

**ORIGINAL**

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

**EASEMENT ACQUISITION AGREEMENT FOR PUBLIC PURPOSES**

This Agreement ("Agreement") is made by and between THE COUNTY OF EL DORADO, a political subdivision of the State of California ("County"), and ROBERT E. NIXON AND JANET D. NIXON, TRUSTEES OF THE ROBERT E. AND JANET D. NIXON REVOCABLE TRUST, ESTABLISHED JUNE 15, 2005, referred to herein as ("Seller"), with reference to the following facts:

**RECITALS**

- A. Seller owns that certain real property located in El Dorado County, California, a legal description of which is attached hereto as Exhibit A (the "Property").
- B. County desires to purchase an interest in the Property as a Temporary Construction Easement (TCE) as described and depicted in Exhibit B and the exhibits thereto, all of which are attached hereto and referred to hereinafter as "the Easement Acquisition Property", on the terms and conditions herein set forth

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

## AGREEMENT

### 1. ACQUISITION

Seller hereby agrees to sell to County and County, upon approval by Board of Supervisors, hereby agrees to acquire from Seller, the Easement Acquisition Property, as described and depicted in the attached Exhibit B and the exhibits thereto. The terms of the TCE shall be those set forth in Exhibit B respectively, which is attached hereto and hereby incorporated by reference and made a part hereof.

### 2. JUST COMPENSATION

A) The just compensation for the Easement Acquisition Property is in the amount of **\$500.00 (Five Hundred Dollars, exactly)**. County shall pay Seller additional compensation for removal of one Jubatay (pampas grass) plant in the amount of **\$50.00 (Fifty Dollars, exactly)** and the purchase of one Pine tree (tag #1001) and one Oak tree (tag #1002) in the amount of **\$3,815.00 (Three Thousand Eight Hundred and Fifteen Dollars, exactly)**. Seller and County hereby acknowledge that the fair market value of the Easement Acquisition Property is \$500.00 for the real property interests and \$3,865.00 for the purchase of two trees and one plant removal, for total compensation in the amount of **\$4,365.00 (Four Thousand Three Hundred and Sixty Five Dollars, exactly)**.

B) In accordance with the Temporary Construction Easement, attached hereto and incorporated by reference herein, in the event that one or both of the two Oak trees (tag #1003 and tag #1004), as detailed in the terms of the TCE, and the attached Exhibit B and the exhibits thereto, do not survive three years after completion of the project County shall pay a maximum of \$2,000.00 for each tree that does not survive, up to a total maximum of \$4,000.00.

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

**3. ESCROW**

The acquisition of the Easement Acquisition Properties shall be consummated by means of Escrow No. 2133002346-MS, which has been opened at Old Republic Title Company ("Escrow Holder"). This Agreement shall, to the extent possible, act as escrow instructions. The parties shall execute all further escrow instructions required by Escrow Holder. All such further escrow instructions, however, shall be consistent with this Agreement, which shall control. The "Close of Escrow" is defined to be the recordation of the TCE from Seller to County for the Easement Acquisition Property. Seller and County agree to deposit in escrow all instruments, documents, and writings identified or reasonably required to close escrow. The escrow must be closed no later than July 31, 2007, unless the closing date is extended by mutual agreement of the parties pursuant to the terms of this Agreement.

**4. ESCROW AND OTHER FEES**

County shall pay:

- A. The Escrow Holder's fees; and
- B. Recording fees, if applicable; and
- C. The premium for the policy of title insurance, if applicable; and
- D. Documentary transfer tax, if any; and
- E. All costs of executing and delivering the TCE; and
- F. All costs of any partial reconveyances of deeds of trust, if any.

**5. TITLE**

Seller shall, by TCE, grant to County the Easement Acquisition Property, free and clear of title defects, liens, and encumbrances that would render the Easement Acquisition Property unsuitable for its intended purpose, as

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

outlined herein.

## 6. WARRANTIES

Seller warrants that:

- A. Seller owns the Property free and clear of all liens, licenses, claims, encumbrances, easements, and encroachments on the Property from adjacent properties, encroachments by improvements on the Property onto adjacent properties, and rights of way of any nature, not disclosed by the public record.
- B. Seller has no knowledge of any pending litigation involving the Property.
- C. Seller has no knowledge of any violations of, or notices concerning defects or noncompliance with, any applicable code statute, regulation, or judicial order pertaining to the Property.
- D. All warranties, covenants, and other obligations described in this Agreement section and elsewhere in this Agreement shall survive delivery of the TCE.

## 7. WAIVER OF AND RELEASE OF CLAIMS

This Agreement is full consideration for all claims and damage that Seller may have relating to the public project for which the Easement Acquisition Property is conveyed and purchased, and Seller hereby waives any and all claims of Seller relating to said project that may exist on the date of this Agreement.

## 8. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

**9. REAL ESTATE BROKER**

Seller has not employed a broker or sales agent in connection with the sale of the Easement Acquisition Property, and Seller shall indemnify, defend and hold the County free and harmless from any action or claim arising out of a claimed agreement by Seller to pay any commission or other compensation to any broker or sales agent in connection with this transaction.

**10. ITEMS TO BE DELIVERED AT CLOSE OF ESCROW**

- A. Seller shall execute and deliver to Escrow Holder the TCE for the Easement Acquisition Property prior to the Close of Escrow, for delivery to the County at Close of Escrow.
- B. County shall deliver to Escrow Holder prior to the Close of Escrow, for delivery or disbursement at Close of Escrow, funds in an amount equal to those shown in Section 2, together with County's Certificate of Acceptance to be attached to and recorded with the TCE.
- C. Escrow Holder shall:
  - (i) Record TCE for the Easement Acquisition Property described and depicted in Exhibit B and the exhibits thereto, together with County's Certificate of Acceptance.
  - (ii) Deliver the just compensation to Seller.

**11. TIME IS OF THE ESSENCE**

Time is of the essence to this Agreement. This Agreement may not be extended, modified, altered, or changed except in writing signed by County and Seller.

**12. BEST EFFORTS**

County and Seller shall act in good faith and use their best efforts after the effective date hereof to ensure that their respective obligations hereunder are fully and punctually performed. County and Seller

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

shall perform any further acts and execute and deliver any other documents or instruments that may be reasonably necessary to carry out the provisions of this Agreement.

**13. NOTICES**

All communications and notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given on the earlier of the date when actually delivered to Seller or County by the other or three (3) days after being deposited in the United States mail, postage prepaid, and addressed as follows, unless and until either of such parties notifies the other in accordance with this paragraph of a change of address:

**SELLER:** Robert and Janet Nixon  
3366 Wood Lane  
Cameron Park, CA 95682

**COUNTY:** County of El Dorado  
Board of Supervisors  
Attention: Clerk of the Board  
330 Fair Lane  
Placerville, CA 95667

**COPY TO:** County of El Dorado  
Department of Transportation  
Attn: R/W Program Manager  
2850 Fairlane Court  
Placerville, CA 95667

**14. BINDING EFFECT**

This Agreement shall be binding on and inure to the benefit of the parties to this Agreement, their heirs, personal representatives, successors, and assigns except as otherwise provided in this Agreement.

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

**15. GOVERNING LAW**

This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of California.

**16. HEADINGS**

The headings of the articles and sections of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

**17. WAIVER**

The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

**18. ATTORNEY'S FEES**

In any action or proceeding at law or in equity brought to enforce any provision of this Agreement, the prevailing party shall be entitled to all reasonable attorney's fees, costs, and expenses incurred in said action or proceeding.

**19. LEASE WARRANTY PROVISION**

Seller warrants that there are no oral or written leases on all or any portion of the Property exceeding a period of one month.

**20. EFFECTIVE DATE**

This Agreement shall be subject to the approval of the County's Board of Supervisors after due notice and in accordance with the provisions of applicable law.

Seller: Nixon  
APN: 083-243-03  
Project#: 72365  
Escrow#: 2133002346-MS

**21. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof. No amendment, supplement, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby.

**SELLER:**

**ROBERT E. NIXON AND JANET D. NIXON, TRUSTEES OF THE ROBERT E. AND JANET D. NIXON REVOCABLE TRUST, ESTABLISHED JUNE 15, 2005,**

Date: 5/7/07

By: Robert E. Nixon  
ROBERT E. NIXON, TRUSTEE

Date: 5/7/07

By: Janet D. Nixon  
JANET D. NIXON, TRUSTEE

**COUNTY OF EL DORADO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Helen K. Baumann, Chairman of the Board  
Board of Supervisors

ATTEST: CINDY KECK  
Clerk of the Board of Supervisors

By: \_\_\_\_\_



## **EXHIBIT A**

The land referred to is situated in the unincorporated area of the County of El Dorado, State of California, and is described as follows:

Lot 63, as shown on the Map entitled Air Park Estates and Resubdivision of Lot 459 of Cameron Park North Unit No. 1, filed in the Office of the County Recorder of El Dorado County, on February 14, 1967 in Book D of Maps at Page 78.

APN: 083-243-03-100

EXHIBIT "B"

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
County of El Dorado  
Department of Transportation  
Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667  
Assessor's Parcel Number: 083-243-03

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

Project: Cameron Park Drive/Oxford Road  
Intersection Signalization; Project #72365

TEMPORARY CONSTRUCTION EASEMENT

Robert E. Nixon and Janet D. Nixon, as Trustees of the Robert E. and Janet D. Nixon Revocable Trust, established June 15, 2005, hereinafter referred to as "Grantors", grant to the County of El Dorado, hereinafter referred to as "Grantee", a temporary construction easement over, upon, under, and across a portion of that real property in the unincorporated area of the County of El Dorado, State of California, described as:

See Exhibits A and B attached hereto and made a part hereof.

This temporary construction easement is granted under the express conditions listed below:

1. In consideration of \$500.00 (**Five-Hundred Dollars, exactly**) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantors do hereby grant to Grantee an easement for temporary construction over and across those identified portions of the Grantors parcel.
2. Grantors represent and warrant that they are the owners of the property described in Exhibit A and depicted on the map in Exhibit B attached hereto and made a part hereof, and that Grantors have the exclusive right to grant the temporary construction easement.
3. This temporary construction easement is necessary for the purpose of constructing the Cameron Park Drive/Oxford Road Intersection Signalization Project. Specifically, this temporary construction easement is necessary to allow Grantee or its agents, employees, and contractors from the date hereof as may be reasonably necessary for construction purposes, to include the right of ingress and egress, including such repairs, replacements, and removals as may be from time to time required. This temporary construction easement shall not be revoked and shall continue in full force and effect until the recordation of the Notice of Completion of the construction of the Cameron Park Drive/Oxford Road Intersection Signalization Project at which time the temporary construction easement shall terminate.
4. With this temporary construction easement is the right of the Grantee's Contractor to enter the property to make any warranty repairs or to correct defects in the work during the 1st year warranty period following the completion of construction. Tree's marked on Exhibit C, attached hereto and made a part hereof, that do not survive within three years of completion of the construction project, County shall reimburse the Grantors in the amount of \$2,000.00 (Two Thousand Dollars, exactly) per tree.
5. Grantee agrees to indemnify and hold harmless Grantors 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.

GRANTORS:

Robert E. Nixon and Janet D. Nixon, as Trustees of the Robert E. and Janet D. Nixon Revocable Trust, established June 15, 2005

Executed on this date: \_\_\_\_\_, 2007

\_\_\_\_\_  
Robert E. Nixon, Trustee

\_\_\_\_\_  
Janet D. Nixon, Trustee

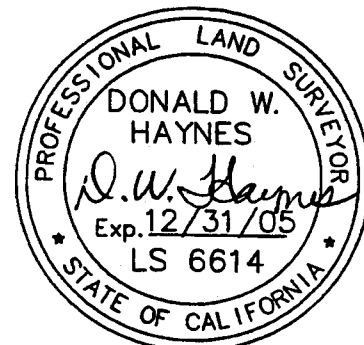
**EXHIBIT 'A'**  
**LEGAL DESCRIPTION**  
**TEMPORARY CONSTRUCTION EASEMENT**

All that portion of Lot 63, as said parcel is shown on the map recorded in Book D of Maps, at Page 78, in the office of the El Dorado County Recorder, being a portion of the southwest quarter of Section 34, Township 10 North, Range 9 East, M.D.M., unincorporated area of the County of El Dorado, State of California, and more particularly described as follows:

That portion of said lot lying northerly of a curve concentric with and 10 feet southerly of the northerly boundary, and its westerly continuation, containing 767 sq. ft., more or less.

See attached Exhibit 'B'

END OF DESCRIPTION.



11-29-05

EXHIBIT 'B'

OXFORD  
ROAD

WOOD  
LANE

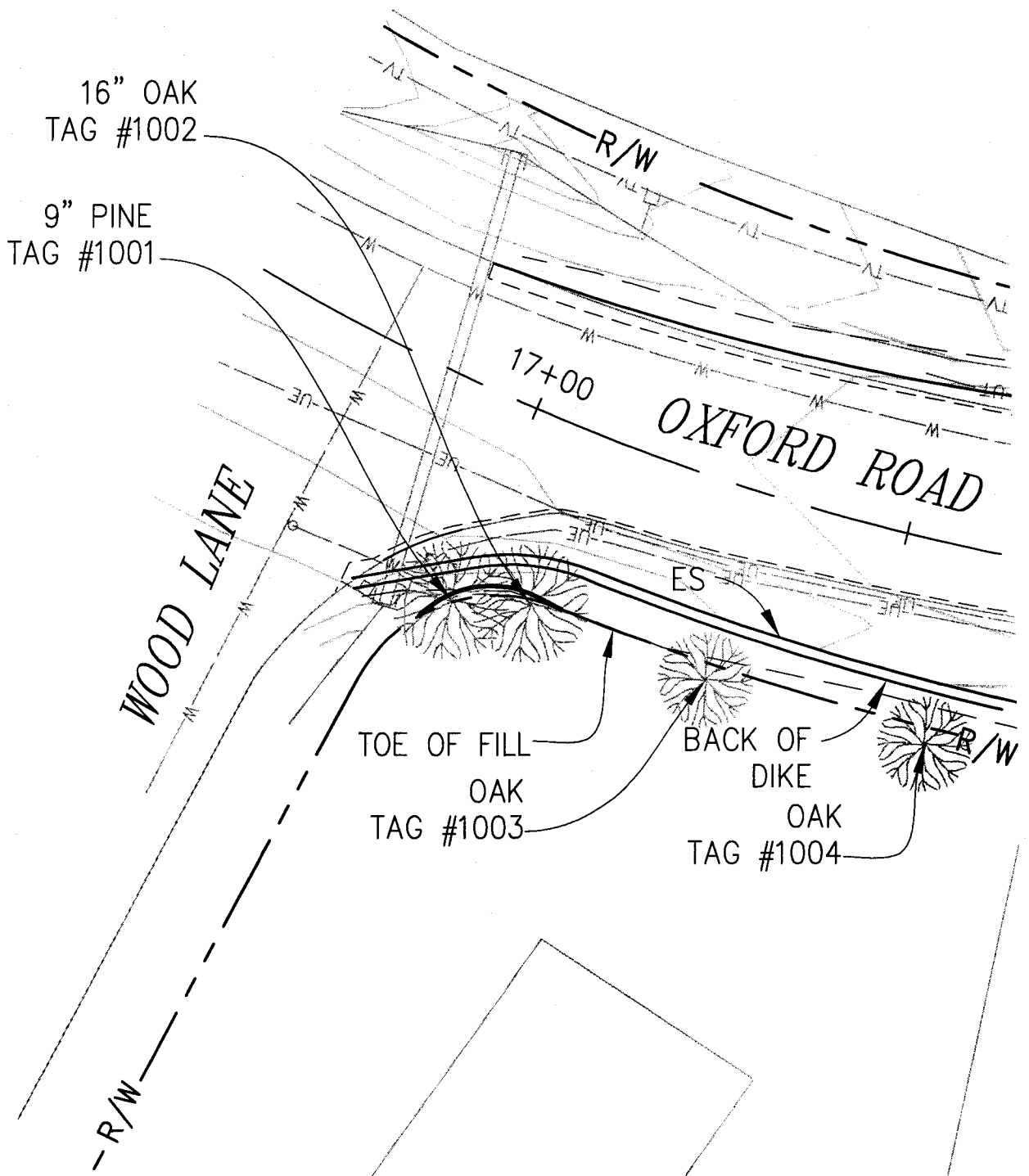
10'

D-78 LOT 63  
083:243:03



SCALE : 1" = 40'

# EXHIBIT 'C'



SCALE 1"=20'

NIXON  
D-78 LOT 63  
083:243:03

