

Seller: Freeman
APN: 069-241-14
Project#: 77109
Escrow#: 205-10694

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 Mark K. Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 2/3 interest and Mark Freeman and Christine Freeman, husband and wife as joint tenants, as to an undivided 1/3 interest, 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, 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. PURCHASE AND SALE AND PURCHASE PRICE

Seller hereby agrees to sell to County and County, upon ratification by the County Board of Supervisors, hereby agrees to purchase from Seller, the Easement, as described and depicted in the attached Exhibit "B" and the exhibits attached thereto. The total purchase price for the Easement is **\$31,900.00 (Thirty-One Thousand Nine Hundred Dollars, exactly)** which represents full compensation for the Easement and compensation for the loss of landscape improvements, as follows: **\$1,900.00 (One-Thousand**

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Nine-Hundred Dollars, exactly) for the Temporary Construction Easement; and \$30,000.00 (Thirty-Thousand Dollars, exactly) for full compensation for the loss of landscape improvements, including but not limited to retaining walls, gates, fencing, irrigation sprinklers, and landscaping (hereinafter "Landscape Improvements". Seller and County hereby acknowledge that the fair market value of the Easement is \$1,900.00. County shall pay the Purchase Price in cash or other immediately available funds at Close of Escrow (as such term is hereinafter defined), plus County's share of costs, fees and expenses to be borne by County pursuant to this Agreement. Seller and County hereby acknowledge that payment of \$30,000.00 as full compensation for the Landscape Improvements may be used by Seller to contract for replacement of Landscape Improvements. County will not be a party to any contract between Seller and said contractor and Seller shall be solely responsible for payment of same. Furthermore, Seller acknowledges that they accept full responsibility for the completion of any and all replacement Landscape Improvements on the Property upon completion of the roadway and bridge project, and the County shall have no further obligation to Seller for mitigation of any project related impacts upon Seller's Property.

2. ESCROW

The acquisition of the Easement shall be consummated by means of Escrow No. 205-10694 for APN 069-241-14, 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. 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

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March 31, 2010, unless the closing date is extended by mutual agreement of the parties pursuant to the terms of this Agreement.

3. 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.

4. TITLE

Seller shall 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.

5. 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 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 Easement Deed being conveyed by Seller, and as shown in Exhibit B and the exhibits thereto, attached hereto and incorporated by reference 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 adjacent to North Shingle Road and Green Valley Road, inclusive of the right to remove and dispose of any existing improvements, shall commence upon the date of execution of this Agreement by Seller. The amount of the purchase price 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. 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.

10. 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.

11. 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 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 Purchase Price to Seller.

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12. 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.

13. 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.

14. 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: Mark and Christine Freeman
2277 North Shingle Road
Shingle Springs, 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

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15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

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21. CONSTRUCTION CONTRACT WORK

County or County's contractors or authorized agents shall, at the time of construction, perform the following construction work on the Seller's remaining property and within the existing right of way (refer to Exhibit C-4 attached):

- A. The County will utilize the Easement, to conform curb and gutter to new roadway construction of Green Valley Road; to block off the current driveway encroachment entrance and relocate that entrance and construct a new driveway encroachment according to the Project Plans and as described and depicted in Exhibit C-4, attached hereto.
- B. Clearing and grubbing of existing improvements within the right of way area, as necessary, and extending onto the Property, as needed.
- C. Existing irrigation lines will be cut and capped-off at property line.
- D. Existing fencing will be removed.
- E. Mailbox will be relocated to correspond to the newly relocated driveway.
- F. 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 existing right of way limits. Any trees that are 4 inches in diameter or greater will be removed and placed within the existing property line for Seller to use as firewood.

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.

22. 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 069-241-14) where necessary to perform the replacement and/or

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reconstruction as described in Section 21 of this Agreement. Seller understands and agrees that after completion of the work described in Section 21, these improvements listed herein will be considered Seller's sole property and Seller will be responsible for their maintenance, upkeep, and repair.

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.

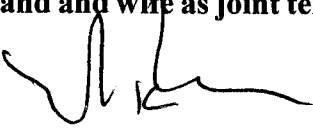
24. ENTIRE AGREEMENT

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.

SELLER: Mark K. Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 2/3 interest and Mark Freeman and Christine Freeman, husband and wife as joint tenants, as to an undivided 1/3 interest

Mark K. Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 2/3 interest

Date: 1-27-10


By: 
MARK K. FREEMAN

Date: 1-27-10

By: 
CHRISTINE FREEMAN

Mark Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 1/3 interest

Date: 1-27-10

By: 
MARK FREEMAN

Date: 1-27-10

By: 
CHRISTINE FREEMAN

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COUNTY OF EL DORADO:

Date: _____

By: _____
Norma Santiago,
Chair of the Board
Board of Supervisors

ATTEST: Suzanne Allen de Sanchez
Clerk of the Board of Supervisors

By: _____

Seller's Initials RCF

**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:

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 10 NORTH, RANGE 09 EAST, M.D.B.&M., BEING A RESUBDIVISION OF LOT 4 OF S.D. E-114, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED IN THE OFFICE OF THE COUNTY RECORDER OF EL DORADO COUNTY, STATE OF CALIFORNIA, ON DECEMBER 7, 1978, IN MAP BOOK 22 OF PARCEL MAPS AT PAGE 60, OFFICIAL RECORDS.

A.P.N. 069-241-14-100

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: 069-241-14

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

Project: Green Valley Road at Tennessee Creek Bridge
 Reconstruction Project #77109

TEMPORARY CONSTRUCTION EASEMENT

Mark K. Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 2/3 interest and Mark Freeman and Christine Freeman, husband and wife as joint tenants, as to an undivided 1/3 interest, hereinafter referred to as "Grantor", grant to the COUNTY OF EL DORADO, a political subdivision of the State of California, hereinafter referred to as "Grantee", a temporary construction easement over, upon, 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 \$1,900.00 (One-Thousand Nine-Hundred-Dollars, exactly) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant to Grantee an easement for temporary construction over and across those identified portions of the Grantor parcel.
2. Grantor represents and warrants that they are the owner of the property described in Exhibit A and depicted on the map in Exhibit B attached hereto and made a part hereof, and that Grantor has the exclusive right to grant the temporary construction easement.
3. This temporary construction easement is necessary for the purpose of constructing the Green Valley Road at Tennessee Creek Bridge Reconstruction Project . Specifically, this temporary construction easement shall allow Grantee or its agents, employees, and contractors the right of ingress and egress as may be reasonably necessary for construction purposes, inclusive of such repairs, replacements, and removals as may be from time to time required as well as for other purposes incidental to construction of the project, including any staging, stockpiling, and parking of construction vehicles or equipment. This temporary construction easement shall not be revoked and shall not expire until the recordation of the Notice of Completion of the Project. Included within this temporary construction easement is the right of ingress and egress of Grantee, its agents, employees, and contractors for warranty repairs and the correction of defects in the work within the first year following completion of construction. This right during the one-year warranty period survives the expiration of this easement.

EXHIBIT "B"

4. Compensation under this temporary construction easement covers the construction period estimated to be 24 (Twenty-Four) months of construction, together with the one-year warranty period. In the event that construction of the Project is not completed within 24 (Twenty-Four) months of commencement of construction, Grantor shall be entitled to additional compensation as follows: for each month thereafter, the sum of \$74.39 (Seventy-Four-Dollars, and 39/100ths exactly) will be paid to Grantor, until construction is completed.

5. Grantee agrees to indemnify and hold harmless Grantor 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.

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

(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.

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EXHIBIT "B"

GRANTOR: Mark K. Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 2/3 interest and Mark Freeman and Christine Freeman, husband and wife as joint tenants, as to an undivided 1/3 interest

Executed on this date: _____, 2010

Mark K. Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 2/3 interest

Date: _____

By: _____
MARK K. FREEMAN

Date: _____

By: _____
CHRISTINE FREEMAN

Mark Freeman and Christine Freeman, husband and wife as joint tenants as to an undivided 1/3 interest

Date: _____

By: _____
MARK FREEMAN

Date: _____

By: _____
CHRISTINE FREEMAN

Notary Acknowledgements Follow

EXHIBIT 'A'
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

All that portion of Parcel A, as said parcel is shown on the map recorded in Book 22 of Parcel Maps, at Page 60, in the office of the El Dorado County Recorder, being a portion of the south half of Section 13, Township 10 North, Range 9 East, M.D.M., unincorporated area of El Dorado County, State of California, and more particularly described as follows:

Beginning on the westerly boundary of said parcel, from which the most southerly corner of said parcel bears South 09°04'30" East 131.57 feet, being the chord of a 960.42 foot (cite 960') radius curve concave easterly; **thence from said point of beginning** northerly along said curve and westerly boundary an arc distance of 189.39 feet, through a central angle of 11°17'54", and subtended by a chord which bears North 00°30'07" East 189.08 feet; thence leaving said boundary across said parcel the following 6 courses: 1) South 83°50'56" East 20.00 feet; 2) South 02°06'43" West 132.48 feet; 3) North 88°04'23" East 35.47 feet; 4) South 63°38'56" East 39.90 feet; 5) South 39°05'21" West 89.30 feet; 6) North 45°14'45" West 44.44 feet to the point of beginning, containing 0.180 acres, more or less.

END OF DESCRIPTION.

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

Note: The basis of bearings for this description is Grid North, California Coordinate System of 1983, Zone II, as defined in Chapter 611, Sections 8801-8819 of the State Resources Code. All distances are grid distances. To convert to ground distances, divide all distances by 0.999886.



11-26-08

Drawing Name: C:\Civil 3D Projects\77109 Tennessee Creek\CADD Files\RW\069-241-14-TCE.dwg, Layout Tab: Model, Last Saved: Wed, 26 Nov 2008 - 1:28pm, DHaynes

GREEN VALLEY RD.

EXHIBIT 'B'

FREEMAN
PARCEL A
22-PM-60
APN 069:241:14

EXISTING
R/W LINE

EXISTING
HOUSE

R=960.42'
L=189.39'
 $\Delta=11^{\circ}17'54''$
Ch=N0°30'07"E
189.08'

S83°50'56"E
20.00'

S2°06'43"W
132.48'

N88°04'23"E
35.47'

S63°38'56"E
39.90'

POINT OF
BEGINNING

S39°05'21"W
89.30'

N45°14'45"W
44.44'

(TIE)
S9°04'30"E
131.57'

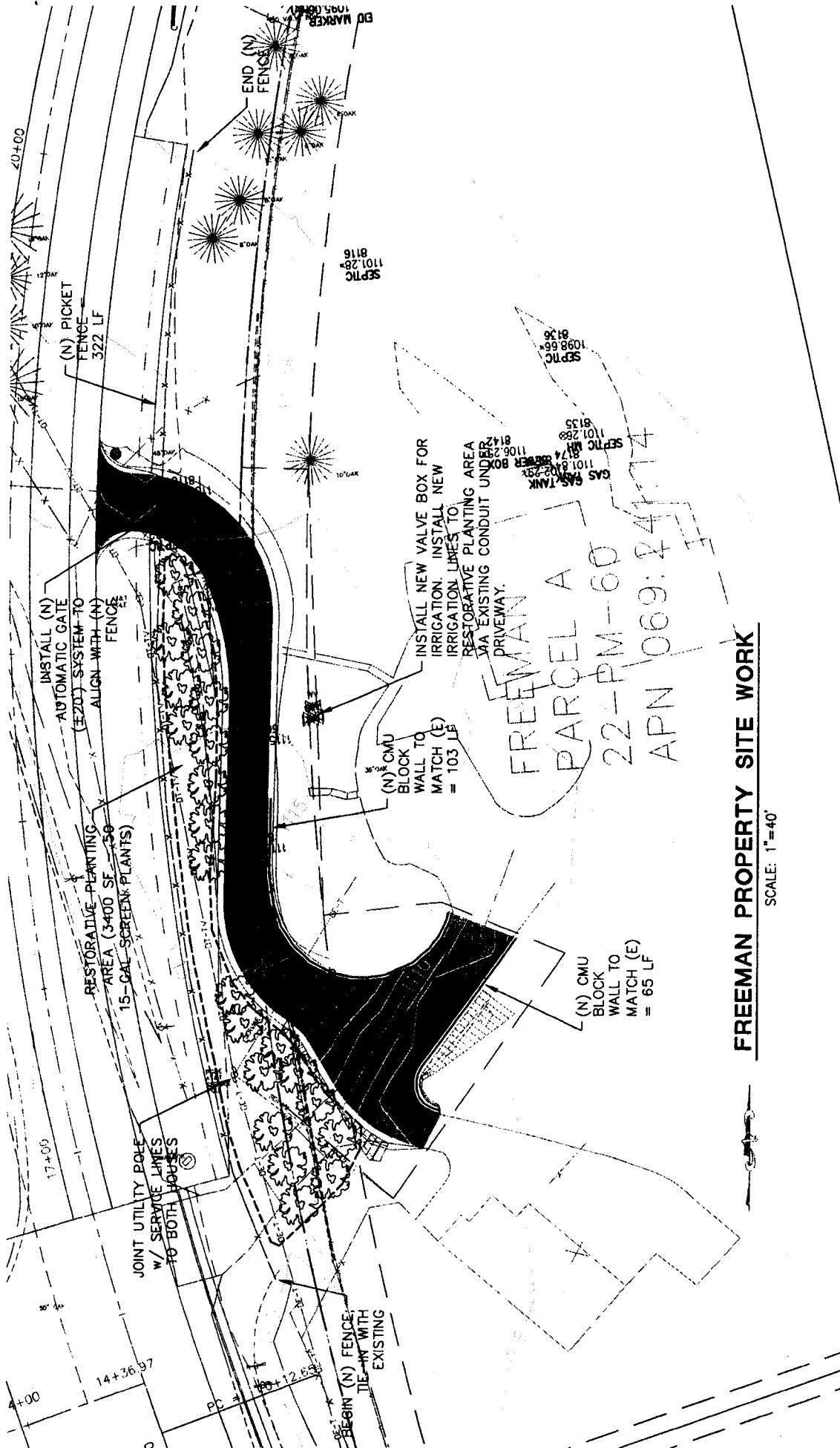
EXISTING
HOUSE

EXISTING PUBLIC
UTILITY EASEMENT

SCALE : 1" = 40'

GREEN
VALLEY RD.

EXHIBIT C-4



INSTALL (N)
AUTOMATIC GATE
SYSTEM TO
ALIGN WITH (N)
FENCE

RESTORATIVE PLANTING
AREA (3400 SF
15-GAL SCREEN PLANTS)

JOINT UTILITY POLE
W/ SERVICE LINES
TO BOTH HOUSES

(N) CMU
BLOCK
WALL TO
MATCH (E)
= 103 LF

INSTALL NEW VALVE BOX FOR
IRRIGATION. INSTALL NEW
IRRIGATION LINES TO
RESTORATIVE PLANTING AREA
VIA EXISTING CONDUIT UNDER
DRIVEWAY.

(N) CMU
BLOCK
WALL TO
MATCH (E)
= 65 LF

FREEMAN
PARCEL A
22-PM-60
APN 069:2477

FREEMAN PROPERTY SITE WORK

SCALE: 1"=40'