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**DEED OF TRUST  
SECURITY AGREEMENT-FINANCING STATEMENT**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**DATE:** March 8, 2011

**GRANTOR:** **SONTERRA WEST HOMEOWNERS' ASSOCIATION, INC.,**  
A Texas non-profit corporation

**GRANTOR'S MAILING ADDRESS** P. O. Box 81  
Jarrell, Texas 76537

**TRUSTEE:** **Douglas E. Burns**

**TRUSTEE'S MAILING ADDRESS** P. O. Box 1329  
Fort Stockton, Texas 79735

**BENEFICIARY:** **COMMUNITY BANK OF JARRELL**  
(a Division of First National Bank of Fort Stockton)

**BENEFICIARY'S MAILING ADDRESS** P. O. Box 1329  
Fort Stockton, Texas 79735

**NOTE(S)**

**DATE:** Even date herewith

**AMOUNT:** \$350,000.00

**MAKER:** **SONTERRA WEST HOMEOWNERS' ASSOCIATION, INC.**

**PAYEE:** **COMMUNITY BANK OF JARRELL**  
(a Division of First National Bank of Fort Stockton)

**PROPERTY**

(INCLUDING ANY IMPROVEMENTS):

*Tract 1: Lot 19, Block "C", of SONTERRA WEST PHASE 1B, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet AA, Slides 367 - 370, Plat Records of Williamson County, Texas.*

*Tract 2: Lot 35, Block "C", of SONTERRA WEST PHASE V-A, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet CC, Slides 98 - 100, Plat Records of Williamson County, Texas.*

**Personal Property:** The property constituting personal property located in or on and used in the enjoyment of the Property, together with the following personal property:

All fixtures, appliances, landscaping, supplies, building materials, and other goods of every nature now or hereafter located, used, or intended to be located or used on the Property;

All plans and specifications for development of or construction of improvements on the Property;  
All contracts and subcontracts relating to the construction of improvements on the Property;

All contracts to sell the Property;

All accounts, contract rights, instruments, documents, general intangibles, and chattel paper arising from or by virtue of any transactions relating to the Property;

All permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property;

All proceeds payable or to be payable under each policy of insurance relating to the Property; and

All products and proceeds of the foregoing.

**PRIOR LIEN(S)**  
(INCLUDING RECORDING INFORMATION):

*None.*

**OTHER EXCEPTIONS TO  
CONVEYANCE & WARRANTY:**

*None.*

For value received and to secure payment of the Note, Grantor conveys the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property. If Grantor performs all the covenants and pays the Note according to its terms, this Deed of Trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

**GRANTOR'S OBLIGATIONS.**

Grantor agrees to:

1. Observe all requirements of the Note and make all payments according to its terms;
2. Keep the Property in good repair and condition;
3. Pay all taxes and assessments on the Property when due. Grantor agrees to pay all ad valorem taxes on the property, which become due and payable, no less than fifteen (15) days prior to the date that they would become delinquent. Grantor additionally agrees to mail evidence of the payment of said taxes to Beneficiary no later than February 15th of each and every calendar year during the term of the Note secured hereby.
4. Preserve the lien's priority as it is established in this Deed of Trust;
5. Maintain, in a form acceptable to Beneficiary, an insurance policy that:
  - A. Covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
  - B. Contains an 80% co-insurance clause;

- C. Provides fire and extended coverage, including windstorm coverage;
  - D. Protects Beneficiary with a standard mortgage clause;
  - E. Provides flood insurance at any time the Property is in a flood hazard area; and
  - F. Contains such other coverage as Beneficiary may reasonably require;
6. Comply at all times with the requirements of the 80% co-insurance clause;
  7. Deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration;
  8. Keep any buildings occupied as required by the insurance policy; and
  9. If this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.
  10. Comply with all other provisions of this Deed of Trust.

#### **BENEFICIARY'S RIGHTS.**

1. The Beneficiary at its sole option, and with or without cause, may at any time and from time to time appoint one or more substitute trustees to serve as the Trustee under this Deed of Trust. Each appointment of one or more substitute trustees shall be effective upon a designation in writing by the Beneficiary, without any other formality (e.g., without the requirement of filing the designation in any public records).
2. If the proceeds of the Note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the Note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the Note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this Deed of Trust.
5. If Grantor defaults on the Note or fails to perform any of Grantor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
  - A. Declare the unpaid principal balance and earned interest on the Note immediately due;
  - B. Request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
  - C. Purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.

#### **TRUSTEE'S DUTIES.**

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;

2. Sell and convey all or part of the Property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty; and
3. At any time during the bidding, the Trustee may require a bidding party to identify himself or herself (full name, state and city of residence, occupation, and specific business office location) and the name and address of the principal whom he or she is representing (if applicable), and to demonstrate reasonable evidence of his or her financial ability (or, if applicable, the financial ability of the principal), as a condition to his or her submitting bids at the foreclosure sale. If any such bidding party (the "Questioned Bidder") declines to comply with the Trustee's requirement in this regard, or if such Questioned Bidder does not respond but the Trustee in his or her sole and absolute discretion deems the information or the evidence of the financial ability of the Questioned Bidder to be inadequate, then the Trustee may continue the bidding with reservation; and in such event, (a) the Trustee shall be authorized to caution the Questioned Bidder concerning the legal obligations to be incurred in submitting bids, and (b) if the Questioned Bidder is not the highest bidder at the sale, or if having been the highest bidder the Questioned Bidder fails to deliver the cash purchase price payment promptly to the Trustee, all bids by the Questioned Bidder shall be disregarded and all bids by the ultimate purchaser shall be disregarded for such period of the bidding when the only bidding parties were one or more Questioned Bidders and the ultimate purchaser.
4. From the proceeds of the sale, pay, in this order:
  - A. Expenses of foreclosure, including a commission to Trustee of 5% of the bid;
  - B. To Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - C. Any amounts required by law to be paid before payment to Grantor; and
  - D. To Grantor, any balance.

#### **GENERAL PROVISIONS.**

1. Grantor hereby acknowledges and agrees that the Trustee, and any substitute trustee, under this Deed of Trust has no fiduciary relationship with Grantor, and in fact has no responsibilities with regard to Grantor other than to act in compliance with applicable law in conducting any foreclosure sale under this Deed of Trust. Grantor further acknowledges and agrees that it has not hired or employed the Trustee; moreover, Grantor has no objection to the hiring or employment of the Trustee, or any substitute trustee, by Beneficiary.
2. If any of the Property is sold under this Deed of Trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
3. Recitals in any Trustee's deed conveying the Property will be presumed to be true.
4. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
5. This lien shall remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the Property is released.
6. If any portion of the Note cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge that portion.
7. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the Note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
8. Grantor assigns to beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Grantor warrants the validity and enforceability of the assignment. Grantor may as

Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the Note or this Deed of Trust. Grantor will apply all rent and other income and receipts to payment of the Note and performance of this Deed of Trust, but if the rent and other income and receipts exceed the amount due under the Note and Deed of Trust, Grantor may retain the excess. If Grantor defaults in payment of the Note or performance of this Deed of Trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the Property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the Note and this Deed of Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.

9. Interest on the debt secured by this Deed of Trust shall not exceed the maximum amount of non-usurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded.
10. When the context requires, singular nouns and pronouns include the plural.
11. The term "Note" includes all sums secured by this Deed of Trust.
12. This Deed of Trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
13. If Grantor and Maker are not the same person, the term "**Grantor**" shall include Maker.
14. Grantor represents that this Deed of Trust and the Note are given for the following purposes:

The indebtedness, the payment of which is hereby secured, is for construction of certain improvements on the Property, and this Deed of Trust is given as additional security for the payment of said indebtedness.

15. **HAZARDOUS MATERIALS.** For the purposes of this Instrument, Borrower, Lender and Trustee agree that, unless the context otherwise specifies or requires, the following terms shall have the following meanings:

(a) "Hazardous Materials" shall mean (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 *et seq.*) ("CERCLA"), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) underground storage tanks, whether empty, filled or partially filled with any substance, (vi) any substance the presence of which on the property is prohibited by any applicable governmental requirements and regulations ("Governmental Requirements") and (vii) any other substance which by any Governmental Requirements requires special handling or notification of any federal, state or local governmental entity in its collection, storage, treatment, or disposal.

(b) "Hazardous Materials Contamination" shall mean the contamination (whether presently existing or hereafter occurring) of any improvements, facilities, soil, groundwater, air or other elements on or of the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air, or other elements on or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Instrument) emanating from the Property.

- 15.1. **REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants that:

(a) No hazardous materials are now located on the Property, and neither Borrower nor, to Borrower's knowledge, any other person has ever caused or permitted any Hazardous Materials to be placed, held, located, or disposed of on, under, or at the Property or any part thereof;

(b) No part of the Property is being used or, to the knowledge of Borrower, has been used at any previous time for the disposal, storage, treatment, processing, or other handling of Hazardous Materials, nor is any part of the Property affected by any Hazardous Materials Contamination;

(c) To the best of the Borrower's knowledge and belief, no property adjoining the Property is being used, or has ever been used at any previous time, for the disposal, storage, treatment, processing or other handling of Hazardous Materials, nor is any other property adjoining the Property affected by Hazardous Materials, nor is any other property adjoining the Property affected by Hazardous Materials Contamination; and

(d) No investigation, administrative order, consent order and agreement, litigation or settlement with respect to Hazardous Materials or Hazardous Materials contamination is proposed threatened, anticipated or in existence with respect to the Property. The Property is not currently on, and to Borrower's knowledge, after diligent investigation and inquiry, has never been on, any federal or state "Superfund" or "Superlien" list.

15.2. BORROWER'S COVENANTS. Borrower agrees to (a) give notice to Lender immediately upon Borrower's acquiring knowledge of the presence of any Hazardous Materials on the Property or of any Hazardous Materials Contamination with a full description thereof; (b) promptly comply with any Governmental Requirements requiring the removal, treatment or disposal of such Hazardous Materials or Hazardous Materials Contamination and provide Lender with satisfactory evidence of such compliance; and (c) provide Lender, within thirty (30) days after demand by Lender, with a bond, letter of credit or similar financial assurance evidencing to Lender's satisfaction that the necessary funds are available to pay the cost of removing, treating and disposing of such Hazardous Materials or Hazardous Materials Contamination and discharging of any assessments which may be established on the Property as a result thereof.

15.3. SITE ASSESSMENTS. Lender (by its officers, employees and agents) at any time and from time to time, either prior to or after the occurrence of an Event of Default, may contract for the services of persons (the "Site Reviewers") to perform environmental site assessments ("Site Assessments") on the Property for the purpose of determining whether there exists on the Property any environmental condition which could reasonably be expected to result in any liability, cost, or expense to the owner, occupier or operator of such Property arising under any state, federal or local law, rule or regulation relating to the Hazardous Materials. The Site Assessments may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by Borrower which do not impede the performance of the Site Assessments. The Site Reviewers are further authorized to perform both above and below the ground testing for environmental damage or the presence of Hazardous Materials on the Property and such other tests on the Property as may be necessary to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. Borrower will supply to the Site Reviewers such historical and operational information regarding the Property as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and will make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. On request, Lender shall make the results of such Site Assessments fully available to Borrower, which (prior to an Event of Default hereunder) may, at Borrower's election, participate under reasonable procedures in the direction of such Site Assessments and the description of tasks of the Site Reviewers. The cost of performing such Site Assessments shall be paid by Borrower upon demand of Lender and any such obligations shall be indebtedness secured by this Instrument.

15.4. INDEMNIFICATION. Regardless of whether Site Assessments are conducted hereunder, if any Event of Default shall have occurred and be continuing or any remedies in respect of the Property are exercised by Lender, Borrower shall defend, indemnify, and hold harmless Lender and Trustee from any and all liabilities (including strict liability), actions, demands, penalties, losses, costs, or expenses (including without limitation attorney's fees and expenses, and remedial costs), suits, costs of any settlement or judgment and claims of any and every kind whatsoever which may now or in the future (whether before or after the release of the Instrument) be paid, incurred or suffered by or against Lender or Trustee by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the

Property of any Hazardous Materials or any Hazardous Materials Contamination or arise out of or result from the environmental condition of the Property or the applicability of any Governmental Requirements relating to the Hazardous Materials (including without limitation CERCLA or any federal, state, or local so-called "Superfund" or "Superlien" laws, statute, law, ordinance, code, rule, regulation, order or decree), regardless of whether or not caused by or within the control of Borrower, Lender, or Trustee. The representations, covenants, warranties, and indemnifications contained in this Hazardous Materials Addendum shall survive the release of this Instrument.

- 15.5. RIGHTS OF LENDER.** Lender shall have the right, but not the obligation, prior or subsequent to an Event of Default, without in any way limiting Lender's other rights and remedies under this Instrument, to enter onto the Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any Hazardous Materials or Hazardous Materials Contamination on the Property following receipt of any notice from any person or entity asserting the existence of any Hazardous Materials or Hazardous Materials Contamination pertaining to the Property or any part thereof which, if true, could result in an order, suit, imposition of a lien on the Property, or other action and/or which, in Lender's sole opinion, could jeopardize Lender's security under this Instrument. All costs and expenses paid or incurred by Lender in the exercise of any such rights shall be Indebtedness secured by this Instrument and shall be payable by Borrower upon demand.
- 16. Waiver of Notice.** Except as otherwise expressly provided above, Grantor and all other parties liable for the Note secured hereby waive certain otherwise applicable legal requirements relating to the collection of notes, such as demand, notice of intent to demand, presentment for payment, notice of non-payment, protest, notice of protest, notice of dishonor, grace notice of intent to accelerate maturity, notice of acceleration of maturity, and diligence in collection.
- 17. Non-Waiver.** Beneficiary may remedy any default, without waiving same, or may waive any default without waiving any prior or subsequent default.
- 18. Non-Homestead.** Grantor expressly represents that the Property described above and conveyed to the Trustee forms no part of any property owned, used or claimed by Grantor as exempt from forced sale under the laws of the State of Texas, and Grantor renounces all and every claim thereto under any such law or laws.
- 19. "Indebtedness" Defined.** The "Indebtedness" secured by this Deed of Trust shall mean and include the following:
- A.** Any and all sums becoming due and payable pursuant to the Note described or referred to above;
  - B.** Any and all other sums becoming due and payable by Grantor to Beneficiary as a result of advancements made by Beneficiary pursuant to the terms and conditions of this Deed of Trust or any other instrument securing, executed in connection with or otherwise relating to the Note, including but not limited to the repayment of any future advances made by Beneficiary to Grantor and the repayment of any sums advanced for the protection of Beneficiary's security pursuant to this Deed of Trust;
  - C.** All other present or future indebtedness and liabilities of all kinds of Grantor to Beneficiary, whether or not related to the Property, and whether fixed or contingent, joint or several, direct or indirect, primary or secondary, and regardless of how created or evidenced;
  - D.** Any and all renewals, extensions, and modifications of the foregoing described indebtedness.
  - E.** The aforesaid notwithstanding, in no event shall this conveyance secure payment of any installment loan or any open-end line of credit established under Chapter 3, Chapter 4 or Chapter 15 of the Texas Credit Code (Vernon's Texas Civil Statutes Art. 5069-3.01 et seq).
- 20. Addresses.** Grantor expressly represents that the address given above is its current mailing address. Grantor agrees to notify the Beneficiary in writing of any change in said address within ten (10) days of said change. Grantor further agrees that, unless notified otherwise, Beneficiary may presume that the most recent address hereunder is the most recent address on the records of the holder of the indebtedness.

**21. Due on Sale.** In the event (i) of a sale, conveyance, assignment, or other transfer of, the above-described Property or any interest therein or portion thereof, whether voluntary or involuntary; or (ii) of any lease of the Property which grants an option to purchase the Property; or (iii) any lease of the Property at a rental rate less than fair market value; or (iv) a transfer of fifty percent (50%) or more of the stock or beneficial interest of Grantor, whether voluntary or involuntary; unless the written consent to such event is first had and obtained from Beneficiary, the full amount of the Note and any other indebtedness secured hereby, including interest accrued thereon, then remaining unpaid may, at the option of Beneficiary, be declared immediately due and payable. The creation of a lien or encumbrance subordinate to this Deed of Trust; the creation of a purchase money security interest for household appliances; or a transfer by devise, descent or by operation of law upon the death of a joint tenant shall not constitute a sale or transfer of the property. Beneficiary shall have the right to withhold its consent for any reasonable basis. Any consent by Beneficiary to any transfer of the Property covered by this Deed of Trust or a waiver by Beneficiary to exercise any rights of Beneficiary pursuant to a transfer in violation of the requirements specified in this paragraph, shall not constitute a consent to, or waiver of, any right, remedy, or power of Beneficiary upon a subsequent transfer under this paragraph.

**22. Maintenance and Repairs.** Grantor agrees, at its cost and expense, to maintain the Property in good order and condition and to make all necessary repairs and replacements in and to the Property, interior and exterior, structural and non-structural, ordinary and extraordinary, and unforeseen and foreseen. Grantor agrees to hold Beneficiary harmless from any damages occasioned by the physical condition or state of repair of the Property. Beneficiary shall have the right to inspect the Property at any reasonable time (it shall be presumed that normal business hours are reasonable).

In the event Grantor does not maintain the Property as required herein, Beneficiary shall have the right, but not the obligation, after giving Grantor ten (10) days' written notice to cure such default, to perform such repairs or maintenance as may be deemed necessary by Beneficiary, and to charge the cost thereof to Grantor, said cost to be payable by Grantor on demand as part of the indebtedness secured hereby.

**23. Financial Information.** Promptly upon Beneficiary's request, Grantor, at Grantor's sole cost and expense, shall: (a) prepare and deliver to Beneficiary financial statements, cash-flow statements, and any other financial information required by Beneficiary; (b) no more than once a year, cause an inspection and written appraisal of the property securing the indebtedness (or such parts of it as are designated in Beneficiary's request), to be made by an MAI appraiser approved by Beneficiary in its sole discretion; and (c) cause to be conducted or prepared any other written report, summary, opinion, inspection, review, survey, audit or other professional service relating to such property or any operations in connection with it (all as designated in Beneficiary's request), including without limitation any accounting, auctioneering, architectural, consulting, engineering, design, legal, management, pest control, surveying, title abstracting or other technical, managerial or professional service relating to such property or its operations.

**24. Security Agreement - Financing Statement.** This deed of trust also conveys in trust for Beneficiary, and Beneficiary is granted a security interest under the Texas Business and Commerce Code, in all fixtures now or hereafter located in or upon the subject property, such fixtures including but not being limited to all heating, air conditioning and ventilation equipment, all plumbing and lighting fixtures and all built-in appliances, all fire sprinkler systems, all alarm and/or security systems, all floor coverings and all draperies and other window treatments owned by Grantor. Further, Grantors have created and granted to Beneficiary, pursuant to said Code, a security interest in all equipment, furniture, appliances and miscellaneous personal property now owned or hereafter acquired by Grantor and used or intended for use (and including also all building materials acquired for use) in or about improvements on the subject property, as well as all payment bonds, performance bonds, contracts, plans, specifications, permits and other documents now or hereafter pertaining to such improvements, and in the event of a foreclosure sale, whether made by the Trustee or Substitute Trustee, under the terms of this deed of trust, or under judgment of a court, all personal property herein described as well as the real property referred to above, may, at the option of the Beneficiary, be sold as a whole and it shall not be necessary to have present at the place of the sale the property or any part thereof. Beneficiary also has all rights of a secured party under the Texas Business and Commerce Code. Portions of the hereinabove described property are goods which are or are to become fixtures relating the above described real estate and the filing of this instrument in the Real Property Records of the County where the properties are located shall operate as a financing statement filed as a fixture filing in accordance with the Texas Business and Commerce Code.

The proceeds evidenced by this loan are for construction of improvements on the Property. The Deed of Trust is a "construction mortgage" within the meaning of the Texas Uniform Commercial Code.

**25. Savings Clause.** In the event that any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not



