

Seller: Auburn Lake Trails  
APN: 072-051-01  
Project#: 72304  
Escrow#: 205-15109

## 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 **AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION, A CALIFORNIA NON-PROFIT CORPORATION**, 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 Drainage Easement, as described and depicted in Exhibit B, and the exhibits thereto, which are attached hereto and referred to hereinafter as "the Easement", 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:

### 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, as described and depicted in the attached Exhibit B, and the exhibits thereto, which are attached hereto and hereby incorporated by reference and made a part hereof.

#### 2. JUST COMPENSATION

The just compensation for the Easement is in the amount of **\$500.00 for a Drainage Easement for a total of \$500.00 (FIVE HUNDRED DOLLARS, exactly)**. Seller and County hereby acknowledge that the fair market value of the Easement is \$500.00.

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### **3. ESCROW**

The acquisition of the Easement shall be consummated by means of Escrow No. 205-15109 for APN 072-051-01 which has been opened at Placer Title Company ("Escrow Holder"), 3860 El Dorado Hills Blvd., #502, El Dorado Hills, CA 95762 ; Attention: Becky Slak. 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 Easement. 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 December 30, 2012, 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 Easement; and
- F. All costs of any partial reconveyances of deeds of trust, if any.

### **5. TITLE**

Seller shall, by Grant of Drainage Easement, grant to County the Easement, free and clear of title defects, liens, and encumbrances that would render the Easement unsuitable for its intended purpose, as outlined herein.

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**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 Easement.

**7. POSSESSION**

It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this Agreement, the right to possession and use of the Easement by the County or County's contractors or authorized agents, for the purpose of performing activities related to and incidental to the construction of improvements to the Northside School Class I Bike Path Phase 1 Project #72304 (Project), inclusive of the right to remove and dispose of any existing improvements, shall commence upon the last date of execution of this Agreement by Seller and County. The amount of the just compensation shown in Section 2 herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.

**8. WAIVER OF AND RELEASE OF CLAIMS**

This Agreement is full consideration for all claims and damage that Seller may have relating to the

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public project for which the Easement 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.

**9. AGREEMENT DECLARING RESTRICTIVE COVENANTS (ADRC)**

Seller acknowledges that County will use federal funds for the acquisition of the land rights for this Project. County has entered into a Master Agreement, Administering Agency - State Agreement for Federal Aid Projects, Agreement No. 03-5925R, Effective February 13, 2007. County has agreed to comply with the terms and conditions of that Agreement, which include compliance with all Fair Employment Practices and with Nondiscrimination Assurances as are contained in said Master Agreement, including the addition of certain covenants as contained in the Easement Deed being conveyed by Seller, and as shown in Exhibit B and the exhibits thereto, attached hereto and incorporated by reference herein.

**10. 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.

**11. REAL ESTATE BROKER**

Seller has not employed a broker or sales agent in connection with the sale of the Easement, 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.

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

- A. Seller shall execute and deliver to Escrow Holder the Easement 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

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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 Easement.

C. Escrow Holder shall:

- (i) Record the Easement described and depicted in Exhibit B, and the exhibits thereto, together with County's Certificate of Acceptance.
- (ii) Deliver the just compensation to Seller.

**13. 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.

**14. 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 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.

**15. 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: Auburn Lake Trails Property Owners Association  
1400 American River Trail  
Cool, CA 95614**

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**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 Unit  
2850 Fairlane Court  
Placerville, CA 95667

**16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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

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in said action or proceeding.

**21. 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.

**22. 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.

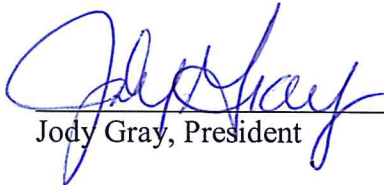
**23. ENTIRE AGREEMENT**

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.

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**SELLER: AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION, A  
CALIFORNIA NON-PROFIT CORPORATION**

Date: 10/10/12

By:   
Jody Gray, President

**COUNTY OF EL DORADO:**

Date: 11-13-12

By:   
**John R. Knight**, Chair  
Board of Supervisors

ATTEST: James S. Mitrison  
Clerk of the Board of Supervisors

By:   
Deputy Clerk



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF EL DORADO, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

**LOT A, OF AUBURN LAKE TRAILS UNIT NO. 1, FILED MARCH 19, 1970, IN BOOK E OF MAPS, AT PAGE 55, EL DORADO COUNTY, CALIFORNIA.**

**A.P.N. 072-051-01-100**

**EXHIBIT "B"**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

El Dorado County  
Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667  
APN: 072-051-01

\_\_\_\_\_  
Above section for Recorder's use

Mail Tax Statements to above.  
Exempt from Documentary Transfer Tax  
Per Revenue and Taxation Code 11922

**GRANT OF DRAINAGE EASEMENT**

**FOR VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, **AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION, A CALIFORNIA NON-PROFIT CORPORATION**, hereinafter referred to as "Grantor", grants to the **COUNTY OF EL DORADO, a political subdivision of the State of California**, a drainage easement for construction and maintenance of drainage facilities together with any and all appurtenances appertaining thereto, over, under, upon, and across a portion of all that certain real property situate in the unincorporated area of the County of El Dorado, State of California,

**DESCRIBED IN EXHIBIT 'A' AND DEPICTED IN EXHIBIT 'B' ATTACHED HERETO AND MADE A PART HEREOF, WHICH DESCRIPTION IS BY THIS REFERENCE INCORPORATED HEREIN.**

TO HAVE AND TO HOLD said lands and interests therein unto COUNTY OF EL DORADO and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on COUNTY OF EL DORADO, its successors and assigns.

COUNTY OF EL DORADO, does hereby covenant and agree as a covenant running with the land for itself, successors and assigns, that

(a) no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed; and

(b) COUNTY OF EL DORADO shall use the lands and interests in land so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as Regulations may be amended; and

**EXHIBIT "B"**

(c) in the event of breach of any of the above-mentioned nondiscrimination conditions, and only after determination that it is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed upon COUNTY OF EL DORADO's acquisition.

**IN WITNESS WHEREOF**, Grantor has herein subscribed their names on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**GRANTOR: AUBURN LAKE TRAILS PROPERTY OWNERS ASSOCIATION,  
A CALIFORNIA NON-PROFIT CORPORATION**

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

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

**Notary Acknowledgements Follow**

**Exhibit 'A'**  
**(36168-1)**

All that certain real property situate in Section 17, Township 12 North, Range 9 East, M.D.M., El Dorado County, State of California, being a portion of Lot A of that particular Subdivision Map filed in book E of Subdivision Maps at page 55, Auburn Lake Trails Unit No. 1, official records said county and state more particularly described as follows:

Beginning on the northerly right of way of State Highway 193, said county and state, from which the southwesterly corner of said Lot A bears the following three (3) courses: 1) along a curve to the left having a radius of 2,049.70 feet, though a central angle of 07° 13' 21", an arc length of 258.38 feet, said curve being subtended by a chord which bears South 50° 46' 52" West 258.21 feet; 2) South 47° 10' 11" West 466.02 feet; and 3) along a curve to the right having a radius of 2,049.70 feet, though a central angle of 01° 05' 22", an arc length of 38.97 feet, said curve being subtended by a chord which bears South 47° 42' 52" West 38.97 feet; thence from said POINT OF BEGINNING, leaving said right of way North 35° 36' 28" West 15.00 feet to the beginning of a curve to the right having a radius of 2,064.70 feet; thence along said curve through a central angle of 01° 06' 41" an arc length of 40.05 feet, said curve being subtended by a chord which bears North 54° 56' 53" East 40.05 feet; thence South 34° 29' 46" East 15.00 feet to said right of way and the beginning of a curve to the left having a radius of 2,049.70 feet; thence along said right of way and said curve through a central angle of 01° 06' 41" an arc length of 39.76 feet, said curve being subtended by a chord which bears South 54° 56' 53" West 39.76 feet to the POINT OF BEGINNING. Containing 599 square feet more or less. See Exhibit 'B', attached hereto and made a part hereof.

END OF DESCRIPTION

The basis of bearing for this description is CCS Zone 2 NAD83 grid north. All distances shown are grid distances. Divide distances by 0.9998518 to obtain ground distances

The purpose of this description is to describe that portion of said parcel as an easement for drainage purposes.



Loren A. Massaro P.L.S. 8117

Dated: 08.21.2012



# EXHIBIT 'B'

Situate in Section 17, Township 12 North, Range 9 East, M.D.M.  
 Being a portion of Lot A Subdivision E-55  
 Auburn Lake Trails Unit No. 1  
 El Dorado County State of California



Grid North  
 Scale 1"=100'

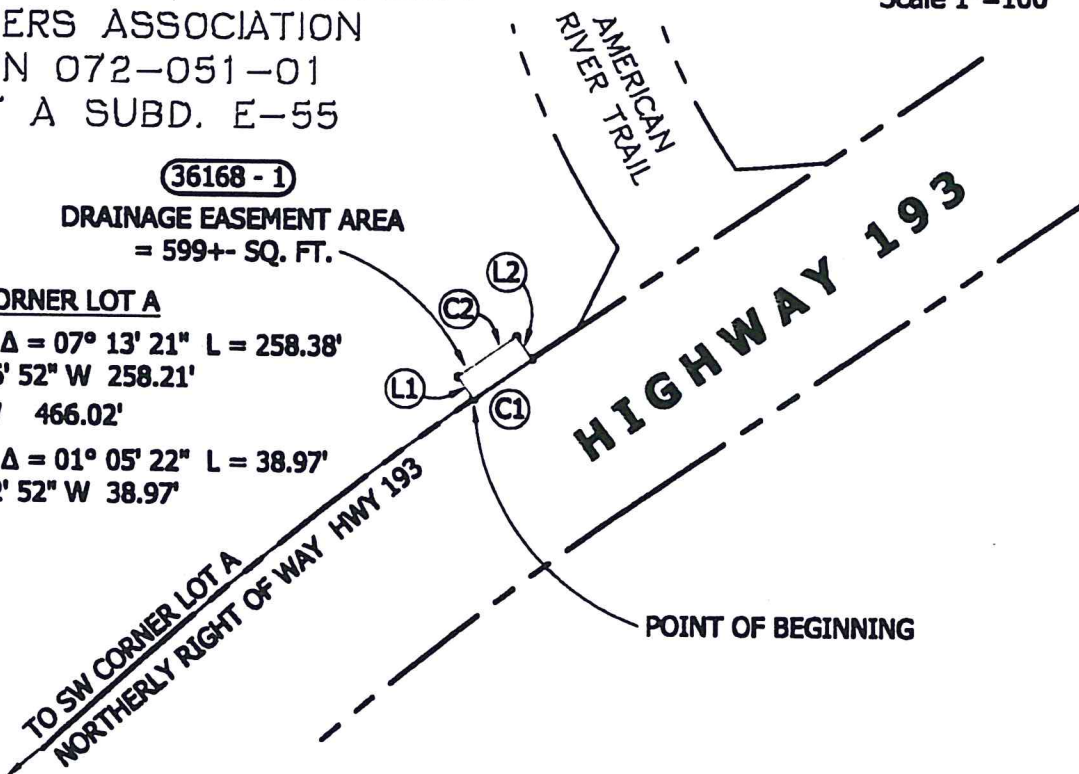
AUBURN LAKE TRAILS PROPERTY  
 OWNERS ASSOCIATION  
 APN 072-051-01  
 LOT A SUBD. E-55

**36168 - 1**

DRAINAGE EASEMENT AREA  
 = 599+- SQ. FT.

TIE TO SW CORNER LOT A

- 1) R = 2,049.70 Δ = 07° 13' 21" L = 258.38'  
 CH = S 50° 46' 52" W 258.21'
- 2) S 47° 10' 11" W 466.02'
- 3) R = 2,049.70 Δ = 01° 05' 22" L = 38.97'  
 CH = S 47° 42' 52" W 38.97'



- ⓐ R = 2,049.70 Δ = 01° 06' 41" L = 39.76'  
 CH = S 54° 56' 53" W 39.76'
- ⓑ R = 2,064.70 Δ = 01° 06' 41" L = 40.05'  
 CH = N 54° 56' 53" E 40.05'
- ⓓ N 35° 36' 28" W 15.00'
- ⓔ S 34° 29' 46" E 15.00'

