

Recording Requested By:

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When Recorded
Return To:

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GRANT OF EASEMENT

This Grant of Easement (this “Agreement”) is made as of [date], by Brian M. Hodges Revocable Trust dated March 2, 1982, Brian M. Hodges as Trustee; Sharon Hodges Hale Trust dated March 9, 1995 (which Trust replaced in its entirety the Sharon W. Hale Revocable Trust dated December 28, 1978), Sharon H. Bradford, formerly known as Sharon W. Hale & Whittier Trust Company as Co-Trustees; and Brett E. Hodges Revocable Trust dated April 21, 1977, Brett E. Hodges as Trustee, as Tenants-in-Common (collectively, “Grantor”), for the benefit of Santa Barbara Unified School District (“Grantee”).

RECITALS

A. Grantor is the owner of certain real property located in the County of Santa Barbara, State of California, located at 125 South San Marcos Road, Santa Barbara, CA 93111 (APN # 065-030-012) (“San Marcos Growers”). The San Marcos Growers property is from time to time referred to herein as the “Servient Tenement”.

B. Grantee is the owner of certain real property adjacent to the Servient Tenement, consisting of 22.86 acres (APN # 65-040-26) (“Tatum Property”). The Tatum Property is from time to time referred to herein as the “Dominant Tenement”.

C. Grantor has agreed to grant to Grantee an easement over the Servient Tenement for vehicular and pedestrian ingress and egress and for utility purposes, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, Grantor grants the Easement (as hereinafter defined) to Grantee under the following terms and conditions:

AGREEMENT

Section 1. Grant of Easement

Grantor hereby grants to Grantee an easement over, under, within and through a portion of the Servient Tenement (land and improvements) that is approximately 0.04 acres in size, as more particularly described in Exhibit A, for the Easement Purposes, as defined in Section 2 of this Agreement (“Easement”), subject to all matters and encumbrances of record affecting the Servient Tenement, on the terms and conditions set forth in this Agreement.

Section 2. Easement Purposes

“Easement Purposes” collectively means use of the Servient Tenement as is necessary, desirable or advisable for the following purposes:

A. Vehicular and pedestrian ingress and egress by Grantee, its successors, lessees, agents, tenants, invitees (including County of Santa Barbara) and members of the public for purposes of access to the Dominant Tenement; improved multi-use trail for use by members of the public; associated vehicular access for Grantee, County of Santa Barbara and emergency access; and

B. Construction, installation, use, maintenance, service and operation of improved multi-use public trail and associated fencing, landscaping and utilities, and all rights corresponding or incidental thereto.

Section 3. Character of Easement

The Easement is nonexclusive and appurtenant to the Dominant Tenement and includes the absolute right of Grantee to use the Easement for the Easement Purposes, which use must not be disturbed, interrupted or impeded in any manner while this Agreement is in effect. Grantor shall at all times enjoy concurrent vehicular and other ingress and egress across the Easement to the Dominant Tenement, which use shall not be disturbed, interrupted or impeded in any manner.

Section 4. Term

The Easement will be an easement for a fixed term of five years, subject to early termination as provided for herein. The Easement shall be automatically extended for succeeding terms of one year unless either party gives written notice to the other party, within one hundred twenty (120) days before the end of any term of its intention not to extend the easement. In addition, Grantor shall have the right to terminate the Easement during the initial five year term hereof, upon one hundred eighty (180) days written notice, in the event that it has obtained all land use and project construction approvals for a development requiring exclusive use of the Easement area.

Section 5. Consideration

In consideration of the grant of the Easement, Grantee will pay to Grantor the amount of one hundred dollars (\$100) per annum during the initial term of the Easement and any extensions thereof, commencing on the first (1st) day of the first (1st) month following recordation of this Agreement (“Easement Consideration”).

Section 6. Maintenance and Repair

Grantee will be solely responsible to conduct such maintenance and repair of the Easement as it deems necessary or advisable to maintain the Easement in good condition and repair, including without limitation paving and fencing the Easement or a portion thereof; provided, however, that if any such maintenance or repair is required in whole or in part by any act or omission of Grantor, its successors, assigns, tenants, customers or invitees, or the customers and invitees of such tenants, Grantor will be responsible for the cost of such maintenance and repair.

Section 7. Insurance

Grantee shall at all times during the term of this Easement maintain and keep in force at all times comprehensive general liability insurance (or through an equivalent Joint Powers Authority providing such protection) covering public liability for personal injury, death, or property damage, arising from Grantee's use or maintenance of the Easement (including improvements thereupon) for at least One Million Dollars (\$1,000,000) combined single limit per occurrence for personal injury, death and property damage.

Section 8. Removal Obligation

Upon termination of this Agreement and upon the request of Grantor, Grantee shall remove any improvements constructed by it located within the Easement.

Section 9. No Impediment to Use

During the term of this Agreement, no walls, fences or barriers of any sort or kind whatsoever that prevent or impair the use of the Easement, or the exercise or performance of any of the Easement Purposes, will be constructed, maintained, or permitted on the Easement, or any portion thereof, by Grantor or Grantee.

Section 10. Successors and Assigns

The provisions of this Agreement are intended to and will run with the land, and, until their expiration or termination in accordance with the terms of this Agreement, will bind, be a charge upon and inure to the benefit of Grantor and Grantee, their respective successors and assigns.

Section 11. Indemnification

Grantee agrees to indemnify, defend and hold harmless Grantor, its agents, representatives, heirs, successors and assigns, against any and all claims, actions, or demands, costs or expense, including reasonable attorney's fees, arising out of or in any way connected to any activities of Grantee, its agents, representatives, assigns or invitees arising out of the use of the Easement, excluding therefrom claims resulting from the negligence or willful misconduct of Grantor.

Section 12. Attorney's Fees

If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party will be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorney's fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

Section 13. Notices

All notices given pursuant to this Agreement must be in writing and by personal delivery, U.S. Mail or established express delivery service, such as Federal Express, with postage or delivery charge prepaid, return receipt requested, and addressed to the person and address designated below:

To Grantor:

Brett Hodges
San Marcos Growers
4425 Via Esperanza
Santa Barbara, CA 93110

To Grantee:

District Superintendent
Santa Barbara Unified School District
720 Santa Barbara Street, Santa Barbara, CA 93101

With a copy to:

Griffith and Thornburgh, LLP
8 East Figueroa St. Suite 300
Santa Barbara, CA 93101

Section 17. Miscellaneous

This Agreement constitutes the entire agreement between Grantor and Grantee relating to the Easement. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement will be of no force and effect unless it is in writing and signed by Grantor and Grantee or their respective successors or assigns. This Agreement will be effective upon the date it is recorded.

Section 18. Signature/Counterparts

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth hereinabove.

GRANTOR:

Brian M. Hodges, Trustee; Brian M. Hodges Revocable Trust

Sharon H. Bradford, Co-Trustee; Sharon Hodges Hale Trust

Brett E. Hodges, Trustee; Brett E. Hodges Revocable Trust

GRANTEE:

Kate Parker
President, Santa Barbara Unified School District Board of Education

[Attach notarial acknowledgment]