

Recording Requested by and  
When Recorded Return to:

California State Coastal Conservancy  
1330 Broadway, 13<sup>th</sup> Floor  
Oakland, Ca 94612  
Attention: Legal Counsel [JJ]

*Recording Fees Exempt per Gov Code § 6103*

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APN: 4452-002-011

**CERTIFICATE OF ACCEPTANCE OF EASEMENT**  
(Ackerberg Public Access Easement)

This Certificate of Acceptance of Easement is made this <sup>Sept.</sup> 12<sup>th</sup> day of 2012 by the Mountains Recreation and Conservation Authority ("MRCA"), a local public entity established under the California Joint Powers Act.

**Pertinent Facts**

- A. The Mountains Recreation and Conservation Authority ("MRCA") is a local government public entity established pursuant to the California Joint Powers Act. The members of the MRCA are the Santa Monica Mountains Conservancy, a California state agency, and the Conejo Recreation and Park District and the Rancho Simi Recreation and Park District, both local park agencies established under California law. MRCA is dedicated to the preservation and management of local open space and parkland, watershed lands, trails, and wildlife habitat and manages and provides ranger services for public lands and parks that it owns and that are owned by other public agencies.
- B. The State Coastal Conservancy (the "Conservancy") is an agency of the State of California existing under Division 21 of the California Public Resources Code, which serves as a repository for interests in land whose reservation is required to meet the policies and objectives of the California Coastal Act (Division 20 of the California Public Resources Code) (the "Coastal Act") or a certified local coastal plan or program and whose statutory mandate includes the obligation to accept offers to dedicate public accessways required under the Coastal Act.
- B. The California Coastal Commission (the "Commission") is an agency of the State of California established pursuant to California Public Resources Code Section 30300 and is charged with primary responsibility for implementing and enforcing the Coastal Act.
- C. In 1985, Norman J. and Lisette Ackerberg, the then-owners of certain coastal property legally described as set forth in Exhibit A hereto (the "Property") in Malibu, California, executed and recorded an offer to dedicate a public access easement (the "OTD") across the Property as a condition to Coastal Development Permit No. 5-84-754, issued by the Commission. The

OTD was recorded on April 4, 1985 as Document No. 85 369283 of the Official Records of Los Angeles County and is attached hereto as Exhibit B.

- D. Access for All (“AFA”), a nonprofit corporation, created and existing under the laws of the State of California, accepted the OTD by executing and recording its Certificate of Acceptance as Document No. 03- 3801416 on December 17, 2003, in the Official Records of Los Angeles County.
- E. Under the terms of its Certificate of Acceptance, AFA held the public access easement (the “Easement”) created by its acceptance subject to the condition that should AFA fail to carry out its responsibilities to manage the Easement for the purpose of allowing public pedestrian access to the shoreline, then all of AFA's right, title and interest in the Easement would vest in the Conservancy (or another delegated entity) upon: (1) a finding by the Conservancy, made at a noticed public hearing, that AFA failed to carry out its responsibilities and (2) the recording of a Certificate of Acceptance by the Conservancy or a designated qualified entity.
- F. On September 22, 2011, following a noticed public hearing, the Conservancy determined that AFA had failed to carry out its responsibilities under the Certificate of Acceptance to manage the Easement and, accordingly, the Conservancy adopted a resolution which authorized the Conservancy’s Executive Officer to take all necessary steps (including the execution and recording of a Certificate of Acceptance) to vest all right, title and interest in the Easement in the Conservancy, or alternatively or subsequently, in another qualified entity designated by the Executive Officer of the Conservancy and acceptable to the Executive Director of the Commission.
- G. Following the September 22, 2011 public hearing, the Executive Officer of the Conservancy designated MRCA, whose purposes and powers include the holding, management and operation of lands for public recreational purposes, to accept the Easement. MRCA desires to take title to and to manage and operate the Easement.
- H. The Conservancy, MRCA and the Commission have agreed in writing to an unrecorded management plan for the Easement, dated July 25, 2012 (the “Management Plan”). Copies of the Management Plan, which may be amended upon the written agreement of all three parties, are maintained in the offices of the Conservancy and the Commission.
- I. The Conservancy and the Commission, independently, have found that the acceptance of the Easement by MRCA will serve to maintain public access to the coast, consistent with the objectives of California Public Resources Code Sections 30210 et seq., 30212.5, 30230, and 31400 et seq.

**NOW, THEREFORE, MRCA**, in light of the Pertinent Facts recited above, hereby accepts all right, title and interest in the Easement held by AFA, which was created by the OTD recorded on April 4, 1985, as Document No. 85 369283 in the Official Records of Los Angeles County and AFA’s acceptance of the OTD by recording its Certificate of Acceptance on December 17, 2003, as Document No. 03 3801416 in the Official Records of Los Angeles County, subject to the following terms and conditions:

1. MRCA covenants and agrees to use, maintain and operate the Easement solely for public access to the coast, consistent with the terms, conditions and restrictions of the OTD.
2. MRCA covenants and agrees to use, maintain and operate the Easement consistent with the Management Plan, as it may be amended from time-to time by written agreement of MRCA, the Conservancy and the Commission.
3. If MRCA ceases to exist, or fails to carry out its responsibilities under this Acceptance to use, maintain and operate the Easement as specified in paragraphs 1 and 2, above, then all of MRCA's right, title and interest in the Easement shall vest in the State of California, acting by and through the Conservancy, or its successor, upon acceptance by the Conservancy; provided, however, that the State, acting through the Executive Officer of the Conservancy or its successor agency, may designate another public agency or private association acceptable to the Executive Director of the Commission (the "Designee"), in which case vesting shall be in the Designee rather than the State. Notwithstanding the foregoing, the right, title and interest of MRCA in the Easement may not vest in the Conservancy or Designee except upon (1) a finding by the Conservancy, made at a noticed public hearing, that MRCA has ceased to exist, is no longer qualified as a holder of the Easements (or one of them) or failed to carry out its responsibilities; and (2) recordation by the State or the Designee of a Certificate of Acceptance, substantially in the form set forth in California Government Code Section 27281. Nothing herein shall prevent MRCA from transferring the Easement, to a qualified entity pursuant to the terms of the Easement and subject to the terms of the OTD, the terms of the Management Plan, the approval of the Commission and the Conservancy, and the terms and conditions of this Acceptance, thereby relieving itself of the obligation to manage, operate, and maintain the Easement under the terms of this Acceptance.

The signature of MRCA's authorized representative below certifies that MRCA accepts the Easement pursuant to authority conferred by the Board of Directors of MRCA on August 7, 2012, and MRCA consents to the recordation thereof by its duly authorized officer. In accepting the Easement, MRCA covenants and agrees to the terms and conditions set forth above.

**MOUNTAINS RECREATION AND CONSERVATION AUTHORITY**

By:   
RORIE SKEJ  
Its: Chief Deputy Executive Officer

Dated: September 12, 2012

ACKNOWLEDGMENT

STATE OF CALIFORNIA }ss  
COUNTY OF VENTURA }ss

On SEPT. 12, 2012, before me, MALA H PATEL, <sup>NOTARY</sup>~~PUBLIC~~  
personally appeared RORIE ANN SKEI,  
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~~ 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 is true and correct.

WITNESS my hand and official seal.



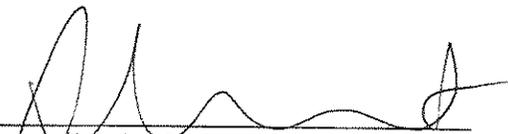
Signature Mala H Patel

(Notarial Seal)

ACKNOWLEDGMENT BY THE STATE COASTAL CONSERVANCY  
OF MRCA ACCEPTANCE OF EASEMENT

This is to certify that the State Coastal Conservancy, through its Executive Officer, has designated the Mountains Recreation and Conservation Authority as the public entity to hold all right, title and interest in the Easement created by the OTD recorded on April 4, 1985, as Document No. 85 369283 in the Official Records of Los Angeles County and the Certificate of Acceptance recorded on December 17, 2003, as Document No. 03 3801416 in the Official Records of Los Angeles County, pursuant to the determination made and authority conferred by the State Coastal Conservancy on September 22, 2011.

STATE COASTAL CONSERVANCY

By:   
Samuel Schuchat  
Its: Executive Officer

Dated: 8/28/12

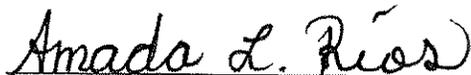
ACKNOWLEDGMENT

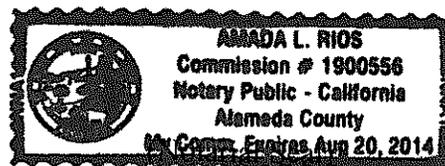
STATE OF California }ss  
COUNTY OF Alameda }ss

On August 28, 2012, before me, Amada L. Rios, personally appeared Samuel Schuchat, 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 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 is true and correct.

WITNESS my hand and official seal.

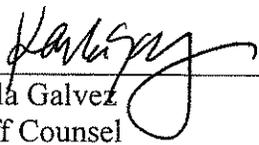
Signature 



ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION  
OF ACCEPTANCE OF EASEMENT

This is to certify that the Mountains Recreation and Conservation Authority is a public agency acceptable to the Executive Director of the California Coastal Commission to hold all right, title and interest in the Easement created by the OTD recorded on April 4, 1985, as Document No. 85 369283 in the Official Records of Los Angeles County and the Certificate of Acceptance recorded on December 17, 2003, as Document No. 03 3801416 in the Official Records of Los Angeles County.

**CALIFORNIA COASTAL COMMISSION**

By:   
Karla Galvez  
Its: Staff Counsel

Dated: August 14, 2012

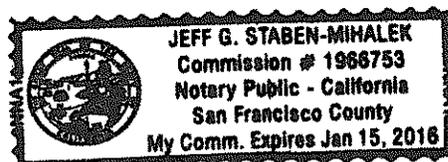
State of California  
County of San Francisco

On August 14, 2012 before me, Jeff G. Staben-Mihalek, a Notary Public, personally appeared Karla Galvez, 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)

## **Agreement: Interim Public Access Management Plan Ackerberg Easement, Malibu, CA**

This *Agreement: Interim Public Access Management Plan* ("Plan"), dated July 25, 2012, is entered into by and between the Mountains Recreation and Conservation Authority ("MRCA"), the State Coastal Conservancy ("Conservancy") and the California Coastal Commission ("Commission"), and concerns the acceptance and management by MRCA of a vertical access easement (the "Easement"). The Plan shall become effective on the recordation by MRCA of a Certificate of Acceptance ("Acceptance"), in the form approved by all parties.

### **Background**

The Easement was originally created by the recording of an acceptance, by a nonprofit organization, Access for All ("AFA"), of an Offer to Dedicate ("OTD") required as a development permit condition by the Commission. Following a public hearing in 2011, pursuant to the terms of AFA's acceptance of the Easement, the Conservancy authorized the divestment of all right, title and interest held by AFA in the Easement and the transfer of those rights to MRCA. In connection with MRCA's acceptance of the Easement, the Conservancy has retained a future contingent interest in the Easement.

To date, the Easement has not been developed or opened to the public, nor are any public access improvements in place. At present, certain encroachments constructed by the property owner ("Ackerberg") prevent the opening and development of the Easement. Various lawsuits ("Easement Litigation") related to the Easement, the encroachments and the failure of Ackerberg to allow development and opening of the Easement are currently pending, including: *Lisette Ackerberg et al. v. California Coastal Commission et al.*, Court of Appeal, Second Appellate District, No. B235351 (appeal fully briefed, awaiting appellate court decision); and *Access for All v. Lisette Ackerberg Trust, et al.*, Los Angeles Superior Court No. BC405058 (on hold pending resolution of the Ackerberg v. Commission lawsuit.)

### **Description of the Easement**

The Easement is ten feet in width, extends across the entire eastern boundary of the Ackerberg property at 22466-500 Pacific Coast Highway, Malibu and allows for public access from Pacific Coast Highway ("PCH") to the mean high tide line of Carbon Beach.

The Easement directly connects to 280 linear feet of public beach easement. At the shoreline, the Easement adjoins a lateral public access easement extending the length of the Ackerberg property. This lateral beach easement is held by the State Lands Commission and is 148.30 feet in length. The State Lands Commission also holds an adjacent 61.76 foot long public access beach easement, located directly west of the easement on the Ackerberg property. In addition, on the 70-foot-long parcel immediately to the east of the Ackerberg property, there is a recorded deed restriction dedicating lateral public access along Carbon Beach.

## **Interim Public Access Management Plan Ackerberg Easement**

### **Purpose of the Plan**

The purpose of the Interim Management Plan is to address the immediate obligations of MRCA in accepting the Easement and those obligations that MRCA will agree to take on after the Easement Litigation is resolved and all legal impediments to development and opening the of the Easement have been removed.

### **Obligations on Acceptance of the Easement**

MRCA agrees to hold the Easement for the purpose of public access to and along Carbon Beach and to take no action that will impair or adversely affect this overriding purpose of the Easement. In particular, MRCA will hold the Easement subject to the terms and provisions of the Acceptance, the OTD and this Plan.

MRCA shall not abandon the Easement, although it may transfer the Easement to another public entity or nonprofit organization which is qualified to hold the Easement, subject to the prior written approval of the Conservancy and the Commission, which may be conditioned on execution of an approved management plan with the transferee. Any attempted transfer without the prior approval of the Commission and Conservancy is void and without effect.

MRCA shall obtain the advance written approval of the Conservancy, through its Executive Officer, and the Commission, through its Executive Director, before MRCA undertakes, authorizes or permits any action or enters into any agreement or voluntarily participates in any litigation that may materially affect, alter, impair or delay the future use of the Easement for public access or the use of the Easement by the public or that may be inconsistent with the material terms of this Plan, the OTD and the Acceptance. The Conservancy and the Commission shall not unreasonably delay or withhold approval.

In the event that MRCA is required, by law or by judicial decision, to participate or join in litigation specifically related to the Easement by reason of its acceptance of the Easement or as holder of the Easement, the parties, in good faith and to the extent permitted by law, shall negotiate and enter into a joint litigation agreement, the purposes of which are to protect the shared interests of the parties in the Easement and, to the extent feasible, to reduce, limit or avoid any costs to MRCA of participation or joinder in the litigation.

### **Obligations on Removal of Impediments to Development of the Easement**

MRCA shall have no obligation to develop or improve the Easement for public access until the Easement Litigation is resolved by judicial decision or by agreement so that there remain no substantial legal impediments to development, improvement or opening of the Easement. At such time, the parties shall negotiate in good faith an amendment to this Plan that will address the respective obligations of the parties to undertake the following, as necessary, subject to availability of funding:

**Interim Public Access Management Plan  
Ackerberg Easement**

1. Preparation of a plan and design for improvement of the Easement for public access
2. Application for all permits necessary for implementation of the improvement, including any required environmental documentation under CEQA
3. Implementation of the improvement.

The Plan amendment shall also detail the obligation of MRCA to open, maintain and manage the Easement for public access, upon completion of the improvement of the Easement for public access. The amendment shall address: rules for the public use of Easement, signage, access and parking, maintenance, enforcement, and such other topics as the parties deem relevant.

**Retained Future Interest**

Should MRCA cease to exist or fail to carry out its responsibilities pursuant to this Plan as determined by the Executive Director of the California Coastal Commission or the Executive Officer of the State Coastal Conservancy, then all right, title, and interest in the Easement shall be vested in the State of California, acting by and through the State Coastal Conservancy or its successor in interest, or in another public agency or nonprofit organization designated by the State Coastal Conservancy that has agreed to accept the Easement. This future contingent interest shall be set forth in the Acceptance.

**Agreement**

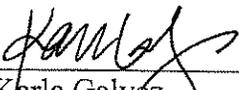
The foregoing is agreed to by and between MRCA, the Commission, and the Conservancy.

MOUNTAINS AND RECREATION CONSERVANCY AUTHORITY

  
\_\_\_\_\_  
By: RORIE SKEEL  
Its: Chief Deputy Executive Officer

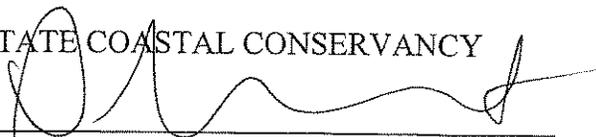
September 12, 2012  
Date

CALIFORNIA COASTAL COMMISSION

  
\_\_\_\_\_  
By: Karla Galvez  
Its: Staff Counsel

August 14, 2012  
Date

STATE COASTAL CONSERVANCY

  
\_\_\_\_\_  
By: Sam Schuchat  
Its: Executive Officer

8/28/12  
Date