVICES DISTRICT
ORDINANCE 2010-XX**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
AMENDING AND RESTATING SECTION 2.01.20 OF TITLE 2 OF THE
DISTRICT CODE TO MODIFY LEAK ADJUSTMENT CREDIT POLICIES**

**THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY
SERVICES DISTRICT HEREBY ORDAINS AS FOLLOWS:**

Section 2.01.20 of Title 2 of the District Code is hereby Amended and Restated as follows:

2.01.20 Credits for Fixing Water Leak

A. Application: The General Manager shall make available to any customer an application form that customers can use to apply for a credit against their outstanding balance where the customer has experienced a water leak and can prove that such leak has been promptly corrected. The application shall include:

- The date of discovery of the leak;
- The date of repair;
- Evidence such as dated plumbing bills and receipts for materials and supplies related to the leak repair; and
- The signature of the water customer.

B. Process: The General Manager shall review all application forms received by customers. The General Manager shall approve a credit of up to 50% of the differential of the highest billing period invoice during the tenure of the leak and the average of all invoices for said customer over the last twelve-month period if the General Manager, in his/her discretion, finds:

1. The leak was related to a physical break or as a result of actions by third parties beyond the control of customer as opposed to a behavioral failure on the part of the customer; and
2. The leak was promptly repaired after the discovery; and
3. The customer has not received an LOCSD water leak credit during the preceding twelve (12) month period.

C. Disputes: Any customer that disputes a determination by the General Manager may seek Board of Directors review of said determination by paying the established fee and making written application to the Board of Directors, in care of the General Manager, within ten (10) business days of the General Manager's decision. The decision of the Board of Directors shall be final.

D. Additional Relief: When the General Manager determines that additional credit may be justified as a result of unusual circumstances or undue hardship, he/she shall bring the item to the Board of Directors for consideration. The District Board will consider the presentation of the affected water customer (customer must be present), the application and findings of the General Manager referenced in paragraph B, above. The Board may grant additional relief beyond that provided for in paragraph B, provided that said relief will not result in additional cost to other water customers of the District. The decision of the Board of Directors shall be final.

Introduced at its regular meeting of the Board of Directors held on _____, 2010, and passed and adopted by the Board of Directors of the Los Osos Community Services District on the _____ day of _____, 2010, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Marshall E. Ochylski, President of the
Board Los Osos Community Services District

HERITAGE RANCH COMMUNITY SERVICES DISTRICT

MEMORANDUM

TO: Board of Directors
FROM: John D'Ornellas, General Manager
DATE: January 19, 2006
SUBJECT: Customer Fee Waiver Policy

Recommendation

Review proposed language for customer fee waivers as outlined in items #1 and #2 and provide staff with direction.

Policy Implications

The fee waiver alternatives outlined under the discussion creates new policy. The Code of Ordinance contains language regarding water use, fee waiver requests, late charges and water meter tests as summarized below:

- Section 5.210 of the Water Code titled Water Loss or Leakage specifies that a customer has sole control of the amount of water drawn from the District's mains through their meter and is responsible for maintenance and repairs of pipes and fixtures beyond the meter. No allowance will be made for loss of water due to faulty fixtures or broken or damaged water pipes beyond the meter; provided, however, when such loss or leakage has occurred without negligence upon the part of the customer, a written request may be made to the Board for an allowance for the extent of such estimated loss.
- Section 5.580 of the Water Code is titled Meter Test and relates to the testing of a water meter when the customer believes their high water bill is due to meter error. Customers often request this test and the results virtually never show a "fast" water meter. Fast is defined as a meter running more than 5% above a new calibrated meter. In general, water meters are built to run slow when they begin to wear out. Thus, it is an industry standard that if an agency were to replace all their water meters, revenue would increase because there are many meters running slow and not accurately registering all water being used.
- Section 3.820 –of the Code specifies that accounts are overdue if not paid in full by 4:00 p.m. on the 25th day following the month or months in which the service was provided. Accounts will be assessed a 10% penalty on the overdue balance if not paid by the due date and thereafter may be assessed an additional penalty of 1% of the overdue balance for each month or portion thereof that remains overdue.

Fiscal Implications

Late fees generate about \$14,500 per year of income.

Alternatives Considered

Make no changes to the late fee and water leakage policies.

Discussion

There has been three requests to your Board for waiver of water fees over the last several months. Staff receives many requests for fee waivers throughout the year. These requests can be grouped into two categories; late fee waiver and high water bill waiver. The sewer portion of the bill is a flat fee that is not based on use and customers never ask for a waiver of this charge. The mandatory garbage fee is often debated by customers but their argument is more related to the mandatory flat fee policy rather than the actual cost of service.

Staff offers the following language in an attempt to consider other options for customer late fees and high water bills.

1. Late Fees. These fees are automatically generated by the billing software if a customer does not pay their water/sewer/trash bill by the overdue date. The minimum late fee for most customers is \$10.92. This is 10% of the minimum bill of \$109.15. However many customers use more water than the minimum and thus their late fee would be much higher. Bills are generated six times per year thus there are six chances to miss the due date and be assessed the 10% penalty.

The majority of customers pay their bills on time. Some customers are regularly late with their payment. Some customers have been late only once in their life at Heritage Ranch and have valid reasons why their bill was not paid on time. Staff often waives the late fee for these customers because of their record of paying on time and it is simply the right thing to do. The proposed ordinance below would provide policy direction for staff and customers on these occasions:

- Customers who have had utility service with the Heritage Ranch Community Services District for at least twenty-four months are eligible for a waiver of a utility bill late fee. To waive a late fee, no other late payments can have been made within the past twenty-four months of service. Customers are eligible again for a waiver of a late fee after twenty-four months from the last request. Requests for late fee waivers must be made in writing and delivered to the District Office. The waiver request must be received within 30 days of the assessed late fee. A Request for Waiver of Late Fee form is attached.

Customers who are habitually late will not be helped by the above policy. It is designed to not penalize customers that have a steady history of paying their utility bill on time and accidentally forget or otherwise miss a payment due date.

2. Customers dispute high water bills in every billing cycle. Staff handles these disputes through investigation of the property for the likely causes of high water use. The end result is generally an obvious reason for the high bill (faulty irrigation, leaking toilet, new landscaping, etc). Often, broken plumbing fixtures and leaking water is discovered at the property. Power outages can also cause high water bills if customers fail to reset their automatic sprinkler timers. These timers often reset to 15 or 30 minutes per irrigation valve on an everyday basis. This can cause high water bills especially in the winter when there is little or no need for irrigation.

The proposed ordinance below would provide a methodology for providing some consideration for a customer that is facing a high water bill due to broken plumbing or another type of leak. The language still keeps the general intent of the current Water Code that a customer is responsible for the water usage when it passes through their meter.

- **Adjustments for Water Leaks**

The General Manager is authorized to adjust an account for customer reported leaks in an amount not to exceed one half of the amount of water used in the most recent billing period that is above the average consumption for the month at the customer address. If inadequate records are available, the General Manager may calculate a reasonable monthly billing amount, or use neighborhood average customer usage data. Any adjustment to be applied shall not be made more frequently than once in any twenty-four month period. This adjustment procedure shall only apply to domestic accounts. A Request for Adjustment of a High Water Bill form is attached.

The two proposed policy changes would provide more objectivity in handling of fee waiver requests. Customers would not need to petition the Board or negotiate with staff to get a waiver. It also provides good customers with long standing on-time payment history a break if they have an unusually high water bill due to a leak or missed payment deadline. Documentation would be required in both cases to insure the waiver is provided only once every two years.

If approved by your Board, the proposed policy language will be drafted into an ordinance and adopted at a future meeting.

Attachment: Request for Adjustment of a High Water Bill



Heritage Ranch Community Services District

4870 Heritage Road ~ Paso Robles, CA 93446

(805) 227-6230 Fax (805) 227-6231

Leak Adjustment Request Form

Date: _____

Account No.: _____

Service Address: _____

Customer Name: _____

Telephone No.: _____ **Alternate No.:** _____

I am hereby requesting that Heritage Ranch Community Services District make adjustment to my account due to a leak resulting in high usage. I understand a leak adjustment will only be allowed once every two years. I also understand that the amount may not exceed one half of the amount of water used in the most recent billing period. I understand an adjustment will not be made to my account until this leak adjustment request is approved by the District General Manager.

Customer Signature

Adjustment

Current units of water used: _____

Average units of water used: _____

No. of units above average: _____

½ of units above average: _____ **X \$2.64 = \$** _____

Current Water Charges \$ _____

- Adjustment \$ _____

+ Sewer Charges \$ 45.17

Account Balance After Adjustment \$ _____

John D'Ornellas
District General Manager

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: APRIL 6, 2012

**AGENDA ITEM
E-3
APRIL 11, 2012**

**CONSIDER REQUEST BY HERITAGE OAKS BANK TO RELEASE
COVENANT FOR TRACT 2499**

ITEM

Consider a request from Heritage Oaks Bank (property owner) to release covenant for Tract 2499 [RECOMMEND RELEASE COVENANT]

BACKGROUND

Heritage Oaks Bank was the lender on a subdivision project known as Tract 2499 in Nipomo, which was owned by Margarita Valley Ranch, LLC ("Owner"), an entity owned by developer Greg Nester. Specifically, Heritage Oaks loaned certain construction monies secured by a certain Construction Deed of Trust recorded on June 8, 2007 as Instrument No. 2007038654 (the "Heritage Oaks Deed of Trust"); The Heritage Oaks Deed of Trust encumbered the real property located at 881 Via Seco in Nipomo also known as Lot 19 of Tract 2499.

As part of the development process, the District may place conditions upon projects and require agreements and covenants be made. When covenants are recorded at the request of the District a subordination agreement signed by the lender (Heritage Oaks Bank) must be requested and accepted by the District to perfect the covenant.

On February 29, 2008, a restrictive covenant was recorded on Tract 2499 prohibiting the transfer of Lot 19 unless also transferred with Lot 34 (Attached). The Covenant was purported to be recorded for the benefit of the District.

Your Board accepted easements and water improvement associated with Tract 2499 on March 26, 2008. A number of covenants and associated subordination agreements were included in the acceptance (March 26, 2008 staff report is attached). Acceptance of the February 29, 2008 covenant outlined above was not included in this action by your Board. Staff finds no evidence your Board ever requested or accepted the February 29, 2008 covenant and can find no evidence that Heritage Oaks Bank agreed to subordinate its loan the this particular covenant.

FISCAL IMPACT

Minor budgeted staff time to prepare materials.

RECOMMENDATION

Staff recommends, with the concurrence of Legal Counsel, that your Board approve Resolution releasing and discharging the February 29, 2008 declaration of restrictive covenant on Tract 2499.

ATTACHMENTS

- Recorded Covenant Tract 2499
- March 26, 2008 Agenda Item D-7 staff report
- Draft Resolution 2012-XXXX, Covenant Release Tract 2499

JULIE RODEWALD
San Luis Obispo County – Clerk/Recorder
Recorded at the request of
Public

SK
2/29/2008
9:40 AM

RECORDING REQUESTED BY:
Nipomo Community Services District

WHEN RECORDED RETURN TO:
Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444

DOC#: 2008010074



Titles: 1	Pages: 2
Fees	10.00
Taxes	0.00
Others	0.00
PAID	\$10.00

DECLARATION OF RESTRICTIVE COVENANT

THIS Declaration of Restrictive Covenant made this 27th day of February, 2008, by Margarita Valley Ranch L.L.C., hereinafter referred to as "Declarant."

RECITALS

Whereas, Declarant is the owner of that certain real property know as Lot 34, Tract 2331 and Lot 19, Tract 2499. Said real property is described as follows:

Lot 34 of Tract 2331, in the County of San Luis Obispo, State of California, according to map recorded April 4, 2000 in Book 19, Page 8 of Maps,

And,

Lot 19 of Tract 2499, in the County of San Luis Obispo, State of California, according to map recorded May 21, 2007 in Book 30, Pages 27 through 36 of Maps, in the office of the County Recorder of said county.

Whereas, by this Agreement, Declarant intends and desires to restate the original terms, conditions and restrictions upon the use of said property.

Now, therefore, Declarant declares that said property shall be held, transferred, encumbered, used, sold, conveyed, leased, and occupied subject to this agreement and this agreement shall run with the property herein described and shall bind the respective owners of said parcels, their heirs, legal representatives, grantees, and assigns:

1. Parcels shall be held and transferred as one parcel. Neither parcel shall be transferred individually from the other.

IN WITNESS WHEREOF, Declarant has executed this Agreement the day and year first above written.

Margarita Valley Ranch L.L.C.



Greg Nester, Managing Member

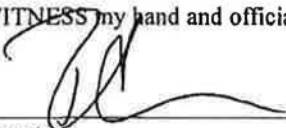
STATE OF California)SS
COUNTY OF San Luis Obispo

On 2-27-08, before me, R. Cramer, Notary
Public, personally appeared

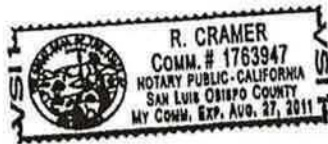
Greg Nester who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument 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



This area for official notarial seal

My Commission Expires: Aug 27, 2011
Notary Name: _____ Notary Phone: _____ Notary Registration
Number: _____
County of Principal Place of Business: _____

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: March 19, 2008

**AGENDA ITEM
D-7
MARCH 26, 2008**

ACCEPTANCE OF EASEMENTS AND WATER IMPROVEMENTS
TRACT 2499 (NESTER)

ITEM

Acceptance of Tract 2499 Nester easements and water improvements for Tract 2499 on Via Seco and Calle Roble north of Pomeroy [ADOPT RESOLUTION].

BACKGROUND

Upon completion of a developer's project, the District accepts improvements of the project after all requirements have been met. The developer (Nester Construction) for Tract 2499, a nineteen (19) lot subdivision consisting of eighteen (18) residential lots and one open space lot located on Via Seco and Calle Roble north of Pomeroy, has offered for dedication the two (2) attached easements for the water system; has installed the water system to District Standards; and has met the District's standard conditions:

- Installed the improvements
- Paid associated fees
- Provided the necessary paperwork, including the Offer of Dedication and the Engineer's Certification

In addition, the District had two special conditions that applied to this project that were part of the annexation agreement. First, the annexation agreement provided a mechanism to collect fees for supplemental water. The mechanism has since been superseded by the District's supplemental water capacity charge and the developer satisfied this condition of the annexation agreement by paying the District's current supplemental water capacity fees. Second, the District required the developer to provide the District with an agricultural easement for the open space parcel. The required agricultural easement document is attached.

Last of all, the County of San Luis Obispo allowed the developer to construct a residential unit on the open space parcel, Lot 19. The District will not provide water to this parcel since it will be served by an existing well and it was not included in the Intent-to-Serve application for the project. Cal Fire has required the developer the developer to construct a storage tank on-site to provide fire protection service and thus no fire capacity fees are due to the District. The developer has executed the attached Declaration and Restrictive Covenants that was prepared by the District's legal counsel that limits the use of the well to one dwelling unit and irrigation of crops on the open space parcel.

The developer did install a water service for Lot 19 and the end of the service has been encased in concrete to prevent unauthorized use. The owner of the residential unit on Lot 19 will be required to apply for service and pay the current fees should they desire to connect to the District's water system at some point in the future.

RECOMMENDATION

Staff recommends that your Honorable Board approve Resolution 2008-Accept TR 2499, accepting the offered water system easements, agricultural easement, declaration & restrictive covenants, and the water system improvements for Tract 2499.

ATTACHMENTS

Resolution 2008-Accept TR 2499

Easement and Agreement Affecting Real Property dated May 8, 2006

Easement and Agreement Affecting Real Property dated March 18, 2008

Agricultural Easement dated March 18, 2008

Declaration and Restrictive Covenants dated March 18, 2008

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2008\ACCEPT PROJECTS\ACCEPT TR 2499 nesler.doc

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008 - ACCEPT TR 2499**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING EASEMENTS, DECLARATION AND RESTRICTIVE COVENANTS
AND THE WATER IMPROVEMENTS FOR TRACT 2499 (NESTER)**

WHEREAS, the District approved the construction plans on January 27, 2006, for the water improvements to be constructed; and

WHEREAS, the water improvements have been constructed and said improvements are complete and certified by the engineer; and

WHEREAS, on February 26, 2008, the Owner offered the water improvements to the Nipomo Community Services District; and

WHEREAS, the Owner offered the attached easements for out of right of way utilities and in future right of way utilities to the Nipomo Community Services District; and

WHEREAS, the Owner offered the attached agricultural easement for the open space parcel; and

WHEREAS, the Owner offered the declaration and restrictive covenants for the open space parcel; and

WHEREAS, this District has accepted such offer without obligation except as required by law, and

WHEREAS, all water fees for service, required in conformance with District ordinances, have been paid in full for Tract 2499 (Nester).

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AS FOLLOWS:

1. That the water improvements to serve Tract 2499 in Nipomo are accepted by this District.
2. That the attached easements are hereby accepted and staff is ordered to record the attached easements.
3. That the attached declaration and restrictive covenants is hereby accepted and staff is ordered to record the declaration.

On the motion by Director _____, seconded by Director _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

CONFLICT:

the foregoing resolution is hereby adopted this 26th day of March, 2008.

Michael Winn, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel

RECORDING REQUESTED BY:
NIPOMO COMMUNITY SERVICES DISTRICT

AND WHEN RECORDED RETURN TO:

Nipomo Community Services District
PO Box 326
Nipomo, CA 93444

JULIE RODEWALD
San Luis Obispo County - Clerk/Recorder
Recorded at the request of
Public

IN
5/31/2007
1:46 PM

DOC#: 2007036945



Titles: 1 Pages: 6

Fees	0.00
Taxes	0.00
Others	0.00
PAID	30.00

EASEMENT AND AGREEMENT AFFECTING REAL PROPERTY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Vista Roble LLC, a California Limited Liability Company, Richard Hearn and Rita L. Hearn, husband and wife, referred to hereinafter as "Owner(s)", hereby grants to the NIPOMO COMMUNITY SERVICES DISTRICT, referred to hereinafter as "District", the following real property easement in the County of San Luis Obispo, State of California:

That certain Easement shown as "25' Wide Public Waterline & Public Sewer Easement To Nipomo Community Service District Per This Map" on Tract Map No. 2499 as filed in Book 30, Pages 27-36 of Maps in the Office of the County Recorder, lying in the County of San Luis Obispo, State of California

APN No. 091-232-014

The location of the easement is further described in the drawing attached hereto as Exhibit "A".

It is anticipated by the parties that repair and/or replacement work will be performed by District on District facilities that are contained within said easement. Therefore, Owner(s) covenants and promises as follows:

- a. The Owner(s) shall not construct any improvements such as retaining walls, driveways, patios and sidewalks which could obstruct District's access to the easement or cause damage to District facilities contained within the easement without first obtaining a recordable encroachment permit from the District.
- b. Owner(s) shall remove improvements constructed in violation of subparagraph "a" immediately at Owner's expense. If Owner(s) does not

remove the improvements District is authorized to enter the property and remove them. District shall charge all costs, including administrative costs, for the removal of said improvements to Owner(s).

- c. Owner(s) is allowed to construct improvements which do not damage District facilities or prevent District access to the easement such as wooden fences and landscaping;
- d. In non-emergency situations, Owner(s) shall remove all improvements described in subparagraph "c" above without cost to District upon 30 days written notice. If Owner(s) does not remove the improvements, District is authorized to enter the property and remove them. Owner(s) is responsible to District for all costs, including administrative cost, for the removal of said improvements by District.
- e. In emergency situations, Owner(s) shall remove the improvements described in subparagraph "c" with less notice from District. If circumstances dictate, District shall have the right to enter the property immediately without notice and remove the improvements. Owner(s) is responsible to District for all costs, including administrative cost, for the removal of said improvements by District.
- f. The Owner(s) shall hold District, its agents and employees, harmless and to indemnify District for any damages occurring to the easement and/or any adjacent real or personal property due to District's exercise of its rights to remove improvements pursuant to subparagraphs "b", "d" and "e" above.
- g. The District has the right to enforce all reimbursement remedies described in subparagraphs "b", "d" and "e" above by all means available to the District including those remedies and enforcement procedures stated in Government Code Section 61621 et. seq;
- h. Owner(s) further agree to indemnify, defend and hold harmless District, its agents and employees, from any claims, suits or losses of any kind

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(including attorneys fees and court costs) arising out of the maintenance of the easement or the removal of the improvements described in paragraphs "a" and "c" above.

- i. These covenants shall run with the land and will be binding on the successors and assigns of the Owner(s) and shall inure to the benefit of District and its successors and assigns.
- j. If any action at law or inequity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this easement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which that party may be entitled.
- k. Owner(s) shall provide District, its employees and agents, with reasonable access to the easement for the purposes of inspection and maintenance.
- l. This easement shall be recorded in the Official Records in the County Recorder's Office, San Luis Obispo County, and a reference to this easement shall be included in the first deed from the Owner(s) to any subsequent purchaser of the property affected by this easement.

VISTA ROBLE LLC, A California Limited Liability Company

Date: 5-4-06



Date: _____

Greg Nester

and

Date: 5-8-06


Richard Hearn, Husband

Date: 5-8-06


Rita L. Hearn, Wife

CALIFORNIA NOTARY ACKNOWLEDGEMENT

APN No.: _____

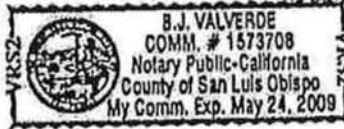
STATE OF CALIFORNIA)SS
COUNTY OF SAN LUIS OBISPO)

On MAY 8, 2006, before me, B. J. VALVERDE personally appeared RICHARD HEARN AND RITA L. HEARN, 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.

Signature _____

My Commission Expires: 5-24-2009



This area for official notarial seal

Notary Name: _____ Notary Phone: _____
Notary Registration Number: _____ County of Principal Place of Business: _____

CALIFORNIA NOTARY ACKNOWLEDGEMENT

APN No.: _____

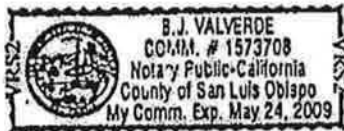
STATE OF CALIFORNIA)SS
COUNTY OF SAN LUIS OBISPO)

On MAY 4, 2006, before me, B. J. VALVERDE personally appeared GREG NESTER 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.

This area for official notarial seal

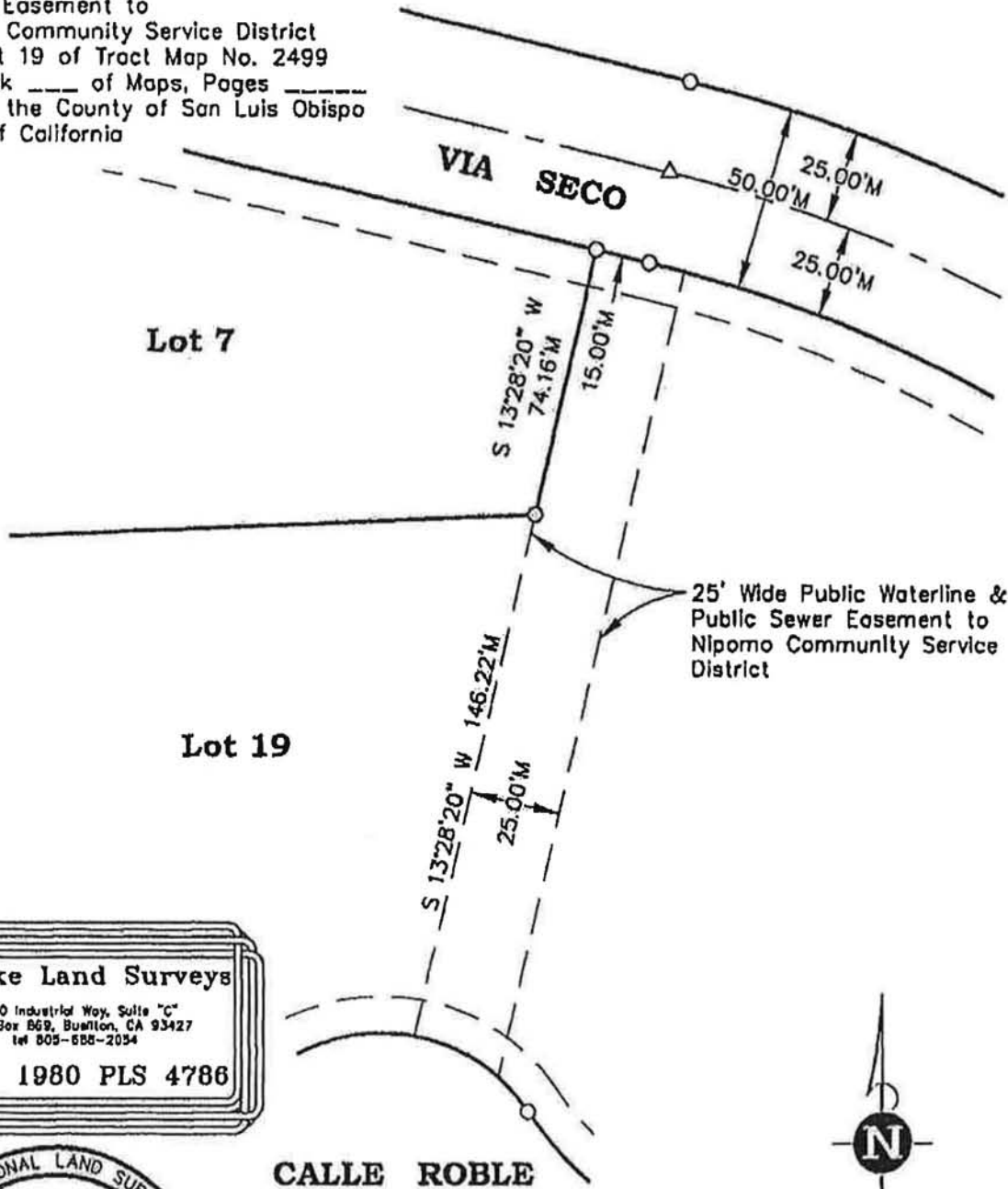
Signature *B. J. Valverde*
My Commission Expires: _____



Notary Name: _____ Notary Phone: _____
Notary Registration Number: _____ County of Principal Place of Business: _____

EXHIBIT "A"

Plot of Easement to
Nipomo Community Service District
over Lot 19 of Tract Map No. 2499
per Book ____ of Maps, Pages _____
lying in the County of San Luis Obispo
State of California



25' Wide Public Waterline &
Public Sewer Easement to
Nipomo Community Service
District

Blake Land Surveys
250 Industrial Way, Suite "C"
P.O. Box 869, Buellton, CA 93427
tel 805-688-2034
Est. 1980 PLS 4786

PROFESSIONAL LAND SURVEYOR
Jed Berkeley Blake
N° 4786
04-10-2007
LICENSE EXPIRATION DATE SEPT. 30, 2007
STATE OF CALIFORNIA

CALLE ROBLO

GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.

END OF DOCUMENT

RECORDING REQUESTED BY

**AND WHEN RECORDED MAIL DOCUMENT
AND TAX STATEMENT TO:**

Heritage Oaks Bank
361 Town Center West
Santa Maria, CA 93458

Space Above This Line for Recorder's Use Only

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT BY BECOMING SUBJECT TO THE TERMS, COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE FOREGOING EASEMENT AND AGREEMENT AFFECTING REAL PROPERTY RECORDED AS DOCUMENT # 2007036945. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3.)

The undersigned, beneficiary under that certain Deed of Trust dated September 7, 2005, and recorded on September 14, 2005 as Document No. 2005-076958, of the Official Records in the Office of the County Recorder of the County of San Luis Obispo, State of California, does hereby join in, and consent to, each and all of the terms and provisions of the Easement and Agreement Affecting Real Property executed Vista Roble, LLC, Greg Nester, Managing member and Richard Hearn and Rita L. Hearn, Husband and Wife, recorded on May 31, 2007 as Document # 2007036945, and does hereby subordinate its interest to the entire effect of this declaration.

SIGNED AND EXECUTED this 18th day of March, 2008.

Beneficiary:



Heritage Oaks Bank, Rob Coghill, VP

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State of California)
County of San Luis Obispo)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On March 18, 2008 before me, Anne P. Buckley, Notary Public,
(here insert name and title of the officer)

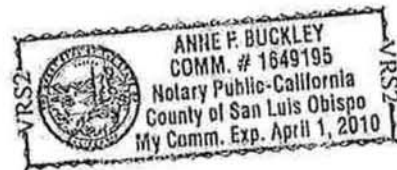
personally appeared Rob Coghill

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 Anne P Buckley



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-Fact
 Corporate Officer(s) _____
Title(s)

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information	
Method of Signer Identification	
Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Additional Signer(s)	<input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____	

RECORDING REQUESTED BY:
Nipomo Community Services District

WHEN RECORDED RETURN TO:
Nipomo Community Services District
P. O. Box 326
Nipomo, CA 93444

Tract 2499

EASEMENT AND AGREEMENT AFFECTING REAL PROPERTY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Vista Roble, LLC, referred to hereinafter as "Owner(s) or Grantor(s)", hereby grants to the NIPOMO COMMUNITY SERVICES DISTRICT, referred to hereinafter as "District", on this 18th day of March, 2008, a utility easement herein "Easement or Easement Area" over and under the below described streets:

The streets Via Seco and Calle Roble as shown on Tract Map No. 2499 and filed in Map Book 30, Pages 27 through 36 in the Office of the County Recorder, lying in the County of San Luis Obispo, State of California

The location of the easement is further described in the drawing attached hereto as Exhibit "A."

The Easement granted herein shall be subject to the following:

PURPOSE

The purpose of the Easement is the present and future construction, reconstruction, operation, repair, and maintenance of District facilities, including sewer pipelines, water pipelines, and other utilities operated by the District, from and after said utilities are dedicated and accepted by the District (herein "District Facilities"), in such manner and size and with such accessory parts and structures, as the District or its successors in interests from time to time deem necessary.

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MAINTENANCE AND REPAIR OF DISTRICT FACILITIES

The District's obligation for maintenance and repair of the Easement Area is limited to that portion of the Easement that is affected by the District reconstruction, operation, repair and maintenance of District Facilities.

MISCELLANEOUS

A. The Easement granted herein shall run with the land and be binding on the successors and assigns of the Grantor(s) and shall inure to the benefit of the District and its successors and assigns.

B. This Easement shall be governed by the laws of the State of California. Any litigation regarding the Easement or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.

C. This Easement shall be recorded in the Official Records of the County Recorder's Office, San Luis Obispo County.

D. In the event of any controversy or claims relating to this Easement or breach thereof the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

AUTHORITY TO EXECUTE.

All parties to this Easement warrant and represent that they have the power and authority to grant and accept this Easement and its terms and conditions in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order grant this Easement have been fully complied with. Furthermore, by granting this Easement, Grantor(s) hereby warrants that Grantor(s) shall not have breached the terms or conditions of any other contract or Easement to which Grantor(s) is obligated, which breach would have a material effect hereon.

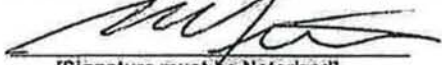
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15

IN WITNESS WHEREOF, the Grantor(s) hereto have executed this Easement on 3-18-08, 2008.

GRANTOR(S): Vista Roble, LLC


[Signature must be Notarized]

Greg Nester, Managing Member
[Type or print name]

Date: 3-18-08

**CERTIFICATE OF ACCEPTANCE
GOVERNMENT CODE §2781**

This is to certify that the Nipomo Community Services District, Grantee, herein, by Board action on _____, 2008, accepts for public purposes the real property, or interest described in the foregoing Easement and Agreement, dated _____, 2006, from Grantors, and consents to the recordation thereof.

Nipomo Community Services District

By: _____
Name: Michael Winn
Title: President,
Nipomo Community Services District
Board of Directors

ATTEST:

Donna K. Johnson, Secretary
Nipomo Community Services District
Board of Directors

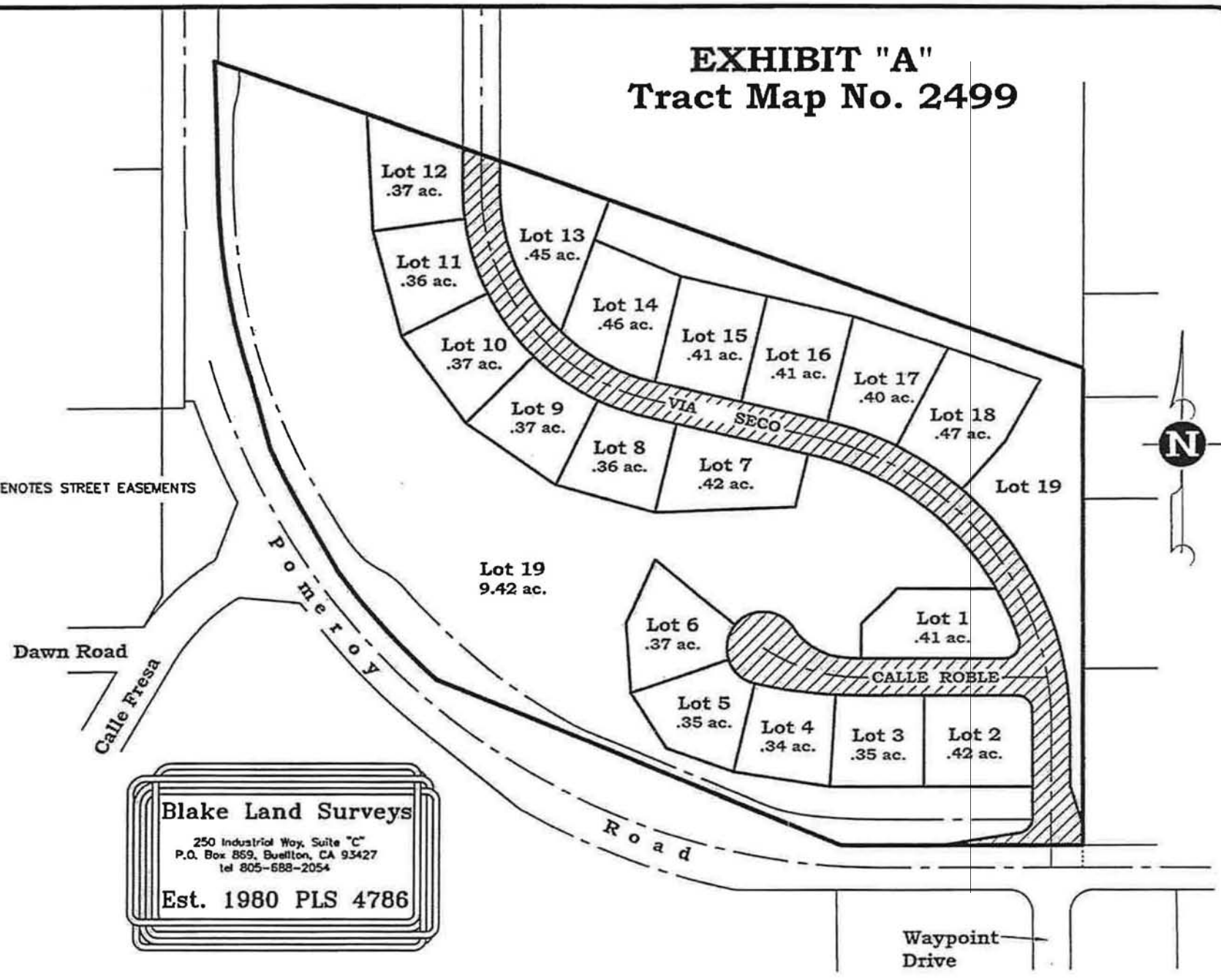
16

EXHIBIT "A"

Tract Map No. 2499

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 DENOTES STREET EASEMENTS



Blake Land Surveys
 250 Industrial Way, Suite "C"
 P.O. Box 859, Buellton, CA 93427
 tel 805-688-2054
 Est. 1980 PLS 4786

Waypoint Drive

State of California)
County of San Luis Obispo)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On 3-18-2008 before me, R. Cramer
(here insert name and title of the officer)

personally appeared Greg Neeter

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



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Easement & Agreement
Affecting Real Property
containing 4 pages, and dated 3-18-08.

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-Fact
 Corporate Officer(s) _____
Title(s) _____

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

- Additional Signer(s) Signer(s) Thumbprint(s)

STATE OF California)SS
COUNTY OF San Luis Obispo

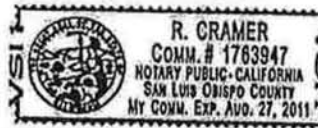
On 3-18-2008 before me, R. Cramer, Notary
Public, personally appeared Rob Coghill

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 R. Cramer



My Commission Expires Aug 27, 2011

This area for official notarial seal

Notary Name: _____

Notary Phone: _____

Notary Registration Number: _____

County of Principal Place of Business: _____

RECORDING REQUESTED BY:
Nipomo Community Services District

WHEN RECORDED RETURN TO:
Nipomo Community Services District
P. O. Box 326
Nipomo, CA 93444

Tract 2499 & 2331

**AGRICULTURAL EASEMENT GRANTING AN AGRICULTURAL EASEMENT
TO NIPOMO COMMUNITY SERVICES DISTRICT**

THIS AGREEMENT, is made and entered into this 18th day of March, 2008, by and between Margarita Valley Ranch, L.L.C., a California limited liability company, hereinafter referred to as "Owner," and Nipomo Community Services District, hereinafter referred to as "NCSD."

WITNESSETH

WHEREAS, Owner is the record owner of certain real property (hereinafter referred to as "Subject Property") located in the County of San Luis Obispo, State of California, which is more particularly described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, as agreed to by Owner and as a condition of approval of an Annexation Agreement authorizing annexation of approximately 19.2 acres for residential development and one open space parcel to be used for agricultural purposes, owner is required to enter into an agreement with NCSD, on behalf of itself and its successors in interest, to maintain portions of the site in an agricultural easement; and

WHEREAS, Owner intends that the restriction contained in this agreement shall apply to the Subject Property; and

WHEREAS, execution of this agreement by Owner and NCSD, and subsequent performance of its obligations by Owner and its successors in interest, will satisfy the requirement for dedication of an agricultural easement

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agreed to by Owner and imposed by the conditions of approval of the annexation agreement (condition 8) referred to above; and

WHEREAS, Owner acknowledges the provisions that implement NCSD's Annexation Policies related to cluster developments as approved by Nipomo Community Services District Board of Directors on September 10, 2003; and

WHEREAS, Owner authorizes NCSD to abate the accumulation of solid waste, litter and construction and demolition waste accumulating on the open space parcel; and

WHEREAS, Owner authorizes NCSD to abate weeds and other fire hazards created on the open space parcel; and

WHEREAS, Owner has supplied NCSD with a current title company preliminary title report or preliminary subdivision guarantee listing all trust deed beneficiaries and mortgagees, is any, under prior recorded deeds of trust and mortgages on the Subject Property.

NOW, THEREFORE, in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:


1. Effect of prior easements. Nothing contained in this agreement shall limit or affect any easement that are of record and that have been heretofore granted by Owner on, over, under, or across the Subject Property or any portion thereof.
2. Duration of easement. The Easement granted herein shall run with the land and be binding on the successors and assigns of the Grantor(s) and shall inure to the benefit of the District and its successors and assigns.
3. Laws governing and venue. This Easement shall be governed by the laws of the State of California. Any litigation regarding the Easement or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.
4. Agreement to be Recorded. This Easement shall be recorded in the Official Records of the County Recorder's Office, San Luis Obispo County.

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5. In the event of any controversy or claims relating to this Easement or breach thereof the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

IN WITNESS WHEREOF, the Grantor(s) hereto have executed this Easement on 3-18-, 2008.

GRANTOR(S): Margarita Valley Ranch


[Signature must be Notarized]

Greg Nester, Managing Member
[Type or print name]

Date: 3-18-08

**CERTIFICATE OF ACCEPTANCE
GOVERNMENT CODE §2781**

This is to certify that the Nipomo Community Services District, Grantee, herein, by Board action on _____, 2008, accepts for public purposes the real property, or interest described in the foregoing Easement and Agreement, dated _____, 2006, from Grantors, and consents to the recordation thereof.

Nipomo Community Services District

By: _____
Name: Michael Winn
Title: President,
Nipomo Community Services District
Board of Directors

ATTEST:

Donna K. Johnson, Secretary
Nipomo Community Services District
Board of Directors

EXHIBIT A

APN # 091-296-052

Lot 34 of Tract 2331, in the County of San Luis Obispo, State of California,
according to map recorded April 4, 2000 in Book 19, Page 8 of Maps.

And,

APN # 091-297-001

Lot 19 of Tract 2499, in the County of San Luis Obispo, State of California,
according to map recorded May 21, 2007 in Book 30, Pages 27 through 36 of
Maps, in the office of the County Recorder of said county.

State of California)
County of San Luis Obispo)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On 3-18-2008 before me, R. Cramer
(here insert name and title of the officer)

personally appeared Greg Nester

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 [Handwritten Signature]



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____ Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information	
Method of Signer Identification	
Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of Identification <input type="checkbox"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Additional Signer(s)	<input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____	

210

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL DOCUMENT
AND TAX STATEMENT TO:

Heritage Oaks Bank
361 Town Center West
Santa Maria, CA 93458

Space Above This Line for Recorder's Use Only

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT BY BECOMING SUBJECT TO THE TERMS, COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE FOREGOING AGRICULTURAL EASEMENT GRANTING AN AGRICULTURAL EASEMENT TO NCSD DATED MARCH 18, 2008. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3.)

The undersigned, beneficiary under that certain Deed of Trust dated May 25, 2007, recorded June 9, 2007 as Document No. 2007-038654, of the Official Records in the Office of the County Recorder of the County of San Luis Obispo, State of California, does hereby join in, and consent to, each and all of the terms and provisions of the Agricultural Easement Granting an Agricultural Easement to NCSD dated March 18, 2008 executed by Margarita Valley Ranch, LLC, Greg Nester, Managing member recorded concurrently herewith, and does hereby subordinate its interest to the entire effect of this declaration.

SIGNED AND EXECUTED this 18th day of March, 2008.

Beneficiary:

[Signature]
HERITAGE OAKS BANK

27

STATE OF California)SS
COUNTY OF San Luis Obispo

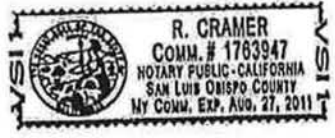
On 3-18-2008, before me, R. Cramer, Notary
Public, personally appeared Rob ~~son~~ Cognill

Rob 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 [Handwritten Signature]



My Commission Expires: Aug. 27, 2011

This area for official notarial seal

Notary Name: _____
Notary Registration Number: _____

Notary Phone: _____
County of Principal Place of Business: _____

RECORDING REQUESTED BY:
Nipomo Community Services District

WHEN RECORDED RETURN TO:
Nipomo Community Services District
P. O. Box 326
Nipomo, CA 93444

APN #091-296-052 & 091-297-001
DECLARATION AND RESTRICTIVE COVENANTS

This Declaration and Restrictive Covenants (herein "Declaration") is made this 18th day of March, 2008, by Margarita Valley Ranch L.L.C., hereinafter referred to as "Declarant."

RECITALS

WHEREAS, Declarant is the owner of certain real property (herein "Property") known as Lot 34, Tract 2331 and Lot 19 Tract 2499. Said real property is described as follows:

APN # 091-296-052

Lot 34 of Tract 2331, in the County of San Luis Obispo, State of California, according to map recorded April 4, 2000 in Book 19, Page 8 of Maps.

And,

APN # 091-297-001

Lot 19 of Tract 2499, in the County of San Luis Obispo, State of California, according to map recorded May 21, 2007 in Book 30, Pages 27 through 36 of Maps, in the office of the County Recorder of said county.

WHEREAS, by this Declaration, Declarant states the terms, conditions and restrictions upon the use of said Property.

Now, therefore, Declarant agrees and declares as follows:

RESTRICTIVE COVENANT

1. Use of the well on Lot 19 of Tract 2499, as depicted in Exhibit "A", shall be restricted to one dwelling unit (as depicted on Exhibit "A") and irrigation of crops associated with Lot 34 of Tract 2331 and Lot 19 of Tract 2499.

2. Except for the well referenced in paragraph 1, above, no other well or wells shall be developed, constructed or operated on the Property.

MISCELLANEOUS

A. Said property shall be held, transferred, encumbered, used, sold, conveyed, leased, and occupied subject to this Restrictive Covenants and this Declaration shall run with the Property herein described and shall bind respective owners of said Property, their heirs, legal representatives, grantees, and assigns and shall inure to the benefit of the Nipomo Community Services District its successors and assigns.

B. This Declaration shall be governed by the laws of the State of California. Any litigation regarding this Declaration or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.

C. This Declaration shall be recorded in the Official Records of the County Recorder's Office, San Luis Obispo County.

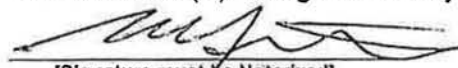
D. In the event of any controversy or claims relating to this Declaration or breach thereof the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

AUTHORITY TO EXECUTE.

All parties to this Declaration warrant and represent that they have the power and authority to enter into this Declaration in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Declaration have been fully complied with. Further, by entering into this Declaration, Declarant(s) hereby warrants that Declarant(s) shall not have breached the terms or conditions of any other contract or agreement to which Declarant(s) is obligated, which breach would have a material effect thereon.

IN WITNESS WHEREOF, the Declarant has executed this Agreement to be effective the day and year first written above.

DECLARANT(S): Margarita Valley Ranch, LLC


[Signature must be Notarized]

Greg Nester, Managing Member
[Type or print name]

Date: 3-18-08

EXHIBIT "A" Tract Map No. 2499

 DENOTES LOT 19



Dawn Road

Calle Fresca

Pomeroy

VIA SECO

CALLE ROBLE

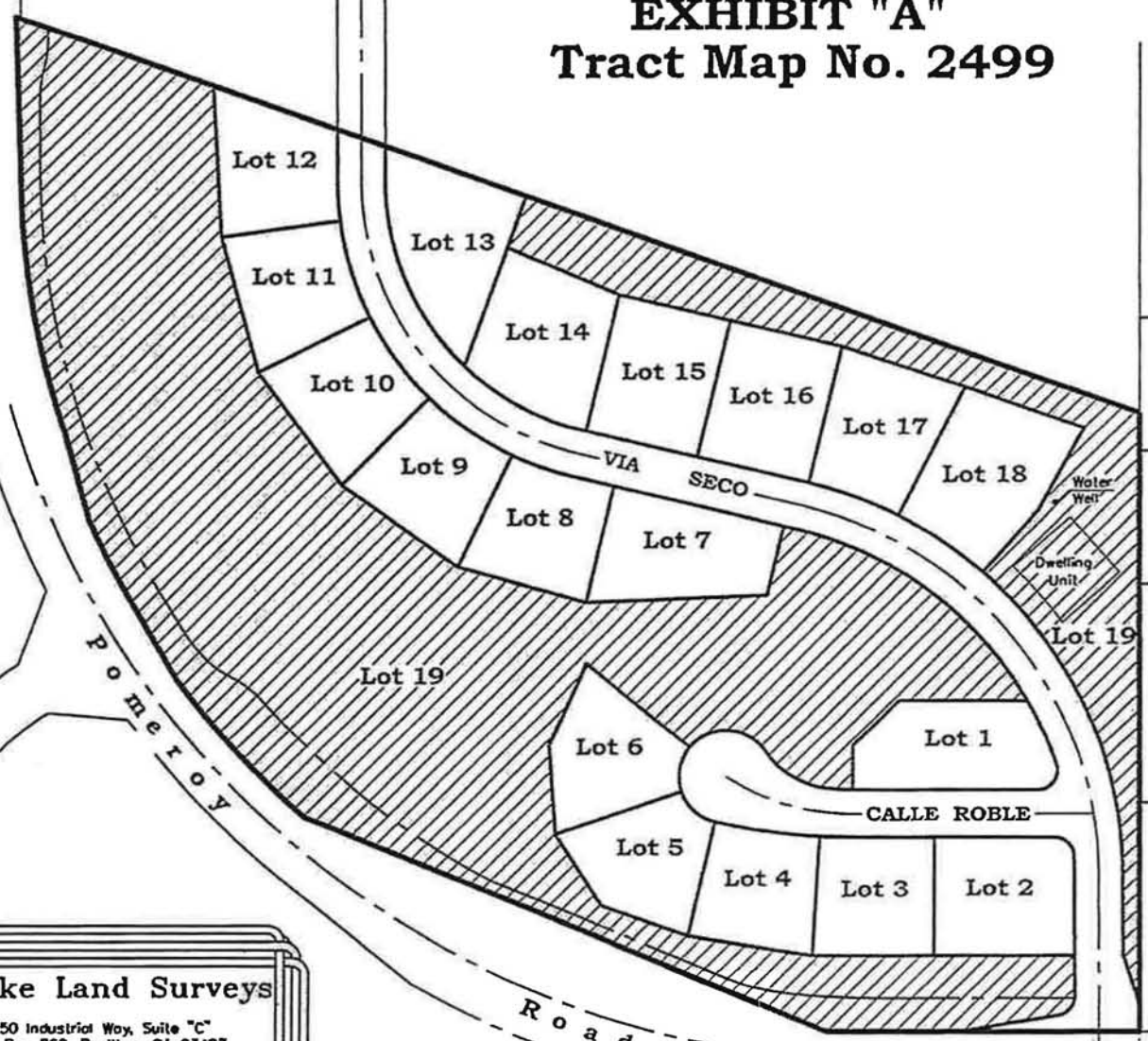
Road

Waypoint Drive

Blake Land Surveys

250 Industrial Way, Suite "C"
P.O. Box 869, Buellton, CA 93427
tel 805-688-2054

Est. 1980 PLS 4786



State of California)
County of San Luis Obispo)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On 3-18-2008 before me, R. Cramer,
(here insert name and title of the officer)

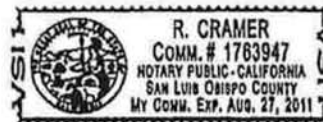
personally appeared Greg Neeter

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 [Handwritten Signature]



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Declaration + Restrictive Covenants containing 3 pages, and dated 3-18-08.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____ Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information	
Method of Signer Identification	
Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Additional Signer(s)	<input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____	

32

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL DOCUMENT
AND TAX STATEMENT TO:

Heritage Oaks Bank
361 Town Center West
Santa Maria, CA 93458

Space Above This Line for Recorder's Use Only

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT BY BECOMING SUBJECT TO THE TERMS, COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE FOREGOING DECLARATION AND RESTRICTIVE COVENANTS DATED MARCH 18, 2008. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3.)

The undersigned, beneficiary under that certain Deed of Trust dated May 25, 2007, recorded June 8, 2007 as Document No. 2007-038154, of the Official Records in the Office of the County Recorder of the County of San Luis Obispo, State of California, does hereby join in, and consent to, each and all of the terms and provisions of the Declaration and Restrictive Covenants dated March 18, 2008 executed by Margarita Valley Ranch, LLC, Greg Nester, Managing member recorded concurrently herewith, and does hereby subordinate its interest to the entire effect of this declaration.

SIGNED AND EXECUTED this 18th day of March, 2008.

Beneficiary:

Marg Hill, VP
HERITAGE OAKS BANK

33

STATE OF California)SS
COUNTY OF San Luis Obispo

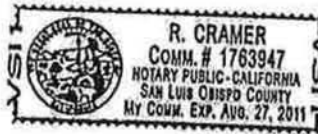
On 3-18-2008 before me, R. Cramer, Notary
Public, personally appeared Rob Coghill

, 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 [Handwritten Signature]



My Commission Expires: Aug. 27, 2011

This area for official notarial seal

Notary Name: _____

Notary Phone: _____

Notary Registration Number: _____

County of Principal Place of Business: _____

34

RECORDING REQUESTED BY:
NIPOMO COMMUNITY SERVICES
DISTRICT

AND WHEN RECORDED RETURN TO:
NIPOMO COMMUNITY SERVICES
DISTRICT
P.O. BOX 326
NIPOMO, CA 93444

RESOLUTION 2012-

**A RESOLUTION OF THE NIPOMO COMMUNITY SERVICES DISTRICT BOARD
OF DIRECTORS RELEASING AND DISCHARGING THE DECLARATION OF
RESTRICTIVE COVENANT RECORDED ON FEBRUARY 29, 2008, AS DOCUMENT
#2008010074 WITH THE SAN LUIS OBISPO COUNTY RECORDER**

WHEREAS certain real property (herein Lot 19) is located within the boundary of the Nipomo Community Services District (NCSD) and is more particularly described as follows:

Lot 19 of Tract 2499, in the County of San Luis Obispo, State of California, according to map recorded May 21, 2007 in Book 30, Pages 27 through 36 of Maps, in the office of the County Recorder of said county.

APN: 091-297-001
; and

WHEREAS certain real property, (herein Lot 34) is located within the boundary of the Nipomo Community Services District (NCSD) and is more particularly described as follows:

Lot 34 of Tract 2331, in the County of San Luis Obispo, State of California, according to map recorded April 4, 2000 in Book 19, Page 8 of Maps.

APN: 091-296-058
; and

WHEREAS Margarita Valley Ranch L.L.C. caused to be recorded a certain Declaration of Restrictive Covenant on February 29, 2008 as Instrument No. 2008010074 with the San Luis Obispo County Recorder's Office (the "Covenant"), a true and correct copy of which is attached hereto as Exhibit "A", that purported to prohibit the transfer of Lot 19 unless also transferred with Lot 34; and

35

WHEREAS the Covenant was purported to have been recorded for the benefit of the Nipomo Community Services District (NCSD); and

WHEREAS the Covenant was not requested by the NCSD or accepted by the NCSD as a condition to acceptance of the easements, restrictive Covenants and water improvements for Tract 2499 (Nester) as referenced in NCSD Resolution 2008 - 1073; and

WHEREAS Heritage Oaks Bank (Bank), the current owner of Lot 19, as referenced in Exhibit "A", has applied to the NCSD for a Release and Discharge of the Covenant; and

WHEREAS Margarita Valley Ranch, LLC, the owner of Lot 34, consents to the recordation of this Release and Discharge of the Covenant.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AS FOLLOWS:

1. The Declaration of Restrictive Covenant recorded on February 29, 2008 as Document # 2008010074 with the San Luis Obispo County Recorder's Office (Exhibit "A") is hereby released and discharged.
2. Except for the Covenant referenced in paragraph 1 above, all other Declarations of Restrictive Covenants, Covenants and Easements associated with Tracts 2499 and/or 2331, recorded for the benefit of the Nipomo Community Services District, shall remain in full force and effect.
3. The President is authorized to sign this Resolution and NCSD Staff is authorized to record the same, upon receipt of the original of this Resolution executed in counterparts by Heritage Oaks Bank and Margarita Valley Ranch L.L.C.

On the motion by Director _____, seconded by Director _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
CONFLICT:

The foregoing resolution is hereby adopted this ____ day of April , 2012.

James Harrison, President
Nipomo Community Services District
(Signature must be Notarized)

36

ATTEST:

APPROVED AS TO FORM:

Michael LeBrun,
General Manager & Secretary
of the Board

Jon S. Seitz
General Counsel

AGREED (signatures to be notarized):

By _____
William Raver, Executive Vice-President
On behalf of Heritage Oaks Bank

Date: _____

By _____
Greg Nester, Manager
Margarita Valley Ranch, L.L.C.

Date: _____

TO: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER

FROM: LISA BOGNUDA
FINANCE DIRECTOR

DATE: APRIL 7, 2012



CONSIDER EMPLOYEE COST OF LIVING ADJUSTMENT (COLA)

ITEM

Review District COLA policy, review 2012-2013 COLA calculation, consider Finance and Audit Committee recommendation [RECOMMEND CONSIDER FINANCE AND AUDIT COMMITTEE RECOMMENDATION FOR A 1.5% COLA FOR FISCAL 2012-2013]

BACKGROUND

The NCSD Personnel Policies & Procedures Manual, Section 3030(4) states the following:

Cost of Living Adjustments – Annually, the Board may consider a Cost of Living Adjustment (COLA). If the COLA is approved, the step plan will be adjusted accordingly, thus keeping the plan current. Therefore, an employee may receive both a Cost of Living Adjustment and an increase in compensation pursuant to Section 3030(2) in any given year until the employee reaches Step 5. Upon reaching Step 5, the only salary adjustments an employee will receive will be Board-approved Cost of Living Adjustments.

On December 13, 2006, the Board of Directors approved Resolution 2006-1000 which included:

Approve the use of the Consumer Price Index-Urban Wage Earners and Clerical Workers (Average of annual increase for the Los Angeles-Riverside-Orange County and San Francisco-Oakland-San Jose) for all future Cost of Living Adjustments (COLA).

Staff computed the current average of annual increase for the Consumer Price Index of Los Angeles-Riverside-Orange County and San Francisco-Oakland-San Jose to be 3.02%.

Since the adoption of Resolution 2006-1000, the Board approved COLA have been as follows:

Fiscal year	COLA Computation	Board Approved
7/1/12	3.02%	To be determined
7/1/11	1.65%	0.00%
7/1/10	0.00%	0.00%
7/1/09	3.61%	3.61%
7/1/08	3.22%	3.22%
7/1/07	3.53%	3.53%

On February 27, 2012, your Board's Finance and Audit Committee Meeting considered the annual COLA and directed staff to research what level COLA other local special districts had provide in recent years and return to Committee with the information. The information collected is summarized below.

On March 15, 2012, the Finance and Audit Committee met and considered the information provided by staff and unanimously agreed to recommend to the Board of Directors approval of a 1.5% COLA.

	<i>COLA 7/1/11</i>	<i>Expected COLA 7/1/12</i>	<i>How is COLA computed</i>
<i>Heritage Ranch CSD</i>	2% (actual COLA was 2.5%)	3%	Bargaining Unit Agreement states COLA shall range from 1% to 3% per year based on CPI-California for all Urban Wage Earners and Clerical Workers based on change from February to February (1)
<i>Templeton CSD</i>	3%	0%	MOU negotiated from 2009-2011
<i>Cambria CSD</i>	4%	Not sure yet	Union Agreement from 2007-2012 agreed to 4% COLA per year. Negotiations on-going.

(1) California Index uses the weighted average of the CPI for Los Angeles-Anaheim-Riverside and San Francisco-Oakland-San Jose.

FISCAL IMPACT

Funding a full 3% COLA would increase the 2012-2013 Budget by approximately \$36,000 which equates to approximately 2% of Salaries and Benefits and 0.5% of the total 2012-2013 budget. The Committee recommended increase of 1.5% would affect the budget half again as much.

STRATEGIC PLAN

Strategic Plan Item 4.1 – Retain long-term employees and attract new employees by providing industry competitive salary/benefits.

RECOMMENDATION

It is recommended your Board consider District Policy and Finance Committee recommendation and by motion and roll call vote direct staff regarding Fiscal 2012-2013 Cost of Living Adjustment.

ATTACHMENT

Section 3030(4) from NCSD Personnel Policies and Procedures (Page E-4a)
 Resolution 2006-1000 (Page E-4b)
 Excerpt from Bureau of Labor Statistics on how to compute the CPI (Page E-4c)
 Consumer Price Index information and computation (Page E-4d)

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4. Cost of Living Adjustments – Annually, the Board may consider a Cost of Living Adjustment (COLA). If the COLA is approved, the step plan will be adjusted accordingly, thus keeping the plan current. Therefore, an employee may receive both a Cost of Living Adjustment and an increase in compensation pursuant to Section 3030(2) in any given year until the employee reaches Step 5. Upon reaching Step 5, the only salary adjustments an employee will receive will be Board-approved Cost of Living Adjustments.
5. Promotion - Employees promoted to a position with a higher salary range shall be placed on the step of the range allocated to the new classification which would grant such employee an increase in pay, provided, however, the increase may exceed five percent at the discretion of the General Manager, and that such increase shall not exceed the top step of the range allocated to the new classification. Such action shall require the General Manager to establish a new anniversary date in accordance with the following criteria:
 - A. For employees who are promoted to a permanent position and placed at the first step of the salary range, the anniversary date shall be the date following the completion of 12 months of service at such step.
 - B. For employees who are promoted to a permanent position and placed at a step other than the first step, the anniversary date shall be the day following the completion of 12 months of service at such step.
6. Incentive Pay - For Utility Operators who successfully achieve Water or Wastewater Grade certificates over and above those required for the position while employed with the District will be entitled to receive a one time incentive pay of \$500.00 for each certificate obtained.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2006-1000

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING THE MONTHLY SALARY SCHEDULE, PROPOSED SALARY
RANGE PLACEMENT, AND CPI INDEX

WHEREAS, the Nipomo Community Services District (herein "District") Board of Directors (herein "Board") is a local governmental agency formed and authorized to provide services within its jurisdiction, pursuant to Section 61000 et seq. of the California Government Code; and

WHEREAS, the Nipomo Community Services District contracted with a Koff & Associates, Inc. to perform a professional Salary and Benefits Survey; and

WHEREAS, the Board of Directors accepted and filed the final report titled "Total Compensation Study for the Nipomo Community Services District" on December 13, 2006; and

WHEREAS, Koff & Associates, Inc. recommended a new Monthly Salary Schedule and proposed Salary Range Placement in the report; and

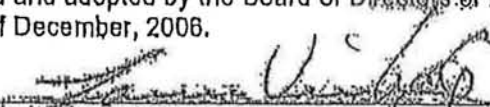
NOW, THEREFORE, the Board of Directors of the Nipomo Community Services District does hereby resolve, declare, determine and order as follows:

1. Adopt the Monthly Salary Schedule (Exhibit "A")
2. Adopt the Proposed Salary Range Placement (Exhibit "B")
3. Approve the use of the Consumer Price Index-Urban Wage Earners and Clerical Workers (Average of annual increase for the Los Angeles-Riverside-Orange County and San Francisco-Oakland-San Jose) for all future Cost of Living Adjustments (COLA).
4. Authorize Staff to advertise for the positions of District Engineer, Utility Foreman and Water Conservation Specialist at the newly approved monthly salary schedule

On the motion of Director Trotter, seconded by Director Harrison, and on the following roll call vote, to wit:

AYES: Director Trotter, Harrison, Eby, Winn and Vierhellig
NOES: None
ABSENT: None

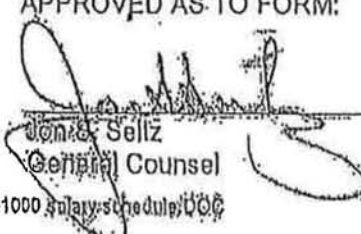
The foregoing resolution is hereby passed, approved and adopted by the Board of Directors of the Nipomo Community Services District this 13th day of December, 2006.


William Vierhellig, President
Nipomo Community Services District

ATTEST:


Donna K. Johnson
Secretary to the Board

APPROVED AS TO FORM:


Don C. Seltz
General Counsel

T:\BOARD MATTERS\RESOLUTIONS\RESOLUTIONS 2006\2006-1000 Salary schedule\006

The CPI and escalation: Some points to consider

The CPI is calculated for two population groups: All Urban Consumers (CPI-U) and Urban Wage Earners and Clerical Workers (CPI-W). The CPI-U represents about 87 percent of the total U.S. population and is based on the expenditures of all families living in urban areas. The CPI-W is a subset of the CPI-U and is based on the expenditures of families living in urban areas who meet additional requirements related to employment: more than one-half of the family's income has to be earned from clerical or hourly-wage occupations. The CPI-W represents about 32 percent of the total U.S. population.

There can be small differences in movement of the two indexes over short periods of time because differences in the spending habits of the two population groups result in slightly different weighting. The long-term movements in the indexes are similar. CPI-U and CPI-W indexes are calculated using measurement of price changes for goods and services with the same specifications and from the same retail outlets. The CPI-W is used for escalation primarily in blue-collar cost-of-living adjustments (COLA's). Because the CPI-U population coverage is more comprehensive, it is used in most other escalation agreements.

The 26 metropolitan areas for which BLS publishes separate index series are by-products of the U.S. City Average Index. Metropolitan area indexes have a relatively small sample size and, therefore, are subject to substantially larger sampling errors. Metropolitan area and other sub-components of the national indexes (regions, size-classes) often exhibit greater volatility than the national index. BLS strongly recommends that users adopt the U.S. City Average CPI for use in escalator clauses.

The U.S. City Average CPI's are published on a seasonally adjusted basis as well as on an unadjusted basis. The purpose of seasonal adjustment is to remove the estimated effect of price changes that normally occur at the same time and in about the same magnitude every year (e.g., price movements due to the change in weather patterns, model change-overs, holidays, end-of-season sales, etc.). The primary use of seasonally adjusted data is for current economic analysis. In addition, the factors that are used to seasonally adjust the data are updated annually. Also, seasonally adjusted data that have been published earlier are subject to revision for up to 5 years after their original release. For these reasons, the use of seasonally adjusted data in escalation agreements is inappropriate.

* EXAMPLE OF COMPUTATION *

Escalation agreements using the CPI usually involve changing the base payment by the percent change in the level of the CPI between the reference period and a subsequent time period. This is calculated by first determining the index point change between the two periods and then the percent change. The following example illustrates the computation of percent change:


CPI for current period	136.0
Less CPI for previous period	129.9
Equals Index point change	6.1
Divided by previous period CPI	129.9
Equals	0.047
Result multiplied by 100	0.047 x 100
Equals percent change	4.7

The Bureau of Labor Statistics neither encourages nor discourages the use of price adjustment measures in contractual agreements. Also, while BLS can provide technical and statistical assistance to parties developing escalation agreements, we can neither develop specific wording for contracts nor mediate legal or interpretive disputes which might arise between the parties to the agreement.

<http://www.bls.gov/cpi/cpi1998d.htm>


Consumer Price Index - Urban Wage Earners and Clerical Workers

Series Id: CWURA421SA0
 Not Seasonally Adjusted
 Area: Los Angeles-Riverside-Orange County, CA
 Item: All items
 Base Period: 1982-84=100

Download:  .xls

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2001	167.3	168.3	169.1	169.6	170.5	171.9	171.3	171.1	171.5	171.0	170.7	169.7	170.2	169.5	170.9
2002	171.5	172.8	173.8	174.8	175.4	174.7	175.0	175.6	176.3	176.5	177.0	176.7	175.0	173.8	176.2
2003	177.8	179.6	181.6	180.9	179.9	179.6	179.6	180.5	181.9	181.2	180.5	180.2	180.3	179.9	180.7
2004	181.7	183.4	184.9	185.2	186.8	187.4	186.8	186.5	187.8	189.8	190.3	188.5	186.6	184.9	188.3
2005	188.5	190.3	192.1	194.2	194.6	193.7	194.6	196.4	199.0	200.0	198.4	196.5	194.9	192.2	197.5
2006	198.3	199.9	200.8	202.9	205.0	204.2	204.5	205.0	205.3	203.5	203.3	202.9	203.0	201.9	204.1
2007	204.498	206.632	208.929	210.195	211.145	209.614	209.444	209.240	209.849	211.259	212.844	212.282	209.661	208.502	210.820
2008	213.825	214.231	216.493	217.914	219.702	222.435	223.245	221.230	220.285	218.726	214.083	211.007	217.765	217.433	218.096
2009	212.454	213.234	213.013	213.405	214.446	216.145	216.128	216.628	217.302	217.474	216.618	216.233	215.257	213.783	216.730
2010	217.290	217.090	218.157	218.475	218.787	218.222	218.367	218.752	218.427	219.339	218.694	219.619	218.435	218.004	218.866
2011	221.540	222.814	225.770	227.051	226.842	225.461	224.277	224.665	226.096	226.116	225.786	224.444	225.072	224.913	225.231

Series Id: CWURA422SA0
 Not Seasonally Adjusted
 Area: San Francisco-Oakland-San Jose, CA
 Item: All items
 Base Period: 1982-84=100

Download:  .xls

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2001		183.5		184.9		186.9		186.7		187.5		186.5	185.7	184.5	186.9
2002		186.8		188.8		189.1		189.3		190.0		189.6	188.8	188.0	189.6
2003		193.7		193.6		192.2		192.3		191.9		191.1	192.4	192.9	191.9
2004		194.1		194.7		195.4		195.0		196.4		195.9	195.0	194.4	195.7
2005		197.3		199.3		197.5		199.5		202.6		199.3	199.1	197.9	200.3
2006		202.5		204.9		205.2		206.7		206.2		205.6	204.9	203.7	206.1
2007		208.803		211.189		211.422		211.620		213.133		214.204	211.370	209.986	212.754
2008		214.913		217.913		221.454		221.385		221.192		213.685	218.441	217.487	219.396
2009		216.797		218.587		220.996		221.279		221.708		220.121	219.645	218.182	221.109
2010		222.049		223.821		224.185		224.195		224.352		224.152	223.624	223.012	224.236
2011		226.638		231.600		230.605		231.445		232.371		231.109	230.337	229.074	231.600

<http://data.bls.gov/cgi-bin/surveymost>

2/2/2012

**NIPOMO COMMUNITY SERVICES DISTRICT
 CONSUMER PRICE INDEX ADJUSTMENT
 PROPOSED FOR JULY 1, 2012**

	SF	LA	AVERAGE
CPI for current period	230.337	225.072	
Less CPI for previous period	(223.624)	(218.435)	
Equals index point change	6.713	6.637	
Divide by previous period CPI	223.624	218.435	
Equals	0.0300	0.0304	
Result multiplied by 100	0.03 x 100	0.0304 x 100	
	<u>3.000</u>	<u>3.040</u>	<u>3.020</u>

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