

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

RESOLUTION NO. 6-2008

**A RESOLUTION AUTHORIZING THE CLARK COUNTY DRAINAGE BOARD TO PROCEED WITH CERTAIN DRAINAGE IMPROVEMENTS IN SUNSET HILLS SUBDIVISION, SECTION 1 AND SECTION 2, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS**

WHEREAS, this Board of Clark County Commissioners (hereinafter the "Commissioners"), has previously requested the Clark County Drainage Board (the "Drainage Board"), to investigate and make recommendations regarding surface water drainage problems upon receipt of complaints by property owners within the unincorporated territory of Clark County, Indiana; and,

WHEREAS, the Commissioners are aware that the Drainage Board has received surface water drainage complaints from property owners within Sunset Hills Subdivision, Section 1 and Section 2, and that the Drainage Board has heard from qualified individuals, including the County Surveyor, regarding same; and,

WHEREAS, the Commissioners are further aware that the property owners within Sunset Hills shall petition for the correction of the problems through construction of improvements pursuant to a proposed improvement plan that includes, but is not limited to, the construction of swales, drainage pipes, and appurtenant improvements in areas on or adjacent to (i) Lots 101 through 108, inclusive, as shown on the drawing attached hereto as Exhibit "A", (ii) Lots 139 through 157, inclusive, as shown on the drawing attached hereto as Exhibit "B", and (iii) Lots 203-208, inclusive, as shown on the drawing attached hereto as Exhibit "C"; and,

WHEREAS, the Commissioners are further aware that the Drainage Board has expressed a desire to review the surface water drainage improvements recommended to be made within Sunset Hills Subdivision, Section 1 and 2, as a public works project pursuant to the provisions and requirements of Indiana law; and,

WHEREAS, the Commissioners now desire to grant the Drainage Board authority to proceed with the planning for resolution of the complaints within Sunset Hills Subdivision, Section 1 and Section 2, in a phased course of work; provided, however, that such improvements shall only be constructed in compliance with the conditions expressly set forth in this Resolution hereinbelow.

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners as follows:

1. The Drainage Board is hereby authorized to cause the surface water drainage improvements within Sunset Hills Subdivision, Section 1 and Section 2, that have been recommended to be constructed under oversight of the Commissioners, subject to the following

terms and conditions:

a. Any and all publicly funded surface water drainage improvements shall only be constructed (i) on real property owned by Clark County, Indiana, or a political subdivision thereof, as evidenced by deed recorded in the office of the Recorder of Clark County, Indiana, (ii) within easements dedicated to Clark County, Indiana, or a political subdivision thereof, that are recorded in the office of the Recorder of Clark County, Indiana, or (iii) within public dedicated rights-of-way as shown of record in a plat or other instrument recorded in the office of the Recorder of Clark County, Indiana. In the event that the Drainage Board cannot obtain a required easement to implement the improvements as shown on Exhibits "A", "B", or "C" attached, the Commissioners through their oversight authority shall have the right to redesign the proposed projects affecting such areas in a manner that will enable construction of any portion thereof within the easements that have been acquired. However, such projects shall not in any manner be expanded or enlarged without the express grant of additional authority by the Commissioners.

b. Prior to the commencement of construction of any improvements, the Drainage Board, the Commissioners, and the County Surveyor must have first received a written petition signed by the owners of all real estate on which the proposed improvements are to be constructed within the subject phase of work in the general form attached hereto as Exhibit "D".

c. To the extent that the improvements are to be constructed by a private sector contractor, a contract to perform the work shall be awarded in accordance with the provisions of Indiana law pertaining to public works projects (IC 36-1-12, *et seq.*), or in an alternative manner expressly authorized by Indiana law.

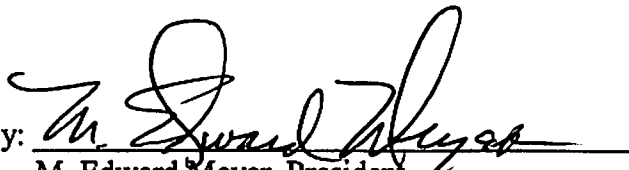
d. The Drainage Board shall not award any contract for construction of any improvements that is reasonably expected to result in a cost that exceeds the funds presently under the control of the Drainage Board. To the extent that any proposed improvements are reasonably expected to exceed the amount of funds presently under the control of the Drainage Board, such improvements shall not be authorized by the Drainage Board unless sufficient funding is first approved by the Commissioners and/or the Clark County Council, as appropriate.

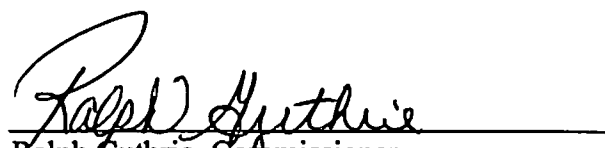
e. The improvements authorized by this Resolution shall be completed in the following order: Any and/or all construction of the improvements in the areas shown on attached Exhibit "A" shall be fully completed before construction of any and/or all improvements commences in the areas shown on attached Exhibit "B". Any and/or all construction of the improvements in the areas shown on attached Exhibit "B" shall be fully completed before construction of any and/or all improvements commences in the areas shown on attached Exhibit "C". Each such phase of work is conditioned upon the obtaining of all donated easements and completion of preparatory engineering work. Each phase, when all preconditions of easements and engineering work are completed, shall be separately made the object of procurement for construction (quote, bid, etc., as applicable) as described in Section 1(c) above.

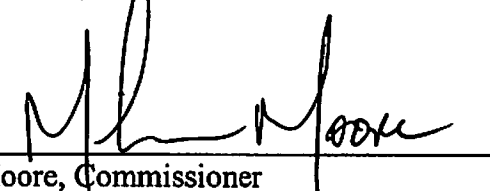
2. This Resolution shall be in full force and effect following its passage and adoption by the Commissioners.

SO RESOLVED by the undersigned as the duly elected and serving Board of County Commissioners of Clark County, Indiana, this \_\_\_\_\_ day of August, 2008.

**BOARD OF COUNTY COMMISSIONERS  
OF CLARK COUNTY, INDIANA**

By:   
M. Edward Meyer, President

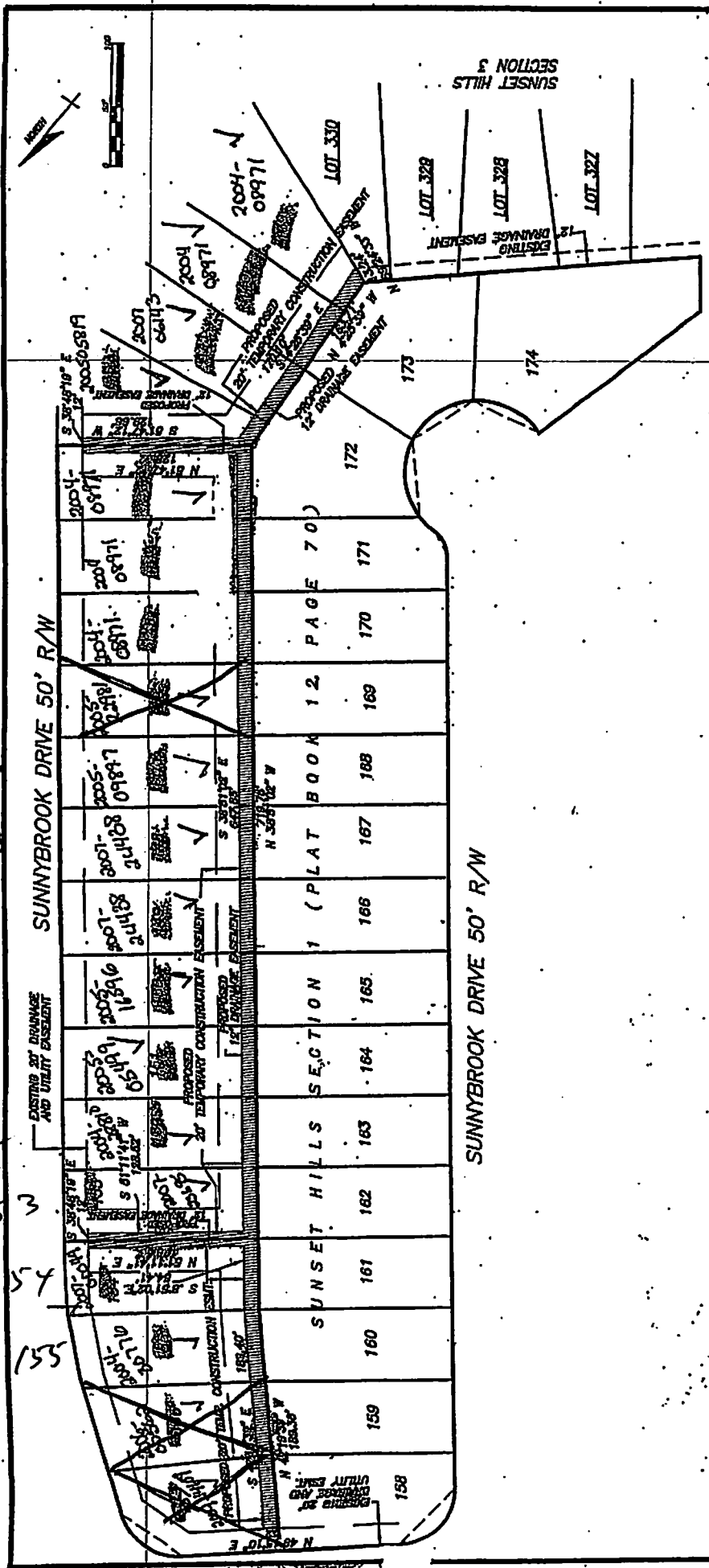
By:   
Ralph Guthrie, Commissioner

By:   
Mike Moore, Commissioner

Attested by:

  
Clark County Auditor

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DRAWING OF PROPOSED 12' WIDE DRAINAGE EASEMENT AND 20' WIDE TEMPORARY CONSTRUCTION EASEMENT IN SUNSET HILLS, SECTION 1, AS SHOWN IN PLAT BOOK 12, PAGE 70 OF THE CLARK COUNTY, INDIANA RECORDS.

EXHIBIT  
"A"

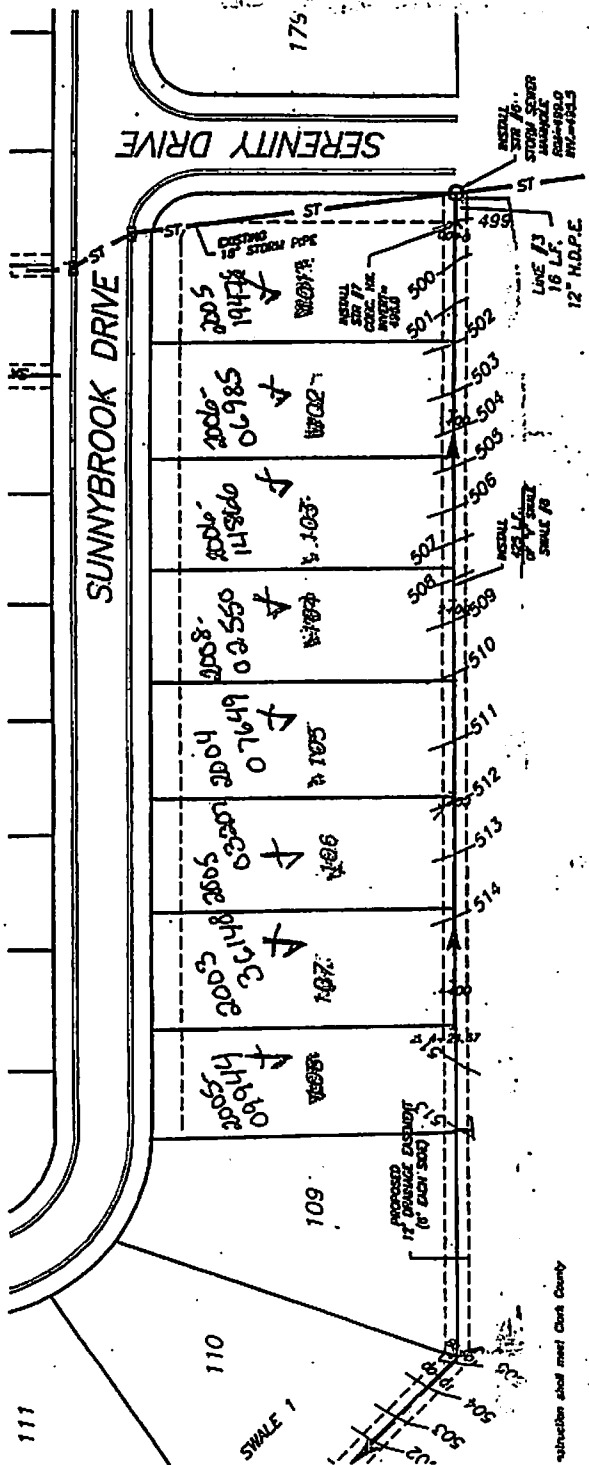


EXHIBIT  
"B"

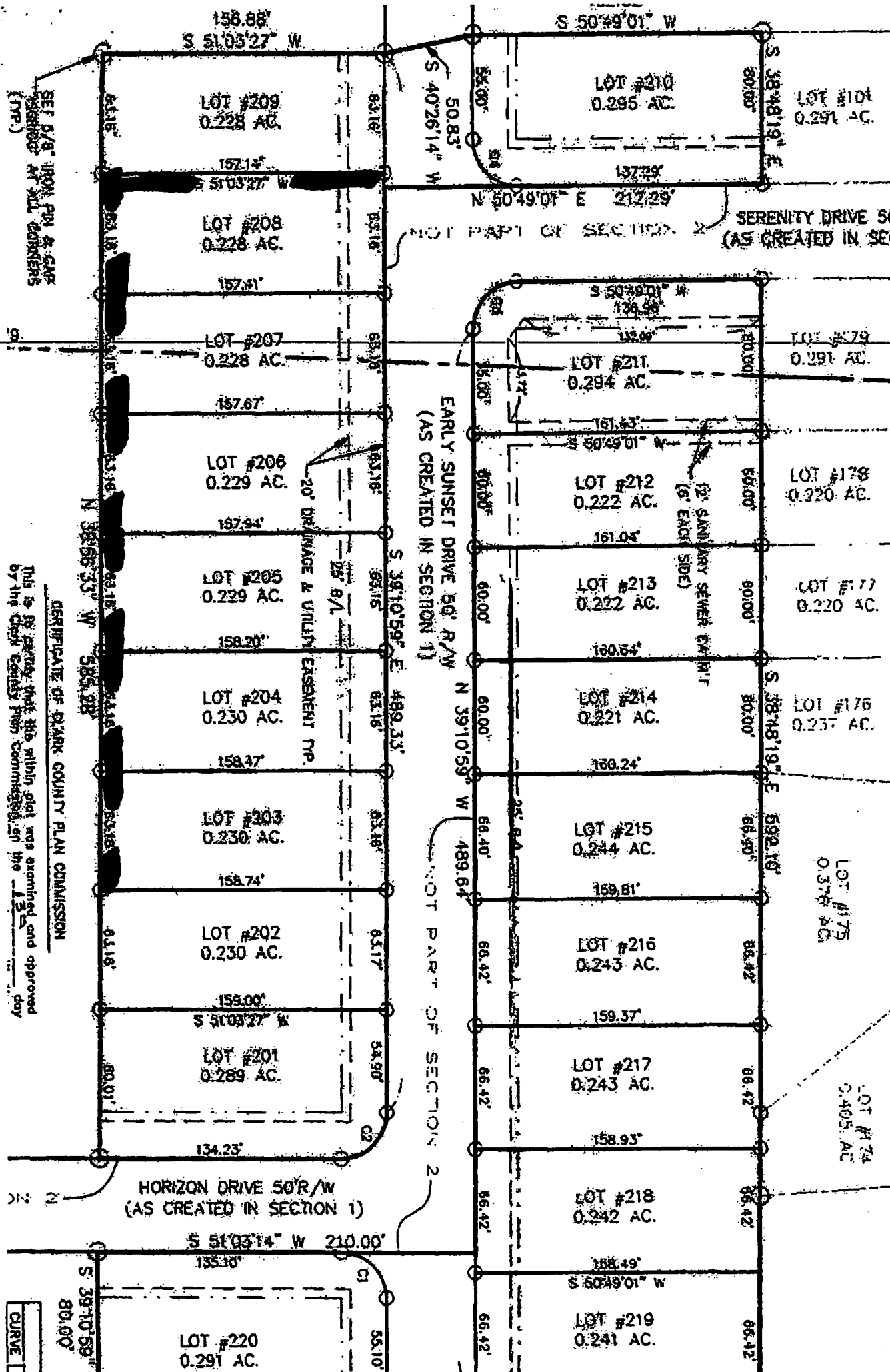
558, 30-9925

SURVEY #19  
SURVEY #18

Edward A. Sprague  
By: *[Signature]*  
John H. Springer  
By: *[Signature]*  
Andrea M. Springer

Sub-Law Metrol  
Clark County Recorder  
1-208-228-8888  
CLK DICK 11/22/2002 Time 14:19:01

EXHIBIT  
"C"



SET 8/8" IRON PIN & CAP  
MARKING AT ALL CORNERS  
(N.P.)

This is to certify that the within plat was examined and approved  
by the Clark County Fish Commission on the 13<sup>th</sup> day

CERTIFICATE OF CLARK COUNTY PLAN COMMISSION

CURVE

To: Board of Clark County Commissioners  
Clark County Drainage Board  
Clark County Surveyor

From: Affected property owners within Sunset Hills Subdivision

Re: Request for construction of stormwater drainage improvements.

## **PETITION FOR CONSTRUCTION OF DRAINAGE IMPROVEMENTS**

We, the undersigned lot owners within Sunset Hills Subdivision, hereby advise the Board of Clark County Commissioners (the "Commissioners"), and the Clark County Drainage Board (the "Drainage Board") of stormwater drainage problems (primarily ponding and erosion control) that results to our properties during normal rain events of one (1) inch or more. We have learned that this problem results from the lack of designed drainage improvements or easements within Section 1 and Section 2 of the subdivision (see letter from County Engineer, Hyun T. Lee, dated February 14, 2001, attached hereto as Exhibit "A"). As the performance bond posted by the developer was allowed to expire prior to the completion of the required public improvements within the subdivision, and as the developer has now gone out of business, we have nowhere to turn but to you as representatives of Clark County Government to seek redress for these problems.

This is to advise that we are familiar with the general plan for improving drainage designed by Brian Dixon, P.E., who was retained by the Drainage Board to investigate and make recommendations regarding our problems pursuant to the provisions of Ordinance No. 13-2007. A copy of the drawings prepared by Mr. Dixon showing the areas of our properties affected by the proposed improvements are attached hereto as Exhibit "B". We understand that the Drainage Board can only authorize this work as a public improvement project if it is to be performed on property in which Clark County holds a recorded interest, and each of the signatories to this Petition have agreed to donate an easement to Clark County for the area on our respective lots in which Mr. Dixon says the proposed improvements need to be located. We further acknowledge that the work can only be let to a private contractor in accordance with the requirements of Indiana law.

Each of the undersigned lot owners now respectfully requests that the Commissioners and Drainage Board proceed with the construction of the drainage improvements designed by Mr. Dixon within the areas of our properties shown on attached Exhibit "B" to the fullest extent possible in accordance with the legal conditions and requirements described above. This is not a petition to establish a public drain under the provisions of IC 36-9-27, *et seq.*, or IC 36-9-27.4, *et seq.*

Your consideration of this request is greatly appreciated.

IN WITNESS WHEREOF, the undersigned, as the owner(s) of record of the following described real estate, have executed this Petition as of the date affixed below.

Lot No. \_\_\_\_\_, Sunset Hills, Section \_\_\_\_\_

Street Address: \_\_\_\_\_, Memphis, Indiana

Deed Reference: Instrument No.

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_