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MICHAEL S. BROWN  
RECORDER

DRAINAGE EASEMENT

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Chicago Title Insurance Company

This Drainage Easement is created and granted on this 17th day of October, 2014, by Charles V. Pettersen, of Lake County, in the State of Indiana, whose mailing address is 7317 McCook Avenue, Hammond, Indiana 46323-2629.

**Section 1  
Description of Real Estate**

**Section 1.1. Servient Parcel:** The Servient Parcel of real estate under this Drainage Easement is one parcel of real estate with a lake located on it, commonly referred to as "Poncho Lake".

The Servient Parcel is legally described as follows:

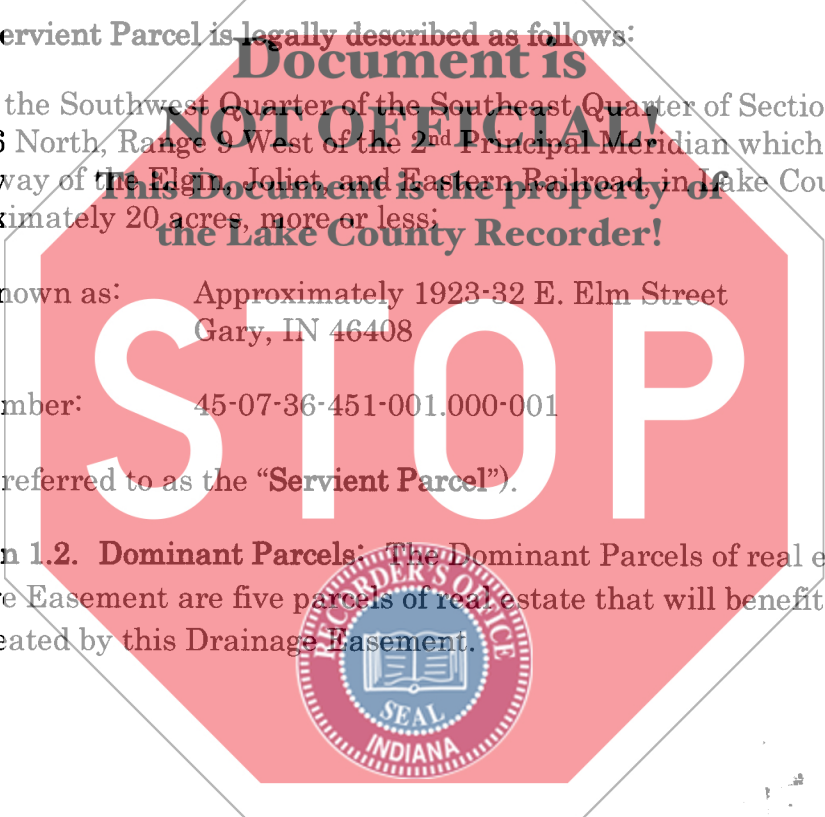
That part of the Southwest Quarter of the Southeast Quarter of Section 36, Township 36 North, Range 9 West of the 2<sup>nd</sup> Principal Meridian which lies North of the right of way of the Elgin, Joliet, and Eastern Railroad, in Lake County, Indiana, being approximately 20 acres, more or less;

commonly known as: Approximately 1923-32 E. Elm Street  
Gary, IN 46408

Property Number: 45-07-36-451-001.000-001

(hereinafter referred to as the "Servient Parcel").

**Section 1.2. Dominant Parcels:** The Dominant Parcels of real estate under this Drainage Easement are five parcels of real estate that will benefit from the easement created by this Drainage Easement.



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PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

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**The Dominant Parcels are legally described as follows:**

**Parcel 1:**

The East One hundred feet (100') of the following described premises: Part of the West half of the Northeast Quarter of the Southeast Quarter of Section 36, Township 36 North, Range 9 West of the 2<sup>nd</sup> Principal Meridian and more particularly described as follows: Commencing on the North line of said tract at a point of 364 feet East of the Northwest corner thereof, and run thence East 293.8 feet to the Northeast Corner of said tract of land; thence South 188.20 feet to the North line of the right-of-way of the Joliet and Northern Indiana Railway Co.; thence Southwesterly along the North line of said right-of-way 312.63 feet to a point directly South of the point of beginning; thence North 296.92 feet to the place of beginning, in Lake County, Indiana.

commonly known as: 4908 S. Ross Rd.  
Gary, IN 46408

Property Number: 45-07-36-426-005.000-001

**Parcel 2:**

All that strip or parcel of land, 99 feet wide, situate in the Township of Calumet, County of Lake and State of Indiana, being part of the West half of the Northeast Quarter of the Southeast Quarter of Section 36, Township 36 North, Range 9 West of the Second Principal Meridian, being more particularly described according to a plan of survey made by Torrenge Engineering, dated October 20, 1981, as follows:

Commencing at the Northeast corner of the West half of the Northeast Quarter of the Southeast Quarter of Section 36; thence South 0 degrees 18 minutes 28 seconds East, along the East line of the West half of the Northeast Quarter of the Southeast Quarter of said Section 36, a distance of 188.06 feet, more or less, to a point on the Northerly line of the Penn Central Railroad right-of-way (formerly Joliet and Northern Indiana Railroad Co.), which point is the place of beginning; thence continuing South 0 degrees 18 minutes and 28 seconds East, along the East line of the West half of the Northeast Quarter of the Southeast Quarter of said Section 36, a distance of 105.33 feet, more or less, to a point on the Southerly line of said Penn Central Railroad right-of-way line, thence South 69 degrees 43 minutes 21 seconds West, along said Southerly right-of-way line a distance of 699.65 feet to a point on the West line of the West half of the Northeast Quarter of the Southeast Quarter of said Section 36; thence North 0 degrees 16 minutes 06 seconds West, along said West line, a distance of 105.36 feet, more or less, to a point on the Northerly line of the Penn Central Railroad right-of-way; thence North 69 degrees 43 minutes 21 seconds East, along said Northerly right-of-way line, a distance of 699.56 feet, more or less, to the place of beginning.

commonly known as: 1915 Elm Street  
Gary, IN 46408

Property Number: 45-07-36-426-007.000-001

**Parcel 3:**

That part of the West Half of the Northeast Quarter of Section 36, Township 36 North, Range West of the 2<sup>nd</sup> Principal Meridian, lying South of the right of way of the Joliet and Northern Indiana Railroad Company (known as the Joliet cut off), in Lake County, Indiana.

commonly known as: Approximately 1915 E. Elm Street  
Gary, IN 46408  
and

Approximately 1813 E. Elm Street  
Gary, IN 46408

Property Numbers:

~~45-07-36-426-010.000-001~~  
and

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**Parcel 4:**

Part of the Northwest Quarter of the Southeast Quarter of Section 36, Township 36 North, Range 9 West of the 2<sup>nd</sup> principal Meridian, described as follows: Commencing at a point 1 rod North of the Southeast corner of said 40 acre tract, thence South 1 rod, thence West 1 rod, thence Northeasterly in a straight line to the place of beginning, in Lake County, Indiana.

commonly known as: Approximately 1805 E. Elm Street  
Gary, IN 46408

Property Number: 45-07-36-401-019.000-001

**Parcel 5:**

Part of the West ½ of the Northeast ¼ of the Southeast ¼ of Section 36, Township 36 North, Range 9 West of the 2<sup>nd</sup> Principal Meridian, described as: Commencing on the North line 364 feet East of the Northwest corner; thence East 293.8 feet, more or less, to the Northeast corner of said West ½ of the Northeast ¼ of the Southeast

¼; thence South 188.20 feet to the right of way of the Michigan Central Railroad; thence Southwesterly on said right of way 312.63 feet to a point directly South of the place of beginning; thence North 296.92 feet to the place of beginning, in Lake County, Indiana; except the East 100 feet thereof, and also except the West 78 feet thereof.

commonly known as: 1823 E. Elm Street  
Gary, IN 46408

Property Number: 45-07-36-426-004.000-001

(hereinafter referred to as the “Dominant Parcels”).

**Section 1.3. Easement Parcel:** The Easement Parcel of real estate under this Drainage Easement is one parcel of real estate with a lake located on it, commonly referred to as “Poncho Lake”. The legal description of the Easement Parcel is identical to the legal description of the Servient Parcel.

The **Easement Parcel** is legally described as follows:

That part of the Southwest Quarter of the Southeast Quarter of Section 36, Township 36 North, Range 9 West of the 2<sup>nd</sup> Principal Meridian which lies North of the right of way of the Elgin, Joliet, and Eastern Railroad, in Lake County, Indiana, being approximately 20 acres, more or less;

commonly known as: Approximately 1923-32 E. Elm Street  
Gary, IN 46408

Property Number: 45-07-36-451-001.000-001

(hereinafter referred to as the “Easement Parcel”).

Section 2  
Ownership of Real Estate

**Section 2.1. Ownership of the Servient Parcel.** Grantor is the sole owner of the Servient Parcel.

Grantor obtained fee simple title to the Servient Parcel (along with other real estate) through the Trustee’s Deed from Hoosier State Bank of Indiana, as Trustee, under the provisions of a Trust Agreement dated March 4, 1968 and known as Trust No. A-320 to Charles V. Pettersen and Marcy J. Pettersen, As Joint Tenants With

Right of Survivorship, dated May 26, 1977, and recorded July 30, 1977, as document number 412956, in the Office of the Recorder of Lake County, Indiana. Said real estate is designated as "Parcel II" in said Trustee's Deed.

Grantor became the sole owner of the Servient Parcel on May 11, 2013, as the surviving joint tenant, upon the death of his mother, namely, Mary J. Pettersen, also known as Mary Jean Pettersen, evidenced by the Survivorship Affidavit made by Charles V. Pettersen, dated October 17, 2014, and recorded October 24, 2014, as document number 2014 067788, in the Office of the Recorder of Lake County, Indiana. The Servient Parcel is designated as "Parcel 5" in said Survivorship Affidavit.

**Section 2.2. Ownership of the Dominant Parcels.**

The record title holder to Parcels 1, 2, 3, and 4 of the Dominant Parcels is Grantor. The record title holder to Parcel 5 of the Dominant Parcels is Unatco, First Midwest Bank Trust Division FBO Charles V. Pettersen IRA. Grantor is the sole beneficiary and the holder of the power of direction under Unatco, First Midwest Bank Trust Division FBO Charles V. Pettersen IRA.

**Section 2.2 (A). Ownership of Parcels 1, 2, 3, and 4 of the Dominant Parcels:**

Grantor is the sole record title owner of Parcels 1, 2, 3, and 4 of the Dominant Parcels.

Grantor obtained fee simple title to **Parcel 1** by the Warranty Deed from Oscar Huth to Charles V. Pettersen and Mary J. Pettersen, Joint tenants with the right of survivorship and not as tenants in common, dated September 4, 1979, and recorded October 19, 1979, as document number 555648, in the Office of the Recorder of Lake County, Indiana;

Grantor obtained fee simple title to **Parcel 2** by the Quitclaim deed from Joliet and Northern Indiana Railroad Company, an Indiana and Illinois corporation, The Michigan Central Railroad Company, a Michigan corporation, and The Penn Central Corporation, a Pennsylvania corporation, to Charles V. Pettersen and Mary J. Pettersen, as joint tenants, with right of survivorship and not as tenants in common, dated December 8, 1981, and recorded January 26, 1982, as document number 657477, in the Office of the Recorder of Lake County, Indiana; and

Grantor obtained fee simple title to **Parcels 3 and 4** by the Trustee's Deed from Hoosier State Bank of Indiana, as Trustee, under the provisions of a Trust Agreement dated March 4, 1968 and known as Trust No. A-320 to Charles V. Pettersen and Marcy J. Pettersen, As Joint Tenants With Right of Survivorship,

dated May 26, 1977, and recorded July 30, 1977, as document number 412956, in the Office of the Recorder of Lake County, Indiana. Said parcels of real estate are designated as "Parcel I" and "Parcel III" in said Trustee's Deed.

Grantor became the sole owner of Parcels 1, 2, 3, and 4 of the Dominant Parcels on May 11, 2013, as the surviving joint tenant, upon the death of his mother, namely, Mary J. Pettersen, also known as Mary Jean Pettersen, evidenced by the Survivorship Affidavit made by Charles V. Pettersen, dated October 17, 2014, and recorded October 24, 2014, as document number 2014 067788, in the Office of the Recorder of Lake County, Indiana. Parcel 1, 2, 3, and 4 are designated as "Parcel 1", "Parcel 2", "Parcel 3", and "Parcel 4" in said Survivorship Affidavit. ✓

**Section 2.2 (B). Ownership of Parcel 5 of the Dominant Parcels:**

Unatco, First Midwest Bank Trust Division FBO Charles V. Pettersen IRA, is the sole record title owner of Parcels 5 of the Dominant Parcels.

Unatco, First Midwest Bank Trust Division FBO Charles V. Pettersen IRA obtained fee simple title to Parcel 5 by the Deed from Peoples Bank SB, as Custodian (who holds record title as "Trustee") of the Charles V. Pettersen IRA dated June 1, 1984, to Unatco, First Midwest Bank Trust Division FBO Charles V. Pettersen IRA, dated October 3, 2011, and recorded October 3, 2011, as document number 2011 054577, in the Office of the Recorder of Lake County, Indiana.

**Section 2.3. Ownership of the Easement Parcel.** Grantor is the sole owner of the Easement Parcel.

Grantor obtained fee simple title to the Easement Parcel (along with other real estate) through the Trustee's Deed from Hoosier State Bank of Indiana, as Trustee, under the provisions of a Trust Agreement dated March 4, 1968 and known as Trust No. A-320 to Charles V. Pettersen and Marcy J. Pettersen, As Joint Tenants With Right of Survivorship, dated May 26, 1977, and recorded July 30, 1977, as document number 412956, in the Office of the Recorder of Lake County, Indiana. Said real estate is designated as "Parcel II" in said Trustee's Deed.

Grantor became the sole owner of the Easement Parcel on May 11, 2013, as the surviving joint tenant, upon the death of his mother, namely, Mary J. Pettersen, also known as Mary Jean Pettersen, evidenced by the Survivorship Affidavit made by Charles V. Pettersen, dated October 17, 2014, and recorded October 24, 2014, as document number 2014 067788, in the Office of the Recorder of Lake County, Indiana. The Easement Parcel is designated as "Parcel 5" in said Survivorship Affidavit. ✓

**Section 3**  
**Grantor's Intent by Creating this Drainage Easement**

The Easement Parcel contains an existing drainage pond, commonly known as "Poncho Lake" that has benefitted the Dominant Parcels as a drainage basin for water runoff for so long as Grantor has owned the Easement Parcel. Grantor intends by creating and granting this Drainage Easement to create a formal easement through which the current and subsequent parties who own the Dominant Parcels will continue to have the benefits of the use of the Easement Parcel for water drainage and water retention, provided that the customary recreational uses of a lake can still continue uninterrupted on the Easement Parcel.

Grantor further intends that the benefits granted in this Drainage Easement will run with the land and shall not be terminated by merger of title between the Easement Parcel and any of the Dominant Parcels.

**Section 4**  
**Creation of Drainage Easement**

For and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and subject to the express covenants, conditions, limitations, and reservations contained in this Drainage Easement, Grantor hereby creates and grants to the owners of the Dominant Parcels, and to each of their respective successors and/or assigns, an easement for the purposes of building and maintaining water drainage ways and water retention systems, and any and all other uses or purposes that are or may be necessary in the building or maintaining of any system of water drainage and water retention, for the drainage of water from the Dominant Parcels in, upon, over, across, under, and through the Easement Parcel.

The easement created by this Drainage Easement includes the following rights:

- (a) to install, lay, construct, remove, repair and/or renew inlets and outlets and other necessary appurtenances, including, by way of illustration and not limitation, the laying of drainage tiles and dredging of ditches, for the purpose of draining water from the Dominant Parcels into and through the Easement Parcel;
- (b) to enter upon the Easement Parcel at all reasonable times to install, lay, construct, renew, operate and maintain the water drainage and retention system;
- (c) to enter the Easement Parcel all reasonable times for the purposes of locating, constructing, reconstructing, operating, maintaining, inspecting, altering

and repairing the water drainage and retention system facilities and ground surface drainage ways in the Easement Parcel;

(d) to remove obstructions, including by way of illustration and not limitation, trees, undergrowth, brush, and structures in the Easement Parcel that obstruct the use of the Easement Parcel for its intended use for water drainage and water retention.

## **Section 5 Covenants**

**Section 5.1. Easement and Covenants to Run With the Land.** It is intended that the easement, covenants, conditions, rights, and obligations set forth in this Drainage Easement shall run with the land and create equitable servitudes in favor of the property benefitted thereby, shall bind every party having any fee, leasehold, or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives. The easements, rights and covenants created herein shall run with the land and all future owners shall be subject to the provisions contained herein.

**Section 5.2. Enforceability.** If any provision of this Drainage Easement is invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted. The remainder of this Drainage Easement shall be valid and enforceable to the maximum extent possible.

**Section 5.3. Obligations.** The owner or owners of the Servient Parcel shall not be liable for any loss, damage, injuries or other casualty of whatsoever kind or by whosoever caused to the person or property of anyone on the Easement Parcel because of activities of the owner or owners of the Dominant Parcels in exercising the owners of the Dominant Parcels rights under this Drainage Easement

**Section 5.4. Remedies and Enforcement.** In the event of a breach or threatened breach by any party to this Drainage Easement of its terms, covenants, restrictions, or conditions, the party alleging such breach or threatened breach shall be entitled to full and adequate relief by injunction and/or all such other available legal and equitable remedies resulting from the consequences of such breach or threatened breach, including the payments of any amounts due and/or specific performance, and reasonable attorney's fees. In addition to all other remedies available in law or equity, upon the failure of a defaulting party to cure a breach of this Drainage Easement within thirty days following written notice thereof by the party alleging the breach (unless, with respect to any such breach the nature of which cannot be reasonably cured within such thirty day period, the defaulting party commences such cure within such thirty day period and thereafter diligently prosecutes such cure to completion), the party alleging the breach shall have the



right to perform such obligations contained in this Drainage Easement on behalf of the defaulting party and shall be reimbursed by such defaulting party, upon demand by the non defaulting party, for the reasonable costs thereof together with interest. Notwithstanding the foregoing to the contrary, no breach under this Drainage Easement shall entitle any party to cancel, rescind, release, or otherwise terminate this Drainage Easement.

**Section 5.5. Repair of Damage.** The owner or owners of the Dominant Parcels shall repair any damage to Easement Parcel or pay any damages that may be caused to the Easement Parcel solely by the owner or owners of the Dominant Parcels activities on, or use of, the Easement Parcel, at the owner or owners of the Dominant Parcels sole cost and expense and promptly after completion of any work within the Easement Parcel or the causing of damage to the Easement Parcel. The owner or owners of the Dominant Parcels will restore the surface and subsurface condition of the Easement Parcel to an equal or better condition as existed prior to any work.

**Section 5.6. Indemnification.** The owner or owners of the Dominant Parcels specifically agree to indemnify, defend and save harmless the owner of the Servient Parcel, its directors, officers, employees, agents, successors and assigns from and against any and all claims, demands, costs, fines, expenses, including, but not limited to, contamination of or other adverse affect on the environment and including claims or personal injury, death or damage to property cause by, incident to, connected wit, resulting or arising from the activities of the owner or owners of the Dominant Parcels, their employees, contractors or agents when exercising rights under this Drainage Easement. Nothing in this paragraph is intended or shall be construed as a waiver of defenses and immunities available under Indiana or Federal law.

**Section 5.7. Term of Drainage Easement.** The drainage easement created in this Drainage Easement shall be effective commencing on the date first stated above and shall remain in full force and effect in perpetuity, unless terminated in the manner stated herein under Section 5.9.

**Section 5.8. Amendment.** The provisions of this Drainage Easement may be modified or amended, in whole or in part, only by the written consent of the record title owners of all of the Dominant Parcels and the Servient Parcel, evidenced by a document that has been fully executed and acknowledged by all such record title owners and recorded in the Office of the Recorder of Lake County, Indiana.

**Section 5.9. Termination.** This Drainage Easement shall not be terminated and shall not be interpreted to terminate by merger of title of any of the Dominant Parcels with the Easement Parcel. This Draniage Easement can be terminated only by a written termination executed by all of the record title owners of all of the

Dominant Parcels, evidenced by a document that has been fully executed and acknowledged by all such record title owners and recorded in the Office of the Recorder of Lake County, Indiana.

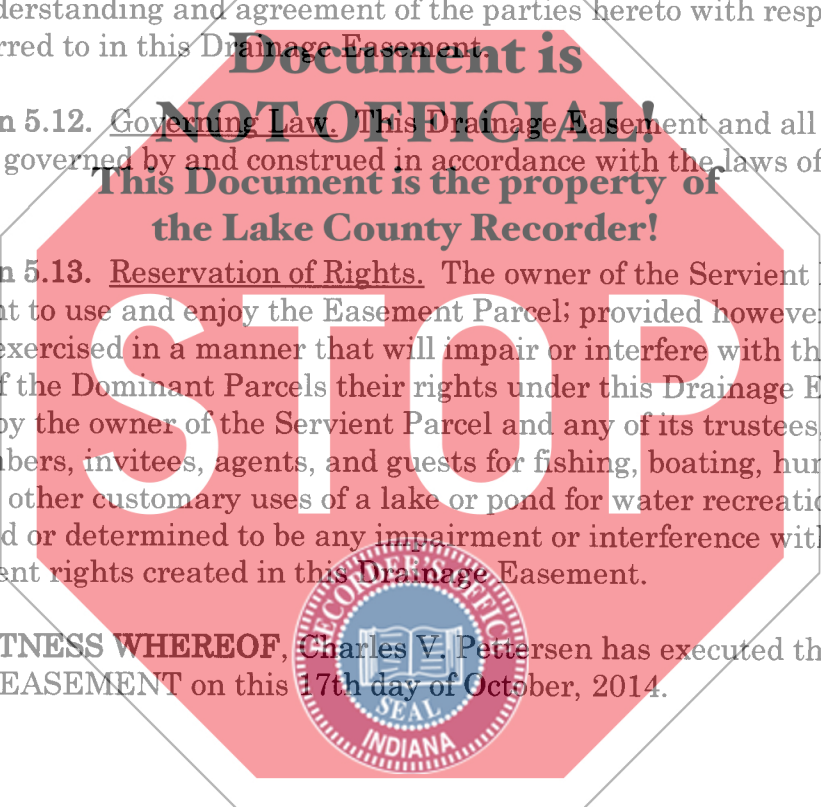
**Section 5.10. Grantee's Acceptance.** The owners of the Dominant Parcels, the Servient Parcel, and the Easement Parcel, and any grantee of any parcel of land described in this Drainage Easement, by acceptance of a deed or other instrument conveying title thereto or an interest therein or the execution of a contract for the purchase thereof, whether from a party executing this Drainage Easement or from a subsequent owner of land described in this Drainage Easement, shall accept such deed, instrument, or contract upon and subject to the easement and all of the covenants, conditions, rights, and obligations contained in this Drainage Easement. By such acceptance, any such grantee shall for said grantee, grantee's successors, assigns, heirs, and personal representatives, covenant, consent, and agree to keep, observe, comply with, and perform the obligations and agreements set forth in this Drainage Easement with respect to the property so acquired by such grantee.

**Section 5.11. Entire Agreement.** This Drainage Easement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to in this Drainage Easement.

**Section 5.12. Governing Law.** This Drainage Easement and all amendments to it shall be governed by and construed in accordance with the laws of the State of Indiana.

**Section 5.13. Reservation of Rights.** The owner of the Servient Parcel shall have the right to use and enjoy the Easement Parcel; provided however, such rights shall not be exercised in a manner that will impair or interfere with the exercise by the owners of the Dominant Parcels their rights under this Drainage Easement. The the use by the owner of the Servient Parcel and any of its trustees, directors, officers, members, invitees, agents, and guests for fishing, boating, hunting, camping and other customary uses of a lake or pond for water recreation shall not be interpreted or determined to be any impairment or interference with the exercise of the easement rights created in this Drainage Easement.

IN WITNESS WHEREOF, Charles V. Pettersen has executed this DRAINAGE EASEMENT on this 17th day of October, 2014.



*Charles V. Pettersen*

Charles V. Pettersen

