

**DEVELOPMENT IMPROVEMENTS AGREEMENT  
FOR  
PROMONTORY INITIAL PLAT INFRASTRUCTURE  
NEIGHBORHOOD OF  
PROMONTORY RIDGE – POD 92**

**THIS AGREEMENT** is made this 1<sup>st</sup> day of September, 2005, by and between **SUMMIT COUNTY**, a political subdivision of the State of Utah (the “County”), and **Pivotal Promontory Development, LLC**, an Arizona limited liability company and **Pivotal Promontory, LLC**, an Arizona limited liability company, together herein referred to as “Developer”.

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ALAN SPRIGGS, SUMMIT CO RECORDER  
2005 SEP 02 11:13 AM FEE \$1.00 BY GGB  
REQUEST: SUMMIT COUNTY CLERK

**RECITALS**

1. Developer is the owner of certain platted properties more particularly described in Exhibit A, situated in the County of Summit, State of Utah, sometimes referred to as Promontory Ridge, or POD 92 and referred to herein as the “Property.”
2. Developer’s County-approved Development Agreement for Promontory provides that construction of road and utility infrastructure may be undertaken upon final platting, subject to execution of a Development Improvements Agreement.
3. Developer has submitted to the County the site improvements plans, more particularly described in Exhibit B attached hereto (the “Site Improvements Plans”), and has submitted construction drawings (“Construction Drawings”) for those improvements and related landscaping being constructed by the Developer in connection with the road and utility infrastructure on the Property, pursuant to that certain Development Agreement dated as of January 16, 2001 (the “Development Agreement”).
4. Construction of the roads and infrastructure covered by this Development Improvements Agreement will be subject to the requirements and conditions related to the installation and construction of utilities and the improvements shown on the attached Site Improvements Plan. These requirements and conditions conform to those which are set forth in the Development Agreement.

NOW, THEREFORE, in consideration of the premises and the terms and conditions herein stated and for other valuable consideration, the adequacy of which is acknowledged by the parties hereto, it is agreed as follows:

1. **Developer’s Guarantee and Warranty.**

Developer has entered into formal commitments, including the approved Development Agreement and this Development Improvements Agreement with an appropriate bonding and installation schedule to guarantee the installation, as hereafter provided and as necessary to serve the Property, and payment therefore, of all private roads and private road

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improvements, all utility lines, storm drainage improvements and storm sewers, and any other improvements described in the Site Improvements Plan. Developer hereby warrants all road improvements and utility improvements constructed or installed by Developer against defects in materials and workmanship for a period of two full year's normal operation after acceptance by the County Engineer or the applicable utility companies of such improvements. The County shall either retain ten percent (10%) of the bond, letter of credit or escrow total for such items, or require a bond, letter of credit or escrow equal to ten percent (10%) of the required total improvement costs for such items until twenty-four months from the date of completion of the improvements and acceptance thereof by the County, as a guarantee should the improvements prove to be defective during said 24-month period. Developer agrees to promptly correct any deficiencies in installation in order to meet the requirements of the plans and specifications applicable to such installation. In the event such installation is not completed substantially within the applicable schedules attached hereto and according to the specific plans set forth in the Site Improvements Plan, the County shall have the right to cause such work to be done as is necessary to complete the installation in such manner and Developer shall be liable for the cost of such additional work.

**2. Water Facilities and Sanitary Sewer Collection Lines.**

- (1) At the request of Developer, The Snyderville Basin Water Reclamation District (the "District") has entered into a Line Extension Agreement to provide for the installation of all sanitary sewer collection lines on and serving the Property. The Developer shall bond for the installation of on-site sewer lines and service laterals from the border of the Property to the existing sewage collection system, in accordance with the standard specification of the District.
- (2) The Developer has also entered into a Water Service Agreement with Mountain Regional Water Service District to provide for the installation of all wells, tanks, waterlines and service laterals for the Property thereby creating a complete system in accordance with the standard specifications of the Mountain Regional Water Service District ("Mountain Regional"). The Developer shall bond for the installation of all required wells, tanks, waterlines and service laterals in accordance with the standard specification of the District.
- (3) It is anticipated that the installation of said sanitary sewer lines and waterlines will be completed within two years from the date hereof for the initial phase of construction and within two years from the date of approval of Construction Drawings for each subsequent phase of construction.
- (4) The cost of all said sanitary sewer lines shall be borne by Developer pursuant to an agreement between Developer and the District, and Developer has entered into a separate guarantee and warranty to the District for such facilities.

- (5) The Developer has agreed to construct and pay for culinary and fire protection waterlines to serve the Property, and to transfer maintenance and ownership of said waterlines and other water improvements to Mountain Regional after acceptance and approval of the improvements by Mountain Regional. The cost of all said waterlines and water improvements shall be borne as determined by Developer's Water Service Agreement with Mountain Regional and construction is guaranteed by the Developer pursuant to this Development Improvements Agreement.

**3. Electric, Gas, Telephone and Cable TV Facilities.**

- (1) At the request of the Developer, Utah Power shall engineer and provide for the installation of all electric distribution lines and facilities required for the Property, and Developer shall pay for such work in accordance with the established charges of Utah Power.
- (2) At the request of Developer, Questar Gas Company shall engineer and provide for the installation of all required gas lines and facilities required, and Developer shall pay for such work in accordance with the established charges of Questar Gas Company. Alternatively, Developer may choose to allow each home site owner to install an individual propane storage tank and lines to serve their home.
- (3) At the request of Developer, Allwest shall engineer and provide for the installation of all required telephone lines and facilities and broadband and cable television lines and facilities, utilizing conduit installed by Developer, and Developer shall make any required payment for such work in accordance with the terms of its agreement with such service provider.
- (4) The installation of the electric, gas, telephone and cable television facilities is anticipated to be completed within two years from the date hereof for the initial phase of construction and within two years from the date of approval of Construction Drawings for each subsequent phase of construction.

**4. Storm Drainage Improvements.**

- (1) The Developer shall install any storm sewer lines and drainage facilities described in the Site Improvement Plan.
- (2) Developer anticipates completing the installation of said lines and facilities within two years from the date hereof for the initial phase of construction and within two years from the date of approval of Construction Drawings for each subsequent phase of construction.

5. **Trails.**

Private community trails through the Property (as designated in the Site Improvement Plan) will be owned and maintained by the Promontory Conservancy, will be initially constructed by Developer in connection with installation of the site improvements and need not be bonded for with the County. There are no public trails associated with the Property.

6. **Roads.**

Developer agrees to construct, at Developer's cost, all private roads and private road improvements listed on the Site Improvements Plan, in accordance with the Construction Drawings and the Site Improvements Plan. Developer anticipates completing the roads and road improvements and associated utilities within two years from the date Construction Drawings are approved for the phase. Developer agrees to install any traffic control signs and street name signs as required by the County (in either standard form or to specific standards approved by the County for Promontory prior to any installation) and to re-vegetate all cuts and fills resulting from construction in a manner which will prevent erosion. The construction of such roads shall be subject to inspection and approval by the County Engineer and the cost of such inspection shall be paid by the Developer.

7. **Landscaping.**

Developer shall install roadway landscaping in accordance with the Site Improvements Plan, at Developer's expense within two years from the date hereof.

8. **Road Cuts.**

Developer acknowledges that the County has adopted a road cut ordinance, the provisions of which shall apply to the alteration of any County road necessitated by the installation of any utilities described in this Agreement.

9. **Traffic Control.**

During the construction of any utilities or improvements described herein, Developer shall be responsible for controlling and expediting the movement of vehicular and pedestrian traffic through and around all construction sites and activity. Such control shall be according to the latest version of the manual of Uniform Traffic Control Devices.

10. **Maintenance and Repair.**

- (1) Developer shall repair or pay for any damage to any existing public improvements damaged during the construction of new improvements. The County shall notify Developer within a reasonable time after discovery of any claim hereunder, and Developer shall have a reasonable period of time within which to repair said damage.

- (2) Pursuant to the Declaration of Covenants, Conditions and Restrictions for the Promontory Conservancy, as recorded in the office of the Recorder of Summit County, Utah, the Promontory Conservancy shall provide for the maintenance of any private roads and trails within the Property and the Developer shall be released from any obligation and liability to maintain such private roads or to be responsible for the cost of such maintenance upon acceptance of such roads and trails by the Conservancy and expiration of any applicable warranty period.

**11. Financial Assurances.**

To insure Developer's performance under this Agreement (except for the installation of the Sanitary Sewer Collection Lines and water lines and dry utilities described in Paragraph 2 above which are to be directly guaranteed, where applicable, with separate financial assurances from Developer, and private trails which need not be publicly bonded), the Developer shall, prior to the commencement of construction of any improvements, provide the County with sufficient security, to ensure completion of the required improvements, in the amount of 120% of the cost of construction, determined in accordance with the contract unit prices reflected in the schedule in Exhibit C. The security shall be in the form of either: A) a Letter of Credit drawn upon a state or national bank. Said Letter of Credit shall: (1) be irrevocable, (2) be of a term sufficient to cover the completion and warranty periods according to the values required herein, and (3) require only that the County present the issuer with a signed draft and a certificate signed by an authorized representative of the County certifying to the County's right to draw funds under the Letter of Credit; or B) Establishment of an Escrow Account or Completion Bond with the guarantee that all improvements shall be installed within two years of the effective date of the account or bond or the account or bond will be called by the County to complete the improvements. Acceptable escrow agents shall be the Summit County Treasurer's Office, or banks or savings institutions which are federally insured. This two-year deadline may be extended by the County upon showing of sufficient cause, but no additional phase of the development shall be permitted during such an extension. As portions of the improvements are completed in accordance with this Development Improvements Agreement, County regulations, and the approved Site Improvements Plan, the Developer may make application to the County Engineer to reduce the amount of the original letter of credit, cash escrow or completion bond. If the Board of County Commissioners is satisfied that such portion of the improvements has been completed in accordance with County standards, they may cause the amount of the letter of credit, cash escrow or completion bond to be reduced by such amount that they deem appropriate, so that the remaining amount of the letter of credit, cash escrow or completion bond adequately insures the completion of the remaining improvements. Developer may, from time to time, substitute one form of security for another, or substitute sureties or letter of credit issuers, provided the same shall be reasonably acceptable to the County according to the standards set forth above.

**12. Conditions of Approval.** Developer pledges to remain in compliance with all of the Conditions of Approval imposed by the Board of County Commissioners and included in the Development Agreement.

13. **Default.**

If Developer shall default in the performance of Developer's obligation hereunder and shall fail to cure such default within thirty (30) days after receipt of written notice from the County specifying the nature of such default (or if such default cannot be cured within the aforesaid period of time, if the Developer shall fail to promptly commence to cure the same and to thereafter diligently proceed with such cure), then the County shall be entitled to undertake such work as may be necessary and appropriate to cure such default and the County shall be reimbursed for the reasonable costs thereof either by payment of such costs to cure the default within 30 days of delivery of an invoice to Developer or by obtaining funds under the security.

14. **Limitation of Liability.**

No recourse shall be had for any obligation of or default by Developer under this Agreement or for any claim with respect to this Agreement against any partner or joint venturer of Developer or purchaser of lots within the Property or any other creditor or lender of Developer under any rule of law (including, without limitation, the rule of law that general partners and joint venturers are jointly and severally liable for the indebtedness of a partnership or joint venture, as applicable), contractual provision, statute or constitution or otherwise, it being understood that all such liabilities of the partners or joint ventures of Developer are to be, by the execution of this Agreement by the County, expressly waived and released as a condition of, and in consideration for, the execution and delivery of this Agreement. Nothing contained herein shall constitute a waiver of any obligation of Developer to the County under this Agreement or shall be taken to prevent recourse to or of the enforcement of any rights of the County as against the security posted by the Developer pursuant to this Development Improvements Agreement.

15. **Amendment.**

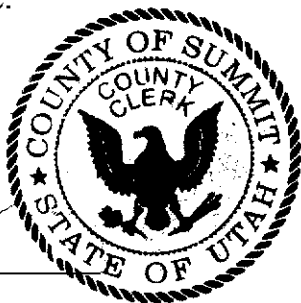
This Agreement, Exhibit A, Exhibit B and Exhibit C hereto, and any County-approved Construction Drawings referred to herein, may only be amended by written instrument signed by the County and the Developer.

16. **Binding Effect.**

This Agreement and the covenants contained herein shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto and their successors, heirs and assigns of the property owners; provided that, except as provided in Paragraph 10(b) above, purchasers of residential lots within the Property or any homeowner's association that receives title to any portion of the Property shall not incur any liability hereunder and no person or entity, including any homeowner's association that receives title to any portion of the Property, may claim to be a third party beneficiary of the terms, conditions, or covenants of this Agreement. This Agreement shall be recorded in the Office of the Summit County Recorder and on file with the Department of Community Development. All existing lien holders shall be required to subordinate their liens to the covenants contained in this Development Improvements Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed the date and first year written above.

ATTEST:



Susan Fillett  
Summit County Clerk

APPROVED:

COUNTY OF SUMMIT, UTAH

By: Robert Ketchum  
Board of Summit County Commissioners  
County Commission Chairman

APPROVED AS TO FORM:

Dave Thomas  
Dave Thomas,  
Deputy County Attorney

ACCEPTED:

**Pivotal Promontory Development, LLC, an Arizona limited liability company**

By: Pivotal Group X, LLC, an Arizona limited liability company  
Its: Administrative Member

By: F. Francis Najafi as Trustee of the F. Francis Najafi Family Trust  
Its: Administrative Member

By: [Signature]  
~~F. Francis Najafi, Trustee~~

**Pivotal Promontory, LLC, an Arizona limited liability company**

By: Pivotal Group X, LLC., an Arizona limited liability company  
Its: Administrative Member

By: F. Francis Najafi as Trustee of the F. Francis Najafi Family Trust  
Its: Administrative Member

By: [Signature]  
~~F. Francis Najafi, Trustee~~

## Exhibit A

### Pod 92, Promontory Ridge: Phase 1 Legal Description

A parcel of land located in Section 1 and Section 2, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and being more particularly described as follows:

Beginning at a point which bears South 89°25'16" East 128.39 feet and 111.40 feet South from the West Quarter Corner of Section 1, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 01°28'53" East 2229.57 feet between Northwest Corner and West Quarter Corner of said Section 1, the Northwest corner being a found monument), said point being on the Southern right of way of Promontory Ranch Road Access Easement and thence to a point on a curve having a 475.00 foot radius curve to the left, the center of which bears North 31°16'19" East, thence along the arc of said curve 294.91 feet through a central angle of 35°34'21"; thence leaving said curve South 03°56'19" East 149.69 feet; thence South 25°00'02" West 191.65 feet; thence South 58°02'17" West 246.86 feet; thence North 88°06'47" West 124.57 feet; thence South 31°57'43" East 69.38 feet; thence South 58°02'17" West 534.36; thence South 08°00'49" West 717.91 feet; thence South 07°37'10" East 22.81 feet; thence South 15°31'39" East 19.12 feet; thence South 29°12'24" East 64.07 feet; thence South 32°00'39" East 95.36 feet; thence South 83°09'49" West 230.16 feet; thence South 32°36'58" West 78.97 feet; thence South 83°20'00" West 250.00 feet; thence North 06°40'00" West 158.03 feet; thence North 80°40'28" West 140.18 feet; thence North 09°19'32" East 309.94 feet; thence North 74°21'27" East 118.45 feet; thence North 20°24'10" East 158.46 feet; thence North 02°37'16" East 213.11 feet; thence North 54°23'04" West 133.7 feet; thence North 30°58'21" East 342.47 feet; thence North 61°14'15" East 513.12 feet; thence North 58°02'17" East 478.01 feet; thence North 31°16'19" East 140.81 feet to the POINT OF BEGINNING.

Containing 979,964 square feet or 22.50 acres more or less.

### Pod 92, Promontory Ridge: Phase 2 Legal Description

A parcel of land located in Section 2 and Section 11, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and being more particularly described as follows:

Beginning at a point which bears North 88°51'46" West 1498.68 feet and 110.09 feet South from the Southeast Corner of Section 2, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 88°51'46" East 5584.08 feet between Southwest Corner and Southeast Corner of said Section 2, the Southwest corner being a found monument), and running thence South 00°49'58" West 564.73 feet; thence South 89°10'02" East 831.42 feet; thence South 75°16'14" East 332.61; thence North 14°43'46" East 221.80 feet; thence North 10°57'22" West 206.02 feet; thence North 11°21'56" West 152.26 feet; thence North 10°37'27" West 152.64 feet; thence North 04°56'37" East 139.84 feet; thence North 10°01'10" East 139.65



feet; thence North 04°12'02" West 395.03 feet; thence North 34°01'44" West 143.06 feet; thence North 26°21'52" West 51.20 feet; thence South 83°09'49" West 230.16 feet; thence South 32°36'58" West 78.97 feet; thence South 83°20'00" West 250.00 feet; thence South 06°40'00" East 175.00 feet; thence South 40°39'13" West 781.94 feet to the POINT OF BEGINNING.

Containing 30.77 acres more or less.

**Pod 92, Promontory Ridge: Phase 3  
Legal Description**

A parcel of land located in Section 2, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and being more particularly described as follows:

Beginning at a point which bears South 88°51'46" East 3724.75 feet and 733.79 feet North from the Southwest Corner of Section 2, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 88°51'46" East 5584.08 feet between Southwest Corner and Southeast Corner of said Section 2, the Southwest corner being a found monument), and running thence South 53°25'21" East 454.72 feet; thence North 53°39'14" East 377.95 feet; thence North 09°19'32" East 454.51 feet; thence North 74°21'27" East 118.45 feet; thence North 20°24'10" East 158.46 feet; thence North 67°43'01" West 324.41 feet; thence North 49°26'53" West 203.16 feet; thence North 74°07'06" West 264.18 feet; thence North 63°49'39" West 302.15 feet; thence South 54°53'06" West 113.34 feet; thence South 39°43'23" West 53.91 feet to a point of curvature of a 50.00 foot radius curve to the left, the center of which bears South 71°15'47" West, thence along the arc of said curve 137.76 feet through a central angle of 157°51'43"; thence South 03°24'04" West 143.74 feet to a point of curvature of a 175.00 foot radius curve to the right, the center of which bears North 86°35'56" West, thence along the arc of said curve 125.27 feet through a central angle of 41°00'52"; thence South 44°20'16" East 282.81 feet to a point of curvature of a 225.00 foot radius curve to the left, the center of which bears South 44°20'16" East, thence along the arc of said curve 70.94 feet through a central angle of 18°03'57"; thence South 46°34'28" East 402.34 feet; thence South 36°34'39" West 164.09 feet to the POINT OF BEGINNING.

Containing 20.76 acres more or less.

**Exhibit B**

Construction Drawings entitled Promontory, Pod 92 - Promontory Ridge, submitted the \_\_\_ day of \_\_\_\_\_, 2005 prepared for Pivotal Promontory Development L.L.C., 8578 N. Promontory Ranch Road, Park City, Utah, 84098, by Jack Johnson Company 1777 Sun Peak Drive, Park City, Utah, 84098.

**Exhibit C**

<b>POD 92 - Promontory Ridge</b>				
<b>Description</b>	<b>Contract Totals</b>			
	<b>Quantity</b>	<b>Unit Measure</b>	<b>Unit Price</b>	<b>Scheduled Value</b>
<b>Earthwork</b>				
Clearing and Grubbing	10.3	ac	\$ 1,167.00	\$ 12,020.10
Stabilized Construction Entrance	2	ea	\$ 500.00	\$ 1,000.00
Erosion Control	24,800	lf	\$ 2.69	\$ 66,712.00
Strip and Stockpile Topsoil - 6" depth	14,500		\$ 1.76	\$ 25,520.00
Site Excavation - Common, 1600 ft. average haul	19,300	cy	\$ 1.72	\$ 33,196.00
6" Aggregate Base Course	9,600	tn	\$ 12.50	\$ 120,000.00
10" Select Sub-Base	15,900	tn	\$ 10.00	\$ 159,000.00
GPS Road Finishing	1	ls	\$ 15,000.00	\$ 15,000.00
4" Bituminous Surface Course	200,000	sf	\$ 0.95	\$ 190,000.00
High survivability geotextile	30,300	sy	\$ 1.57	\$ 47,571.00
Topsoil spreading	3,840	cy	\$ 3.33	\$ 12,787.20
Revegetation	4.8	ac	\$ 2,210.00	\$ 10,608.00
<b>Storm Drain</b>				
18" RCP Storm Drain	870	lf	\$ 24.87	\$ 21,636.90
48" Storm Drain Manhole	11	ea	\$ 2,250.00	\$ 24,750.00
Rip-rap, Machine placed	1,600	tn	\$ 9.91	\$ 15,856.00
Rip-rap ditch, machine placed	3,600	lf	\$ 15.00	\$ 54,000.00
Rip-rap ditch material	900	tn	\$ 22.00	\$ 19,800.00
<b>SUBTOTAL</b>				<b>\$ 829,457.00</b>
<b>BOND AMOUNT @ 120%</b>				<b>\$ 995,348.40</b>

# PERFORMANCE BOND

Travelers Casualty and Surety Company of America Bond No. 104531571

KNOW ALL MEN BY THESE PRESENTS, THAT WE,

Ames Construction, Inc., 2000 Ames Drive, Burnsville, Minnesota 55306 as Principal, and the Travelers Casualty and Surety Company, (hereinafter called Surety), a corporation organized and existing under the laws of the State of Connecticut and duly authorized to transact business in the state of Utah as Surety, are held and firmly bound unto

Summit County, Utah

as the Obligee, in the sum of Nine Hundred Ninety-Five Thousand Three Hundred Forty-Eight and 40/100\*(\$995,348.40) DOLLARS, for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, sealed, and dated this 22nd day of June, 2005.

WHEREAS the Principal has agreed to perform:

Grading, excavation and other civil improvements for  
Pod 92 – Promontory Ridge  
Park City, Summit County, Utah

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall construct, or have constructed, the improvements herein described and shall save the Obligee harmless from any loss, cost or damage by reason of its failure to complete said work, then this obligation shall be null and void.

This bond shall expire on June 22, 2006.

AMES CONSTRUCTION, INC.

By: 

Raymond G. Ames, Vice President

TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

By: 

Bruce N. Telander, Attorney-in-Fact

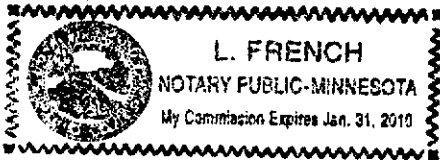
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ACKNOWLEDGMENT OF CORPORATION

State of MINNESOTA )  
 ) ss. On this 22nd day of June 20 05  
County of HENNEPIN ) before me appeared Raymond G. Ames  
to me personally known, who, being by me duly sworn, did say that he  
is the Vice President  
of AMES CONSTRUCTION, INC., a  
corporation, that the seal affixed to the foregoing instrument is the  
corporate seal of said corporation,

(If no seal, so state, and strike out above as to corporate seal)

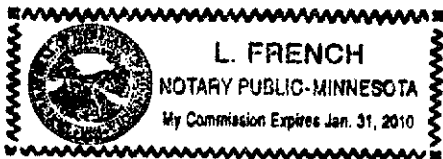
and that said instrument was executed in behalf of said corporation by  
authority of its Board of Directors; and that said Raymond G. Ames  
acknowledged said instrument to be the free act and deed of said  
corporation.



*L. French*  
Notary Public \_\_\_\_\_ County, \_\_\_\_\_  
My commission expires \_\_\_\_\_

ACKNOWLEDGMENT OF CORPORATE SURETY

State of MINNESOTA )  
 ) ss. On this 22nd day of June 20 05  
County of HENNEPIN ) before me appeared Bruce N. Telander  
to me personally known, who, being by me duly sworn, did say that he  
is the Attorney-in-Fact  
of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a  
corporation, that the seal affixed to the foregoing instrument is the  
corporate seal of said corporation and that said instrument was executed  
in behalf of said corporation by authority of its Board of Directors; and  
that said Bruce N. Telander acknowledged said instrument  
to be the free act and deed of said corporation.



*L. French*  
Notary Public \_\_\_\_\_ County, \_\_\_\_\_  
My commission expires \_\_\_\_\_

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY  
Hartford, Connecticut 06183-9062

**POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT**

**KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: Bruce N. Telander, Donald R. Olson, Gary S. Soderberg, John E. Tauer, John P. Martinsen, Linda K. French, Mary L. Charles, R. Scott Egginton, R. W. Frank, Craig Remick, Rachel Thomas, Nicole Olson, Joshua R. Loftis, Jennifer L. Lowe, of Minneapolis, Minnesota, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.**

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

**This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:**

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

BK1730 PG1563

IN WITNESS WHEREOF, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY have caused this instrument to be signed by their Senior Vice President and their corporate seals to be hereto affixed this 13th day of May, 2005.

STATE OF CONNECTICUT

}SS. Hartford

COUNTY OF HARTFORD

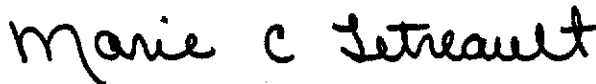
TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY



By   
George W. Thompson  
Senior Vice President

On this 13th day of May, 2005 before me personally came GEORGE W. THOMPSON to me known, who, being by me duly sworn, did depose and say: that he/she is Senior Vice President of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, the corporations described in and which executed the above instrument; that he/she knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; and that he/she executed the said instrument on behalf of the corporations by authority of his/her office under the Standing Resolutions thereof.




  
My commission expires June 30, 2006 Notary Public  
Marie C. Tetreault

CERTIFICATE

I, the undersigned, Senior Vice President of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, stock corporations of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Standing Resolutions of the Boards of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut. Dated this 22nd day of June, 2005



By   
Nicholas Seminara  
Senior Vice President



## IMPORTANT DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (the "Act"). The Act establishes a short-term program under which the Federal Government will share in the payment of covered losses caused by certain acts of international terrorism. We are providing you with this notice to inform you of the key features of the Act, and to let you know what effect, if any, the Act will have on your premium.

Under the Act, insurers are required to provide coverage for certain losses caused by international acts of terrorism as defined in the Act. The Act further provides that the Federal Government will pay a share of such losses. Specifically, the Federal Government will pay 90% of the amount of covered losses caused by certain acts of terrorism which is in excess of Travelers' statutorily established deductible for that year. The Act also caps the amount of terrorism-related losses for which the Federal Government or an insurer can be responsible at \$100,000,000,000.00, provided that the insurer has met its deductible.

Please note that passage of the Act does not result in any change in coverage under the attached policy or bond (or the policy or bond being quoted). Please also note that no separate additional premium charge has been made for the terrorism coverage required by the Act. The premium charge that is allocable to such coverage is inseparable from and imbedded in your overall premium, and is no more than one percent of your premium.