

RESOLUTION NO. 3169-2008

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL CONDITIONALLY ACCEPTING
GRANT OF ACCESS EASEMENT FROM TRADEWINDS LODGE AND AUTHORIZING CITY
MANAGER TO EXECUTE CERTIFICATE OF ACCEPTANCE
(FOR PEDESTRIAN, BICYCLE AND LIMITED VEHICLE ACCESS)**

WHEREAS, the City of Fort Bragg, a municipal corporation ("City"), desires to acquire a permanent access easement for pedestrian and bicycle access from Highway 1 to an existing easement to Pomo Bluffs Park over property owned by Tradewinds Lodge, a California general partnership; and

WHEREAS, the permanent access easement will also allow limited vehicular access by City for purposes of public safety, and maintenance, repair or replacement activities on or over the easement; and

WHEREAS, Tradewinds Lodge has agreed to grant such access easement to City; and

WHEREAS, in order to obtain the desired easement rights, it is necessary for City to accept conveyance of said easement by formal action.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby accept conveyance of the access easement described in Exhibit "A", attached hereto, said acceptance being conditioned upon proper execution and deposit into escrow of a Grant of Permanent Access Easement from Tradewinds Lodge conveying said easement.

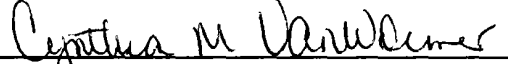
BE IT FURTHER RESOLVED that the City Manager of the City of Fort Bragg is authorized and directed to execute on behalf of the City of Fort Bragg a Certificate of Acceptance in a form attached to the Grant of Permanent Access Easement and the City Clerk is directed to forward same to the Mendocino County Recorder for recordation purposes.

The above and foregoing Resolution was introduced by Councilmember Melo, seconded by Councilmember Turner, and passed and adopted at a special meeting of the City Council of the City of Fort Bragg held on the 29th day of May, 2008, by the following vote:

- AYES:** Councilmembers Turner, Courtney, Gjerde, Melo, and Mayor Hammerstrom.
NOES: None.
ABSENT: None.
ABSTAIN: None.


DOUG HAMMERSTROM,
Mayor

ATTEST:


Cynthia M. VanWormer, CMC
City Clerk

WHEN RECORDED RETURN TO:

City Of Fort Bragg
Attn: Cindy VanWormer, City Clerk
416 N. Franklin Street
Fort Bragg, Ca 95437

EXHIBIT "A"

GRANT OF PERMANENT ACCESS EASEMENT

Exempt from recording fees per Govt. Code §6103.

Space above reserved for Recorder's use.

Documentary Transfer Tax -- \$0.00; conveyance to public agency; R&T 11922

APN: : 018-440-61-00 (a portion)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged:

Tradewinds Lodge, a California general partnership, acting through Dominic J. Affinito and Juliette C. Affinito as partners, hereinafter referred to as "**Grantor**"

HEREBY GRANTS TO the City of Fort Bragg, a public entity, hereinafter referred to as **Grantee**, its successors and assigns a permanent easement, hereinafter referred to as the "Easement", over, across and through certain real property, situated in the City of Fort Bragg, County of Mendocino, State of California, described as follows:

See Exhibit 1 for legal description of Easement.

The Easement conveyed hereunder shall be for:

- (a) a right of public pedestrian and bicycle use, access to and egress from the Easement;
- (b) a right to construct, maintain, repair and replace paths and signs in the Easement;
- (c) a right to restrict Grantor from engaging in any use of the Easement which would block, obstruct or alter access across and over the Easement
- (d) a right to mark the location of the Easement by small markers posts, or fences not to exceed three feet in height; and
- (e) a right for limited vehicular access by Grantee, or authorized agent of Grantee, for purposes of public safety and maintaining, repairing, or replacing improvements within the Easement.

Except for vehicular access described in (e), above, public access by motor vehicle is not permitted on the Easement.

Grantor hereby covenants and agrees that Grantor shall not fence said easement and access road.

This Easement shall be held and used for public access and scenic purposes and may not be amended, transferred or used as security for any debt without the written approval of the Executive Officer of the State Coastal Conservancy ("Conservancy"), which provided funds for its acquisition. In the event of any development, use or transfer of the Easement contrary to the provisions of this paragraph or to the terms of Grant Agreement No. 01-157 between the Grantee and the Conservancy, the Conservancy or another public agency or nonprofit organization designated by the Conservancy may enter and take title to the Easement in the same manner as is set forth in the Irrevocable Offers to Dedicate Title in Fee for acceptance of Pomo Bluffs Park, which Irrevocable Offers to Dedicate were recorded at the Mendocino County Recorder's Office on July 31, 2001, as Instrument No. 2001-14919, and on March 20, 2002, as Instrument No. 2002-06568.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

Date: _____

GRANTOR: Tradewinds Lodge, a general partnership

By: _____
Dominic J. Affinito, partner

By: _____
Juliette C. Affinito, partner

Note: This document may be executed in counterparts and if so executed shall constitute one document.

Notary Acknowledgment

State of California)
)
County of _____)

On _____, 2008, before me, _____, 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)

"EXHIBIT 1"

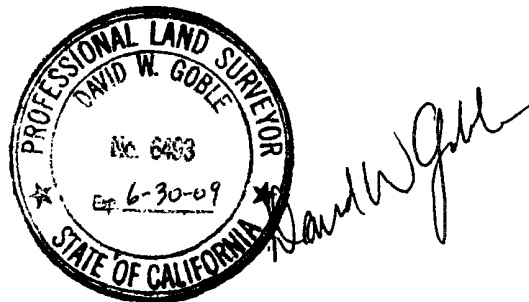
A Pedestrian and Bicycle Easement over and across the following described property:

Commencing at the northeast corner of "Todd Subdivision: as shown on that certain subdivision map filed for record April 17, 1952 in Map Case 1, Drawer 9, Page 79, Mendocino County Records, and also shown on that certain Record of Survey Map filed for record February 21, 1995 in Map Case 2, Drawer 60, Page 36, Mendocino County Records (said point of commencement also being the most northeasterly corner of Harbor Avenue as shown on the above mentioned maps). Thence along the easterly line of said "Todd Subdivision" and the easterly line of said Harbor Avenue, South 01° 09' 15" West, 273.10 feet; thence leaving said easterly line of said "Todd Subdivision" and Harbor Avenue, South 88° 50' 15" East, 405.12 feet, to a point in the westerly right of way of State Route 1; thence along said westerly right of way of State Route 1, North 08° 58' 15" East, 250.88 feet; thence, leaving said westerly right of way, North 81° 01' 45" West, 67.69 feet to a point on the westerly line of said parcel identified by Record of Survey filed on December 3, 1981 in Map Case 2, Drawer 38, Page 67, Mendocino County Records and The True Point of Beginning of this description; thence from said true point of beginning and along the exterior boundary lines of the parcel of land to be described as follows:

North 81° 01' 45" West, 23.42 feet; thence North 6° 25' 46" East, 70.00 feet; thence North 25° 45' 49" West, 64.71 feet to a point on the southerly boundary of the 50 foot wide Pedestrian Easement 2003-02378 Official Records, Recorded January 28, 2003 Mendocino County Records; thence along said southerly boundary of said 50 foot wide Pedestrian Easement, South 77° 38' 06" East, 50.00 feet to the southeast corner of said easement; thence South 6° 25' 46" West, 105.26 feet; thence South 81° 01' 45" East, 8.04 feet; thence South 5° 59' 41" West, 15.02 to the point of beginning.

Containing an area of .0653 Acres, more or less.

Being a portion of AP 18-440-61



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the attached instrument is hereby accepted by order of the Council of the City of Fort Bragg pursuant to Council Resolution No. 3169-2008 dated May 29, 2008, and grantee consents to recordation thereof by its duly authorized officer.

CITY OF FORT BRAGG, a municipal corp.

By: _____
Linda Ruffing, City Manager

Date: _____