



MEMORANDUM

To: Parks and Recreation Committee Members

cc: Haidi Arias, Recreation Director; Amalia Kulczycki, Recreation Supervisor

From: Tracey Perkosky, Grants Manager 

Date: February 22, 2015

RE: Stabo Trust/ Hunt Ave Parcels 009-062-003 and 009-062-004

In 2005, following the death of Mrs. Marie Stabo, the City received two parcels of land to be used as parks and open space. In addition, the City received a \$30,000 gift to be used for upkeep, maintenance and repair of the property. That gift remains unused and with interest has grown modestly to \$35,353.32 (Fund 329) as of January 2016.

Staff wishes to move forward with new discussions with the Napa County Land Trust regarding some enhancements to the land. To help guide that conversation, staff is seeking direction on suggestions from the Parks and Recreation Commission and public for the enhancements which also keep within the limits of the Conservation Easement. This memo is intended to offer some framework for the Commission's discussion during the Special Meeting.

Attached to this memo are two maps and the Deed of Conservation Easement. Attachment 1 is a county parcel map which shows the location on Hunt Ave of parcels APNs 009-062-003 and -004, and Attachment 2 is the same map but showing an aerial photo view. The park parcels are noted with a yellow note. This park is known as the Hunt's Grove Park.

Attachment 3 is a copy of the Deed of Conservation Easement. Section 5 on page 3 of the attachment, outlines certain prohibited uses such as the subdivision of the parcels, commercial or industrial use, removal of native living trees except as necessary for hazards, use or activities that cause or would be likely to cause significant soil degradation or pollution and dumping of waste. Section 5(b) notes the following prohibition, which also offers some guidance on what may be permitted:

"The placement or construction of any buildings, structures or other improvements of any kind (including, without limitation fences, roads, parking lots, public and private utility lines or facilitates, mobile homes); provided that minimal improvements for passive recreation or park purposes, such as dirt or gravel walking paths, park benches, picnic tables, and trash receptacles may be placed or constructed on the Property, but only if the Grantor or Grantor's successor in interest obtains the prior written approval of Trust pursuant to paragraph 7 below."

Section 6 on pages 3 and 4 of the attachment discuss the Reserved Rights. This includes "passive recreation activities" (section 6(a)), "development and maintenance of structures and infrastructures necessary to support permitted uses, provided that the location, form, function, scale and construction of such facilities are consistent with paragraph 5 herewith and are designed in a manner consistent with this agreement" (Section 6(b)), and placement of benches or modest tables (Section 6(d)).

All requests must be made in writing to the Trust and a response is required within 60 calendar days of receipt of all completed documents. The Trust is tasked with determining which projects are allowed or what negative impact a proposed project has the conversation of the land.

Attachment 1



City of St. Helena



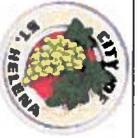
- Legend**
- Parcels
 - County Boundary

Notes

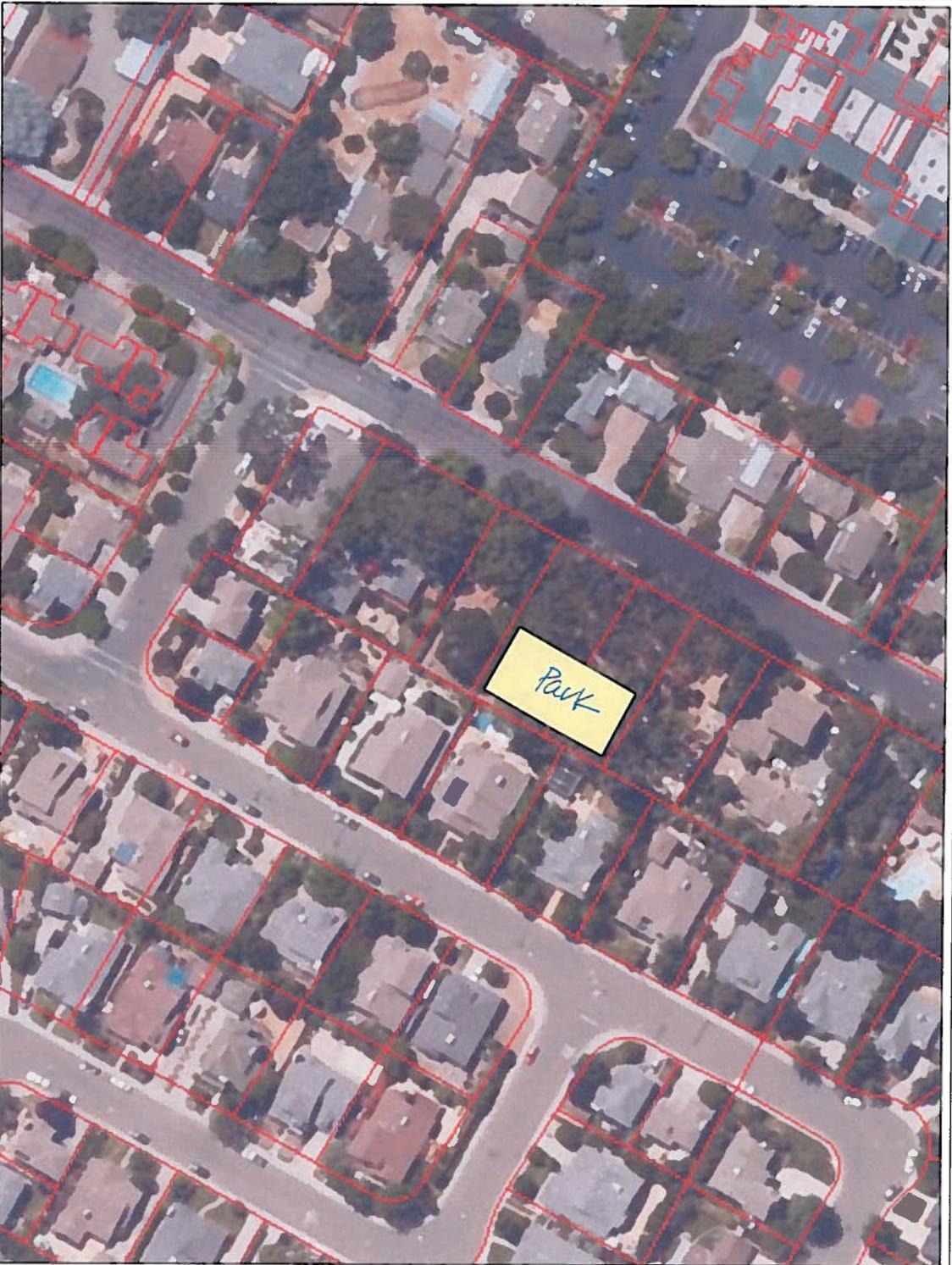
Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

This map was printed on 2/10/2016

Attachment 2



City of St. Helena



- Legend**
- Parcels
 - County Boundary

Notes

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

This map was printed on 2/10/2016

289.7

0

144.85

289.7 Feet

Attachment 3

CITY OF ST. HELENA

RESOLUTION NO. 2005-65

**ACCEPTING AN OFFER OF DEDICATION
OF THE STABO PROPERTY
LOCATED AT 847 HUNT AVENUE
(APNs: 009-062-003, 009-062-004)**

RECITALS

- A. In 1998, the *Stabo 1989 Revocable Trust* was amended to provide a testamentary gift of two lots (APNs: 009-062-003, -004) to the City of St. Helena for the benefit of the People of the City of St. Helena; and
- B. In addition to the testamentary gift, the Trust includes an endowment gift of \$30,000 cash to be used for upkeep, maintenance, and repair of the property; and
- C. In 1998, the Trust, was amended to create a conservation easement on the two parcels precluding any commercial or residential development; and
- D. On November 24, 1998, the City Council moved to accept the offer. Dedication of the property would not take place until Ms. Stabo's death. Mrs. Marie Stabo passed away on May 26, 2005.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

- 1. Accepts the attached dedication including conditions listed in the Deed of Conservation Easement.

Approved at a Regular Meeting of the St. Helena City Council on June 28, 2005 by the following vote:

AYES: Councilmembers Potter, Sklar, Novak, Schoch, Mayor Britton

NOES: None

ABSENT: None

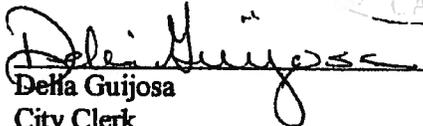
ABSTAIN: None

APPROVED:



Delferd Britton
Mayor

ATTEST:



Della Guijosa
City Clerk



RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

NAPA COUNTY LAND TRUST
1040 Main Street, Suite 203
Napa, California 94559
Telephone: (707) 252-3270

COPY

CONFIRMED COPY
NAPA COUNTY RECORDER
OFFICIAL RECORDS

Date Recorded _____

SEP 24 1998

1998-027801

APNs: 009-062-003
009-062-004

(Unimproved lots located on Hunt Ave within the
City of St. Helena, Napa County, California)

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

Deed of Conservation Easement

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 4th day of Sept. 1998, by JENNIFER Z. LAMB, as Conservator of the Estate of Marie W. Stabo, Conservatee ("Grantor"), pursuant to the Order of the Superior Court of California, County of Napa, in Case No. PR 25649, which Order was entered on July 14, 1998, in favor of NAPA COUNTY LAND TRUST, a California nonprofit corporation ("Trust").

RECITALS:

A. Grantor is the sole owner in fee simple of certain real property, in Napa County, California, commonly known as APNs 009-062-003 and 009-062-004, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Property possesses natural, scenic, open space, and recreational values (collectively, the "conservation values") of great importance to Grantor, the people of Napa County, and the people of the State of California.

C. The specific conservation values of the property are documented in an inventory of relevant features of the Property ("Baseline Documentation") on file at the offices of the Trust and incorporated herein by this reference, which consists of field reports, maps, photographs and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

D. Grantor intends that the conservation values of the Property be preserved and maintained by imposing certain prohibitions on land use and by engaging in land use practices permitted hereby.

E. The City of St. Helena General Plan has goals and policies developed to provide for adequate parkland within the City of St. Helena, specifically, it calls for the establishment of a citywide park system that meet a variety of needs ranging from passive use to active recreation sites.

F. The property possesses six Valley Oak trees (Quercus lobata) greater than 30 inches

dbh which are worthy of preservation. The City of St. Helena General Plan recognizes that the planting and preservation of trees enhances scenic beauty, increases life-giving oxygen, promotes ecological balance, promotes natural ventilation, air filtration, cooler streets and public spaces, erosion and acoustical controls, increases property values, and improves the well being and quality of life enjoyed by the residents of the City of St. Helena.

G. Grantor, as owner of the Property, is conveying to the Trust the right to preserve and protect the conservation values of the Property in perpetuity.

H. The Trust is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code, whose primary purpose is the preservation, protection and enhancement of land in its natural, scenic, historical, agricultural, forested and/or open-space condition.

I. By accepting this grant, the Trust is undertaking to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and generations to come.

J. To effectuate the intention of the parties, Grantor is giving the Trust a perpetual and irrevocable conservation easement in gross over the Property in order to create certain restrictive covenants and equitable servitudes, and to extinguish irrevocably and perpetually the right to develop the Property, except as expressly permitted in this grant.

AGREEMENT:

1. Grant of Easement: 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 Sections 815 et seq. of the California Civil Code, Grantor hereby grants and conveys to the Trust a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth (the "Easement").

2. Declaration of Permanent Restrictions. Grantor hereby undertakes and agrees that the Property shall be held, transferred, sold, conveyed, given, leased, occupied and used in the manner set forth below and subject to all of the restrictions, covenants, easements, equitable servitudes and affirmative obligations set forth in this Easement.

3. Purpose. It is the purpose of this Easement to preserve the conservation values of the Property forever and to prevent any use of the Property that will significantly impair or interfere therewith. Grantor intends that this Easement will confine the use of the Property to activities that are consistent with the purposes of this Easement.

4. Rights of the Trust. To accomplish the purpose of this Easement, the following rights are expressly conveyed to the Trust by Grantor:

- (a) To preserve and protect the conservation values of the Property.
- (b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and the Trust shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

- (c) To enjoin any activity on or use of the Property that is inconsistent with the purposes of this Easement and to require the restoration of such areas or features of the Property that have been damaged by any inconsistent activity or use, all as set forth in paragraph 8 below.

5. Prohibited Uses. Except as provided in paragraph 6 below, any activity on, or use of, the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as provided in paragraph 6 below:

- (a) The legal or de facto subdivision of the Property, including through the granting of certificates of compliance, for any purpose.
- (b) The placement or construction of any buildings, structures, or other improvements of any kind (including, without limitation, fences, roads, parking lots, public and private utility lines or facilities, mobile homes); provided that minimal improvements for passive recreation or park purposes, such as dirt or gravel walking paths, park benches, picnic tables, and trash receptacles may be placed or constructed on the Property, but only if Grantor or Grantor's successor in interest obtains the prior written approval of Trust pursuant to paragraph 7 below.
- (c) Any commercial or industrial use of, or activity on, the Property.
- (d) The felling or other destruction or removal of native living trees except as necessary to control or prevent hazards.
- (e) Any use or activity that causes or is likely to cause significant soil degradation, or erosion, or significant pollution of any surface or subsurface waters.
- (f) The dumping or other disposal of wastes, refuse, and debris on the Property.

6. Reserved Rights. Grantor reserves to herself, and to her successors and assigns, all rights accruing from her ownership of the Property, including the right to engage in, and permit, and invite others to engage in, all uses of the Property that are neither expressly prohibited herein nor inconsistent with the purpose of the Easement. In addition, Grantor shall be permitted to engage in the following activities, whether or not they are inconsistent with the purposes of this Easement or are expressly prohibited by paragraph 5 above; but when doing so, will make a good faith effort to minimize consequences that would impair or interfere with the conservation values of the Property. Subject to the foregoing, the following rights are expressly reserved:

- (a) All passive recreation activities.
- (b) Development and maintenance of structures and infrastructures necessary to support the permitted uses, provided that the location, form, function, scale and construction of such facilities are consistent with paragraph 5 herewith and are designed in a manner consistent with this Agreement.
- (c) An existing well on the Property may be used for residential purposes for the benefit of parcel 009-062-005 solely during the lifetime of the Grantor. Upon the death of the Grantor, all rights to the use of said well for the benefit of parcel 009-062-005

shall be extinguished.

- (d) The placement of benches or modest tables.

7. Request by Grantor of Intention to Undertake Certain Permitted Actions. The purpose of requiring Grantor to notify the Trust prior to undertaking certain activities is to afford the Trust an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Prior to undertaking any action which might have a significant adverse impact upon the conservation values that this Easement is intended to protect and at any time Grantor is uncertain as to the acts permitted or prohibited hereunder, Grantor shall solicit the approval of the Trust. Grantor shall submit a written description of the proposed action, which shall be referred to herein as an application, describing, the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Trust to make an informed judgment as to its consistency with the purpose of the Easement. Within thirty (30) calendar days of the receipt of the application, the Trust shall certify in writing, that the application is complete or will identify additional information required for a complete application. In the event the Trust reasonably determines that (i) the advice of a consultant such as an engineer, ecologist, attorney or surveyor is necessary to certify the application as complete or (ii) that more than ten (10) person hours of the Trust's personnel will be spent in a given year responding to one or more applications submitted by Grantor, a fee based upon the Trust's estimate of the costs of retaining such consultants plus the cost to the Trust of the time to be spent by its personnel in responding thereto (collectively the "Trust's Costs") shall be paid by Grantor upon receipt of notification of the amount thereof from the Trust. Should Grantor not elect to withdraw the application at that time, the time for certifying that the application is complete shall be extended until such consultants complete the work needed to make that certification. Upon completion by the Trust of its response to the application, the Trust shall submit a final statement setting forth the aggregate amount of the Trust's Costs and appropriate adjustments shall be made at that time.

7.1 Approval Criteria. The Trust's approval shall be based upon compliance with provisions of the Easement, the capability of the proposed action to preserve and enhance the conservation values protected by this Easement, the manner in which the proposed action is carried out, and the likely effect of the proposed action upon the conservation values of the Property. The Trust's approval may be withheld upon a good faith determination by the Trust that there is a significant risk that the action as proposed would be inconsistent with the purpose of this Easement.

7.2 Approval Process. The Trust shall grant or withhold its approval in writing, within sixty (60) calendar days of its certification of Grantor's application as complete. A failure by the Trust to grant or withhold approval within such 60 day period shall be deemed to constitute a rejection of the application. Following approval and upon completion of any such action on the Property, the Trust shall inspect the Property and, if the action was performed in accordance with the terms of the Easement, issue a certificate to that effect, dated at the time of inspection.

8. Compliance & Enforcement; Trust's Remedies. If the Trust determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, the Trust may give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within three (3) days after the receipt of notice thereof from the Trust, or under

circumstances where the violation cannot reasonably be cured within the three (3) day period, fail to begin curing, such violation within the three (3) day period, or fail to continue diligently to cure such violation until finally cured, the Trust may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, on reasonable notice or as is required by law, and by temporary or permanent injunction, to recover any damages for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to such injury. Without limiting Grantor's liability therefor, the Trust, in its sole discretion, may apply damages recovered to the cost of undertaking any corrective action on the Property. The Trust's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor and the Trust expressly agree that the Property, by virtue of its protected features, is unique and that the violation of this Easement and any ensuing harm or alteration of the Property will result in damages which are irremediable and not subject to quantification. Accordingly, Grantor agrees that the Trust's remedies at law for any violation of the terms of this Easement are inadequate and that the Trust shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the Trust may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies; provided, however, that Grantor is afforded due process of law in any such proceedings. The Trust's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8.1 Costs of Enforcement. The prevailing party to any litigation herein shall be entitled to costs incurred, including, without limitation, costs of suit and reasonable attorneys' fees.

8.2 No Waiver. The failure or refusal by the Trust to exercise any of its rights hereunder in the event of a breach by Grantor of any term hereof shall not constitute a waiver by the Trust of that or any other term of this Easement, all of which shall remain fully enforceable thereafter.

8.3 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle the Trust to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, the passage of legislation or regulation, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to persons or the Property resulting from such causes.

9. Public Access. No right of public access to any portion of the Property is conveyed by this Easement during the lifetime of Marie W. Stabo; provided, however, that upon the death of Marie W. Stabo, Grantor's successor or successors in interest may, but shall not be required to, grant reasonable public access to the Property or a portion thereof on such terms and conditions as Grantor's successor or successors in interest and the Trust may agree from time to time, provided that such access is consistent with the purposes and scope of the Easement.

10. Costs & Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property.

10.1 Taxes. Grantor retains all responsibilities to pay before delinquency all taxes, assessments, fees and charges of whatever description levied on or assessed against the Property

by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish the Trust with satisfactory evidence of payment upon request.

10.2 Hold Harmless. Grantor shall hold harmless, indemnify and defend the Trust and its members, directors, officers, employees, agents and contractors and their heirs, personal representatives, successors and assigns or each of them (collectively in this paragraph "indemnified parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or occurring on or about the Property unless due to the negligence or willful misconduct of any of the indemnified parties; (2) the obligations specified in paragraphs 10 and 10.1; and (3) the existence or administration of this Easement other than (a) the cost of routine administration thereof which shall be borne by the Trust and (b) any injury to or death of an indemnified party occurring during a monitoring inspection of the Property as a result of a cause other than the negligence or willful misconduct of the Grantor.

10.3 Insurance. Grantor agrees to take out, and keep in force, public liability and other insurance to protect Grantor against any liability to the public, whether to persons or property, incident to the use of or resulting from an occurrence in or about said premises. Such insurance shall be in the amount maintained by comparable properties for comparable uses, and in no case less than \$500,000 per occurrence.

10.4 Environmental Matters.

(a) **Hazardous Substance.** The term "Hazardous Substance" means (1) any chemical, compound, material, mixture, or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to any applicable federal, state, or local laws, regulations and ordinances, as a "hazardous substance," "hazardous material," "hazardous waste," "extremely hazardous waste," "infectious waste," "toxic substance," "toxic pollutant," or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or "EP toxicity," and (2) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, polluted waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal sources.

(b) **Representations and Warranty.** Grantor represents and warrants that, to the best of Grantor's knowledge, any handling, transportation, storage, treatment or usage of Hazardous Substances that has occurred on the Property to date has been in compliance with all applicable federal, state, and local laws, regulations and ordinances. Grantor further represents and warrants that, to the best of Grantor's knowledge, no leak, spill, release, discharge, emission, or disposal of Hazardous Substances has occurred on the Property to date and that the soil, ground water, and soil vapor on or under the Property is free of Hazardous Substances as of the date that this Easement is executed.

(c) **Indemnification.** Grantor agrees to indemnify, defend (with counsel selected by the Trust) and hold the Trust's Indemnified Parties harmless from any claims,

judgments, damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims) or loss, including attorney's fees, consultant fees and expert fees (consultants and experts to be approved by the Trust) which arise during or after the term of this Easement from or in connection with the presence or suspected presence of Hazardous Substances in the soil, ground water, or soil vapor on or under the Property, unless the Hazardous Substances are present solely as a result of the negligence or willful misconduct of the Trust's Indemnified Parties or unless the liability of one or more Indemnified Parties is based solely on an act, or failure to act, by one or more Indemnified Parties. Without limiting the generality of the foregoing, the indemnification provided by this paragraph shall specifically cover costs incurred in connection with any investigation of site conditions or clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of the presence or suspected presence of Hazardous Substances in the soil, ground water or soil vapor on or under the Property, unless the Hazardous Substances are present solely as the result of the negligence or willful misconduct of the Trust's Indemnified Parties. Without limiting the generality of the foregoing, the indemnification provided by this paragraph shall specifically cover costs incurred in connection with: (1) Hazardous Substances present or suspected to be present in the soil, ground water or soil vapor on or under the Property before the date this Easement is executed; or (2) Hazardous Substances that migrate, flow, percolate, diffuse, or in any other way move onto or under the Property after this Easement is executed; or (3) Hazardous Substances present on or under the Property as a result of any discharge, dumping, or spilling (accidental or otherwise) onto the Property during or after the term of this Easement, by any person, corporation, partnership or entity other than the Indemnified Parties.

11. **Extinguishment.** If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which the Trust shall be entitled, after the satisfaction of prior claims, from any sale, exchange or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by the laws of the State of California at the time, in accordance with paragraph 11.1. The Trust shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

11.1 **Proceeds.** This Easement constitutes a real property interest immediately vested in the Trust, which for purposes of paragraph 11, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h)(3) of the Internal Revenue Code of 1986, as amended. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

11.2 **Condemnation.** If the Property is taken, in whole or in part, by exercise of the power of eminent domain, the Trust shall be entitled to compensation as provided in paragraph 11.1 unless otherwise required in accordance with applicable law such value for purposes of compensation shall be that derived in Paragraph 11. 1 multiplied by the percentage of the Property condemned.

12. **Assignment.** This Easement is transferable by the Trust, but the Trust may assign its

rights and obligations under this Easement only to an organization that is a "qualified" organization at the time of transfer under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended (or any successor provisions then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under California Civil Code section 815.3 (or any successor provision then applicable). As a condition of such transfer, the Trust shall require the transferee to agree to perform all obligations of the Trust hereunder. In the event that the Trust is no longer authorized to hold conservation easements under California Civil Code section 815.3 (or any successor provision then applicable) it shall assign its rights and obligations under this Easement in accordance with this paragraph.

13. Subsequent Transfers. Grantor agrees that it and its successors and assigns shall incorporate the terms of this Easement in any deed or other legal instrument by which they transfer or divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to the Trust of the transfer of any such interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

14. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and the Trust may jointly amend this Easement; provided that no amendment shall be allowed that will adversely affect the qualification of this Easement or the status of the Trust under any applicable laws, including Section 815 et seq., of the California Civil Code or Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, and any amendment shall not harm the conservation values of and will be consistent with the purpose of this Easement, and shall not affect its perpetual duration. Any such amendment shall be in writing and be recorded in the official records of Napa County, California.

15. Subordination. Any financing lien or encumbrance shall be subordinate to this Easement.

16. Estoppel Certificates. Upon request by Grantor, the Trust shall within thirty (30) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be reasonably requested by Grantor.

17. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing, and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Jennifer Z. Lamb, Conservator
Marie W. Stabo Estate
P.O. Box 225
St. Helena, CA 94574

To the Trust:

Napa County Land Trust
1040 Main Street, Suite 203
Napa, CA 94559

or to such other address as either party from time to time shall designate by written notice to the other.

18. Recordation. The Trust shall record this instrument or a memorandum thereof in timely

fashion in the official records of Napa County, California, and may re-record it at any time as may be required to preserve its rights in this Easement.

19. General Provisions.

(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California.

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

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

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

(e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors. The term "Grantor" wherever used herein in connection with conditions, covenants and restrictions in this Easement and the term "Trust," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its successors and assigns, and the above-named Trust and its successors and assigns.

(g) Rights & Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or the Property, except Grantor's obligation to indemnify pursuant to paragraph 10.4 and Grantor's liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) 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.

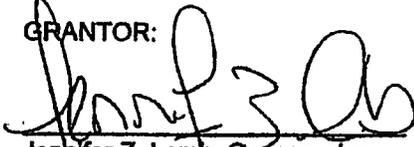
(i) Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, constitute one agreement signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(j) Chemicals and Hazardous Substances. The Trust shall have neither the authority to specify the chemicals or Hazardous Substances, as defined in paragraph 10.4(a) above, that may be used on the Property, nor the power to control, nor the responsibility for

monitoring their use. Grantor and successor owners, shall, however, comply with all laws and regulations applicable thereto and nothing herein shall diminish or impair the power of the Attorney General of the State of California, or other public agencies, from enforcing that obligation.

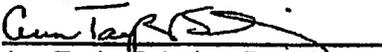
TO HAVE AND TO HOLD unto the Trust, its successors and assigns, WITNESS the following signatures.

Date: Sept. 4
~~August~~ __, 1998

GRANTOR:

Jennifer Z. Lamb, Conservator
of the Estate of Marie W. Stabo,
Conservatee

TRUST:

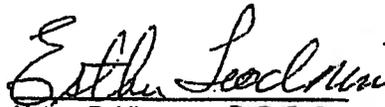
NAPA COUNTY LAND TRUST,
a Nonprofit California Corporation

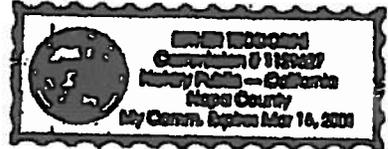
By: 
Ann Taylor Schwing, President

STATE OF CALIFORNIA)
) ss.
COUNTY OF NAPA)

On ~~August~~ Sept 4, 1998, before me, the undersigned notary public, personally appeared JENNIFER Z. LAMB, personally known to me or 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 the person executed the same in the person's authorized capacities, and that by the person's signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Notary Public



STATE OF CALIFORNIA)
) ss.
COUNTY OF NAPA)

On August 27, 1998, before me, the undersigned notary public, personally appeared ANN TAYLOR SCHWING, personally known to me or 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 the person executed the same in the person's authorized capacities, and that by the person's signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

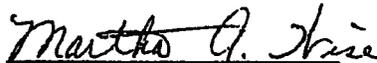

Notary Public



EXHIBIT A

Commencing at a point on the Southeastern line of the lands now or formerly of D.O. Hunt, distant thereon North 28 degrees East 705.40 feet from the point of Intersection thereof with the northeastern line of Edwards Street, and running thence North 28 degrees East, along said southeastern line of said lands of Hunt, 63.50 feet; thence North 62 degrees West 141.34 feet to the southeastern line of Hunt Avenue, extended northeasterly, thence South 28 degrees 28 minutes West, along last mentioned line, 63.50 feet; thence South 62 degrees East 141.33 feet to the point of commencement.

APN: 009-062-003

Commencing at a point on the Southeastern line of the lands now or formerly of D.O. Hunt distant thereon North 28 degrees East 818.90 feet from the point of Intersection thereof with the northeastern line of Edwards Street, and running thence south 28 degrees west along said southeasterly line of said lands of Hunt 50.0 feet; thence north 62 degrees west 141.34 feet to the southeastern line of Hunt Avenue, extended northeasterly; thence north 28 degrees 28 minutes east along last mentioned line 50.0 feet; thence south 62 degrees east 141.35 feet to the point of commencement.

APN: 009-062-004

COPY

THE STABO 1989 REVOCABLE TRUST

SECOND AMENDMENT TO THE STABO SURVIVOR'S TRUST

Notice is hereby given to Jennifer Z. Lamb, as Trustee of the Stabo Survivor's Trust, established under the terms of the Stabo 1989 Revocable Trust dated October 3, 1989, as amended on June, 1995, as follows:

The undersigned, JENNIFER Z. LAMB, is the duly appointed, qualified, and acting Conservator of the Estate of Marie W. Stabo, Conservatee (Superior Court of California, County of Napa, Case No. PR 25649).

On June 24, 1998, the Court made, and on July 14, 1998, entered, its Order authorizing and instructing the undersigned Conservator to amend the Survivor's Trust as set forth herein. A copy of said Order is attached hereto as Exhibit A.

Acting pursuant to the authority granted in said Order and under Paragraph C of Article II of the Stabo 1989 Revocable Trust, the undersigned hereby amends the Survivor's Trust as follows:

1. Paragraph B of Article V of the Stabo 1989 Revocable Trust dated October 3, 1989, is hereby deleted in its entirety and is replaced with the following:

"B. Termination of Survivor's Trust.

1. Specific Gift of Lots. On the Surviving Trustor's death, the Trustee shall distribute to the CITY OF ST. HELENA, California, subject to all encumbrances, easements, and other matters of record, all of the Survivor's Trust's interest, if any, in the following parcels of real property located in the State of California, County of Napa, City of St. Helena, consisting of two unimproved parcels more particularly described as follows:

Commencing at a point on the Southeastern line of the lands now or formerly of D.O. Hunt, distant thereon North 28 degrees East 705.40 feet from the point of intersection thereof with the northeastern line of Edwards Street, and running thence North 28 degrees East, along said southeastern line of said lands of Hunt, 63.50 feet; thence North

62 degrees West 141.34 feet to the southeastern line of Hunt Avenue, extended northeasterly, thence South 28 degrees 28 minutes West, along last mentioned line, 63.50 feet; thence South 62 degrees East 141.33 feet to the point of commencement.

APN: 009-062-003

Commencing at a point on the Southeastern line of the lands now or formerly of D.O. Hunt distant thereon North 28 degrees East 818.90 feet from the point of intersection thereof with the northeastern line of Edwards Street, and running thence south 28 degrees west along said southeasterly line of said lands of Hunt 50.0 feet; thence north 62 degrees west 141.34 feet to the southeastern line of Hunt Avenue, extended northeasterly; thence north 28 degrees 28 minutes east along last mentioned line 50.0 feet; thence south 62 degrees east 141.35 feet to the point of commencement.

APN: 009-062-004

Provided, however, that in the event the CITY OF ST. HELENA accepts the foregoing gift and does not disclaim it, then the Trustee shall also distribute to the CITY OF ST. HELENA the cash sum of THIRTY THOUSAND DOLLARS (\$30,000), to be held, maintained, and invested as a segregated endowment fund to be used solely for the upkeep, maintenance, and repair of said property. In the event the CITY OF ST. HELENA disclaims all or any portion of said gift, such property and cash, or the portion so disclaimed, shall be distributed to the NAPA COUNTY LAND TRUST, a California nonprofit corporation, IN TRUST, to be held and administered for the purposes, and on the same terms and conditions, set forth in that certain Deed of Conservation Easement recorded in the Official Records of Napa County, California, on September 24, 1998, as Instrument No. 1998-027801. This Trust is transferable by the the NAPA COUNTY LAND TRUST, but only to an organization that is a "qualified" organization at the time of transfer under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended (or any successor provisions then applicable), and the applicable regulations promulgated thereunder. As a condition of such transfer, the transferee must agree to perform all obligations of the NAPA COUNTY LAND TRUST hereunder.

2. Surviving Spouse's General Power of Appointment. Upon the Surviving Trustor's death, the Trustee shall distribute any remaining balance of the Survivor's Trust not otherwise distributed as provided in Subparagraph B.1 of this Article, including principal and accrued or undistributed income, to one or more persons and entities, including the Surviving Trustor's own estate, and on any terms and conditions, either outright or in trust, and in any proportion that the Surviving Trustor shall appoint by will or codicil specifically referring to and exercising this power of appointment.

3. Distribution on Default of Exercise of Power of Appointment. If and to the extent that the Surviving Trustor shall not have effectively disposed of all remaining property of the trust estate of the Survivor's Trust through a valid and effective exercise of a power of appointment, the Trustee shall hold the remaining assets of the Survivor's Trust as a separate and independent trust and shall not combine the assets of the Survivor's Trust with the assets of the Exemption Trust, but shall distribute such remaining assets in the same manner as the Exemption Trust, that is, as provided in subparagraph C.2 of this Article.

The undersigned hereby confirms each and every provision of the Survivor's Trust except to the extent modified above.

Dated: October 29, 1998


Jennifer Z. Lamb, Conservator of the Estate
of Marie W. Stabo (Surviving Trustor)

The undersigned Trustee of the Stabo Survivor's Trust hereby acknowledges receipt of the foregoing notice of amendment of the Stabo Survivor's Trust.

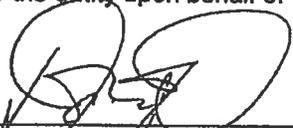
Dated: October 29, 1998


Jennifer Z. Lamb, Trustee

STATE OF CALIFORNIA)
) ss.
COUNTY OF NAPA)

On October 29, 1998, before me, David A. Diamond, the undersigned notary public, personally appeared JENNIFER Z. LAMB, personally known to me or 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 the person executed the same in the person's authorized capacities, and that by the person's signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public

