



REAL ESTATE SERVICES

BERKELEY, CALIFORNIA 94720-1382

October 13, 2009


Helen Levay  
Manager- Real Estate Services

RE: **Delegation of Authority 2233 – *Negotiation, Approval and Execution of Real Property Easements and Rights of Way***

Effective immediately, I am re delegating to you in your position as Manager – Real Estate Services the authority to negotiate, and within parameters, to approve and to execute easements and rights of way for campus real property. Further parameters are specified in DA 2233, which is attached along with a copy of the re delegation letters from Chancellor Birgeneau and Vice Chancellor Denton.

This delegation supersedes DA 2117 on the same subject which was issued on January 28, 2004 to the Manager– Real Estate Services.

Please contact Campus Delegations of Authority Coordinator Cindy Major at 642-3115 or [cmajor@berkeley.edu](mailto:cmajor@berkeley.edu) with any concerns you may have regarding this delegation of authority.

  
Robert Hatheway  
Assistant Vice Chancellor – Real Estate Services

Attachments (2)

- cc: Associate Vice President – Capital Resources Management  
Coordinator – Universitywide Policies N. Capell w/o attaches  
Associate Chancellor B. FitzPatrick w/o attaches  
Director W. Riley, Audit & Advisory Services w/o attaches  
✓ Coordinator – Campus Delegations C. Major w/o attaches  
Vice Chancellor – Facilities Services Edward J. Denton w/o attaches



1111 Franklin Street  
 Oakland, CA 94607-5200  
 Phone: (510) 987-9074  
 Fax: (510) 987-9086  
<http://www.ucop.edu>

September 3, 2009

## ✓ CHANCELLORS

**INTERIM DIRECTOR – LAWRENCE BERKELEY NATIONAL LABORATORY  
 VICE PRESIDENT – AGRICULTURE AND NATURAL RESOURCES**

### Delegation of Authority--Negotiation, Approval, and Execution of Real Property Easements and Rights of Way

Standing Order of The Regents 100.4 (jj) authorizes the President to approve and execute licenses, easements, and rights-of-way with respect to (1) real property used or to be used for University-related purposes, or (2) University-related real property to be used by others.

Effective immediately, subject to the terms of the Standing Orders and to policies, procedures, and guidelines which may be established by the Office of the President, you are delegated authority to negotiate, and within the following parameters, to approve and execute easements and rights of way for University real property when such grants of easement and rights of way:

1. are (i) revocable on not more than 180 days' notice, or (ii) provide utility services exclusively to the University, regardless of revocability, or (iii) comprise not more than 5,000 square feet of University land;
2. are not conveyances of a fee interest in real property;
3. have a clear and determinable location based on a legal description with a map depicting the area, and a determination has been made by the campus planning office that the easement does not interfere with any existing or future campus land use;
4. do not involve the assumption by the University of liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests, except that this restriction does not apply if under the agreement the University assumes responsibility for liability resulting from the condition of licensed property which the University is obliged to maintain [Standing Order 100.4(dd)(9)]; and
5. are written on a form that has been approved by the Office of the General Counsel (OGC), and in particular contain language requiring that (i) the easement or right of way terminate following a period of non-use, (ii) the grantee quitclaims its interest upon termination, and (iii) the University has the unilateral right to relocate the easement or right of way to eliminate material interference with the University's land use.

You are further delegated authority to approve and execute ancillary documents, amendments, or other modifications to any easement and rights of way within the authority delegated herein.

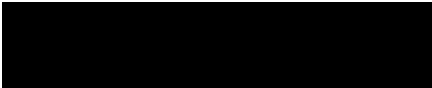
Easement and right of way agreements that do not meet these conditions must be submitted to the Office of the President, Real Estate Services Group (RESG) for approval by OGC and execution by the President. The RESG and OGC are available to consult on easements and rights of way negotiation and documentation. Each campus shall be the office of record for original executed copies of agreements pertaining to easements and rights of way and amendments thereto made under this delegation, except that original recorded documents shall be returned to the University for retention by the Secretary and Chief of Staff to The Regents.

Exercise of authority provided by this delegation shall be in accordance with policies, procedures and guidelines established by The Regents and the President, as they may be amended from time to time. The campus easement practitioner shall complete and maintain in the official easement file the attached checklist for easements and rights of way prepared pursuant to this delegated authority ("Easement Checklist").

Annually, by July 31<sup>st</sup>, you shall certify and submit to the RESG a report listing each easement or right of way approved and executed pursuant to this delegated authority during the preceding fiscal year, including the total square footage of executed agreements. The certification shall attest that all terms referenced in this delegation and the attached Easement Checklist have been met.

The authority provided by this delegation is broad and should be exercised with discretion. Therefore, redelegation should be limited to appropriate levels of authority. Any redelegation to the Vice Chancellor level and above shall be in writing with copies provided to the Associate Vice President – Capital Resources Management.

This delegation supersedes Delegation of Authority 2117 on this same subject issued on April 5, 2000 to Chancellors, the Laboratory Directors, and the Vice President--Agriculture and Natural Resources.

  
Mark G. Yudof  
President

Attachment

cc: Members, President's Cabinet  
Principal Officers of The Regents  
Vice President – Budget and Capital Resources  
Associate Vice President – Capital Resources Management  
Universitywide Policy Office

# EASEMENT CHECKLIST

## (Risk Mitigation and Policy Compliance)

All documentation relied upon to approve the transaction must be maintained in the campus project file. Authority to negotiate, approve and execute real estate related documents is subject to compliance with all UC policies and appropriate Delegations of Authority. Transaction authority and delegation links: [http://www.ucop.edu/facil/resg/documents/authority\\_real\\_estate.pdf](http://www.ucop.edu/facil/resg/documents/authority_real_estate.pdf)

CAMPUS: \_\_\_\_\_ TYPE OF EASEMENT:<sup>1</sup> \_\_\_\_\_

I. EASEMENT LOCATION \_\_\_\_\_

II. THE REGENTS AS:

- Grantor (i.e., servient tenement)
- Grantee (i.e., dominant tenement)
- Other (specify)  \_\_\_\_\_

III. EVALUATION & AUTHORIZATION

Check Done	Not Appl.	Date <sup>2</sup> (mo/day/yr)
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A. FINANCIAL

1. Confirmation of budgetary authority to acquire easement<sup>3</sup>
2. Appraisal of easement value prepared confirming price or cost to UC<sup>4</sup>
3. Accomodation fee included for small value easements where UC is Grantor

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

B. PHYSICAL

1. Campus Planning has determined that the easement is consistent with the LRDP<sup>5</sup>
2. EH&S review for public safety considerations depending on type and location of use
3. A&E review/oversight to the extent of construction on campus or by UC
4. A definitive legal description of the easement area is an exhibit to the easement<sup>6</sup>
5. For UC as Grantor, Grantee to be responsible for any damage to property

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

C. UC POLICY

1. For UC as Grantor, it is confirmed that a fee interest is not being transferred
2. Campus Risk Management approval of form of indemnity and insurance (incl. limits)
3. Records retention requirements satisfied consistent with BFB RMP-2<sup>7</sup>

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

D. LEGAL REQUIREMENT/REVIEW

1. If UC does work, Public Contract Code compliance confirmed per Facilites Manual
2. UC as Grantor, easement includes relocatability and termination for non use<sup>8</sup>
3. UC as Grantor, easement non-exclusive preserving UC use rights to extent feasible
4. Easement on standard form or approved as to legal form by OGC as required<sup>9</sup>
5. CEQA compliance affirmed<sup>10</sup>

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

\_\_\_\_\_  
**Certification of Campus Official**  
 (with delegated easement approval authority)

\_\_\_\_\_  
**Date**

<sup>1</sup> For example, access (specify any limits; e.g., pedestrian), utility (specify type; e.g., gas, water or data), open space or special purpose (specify).  
<sup>2</sup> The date on which the item has been determined in compliance (form completed as appropriate) or not applicable to this transaction.  
<sup>3</sup> Appropriate campus form/letter documenting internal approval and budget in campus project file.  
<sup>4</sup> Documented opinion of value consistent with the approach outlined on the RESG.OP Website.  
<sup>5</sup> For UC as Grantor, the location of the easement is not likely to conflict with any foreseeable use of the property by UC.  
<sup>6</sup> Metes and bounds description by licensed surveyor or equivalent of the permanent and temporary (construction) areas comprising the easement.  
<sup>7</sup> For any recorded easement, copies are to be provided to UC Secretary & Chief of Staff and to RESG/OP with Checklist  
<sup>8</sup> UC form of easement (RESG Website) provides for these rights which should be maintained regardless of form used.  
<sup>9</sup> Required for any easement whether UC is Grantor or Grantee (an approved standard form is not available as of Sept. 2009).  
<sup>10</sup> All appropriate CEQA documentation completed.