

ATTACHMENT

ITEM NO. C.9

DATE: April 21, 2009



CONTRA COSTA Co Recorder Office  
STEPHEN L. WEIR, Clerk-Recorder  
DOC- 2009-0088839-00

Thursday, APR 23, 2009 10:29:24

FRE \$0.00:1

Ttl Pd \$0.00

Nbr-0000105313

lrc/R9/1-10

Recorded at the request of : Clerk of the Board  
Return To : J. Carlson  
Public Works Dept.  
Engineering Services

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA  
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 04/21/2009 by the following vote:

AYES:  5  
NOES:   
ABSENT:   
ABSTAIN:   
RECUSE:



Resolution No. 2009/155

Accepting completion of improvements (Astor Hollow Street, Corn Flower Street, Maylayan Street, Irisview Place and Beechtree Lane) for SD 05-08952, for project developed by Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corp., as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (District III)

These improvements are approximately located near Stoneleaf Road and Ivyleaf Springs Street.

The Public Works Director has notified this Board that the improvements in SD 05-08952 have been completed as provided in the Subdivision Agreement with Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corp., heretofore approved by this Board in conjunction with the filing of the Subdivision Map.

NOW THEREFORE BE IT RESOLVED that the improvements have been COMPLETED as of April 21, 2009 thereby establishing the six month terminal period for the filing of liens in case of action under said Subdivision Agreement:

DATE OF AGREEMENT: March 17, 2009

NAME OF BANK/SURETY: The Continental Insurance Company

Contact: J. LaRocque 313-2315

CERTIFIED COPY

I certify this is a full, true and correct copy of the original document which is on file in my office. ATTEST, David Twa, Clerk of the Board of Supervisors and County Administrator by Deputy Clerk.

David Twa on April 21, 2009

cc: J. Carlson, Engineering Services, K. Guruwaya, Construction Div., M. Valdez, M&T Lab, H. Finch, Maintenance Div., I. Bergeron, Mapping Div., P. Edwards, Engineering Svc., S. Francis, Finance,, Chris Low, City of San Ramon, L. Stritt, Shapell Homes,

BE IT FURTHER RESOLVED the payment (labor and materials) surety for \$848,050.00, Bond No. 929 467 111 issued by the above surety be RETAINED for the six month lien guarantee period until October 21, 2009, at which time the Clerk of the Board is AUTHORIZED to release the surety less the amount of any claims on file.

BE IT FURTHER RESOLVED that Astor Hollow Street, Corn Flower Street, Maylayan Street, Irisview Place and Beechtree Lane the hereinafter described public improvements, as shown and dedicated for public use on the Final Map of SD 05-08952 filed March 17, 2009, in Book 509 of final maps at Pages 1-10, Official Records of Contra Costa County, State of California, are ACCEPTED AS COMPLETE.

Road Name / Road-R/W Widths / Lengths (Miles)

Astor Hollow Street / 36' curb / 52' RW / 0.15 Beechtree Lane / 36' curb / 52' RW / 0.05 Corn Flower Street / 36' curb / 52' RW / 0.18 Irisview Place / 36' curb / 52' RW / 0.05 Maylayan Street / 36' curb / 52' RW / 0.21

BE IT FURTHER RESOLVED that upon approval by the Board of Supervisors, the San Ramon City Council shall ACCEPT the improvements for maintenance and ownership in accordance with the Dougherty Valley Memorandum of Understanding.

BE IT FURTHER RESOLVED that the beginning of the warranty period is hereby established, and the \$27,700.00 cash deposit (Auditor's Deposit Permit No. 450512, dated August 31, 2005) made by Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corp., and the performance/maintenance surety bond rider for \$251,865.00, Bond No. 929 467 111 issued by The Continental Insurance Company be RETAINED pursuant to the requirements of Section 94 4.406 of the Ordinance Code until release by this Board.

Recorded at the request of : Clerk of the Board  
Return To : J. Carlson  
Public Works Dept.  
Engineering Services

I declare under penalty of perjury  
that this is a true and correct copy  
of the attached document.  
Date 04/23/09 Signed: [Signature]

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and for Special Districts, Agencies and Authorities Governed by the Board

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NAME OF BANK/SURETY: The Continental Insurance Company

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[Signature] on April 21, 2009

cc: J. Carlson, Engineering Services, K. Guruwaya, Construction Div., M. Valdez, M&T Lab, H. Finch, Maintenance Div., I. Bergeron, Mapping Div., P. Edwards, Engineering Svc., S. Francis, Finance, Chris Low, City of San Ramon, L. Stritt, Shapell Homes,



SUB 05-8952, Gale Ranch III

INCREASE - DECREASE RIDER

TO BE ATTACHED TO and form part of Bond Number 929 467 111 issued by the  
The Continental Insurance Company \_\_\_\_\_, as  
Surety, on behalf of Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corporation of  
Milpitas, CA \_\_\_\_\_, hereinafter referred  
to as the Principal, and in favor of County of Contra Costa  
of Martinez, CA \_\_\_\_\_, hereinafter  
referred to as the Obligee, effective the 11th day of February, 2009.

IN CONSIDERATION of the premium charged for the attached bond and other good and valuable consideration it  
is understood and agreed that effective the 5th day of March, 2009, and  
subject to all the terms, conditions and limitations of the attached bond, the penal sum thereof shall be and the  
same is hereby **\*\*DECREASED\*\*** \_\_\_\_\_ from the sum of  
One Million Six Hundred Seventy Nine Thousand One Hundred No/100\*\*\* Dollars (\$ 1,679,100.00\*\*\* ), to the  
sum of Two Hundred Fifty One Thousand Eight Hundred Sixty Five No/100\*\*\* Dollars (\$ 251,865.00\*\*\* ).

IT IS FURTHER UNDERSTOOD and agreed that subject to all the terms, conditions and limitations of the  
attached bond, the aggregate liability of the Surety for any loss occurring prior to said date shall not exceed the  
sum of One Million Six Hundred Seventy Nine Thousand One Hundred No/100\*\*\* Dollars (\$ 1,679,100.00\*\*\* ),  
or for any loss occurring subsequent to said date shall not exceed the sum of \_\_\_\_\_  
Two Hundred Fifty One Thousand Eight Hundred Sixty Five No/100\*\*\* Dollars (\$ 251,865.00\*\*\* ).

In no event, however, shall the aggregate liability of the Surety exceed the larger of the aforementioned sums, it  
being the intent hereof to preclude cumulative liability.

SIGNED, SEALED AND DATED this 5th day of March, 2009

Accepted By: \_\_\_\_\_  
County of Contra Costa

Shapell Homes, a Division of Shapell Industries, Inc.,  
A Delaware Corporation  
\_\_\_\_\_  
(Principal)

By \_\_\_\_\_

By [Signature] \_\_\_\_\_ (Seal)

By [Signature] \_\_\_\_\_ (Seal)

The Continental Insurance Company  
\_\_\_\_\_  
(Surety)

By [Signature] \_\_\_\_\_ (Seal)  
Pamela L. Stocks, Attorney-in-Fact

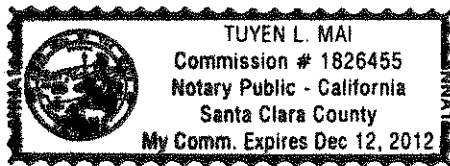
## CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California

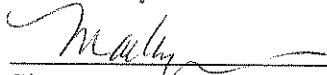
County of Santa Clara

On **March 9, 2009**, before me, **Tuyen L. Mai**, Notary Public personally appeared **Robert D. Moore and John Luedemann** who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature of Notary Public

### Optional Information

Title or Type of Document: CNA Surety (Increase-Decrease Rider Bond Number 929-467-111)

Capacity Claimed by Signer: Assistant Vice President and Assistant Secretary of Shapell Industries, Inc.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Pamela L Stocks, Beverly A Hall, Sandra V Hanner, Gina O'Shea, Individually

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

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company 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 Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 20th day of August, 2008.



The Continental Insurance Company

Robert M. Mann

Robert M. Mann Senior Vice President

State of Illinois, County of Cook, ss:

On this 20th day of August, 2008, before me personally came Robert M. Mann 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 Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.



My Commission Expires September 17, 2009

Eliza Price Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, 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 insurance company 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 insurance company this 5th day of March, 2009.



The Continental Insurance Company

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 made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the company.

### "Article VI-Execution of Documents

Section 3. Appointment of Attorney-in-Fact. The Chairman of the Board of Directors, the President or any Executive or Senior Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The Chairman of the Board of Directors, the President or any Executive or Senior Vice President or the Board of Directors, may, at any time, revoke all power and authority previously given to any attorney-in-fact.

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 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."

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Los Angeles



On March 5, 2009 before me, Beverly A. Hall, Notary Public  
Date Here Insert Name and Title of the Officer

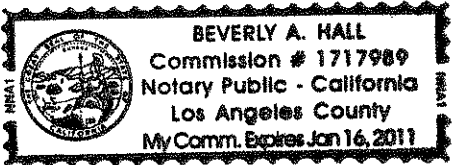
personally appeared Pamela L. Stocks  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~is~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(ies), and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Beverly A. Hall*  
Signature of Notary Public



Notary Seal