

ORDINANCE NO. *2006-12-279*

**AN ORDINANCE ACCEPTING THE FINAL PLAT OF SAN GENNARO ESTATES, TO
THE CITY OF TONTITOWN, ARKANSAS AND
DECLARING AN EMERGENCY**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN,
ARKANSAS:** That whereas, there has been duly presented to the City Planning Commission of
Tontitown, Arkansas, a plat of certain lands in the City of Tontitown, Washington County,
Arkansas, being more particularly described as follows, to wit:

SAN GENNARO SUBDIVISION
LEGAL DESCRIPTION:

A PART OF THE SW1/4 OF THE NW1/4 OF SECTION 11, TOWNSHIP 17 NORTH, RANGE
31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF THE SW1/4 OF THE NW1/4 OF SAID SECTION
11; THENCE ALONG THE WEST LINE OF SAID SW1/4 OF THE NW1/4 N00°42'12"W
663.43 FEET; THENCE LEAVING SAID WEST LINE N89°45'49"E 1316.53 FEET TO THE
EAST LINE OF SAID SW1/4 OF THE NW1/4; THENCE ALONG SAID EAST LINE
S00°21'59"E 436.99 FEET; THENCE LEAVING SAID EAST LINE S89°42'07"W 290.00
FEET; THENCE S00°21'59"E 225.00 FEET TO THE SOUTH LINE OF SAID SW1/4 OF THE
NW1/4; THENCE ALONG SAID SOUTH LINE S89°42'07"W 1022.62 FEET TO THE POINT
OF BEGINNING AND CONTAINING 18.501 ACRES, MORE OR LESS, AND SUBJECT TO
THE RIGHT-OF-WAY OF WILDCAT CREEK BOULEVARD ON THE SOUTH AND
PINALTO ROAD ON THE WEST AND BAUSINGER ROAD ON THE EAST AND ANY
RIGHTS-OF-WAY, EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OR
FACT.

AND WHEREAS, said Planning Commission has approved the plat as presented by
petitioner, and has approved the dedication of streets, rights-of-way and utility easements as
shown upon said plat and join with said petitioner in petitioning the City Council to accept the
said Plat of San Gennaro Estates to City of Tontitown, Arkansas.

AND WHEREAS, a hearing was held upon the acceptance of said plat by the City
Planning Commission and that there appeared no protestants to the acceptance and dedication.

City Attorney

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That We, Uptown Holding, LLC

(hereinafter called "Principal"), as Principal, and the EMPLOYERS MUTUAL CASUALTY COMPANY, a corporation organized and existing under the laws of the State of Iowa and authorized to transact business in the State of

Arkansas _____ (hereinafter called "Surety"), as Surety, are held and firmly bound unto the

City of Tontitown, AR

(hereinafter called "Obligee"), in the penal sum of Thirty-six Thousand and 00/100

_____ DOLLARS, (\$ 36,000.00), good and lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

SEALED with our seals and dated this 28th day of November, 20 06.

WHEREAS, the above bounden Principal has entered into a certain written contract with the above named Obligee, dated the 28th day of November, 20 06, providing for the construction or supply of, sidewalks for San Gennaro sub-division

Which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.


NOW, THEREFORE, IF the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, then this obligation to be void; otherwise to remain in full force and virtue.

SIGNED and sealed this 28th day of November, 20 06

WITNESS:

WITNESS: Keri Foster Ginder
(If Individual or Firm)

ATTEST:

ATTEST: 
(If Corporation)

Uptown Holding, LLC

By: [Signature] Principal [Seal]

Employers Mutual Casualty Company

By: [Signature] Surety
Attorney-in-Fact



Employers Mutual Casualty Company

Home Office • Des Moines, Iowa

Bond No. S345060

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That We, Uptown Holding, LLC

(hereinafter called "Principal"), as Principal, and the EMPLOYERS MUTUAL CASUALTY COMPANY, a corporation organized and existing under the laws of the State of Iowa with its principal office in the CITY OF DES MOINES, IOWA,

and authorized to transact business in the State of Arkansas

as Surety, are held and firmly bound unto

City of Tontitown, AR

(hereinafter called "Obligee"), in the penal sum of Thirty-six Thousand and 00/100

DOLLARS (\$ 36,000.00), good and lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally firmly by these presents.

SEALED, with our seals and dated 28th day of November, 20 06.

WHEREAS, the above bounden Principal has entered into a certain written contract with the above named Obligee, dated the 28th day of November, 20 06, providing for the construction or supply of, sidewalks for San Gennaro sub-division

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein for the purpose of explaining but not of varying or enlarging the obligation.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bounden Principal shall well and truly keep, do and perform, each and every, all and singular, the matters and things in said contract set forth and specified to be by the said Principal kept, done and performed at the time and in the manner in said contract specified, and shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal, then this obligation shall be void; otherwise, to be and remain in full force and effect.

PROVIDED, HOWEVER, this bond is executed by the Surety, upon the express condition that no right of action shall accrue upon or by reason hereof, to or for the use or benefit of any one other than the Obligee named herein; and the obligation of the Surety is and shall be construed strictly as one of suretyship only.

WITNESS:

Keri Foster Jander
(If Individual or Firm)

ATTEST:

[Signature]
(If Corporation)

Uptown Holding, LLC

By [Signature] (Principal) [Seal]

Employers Mutual Casualty Company

By [Signature] (Surety) [Seal]
Attorney-in-Fact

CERTIFICATE OF AUTHORITY INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

1. Employers Mutual Casualty Company, an Iowa Corporation
2. EMCASCO Insurance Company, an Iowa Corporation
3. Union Insurance Company of Providence, an Iowa Corporation
4. Illinois EMCASCO Insurance Company, an Iowa Corporation

5. Dakota Fire Insurance Company, a North Dakota Corporation
6. EMC Property & Casualty Company, an Iowa Corporation
7. Hamilton Mutual Insurance Company, an Iowa Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:

LARRY CLINKSCALES, BRYAN CLINKSCALES, TRACY SMITH, INDIVIDUALLY, SPRINGDALE, ARKANSAS

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute its lawful bonds, undertakings, and other obligatory instruments of a similar nature as follows:

IN AN AMOUNT NOT EXCEEDING TWO MILLION DOLLARS (\$2,000,000.00)

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

The authority hereby granted shall expire April 1, 2007 unless sooner revoked.

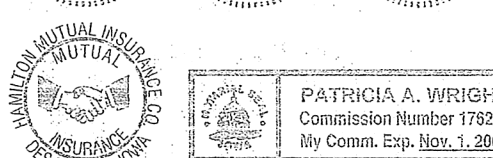
AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Attorney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at a regularly scheduled meeting of each company duly called and held in 1998:

RESOLVED: The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 20th day of June, 2006.

Seals



Bruce G. Kelley
 Bruce G. Kelley, Chairman
 of Companies 2, 3, 4, 5 & 6; President
 of Company 1; Vice Chairman and
 CEO of Company 7

Jeffrey S. Birdsley
 Jeffrey S. Birdsley
 Assistant Secretary

On this 20th day of June, AD 2006 before me a Notary Public in and for the State of Iowa, personally appeared Bruce G. Kelley and Jeffrey S. Birdsley, who, being by me duly sworn, did say that they are, and are known to me to be the Chairman, President, Vice Chairman and CEO, and/or Assistant Secretary, respectively, of each of The Companies above; that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Bruce G. Kelley and Jeffrey S. Birdsley, as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of each of the Companies.
 My Commission Expires November 1, 2008.

Patricia A. Wright
 Notary Public in and for the State of Iowa

CERTIFICATE

I, David L. Hixenbaugh, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on June 20, 2006
 on behalf of Larry Clinkscales, Bryan Clinkscales, Tracy Smith
 are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 20th day of NOVEMBER, 2006.

David L. Hixenbaugh
 Vice-President

ROLL CALL

SHALL THE ORDINANCE PASS:

	Yea	Nay
Ward 1, Position 1 - Alderman Bradley Marveggio	_____	_____
Ward 1, Position 2 - Alderman Henry Piazza	<u>✓</u>	_____
Ward 2, Position 1 - Alderman Arthur Penzo	<u>✓</u>	_____
Ward 2, Position 2 - Alderman David Sbanotto	_____	_____
Ward 3, Position 1 - Alderman Beck Alston	<u>✓</u>	_____
Ward 3, Position 2 - Alderman Ken Robertson	<u>✓</u>	_____
Mayor - Steve Smith	_____	_____

TOTALS:

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ROLL CALL

SHALL THE ORDINANCE BECOME EFFECTIVE IMMEDIATELY:

Ward 1, Position 1 - Alderman Bradley Marveggio	_____	_____
Ward 1, Position 2 - Alderman Henry Piazza	<u>✓</u>	_____
Ward 2, Position 1 - Alderman Arthur Penzo	<u>✓</u>	_____
Ward 2, Position 2 - Alderman David Sbanotto	_____	_____
Ward 3, Position 1 - Alderman Becky Alston	<u>✓</u>	_____
Ward 3, Position 2 - Alderman Ken Robertson	<u>✓</u>	_____
Mayor - Steve Smith	_____	_____

TOTALS:

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