

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION APPROVING AND ACCEPTING AN OPEN-SPACE AGREEMENT
GRANTING AN OPEN-SPACE EASEMENT TO THE COUNTY OF SAN LUIS OBISPO
BY STEPHEN S. MAY AND ANE R. MAY, TRUSTEES OF THE MAY FAMILY TRUST
DATED SEPTEMBER 9, 2004**

The following resolution is now offered and read:

WHEREAS, the County of San Luis Obispo has been duly requested to approve and accept a certain grant and offer to dedicate to the County of San Luis Obispo as open-space that certain real property described in the open-space agreement attached hereto and made a part hereof; and

WHEREAS, the Director of Planning and Building by letter dated May 19, 2015, has duly recommended that the Board of Supervisors approve and accept such offer of dedication to the County of San Luis Obispo, and has further recommended that such action is consistent with the County's general plan.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. The Board of Supervisors finds and determines that the preservation of the land offered for dedication to the County of San Luis Obispo as open-space in the attached agreement

is consistent with the County's general plan; that the land is essentially unimproved and if retained in its natural state has scenic value to the public and is valuable as a watershed, and the offer of dedication contained in said agreement contains appropriate covenants to that end; that it is in the public interest that the land be retained as open-space because such land will add to the amenities of living in neighboring urbanized areas; and that approval of the above agreement is categorically exempt from the requirements of the California Environmental Quality Act.

2. The Open-Space Agreement Granting An Open-Space Easement to The County of San Luis Obispo, a copy of which is attached hereto and is incorporated by reference herein as though set forth in full, is hereby approved and the offer of dedication contained therein is hereby accepted by the County of San Luis Obispo and the Chairperson of the Board of Supervisors is hereby authorized and directed to execute said agreement on behalf of the County of San Luis Obispo.

3. The County Clerk is hereby authorized and directed to record the above agreement and a certified copy of this resolution in the office of the County Recorder of the County of San Luis Obispo, and file a copy of said agreement and resolution with the County Assessor of the County of San Luis Obispo.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to-wit:

AYES:

NOES:

ABSENT

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel



By: Deputy County Counsel

Dated: April 28, 2015

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On _____, before me, _____, Deputy County Clerk-Recorder, County of San Luis Obispo, State of California, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person 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.

TOMMY GONG, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors

By: _____
Deputy County Clerk-Recorder

[SEAL]

RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

PN 076-233-031

**OPEN-SPACE AGREEMENT GRANTING AN OPEN-SPACE EASEMENT
TO THE COUNTY OF SAN LUIS OBISPO**

THIS AGREEMENT is made and entered into this ____ day of _____,
20____, by and between STEPHEN S. MAY AND ANE R. MAY, TRUSTEES OF THE
MAY FAMILY TRUST DATED SEPTEMBER 9, 2004, hereinafter referred to collectively
as "Owner," and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State
of California, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Owner is the record owner of certain real property (hereinafter
referred to as "Owner's 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 a tentative
parcel map (CO07-0171) authorizing a cluster subdivision and as a condition precedent
to the approval of a final map for Parcel Map CO 07-0171 by County for Owner's
Property, Owner is required to enter into an agreement with the County, on behalf of

himself and his successors in interest, to maintain portions of the site in open-space use;
and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of Owner's Property (hereinafter referred to as the "Subject Property") which is more particularly described in Exhibit B attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and subsequent performance of its obligations by Owner and his successors in interest, will satisfy the requirement for dedication of an open-space easement agreed to by Owner and imposed by condition 21 of the conditions of approval of the tentative parcel map referred to above; and

WHEREAS, the Subject Property has certain natural scenic beauty and important agricultural conservation values, and both Owner and County desire to preserve and conserve for the public benefit the great natural scenic beauty and the agricultural conservation values of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use, as hereinafter expressed, of the land and thereby protect and preserve the scenic and agricultural values of the Subject Property by the restricted use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance with Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974," so as to be an enforceable restriction under the provisions of Revenue and Taxation Code section 422; and

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

NOW, THEREFORE, in consideration of the premises and in compliance with the provisions of Government Code sections 51070 through 51097, inclusive, and 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. Grant of open-space easement. Owner hereby grants to County, for the term specified in paragraph 8 below, an open-space easement in and to the Subject Property described above. The open-space easement granted herein conveys to County an estate and interest in the real property of the nature and character specified in the Open-Space Easement Act of 1974, which is subject to the express conditions and restrictions imposed herein upon the use of the property by Owner. To that end, and for the purpose of accomplishing the intent of the parties hereto, Owner covenants on behalf of himself, his successors and assigns with the County, its successors and assigns to do and refrain from doing, severally and collectively, upon the Subject Property, the various acts hereinafter mentioned.

2. Restrictions on use of the Subject Property. The restrictions imposed upon the use of the Subject Property by Owner and his successors in interest and the acts which Owner and his successors in interest shall refrain from doing, and permit to be done, upon the Subject Property are as follows:

(a) No buildings, structures, or other improvements shall be placed, constructed, or erected upon the Subject Property except for the construction of agricultural accessory structures within the approved building envelope shown on Parcel 4 of Map 07-0171 recorded in Book _____, Pages _____ through _____ inclusive of Maps, in the office of the County Recorder of the County of San Luis Obispo, State of California, and except as otherwise authorized by the approved conditional use permit and parcel map referred to above.

(b) No advertising of any kind or nature shall be located on or within the Subject Property.

(c) Owner shall not plant or permit to be planted any vegetation upon the Subject Property except for crop production, range land grasses, natural or ornamental landscaping, and as otherwise authorized by Section 22.22.140.F.1 of the San Luis Obispo County Code, and as necessary for erosion control.

(d) Except for the construction and maintenance of access roads, parking, drainage, landscaping, fencing, and other improvements as shown on the approved conditional use permit and parcel map referred to above, the general topography of the landscape shall be maintained in its present condition and no grading, excavation, or topographic changes shall be made.

(e) No use of the Subject Property which will or does materially alter the landscape or other attractive scenic features of the property, other than those specified herein, shall be done or suffered.

(f) Owner shall not extract natural resources from the Subject Property, except for development of Owner's underlying water rights.

(g) Owner shall not cut timber, trees, or other natural growth, except as may be required for the uses authorized on the Subject Property by the approved conditional use permit and parcel map referred to above and for fire protection, thinning, elimination of diseased growth, and similar protective measures.

(h) Except in connection with agricultural use, Owner shall not use the Subject Property or any portion thereof as a storage area, or dump site or otherwise deposit or allow to be deposited on the Subject Property or any portion thereof, temporarily or otherwise, anything whatsoever which is not indigenous or natural to the Subject Property.

(i) Except in connection with agricultural use, Owner shall not cover or cause the Subject Property to be covered in whole or in part with any asphalt, stone, concrete, or other material which does not constitute natural cover for the land nor otherwise disturb the natural cover of the land unless otherwise authorized by the provisions of this agreement.

(j) No land division of the Subject Property shall occur or be applied for by Owner or his successors in interest, nor shall Owner or his successors in interest otherwise convey (other than under threat of condemnation) a portion of the Subject Property less than the whole to one or more parties or convey the Subject Property to two or more parties each of whom acquire title to less than the whole of the Subject Property. Any such conveyance or transfer of the Subject Property or a portion thereof by Owner or his successors in interest shall be considered null and void.

3. Reservations of use by Owner. Notwithstanding the provisions of paragraph 2 above, the following property rights in the Subject Property are excepted from this grant and are expressly reserved to Owner:

(a) The right to construct, develop, and maintain all roads, parking, drainage, parks, trails, landscaping, fencing, utilities, and other improvements authorized by the approved conditional use permit and parcel map referred to above, and any amendments or modifications thereto which may be approved by the County.

(b) The right to construct, develop, and maintain private water sources and water systems on the Subject Property for the use and benefit of the Subject Property.

(c) The right to the use and occupancy of the Subject Property (including its use for access roads, landscaping, fencing, parks and active recreation), subject to the conditions and restrictions imposed in this agreement.

4. Compliance with County regulations. Land uses permitted or reserved to Owner in this agreement are subject to and require compliance with all applicable County ordinances and regulations, including those regulating land use.

5. Construction of improvements. Owner shall not construct or permit the construction of any improvements on the Subject Property except as expressly reserved herein or as authorized in the Open-Space Easement Act of 1974. Provided, however, nothing contained in this agreement shall prohibit the construction of either public service facilities installed for the benefit of the Subject Property or public service facilities installed pursuant to an authorization of the Board of Supervisors of the County or the Public Utilities Commission. Installation of any such public service facilities shall require consent of the then Owner.

6. No authorization for public trespass. The grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize and is not to be construed as authorizing the public or any member thereof to trespass upon or use all or any portion of the Subject Property or as granting to the public or any member thereof

any tangible rights in or to the Subject Property or the right to go upon or use or utilize the Subject Property in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Subject Property may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public.

7. Effect on prior easements. Nothing contained in this agreement shall limit or affect any easements that are of record and that have been heretofore granted by Owner on, over, under, or across the Subject Property or any portion thereof.

8. Duration of easement. The grant of easement to County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors in the manner required by law, and it shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974. Provided, however, no easement shall be abandoned or otherwise terminated without first obtaining approval of an amendment to the conditional use permit (SUB2008-00066) authorizing such abandonment or termination.

9. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Subject Property shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

10. Binding on successors in interest. This agreement shall be deemed an equitable servitude and a covenant running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of said property or any portion thereof

shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

11. Effect of waiver. County's waiver of the breach of any one term, covenant, or provision of this agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

12. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

13. Law governing and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

14. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

15. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices shall be addressed as follows:

To the County: Director of Planning and Building
County of San Luis Obispo
County Government Center, Room 300
San Luis Obispo, California 93408

To the Owner: Stephen S. May
6614 Bellevue Orchard Lane
San Luis Obispo, California 93405

Either party may change the address above by providing notice in writing to the other party. Subsequent notices shall be addressed and transmitted to the new address.

16. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation of this agreement shall serve as constructive notice of the obligations contained herein to be performed by the Owner and the successors in interest to all or any portion of Owner's Property.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER


STEPHEN S. MAY, TRUSTEE OF THE MAY
FAMILY TRUST, DATED SEPTEMBER 9, 2004


ANE R. MAY, TRUSTEE OF THE MAY FAMILY
TRUST, DATED SEPTEMBER 9, 2004

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California)
County of San Luis Obispo)

On 3-12-2015 before me, Linda Sue Furnari, Notary Public,
(here insert name and title of the officer)

personally appeared Stephen S May and Ane R may

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 Linda Sue Furnari

(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"/> _____	

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: Bing S
Deputy County Counsel

Dated: 3/17/15

[NOTE: This Open-Space Agreement will be recorded. All signatures to this agreement
must be acknowledged by a notary.]
296plhagr.docx

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On _____, before me, _____, Deputy County Clerk-Recorder, County of San Luis Obispo, State of California, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person 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.

TOMMY GONG, County Clerk-Recorder
and Ex-Officio Clerk of the Board of
Supervisors

By: _____
Deputy County Clerk-Recorder

[SEAL]

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EXHIBIT A

Real property in the unincorporated area of the County of San Luis Obispo, State of California, described as follows:

THAT PORTION OF THE RANCHO SAN MIGUELITO, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO THE MAP FILED FOR RECORD MAY 5, 1882, IN BOOK A, PAGE 38 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESIGNATED ON SAID MAP AS J. BORLAND, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF BROKEN ROCKS MORE PARTICULARLY DESIGNATED BY A STAKE MARKED NO. 1 AT THE ENTRANCE OF CANON KNOWN AS THE RANCHO VIEJO; THENCE RUNNING IN A NORTHERLY DIRECTION ALONG THE BASE OF A RANGE OF MOUNTAINS ON THE EASTERN SIDE OF SAID CANON 360 YARDS TO AN OAK TREE BLAZED AND MARKED NO. 2; THENCE IN AN EASTERLY DIRECTION 90 YARDS TO A SMALL OAK TREE MARKED NO. 3; THENCE IN A NORTHERLY DIRECTION 257 YARDS TO A STAKE MARKED NO. 4 PLACED NEAR THE RUINS OF AN ADOBE HOUSE; THENCE 145 YARDS IN A WESTERLY DIRECTION TO AN OAK TREE MARKED NO. 5; THENCE IN A NORTHERLY DIRECTION 354 YARDS TO TWO SYCAMORE TREES GROWING TOGETHER; BLAZED AND MARKED NO. 6; THENCE IN A WESTERLY DIRECTION 150 YARDS TO THE ARROYO KNOWN AS THE ARROYO ON SAN MIGUELITO NEAR TWO SYCAMORE TREES BLAZED AND MARKED NO. 7; THENCE FOLLOWING THE MEANDERINGS OF SAID CREEK SOUTHERLY 960 YARDS, MORE OR LESS, TO TWO SYCAMORE TREES MARKED NO. 8; THENCE 90 YARDS IN AN EASTERLY DIRECTION TO THE POINT OF BEGINNING.

APN: 076-233-031

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EXHIBIT B

Parcel 4 of Map 07-0171 as shown on a map recorded in Book _____, Pages
through _____ inclusive of Maps, in the office of the County Recorder of the County of
San Luis Obispo, State of California.

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