

Drain: Elliott Creek Drain

Improvement-Arm: Village of West Clay Section 15002 Arm

Date Approved: January 28, 2008

Drain Input Checklist

- Create Regulated Drain Record in Posse _____

- Drain Type
- Outlet (Tab)
- Outlet Attached
- Location
- Twp
- Certification
- Drain Number

- Enter Improvement Arm in Posse January 29, 2008 *Need completed*
(Construction Amount = Storm Drains, Erosion Control, Sub-surface drain & Earthwork)

- Scan Documents _____

- Surveyor's Report
- Engineer's Estimate
- Bonds
- Findings and Order
- Petition

- Create Posse Inspection Job _____

- Enter into Watershed Summary Spreadsheet _____

- Check for Vacation of Drain & Map Changes _____

- Check Drainage Easement Classification _____

- Sum drain length & Validate in GIS _____

- Enter New Watershed Length into Posse _____

- Create Boundary of Improvement in GIS _____

The total length of new drain shall be 1,435 feet. The 1,336 feet of original drain between the north ROW line of 131st Street and the east property line of parcel 17-09-28-00-00-027.000 shall be vacated. This proposal will add an additional 99 feet to the drains total length.

The cost of the relocation is to be paid for by Brenwick TND Communities, LLC.

The petitioner has provided the Performance Bond as follows:

Name of Bonding Co.: Bond Safeguard Insurance Company

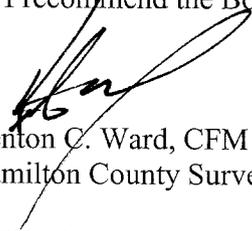
Bond Number: 5026867

Bond Date: June 25, 2007

Bond Amount: \$205,790.40

I recommend that upon approval of the above proposed drain that the Board also approve the attached non-enforcement request. The request is for the reduction of the regulated drain easement to those easement widths as shown on the secondary plat for Village of West Clay, Section 15002 as recorded in the office of the Hamilton County Recorder.

I recommend the Board set a hearing for this proposed drain on January 28, 2008.



Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll

HAMILTON COUNTY DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN RE: Village of WestClay Section 15002)
Hamilton County, Indiana)

PETITION FOR RELOCATION AND RECONSTRUCTION

Brenwick TND Communities, LLC (hereinafter "Petitioner"),

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

1. Petitioner owns real estate through which a portion of the Elliott Creek 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 Elliott Creek 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 Elliott Creek Drain, without cost to other property owners on the watershed of the Elliott Creek 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 Elliott Creek Drain, in conformance with applicable law and plans and specifications on file with the Hamilton County Surveyor.


Signed
Kevin Kaulik, PROJECT MANAGER
Printed

BOND SAFEGUARD INSURANCE COMPANY
Lombard, IL 60148



SUBDIVISION PERFORMANCE BOND

HCTDB-2007-00036

BOND #5026867

KNOW ALL MEN BY THESE PRESENTS, That we, **Brenwick Development Company, Inc.**, 12821 E. New Market Street, Carmel, IN 46032, as Principal, and Bond Safeguard Insurance Company, 1919 S. Highland Avenue, Bldg. A-Suite 300, Lombard, IL 60148, as Surety, are held and firmly bound unto the Hamilton County Board of Commissioners, One Hamilton Square, Noblesville, IN 46060, as Owner, in the sum of ****Two Hundred Five Thousand Seven Hundred Ninety and 40/100** Dollars (\$205,790.40)**, for payment of which we firmly bind ourselves, our heirs, executors, administrators, and assigns.

THE CONDITION OF THIS BOND is such that if the said Principal shall complete the construction of Storm Sewers in The Village of WestClay, Section 15002 Subdivision, according to the approved plans and specifications on file with the Hamilton County Board of Commissioners, then this obligation is null and void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 25th Day of June, 2007.

Brenwick Development Company, Inc.

By: _____

KEITH LASH, P.E.

Executive Vice President

Bond Safeguard Insurance Company

By: _____

Deborah M. Roth, Attorney-in-Fact

American Contracting Services, Inc.
7393 Business Center Drive, Suite 200
Avon, IN 46123
(317) 272-4861



Bond Safeguard INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS, that **BOND SAFEGUARD INSURANCE COMPANY**, an Illinois Corporation with its principal office in Lombard, Illinois, does hereby constitute and appoint: Anthony G. Balzano, Deborah M. Roth, *****
Jacqueline Demeter *****

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surely, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **BOND SAFEGUARD INSURANCE COMPANY** on the 7th day of November, 2001 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$1,000,000.00, One Million Dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Vice President, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **BOND SAFEGUARD INSURANCE COMPANY** has caused this instrument to be signed by its President, and its Corporate seal to be affixed this 7th day of November, 2001.



BOND SAFEGUARD INSURANCE COMPANY

BY *David E. Campbell*
David E. Campbell
President

ACKNOWLEDGEMENT

On this 7th day of November, 2001, before me, personally came David E. Campbell to me known, who being duly sworn, did depose and say that he is the President of **BOND SAFEGUARD INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.

"OFFICIAL SEAL"
MAUREEN K. AYE
Notary Public, State of Illinois
My Commission Expires 09/21/09

Maureen K. Aye
Maureen K. Aye
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **BOND SAFEGUARD INSURANCE COMPANY**, An Illinois Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Lombard, Illinois this 25th Day of June, 20 07



Donald D. Buchanan
Donald D. Buchanan
Secretary

FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

**Elliott Creek Drain, Village of West Clay Section 15002 Arm
North Right of Way Line of 131st Street**

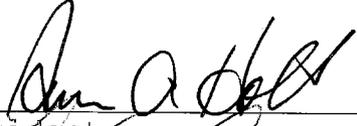
To

Parcel #17-09-28-00-00-027.000

On this *28th day of January 2008*, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Elliott Creek Drain, Village of West Clay Section 15002 Arm, North Right of Way Line of 131st Street to Parcel 17-09-28-00-00-027.000.**

Evidence has been heard. Objections were presented and considered. The Board then adopted an order of action. The Board now finds that the costs of continued maintenance to the portion of the above drain exceed the benefits to the real estate benefited by the portion of the drain to be abandoned and issues this order vacating the above section of the **Elliott Creek Drain, Village of West Clay Section 15002 Arm.**

HAMILTON COUNTY DRAINAGE BOARD



President



Member



Member

Attest:



STATE OF INDIANA)
) ss:
COUNTY OF HAMILTON)

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
Elliott Creek Drain, Village of West Clay Section 15002 Reconstruction

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **Elliott Creek Drain, Village of West Clay Section 15002 Reconstruction** came before the Hamilton County Drainage Board for hearing on **January 28, 2008**, on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

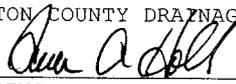
The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

Wherefore, it is ORDERED, that the proposed Reconstruction of the **Elliott Creek Drain, Village of West Clay Section 15002 Reconstruction** be and is hereby declared established.

Thereafter, the Board made inspection for the purpose of determining whether or not the lands of any owners had been erroneously included or excluded from the Schedule of Assessments. The Board finds on the basis of the reports and findings at this hearing as follows:

HAMILTON COUNTY DRAINAGE BOARD



PRESIDENT



Member



Member

ATTEST:


Executive Secretary