

Sellers: THERKILDSEN;
GASTALDI
APN: 321-040-17-100
Project#: 73360
Escrow#: 205-15193

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 **CRAIG THERKILDSEN AND POLLY GASTALDI, HUSBAND AND WIFE AS JOINT TENANTS**, referred to herein as ("Sellers"), with reference to the following facts:

RECITALS

- A. Sellers own that certain real property located in an unincorporated area of 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, as described and depicted in Exhibit B, and the exhibits thereto, which is 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

Sellers hereby agree to sell to County, and County, upon approval by Board of Supervisors, hereby agrees to acquire from Sellers, 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.

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2. JUST COMPENSATION

The just compensation for the Easement is in the amount of \$30.00 (Thirty Dollars and NO/CENTS) for a Temporary Construction Easement, **rounded to a Nominal Value of \$1,000.00 (One Thousand Dollars, exactly)**, which represents the total compensation to the Sellers.

3. ESCROW

The acquisition of the Easement shall be consummated by means of **Escrow No. 205-15193** for **APN 321-040-17-100** which has been opened at **Placer 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 Easement. Sellers 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 31, 2014**, 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

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- 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

Sellers shall, by Grant of 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.

6. AGREEMENT DECLARING RESTRICTIVE COVENANTS (ADRC)

Sellers acknowledge that County will use federal/state/local 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 14, 2007. County has agreed to comply with the terms and conditions of that Agreement, which include compliance with all Fair Employment Practices and with all Nondiscrimination Assurances as are contained in said Master Agreement, including the addition of certain covenants as contained in the Grant Deed and Easements being conveyed by Sellers, and as shown in Exhibit B, and the exhibits thereto, attached hereto and incorporated by reference herein.

7. WARRANTIES

Sellers warrant that:

- A. Sellers own 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.

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- B. Sellers have no knowledge of any pending litigation involving the Property.
- C. Sellers have 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.

8. 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 **Cold Springs Road Realignment Project, #73360**, inclusive of the right to remove and dispose of any existing improvements, shall commence upon the last date of execution of this Agreement by Sellers 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.

9. WAIVER OF AND RELEASE OF CLAIMS

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

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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

Sellers have not employed a broker or sales agent in connection with the sale of the Easement, and Sellers shall indemnify, defend and hold the County free and harmless from any action or claim arising out of a claimed agreement by Sellers 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. Sellers 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 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 Sellers.

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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 Sellers.

14. BEST EFFORTS

County and Sellers 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 Sellers 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 Sellers 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:

**SELLERS: CRAIG THERKILDSEN AND
POLLY GASTALDI
1311 Cold Springs Road
Placerville, CA 95667**

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

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COPY TO: County of El Dorado
CDA, Transportation Division
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 in said action or proceeding.

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21. LEASE WARRANTY PROVISION

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

22. CONSTRUCTION CONTRACT WORK

County or County's contractors or authorized agents shall, at the time of construction, perform the following construction work on the Sellers' remaining property:

- A. County or County's contractor or authorized agent will remove trees, shrubs or landscape improvements in conflict with the proposed road improvements to be constructed within the new right of way limits. Any trees that are 4 inches in diameter or greater will be removed, cut and placed within the new property line for the Sellers to use as firewood.
- B. County of County's contractor or authorized agent will remove existing fence and replace with new fencing of a like-kind material at approximately 6 inches inside new property line, where applicable.

All work done under this Agreement shall conform to all applicable building, fire and sanitary laws, ordinances, and regulations relating to such work, and shall be done in a good and workmanlike manner. All fencing, when removed and relocated, or reconstructed by County, shall be left in as good a condition as found. Sellers understand and agree that after completion of the work described, said fencing will be considered Sellers' sole property and Sellers will be responsible for its maintenance and repair.

23. PERMISSION TO ENTER FOR CONSTRUCTION PURPOSES

Permission is hereby granted to County, the County's contractor or its authorized agent to

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enter Sellers' Property, (**Assessor's Parcel Number 321-040-17-100**) where necessary, to perform the work as described in Section 22 of this Agreement.

24. 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.

25. 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.

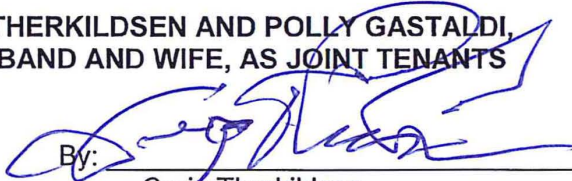
26. AUTHORIZED SIGNATURES

The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.


SELLERS:

**CRAIG THERKILDSEN AND POLLY GASTALDI,
AS HUSBAND AND WIFE, AS JOINT TENANTS**

Date: 10/10/14

By: 
Craig Therkildsen

Date: 10/10/14

By: 
Polly Gastaldi

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COUNTY OF EL DORADO:

Date: _____

By: _____
Board of Supervisors, Chair

ATTEST:

Clerk of the Board of Supervisors

By: _____
Deputy Clerk

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Order No. 205-15193
UPDATE
Version 2

EXHIBIT "A"
LEGAL DESCRIPTION

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

ALL THAT PORTION OF LOT 4 OF THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 10 EAST, M.D.B.&M., DESCRIBED AS FOLLOWS:

PARCEL 3, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF EL DORADO, STATE OF CALIFORNIA ON OCTOBER 26, 1987 IN BOOK 39 AT PAGE 127.

A.P.N. 321-040-17-100