

Sellers: FISH TRUST
APN: 089-060-18
Project#: 73360
Escrow#: 205-15196

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 **LARRY L. FISH AND KATHRYN E. FISH, TRUSTEES OF THE FISH FAMILY REVOCABLE LIVING TRUST, 7/10/2003**, 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 Right of Way 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.

Sellers *L. L. Fish* *K. E. Fish*

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2. JUST COMPENSATION

The just compensation for the Easement is in **the amount of \$1,700.00 (One Thousand Seven Hundred Dollars, exactly)** for a Right of Way Easement, which represents the total compensation to the Sellers.

3. ESCROW

The acquisition of the Easement shall be consummated by means of **Escrow No. 205-15196** for APN 089-060-18 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
- E. All costs of executing and delivering the Easement; and

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

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- 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.

10. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an

Sellers *BS* *K7*

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original and all of which together shall constitute one and the same instrument.

11. REAL ESTATE BROKER

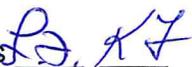
Sellers have not employed a broker or sales agent in connection with the sale of the Easement, and Sellers shall indemnify, defend and hold the County free and harmless from any action or claim arising out of a claimed agreement by Sellers to pay any commission or other compensation to any broker or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

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.

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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: LARRY L. FISH AND KATHRYN E. FISH, TRUSTEES OF
THE FISH FAMILY REVOCABLE LIVING TRUST, 7/10/2003
1244 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**

**COPY TO: County of El Dorado
CDA, Transportation Division
Attn: R/W Unit
2850 Fairlane Court
Placerville, CA 95667**

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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.

21. LEASE WARRANTY PROVISION

Sellers warrant that there are no oral or written leases on all or any portion of the Property

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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 any 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 enter Sellers' Property, (**Assessor's Parcel Number 089-060-18**) where necessary, to perform the work as described in Section 22 of this Agreement.

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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

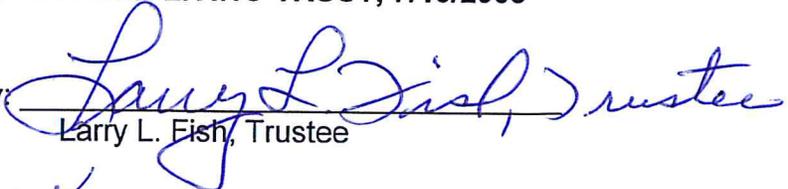
This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof. No amendment, supplement, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby.

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: **LARRY L. FISH AND KATHRYN E. FISH, TRUSTEES OF
THE FISH FAMILY REVOCABLE LIVING TRUST, 7/10/2003**

Date: 10/10/2014

By: 
Larry L. Fish, Trustee

Date: 10/10/2014

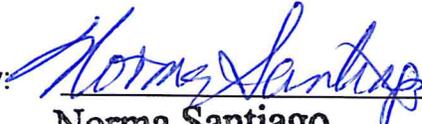
By: 
Kathryn E. Fish, Trustee

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COUNTY OF EL DORADO:

Date: 11-17-14

By: 
Norma Santiago, Chair
Board of Supervisors

ATTEST:


Clerk of the Board of Supervisors

By: 
Deputy Clerk

Order No. 205-15196
UPDATE
Version 3

EXHIBIT "A"
LEGAL DESCRIPTION

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

ALL THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 10 EAST, M.D.B.&M., LYING SOUTHERLY AND WESTERLY OF THE COUNTY ROAD FROM COLD SPRINGS TO GOLD HILL AND BEGIN MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND HEREIN DESCRIBED, A 1-1/4 INCH CAPPED IRON PIPE SITUATE IN THE SOUTH LINE OF THE ABOVE DESCRIBED SECTION 33, FROM WHICH THE SOUTHWEST CORNER THEREOF BEARS NORTH 87 DEG 45 1/2' WEST 1122.0 FEET, SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY CORNER OF THAT CERTAIN EXCEPTION, AS DESCRIBED IN BOOK 44 OF DEEDS AT PAGE 179, EL DORADO COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING AND ALONG THE EASTERLY LINE OF SAID EXCEPTION, NORTH 17 DEG 56' WEST 157.15 FEET TO A 1 1/4 INCH CAPPED IRON PIPE SITUATE ON THE SOUTHERLY FENCE LINE OF ABOVE DESCRIBED COUNTY ROAD; THENCE CONTINUING NORTH 17 DEG 56' WEST 14.4 FEET TO A POINT IN THE CENTERLINE OF SAID COUNTY ROAD, AS IT EXISTED IN FEBRUARY 1949; THENCE ALONG SAID CENTERLINE, SOUTH 87 DEG 33' EAST 92.77 FEET; THENCE SOUTH 86 DEG 57' EAST 86.80 FEET; THENCE SOUTH 74 DEG 42' EAST 66.35 FEET; THENCE SOUTH 58 DEG 45' EAST 298.06 FEET TO A POINT IN THE SOUTH LINE OF SAID SECTION 33, FROM WHICH THE SECTION CORNER COMMON TO SECTIONS 3 AND 4, TOWNSHIP 10 NORTH, RANGE 10 EAST, M.D.B.&M., BEARS SOUTH 87 DEG 45 1/2' EAST 31.16 FEET; THENCE LEAVING SAID CENTERLINE OF ROAD AND ALONG LAST DESCRIBED LINE, NORTH 87 DEG 45 1/2' WEST 28.10 FEET TO A 2 INCH BY 2 INCH BY 24 INCH STAKE SITUATE IN THE SOUTHWESTERLY FENCE LINE OF SAID COUNTY ROAD; THENCE CONTINUING NORTH 87 DEG 45 1/2' WEST 417.61 FEET TO THE POINT OF BEGINNING.

A.P.N. 089-060-18-100

EXHIBIT B

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

County of El Dorado
Board of Supervisors
330 Fair Lane
Placerville, CA 95667

**APN 089-060-18
FISH TRUST, 7/10/2003
#73360 – Cold Springs Rd Realignment**

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

Above section for Recorder's use

GRANT OF RIGHT OF WAY EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **LARRY L. FISH AND KATHRYN E. FISH, TRUSTEES OF THE FISH FAMILY REVOCABLE LIVING TRUST, 7/10/2003**, hereinafter referred to as "Grantor", grants to the **COUNTY OF EL DORADO, a political subdivision of the State of California**, a right of way easement over, upon, under, 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.

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

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

EXHIBIT B

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

- (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 its name on this _____ day of _____, 20__.

**GRANTOR: LARRY L. FISH AND KATHRYN E. FISH, TRUSTEES OF
 THE FISH FAMILY REVOCABLE LIVING TRUST, 7/10/2003**

Larry L. Fish, Trustee

Kathryn E. Fish, Trustee

(A Notary Public Must Acknowledge All Signatures)

EXHIBIT B

Exhibit 'A'

All that certain real property situate in Section 33, Township 11 North, Range 10 East, M.D.M., El Dorado County, State of California, being a portion of that particular parcel described in that certain Document Number 2003-0070991, official records said county and state more particularly described as follows:

Beginning at the most easterly corner of said parcel thence from said POINT OF BEGINNING along the southerly line of said parcel North 89° 02' 59" West 77.71 feet thence leaving said line North 57° 29' 44" West 15.43 feet to the beginning of a curve to the left having a radius of 925.00 feet; thence along said curve through a central angle of 03° 49' 41" an arc length of 61.80 feet, said curve being subtended by a chord which bears North 59° 24' 35" West 61.79 feet; thence North 28° 40' 35" East 39.71 feet to the northerly line of said parcel; thence along said line South 60° 12' 09" East 33.98 feet; thence South 58° 15' 51" East 112.12 feet to the POINT OF BEGINNING, containing 4426 square feet or 0.10 acres more or less. See Exhibit 'B', attached hereto and made a part hereof.

End of Description

The basis of bearing for this description is grid north. All distances shown are grid distances. Divide distances by 0.999859 to obtain ground distances.

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



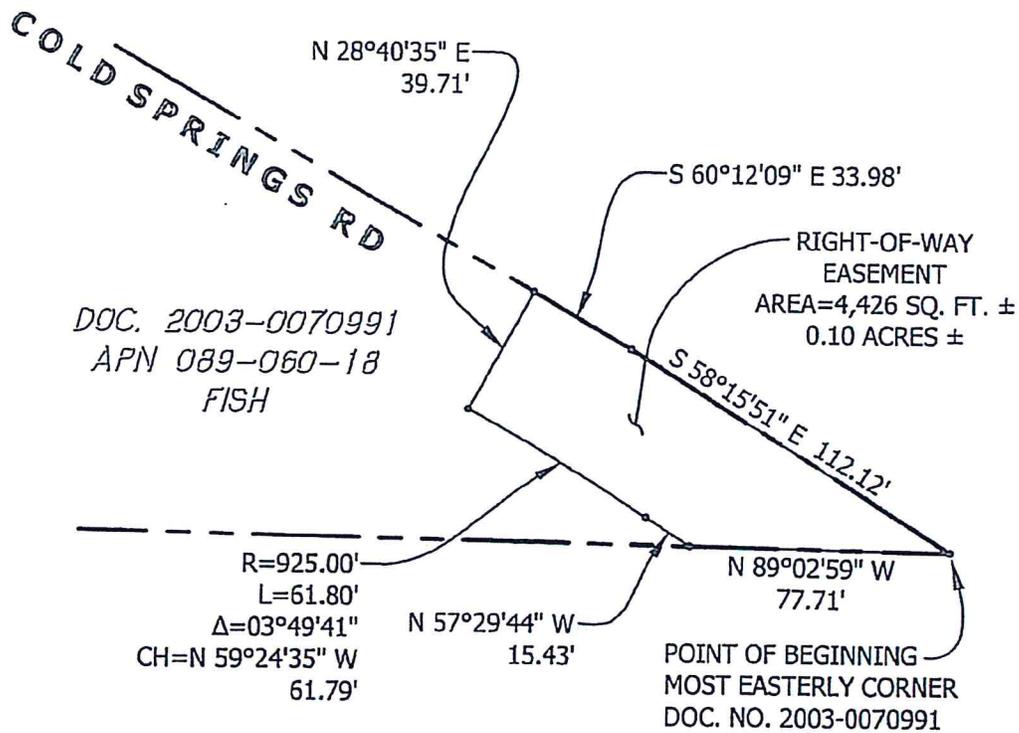
Loren A. Massaro P.L.S. 8117
Associate Land Surveyor
Transportation Division
El Dorado County



Dated: 06.28.2013

EXHIBIT 'B'

Situate in Section 33, T. 11 N., R. 10 E., M.D.M.
County of El Dorado, State of California



Grid North
Scale 1"=50'