



RESOLUTION NO. 189-2020

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

RESOLUTION OF NECESSITY

WHEREAS, the Diamond Springs Parkway Project is part of the Transportation and Circulation Element of the County General Plan consisting of a future four-lane divided roadway connecting Missouri Flat Road to State Route 49 (SR-49). The Diamond Springs Parkway Project includes realignment and widening of SR-49 between Pleasant Valley Road and Bradley Drive; and

WHEREAS, Phase 1B of the Diamond Springs Parkway Project (the “Project”) will construct a 4-lane minor arterial from a new Missouri Flat Road intersection south of Golden Center Drive to a new intersection at SR-49 south of Bradley Drive. The Project connects to the SR-49 prior improvements constructed in Phase 1A to create a continuous 4-lane roadway corridor with multimodal features from the intersection at Fowler Lane/SR-49 all the way to U.S. Highway 50. The Project includes new traffic signals at the intersections of Missouri Flat Road, Throwita Way and SR-49. Multimodal transportation features include Class II bike lanes, sidewalk, and transit bus turnouts on both sides of the Project; and

WHEREAS, the primary purpose of the Project is to improve traffic safety and operations on SR-49 and Missouri Flat Road in the vicinity of Diamond Springs. This existing corridor suffers from a higher than average number of traffic delays and traffic accidents. The Project will relieve traffic congestion and provide an acceptable level of service through the historic town of Diamond Springs consistent with the County General Plan. The Project is also anticipated to improve pedestrian safety, access to existing businesses, and reduce vibration and noise through the Diamond Springs historic district. Aesthetic improvements to the area include the undergrounding of existing overhead utilities, vintage style street light fixtures, and a sierra drystack stone surface treatment on retaining walls; and

WHEREAS, the requirements of the California Environmental Quality Act (“CEQA”) for the Project have been met. In May 2011, the Board of Supervisors certified the Final Environmental Impact Report and approved the Diamond Springs Parkway Project. In January 2016, the County circulated for public comment the Draft Supplement to the Diamond Springs Parkway Project 2011 Environmental Impact Report for Phase 1B Design Modification, which proposed modifications to Phase 1B of the Diamond Springs Parkway Project. In May 2016, the Board of Supervisors adopted the Final Supplement to the Diamond Springs Parkway Project 2011 Environmental Impact Report for Phase 1B Design Modification, and approved the Project; and

WHEREAS, the County of El Dorado (“County”) seeks to acquire two fee simple interests totaling 26,579 square feet, a slope and drainage easement and a public utility easement totaling 6,099 square feet, and a temporary construction easement totaling 4,918 square feet, in portions of the real property identified by Assessor’s Parcel Number 051-250-011, within the unincorporated area of El Dorado County. The first fee simple interest is more particularly described and depicted in the legal description and plat map, collectively attached hereto as Exhibit 1, and incorporated herein by reference. The second fee simple interest is more particularly described and depicted in the legal

description and plat map, collectively attached hereto as Exhibit 2, and incorporated herein by reference. The slope and drainage easement is more particularly described and depicted in the easement language, legal description and plat map, collectively attached hereto as Exhibit 3, and incorporated herein by reference. The public utility easement is more particularly described and depicted in the easement language, legal description and plat map, collectively attached hereto as Exhibit 4, and incorporated herein by reference. The temporary construction easement is for a period of 84 months from the effective date of possession, and covers a one-year warranty period, as more particularly described and depicted in the easement language, legal description, and plat map, collectively attached hereto as Exhibit 5, and incorporated herein by reference. These property interests are collectively referred to herein as the “Subject Property”; and

WHEREAS, an easement in favor of the United States Department of the Interior Bureau of Reclamation, Central Valley Project, California, dated June 19, 1962, is recorded against portions of the property identified by Assessor’s Parcel Number 051-250-011. The Project will not interfere with this federal easement; and

WHEREAS, the County has investigated and examined alternatives to the Project, and has considered whether the Project is planned or located in a manner that is the most compatible with the greatest public good and the least private injury; and

WHEREAS, the County is a political subdivision of the State of California and is vested with the power of eminent domain by virtue of Article 1, Section 19 of the Constitution of the State of California, Government Code section 25350.5 which authorizes the County Board of Supervisors to exercise the powers of eminent domain necessary to carry out any of the powers and functions of the County, the California Eminent Domain Law, Part 3, Title 7, of the Code of Civil Procedure, Sections 1230.010 *et seq.*, and Streets and Highways Code section 943 which authorize the County Board of Supervisors to acquire any property necessary for the use and purposes of county highways; and

WHEREAS, pursuant to Government Code sections 7267.1 and 7267.2, the Subject Property was appraised by an independent real estate appraiser and an amount believed to be just compensation was established by the County; and

WHEREAS, a written offer for the full appraised value was sent to the owner or owners of record pursuant to Government Code section 7267.2; and

WHEREAS, pursuant to the provisions of Code of Civil Procedure section 1245.235, written notice has been sent by first-class mail to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll, to provide notice and a reasonable opportunity to appear and be heard before the Board of Supervisors on the following matters:

- a. Whether the public interest and necessity require the Project; and
- b. Whether said Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and
- c. Whether the Subject Property is necessary for the Project; and
- d. Whether the offer required by Government Code section 7267.2 has been made to all owners of record, unless the owner or owners could not be located with reasonable diligence.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of El Dorado, based on the staff report and other evidence presented at the hearing, hereby finds:

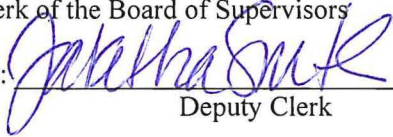
1. The public interest and necessity require Phase 1B of the Diamond Springs Parkway Project; and
2. The Subject Property is being acquired for a public use, namely, for transportation uses, and all uses necessary, incidental, or convenient thereto, and for all public purposes pursuant to the authority conferred upon the County to acquire property by eminent domain by virtue of Government Code section 25350.5, Article 1, Section 19 of the Constitution of the State of California, the California Eminent Domain Law, Part 3, Title 7, of the Code of Civil Procedure, Sections 1230.010 *et seq.*, and Streets and Highways Code section 943; and
3. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; and
3. The Subject Property, specifically two fee simple interests totaling 26,579 square feet, a slope and drainage easement and a public utility easement totaling 6,099 square feet, and an 84-month temporary construction easement that covers a one-year warranty period, totaling 4,918 square feet, in portions of the real property identified by Assessor's Parcel Number 051-250-011, within El Dorado County, as described and depicted in Exhibits "1", "2", "3", "4", and "5", attached hereto, is necessary for the Project; and
4. The offer required by Section 7267.2 of the Government Code has been made to all owners of record; and
5. The County has complied with all requirements set forth in Government Code section 7267.2; and
6. The requirements under the California Environmental Quality Act have been satisfied; and
7. Insofar as any portion of the Subject Property has heretofore been appropriated for public use, the Subject Property is being acquired for a compatible public use under Code of Civil Procedure section 1240.510 in that County's and State's use of the Subject Property will not unreasonably interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future, and alternatively, for a more necessary public use under Code of Civil Procedure section 1240.610 in that County's and State's use of the Subject Property is a more necessary public use than the use to which the Subject Property is appropriated; and
8. The County has complied with the provisions of Code of Civil Procedure section 1245.235 by providing each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in Code of Civil Procedure section 1240.030; and

BE IT FURTHER RESOLVED that outside counsel, Meyers Nave, is hereby authorized, with assistance of County Counsel, to proceed immediately with the commencement of an action for eminent domain pursuant to the Eminent Domain Law set forth in the Code of Civil Procedure, commencing with Section 1230.010 *et seq.*, for the acquisition of the Subject Property described and depicted in Exhibits "1", "2", "3", "4" and "5", attached hereto, and to deposit with the State Treasury the amount of probable just compensation established by an approved appraisal, which served as the basis for the offer made to the property owner.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 9th day of February, 2021, by the following vote of said Board:

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By:


Deputy Clerk

Ayes: Hidahl, Turnboo, Thomas, Parlin, Novasel
Noes: None
Absent: None


John Hidahl
Chair, Board of Supervisors

EXHIBIT 1

EXHIBIT 'A1'
(37729-1)

All that certain real property situate in Lot 5, Section 19, Township 10 North, Range 11 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of the parcel described in that certain document no. 2010-41446 filed in the official records of El Dorado County more particularly described as follows:


BEGINNING at the Northeast corner of that 13.81 acre Tract shown on that certain Record of Survey filed in Book 8 of Surveys, Page 85 in said county and state; thence along the southerly line of said parcel South 49°56'37" West, 94.48 feet; thence leaving said southerly line North 6°50'02" West, 123.95 feet; thence North 5°25'48" West, 101.54 feet to the northerly line of said parcel; thence along the northerly and easterly lines of said parcel the following two (2) courses: 1) North 84°57'38" East, 66.90 feet; 2) South 10°03'54" East, 171.87 feet to the POINT OF BEGINNING. Containing 14,727 square feet (0.34 acres) more or less.

-End of Description-

See Exhibit 'B1' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid north and is identical to that shown on that particular Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said parcel as a right of way for road purposes.



Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County
Department of Transportation

Date 11/6/19

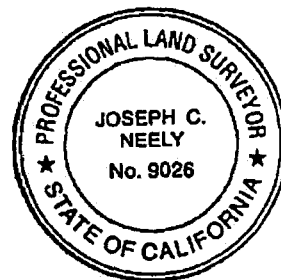
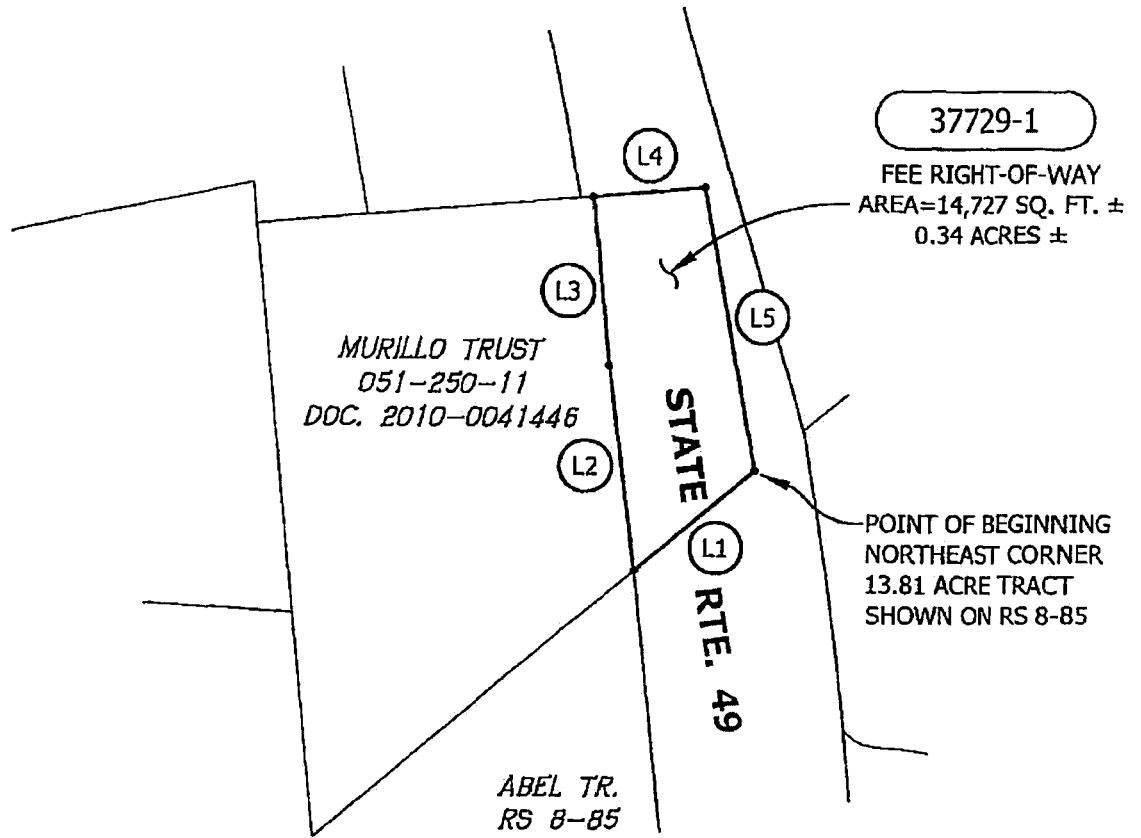


EXHIBIT 'B1'

Situate in Section 19, T. 10 N., R. 11 E., M.D.M.
County of El Dorado, State of California



- (L1) S 49° 56' 37" W 94.48'
- (L2) N 06° 50' 02" W 123.95'
- (L3) N 05° 25' 48" W 101.54'
- (L4) N 84° 57' 38" E 66.90'
- (L5) S 10° 03' 54" E 171.87'



Grid North
Scale 1"=100'

EXHIBIT 2

EXHIBIT 'A2'
(37729-2)

All that certain real property situate in Lot 5, Section 19, Township 10 North, Range 11 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of the parcel described in that certain document no. 2010-41446 filed in the official records of El Dorado County more particularly described as follows:

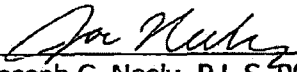
COMMENCING at the Northeast corner of that 13.81 acre Tract shown on that certain Record of Survey filed in Book 8 of Surveys, Page 85 in said county and state; thence along the southerly line of said parcel South 49°56'37" West, 148.22 feet to the TRUE POINT OF BEGINNING; thence along the southerly and westerly lines of said parcel the following two (2) courses: 1) South 49°56'37" West, 198.62 feet; 2) North 5°06'08" West, 145.60 feet; thence leaving said westerly line South 84°02'49" East, 165.87 feet to the TRUE POINT OF BEGINNING. Containing 11,852 square feet (0.27 acres) more or less.

-End of Description-

See Exhibit 'B2' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid north and is identical to that shown on that particular Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said parcel as a right of way for road purposes.



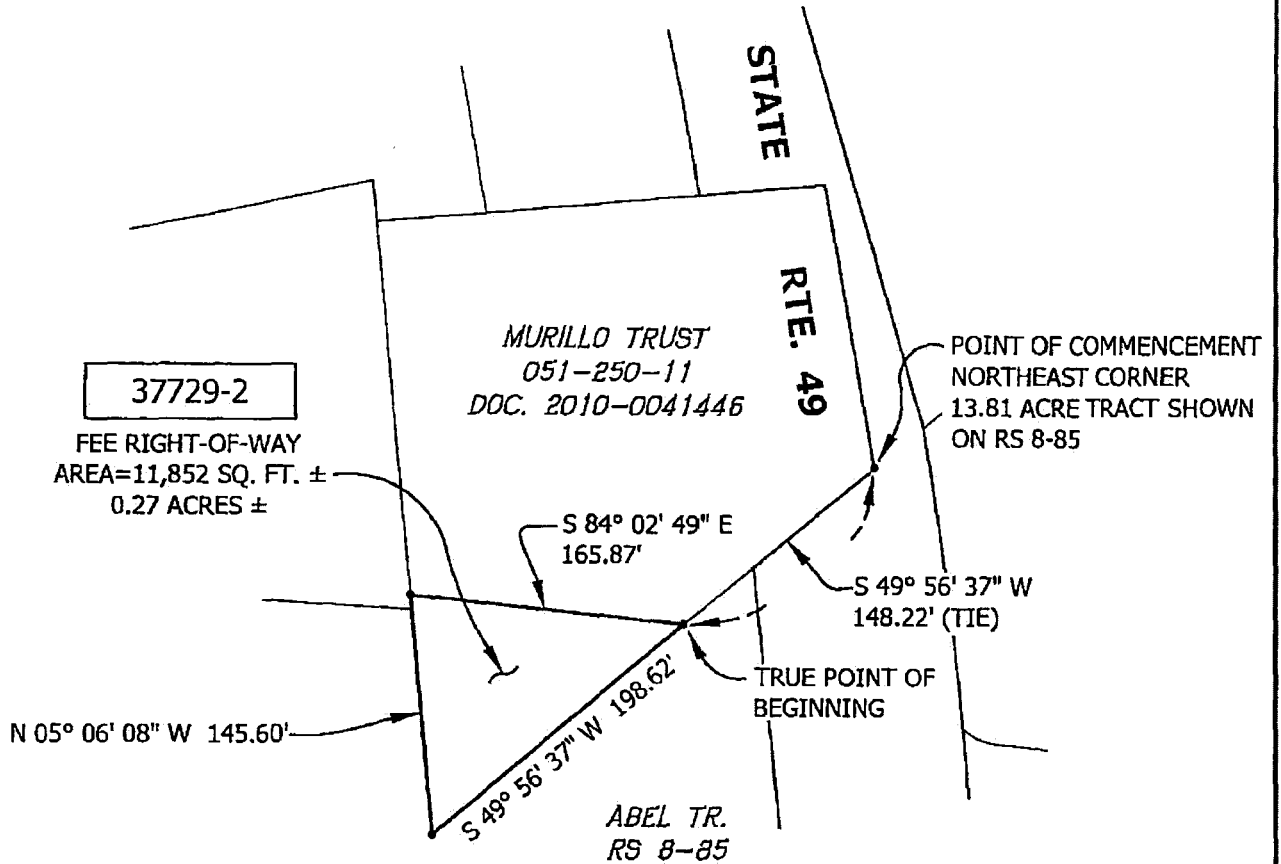
Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County
Department of Transportation

Date 11/6/19



EXHIBIT 'B2'

Situate in Section 19, T. 10 N., R. 11 E., M.D.M.
County of El Dorado, State of California



Grid North
Scale 1"=100'

EXHIBIT 3

EXHIBIT 3

SLOPE AND DRAINAGE EASEMENT

A slope and drainage easement for construction and maintenance of slope and drainage facilities together with any and all appurtenances appertaining thereto over, under, upon, and across a portion of all that certain real property situated in the unincorporated area of the County of El Dorado, State of California, described in Exhibit "A3" and depicted in Exhibit "B3", attached hereto and by reference made a part hereof.

EXHIBIT 'A3'
(37729-3)

All that certain real property situate in Lot 5, Section 19, Township 10 North, Range 11 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of the parcel described in that certain document no. 2010-41446 filed in the official records of El Dorado County more particularly described as follows:

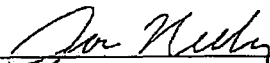
COMMENCING at the Northeast corner of that 13.81 acre Tract shown on that certain Record of Survey filed in Book 8 of Surveys, Page 85 in said county and state; thence along the southerly line of said parcel South 49°56'37" West, 94.48 feet to the TRUE POINT OF BEGINNING; thence continuing along said southerly line South 49°56'37" West, 53.74 feet; thence leaving said southerly line North 84°02'49" West, 165.87 feet to the westerly line of said parcel; thence along said westerly line North 5°06'08" West, 32.73 feet; thence leaving said westerly line South 84°02'49" East, 189.26 feet; thence North 49°56'37" East, 25.29 feet; thence South 6°50'02" East, 11.95 feet to the TRUE POINT OF BEGINNING. Containing 6,099 square feet (0.14 acres) more or less.

-End of Description-

See Exhibit 'B3' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid north and is identical to that shown on that particular Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said parcel as easements for 1) slope and drainage purposes and 2) public utilities purposes.



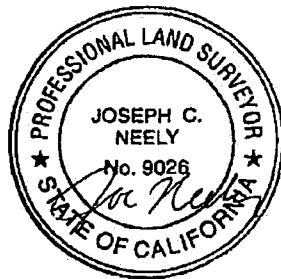
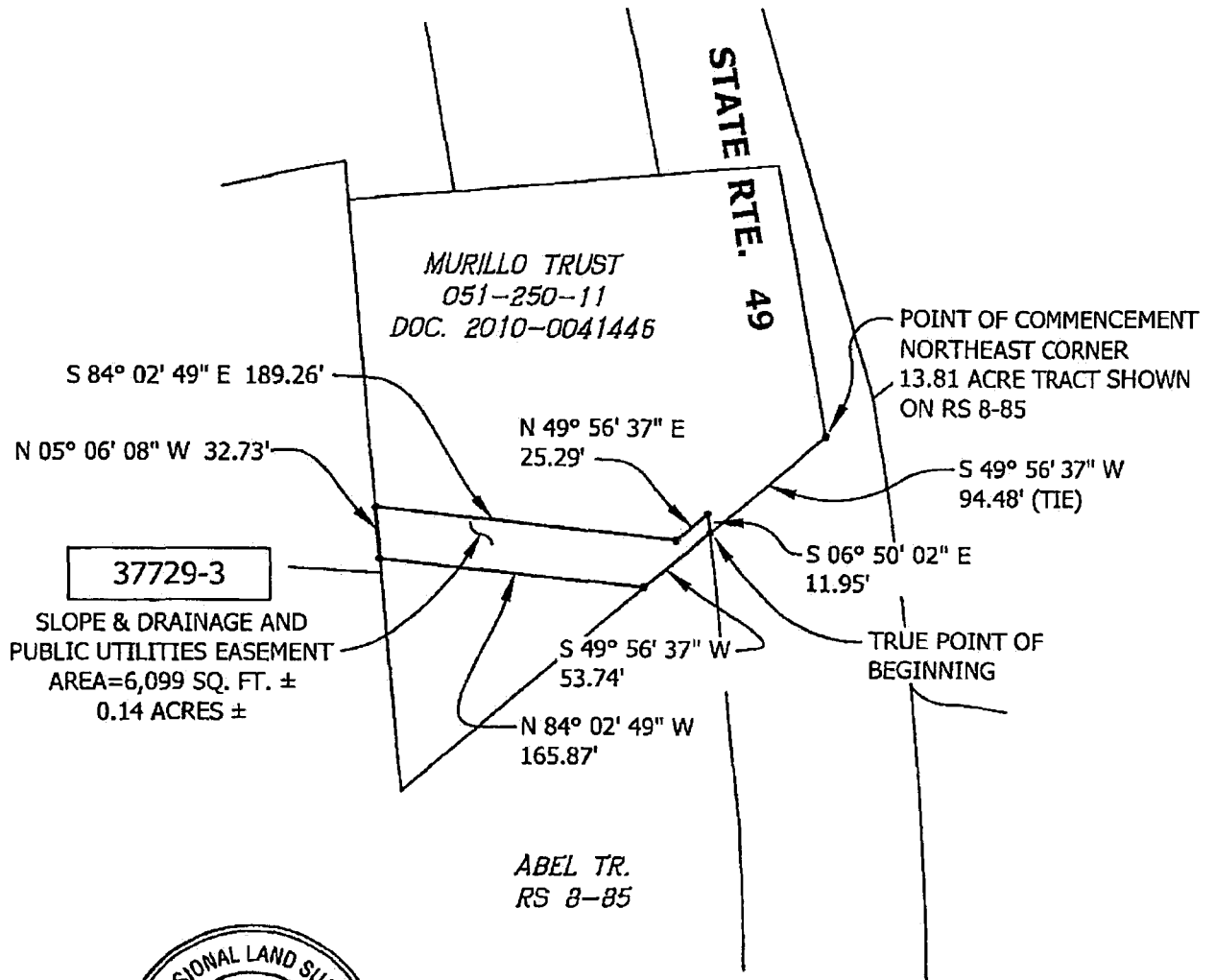
Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County
Department of Transportation

Date 11/6/19



EXHIBIT 'B3'

Situate in Section 19, T. 10 N., R. 11 E., M.D.M.
County of El Dorado, State of California



Grid North
Scale 1"=100'

EXHIBIT 4

EXHIBIT 4

PUBLIC UTILITY EASEMENT

A public utility easement over, upon, under, and across a portion of all that certain real property situated in the unincorporated area of the County of El Dorado, State of California, described in Exhibit "A3" and depicted in Exhibit "B3", attached hereto and by reference made a part hereof.

Said public utility easement shall include rights of way for water, sewer and gas, and for poles, guy wires, anchors, overhead and underground wires and conduits for electric, telephone and television cable services, with the right to trim and remove trees, tree limbs, and brush, together with any and all appurtenances appertaining thereto, over, under and across said parcel.

EXHIBIT 'A3'
(37729-3)

All that certain real property situate in Lot 5, Section 19, Township 10 North, Range 11 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of the parcel described in that certain document no. 2010-41446 filed in the official records of El Dorado County more particularly described as follows:

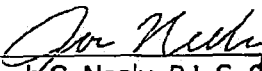
COMMENCING at the Northeast corner of that 13.81 acre Tract shown on that certain Record of Survey filed in Book 8 of Surveys, Page 85 in said county and state; thence along the southerly line of said parcel South 49°56'37" West, 94.48 feet to the TRUE POINT OF BEGINNING; thence continuing along said southerly line South 49°56'37" West, 53.74 feet; thence leaving said southerly line North 84°02'49" West, 165.87 feet to the westerly line of said parcel; thence along said westerly line North 5°06'08" West, 32.73 feet; thence leaving said westerly line South 84°02'49" East, 189.26 feet; thence North 49°56'37" East, 25.29 feet; thence South 6°50'02" East, 11.95 feet to the TRUE POINT OF BEGINNING. Containing 6,099 square feet (0.14 acres) more or less.

-End of Description-

See Exhibit 'B3' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid north and is identical to that shown on that particular Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said parcel as easements for 1) slope and drainage purposes and 2) public utilities purposes.



Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County
Department of Transportation

Date 11/6/19

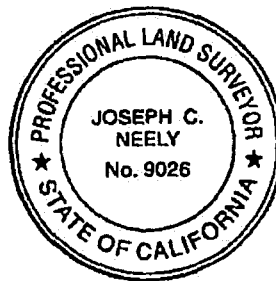
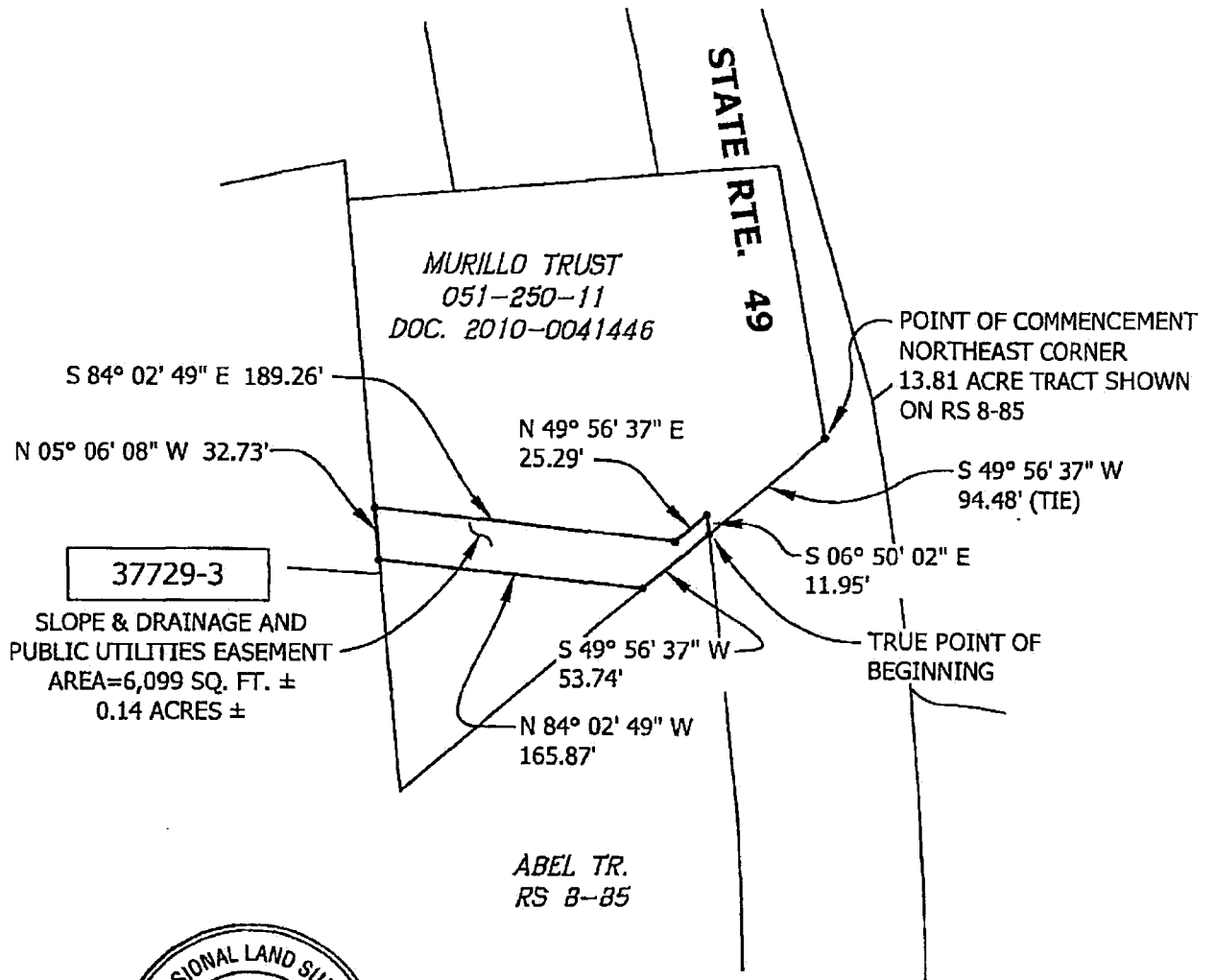


EXHIBIT 'B3'

Situate in Section 19, T. 10 N., R. 11 E., M.D.M.
County of El Dorado, State of California



37729-3
SLOPE & DRAINAGE AND
PUBLIC UTILITIES EASEMENT
AREA=6,099 SQ. FT. ±
0.14 ACRES ±

MURILLO TRUST
051-250-11
DOC. 2010-0041446

ABEL TR.
RS 8-85



Grid North
Scale 1"=100'

EXHIBIT 5

EXHIBIT 5

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement over, upon, and across a portion of that real property in the unincorporated area of the County of El Dorado, State of California, described in Exhibit "A4" and depicted in Exhibit "B4", attached hereto and by reference made a part hereof.

This temporary construction easement is necessary for the purpose of constructing the Diamond Springs Parkway Phase 1 B Project CIP No. 72334 (Project). Specifically, this temporary construction easement shall allow the County of El Dorado, its agents, employees, and contractors the right of ingress and egress as may be reasonably necessary for construction purposes, inclusive of such repairs, replacements, and removals as may be from time to time required as well as for other purposes incidental to construction of the project. Stockpiling or parking of vehicles or equipment is allowed to take place in this area. This temporary construction easement shall not be revoked and shall not expire until the recordation of the Notice of Completion of the Project. Included within this temporary construction easement is the right of ingress and egress of the County of El Dorado, its agents, employees, and contractors for warranty repairs and the correction of defects in the work within the first year following completion of construction. This right during the one-year warranty period survives the expiration of this easement.

The Temporary Construction Easement is for a period of 84 months from the effective date of possession of the property described in Exhibit "A4" and depicted in Exhibit "B4." Construction is anticipated to take 84 months. This Easement also covers a one-year warranty period.

The County of El Dorado agrees to indemnify and hold harmless the record owner of the property described in Exhibit "A4" and depicted in Exhibit "B4" from and against any liability arising out of the entry onto the property by Grantee or its agents, employees, and contractors during the term of this temporary construction easement. In the event of property damage, Grantee, at its sole option, may either repair the damage or pay the estimated costs for the repair.

EXHIBIT 'A4'
(37729-4)

All that certain real property situate in Lot 5, Section 19, Township 10 North, Range 11 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of the parcel described in that certain document no. 2010-41446 filed in the official records of El Dorado County more particularly described as follows:

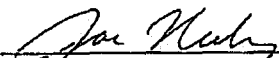
COMMENCING at the Northeast corner of that 13.81 acre Tract shown on that certain Record of Survey filed in Book 8 of Surveys, Page 85 in said county and state; thence along the southerly line of said parcel South 49°56'37" West, 94.48 feet; thence leaving said southerly line North 6°50'02" West, 11.95 feet to the TRUE POINT OF BEGINNING; thence South 49°56'37" West, 25.29 feet; thence North 84°02'49" West, 189.26 feet to the westerly line of said parcel; thence along said westerly line North 5°06'08" West, 10.19 feet; thence leaving said westerly line South 84°02'49" East, 159.17 feet; thence North 49°56'37" East, 45.58 feet; thence North 5°25'48" West, 185.91 feet to the northerly line of said parcel; thence along said northerly line North 84°57'38" East, 10.00 feet; thence leaving said northerly line South 5°25'48" East, 101.54 feet; thence South 6°50'02" East, 112.00 feet to the TRUE POINT OF BEGINNING. Containing 4,918 square feet (0.11 acres) more or less.

-End of Description-

See Exhibit 'B4' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid north and is identical to that shown on that particular Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said parcel as a temporary easement for construction purposes.



Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County
Department of Transportation



Date 11/6/19

EXHIBIT 'B4'

Situate in Section 19, T. 10 N., R. 11 E., M.D.M.
County of El Dorado, State of California

