

Sellers: Chapman/Frank
APN: 035-131-03
Project#: JN95190
Escrow#: 203-7169

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 **TARA D. CHAPMAN, AN UNMARRIED WOMAN AND SETH A. FRANK, AN UNMARRIED MAN, AS JOINT TENANTS**, referred to herein as (“Sellers”), with reference to the following facts:

RECITALS

- A. Sellers own 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

Sellers hereby agrees 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.

2. JUST COMPENSATION

The just compensation for the Easement is in the amount of **\$1,600.00 for a Drainage Easement for a**

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total of \$1,600.00 (One-Thousand and Six-Hundred-Dollars, exactly). Sellers and County hereby acknowledge that the fair market value of the Easement is \$1,600.00.

3. ESCROW

The acquisition of the Easement shall be consummated by means of Escrow No. 203-7169 for APN 035-131-03, which has been opened at Placer Title Company ("Escrow Holder"), 1959 Lake Tahoe Boulevard, South lake Tahoe, CA 95150; Attention: Deb Landerkin. 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 October 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 Easements; and
- F. All costs of any partial reconveyances of deeds of trust, if any.

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5. TITLE

Sellers shall, by Grant of Drainage Easement, grant to County the Easement, free and clear of title defects, liens, and deeds of trust. Title to the Easement shall vest in the County of El Dorado subject only to: (i) covenants, conditions, restrictions and reservations of record if any; (ii) easements or rights of way over the land for public or quasi-public utility or public road purposes, if any; and (iii) exceptions numbered 1 through 7 paid current, and subject to items numbered 8, 9, and 10 contained in Placer Title Company Preliminary Title Report No. 203-7169 dated as of February 26, 2010. Exception number 11 shall be deemed subordinate to the Easement by the Title Company upon recording of a fully executed subordination agreement in a form acceptable to county and Title Company. Seller agrees to cooperate with the County in the procurement of the consent of the lender referred to in Exception 11 and to execute any documents required to accomplish the same. The County shall bear fees or charges, if any, imposed by the lender to execute the subordination agreement.

6. 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.
- 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

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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 Christmas Valley Phase 2C Erosion Control Project #95190, inclusive of the right to remove and dispose of any existing improvements, shall commence upon the date of execution of this Agreement by Sellers. 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 Sellers may have relating to the public project for which the Easement is conveyed and purchased, and Sellers hereby waives any and all claims of Seller relating to said project that may exist on the date of this Agreement.

9. CONSTRUCTION CONTRACT WORK

County will be performing construction work on Sellers's property as generally authorized in the documents entitled, Project Plans for the Christmas Valley Phase 2C Erosion Control Project #95190 (Project Plans) and generally include the following items of work:

- (i) County or County contractor or authorized agent will remove any trees, stumps, shrubs, or landscape improvements in conflict with the proposed improvements to be constructed.
- (ii) County or County contractor or authorized agent will construct a rock-lined channel having an approximate dimension of two (2) feet wide by five (5) feet in length near the property's northwest driveway entrance as described in the Project Plans.

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- (iii) County or County contractor or authorized agent will place three (3) snow stakes equally distanced to delineate the new edge of pavement at the northern pavement limits of the Mulberry Drive and Cornelian Drive intersection as described in the Project Plans.
- (iv) County or County's contractor or authorized agent will construct a dog ear redwood fence approximately nine (9) feet, eight (8) inches in length, with locking gate latch as described in the Project Plans.
- (v) County or County contractor or authorized agent will construct drainage improvements which may include but are not limited to armored and grass-lined channels, sediment traps, culverts and re-vegetation.

10. PERMISSION TO ENTER FOR CONSTRUCTION PURPOSES

Permission is hereby granted to County, the County's contractor or its authorized agent to enter Seller's Property, (Assessor's Parcel Number 035-131-03) where necessary to perform the replacement and/or reconstruction as described in Section 9 of this Agreement.

11. 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.

12. 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.

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13. 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 Seller.

14. 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.

15. 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 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.

16. 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

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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: Tara D. Chapman and Seth A. Frank
2140 Cornelian Drive
South Lake Tahoe, CA 96150

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

17. 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.

18. 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.

19. 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.

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20. 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.

21. 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.

22. 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.

23. 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.

24. 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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SELLERS: TARA D. CHAPMAN, AN UNMARRIED WOMAN AND SETH A. FRANK, AN UNMARRIED MAN

Date: 5/24/12

By: 
Tara D. Chapman

Date: 5/24/12

By: 
Seth A. Frank

COUNTY OF EL DORADO:

Date: _____

By: _____
_____, Chairman
Board of Supervisors

ATTEST:
Clerk of the Board of Supervisors

By: _____

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
APN: 035-131-03
Project: Christmas Valley 2C
Erosion Control Project #95190

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

GRANT OF DRAINAGE EASEMENT

For a valuable consideration, receipt of which is hereby acknowledged, **Tara D. Chapman, An Unmarried Woman and Seth A. Frank, An Unmarried Man, as Joint Tenants**, does hereby grant to the **COUNTY OF EL DORADO**, a political subdivision of the State of California, an easement for the inspection, repair, and maintenance of storm drainage, erosion control, and appurtenant improvements thereto on, over, across, and under all that certain real property situated in the County of El Dorado, State of California, as described in Exhibit A and depicted in Exhibit B attached hereto.

Said easement is to consist of, but not be limited to the following:

- (a) The right to keep, repair, replace, refurbish, inspect, and maintain in perpetuity, all storm drain, erosion control, and appurtenant improvements including those to be constructed upon the land as part of the public works project entitled, Christmas Valley 2C Bike Erosion Control Project #95190.
- (b) The rights of ingress and egress, in perpetuity, for purposes of inspection and maintenance of the Project improvements by foot or surface motor vehicles as may be necessary or appropriate; and
- (c) Drainage and discharge of stream surface waters, in perpetuity throughout the Project.

Dated: _____

Tara D. Chapman

Dated: _____

Seth A. Frank

(A Notary Public must acknowledge all signatures)

Exhibit 'A'

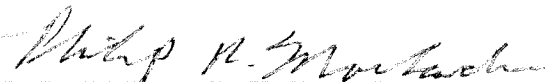
All that certain property situated in the Northwest One-Quarter of the Northeast One-Quarter of the Northwest One-Quarter of Section 32, Township 12 North, Range 18 East, M.D.M., El Dorado County, State of California. Being a portion of Lot 3 of that particular Subdivision Map filed in book B of subdivisions at page 96, official records of said county and state, described as follows:

The southerly 7.50 feet of said Lot 3. Containing 600 square feet more or less.

See Exhibit 'B', attached hereto and made a part hereof.

- End of Description -

The purpose of this description is to describe that portion of said Lot 3 as an easement for drainage purposes.

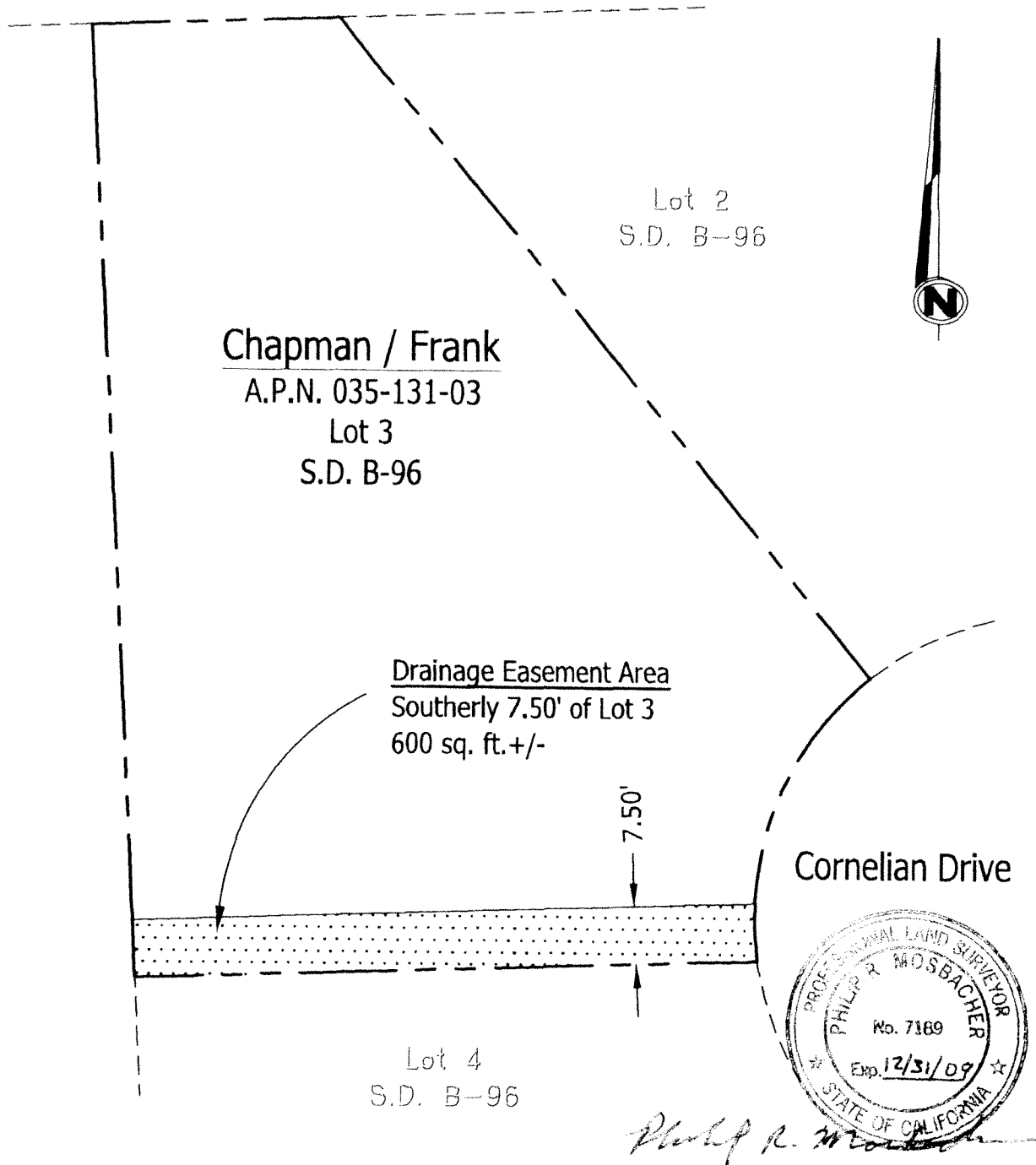

Philip R. Mosbacher, P.L.S. 7189

10/23/09
Date



Exhibit 'B'

A portion of Lot 3, Subdivision B-96
Situate in Northwest One-Quarter of the Northeast One-Quarter of
the Northwest One-Quarter of Section 32,
T. 12 N., R. 18 E., M.D.M.
County of El Dorado, State of California
Scale 1" = 20'



RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
County of El Dorado
Department of Transportation
Board of Supervisors
330 Fair Lane
Placerville, CA 95667
APN: 035-131-03
Project: Christmas Valley 2C
Erosion Control Project #95190

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Dated: _____

Tara D. Chapman

Dated: _____

Seth A. Frank

(A Notary Public must acknowledge all signatures)

Exhibit 'A'

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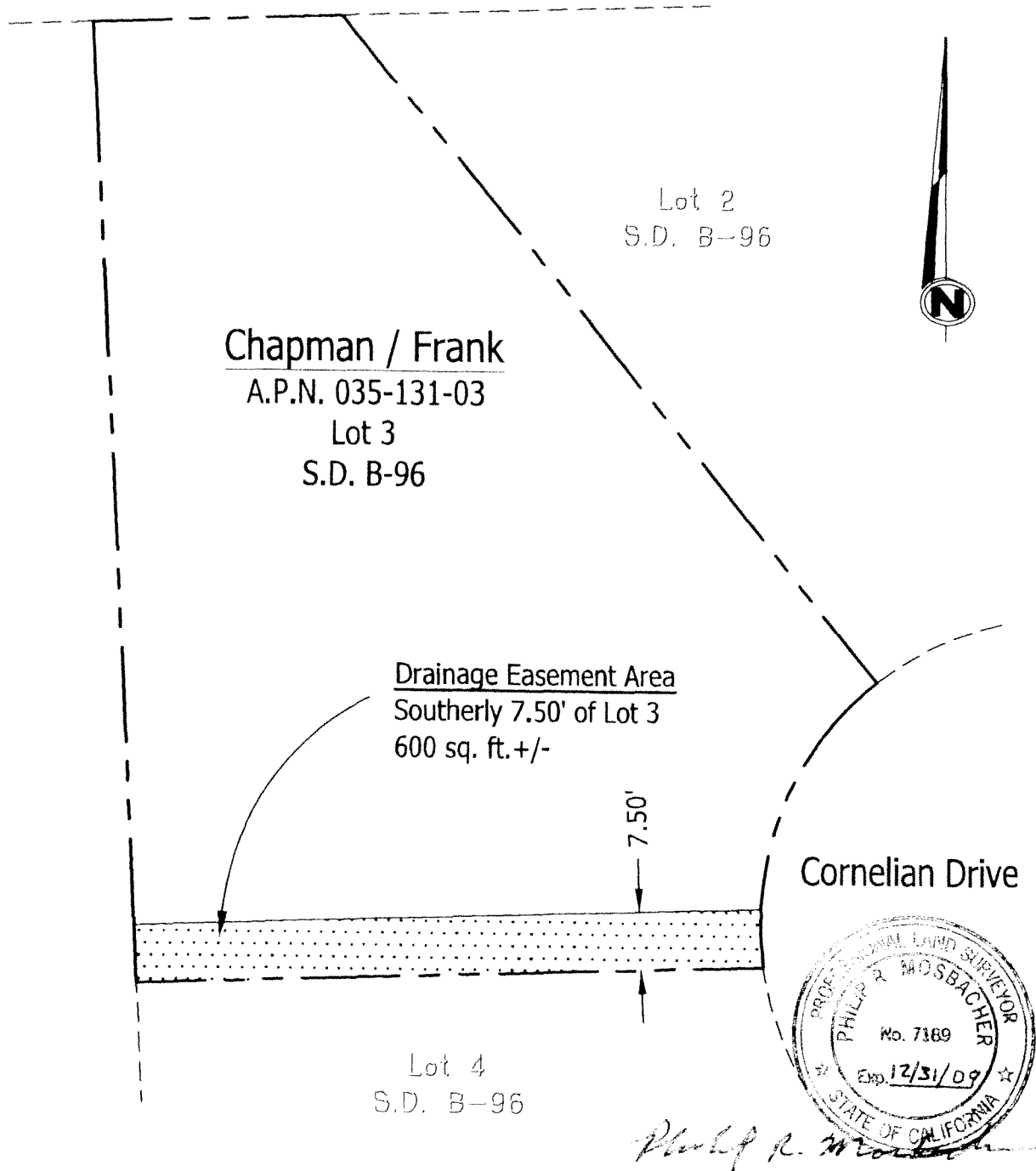
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Philip R. Mosbacher 10/23/09
Philip R. Mosbacher, P.L.S. 7189 Date



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County of El Dorado, State of California
Scale 1" = 20'

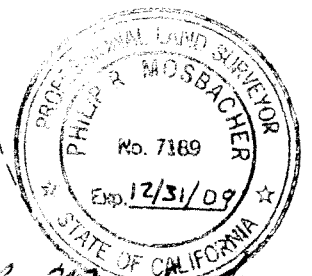


Chapman / Frank
A.P.N. 035-131-03
Lot 3
S.D. B-96

Drainage Easement Area
Southerly 7.50' of Lot 3
600 sq. ft. +/-

Cornelian Drive

Lot 4
S.D. B-96



Philip R. Mosbacher

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:

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

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant of Drainage Easement Deed dated _____, 2012, from **Tara D. Chapman, An Unmarried Woman and Seth A. Frank, An Unmarried Man, as Joint Tenants**, to the **COUNTY OF EL DORADO, a political subdivision of the State of California**, is hereby accepted by order of the County of El Dorado Board of Supervisors and the grantee consents to the recordation thereof by its duly authorized officer.

APN: 035-131-03

Dated this _____ day of _____, 2012

COUNTY OF EL DORADO

By: _____
Chair
Board of Supervisors

ATTEST:

Terri Daly,
Acting Clerk of the Board of Supervisors

By: _____
Deputy Clerk