

DULY ENTERED FOR TAXATION SUBJECT  
TO FINAL ACCEPTANCE FOR TRANSFER

DEC 06 2017 6187K

Brian Greith  
AUDITOR

**DRAINAGE EASEMENT ENCROACHMENT AGREEMENT**

THIS AGREEMENT entered into as of the 5<sup>th</sup> day of December, 2017

between Bender, David W & Lynn M, ("Owner"),

whose mailing address is 8617 Cape Cod Circle, Evansville, IN 47725

with notices sent to \_\_\_\_\_,

Attn: \_\_\_\_\_; and VANDERBURGH COUNTY,

INDIANA, by and through the Vanderburgh County Drainage Board ("County"),

WITNESSETH, That:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00), in hand paid, the receipt and sufficiency of which is hereby acknowledged and the mutual promises contained herein, the parties agree as follows:

1. Owner is the fee simple owner of the real estate ("Real Estate") situated in Vanderburgh County, Indiana, more particularly described on **Exhibit A**, attached hereto and adopted by reference herein. Owner agrees that it will not convey the property shown on **Exhibit A** until this instrument is recorded in the Office of the Vanderburgh County Recorder.
2. A recorded drainage easement ("Easement") exists on the Real Estate, as shown on **Exhibit B**, attached hereto and adopted by reference herein.
3. In order to develop the Real Estate, Owner desires to encroach on the Easement with certain improvements and construction ("Construction"), more particularly described and shown on **Exhibit C**, attached hereto and adopted by reference herein.
4. The Construction shall be undertaken, completed and at all times maintained by Owner in a good and workmanlike manner, using sound engineering, construction and maintenance techniques and practices, strictly as described herein and in the location shown herein, and so as not to impede, impair, obstruct, damage or interfere with surface water drainage or drainage facilities within and along the Easement or the use of the Easement for public utility purposes. Owner shall apply for and obtain, at its sole cost and expense, all necessary federal, state and/or local permits necessary to commence the Construction.

REFERENCE PLAT BOOK 5, PG. 18

5. Owner, its successors and assigns, agree to indemnify, defend and hold harmless Vanderburgh County, its Drainage Board and its Members, employees, agents and assigns for any liability which may be incurred by them as a result of the approval, preparation and execution of this AGREEMENT, and the subsequent design, construction, use and maintenance by Owner, its successors and assigns, or County of the encroachment area described in **Exhibit C** and any pipes or structures installed or to be installed in the drainage easement. County expressly reserves the right to require Owner, at its sole cost and expense, to remove the Construction, upon thirty (30) days written notice to Owner at its address in the event County determines that the Construction either: (1) has not been constructed or maintained strictly in accordance with this Agreement; (2) is impeding, impairing, obstructing, damaging or interfering with surface water drainage or drainage facilities within and along the Easement; or (3) is so interfering with the use of the Easement for public utility purposes. In the event Owner fails to comply with County's notice and direction in a timely manner, owner grants to County the express right to enter upon the Real Estate and the County and or its agents may remove the Construction and any other structures placed upon the Easement at Owner's sole cost and expense. Should owner fail to pay the County's costs in removing the Construction and any other structures placed upon the Easement within sixty (60) days of written notice to Owner for payment, the County shall have the right to record a lien against the Real Estate for the unpaid costs associated with the County's removal of the Construction and any other structures from the Easement located upon the Real Estate.
6. (This clause has been removed)
7. This Agreement shall remain in effect for the duration of the encroachment unless sooner terminated by the County, upon thirty (30) days written notice to Owner at its address due to the failure of Owner to comply with any provision hereof. The provisions of this Agreement shall be deemed covenants running with the title to the Real Estate and shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

OWNER: Bender, David W & Lynn M

By: DAVID W. BENDER Lynn Bender (Signature)

Lynn BENDER (Printed or typed name)

Its: HOMEOWNER 8617 CAPE COD CIR. (Title)

**VANDERBURGH COUNTY, INDIANA**

By: Vanderburgh County Drainage Board

By: Cheryl A. Wynn President, Vanderburgh County Drainage Board.

By: [Signature] Vice-President, Vanderburgh County Drainage Board

By: Brian Genth Member, Vanderburgh County Drainage Board

ATTEST:

Brian Genth  
Vanderburgh County Auditor

APPROVED AS TO LEGAL FORM:

[Signature]  
Vanderburgh County Attorney

**ACKNOWLEDGMENTS**

STATE OF Indiana )  
 ) SS:  
COUNTY OF Warrick )

Before me, the undersigned, a Notary Public, within and for said county and state, personally appeared David & Lynn M Bender, to me personally known as the owner of 8617 Cape Cod, a/an \_\_\_\_\_ corporation, and also known to me as the person whose name is affixed to the foregoing instrument, this day in person and acknowledged his/her signing, sealing and delivering of said instrument as the free and voluntary act of said corporation for the consideration and purposes therein set forth, and that he/she was duly authorized to execute same by the board of directors of said corporation.

WITNESS MY HAND AND SEAL, this 13 day of November, 2017.

Janice Miller  
Signature of Notary

Janice Miller  
Printed name of Notary

Warrick  
Notary's County of Residence

6/12/24  
Expiration Date of Notary's Commission

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

Before me, a Notary Public, personally appeared the members of the **Vanderburgh County Drainage Board**, and also known to me as the persons whose names are affixed to the foregoing instrument, this day in person and acknowledged their signing, sealing and delivering of said instrument as the free and voluntary act of the Vanderburgh County Drainage Board on behalf of Vanderburgh County, Indiana, for the consideration and purposes therein set forth, and that they were duly authorized to execute same by law.

WITNESS MY HAND AND SEAL, this 5th day of December, 2017

Madelyn A. Grayson  
Signature of Notary

Madelyn A. Grayson  
Printed name of Notary

Vanderburgh  
Notary's County of Residence

1-15-2023  
Expiration Date of Notary's Commission



MADELYN A. GRAYSON  
Resident of Vanderburgh Co., IN  
Commission Expires: Jan. 15, 2023  
Commission #: 882711

The foregoing form of instrument prepared by Joseph H. Harrison, Jr., County Attorney, 915 Main Street, Suite 502, Evansville, IN 47708, (812) 491-9333, and modified by the preparation and insertion of the incorporated Exhibits A, B, and C by Morley and Associates, Inc.,  
Owner's duly authorized agent, James E. Morley.

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I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

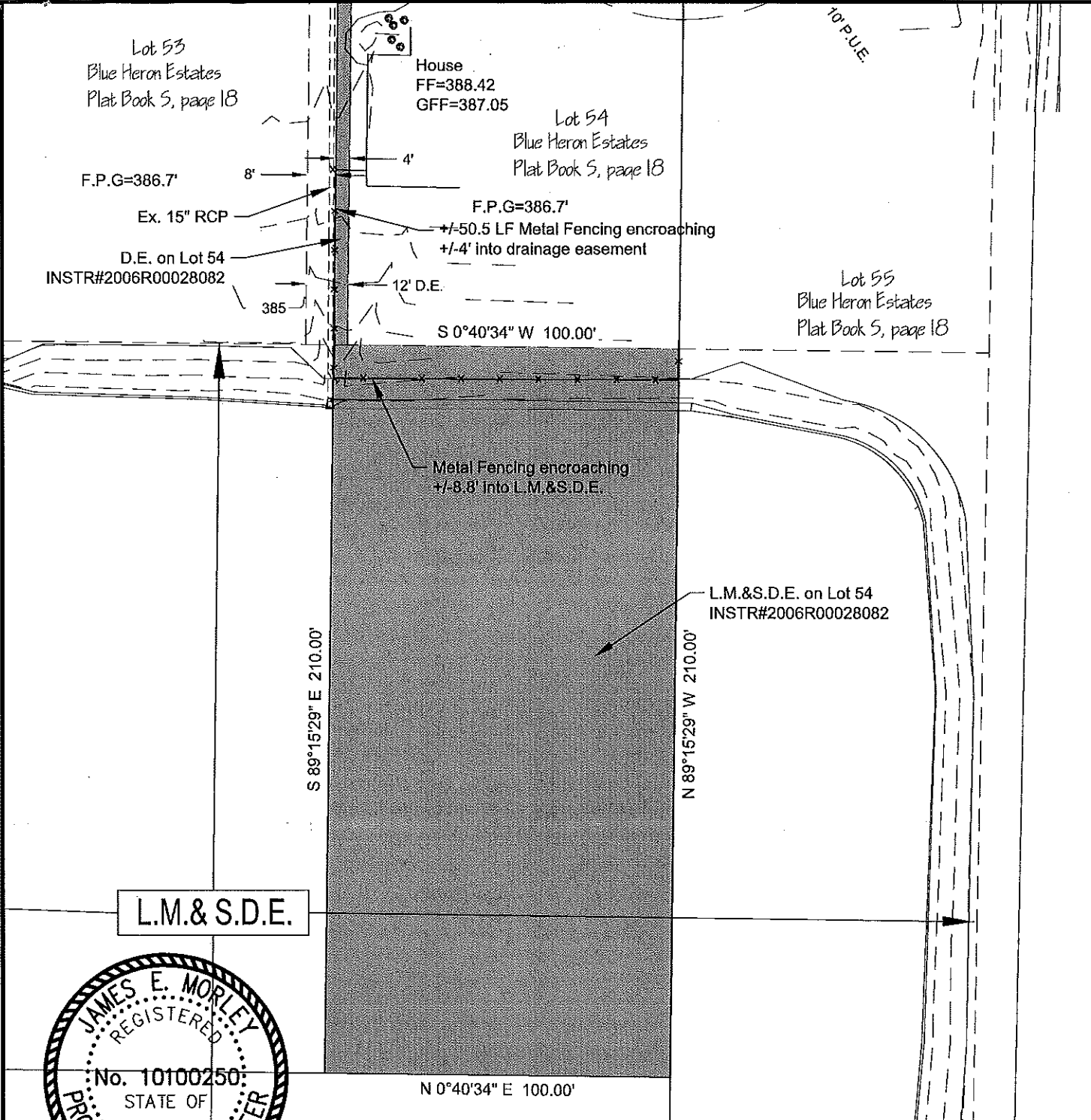
  
Signature of Declarant

James E. Morley  
Printed Name of Declarant

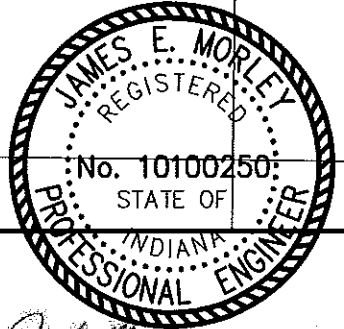
**Exhibit A**

Lot 54 of Blue Heron Estates Subdivision as recorded in Plat Book S, page 18 in the office of the Recorder of Vanderburgh County, Indiana.

Common Address: 8617 Cape Cod Circle, Evansville, IN 47725



L.M.&S.D.E.



*James E. Morley*

**SCALE 1" = 40'**



Engineering  
Surveying  
Architecture  
Construction Management

4800 Rosebud Lane  
Newburgh, IN 47630  
(812) 464-9585  
www.morleyandassociates.com

Exhibit B/C  
Lot 54 Encroachment Agreement  
Blue Heron Estates

Designed By: JEM	Job Number: 5911.4.001B
Drawn By: JAE	Date: 12/2/2016
Filename:	