

RESOLUTION # 2007-08

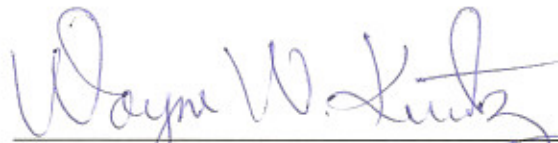
**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE RANCHO MURIETA COMMUNITY SERVICES DISTRICT
AUTHORIZING EXECUTION OF GRANT AND AGREEMENT REGARDING
TEMPORARY IRRIGATION EASEMENT**

BE IT, AND IT IS HEREBY RESOLVED by the Board of Directors of the Rancho Murieta Community Services District that the certain Grant and Agreement attached hereto, to Rancho Murieta Community Services District, Grantee, and from Van Vleck Ranching and Resources, Inc., A California corporation, Grantor, for the temporary easement over the Easement Area for purposes of irrigating with Recycled Water, subject to the terms and conditions as more particularly set forth in the attached Grant and Agreement; and

The General Manager of the Board of Directors of Rancho Murieta Community Services District is hereby authorized to execute the aforesaid grant deed.

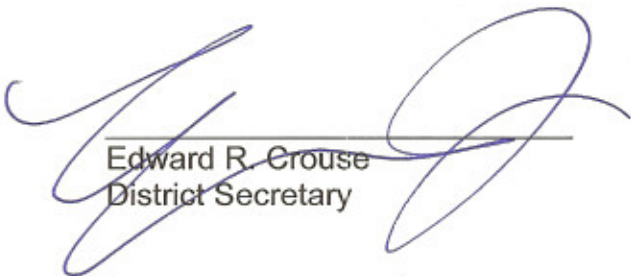
PASSED AND ADOPTED this 19th day of July, 2007, by the following Roll Call Vote:

Ayes: *Kuntz, Taylor, Belton, Kjome*
Noes: *None*
Abstain: *None*
Absent: *Pasek*



Wayne W. Kuntz, President of the Board
Rancho Murieta Community Services District

Attest:



Edward R. Crouse
District Secretary

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

RANCHO MURIETA COMMUNITY
SERVICES DISTRICT
15160 Jackson Highway
Rancho Murieta, CA 95683
Attention: General Manager

**EXEMPT FROM RECORDING FEES
PER GOVERNMENT CODE
SECTION 27383**

THIS SPACE FOR RECORDER'S USE ONLY

**GRANT AND AGREEMENT REGARDING
TEMPORARY IRRIGATION EASEMENT**

THIS GRANT AND AGREEMENT REGARDING TEMPORARY IRRIGATION EASEMENT (hereinafter "**Agreement**") is made as of July ____, 2007, by VAN VLECK RANCHING AND RESOURCES, INC, a California corporation ("**Grantor**"), in favor of the RANCHO MURIETA COMMUNITY SERVICES DISTRICT, a special district of the State of California ("**Grantee**").

RECITALS

A. Grantor is the fee owner of that certain real property located in the unincorporated area of Sacramento County, State of California, as generally shown on Exhibit A attached hereto and made a part hereof (the "**Easement Area**")

B. Grantee operates a tertiary wastewater reclamation plant ("**WWRP**") in the vicinity of Grantor's Easement Area and pursuant to Waste Discharge Requirements Order No. 5-01-124 ("**WDR**") issued by the California Regional Water Quality Control Board ("**RWQCB**") is currently permitted to provide recycled water to the Rancho Murieta Country Club for golf course irrigation.

C. Grantee desires to acquire a temporary easement over the Easement Area for purposes of irrigating with recycled water ("**Recycled Water**"), as more particularly set forth below. The Easement Area is currently used as pastureland for the grazing of livestock.

D. Grantee filed an application on or about May 22, 2007 with the RWQCB to amend its WDR to allow for the provision of Recycled Water for irrigation of the Easement Area, and Grantee anticipates that this amendment will be considered by the RWQCB at its meeting scheduled for August 2/3, 2007.

E. Grantor desires to grant Grantee, and Grantee desires to accept, a temporary easement over the Easement Area for purposes of irrigating with Recycled Water, subject to the terms and conditions as more particularly set forth below.

GRANT OF EASEMENT

1. **GRANT OF EASEMENT; PURPOSE OF EASEMENT.** In consideration of the matters recited above and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby voluntarily grants and conveys to Grantee: (a) a temporary, nonexclusive easement to convey the Recycled Water over and irrigate the Easement Area and every part thereof with the Recycled Water, and (b) a temporary, nonexclusive easement, at locations mutually agreed to by both parties, to install, construct, reconstruct, inspect, maintain, use, repair, service, remove, relocate and/or replace irrigation lines, pipelines, valves, meters, discharge equipment, irrigation equipment and/or other supporting or associated fixtures, equipment and appurtenances (collectively, the "**Irrigation Equipment**") over, along, and across the Easement Area and (c) a temporary, nonexclusive right-of-way to enter upon and access all areas of the Easement Area (whether by vehicular or pedestrian means) to accomplish the purposes of (a) and (b) above (collectively, the "**Easement**"). The Easement granted herein may be used by Grantee and its employees, agents, representatives and contractors.

2. **TERM OF EASEMENT.** The Easement granted herein shall commence upon the execution of this Agreement and shall continue until **December 31, 2009**; however, Grantor may terminate this easement after January 1, 2009, but only if (i) Grantee has notified Grantor that a permanent irrigation area has been acquired and is operational, and (ii) Grantor has provided Grantee with ninety (90) days advance notice of termination.

3. **PURPOSE:** It is the purpose of the Easement granted hereby to, among other things, provide Grantee with the means to irrigate the Easement Area with Recycled Water in accordance with the terms and conditions set forth in the WDR, and as amended from time to time by the RWQCB.

4. **DUTIES OF GRANTOR:** To accomplish the purpose of this Agreement, the following duties are conveyed upon Grantor:

(a) Grantor shall comply with all applicable federal and state laws and regulations, and orders of public authority, and with all of the requirements, terms, and conditions of the applicable permits held or obtained by Grantee, including the WDR and amendments thereto, any other permits issued by the County of Sacramento and the RWQCB, and any California Environmental Quality Act ("CEQA") mitigation measures (collectively herein, "**Applicable Laws**").

(b) Grantor shall enjoin or prevent any activity on or use of the Easement Area that would violate any of the requirements, terms, and conditions of the Applicable Laws.

(c) Except as set forth in Section 5(c) below, Grantor shall pay before delinquency any taxes, assessments, fees, and charges of whatever description that may be levied on or assessed against the Easement Area by any competent authority.

(d) Grantor, at Grantor's sole cost and expense and for the entire term of this Agreement, shall maintain the Easement Area in a condition consistent with the condition of the Easement Area existing on the date of the mutual execution and delivery of this Agreement.

(e) Grantor shall immediately notify Grantee of, and be solely responsible for reimbursing Grantee for, any damage to the Irrigation Equipment caused by or resulting from the acts or omissions of Grantor, its agents, employees or contractors.

5. **DUTIES OF GRANTEE:**

(a) Grantee shall comply with all of the requirements, terms, and conditions of the Applicable Laws as defined in Section 4(a) above. Without limiting the foregoing, the rate, timing and manner of delivery and/or application of the Recycled Water on the Easement Area shall conform with the conditions of the WDR and any amendments thereto issued by the RWQCB. Grantee agrees to provide at least ten (10) calendar days notice to Grantor (which notice to Grantor may be verbal or in writing) prior to any irrigation of the Easement Area with Recycled Water.

(b) Grantee shall at its sole cost and expense construct, control and operate the Irrigation Equipment on the Easement Area, and maintain the Irrigation Equipment in good working order and condition consistent with the manner Grantee maintains similar irrigation facilities. In the event Grantee, in exercise of its rights granted herein, is required to excavate a portion of the area within the Easement Area for maintenance, repair or replacement of the Irrigation Equipment serviced by Grantee, Grantee agrees to restore, or cause the restoration of, such portion to its base condition. Grantee shall keep the Easement Area free and clear of any liens or encumbrances relating to or arising in connection with the use of the Easement Area by reason of the Easement.

(c) Grantee shall pay before delinquency the portion of any taxes, assessments, fees, and charges of whatever description that may be levied on or assessed against the Easement Area by any competent authority to the extent resulting directly from Grantee's exercise of its rights pursuant to this Agreement.

(d) Grantee and Grantor shall make a good faith effort to cooperate regarding the rate, timing and application of the Recycled Water on the Easement Area so as to promote the efficient and coordinated use of the Easement Area by both parties.

6. **COMPLIANCE WITH THE LAW.** Grantor represents and warrants to Grantee that Grantor has not used the Easement Area or any portion thereof for the production, disposal or storage of any Hazardous Materials (as defined below), and Grantor has not received notice of any such prior use or any proceeding or inquiry by a governmental authority with respect to the presence of Hazardous Materials on the Easement Area. Grantor will not, at any time, use all or any portion of the Easement Area in violation of any governmental laws, ordinances, regulations or orders, including those relating to environmental conditions on, under or about the Easement Area, including but not limited to soil and groundwater conditions and Hazardous Materials. Grantor shall defend, indemnify and hold Grantee harmless from and against any and all losses, costs (including reasonable attorneys' fees), liabilities and claims arising from any violations of existence of Hazardous Materials that are now or hereinafter become located in, on or under the Easement Area, and shall assume full responsibility and cost to remedy such violations and/or the existence of Hazardous Materials if not caused by Grantee.

"**Hazardous Materials**" shall include, but are not limited to, substances requiring investigation, removal or remediation under any federal, state or local statute, regulation, ordinance or policy including any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substance or contaminant and all other materials governed by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the California Hazardous Waste Control Act (Cal. Health & Safety Code § 25100 et seq., and the California Hazardous Substances Account Act (Cal. Health & Safety Code § 25300 et seq.). Hazardous Materials shall include, but not be limited to, asbestos, asbestos-containing materials, petroleum, petroleum products, polychlorinated biphenyl ("PCB") or PCB-containing materials.

7. **LIMITATION ON USE.** Grantee acknowledges that the Easement granted herein is nonexclusive. Grantee agrees that Grantor has the right to graze livestock and cut the pasture grass in the Easement Area to make hay to feed livestock. Grantee further agrees that Grantor shall have the right to grant other easements on the Easement Area, including but not limited to Swainson's Hawk easements, provided that such other easements granted by Grantor do not interfere with Grantee's Easement and the rights granted pursuant to this Agreement.

8. **INSURANCE.** Grantee shall obtain and maintain in full force and effect at all times while the Easement exists public liability and property damage insurance having limits of liability of at least \$1 million per occurrence and \$2 million in the aggregate. Such insurance shall be issued by an insurer licensed to do business in the State of California, with a rating not less than A-VIII by A&M Best's Insurance Rating Guide. Grantee shall name Grantor as an additional insured and shall cause to be issued proper certificates of insurance and endorsements required to be maintained hereunder and provide copies thereof to Grantor.

9. **GRANTOR REPRESENTATIONS AND WARRANTIES.** Grantor represents and warrants as follows:

9.1 **Authority.** Grantor is the sole fee owner of the Easement Area, and has the full right, power, and authority to grant the Easement over the Easement Area to Grantee as provided herein and to carry out its obligations hereunder.

9.2 **No Breach.** Neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions or restrictions, reciprocal easement agreement, or other agreement or instrument to which Grantor or the Easement Area may be bound.

10. **INDEMNITY.**

10.1 **Indemnity by Grantor.** Grantor shall indemnify, defend and hold Grantee harmless from and against any and all claims, demands, actions, damages, liability and expenses (including reasonable attorneys' fees and costs of investigation with respect to any claim, demand or action) in connection with or arising from the activities conducted by Grantor, its employees, contractors or agents pursuant to this Agreement, or from any breach or default on the part of Grantor in the performance of any covenant or agreement contained herein except to the extent caused by the acts of Grantee, its employees, contractors or agents.

10.2 **Indemnify by Grantee.** Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, demands, actions, damages, liability and expenses (including reasonable attorneys' fees and costs of investigation with respect to any claim, demand or action) in connection with or arising from the activities conducted by Grantee, its employees, contractors or agents pursuant to this Agreement, or from any breach or default on the part of Grantee in the performance of any covenant or agreement contained herein except to the extent caused by the acts of Grantor, its employees, contractors or agents.

10.3 **Comparative Negligence.** It is the intent of the parties that where negligence or responsibility for injury or damages are determined to have been shared, principles of comparative negligence will be followed and each party shall bear the proportionate share of any loss, damage, expense and liability attributable to that party's negligence.

11. **NOTICES:** Any notice, demand, request, consent, approval, or communication that the parties desire or is required to give to the others shall be in writing and either serviced personally or sent by first-class mail, postage prepaid, addressed as follows:

To Grantor: Van Vleck Ranching and Resources, Inc.
7879 Van Vleck Road
Rancho Murieta, CA 95683
Attention: Jerry Spencer, Ranch Manager

To Grantee: Rancho Murieta Community Services District
15160 Jackson Highway
Rancho Murieta, CA 95683
Attention: General Manager

or to such other address or the attention of such other officers as from time to time shall be designated by written notice to the other.

12. **RECORDATION.** Grantee shall promptly record this Agreement in the Official Records of Sacramento County, California, and may re-record it at any time as may be required to preserve its rights in this Agreement

13. **TERMINATION OF AGREEMENT.** Either party hereto may terminate this Agreement upon five (5) days prior written notice to the other in the event the irrigation of the Easement Area with Recycled Water is declared unlawful by a legislative act of the State of California.

14. **ASSIGNMENT.** Neither party hereto may assign its rights and obligations hereunder without the written consent of the other, which consent shall not be unreasonably withheld.

15. **GENERAL PROVISIONS:**

A. **Controlling Law.** The interpretation and performance of this Agreement shall be governed by the laws of the State of California.

B. **Construction.** Any general rule of construction to the contrary notwithstanding, this Agreement shall be construed in favor of the grant to effect the purpose of this Agreement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Agreement that would render the provisions valid shall be favored over any interpretation that renders it invalid.

C. **Burden on Land.** The Easement granted in this Agreement shall be a burden on the Easement Area, which burden shall run with the land and shall be binding on any future owners and encumbrances of the Easement Area or any part thereof and their successors and assigns.

D. **Severability.** If any provision of this Agreement, or the application thereof to any person or circumstances, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

E. **Entire Agreement.** This instrument sets forth the entire agreement of the parties and supersedes all previous discussions, negotiations, understandings or agreements between them concerning the subject matter contained herein.

F. Successors. The covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assignees and shall be a burden upon the Easement Area.

G. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not part of this instrument and shall have no effect on construction or interpretation.


H. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Grantor grants, and Grantee accepts, this Agreement the day and year first above written.

GRANTOR:

Van Vleck Ranching and Resources, Inc.,
a California corporation

By: 
Name: Stan Van Vleck
Its: President

Date: 6/21/07

GRANTEE:

RANCHO MURIETA COMMUNITY
SERVICES DISTRICT,
a special district of the State of California

Wayne Kuntz
President, Board of Directors

Date: _____

EXHIBIT A
DEPICTION OF EASEMENT AREA

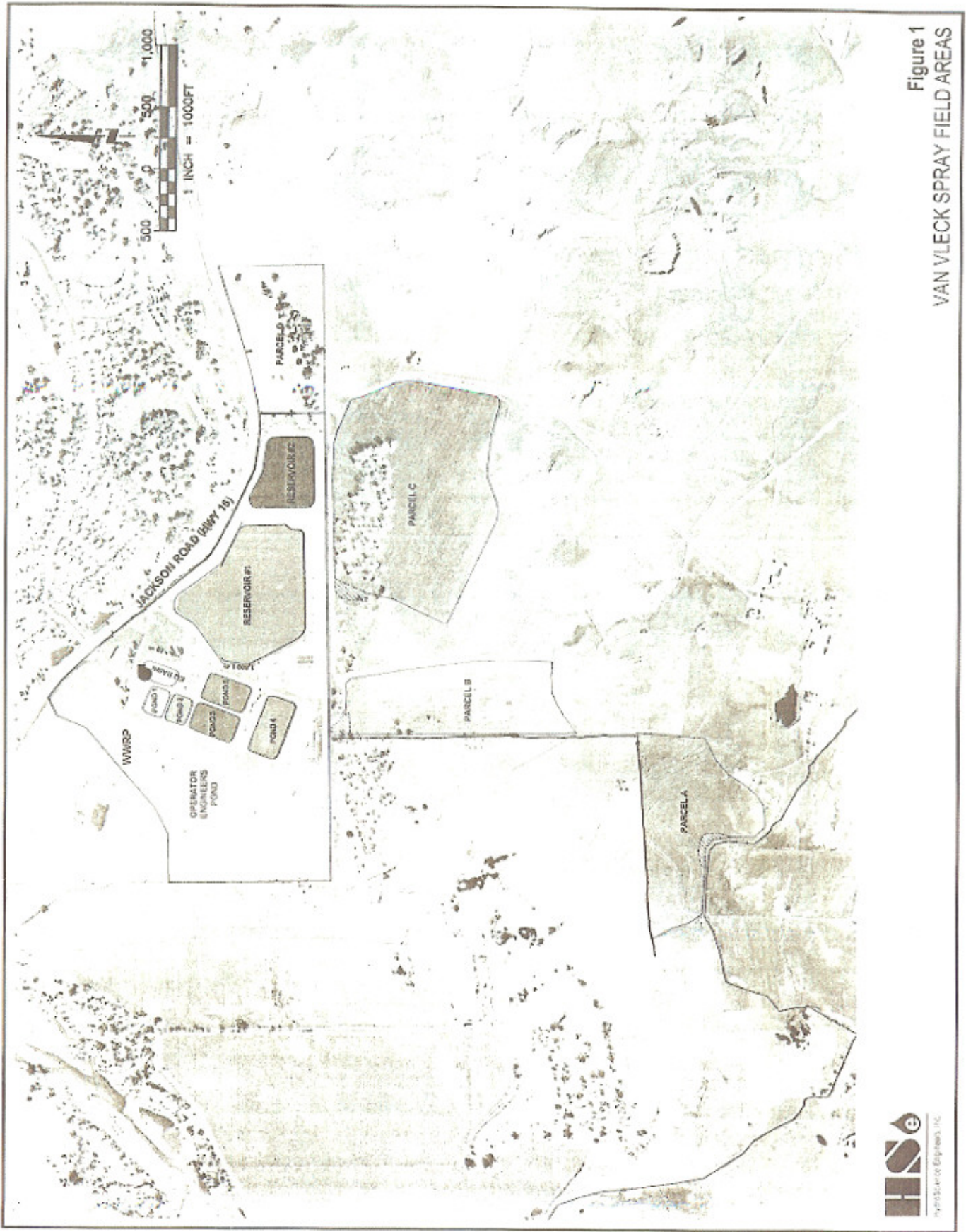


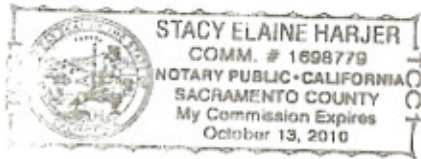
Figure 1
VAN VLECK SPRAY FIELD AREAS

STATE OF CALIFORNIA

County of Sacramento

On 06/21/07, before me, Stacy Harjer
Date Name and Title of Officer (Notary Public)

Personally appeared Stanley Van Vleck
Name(s) of Signer(s)



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

WITNESS my hand and official seal.

Place Notary Seal Above

Stacy Harjer
Signature of Notary Public

STATE OF CALIFORNIA

County of _____

On _____, before me, _____
Date Name and Title of Officer (Notary Public)

Personally appeared _____
Name(s) of Signer(s)

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public