

SURVEYOR'S OFFICE

# Hamilton County

*Kenton C. Ward, Surveyor*

*Phone (317) 776-8495*

*Fax (317) 776-9628*

*Suite 188*

*One Hamilton County Square  
Noblesville, Indiana 46060-2230*

To: Hamilton County Drainage Board

February 9, 2005

Re: George Burke Drain

Attached is a petition and plans for the proposed relocation of the George Burke Drain. The relocation is being proposed by Pulte Homes of Indiana, LLC. The proposal is to reconstruct the existing open drain and tile in place as an open drain across parcel #13-11-25-00-006.002. This is being done in conjunction with Avalon of Fishers, Section 3.

The line will consist of the following:

467' of Open Ditch

The total length of open drain shall be 467 feet. The 467 feet of original 1897 drain between Sta. 111+37 and Sta. 106+70 shall be affected. This proposal will not change the drains length.

The cost of the relocation is to be paid by Pulte Homes of Indiana, LLC. Because the project is to be paid by the petitioner and is within the boundaries of the petitioner's property, the project falls under the requirements as set out in IC 36-9-27-52.5. Therefore, a noticed hearing is not required for the petition.

The petitioner has provided the Performance Bond as follows:

Name of Bonding Co.: Continental Insurance Company

Bond Number: 929340277

Bond Date: December 22, 2004

Bond Amount: \$14,352.00

I recommend approval by the Board at this time.

Sincerely,

Kenton C. Ward  
Hamilton County Surveyor

KCW/llm

IN RE: \_\_\_\_\_ )  
Hamilton County, Indiana )

**PETITION FOR RELOCATION AND RECONSTRUCTION**

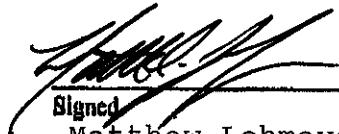
Pulte Homes of Indiana, LLC

(hereinafter "Petitioner"),

hereby petitions the Hamilton County Drainage Board for authority to relocate and improve a section of the George Burke Drain, and in support of said petition advises the Board that:

1. Petitioner owns real estate through which a portion of the George Burke Drain runs.
2. Petitioner plans to develop its real estate with roads, buildings, utilities, storm drains, sanitary sewers and other structures.
3. Petitioner's proposed development of its real estate will require relocation and reconstruction of a portion of the George Burke Drain, as specifically shown on engineering plans and specifications filed with the Hamilton County Surveyor.
4. The work necessary for the proposed relocation and reconstruction will be undertaken at the sole expense of the Petitioner and such work will result in substantial improvement to the George Burke Drain, without cost to other property owners on the watershed of the George Burke Drain.
5. Proposed relocation and reconstruction will not adversely affect other land owners within the drainage shed.
6. Petitioner requests approval of the proposed relocation and reconstruction under IC 36-9-27-52.5.

WHEREFORE, Petitioner requests that an Order issued from the Hamilton County Drainage Board authorizing relocation and reconstruction of the George Burke Drain, in conformance with applicable law and plans and specifications on file with the Hamilton County Surveyor.

  
\_\_\_\_\_  
Signed Matthew Lohmeyer  
Printed

HCDB-2004-00099

Bond No. 929340277

PERFORMANCE BOND



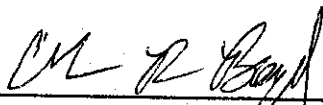
KNOW ALL MEN BY THESE PRESENTS, that PULTE HOMES OF INDIANA, LLC  
of 11590 N. Meridian Street, Ste 530, Carmel, IN 46032  
as Principal, and Continental Insurance Company a corporation  
organized and existing under the laws of the State of South Carolina and authorized to transact  
business in the state of Indiana, as Surety, are held and firmly bound unto  
Hamilton County Commissioners  
of One Hamilton County Square, #157, Noblesville, IN 46060 as Obligee, in  
the penal sum of fourteen thousand three hundred fifty two and 00/100  
(\$ 14,352.00) for the payment of which sum, well and truly to be made, we bind  
ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by  
these presents.

WHEREAS, the Principal has agreed to construct or have constructed, \_\_\_\_\_  
reconstruction of George Burke legal drain in Avalon of Fishers Section 3.

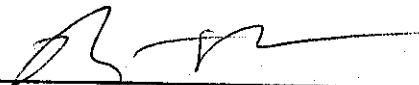
NOW, THEREFORE, the condition of this obligation is such that if said Principal shall well and truly  
perform said work in accordance with said standards, then this obligation shall be void, otherwise to  
remain in full force and effect.

Signed, sealed and dated this 22nd day of December, 2004

Pulte Homes of Indiana, LLC

  
\_\_\_\_\_  
Calvin R. Boyd, Dir. of Treasury Operations

Continental Insurance Company

  
\_\_\_\_\_  
Robert Porter, Attorney-in-Fact

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a South Carolina corporation, and Firemen's Insurance Company of Newark, New Jersey, a New Jersey corporation (herein called "the CIC Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

John R. Stoller, Julia T. Corcoran, Vincent J. Frees, Maureen E. Thomas, Bruce E. Robinson, Calvin R. Boyd, Jane K. Botting, Colette R. Zukoff, Suzanne Treppa, Robert Porter, Individually

of Bloomfield Hills, MI, their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In an amount not to exceed One Million and no/100 Dollars (\$1,000,000.00) -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CIC Companies have caused these presents to be signed by their Senior Vice President and their corporate seals to be hereto affixed on this 14th day of July, 2004.



The Continental Insurance Company  
Firemen's Insurance Company of Newark, New Jersey

*Michael Gengler*  
Michael Gengler Senior Vice President

State of Illinois, County of Cook, ss:

On this 14th day of July, 2004, before me personally came Michael Gengler to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Senior Vice President of The Continental Insurance Company, a South Carolina corporation, and Firemen's Insurance Company of Newark, New Jersey, a New Jersey corporation described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



My Commission Expires September 17, 2006

*Eliza Price*  
Eliza Price Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of The Continental Insurance Company, a South Carolina corporation, and Firemen's Insurance Company of Newark, New Jersey, a New Jersey corporation do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the corporations printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporations this 22ND day of DECEMBER 2004.



The Continental Insurance Company  
Firemen's Insurance Company of Newark, New Jersey

*Mary A. Ribikawskis*  
Mary A. Ribikawskis Assistant Secretary

## Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolution adopted by the Executive Committee of the Board of Directors of The Continental Insurance Company by unanimous written consent dated the 13<sup>th</sup> day of January, 1989:

“RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President, a Senior Vice President or a Vice President of the Company be, and each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of the Company bonds, undertakings and all contracts of suretyship; and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.”

ADOPTED BY THE BOARD OF DIRECTORS OF FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY:

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolution adopted by the Executive Committee of the Board of Directors of the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY by unanimous written consent dated the 13<sup>th</sup> day of January, 1989:

“RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President, a Senior Vice President or a Vice President of the Company be, and each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of the Company bonds, undertakings and all contracts of suretyship; and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and each of any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.”

BOND NO 929340277  
12/21/04

## NOTICE

In accordance with the Terrorism Risk Insurance Act of 2002, we are providing this disclosure notice for bonds and certain insurance policies on which one or more of the Writing Companies identified below is the surety or insurer.

To principals on bonds and insureds on certain insurance policies written by any one or more of the following companies (collectively the "Writing Companies") as surety or insurer: Western Surety Company, Universal Surety of America, Surety Bonding Company of America, Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA, The Firemen's Insurance Company of Newark, NJ, and The Continental Insurance Company.

### DISCLOSURE OF PREMIUM

The premium attributable to coverage for terrorist acts certified under the Act was Zero Dollars (\$0.00).

### DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES

The United States will pay ninety percent (90%) of covered terrorism losses exceeding the applicable surety/insurer deductible.

Form 57310









FINDINGS AND ORDER

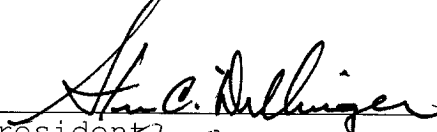
CONCERNING THE MAINTENANCE OF THE

Mud Creek/Sand Creek Drainage Area, George Burke Drain Arm

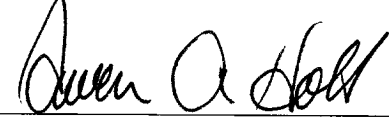
On this **28th day of August 2006**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Mud Creek/Sand Creek Drainage Area, George Burke Drain Arm**.

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

Attest:   
\_\_\_\_\_



*Kenton C. Ward, CFM*  
*Surveyor of Hamilton County*  
*Phone (317) 776-8495*  
*Fax (317) 776-9628*

*Suite 188*  
*One Hamilton County Square*  
*Noblesville, Indiana 46060-2230*

**To: Hamilton County Drainage Board**

**March 9, 2009**

**Re: Mud Creek – Sand Creek Drain: Avalon Sec. 3 Relocation  
of the George Burk Arm**

Attached are as-builts, certificate of completion & compliance, and other information for the Avalon Section 3 relocation of the George Burk Arm. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated February 9, 2005. The report was approved by the Board at the hearing held August 28, 2006. (See Drainage Board Minutes Book 9, Pages 399-400)

The changes are as follows:

The length of the open ditch was lengthened from 467 feet to 532 feet.

The length of the drain due to the changes described above is now **532 feet**. The original George Burk drain was removed from Sta. 106+38 to Sta. 111+37. Therefore, 33 feet was added to the drain's overall length.

The non-enforcement was approved by the Board at its meeting on May 29, 2007 and recorded under instrument #2007029219.

The following sureties were guaranteed by Continental Insurance Company and expired on December 22, 2006.

**Bond-LC No:** 929340277

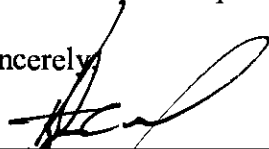
**Insured For:** Storm Sewers

**Amount:** \$14,352.00

**Issue Date:** December 22, 2004

I recommend the Board approve the drain's construction as complete and acceptable.

Sincerely,



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Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/slm

CERTIFICATE OF COMPLETION AND COMPLIANCE

To: Hamilton County Surveyor

Re: **Avalon of Fishers, Section 3**  
**Reconstructed George Burke Legal Drain**

I hereby certify that:

1. I am a Registered Land Surveyor or Engineer in the State of Indiana.
2. I am familiar with the plans and specifications for the above referenced subdivision.
3. I have personally observed and supervised the completion of the drainage facilities for the above referenced subdivision.
4. The drainage facilities within the above referenced subdivision to the best of my knowledge, information and belief have been installed and completed in conformity with all plans and specifications.
5. The drainage facilities within the above referenced subdivision to the best of my knowledge, information and belief have been correctly represented on the Record Drawings, Digital Record Drawings and the Structure Data Spreadsheet.

Signature:  Date: February 20, 2009

Type or Print Name: Dennis D. Olmstead

Business Address: Stoeppelwerth & Associates, Inc.

7965 East 106th Street, Fishers, Indiana 46038

Telephone Number: 317-849-5935

SEAL

INDIANA REGISTRATION NUMBER

900012





