

RECORDING REQUESTED BY  
AND AFTER RECORDING MAIL TO:

Mountains Recreation and  
Agricultural Authority  
570 West Ave. 26, Suite 100  
Los Angeles, CA 90065

Attention: Jeff Maloney

Exempt from recording fees Pursuant to Gov. Code §6103.Documentary Transfer Tax - Exempt from  
documentary transfer tax pursuant to Rev.& Tax. §11922 (transfer to public entities).

### GRANT OF AGRICULTURAL EASEMENT

THIS GRANT OF AGRICULTURAL EASEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between Robert K. Levin, an individual, (hereinafter the "GRANTOR") and the MOUNTAINS RECREATION AND AGRICULTURAL AUTHORITY, a local agency established pursuant to Government Code section 6500 *et seq.*(hereinafter the "GRANTEE").

WHEREAS, the GRANTOR is the owner of that certain real property described in **Exhibit A** (the "Property") located within the County of Los Angeles, State of California commonly described as Assessor Parcel Number 4455-028-044; and

WHEREAS, GRANTOR desires to grant to GRANTEE and GRANTEE desires to acquire an agricultural easement ("Agricultural Easement") on and over a portion of the Property (hereinafter "Easement Area").

WHEREAS, the Easement Area currently exists in a natural state with existing livestock fencing; and

WHEREAS, GRANTOR and GRANTEE intend that the Easement Area be preserved and maintained by the continuation of land use patterns existing at the time of this grant that do not significantly impair or interfere with those values; and

WHEREAS, GRANTEE is a governmental entity qualified under California Civil Code Section 815 *et seq.* to acquire and hold agricultural easements and agrees, by accepting the grant herein, to preserve and protect in perpetuity the agricultural values of the Property;

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of California and in particular California Civil Code Section 815 *et seq.*, GRANTOR hereby grants to GRANTEE an Agricultural Easement as described and depicted in **Exhibit B**, in perpetuity of the nature and character and to the extent hereinafter set forth over a portion of the Property.

**1. Purpose.** It is the purpose of the agricultural easement that the Easement Area will be retained, to the fullest extent possible, in its current condition and to prevent any use of the Easement Area that will substantially interfere with, or impair, the agricultural values of the Easement Area. The GRANTEE and the GRANTOR intend that, except to the extent otherwise specifically provided herein, this grant will confine the use of the Easement Area to its current use as an agricultural area, with livestock fencing.

**2. Rights of the GRANTOR.**

The GRANTOR, as the owner of the Property, reserves to itself the following rights. GRANTOR and GRANTEE intend that these Reserved Rights are exceptions to the prohibitions and restrictions set forth in Section 4 and hence may be conducted as described below without adversely impacting the Agricultural Purposes.

- (a) all the rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in uses of the Property that are not expressly prohibited herein and are not inconsistent with the purposes of this Grant;
- (b) the right to maintain existing livestock fencing;
- (c) if approved by the California Coastal Commission, agricultural production activities defined as “activities that are directly related to the cultivation of agricultural products for sale. Agricultural products are limited to food and fiber in their raw unprocessed state, and ornamental plant material.”
- (d) If approved by the California Coastal Commission, agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site; and
- (e) If approved by the California Coastal Commission, maintain livestock.

**3. Rights of the GRANTEE.** To accomplish the purpose of this grant, the following rights are conveyed to the GRANTEE by this Grant:

- (a) to preserve and protect and enhance the agricultural values of the Property;
- (b) to prevent any activity or use of the Easement Area that is inconsistent with the terms of this Grant and to require the restoration of such areas or features of the Easement Area that may be damaged by any inconsistent activity or use, pursuant to Section 5 herein;
- (c) to enter onto the Easement Area by giving prior written notice to the legal owner to monitor compliance with and otherwise enforce the terms of this grant.

**4. Prohibited Uses.** Any activity on or use of the Easement Area inconsistent with the terms of this Grant is prohibited. Without limiting the generality of the foregoing, and except as permitted in Section 2, the following uses are strictly prohibited by either party:

- (a) the erection of additional fences, barriers or any other structures which would interfere with wildlife movements and/or paths or in any way jeopardize the uses of the Easement Area. Notwithstanding the foregoing, Grantor may install sections of post and rail fencing as needed;
- (b) hunting and/or trapping of any wildlife;
- (c) dumping and/ or discharge of any type onto the Easement Area;
- (d) driving or parking of any vehicle on the Easement Area, other than temporary use of vehicles to maintain trails and other facilities allowed under Section 2 or respond to emergency conditions, and fire trucks or emergency vehicles to respond to fires or evacuate injured persons;
- (e) storage of any materials;
- (f) removal of any native plant species, except as necessary for fire prevention (as required by Fire authorities), to clean up following storms or other natural events, to cut and maintain trails, erect trail markers, or install materials necessary to correct or impede erosion;
- (g) erection of any signs other than those required by GRANTEE, with the exception of informational or interpretive signs, trail marking and wayfinding signs, as needed, and "No Trespassing" signs, at a size not to exceed 24" by 24";

- (h) paving, grading, bulldozing, burning, excavation of materials or construction of any structures or utilities;
- (i) satellite dishes;
- (j) irrigation, unless otherwise permitted in writing by the GRANTEE; and
- (k) use of herbicides, pesticides or other chemicals.

**5. GRANTEE Remedies.** If the GRANTEE determines that the GRANTOR is in violation of the terms of this Grant, or that a violation is threatened, the GRANTEE shall give thirty (30) days written notice to the GRANTOR and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Grant, to restore the portion of the Easement Area so injured. If GRANTOR fails to cure the violation within thirty (30) days after receipt of notice thereof from the GRANTEE, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period and to continue diligently to cure such violation until finally cured, the GRANTEE may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Grant, to enjoin the violation by temporary or permanent mandatory or prohibitory injunction (including, without limitation, preliminary ex parte relief; to recover any damages to which it may be entitled for violation of the terms of this Grant or injury to any Agricultural values protected by this Grant, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Easement Area to the condition that existed prior to any such injury. If the GRANTEE, in its reasonable judgment, determines that seriously deteriorating, circumstances of substantial impact to the ecology of the Easement Area require remedial or preventive action within less than thirty (30) days to prevent or to mitigate significant damage to the ecological values of the Property, and it appears to the GRANTEE that the GRANTOR is unwilling, unable or unmotivated to take such action (or to stop its own actions, if such actions are the cause of the harm), then the GRANTEE may pursue its legal and equitable remedies under this Section with only fifteen (15) days prior written notice to the GRANTOR rather than the normal thirty (30) days notice. The GRANTEE's rights and remedies under this Section apply in the event of actual violation of the terms, covenants, conditions and provisions of this Grant. The parties acknowledge that the GRANTEE shall be entitled to all legal and equitable remedies, including specific performance of the terms, conditions, covenants and provisions of this Grant. The GRANTEE's rights and remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6. **Attorney's Fees and Costs.** The prevailing party in any action or proceeding brought by either party to enforce the provisions of this Grant shall be entitled to reimbursement of its costs and expenses (including, without limitation, experts' fees) and reasonable attorneys' fees.

7. **Exercise of Rights and Remedies Subject to Sole Discretion of Party and Does Not Waive Future Exercise.** The exercise of any right or remedy by either party hereunder is at the sole discretion of said party and the tenure to exercise or delay in the exercise of any right or remedy shall not impair the right or remedy nor act as a future waiver of said right or remedy with respect to any other breaches, and the only limitation on the exercise of said right or remedy shall be the applicable statutory limitations period, defenses of laches being specifically waived, or the agreed upon limitations period set forth in the next sentence, if no set period of time is set forth in any statute for limiting the exercise of any legal or equitable remedy, then the parties agree that no such remedy, whether legal or equitable, shall be exercisable more than five (5) years after the party claiming such right or remedy actually did nor could have, by means of ordinary diligence, discovered the breach giving rise to such right or remedy.

8. **Acts Beyond GRANTOR'S Control.** Nothing contained in this Grant shall be construed to entitle the GRANTEE to bring an action against the GRANTOR for any injury to or change in the Easement Area resulting from causes beyond the GRANTOR'S control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action by the GRANTOR under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7. **Costs and Liabilities.** The GRANTOR in its capacity as grantor and owner of the fee interest in the Property described herein, retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including but not limited to, maintenance of reasonable amounts of comprehensive general liability insurance coverage. The GRANTOR and the GRANTEE shall each keep the property free of any mechanic and/or material persons' liens and any other type of lien or encumbrance which could jeopardize the priority status of the Grant including but not limited to real property taxes owing on the Property.

8. **Taxes.** The GRANTOR shall be solely responsible for all property taxes assessed against the Property.

9. **Hold Harmless By GRANTEE.** GRANTEE agrees to defend, indemnify and hold the GRANTOR, its members, directors, officers, employees, agents and contractors, and the heirs, personal representatives, successors and assigns of each of them (collectively "Indemnified Parties") harmless from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, proceedings and judgments including, without limitation, reasonable attorneys' fees,

arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter caused by GRANTEE's entry into, use of (including use by any persons claiming right of entry under GRANTEE's right of entry), maintenance of or restoration of the Easement Area, unless due primarily to the contributing or comparative negligence of any of the Indemnified Parties. GRANTEE shall maintain sufficient comprehensive general liability insurance, if reasonably available, endorsed for contractual liability, in support of the preceding indemnification.

**10. Hold Harmless By GRANTOR.** GRANTOR agrees to defend, indemnify and hold the GRANTEE and its members, directors, officers, employees, agents and contractors, and successors and assigns of each of them (collectively, Indemnified Persons") harmless from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, proceedings and judgments including, without limitation, reasonable attorneys' fees arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter caused by GRANTOR'S entry into, use of (including use by any persons claiming right of entry under GRANTOR'S right of entry), maintenance of the Easement Area, unless due primarily to the contributing or comparative negligence of any of the Indemnified Persons. The GRANTOR shall maintain sufficient comprehensive general liability insurance, naming GRANTEE as an additional insured, if reasonably available, endorsed for contractual liability, in support of the preceding indemnification.

**11. Transfer.** The GRANTOR agrees that the GRANTEE may, at its reasonable discretion, transfer its interest in the Property to any entity qualified by law to acquire, hold and administer Agricultural easements provided such assignee, transferee or successor assumes all of the GRANTEE's duties, responsibilities and obligations under this Grant. No transfer may occur without express written approval by GRANTOR of the assignee chosen for the transfer, approval not to be unreasonably withheld. Notwithstanding this effect by operation of law and equity, the GRANTOR shall disclose, if not otherwise disclosed in preliminary title reports, this Grant and the existence of the Agricultural Easement to any future purchaser, encumbrancer or lessee of the Property and shall, if requested in writing by the GRANTEE, cause such purchaser, encumbrancer or lessee to agree to be bound by the terms, conditions, covenants and provisions of this Grant.

**12. Transfer by the GRANTOR.** This Grant is a covenant, condition and restriction that runs with the Property. The GRANTOR acknowledges that without further notice, other than that provided by recordation of this Grant in the official real property records of the County in which the Property is located, that this Grant shall be binding on all other owners of the Property.

**13. Successors.** The GRANTOR and the GRANTEE hereby express their mutual and individual intent that this Grant be binding upon all successive owners of the Property and, in furtherance thereof, and in satisfaction of California Civil Code section 815.5, agree that this Grant shall be recorded in the offices of the County Recorder of Los Angeles County, upon its execution by the parties hereto.

**14. Extinguishment and Condemnation.** If future circumstances arise such as render the purpose of this Agricultural Easement impossible, this Agricultural Easement can only be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which GRANTEE shall be entitled from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment (herein collectively "Extinguishment") shall be determined to be at least equal to the perpetual Agricultural Easement's proportionate value unless otherwise provided by California law at the time. If the Agricultural Easement is taken, in whole or in part, by exercise of the power of eminent domain, GRANTEE shall be entitled to compensation from the condemning authority in accordance with applicable law. GRANTEE shall use any proceeds received under the circumstances described in this Section in a manner consistent with the Agricultural Values in this grant.

**15. Merger.** Notwithstanding anything to the contrary in this Grant, should GRANTEE become an owner of any portion of the Easement Area, this Agricultural Easement shall not merge with any interest in the Easement Area upon conveyance to GRANTEE, and title shall be transferred subject to the continued validity and enforceability of this Agricultural Easement in accordance with the laws of the State of California. In such event the rights of GRANTEE under this Agricultural Easement as to the portion of the Easement Area owned by GRANTEE shall be transferred to a Qualified Organization as defined in Section 170(h)(3) of the Code.

**16. Mineral Rights.** No surface mining is permitted in the Easement Area. Given the restrictions on mineral extraction within the Coastal Zone, and based upon a geological assessment of the Property as documented in a Geological Opinion Report by Gorian & Associates, dated October 25, 2014, the Parties are satisfied that the probability of surface mining occurring on the property is so remote as to be negligible.

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

**18. Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Agricultural Easement shall be liberally construed in favor of the Grant to effect the purpose of this Grant and the policy and purpose of California Civil Code section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Grant that would render the provision valid shall be favored over any interpretation that would render it Invalid.

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

**20. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Grant and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Agricultural Easement, all of which are merged herein.

**21. No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of any parties' fee interest in their portion of the Property.

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

**23. 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.

**24. Notices.** Any notice to be given hereunder to any party shall be deemed given or delivered upon personal delivery to the recipient or two days after deposit in the United States mail, registered or certified, return receipt requested, postage prepaid and addressed as follows:

If to GRANTOR:

Robert Levin  
c/o Malibu Valley Farms, Inc.  
26885 Mulholland Highway  
Calabasas, CA 91302

If to the GRANTEE:

Joseph T. Edmiston  
Executive Officer  
Mountains Recreation and Agricultural Authority  
5810 Ramirez Canyon Road  
Malibu, CA 90265

With a copy to:

Jeff Maloney, Counsel  
Mountains Recreation and Agricultural Authority  
570 West Avenue 26, Suite 100  
Los Angeles, CA 90065

Each party may, by notice to the other, designate a different address which shall be substituted for the one specified above.

[Signature Pages Follow]

IN WITNESS WHEREOF, GRANTOR and GRANTEE have executed this Grant on the latest of the dates set forth below.

GRANTOR:

**Robert K. Levin, an individual**

\_\_\_\_\_  
Signature of Robert K. Levin

Date: \_\_\_\_\_

GRANTEE:

**Mountains Recreation and Agricultural Authority**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name:

Title:

State of California )

County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
notary public, personally appeared

\_\_\_\_\_, 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)

State of California )

County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
notary public, personally appeared

\_\_\_\_\_, 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)