

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Release Performance Bond for Bella Foresta

DEPARTMENT: Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: Dori DeBord **CONTACT:** Cynthia Sweet **EXT:** 7443

MOTION/RECOMMENDATION:

Authorize the release of Performance Bond # 40092848 in the amount of \$1,836,548.00 for Bella Foresta, as requested by Platte River Insurance Company – Laura D. Mosholder, applicant.

District 5 Brenda Carey

Cynthia Sweet

BACKGROUND:

Performance Bond # 40092848 in the amount of \$1,836,548.00 was required as part of the Land Development Code Section 35.44 (e) Additional Required Legal Submittals (1) Bonds to secure the construction and completion of the Bella Foresta subdivision improvements. The Bond was issued with the subdivision name as "Bella Florista" and the plat was recorded as "Bella Foresta".

The Performance Bond was replaced with a 2-year Maintenance Bond to ensure the maintenance of the subdivision improvements. Staff has conducted the final construction inspection and found that all construction requirements were completed per the approved final engineering plan.

The subdivision is located on the south side of W. SR 46, on the west side of Lake Markham Road, in Sections 26 and 27, Township 19 South, Range 29 East.

STAFF RECOMMENDATION:

Staff recommends the Board authorize the release of Performance Bond # 40092848 in the amount of \$1,836,548.00 for Bella Foresta, as requested by Platte River Insurance Company – Laura D. Mosholder, applicant.

ATTACHMENTS:

- 1. Performance Bond

<p>Additionally Reviewed By:</p> <p><input checked="" type="checkbox"/> County Attorney Review (Kimberly Romano)</p>

APPROVED FORMS, CHECKLISTS, PROCEDURES AND ILLUSTRATIONS

PERFORMANCE BOND (Roads, Streets, Drainage)

KNOW ALL MEN BY THESE PRESENTS:

That we, Bradford Development Corporation, hereinafter called the "Principal", and Platte River Insurance Company, a surety company authorized to do business in the State of Florida, hereinafter called "Surety" are held and firmly bound to Seminole County, a political subdivision of the State of Florida, in the full and just sum of \$1,836,548.00, lawful money of The United States of America, to be paid to the Board of County Commissioners of Seminole County, to which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has as a condition precedent to the approval by Seminole County of a plat of a certain subdivision known as Bella Florista in Seminole County has covenanted and agreed with Seminole County to construct roads, streets and alleys, drainage as well as sidewalks, Sewer & Water, and other improvements (delete inapplicable improvements) based upon development plans and plans and specifications pertaining to said subdivision, said development plans and plans and specifications being dated 23rd day of July, 19 2004 and being on file with the County Engineer of Seminole County, Florida, and

WHEREAS, it is a condition precedent to the recording of said subdivision that this bond be executed:

NOW THEREFORE, the conditions of these obligations are such that if the bounden Principal shall construct the aforesaid improvements in accordance with any date prescribed in the approved development plans and plans and specifications dated the 23rd day of July, 19 2004 or within two (2) years of the date of approval, whichever occurs first, and shall in every respect fulfill its, his, their obligations under the development plans and plans and specifications, and shall indemnify and save harmless Seminole County against or from all claims, costs, expenses, damages, injury, or loss, including engineering, legal and contingent costs which Seminole County may sustain on account of the failure of the Principal to perform in accordance with the developments plans and plans and specifications within the time therein specified, then this obligation to be void; otherwise to be and remain in full force and virtue.

The Surety unconditionally covenants and agrees that if the Principal fails to perform all or any part of the construction work required by the developments plans or plans and specifications above referred to, within the time specified, the Surety upon forty-five (45) days written notice from Seminole County, or its authorized agent or officer, of the default, will forthwith perform and complete the aforesaid construction work and pay the cost thereof, including, but not limited to engineering, legal and contingent costs. Should the Surety fail or refuse to perform and complete the said improvements, Seminole County, in view of the public, interest, health, safety and welfare factors involved and the inducement in approving and

SEMINOLE COUNTY LAND DEVELOPMENT CODE

filing the said plat, shall have the right to resort to any and all legal remedies against the Principal and the Surety, or either, both at law and in equity, including specifically specific performance, to which the Principal and Surety unconditionally agree.

The Principal and the Surety further jointly and severally agree that Seminole County, at its option, shall have the right to construct or, pursuant to public advertisement and receipt of bids, cause to be constructed the aforesaid improvements in case the Principal should fail or refuse to do so. In the event Seminole County should exercise and give effect to such right, the Principal and the Surety shall be jointly and severally liable hereunder to reimburse Seminole County the total cost thereof, including, but not limited to engineering, legal and contingent costs, together with any damages, either direct or consequential, which may be sustained on account of the failure of the Principal to carry out and execute all the provisions of said agreement.

IN WITNESS WHEREOF, the Principal and the Surety have executed these presents this the 12th day of January, 2005

Address:
100 W. Plant Street
Winter Garden, FL 34787

Bradford Development Corporation
(SEAL)
Principal

By: [Signature]
Its [Signature]
(if corporation)

A T T E S T : [Signature]
Its [Signature]
(if corporation)

CORPORATE SEAL

Platte River Insurance Company
Surety

Address:
2500 W. Lake Mary Blvd., Ste. 112
Lake Mary, FL 32746

By: [Signature]
Its Attorney-in-Fact Laura D. Mosholder

ATTEST: see attached power of attorney
Inquiries: 407 330 3990

(App E, LDC, through Supp 16; Ord. No. 95-4, § 16, 6-26-95)



PLATTE RIVER INSURANCE COMPANY
POWER OF ATTORNEY

40092848

KNOW ALL MEN BY THESE PRESENTS, That PLATTE RIVER INSURANCE COMPANY, a corporation of the State of Nebraska, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

LAURA D. MOSHOLDER, MARIAN L. ELAVSKY ORGARY W. CARPENTER OF LAKE MARY, FL

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED \$2,500,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PLATTE RIVER INSURANCE COMPANY at a meeting duly called and held on the 8th day of January, 2002.

"RESOLVED, that the President, and Executive Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of the Corporation; the signature of such officers and seal of the Corporation may be affixed to 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 Corporation in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the PLATTE RIVER INSURANCE COMPANY has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested by its President, this 8th day of January, 2002.

Attest:

Thomas K. Manion

Thomas K. Manion
Treasurer



PLATTE RIVER INSURANCE COMPANY

David F. Pauly

David F. Pauly
President and CEO

STATE OF WISCONSIN } s.s.:
COUNTY OF DANE

On the 8th day of January, 2002 before me personally came David F. Pauly, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is President and CEO of PLATTE RIVER INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



Jane F. Endres

Jane F. Endres
Notary Public, Dane Co., WI
My Commission Expires 3/23/2003

STATE OF WISCONSIN } s.s.:
COUNTY OF DANE

CERTIFICATE

I, the undersigned, duly elected to the office stated below, now the incumbent in PLATTE RIVER INSURANCE COMPANY, a Nebraska Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Madison, State of Wisconsin this 12th day of January, 2005



James W. Smirz

James W. Smirz
Assistant Secretary

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON GREEN SHADED BACKGROUND WITH A RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER. THE BACK OF THIS DOCUMENT CONTAINS A WATERMARK. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT, CALL 800-394-7806.

BK 320PG 1046

CAPITOL INDEMNITY CORPORATION
PLATTE RIVER INSURANCE COMPANY
UNDERWRITERS INSURANCE COMPANY

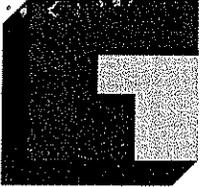
Bond No. 40092848

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Your current policy or bond does not contain a terrorism exclusion. You should know that under the Terrorism Risk Insurance Act of 2002, effective November 26, 2002 any losses caused by certified acts of terrorism, as *defined in the Act*, will be partially reimbursed by the United States under a formula established by federal law. Under this formula, the United States pays 90% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage.

The portion of your premium attributable to coverage for acts of terrorism, as *defined in the Act*, is Zero (\$0.00). That is because such coverage is already included in your current policy or bond and the rate used to calculate the premium for your current policy or bond did not include a separate charge for terrorism coverage. Future policy renewals may include a separate charge applicable to coverage for acts of terrorism, as *defined in the Act*.

BK 320PG 1047



GUIGNARD COMPANY

SURETY BONDS

December 23, 2004

Bradford Development
100 W. Plant St.
Winter Garden, FL 34787

Re: *Authority to Date Bonds and Powers of Attorney*
Principal: *Nile Underground Technologies, Inc.*
Bond No.: *6211320*
Project: *Bella Florista located in Seminole County, Florida*

Dear Sir or Madam:

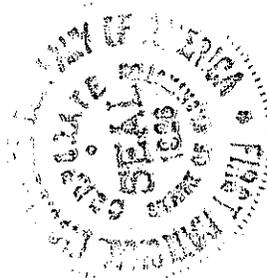
Please be advised that as Surety on the above referenced bond, executed on your behalf for this project, we hereby authorize you to date the bonds and the powers of attorney concurrent with the date of the contract agreement.

Once dated, please send a copy of the *dated* bonds to our office.

Best regards,

First National Insurance Company of America

Jennifer L. McCarta
Attorney In Fact and Florida Licensed Agent



BK 320PG1048

THE AMERICAN INSTITUTE OF ARCHITECTS



Bond No.: 6211320

Executed in 4 Counterparts

AIA Document A312

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

Nile Underground Technologies, Inc.
3422 S. Orlando Drive, Sanford, FL 32773
(407) 302-7662

First National Insurance Company of America
P.O. Box 34526, Seattle, WA, 98124-1526
(813) 221-2743

OWNER (Name and Address):

Bradford Development
100 W. Plant St., Winter Garden, FL 34787
(407) 656-8075

CONSTRUCTION CONTRACT

Date:

Amount: \$1,521,189.00

Description (Name and Location): Bella Florista located in Seminole County, Florida

BOND

Date (Not earlier than Construction Contract Date):

Amount: \$1,521,189.00

Modifications to this Bond:

None

See Page 3

CONTRACTOR AS PRINCIPAL

SURETY

Company: (Corporate Seal)

Company: (Corporate Seal)

Nile Underground Technologies, Inc.

First National Insurance Company of America

Signature:

Signature:

Name and Title:

Name and Title: Jennifer L. McCarta

2002

Attorney-In-Fact & Florida Licensed Resident Agent

(Any additional signatures appear on page 3)

(FOR INFORMATION ONLY --Name, Address and Telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or

Guignard Company
1904 Boothe Circle
Longwood, FL 32750
(407) 834-0022

other party): Madden Engineering, Inc.
431 East Horatio Ave., Suite 260
Maitland, Florida 32751

BK 320PG1049

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for

which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation avail-

BK 320 PG 1050

able to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Con-

tractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

THIS BOND COMPLIES WITH THE TERRORISM RISK INSURANCE ACT OF 2002 (TRIA)

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address: _____

Signature: _____

Name and Title: _____

Address: _____

The following notice is provided pursuant to Florida Statute 713.245:
THIS BOND ONLY COVERS CLAIMS OF SUBCONTRACTORS, SUB-SUBCONTRACTORS, SUPPLIERS, AND LABORERS TO THE EXTENT THE CONTRACTOR HAS BEEN PAID FOR THE LABOR, SERVICES, OR MATERIALS PROVIDED BY SUCH PERSONS. THIS BOND DOES NOT PRECLUDE YOU FROM SERVING A NOTICE TO OWNER OR FILING A CLAIM OF LIEN ON THIS PROJECT.



Bond No.: 6211320

Executed in 4 Counterparts

AIA Document A312

Conditional Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Nile Underground Technologies, Inc.
3422 S. Orlando Drive, Sanford, FL 32773
(407) 302-7662

SURETY (Name and Principal Place of Business):

First National Insurance Company of America
P.O. Box 34526, Seattle, WA, 98124-1526
(813) 221-2743

OWNER (Name and Address):

Bradford Development
100 W. Plant St., Winter Garden, FL 34787
(407) 656-8075

CONSTRUCTION CONTRACT

Date:

Amount: \$1,521,189.00

Description (Name and Location): Bella Florista located in Seminole County, Florida

BOND

Date (Not earlier than Construction Contract Date):

Amount: \$1,521,189.00

Modifications to this Bond:

None

See Page 6

CONTRACTOR AS PRINCIPAL

Company: Nile Underground Technologies, Inc. (Corporate Seal)

Signature: _____

Name and Title: _____

SURETY

Company: First National Insurance Company of America (Corporate Seal)

Signature: _____

Name and Title: Jennifer L. McCarta
Attorney-In-Fact & Florida Licensed Resident Agent

(Any additional signatures appear on page 6)

(FOR INFORMATION ONLY-Name, Address and Telephone)

AGENT or BROKER:

Guignard Company
1904 Boothe Circle
Longwood, FL 32750
(407) 834-0022

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

Madden Engineering, Inc.
431 East Horatio Ave., Suite 260
Maitland, Florida 32751

Bond shall be construed as a statutory bond and not as a common law bond.

14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the

Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

THIS BOND HEREBY IS AMENDED SO THAT THE PROVISIONS FOR TIME, NOTICE AND OTHER LIMITATIONS OF SECTION 713.245 OR 713.23, FLORIDA STATUTES, WHICHEVER IS APPLICABLE, ARE INCORPORATED HEREIN BY REFERENCE.

THIS BOND COMPLIES WITH THE TERRORISM RISK INSURANCE ACT OF 2002 (TRIA)

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL
Company:

(Corporate Seal)

SURETY
Company:

(Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____

- 1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
- 2 With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
- 3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
- 4 The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 - .1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 - .2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 - .3 Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
- 5 If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
- 6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
- 7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- 8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
- 9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
- 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
- 11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
- 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this

Bond No. 6211320

EXHIBIT B

IMPORTANT NOTICE TO SURETY BOND CUSTOMERS REGARDING THE TERRORISM RISK INSURANCE ACT OF 2002

As a surety bond customer of one of the SAFECO insurance companies (SAFECO Insurance Company of America, General Insurance Company of America, First National Insurance Company, American States Insurance Company or American Economy Insurance Company), it is our duty to notify you that the Terrorism Risk Insurance Act of 2002 extends to "surety insurance". This means that under certain circumstances we may be eligible for reimbursement of certain surety bond losses by the United States government under a formula established by this Act.

Under this formula, the United States government pays 90% of losses caused by certified acts of terrorism that exceed a statutorily established deductible to be paid by the insurance company providing the bond. The Act also establishes a \$100 billion cap for the total of all losses to be paid by all insurers for certified acts of terrorism. Losses on some or all of your bonds may be subject to this cap.

This notice does not modify any of the existing terms and conditions of this bond, the underlying agreement guaranteed by this bond, any statutes governing the terms of this bond or any generally applicable rules of law.

At this time there is no premium change resulting from this Act.



POWER OF ATTORNEY

FIRST NATIONAL INSURANCE COMPANY OF AMERICA
PO BOX 34526
SEATTLE, WA 98124-1526

FIRST NATIONAL SURETY
PO BOX 34526
SEATTLE, WA 98124-1526

No. 12833

KNOW ALL BY THESE PRESENTS:

That FIRST NATIONAL INSURANCE COMPANY OF AMERICA, a Washington corporation, does hereby appoint
*****J. W. GUIGNARD; BRYCE R. GUIGNARD; M. GARY FRANCIS; PAUL J. CIAMBRIELLO; MARGIE L. MORRIS; BRETT A. RAGLAND; APRIL L. LIVELY;
JENNIFER L. MCCARTA; KATIE N. BIRD; Longwood, Florida*****

its true and lawful attorney(s)-in-fact, with full authority to execute on behalf of the company fidelity and surety bonds or undertakings and other documents of a similar character issued by the company in the course of its business, and to bind FIRST NATIONAL INSURANCE COMPANY OF AMERICA thereby as fully as if such instruments had been duly executed by its regularly elected officers at its home office.

IN WITNESS WHEREOF, FIRST NATIONAL INSURANCE COMPANY OF AMERICA has executed and attested these presents

this 22nd day of June, 2004

CHRISTINE MEAD, SECRETARY

MIKE MCGAVICK, PRESIDENT

CERTIFICATE

Extract from the By-Laws of FIRST NATIONAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of
FIRST NATIONAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,
(i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,
the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Christine Mead, Secretary of FIRST NATIONAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of this corporation, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this _____ day of _____



CHRISTINE MEAD, SECRETARY

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