

Control Number: 43166



Item Number: 3

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014.



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PUBLIC UTILITY COMMISSION
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ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 21, 2008

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Mr. Gerald Holubec
President
TYNAN WATER SUPPLY CORPORATION
P.O. Box 115
Tynan, Texas 78391-0115

Via CMRRR No. 7004 1160 0000 7309 8921

RE: *Compliance with terms of Loan Agreement dated February 25, 2005 between
Tynan Water Supply Corporation and Texas Water Development Board*

Dear Mr. Holubec:

The matter of the compliance of Tynan Water Supply Corporation ("TWSC") with the terms of the Loan Agreement and Deed of Trust and Security Agreement, both dated February 17, 2005, between TWSC and Texas Water Development Board ("TWDB") has been referred to the Office of the Attorney General. The purpose of this letter is to notify TWSC of specific provisions of the Loan Agreement between TWSC and TWDB, which TWDB contends that TWSC has failed to perform. The Loan Agreements and Deed of Trust and Security Agreement are attached hereto. The numbered items below set forth specific provisions of the Loan Agreement between TWSC and TWDB, to wit:

1. Article III. Loan Terms and Note: TWSC has failed to provide current bank statements of separate accounts for the Reserve Fund and Contingency Fund as required under Section 3.06.
2. Article VI. Financing the Project: TWSC has failed to provide bank statements for the Contingency Fund as required under Section 6.04.
3. Article VII. Reporting Requirements: TWSC has failed to provide records and maintain accounts pertaining to the operation of the system in accordance with generally accepted accounting principles regarding the Construction Fund and Contingency Fund to TWDB pursuant to Section 7.01.
4. Article VII. Reporting Requirements: TWSC has failed to provide an annual audit report for the fiscal year ending December 31, 2007 in accordance with generally accepted auditing standards and no later than ninety (90) days following the close of the corporation's fiscal year, pursuant to Section 7.04.

5. Article VII. Reporting Requirements: TWSC has failed to provide TWDB any monthly financial statements within ten (10) days after the close of each month pursuant to Section 7.03.
6. Article VII. Reporting Requirements: TWSC has failed to provide a budget for fiscal year ending December 31, 2008, due ninety (90) days after the end of the fiscal year 2007, showing revenues sufficient to pay all operation and maintenance costs, the annual loan payment to TWDB and the funds required to be deposited into the Reserve Fund and Contingency Fund, pursuant to Section 7.04.
7. Article IX. Special Covenants: TWSC has failed to provide evidence that it has fixed, established, maintained or collected rates, charges and fees necessary to produce Gross Revenues sufficient to pay all operation and maintenance expenses, to make payments and deposits required for the Revenue Fund, and to maintain balances of the various funds required under the Loan Agreement as well as all other legal obligations pursuant to Section 9.10.

The aforesaid matters constitute breach of the Loan Agreement and a breach of the Deed of Trust and Security Agreement.

It is also our understanding that the Texas Commission of Environmental Quality ("TCEQ") is pursuing administrative proceedings regarding allegations that TWSC is not operating as a non-profit water supply corporation organized under Texas Water Code Section 67.007.

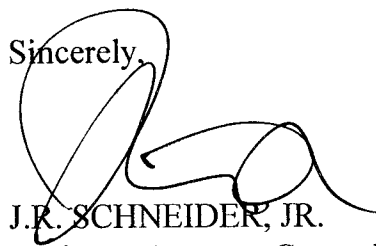
If the above referenced matters are not corrected, brought into compliance or shown to be in compliance within the next thirty (30) days, I will recommend to TWDB that action be taken to preserve their right under the loan agreements and security agreements, including acceleration of the payments under the note and foreclosure of the lien. We will also examine whether it will be necessary to obtain injunctive relief and a court ordered receiver to take over and manage all of the assets of TWSC. Also, if court proceedings become necessary, I will also recommend that TWDB seek all available legal and equitable remedies as well as court costs and reasonable attorneys.

Mr. Gerald Holubec
November 21, 2008
Page 3

IMMEDIATELY upon receipt of this letter, provide information and documentation regarding the ability of TWSC to make its payment on the Loan Agreement which is **due January 1, 2009**.

If there is any reason that you feel that TWSC is not in breach of any of terms of the agreement or cannot comply with any matter in this request, please contact me immediately. I understand that the TWDB staff has attempted on numerous occasions through correspondence, on-site meetings and telephone calls to work with TWSC to resolve the outstanding issues of compliance. It is still the desire of TWDB to resolve these issues without having to resort to foreclosure or court proceedings. Any agreement to resolve these issues short of court intervention will need to be in writing. Please contact me as soon as possible so that we may begin to work toward a resolution of this matter.

Sincerely,



J.R. SCHNEIDER, JR.
Assistant Attorney General
Financial Litigation Division
TEL: (512) 936-1309
FAX: (512) 477-2348

JRS/jrb
Encls.

cc: Mr. Doug Holcomb, P.E. (TCEQ)
Ms. Tammy Benter (TCEQ)
Mr. Ken Peterson (TWDB)
Mr. Ed Wesley (TWDB)
Ms. Wanda Wilson (Tynan Water Supply Corporation)
Mr. Ronnie E. Olivares (Bee County Commissioner)

DePinto

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
IN THE AMOUNT OF \$536,454 CONSISTING OF
\$216,000 LOAN AGREEMENTS WITH
TYNAN WATER SUPPLY CORPORATION AND
A GRANT IN THE AMOUNT OF \$320,454

(02-44)

WHEREAS, Tynan Water Supply Corporation (the "Corporation") has filed an application with the Texas Water Development Board (the "Board") seeking financial assistance in the amount of \$536,454 to provide first time sanitary sewer service and improvements to the existing water distribution system to residents in the unincorporated area of Tynan, utilizing the loan agreement option for non-profit water supply corporations; and

WHEREAS, pursuant to the rules and procedures of the Board for projects using funds from the Economically Distressed Areas Account, the Corporation is eligible to receive financial assistance for the proposed wastewater treatment system and water system improvements through a \$31,000 loan agreement with Tynan Water Supply Corporation from the Economically Distressed Areas Account of the Texas Water Development Funds, a \$185,000 loan agreement with Tynan Water Supply Corporation from the Texas Water Development Funds, and a grant of \$320,454 from the Economically Distressed Areas Account of the Texas Water Development Funds, all as is more specifically set forth in the application of the Corporation and in recommendations of the Development Fund Manager to the Board, to which documents express reference is made; and

WHEREAS, in accordance with Sections 17.124, 17.929 and 17.933 of the Texas Water Code, as revised, the Board has carefully considered all matters required by law and in particular the following:

1. the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the water supply project, including interest.
2. the needs of the area to be served by the water supply project, the benefit of the water supply project to the area, the relationship of the water supply project to the overall, statewide water needs, and the relationship of the water supply project to the state water plan;
3. the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring economically distressed areas financing, and the relative costs and benefits of all applications;
4. efforts by residents of the area to provide necessary water supply and sewer services;
5. the proposed use of labor from inside the political subdivision to perform contracts for providing water supply and sewer services;

6. the relationship of the proposed water supply and sewer services to minimum state standards for water supply and sewer services adopted by the board;
7. financing of the proposed water supply and sewer project;
8. that the Corporation has on file with the Board methods for incorporating water conservation into the provision of water supply and sewer services;
9. whether the County has adopted model subdivision rules as adopted by the Board pursuant to Section 16.343 of the Texas Water Code;
10. the feasibility of creating a conservation and reclamation district to provide and finance the water supply and sewer services;
11. the percentage of the total project cost that the financial assistance will comprise;
12. the feasibility of achieving cost savings by providing a regional facility for water supply and wastewater service and the feasibility of financing the facilities by using funds from the economically distressed areas account or any other financial assistance;
13. the rates, fees and charges that the average customer to be served by the project will be able to pay, sources of funding available to the Corporation, and any local funds of the Corporation; and
14. the just, fair, and reasonable charges for water and wastewater service as provided in the Texas Water Code.

WHEREAS, the Board hereby finds:

1. that it has approved a regional water plan for the region of the state that includes the area benefiting from the project and that the needs to be addressed by the project will be addressed in a manner that is consistent with the state water plan;
2. that the public interest requires and will benefit from state assistance in the financing of the water supply project and the treatment works;
3. that in its opinion the revenue pledged by the Corporation will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than fifty (50) years;
4. that it is not feasible for septic tanks to be used for providing sewer services in the area covered by the application;
5. that the area to be served by the project proposed to be funded from the economically distressed areas account has an average per capita income at least 25 percent below the state average for the most recent three consecutive years for which statistics are available;

6. that any treatment works to be financed under the application will consider cost-effective innovative, nonconventional methods of treatment; and
7. that the Corporation has submitted a proposed program of water conservation for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and rules of the Board.

NOW, THEREFORE, based on said considerations, the Texas Water Development Board resolves as follows:

A commitment is made by the Board for:

1. a loan of \$31,000 to Tynan Water Supply Corporation, through the Economically Distressed Areas Account of the Texas Water Development Funds, for the wastewater project;
2. a loan of \$185,000 to Tynan Water Supply Corporation, through the Texas Water Development Funds, for the water project;
4. a grant of \$320,454 from the Economically Distressed Areas Account of the Texas Water Development Funds for the wastewater project;
5. that the \$31,000 loan and the \$320,454 grant commitments will expire on May 23, 2003; and
6. that the \$185,000 loan will expire on May 21, 2004.

Such commitment is conditioned as follows:

1. that this commitment is contingent on financing from the Board's taxable bonds or such other source as the Board may hereafter determine;
2. that the Corporation's indebtedness to the Board shall be evidenced by a loan agreement and promissory note of the Corporation, specifically secured by:
 - a. a pledge of revenues, with a first lien on the revenues of the Corporation's water and sewer system ("the system"); and
 - b. a deed of trust and security agreement creating a first lien mortgage on the system and tangible assets of the Corporation.
3. that all funds received by the Corporation from the Board pursuant to this commitment pending their use for the purpose for which they are borrowed shall either be secured by a pledge of a financial institution or general obligations of the United States or obligations unconditionally guaranteed by the United States or invested in accordance with the requirements of the Public Funds Investment Act - Texas Government Code, Chapter 2256;

4. that the loan agreement contain a provision that the Corporation will at all times maintain and collect sufficient rates and charges to produce gross system revenues in an amount necessary to:
 - a. pay all maintenance, operating and administrative expenses;
 - b. meet the debt service requirements of all outstanding bonds and other debt to be paid with system revenues; and
 - c. to maintain the funds established and required by such resolution;
5. that the loan agreement contain a provision for the accumulation of a Reserve Fund, to be held by a depository of the Corporation, of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the debt;
6. that the loan agreement contain a provision that no additional debt to be paid with system revenues may be issued by the Corporation unless net system revenues for the last complete fiscal year or twelve (12) consecutive calendar month period ending not more than ninety (90) days preceding the adoption of additional debt total an amount that equals or exceeds the amount derived when 1.25 is multiplied by the average annual debt service requirements of the Corporation after giving effect to the additional debt;
7. that if there is outstanding debt of the Corporation which shall be outstanding after closing of the loan pursuant to this commitment, the lien or liens securing the debt to the Board shall be at least on a parity with lien or liens securing such outstanding debt;
8. that the Corporation file a Deed of Trust with the County Clerk in which the property is located, and with the Secretary of State's Office, as per Section 35.01 et. seq. of the Texas Business and Commerce Code, as evidence of the Board's first lien mortgage security interest in the Corporation's system;
9. that the Corporation file a security instrument with the Secretary of State's Office, as per Section 35.01 et. seq. of the Texas Business and Commerce Code, to evidence the Board's security interest in any equipment directly related to water supply and or sewer service, owned or to be acquired by the Corporation;
10. that prior to closing, the Corporation obtain a commitment from a title insurance company for the issuance of a title insurance policy on the property upon which the Board will be given a first lien mortgage;
11. that the Corporation cure any defects or liens upon the property listed in Schedule C of the title insurance company commitment that the Development Fund Manager for the Board deems necessary;

12. that the Corporation provide the Board with an attorney's letter of assurance, relating to the Corporation's easements, which states that there are no known complaints or defects affecting the easements;
13. that prior to the release of funds, the Corporation will submit to the Development Fund Manager of the Board evidence that the Corporation's by-laws have been amended to provide that as long as the Corporation is indebted for a loan or loans made by or through the Board, the by-laws shall not be altered, amended or repealed without the prior written consent of the Development Fund Manager of the Board;
14. that in the event the Corporation converts to a district and the Corporation desires to sell its obligations to the district, the conveyance and the assumption of the Board's loan to the Corporation must be approved by the Board prior to the transfer;
15. that prior to the release of funds, the Corporation and the Executive Administrator of the Board shall execute an agreement which sets forth the terms and uses of the grant portion of these funds;
16. that the grant agreement shall require that prior to release of funds for sewer hook-ups, the Corporation shall submit documentation acceptable to the Executive Administrator that the Corporation has submitted timely applications to other available funding sources and has been unable to obtain funding for sewer hook-ups from a source other than the Board;
17. that prior to the release of funds, the Corporation will provide the Board with evidence satisfactory to the Executive Administrator of the Board that the Corporation is adequately enforcing the authority granted to the Corporation by Texas Water Code Section 17.934(a)(2) to require and insure that all property owners capable of receiving service from the sewer system constructed with the funds provided by this resolution are actually connected to the sewer system constructed by these funds within a reasonable period of time not to exceed ninety (90) days from the date the service is available;
18. that prior to the release of funds, the Corporation shall submit a Capital Improvement Plan, the form and substance of which is satisfactory to the Development Fund Manager of the Board;
19. that prior to the release of funds for the water project, the Corporation will provide evidence that the Corporation has obtained an amendment to the Certificate of Convenience and Necessity for the areas to be served by the water project which is satisfactory to the Development Fund Manager of the Board;
20. that prior to the release of funds for the wastewater project, the Corporation will provide evidence that the Corporation has obtained the Certificate of Convenience and Necessity for the areas to be served by the wastewater project which is satisfactory to the Development Fund Manager of the Board;

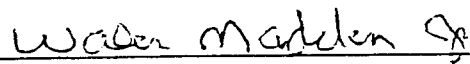
21. that the Corporation shall provide the Board with (a) Monthly Financial Statements, to be submitted within ten (10) days after the close of each month until the requirement is waived in writing by the Development Fund Manager or the Board's bonds are paid in full, whichever comes first, and (b) Annual Audit Reports, to be submitted without charge, within 120 days of the close of each fiscal year;
22. that prior to closing, the Corporation will execute a promissory note and a loan agreement with the Board;
23. that prior to the release of funds, the Corporation shall submit an executed consulting engineer contract, the form and substance of which is satisfactory to the Development Fund Manager of the Board; and
24. that prior to closing, the Corporation shall adopt and implement the program of water conservation as approved by the Board.

PROVIDED, however, the foregoing resolution is subject to the following additional requirements prior to funding:

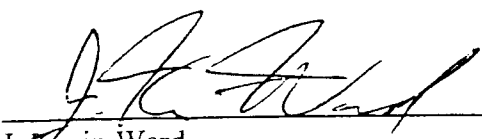
1. issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said obligations were issued have been complied with; that said obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said obligations are valid and binding obligations of the issuer; and
2. compliance with all applicable requirements contained in the Rules, Regulations, and Policies of the Texas Water Development Board.

APPROVED and ordered of record this the 15th day of May, 2002.

TEXAS WATER DEVELOPMENT BOARD


Wales H. Madden, Jr., Chairman

ATTEST:


J. Kevin Ward
Executive Administrator

WILLATT & FLICKINGER
ATTORNEYS AT LAW

2001 NORTH LAMAR • AUSTIN, TEXAS 78705 • (512) 476-6604 • FAX (512) 469-9148

March 22, 2005

VIA CERTIFIED MAIL, RETURN
RECEIPT REQUESTED

Rec'd 3/24/05 SS
Proj # 10346

Mr. Srin Surapanani
Texas Water Development Board
1700 North Congress Ave., Rm. 511B
Austin, Texas 78701

Re: Tynan WSC

Dear Srin:

Enclosed is the original recorded Deed of Trust and Security Agreement for Tynan WSC.

Very truly yours,

Mike Willatt

Mike Willatt

MW/hm
Enclosure

ORIGINAL

THIS INSTRUMENT GRANTS A SECURITY INTEREST BY A UTILITY
THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS

DEED OF TRUST AND SECURITY AGREEMENT

THE STATE OF TEXAS :
:
COUNTY OF BEE :
:

This Deed of Trust and Security Agreement ("Deed of Trust") is made and entered into by and between the undersigned TYNAN WATER SUPPLY CORPORATION, whose post office address is P.O. Box 20, Sinton, Texas 78387, as the borrower ("Borrower"), and the Development Fund Manager of the Texas Water Development Board and/or any successor in office, as trustee, ("Trustee"), whose mailing address is 1700 North Congress Avenue, Austin, Texas 78701 and the Texas Water Development Board, as beneficiary, ("Beneficiary").

WHEREAS, the Borrower has all the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to non-profit corporations created and operating pursuant to article 1434(a) Vernon's Texas Civil Statutes Annotated (now, Chapter 67, Texas Water Code) and is authorized to issue bonds and notes to carry out its corporate purposes and to refund such obligations; and

WHEREAS, the Borrower, through its Board of Directors, has duly adopted a resolution authorizing a request for financial assistance from the Texas Water Development Board and authorizing the execution of two certain promissory notes, two loan agreements, and other documents as necessary for completion of the loan transaction; and

WHEREAS, Borrower is indebted to the Beneficiary as evidenced by the two Loan Agreements ("Loan Agreements") and two Promissory Notes ("Notes"), executed by Borrower and payable to the order of the Beneficiary, which authorizes acceleration of the entire indebtedness at the option of the Beneficiary upon any default by the Borrower, and is described as follows:

Date of Instrument	Principal Amount	Annual Rate of Interest
_____, 2005	\$185,000	Variable
_____, 2005	\$31,000	Variable

WHEREAS, the Notes evidence loans to Borrower, and the Beneficiary at any time may assign the Notes and insure payment thereof pursuant to the terms of the Loan Agreements between Borrower and Beneficiary which contain the terms and conditions pursuant to which Beneficiary provides monies to Borrower to finance the Construction (as defined in the Loan Agreements) of Borrower's water and sewer system ("Water and Sewer System"); and

WHEREAS, this conveyance is made in trust to further secure payment of two debts, one in the principal sum of \$185,000, and the other in the principal sum of \$31,000, both with interest thereon ("Debts") becoming due and payable to the Beneficiary under the terms of the Notes or this Deed of Trust, including (but not limited to) any extension, renewal or re-amortization of said Debts, any increase or addition thereto and any future debt owing by Borrower to the Beneficiary, the payment thereof being secured or intended to be secured hereby; and to further secure performance and discharge of each and every promise, obligation, covenant and agreement of Borrower contained in the Notes, this Deed of Trust or any other instrument executed by Borrower pertaining to said Debts;

WHEREAS, pursuant to the Loan Agreements and subject to the terms and provisions thereof, principal and interest on the Notes shall be payable from and secured by a parity first lien on and pledge of the revenues of the Water and Sewer System ("Pledged Revenues").

NOW, THEREFORE, the Borrower, does hereby bargain, sell, grant, convey, transfer, mortgage, pledge and assign to the Trustee and its successors and substitutes in trust hereunder for the benefit of the Beneficiary or the holders of the Notes, the following described real and personal property, rights, titles, interests and estates (herein collectively called the "Mortgaged Properties") to wit:

ARTICLE I SECURED OBLIGATIONS

1.1. This Deed of Trust and Security Agreement ("Deed of Trust") is executed and delivered by Borrower to secure the payment and performance of certain indebtedness, liabilities and obligations owing to or in favor of Beneficiary, as follows:

- (a) the payment by Borrower of all indebtedness evidenced by the Notes;
- (b) any and all amounts, liabilities, and obligations for which or for the performance of which Borrower may become indebted or obligated under the terms of this Deed of Trust;
- (c) any and all renewals, rearrangements, and extensions of the foregoing items of indebtedness and obligations; and

(d) additional parity debt issued to the Board and known as Additional Notes, subject to the provisions of Article III of the Loan Agreements, which are payable from and secured by a Loan Agreement and shall be covered by this Deed of Trust in the same manner and to the same extent as the current Notes.

Provided, however, that the enumeration of items of indebtedness set forth in paragraph 1.1(c) above shall not include and is expressly excepted from any items of indebtedness owing or to become owing to the Beneficiary for which applicable law prohibits the taking of a lien upon real estate as security, including, but not limited to, items of indebtedness incurred pursuant to Chapter 4 or 15 of the Texas Credit Code.

1.2. As set out in the Loan Agreements and the Notes, said Loan Agreements and Notes are and shall be secured on an equal and ratable basis with the liens and security instruments securing such obligations being of equal dignity and priority.

1.3. Each and every item of indebtedness described and included in Section 1.1 above is intended to be fully secured by the liens, assignments, and security interests created under and by virtue of this Deed of Trust; and all such items so secured (now or hereafter existing) are hereinafter collectively called "Deed of Trust Secured Obligations".

ARTICLE II GRANT OF MORTGAGED PROPERTIES

2.1. For the purposes and trusts hereinafter set forth, and for TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid to Borrower, the receipt and sufficiency of which are hereby acknowledged, Borrower has GRANTED, SOLD, and CONVEYED, and by these presents does GRANT, SELL, and CONVEY, unto Trustee, all the following described property, to wit:

- (a) all those certain tract(s) or parcel(s) of land being situated in Bee County, Texas, being more fully described as set forth on Attachment A, attached hereto and hereby referred to and incorporated herein for all purposes;
- (b) all improvements upon the real property hereinabove described and hereafter placed thereon, and all fixtures, materials, equipment, apparatus, furniture, furnishings, building materials, supplies, and other property, real and personal, now or hereafter installed or used thereon or upon the improvements thereon, including, but not limited to, all heating, lighting, refrigerating, plumbing, ventilating, incinerating, water heating, cooling and air-conditioning equipment, fixtures and appurtenances, all engines and machinery, elevators, pumps, motors, window screens, window shades, Venetian blinds, awnings, floor coverings, and shrubbery and other chattels and personal property used or furnished in connection with the operation, use, and enjoyment of such real property and the improvements thereon, all renewals, replacements, and substitutions therefor and additions thereto, all of which said property and

fixtures shall be deemed to be a part of and affixed to the above described real property;

- (c) all rents, revenues, profits, income, damages, awards, and proceeds from or attributable to all or any portion of the real property hereinabove described, the improvements hereinabove described, and any other property, both real and personal, hereinafter described;
- (d) all documents, instruments, general intangibles, chattel paper, and accounts, whether now or hereafter existing, arising out of the sale or use of the hereinabove described properties, both real and personal, and all guarantees and suretyship agreements relating thereto and all security for payment thereof, now or hereafter existing or arising, and all proceeds from any such items enumerated in this clause (d);
- (e) each and every right, privilege, hereditament, and appurtenance in anywise incident or appertaining to the properties, both real and personal, described in this Section 2.1; and
- (f) all licenses, preliminary or final plat approvals, permits, warranties, and wastewater discharge capacity attributable or allocable to all or any portion of the real property hereinabove described, the improvements hereinabove described, and any other property, both real and personal, hereinabove described.

TO HAVE AND TO HOLD the hereinabove described properties together with the rights, privileges, and appurtenances thereto belonging (all of which properties, rights, privileges, and appurtenances are hereinafter collectively called the "Mortgaged Properties"), unto the Trustee and to his substitutes or successors forever, and Borrower does hereby bind itself, its successors and assigns to warrant and forever defend all and singular the Mortgaged Properties unto Trustee, his successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, subject only to the specific matters, if any, set forth in Attachment B.

2.2. Without in any way limiting the above conveyance and the warranty herein contained, Borrower represents itself to be the owner of all the Mortgaged Properties as hereinabove conveyed and, should any ambiguity exist in regard to the description of said properties, reference may be had to Borrower's ownership of properties held by it in the survey(s), subdivision(s) or section(s) described in Attachment A for further description of the properties herein conveyed. Borrower agrees that it will, upon request by the Beneficiary execute any further instruments, amendments, or supplements desired to more adequately describe the Mortgaged Properties which it has agreed to make subject to this Deed of Trust.

2.3. This conveyance, however, is intended as a deed of trust and security agreement and is made upon the following trusts, terms, and conditions, to wit: In the event Borrower

shall well and truly perform and pay the Deed of Trust Secured Obligations (including payment of all principal and all interest and attorneys' fees, if any, owing or to become owing thereon) to the legal holder thereof when the same shall become due or make provision for such payment, then this Deed of Trust and all herein contained shall be null and void and shall be released at Borrower's expense, as provided in the Indenture, otherwise this Deed of Trust shall continue in full force and effect; provided, however, that the Borrower's obligation to indemnify and hold harmless the Beneficiary and Trustee pursuant to the provisions hereof shall survive any such payment or release.

ARTICLE III ASSIGNMENT OF RENTS

3.1. The transfer of rents, revenues, profits, and income as a portion of the conveyance of the Mortgaged Properties hereinabove made to Trustee is specific in nature and irrevocable. So long as no Event of Default (hereinafter defined) exists, but not otherwise, Borrower may collect and retain the currently accruing rents, revenues, profits, and income, but may not collect in excess of one (1) month's rental in advance or two (2) months' rental in advance where one such month's rental is attributable to the next ensuing month and one such month's rental is attributable to the last month in the lease term and is collected as security under the provisions of a written lease or rental agreement. In the event, however, any Event of Default shall occur and be continuing, thereupon or any time thereafter, while such or any subsequent Event of Default continues, Beneficiary may, personally or through an agent selected by such holder, take, or have Trustee take, possession and control of the Mortgaged Properties, or any part thereof, and receive and collect all rents, revenues, profits, and income theretofore accrued or thereafter accruing therefrom so long as any of the Deed of Trust Secured Obligations remain outstanding or until the foreclosure of the lien hereof, applying so much thereof as may be collected prior to the sale of such property under foreclosure, first to the expenses incident to such possession, control, and collection and second to the payment of the Deed of Trust Secured Obligations in such order as the Beneficiary may elect, irrespective of whether then matured, paying the balance, if any to Borrower. Notwithstanding the foregoing, in the event of any conflict between the provisions of this Article III and the terms of the Loan Agreements, the terms of the Loan Agreements shall control for all purposes.

3.2. In exercise of the rights and powers created under Section 3.1 above, Borrower specifically agrees that Beneficiary, Beneficiary's agent, or Trustee, as such party may see fit, may use against Borrower or any other persons lawful or peaceful means to enforce the collection of any such rents, revenues, profits, and income, and to secure possession of the Mortgaged Properties, or any part thereof; settle or compromise on any terms the liability of any person or persons for any such rents, revenues, profits, or income; institute and prosecute to final conclusion actions of forcible entry and detainer, or actions of trespass to try title, or actions for damages, or any other appropriate actions, in the name of such person or in the name of Borrower; and settle, compromise, or abandon any such actions. In furtherance of the foregoing and not by way of limitation. Borrower binds itself to take whatever lawful or peaceful steps Beneficiary may ask it to take for such purposes, including the institution and

prosecution of actions of the character above stated; provided, however, Borrower recognizes that neither Trustee, Beneficiary, or any person acting on behalf of Beneficiary shall ever be required to collect any such rents or income or be liable or chargeable for failure so to do.

ARTICLE IV SECURITY AGREEMENT

4.1. Without limiting any of the other provisions of this Deed of Trust, Borrower, as Debtor (referred to in this Article IV as "Debtor"), expressly grants unto the Trustee for the benefit of the Beneficiary or the holders of the Notes, as Secured Party (referred to in this Article IV as "Secured Party", whether one or more), a security interest in all the Mortgaged Properties (including both those now and those hereafter existing) to the full extent that the Mortgaged Properties may be subject to the Uniform Commercial Code of the State of Texas. The security interest granted hereby covers and includes all equipment, accounts, general intangibles, fixtures and other personal property used or acquired for us on or in connection with the use or operation of the Mortgaged Properties Secured Transactions (chapter 9, Business and Commerce Code of Texas, as amended) (hereinafter called the "Uniform Commercial Code").

4.2. Debtor covenants and agrees with Secured Party that

- (a) In addition to any other remedies granted in this Deed of Trust to Secured Party or Trustee (including specifically, but not limited to, the right to proceed against all the Mortgaged Properties in accordance with the rights and remedies in respect of those Mortgaged Properties which are real property pursuant to section 9.501(d) of the Uniform Commercial Code), Secured Party may, should an Event of Default occur, proceed under the Uniform Commercial Code as to all or any part of the personal property (tangible or intangible) and fixtures included in the Mortgaged Properties (such portion of the Mortgaged Properties being referred to in this Article IV as the "Collateral"), and shall have any may exercise with respect to the Collateral all the rights, remedies, and powers of a secured party under the Uniform Commercial Code, including, without limitation, the right and power to sell, at one or more public or private sales, or otherwise dispose of, lease, or utilize the Collateral and any part of parts thereof in any manner authorized or permitted under the Uniform Commercial Code after default by a debtor, and to apply the proceeds thereof toward payment of any costs and expenses and attorneys' fees and legal expenses thereby incurred by Secure Party, and toward payment of the Deed of Trust Secured Obligations in such order or manner as Secured Party may elect.
- (b) Among the rights of Secured Party upon occurrence of an Event of Default and without limitation, Secured Party shall have the right, by any lawful means, to take possession of the Collateral or any part thereof and to enter, in any lawful manner, upon any premises where same may be situated for such purpose

without being deemed guilty of trespass and without liability for damages thereby occasioned, and to take any lawful action deemed necessary or appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish, or otherwise prepare the Collateral for sale, lease, or other use or disposition as herein authorized.

- (c) To the extent permitted by law, Debtor expressly waives any notice of sale or other disposition of the Collateral and any other rights or remedies of a debtor or formalities prescribed by law relative to sale or disposition of the Collateral or exercise of any other right or remedy of Secured Party existing after default hereunder; and, to the extent any such notice is required and cannot be waived, Debtor agrees that, if such notice is mailed, postage prepaid, to Debtor at the address shown opposite Debtor's signature below at least five (5) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving of said notice.
- (d) Upon occurrence of an Event of Default or upon the occurrence of any event or condition which after either or both the passage of time and the giving of notice would constitute an Event of Default, Secured Party is hereby granted the express right, at its option, to transfer to itself or to its nominee the Collateral, or any part thereof, to notify any obligor or account debtor in the case of any Collateral to make payment directly to Secured Party, and to receive the money, income, proceeds or benefits attributable or accruing thereto and to hold the same as security for the Deed of Trust Secured Obligations or to apply the same on the principal and interest or other amounts owing on any of the Deed of Trust Secured Obligations, whether or not then due, in such order or manner as Secured Party may elect. With respect to the Collateral, Debtor, for itself, its successors and assigns, hereby expressly and specifically waives all rights to a marshaling of the assets of Debtor, including the Collateral, or to a sale in inverse order of alienation.
- (e) All recitals in any instrument of assignment or any other instrument executed by Secured Party or by Trustee incident to sale, transfer, assignment, lease, or other disposition or utilization of the Collateral or any part thereof hereunder shall be full proof of the matters stated therein, no other proof shall be requisite to establish full legal propriety of the sale or other action or of any fact, condition or thing incident thereto, and all prerequisites of such sale or other action and of any fact, condition or thing incident thereto shall be presumed conclusively to have been performed or to have occurred.
- (f) Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties. Debtor shall be fully liable for all expenses of retaking, holding, preparing for sale, lease or other use or

disposition, selling, leasing or otherwise using or disposing of the Collateral which are incurred or paid by Secured Party as authorized or permitted hereunder, including also all attorneys' fees, legal expenses, and costs, all of which expenses and costs shall constitute a part of the Deed of Trust Secured Obligations.

- (g) Certain of the Collateral is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the real estate hereinabove described, and this Deed of Trust upon being filed for record in the real estate records shall operate also as a financing statement upon such of the Collateral which is or may become fixtures. Debtor has an interest of record in the real estate.
- (h) Any copy of this Deed of Trust which is signed by Debtor or any carbon, photographic, or other reproduction of this Deed of Trust may also serve as a financing statement under the Uniform Commercial Code by Debtor, whose address is set opposite its signature below, in favor of Secured Party, whose address is set out above.
- (I) So long as any Deed of Trust Secured Obligations remain unpaid, unless the prior written specific consent and approval of Secured Party shall have first been obtained, Debtor will not execute and there will not be filed in any public office any financing statement or statements affecting the Collateral other than financing statements in favor of Secured Party hereunder and the owner and holder of the Notes.

4.3. Debtor warrants and represents to Secured Party that, except for the security interest granted hereby in the Collateral and those securing the Notes, Debtor is the owner and holder of the Collateral, free of any adverse claim, security interest or encumbrance, and Debtor agrees to defend the Collateral against all claims and demands of any person at any time claiming the same or any interest therein. Debtor further warrants and represents that it has not heretofore signed any financing statement and that no financing statements signed by Debtor are now on file in any public office except those statements true and correct copies of which have been delivered to Secured Party.

ARTICLE V CERTAIN COVENANTS AND WARRANTIES OF BORROWER

5.1. As further assurances with regard to the Deed of Trust Secured Obligations, Borrower hereby covenants, warrants, and agrees in favor of Beneficiary, as follows:

- (a) Borrower covenants and agrees that, should it be discovered after the execution and delivery hereof there is a lien or encumbrance of any nature whatsoever upon the Mortgaged Properties or any part thereof, equal or superior in rank to the lien of this Deed of Trust or in case of an error of defect herein, or the execution or acknowledgment hereof, Borrower shall, upon demand from

Beneficiary, correct such defects in such title, or remove said liens or encumbrances or homestead claim, or correct such error or defect in this Deed of Trust or its execution or any acknowledgment hereof.

- (b) From and after the date hereof, Borrower agrees that it shall not voluntarily grant any liens that might be argued to have priority over the Notes. Borrower further agrees not to suffer or permit there to exist any lien against the Mortgaged Properties involuntarily imposed by operation of constitution, statute, ordinance, judgment or decree and, if such lien is imposed, to immediately obtain the release and discharge of record of such lien, whether by payment or bonding and to take such other and further action as Beneficiary may reasonably request you protect the intended lien priority.
- (c) Borrower covenants and agrees that, after any sale under this Deed of Trust, it, or its successors or assigns, shall be mere tenants at sufferance of the purchaser of the property at such sale, and that such purchaser shall be entitled to immediate possession thereof, and that, if Borrower fails to vacate such property immediately, such purchaser may and shall have the right to go into any court having venue, or in any other court hereafter having jurisdiction of forcible detainer actions, and file an action in forcible detainer, which action shall lie against Borrower or its successors or assigns as tenants at sufferance.
- (d) Borrower expressly agrees that Beneficiary shall be fully subrogated to the rights of all holders of any vendor's liens or other liens whose indebtedness is paid in whole or in part with the proceeds of the Deed of Trust Secured Obligations. To the extent that the Deed of Trust Secured Obligations represent funds advanced for the acquisition of any of the Mortgaged Properties, Borrower acknowledges and agrees that Beneficiary is entitled to a vendor's lien securing the payment of said indebtedness, and Borrower further specifically covenants, stipulates, and agrees that foreclosure under the power of sale contained in this Deed of Trust shall operate to fully foreclose such vendor's lien.

5.2. Borrower shall keep all insurable Mortgaged Properties insured for the protection of the Beneficiary against loss by fire, hazards in such manner, in such amounts, and in such companies as the Beneficiary may approve, and shall keep and maintain the policies therefore, properly endorsed, on deposit for inspection by the Beneficiary. Borrower assigns to Beneficiary all right and interest in all such policies of insurance and authorizes the Borrower to collect for, adjust or compromise any losses under any insurance policy on the Mortgaged Properties and apply said loss proceeds on the debt, whether due or not or to the restoration of the Mortgaged Properties, or to be released to Borrower, but such application or release shall not cure or waive any default.

5.3. Borrowers will not commit or permit any waste on the Mortgaged Properties and will keep all buildings, fences and all other improvements now or hereafter erected on the

Mortgaged Properties in sound condition and in good repair and will neither do nor permit to be done anything to the Mortgaged properties that may impair the value thereof, and the Beneficiary shall have the right of entry upon the Mortgaged Properties at all reasonable times for the purpose of inspecting the same.

5.4. Borrowers will pay (prior to delinquency) all taxes and assessments levied or assessed upon the Mortgaged Properties or the interest created therein by this Deed of Trust, and exhibit the receipts therefor to the Beneficiary and will defend the title and possession of the Mortgaged Properties to the end that this Deed of Trust shall be and remain a parity first lien on the Mortgaged Properties until the debt is paid.

5.5. As additional security for the payment of said Debt, Borrower hereby transfers and assigns unto the Beneficiary all judgments, awards of damages and settlements hereinafter made resulting from condemnation proceedings or the taking of all or any part of the Mortgaged Properties under the power of eminent domain or for any damage to all or any part of the Mortgaged Properties.

ARTICLE VI DEFAULT

6.1. For purposes of this Deed of Trust, "Event of Default" means any Event of Default under the Notes and any failure by Borrower to keep and perform Borrower's covenants and obligations under this Deed of Trust; any Event of Default under the Notes or any document evidencing or securing the Notes; and any breach of the Loan Agreements.

6.2. Upon the occurrence of an Event of Default, subject to the terms of the Consent Agreements (if then in effect) so long as such default remains uncured, Beneficiary shall have the option and right to take any one or more of the following actions: (i) proceed to enforce the lien of this Deed of Trust, and (ii) pursue any and all other remedies available to Beneficiary whether set forth herein, in the Indenture, or otherwise available at law or in equity.

6.3. Each of the rights and remedies set forth in this Deed of Trust or available at law or in equity shall be cumulative and concurrent, may be pursued jointly or severally against Borrower or any of the Mortgaged Properties, and shall be nonexclusive. The election to pursue any such right or remedy shall not be deemed a waiver, then or thereafter, to pursue any other such right or remedy.

6.4. The acceptance of payment of any portion of the Deed of Trust Secured Obligations after its due date or after the giving of notice of an Event of Default and of election to accelerate the maturity of the Deed of Trust Secured Obligations shall not waive any right of Beneficiary to require prompt payment when due of all other sums constituting Deed of Trust Secured Obligations or to declare an Event of Default for failure to pay the entire unpaid balance of the Deed of Trust Secured Obligations, or any right of Beneficiary to proceed with foreclosure sale pursuant to any such notice and acceleration for any unpaid balance of the Deed of Trust Secured Obligations. Waiver of a right granted to Beneficiary as to one

transaction or occurrence shall not be deemed a waiver of such right as to any subsequent transaction or occurrence.

ARTICLE VII CERTAIN REMEDIES; POWER OF SALE

7.1. In the event that Borrower fails or refuses to pay any taxes or assessments upon the Mortgaged Properties before the same become delinquent, fails to take out or procure or maintain such insurance as is required by this Deed of Trust or the Indenture, or fails to perform any other covenant or to pay any other obligation of Borrower set forth in this Deed of Trust or set forth in the Loan Agreements or in any other agreement or instrument evidencing or securing the Deed of Trust Secured Obligations, then in any such case Beneficiary, at its option and without any obligation to do so, may pay any such taxes or assessments (without being required to examine the legality or justice of same), take out or procure such insurance, or tender such performance or payment. All amounts advanced by Beneficiary as aforesaid shall be due and payable upon demand, shall become a part of the Deed of Trust Secured Obligations, shall bear interest from the date such payments are advanced until the repayment thereof at the lesser of eighteen percent (18%) per annum or the highest nonusurious rate of interest set forth in the instruments evidencing the Deed of Trust Secured Obligations, and shall be fully secured by the liens, assignments, and security interest of this Deed of Trust. Any amounts so paid, as well as the time of payment thereof, shall be deemed fully established by the affidavit or certificate of Trustee or Beneficiary. Borrower agrees that the payment of such taxes or assessments, the procuring and maintaining of such insurance, or the tendering of any such performance or payment by Beneficiary shall not prevent Beneficiary from declaring the Deed of Trust Secured Obligations to be due and payable under the provisions hereof by reason of such Event of Default and pursuing any other remedies available to Beneficiary should Beneficiary so elect.

7.2. Upon the occurrence of an Event of Default, and at the request of Beneficiary, Trustee, or Trustee's successors, (a) may foreclose this instrument either by court action pursuant to law or by advertisement and sale of the property as provided by law, for cash or secured credit at the option of the Beneficiary, personal notices of which sale need not be served on Borrower; (b) such sale may be adjourned from time to time without other notice than oral proclamation at the time and place appointed for such sale and correction made on the posted notices, and at such sale the Beneficiary and its agents may bid and purchase as a stranger; (c) Trustee at Trustee's option may conduct such sale, without being personally present, through Trustee's delegate authorized by Trustee for such purpose orally or in writing and without notice to Borrower of such authorization; and (d) if the property is situated in two or more counties, the sale may be held in any of such counties selected by the Beneficiary in its sole discretion, as an entirety or in parcels, by one sale or by several sales, held at one time or at different times, all as Trustee acting may elect consistent with such written direction of the Beneficiary.

7.3. Posting, serving, filing, and giving notices of sale will comply with the provisions of Section 51.002 of the Texas Property Code. The manner herein prescribed for

posting, serving, filing, or giving any notice, other than that to be posted and filed or caused to be posted and filed by Trustee, shall not be deemed exclusive but such notice or notices may be posted, served, filed, or given in any other manner which may be permitted by applicable law.

7.4. At any sale conducted under this Deed of Trust, credit upon all or any part of the Deed of Trust Secured Obligations shall be deemed cash paid, but shall vest title in Beneficiary to the extent provided in the Loan Agreements; and Beneficiary or the holder of all or any part of the Deed of Trust Secured Obligations may purchase at any such sale. All proceeds of such sale shall be paid to the Beneficiary and the holder of the Notes as provided under the Loan Agreements.

7.5. Without limiting any of the powers or remedies provided elsewhere, Borrower agrees that, in the event the Deed of Trust Secured Obligations are payable in installments or include, at any time, items of matured as well as unmatured indebtedness, the Beneficiary or the holder of the matured installments or items of indebtedness, as the case may be, shall have the right to have the Mortgaged Properties sold, subject to the part of the Deed of Trust Secured Obligations which is unmatured at the time Trustee is requested to make such sale, at Trustee's sale to satisfy the lien and security interest hereof securing the then matured portion of said indebtedness, and Trustee is expressly authorized and empowered to conduct such sale which is called in this Section "Installment Foreclosure." Any Installment Foreclosure made under this Section shall not affect the liens, assignments, and security interest of this Deed of Trust existing to secure that portion of the Deed of Trust Secured Obligations to which the sale is to be made subject. No Installment Foreclosure shall exhaust the power of Trustee to conduct future Installment Foreclosures nor in anywise limit the powers of sale provided elsewhere in this Deed of Trust. The provisions elsewhere in this Deed of Trust relating to manner of conducting Trustee's sales, including the posting, filing, and giving of notices thereof, shall also apply to any Installment Foreclosure and the same presumptions shall be applicable to any Trustee's deed or recital therein contained in connection with an Installment Foreclosure and to any other affidavit as hereinabove provided.

7.6 In the case of the absence of Trustee from the state, or of his death, refusal, or failure to act, or in the event the Beneficiary or the holder or holders of not less than a majority in amount of the Deed of Trust Secured Obligations should elect at any time (with or without cause) to remove Trustee then acting, a successor or substitute may be named, constituted, and appointed by the Beneficiary or the holder or holders of not less than a majority of the amount of the Deed of Trust Secured Obligations, without further formality than an appointment and designation in writing, which appointment and designation shall be full evidence of the right and authority to make the same and of all facts therein recited; and this conveyance shall vest in the Successor or Substitute Trustee the title, powers, and duties conferred on Trustee named herein and the conveyance by the Successor or Substitute Trustee to the purchaser at any sale made pursuant hereto shall be valid and effective as fully as hereinabove provided in the case of a conveyance by Trustee. Such right to appoint a Successor or Substitute Trustee shall exist as often as and whenever Trustee, original, successor, substitute, cannot or will not act or has been removed. Borrower specifically covenants and stipulates that the recitals in the conveyance made to the purchaser, either by Trustee or any Successor or Substitute Trustee,

shall be full proof and evidence of the matters therein stated; no other proof shall be requisite of the request by the holder of the Deed of Trust Secured Obligations on Trustee or on any Successor or Substitute Trustee to enforce this trust, or of the due, timely, and proper posting, filing, and giving of all notices and making of the sale, or any particulars thereof, or of the inability, refusal, or failure of Trustee or any Successor or Substitute Trustee to act, or of the removal of Trustee or any Successor or Substitute Trustee, or of the appointment of a Successor or Substitute Trustee, as herein provided, either as to the legality of his appointment or otherwise, or of the contingencies which brought about the failure or inability of Trustee or any Successor or Substitute Trustee to act, or of his removal, as the case may be; all prerequisites of said sale shall be presumed to have been performed; and any sale made under the powers herein granted shall be a perpetual bar against Borrower, its successors and assigns.

7.7. The right of sale hereunder shall not be exhausted by one or any sale, but, so long as any of the Deed of Trust Secured Obligations remain undischarged, Trustee or Successor or Substitute Trustee may make other and successive sales until all the Mortgaged Properties shall be legally sold.

7.8. In the event Borrower or any owner of the Mortgaged Properties, without first obtaining approval of Beneficiary (which approval shall not be unreasonably withheld), should sell or otherwise dispose of the Mortgaged Properties, or any part thereof, at any time before this Deed of Trust is fully released and discharged, Beneficiary shall have the option to declare the indebtedness hereby secured due and payable and if the same is not paid within ten (10) days after the same is declared due and payable, Beneficiary may request the Trustee to commence foreclosure proceedings or other action authorized by this Deed of Trust to enforce the liens herein given. Failure to exercise this option shall not be considered as a waiver of the rights conferred in this Deed of Trust, but said option may be exercised at any time.

ARTICLE VIII ENVIRONMENTAL MATTERS

Borrower covenants that:

- (a) the location, construction, occupancy, operation, and use of the Mortgaged Properties do not violate any applicable law (including, without limitation, applicable provisions of the Occupational Safety and Health Act of 1970, the Employee Retirement Income Security Act of 1974, the Americans with Disabilities Act of 1990, and corresponding rules and regulations), statute, ordinance, rule, regulation, order, or determination of any governmental authority or any board of fire underwriters (or other body exercising similar functions), or any restrictive covenant or deed restriction (recorded or otherwise) affecting the Mortgaged Properties, including, without limitation, all applicable zoning ordinances and building codes, flood disaster laws, and health and environmental laws and regulations (hereinafter sometimes collectively called "Applicable Regulations");

- (b) neither the Mortgaged Properties nor the Borrower is in violation of or subject to any existing, pending, or, to the best of Borrower's knowledge, after due inquiry, threatened investigation or inquiry by any governmental authority or to any remedial obligations under any Application Regulations pertaining to health or the environment (hereinafter sometimes collectively called "Applicable Environmental Law"), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. '9601 et seq., as amended ("CERCLA"), the Hazardous Materials Transportation Act, 49 U.S.C. '1801 et seq., as amended, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. '6901 et seq., as amended, the Toxic Substance Control Act of 1976, 14 U.S.C. '2601 et seq., as amended, the Clean Water Act, 33 U.S.C. '466 et seq., as amended, the Clean Air Act, 42 U.S.C. '7401 et seq., as amended, and any other federal, state, or local law similar to those set forth in this definition, and, to the best of the Borrower's knowledge, after due inquiry, this representation an warranty would continue to be true and correct following disclosure to the applicable governmental authorities of all relevant facts, conditions, and circumstances, if any pertaining to the Mortgaged Properties. If any such investigation or inquiry is subsequently initiated, the Borrower will promptly notify the Trustee and the Beneficiary;
- (c) the Borrower has not obtained and, to the best of the Borrower's knowledge, after due inquiry, is not required to obtain any permits, licenses, or similar authorizations to construct, occupy, operate, or use any buildings, improvements, fixtures, and equipment forming a part of the Mortgaged Properties by reason of any Applicable Environmental Law.
- (d) the Mortgaged Properties have not previously been used as a landfill or as a dump for garbage or refuse; and the Mortgaged Properties do not lie within a flood plain or in an area that has been identified by the Secretary of the United States Department of Housing and Urban Development as an area having special flood hazards, or, to the extent a portion of the Mortgaged Property may fall within such flood plain, the Borrower shall provide sufficient insurance coverage against such hazard. The Borrower has not illegally or improperly manufactured, used, generated, stored, found, released, or disposed or any Hazardous Substance (as herein defined) on, under, or about the Site in violation of applicable federal, state, or local law, statute, ordinance, or regulation ("LAW"). The Borrower has no knowledge that any hazardous substance or solid wastes have been illegally or improperly disposed of or otherwise illegally or improperly released on or about the Mortgaged Properties;
- (e) the Mortgaged Properties do not contain asbestos, ureaformaldehyde foam insulation, or any other chemical, material, or substance exposure to which may or could pose a health hazard whether or not the substance is prohibited limited, or regulated by any governmental authority; and

- (f) the use which the Borrower makes or intends to make of the Mortgaged Properties will not result in the illegal or improper manufacturing, treatment, refining, transportation, generation, storage, disposal, or other release or presence of any Hazardous Substance or solid waste on or to the Mortgaged Properties. For purposes of this Indenture, the terms "Hazardous Substance" and "release" shall have the meanings specified in CERCLA, and the terms "solid waste" and "disposal" (or "disposed") shall have the meanings specified in RCRA, provided, in the event either CERCLA or RCRA is amended so as to broaden any meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment, and provided, further, to the extent that the laws of the State of Texas establish a meaning for "hazardous substance", "release", "solid waste", or "disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply; provided, further, that the term "Hazardous Substance" shall also include those listed in the U.S. Department of Transportation Table (49 C.F.R. 172.101) and amendments thereto from time to time.

The foregoing representations, covenants, and warranties are in addition to, and in no way limit the representations, covenants, and warranties of the Borrower to the Trustee and the Beneficiary under the Loan Agreements and Notes.

The Borrower shall immediately advise the Beneficiary in writing of (a) any governmental or regulatory actions instituted or threatened under any Hazardous Material Law affecting all or any part of or any interest in the Mortgaged Properties, (b) all claims made or threatened by any third party against the Borrower or the Mortgaged Properties relating to damage, contribution, cost recovery, compensation, or loss or injury resulting from any Hazardous Material, (c) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Properties that could cause the Mortgaged Properties to be classified in a manner which may support a claim under any Hazardous Material Law, and (d) the discovery of any occurrence or condition on any part of the Mortgaged Properties or any real property adjoining or in the vicinity of the Mortgaged Properties which could subject the Borrower or any part of the Mortgaged Properties to any limitations or restrictions on the ownership, occupancy, transferability or use thereof. At its sole cost and expense, the Borrower agrees to promptly and completely cure and remedy every existing and future violation of a Hazardous Material Law occurring on or with respect to any part of the Mortgaged Properties and to promptly remove all Hazardous Materials now or hereafter in, on or under all or any part of the Mortgaged Properties and to dispose of the same as required by Hazardous Material Law(s).

To the extent permitted by law, the Borrower shall indemnify, defend, and hold harmless the Trustee and the Beneficiary, their directors, officers, employees, agents, successors and assigns from and against (a) any loss, liability, demand, damage, cost, expense, claim, action or cause of action arising from the imposition or recording of a lien, the incurring of costs of required repairs, remediation, clean up or detoxification and removal under any

Hazardous Material Law (including other associated costs, interest, fees, and penalties) with respect to all or any part of the Mortgaged Properties or liability to any third party in connection with any violation of a Hazardous Material Law; (b) any other loss, liability, damage, cost, expense, or claim (including, without limitation, reasonable attorneys' fees and disbursements and expenses, and costs and expenses reasonably incurred in investigation, preparing, settling or defending against any litigation or claim, action, suite, proceeding or demand of any kind of character, including, without limitation, those arising by reason of any action taken by each of the Trustee and the Beneficiary under the Deed of Trust, which is not caused by its own negligence or willful misconduct), which may be incurred by or asserted against the Trustee and the Beneficiary, its directors, officers, employees, successors or assigns, directly or indirectly, arising from the presence on or under, or the discharge, emission or release from any of the Mortgaged Properties into or upon the land, atmosphere, or any watercourse, body of surface or subsurface water or wetland, arising from the installation, use, generation, manufacture, treatment, handling, refining, production, processing, storage, removal, remediation clean up or disposal of any Hazardous Material whether or not caused by the Borrower; (c) loss of value of any of the Mortgaged Properties as a result of any such lien, remediation clean up, detoxification, loss, liability, damage, expense or claim or a failure or defect in title occasioned by any Hazardous Material or Hazardous Material Law; and (d) all foreseeable and unforeseeable incidental and consequential damages. The Borrower shall defend such claim, and the Trustee and the Beneficiary, as the case may be, shall cooperate in the defense. The Trustee and the Beneficiary may have separate counsel and Borrower shall pay the fees and expenses of such counsel.

ARTICLE IX MISCELLANEOUS

9.1. If in construing this Deed of Trust and the Loan Agreements there exists any conflict with respect to the rights, duties, obligations, privileges, or responsibilities of Borrower or the security, priority, rights, privileges, duties, or remedies of Beneficiary, the terms and provisions of the Loan Agreements shall control and be binding on Borrower, Trustee, and Beneficiary, and the terms and provisions of this Deed of Trust that are in conflict with the Loan Agreements shall be of no force or effect.

9.2. In the event any item, term, or provision contained in this Deed of Trust is in conflict or may be held hereafter to be in conflict with any applicable laws, this Deed of Trust shall be affected only as to its application to such item, term, or provision and shall in all other respects remain in full force and effect.

9.3. Nothing herein contained shall be construed to operate as to require Borrower to pay interest on the Notes or any other liability or debt now existing or hereafter to exist at a rate greater than that allowed by the laws of the State of Texas, and if any provisions contained here do or would operate to make this Deed of Trust any part thereof void, voidable or ineffective, then such provisions only shall be held as though they were not herein contained and shall be without effect to the remaining provisions, which shall remain operative. Any of said contracts

for interest shall be held subject to reduction to the highest amount allowed under the Usury Laws of the State of Texas as now or hereafter construed by courts having jurisdiction.

9.4. Borrower covenants that no other security, now existing or hereafter taken, for the Deed of Trust Secured Obligations shall be impaired or affected in any manner by the execution hereof; no security subsequently taken by any holder of the Deed of Trust Secured Obligations shall impair or affect in any manner the security given by this Deed of Trust; all security for the payment of the Deed of Trust Secured Obligations shall be taken, considered, and held as cumulative; and the taking of additional security shall at no time release or impair any security by endorsement or otherwise previously given. Borrower further agrees that any part of the security herein described may be released without in anywise altering, varying, or diminishing the force, effect, or lien of this Deed of Trust, or of any renewal or extension of said lien, and that this Deed of Trust shall continue as a parity first lien, assignment, and security interest on all the Mortgaged Properties not expressly released until all Deed of Trust Secured Obligations are fully discharged and paid.

9.5. The filing of a suit to foreclose any lien, assignment, or security interest under this Deed of Trust either on any matured portions of the Deed of Trust Secured Obligations shall never be considered an election so as to preclude foreclosure under any power of sale herein contained after dismissal of the suit.

9.6. The term "Borrower" as used herein shall include not only the party who is designated as Borrower and who executes this Deed of Trust but also the respective successors and assigns of such party. Whenever the context requires, the gender of words used herein shall include the masculine, feminine, and neuter, and number of words used herein shall include the singular and the plural.

9.7. All article and section titles or captions contained in this Deed of Trust or in any schedule or exhibit hereto are for convenience only and shall not be deemed a part of this Deed of Trust and shall not affect the meaning or interpretation of this Deed of Trust.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust as of the ^{17th} ~~first~~ day of February, 20__ A.D.

ADDRESS OF BORROWER:

P.O. Box ~~20~~ 460
Sinton, Texas 78387

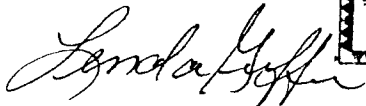
BORROWER:

TYNAN WATER SUPPLY CORPORATION

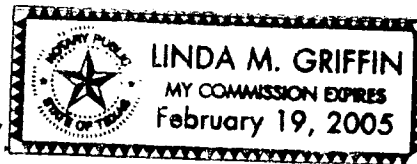
By: Gerald Holube
President

THE STATE OF TEXAS :
:
COUNTY OF BEE :

This instrument was acknowledged before me on the 17th day of February, 2005,
by Gerald Holubec, President of Tynan Water Supply Corporation, on behalf of said
Corporation.



Notary Public, State of Texas



ATTACHMENT A

Description of Real Property

SCHEDULE A

GF No. or File No.: 5171

Attachment A
to
Deed of Trust and Security
Agreement

per 12, 2004

per 14, 2004 at 8:00 a.m.

1. The policy or policies to be issued are:

a. OWNER POLICY OF TITLE INSURANCE (Form T-1)
(Not applicable for improved one-to-four family residential real estate)Policy Amount:
PROPOSED INSURED:b. TEXAS RESIDENTIAL OWNER POLICY OF TITLE INSURANCE
-ONE-TO-FOUR FAMILY RESIDENCES (Form T-1 R)Policy Amount:
PROPOSED INSURED:

c. MORTGAGEE POLICY OF TITLE INSURANCE (Form T-2)

Policy Amount: \$216,000.00
PROPOSED INSURED: Texas Water Development Board
Proposed Borrower: Tynan Water Supply Corporation

d. TEXAS SHORT FORM RESIDENTIAL MORTGAGEE POLICY OF TITLE INSURANCE (form T-2R)

Policy Amount:
PROPOSED INSURED:
Proposed Borrower:

e. MORTGAGEE TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)

Binder Amount:
PROPOSED INSURED:
Proposed Borrower:

f. OTHER

Policy Amount:
PROPOSED INSURED:

2. The interest in the land covered by this Commitment is:

Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:

Tynan Water Supply Corporation

4. Legal description of land:

16" x 16" WATER WELL SITE

Being a tract of land 16 ft. out of a closed 60' street Right-of-Way between Block 11 and Block 19, Section No. 103 of the George H. Paul Subdivision of the J. J. Welder Ranch in Bee and San Patricio Counties, Texas, a plat of said Subdivision being of record in Volume 1, Page 18 of the Map Records of Bee County, Texas and also being out of those tracts described in a conveyance by Roy Upchurch et ux to A. R. Dieringer et ux by deed dated January 10, 1951, recorded in Volume 188, Pages 539-541 of the Deed Records of Bee County, Texas.

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The aforementioned Street Right-of-Way was closed in a cancellation of Subdivision by Bee County as recorded on land owned by A. R. Dieringer et ux as recorded in Volume 211, Page 117 of the Bee County Deed Records.

Said 16 ft. by 16 ft. tract being shown on Exhibit A-1 (attached) and being more particularly described by metes and bounds to wit:

Beginning at a point for the Northwest corner of this tract, said point that bears S 89° 59' E 42.0 feet and S 0° 10' W 62.0 feet from the Northeast corner of Lot 1 Block 11 in Section No. 103 of the George H. Paul Subdivision of the J. J. Welder Ranch;

Thence S 89° 50' E 16.0 feet to a point for the Northeast corner of this tract;

Thence S 00° 10' W 16.0 feet to a point for the Southeast corner of this tract;

Thence N 89° 50' W 16.0 feet to a point for the Southwest corner of this tract;

Thence N 00° 10' E 16.0 feet to the place of beginning.

Being the same property described in deed dated May 29, 1996 from A. R. Dieringer et al to the County of Bee, State of Texas and recorded at Volume 546, Page 217 of the Official Public Records of Bee County, Texas.

EAST HALF OF PUMP STATION SITE

Being Lot 1 and 2 of Block 11 in Section No. 103 of the George H. Paul Subdivision of the J. J. Welder Ranch in Bee and San Patricio Counties, Texas, a plat of said Subdivision being of record in Volume 1, Page 18 of the Map Records of Bee County, Texas and also being those lots shown on Exhibit A-2 (attached) and described in a conveyance by Elroy Schroedter et al to Bee County Cooperative Association by deed dated September 5, 1970, recorded in Volume 265, Page 436 of the Deed Records of Bee County, Texas.

Being the same property described in deed dated May 29, 1996 from the Bee County Cooperative Association to Bee County, State of Texas and recorded in Volume 546, Page 214 of the Official Public Records of Bee County, Texas.

WEST HALF OF PUMP STATION SITE

Being Lot 3 & 4 of Block 11 in Section No. 103 of the George H. Paul Subdivision of the J. J. Welder Ranch in Bee and San Patricio Counties, Texas, a plat of said Subdivision being of record in Volume 1, Page 18 of the Map Records of Bee County, Texas and also being those lots shown on Exhibit A-4 (attached) and described in a conveyance by Roy Upchurch et ux to Santiago Aguirre by deed dated July 26, 1957, recorded in Volume 205, Page 324 of the Deed Records of Bee County, Texas.

Being the same property described in deed dated May 28, 1996 from the heirs of Santiago Aguirre Estate to Bee County, State of Texas and recorded at Volume 546, Page 209 of the Official Public Records of Bee County, Texas.

100' x 120' WELL MAINTENANCE EASEMENT

Being a tract of land 100 feet by 120 feet a portion of Lot 11 and 12; and a portion of a 60' Street right of way between Block 11 and Block 19 all out of Section No. 103 of the George H. Paul Subdivision of the J. J. Welder Ranch in Bee and San Patricio Counties, Texas, a plat of said Subdivision being of record in Volume 1, Page 18 of the Map Records of Bee County, Texas and also being out of those tracts described in a conveyance by Roy Upchurch et ux to A. R. Dieringer et ux by deed dated January 10, 1951, recorded in Volume 188, Pages 539-541 of the Deed Records of Bee County, Texas and more particularly described by metes and bounds in that certain deed dated May 29, 1996 from A. R. Dieringer et al to Bee County, State of Texas and recorded at Volume 546, Page 221 of the Official Public Records of Bee County, Texas.

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GF Number: 5171

16' x 42' UTILITY AND ACCESS EASEMENT

Being a tract of land 16 ft. by 42 ft. out of a closed 60' street Right-of-Way between Block 11 and Block 19, Section No. 103 of the George H. Paul Subdivision of the J. J. Welder Ranch in Bee and San Patricio Counties, Texas, a plat of said Subdivision being of record in Volume 1, Page 18 of the Map Records of Bee County, Texas and also being out of those tracts described in a conveyance by Roy Upchurch et ux to A. R. Dieringer et ux by deed dated January 10, 1951, recorded in Volume 188, Pages 539-541 of the Deed Records of Bee County, Texas. The aforementioned Street Right-of-Way was closed in a Cancellation of Subdivision by Bee County as recorded on lands owned by A. R. Dieringer et ux as recorded in Volume 211, Page 117 of the Bee County, Texas Deed Records, and more particularly described by metes and bounds in that certain deed dated May 29, 1996 from A. R. Dieringer et al to Bee County, State of Texas and recorded in Volume 546, Page 226 of the Official Public Records of Bee County, Texas.

SANITARY CONTROL EASEMENT

Restrictive easement dated May 29, 1996 from A. R. Dieringer et ux to Bee County, State of Texas and recorded at Volume 546, Page 236 of the Official Public Records of Bee County, Texas to which reference is made for all purposes.

ATTACHMENT B

Permitted Exceptions

Form: Commitment for Title Insurance
Attached to and made a part of Stewart Title

Attachment B
to
Deed of Trust and Security
Agreement

Texas Department of Insurance (Revised 1/1/93)

GF No. 5171

SCHEDULE B
EXCEPTIONS FROM COVERAGE

In addition to the Exclusions and Conditions and Stipulations, your policy will not cover loss, costs, attorney's fees and expenses resulting from:

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):

Restrictions recorded in Volume 617, Page 78 and in Volume 546, Page 687 of the Official Public Records of Bee County, Texas.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements. Upon receipt of an approved survey, Schedule B, Item 2 may be modified to read in its entirety, "Shortages in area" (Mortgage Title Policy only or Owners Title Policy with prescribed premium)
3. Homestead or community property or survivorship rights, if any, of any spouse of any insured. (Applies to the Owner Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs, or oceans, or
 - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
(Applies to the Owner Policy only.)
5. Standby fees, taxes and assessments by any taxing authority for the year 2004 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2004 and subsequent years.") Schedule B, Item 5, may be amended to delete the words "and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership." AND to add "Company insures that standby fees, taxes and assessments by any taxing authority for the year 2004 are not yet due and payable." (Mortgage Policy only or Interim Construction Binder only, upon request and payment of premium)
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Mortgagee Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence to us before a binder is issued.)

Form: Commitment for Title Insurance

Attached to and made a part of Stewart Title Guaranty Company Commitment for Title Insurance

Form Prescribed by Texas Department of Insurance (Revised 1/1/93)

GF No. 5171

8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Mortgagee Policy (T-2) only.)
9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Mortgage Policy of Title Insurance (T-2R) only. Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R))
10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception.):
- a. Easements, or claims of easements, not shown by the public records, but which should be shown on a correct survey.
 - b. Any portion of subject property lying within the boundaries of a public or private roadway whether dedicated or not.
 - c. Any and all zoning and regulatory ordinances.
 - d. No guaranty extends to minerals.
 - e. Visible and apparent easements on or across property herein described, which do not appear of record.
 - f. Terms, conditions and stipulations of Map and Dedication of the Town of Tynan (Welder) in Bee and San Patricio Counties, Texas, recorded in Volume 1, Page 18 of the Map Records of Bee County, Texas.
 - g. Terms, conditions and stipulations of Oil and Gas Lease dated June 18, 1940, executed by Charles Mengers, Sr. and wife, Minna Mengers to W. Earl Rowe, recorded in Volume 127, Page 540 of the Deed Records of Bee County, Texas.
 - h. Terms, conditions and stipulations of Plat of W. Earl Rowe Oil and Gas Subdivision, Tynan Area, recorded in Volume 1, Page 82 of the Map Records of Bee County, Texas.
 - i. Terms, conditions and stipulations of Oil and Gas Lease dated April 9, 1946, executed by Roy Upchurch and wife, Emma Upchurch to Bjarne Rossebo, recorded in Volume 164, Page 296 of the Deed Records of Bee County, Texas.
 - j. Terms, conditions and stipulations of Warranty Deed with Mineral Reservation dated January 10, 1951, executed by Roy Upchurch and wife, Emma Upchurch to A. R. Dieringer and wife, Elvira Dieringer, recorded in Volume 188, Page 539 of the Deed Records of Bee County, Texas.
 - k. Terms, conditions and stipulations of Oil and Gas Lease dated June 8, 1956, executed by A. R. Dieringer and wife, Elvira Dieringer to Bjarne Rossebo, recorded in Volume 26, Page 71 of the Oil and Gas Records of Bee County, Texas.
 - l. Terms, conditions and stipulations of Ratification and Cancellation of Subdivision dated February of 1959, executed by A. R. Dieringer and wife, Elvira Dieringer to All Concerned, recorded in Volume 211, Page 117 of the Deed Records of Bee County, Texas.
 - m. Terms, conditions and stipulations of Warranty Deed with Mineral Reservation dated April 11, 1968, executed by A. R. Dieringer and wife, Elvira B. Dieringer to State of Texas, recorded in Volume 248, Page 49 of the Deed Records of Bee County, Texas.

Schedule B of this Commitment consists of 3 page(s)

Stewart Title Guaranty Company

Form: Commitment for Title Insurance

Attached to and made a part of Stewart Title Guaranty Company Commitment for Title Insurance

Form Prescribed by Texas Department of Insurance (Revised 1/1/93)

GF No. 5171

- n. Terms, conditions and stipulations of Oil, Gas and Mineral Lease dated March 24, 1970, executed by A. R. Dieringer and wife, Elvira Dieringer to Cattle-Land Oil Company, recorded in Volume 81, Page 364 of the Oil and Gas Records of Bee County, Texas.
- o. Terms, conditions and stipulations of Oil, Gas and Mineral Lease dated May 10, 1976, executed by A. R. Dieringer and wife, Elvira Dieringer to H. E. Carberry, recorded in Volume 112, Page 281 of the Oil and Gas Records of Bee County, Texas.
- p. Easement and Right of Way dated June 13, 1977, executed by A. R. Dieringer and wife, Elvira Dieringer to Central Power and Light Company, recorded in Volume 325, Page 230 of the Deed Records of Bee County, Texas.
- q. Terms, conditions and stipulations of Oil, Gas and Mineral Lease dated October 27, 1980, executed by A. R. Dieringer and wife, Elvira B. Dieringer to B. M. Operating Co., recorded in Volume 149, Page 196 of the Oil and Gas Records of Bee County, Texas.
- r. Easement and Right of Way dated July 27, 1983, executed by A. R. Dieringer and wife, Elvira Dieringer to Central Power and Light Company, recorded in Volume 391, Page 219 of Deed Records of Bee County, Texas.
- s. The sixth (6th) paragraph of the legal description in Easement Agreement dated May 29, 1996 and recorded in Volume 546, Page 221 of the Official Public Records of Bee County, Texas, contains a 120' call when it should recite a 100' call.
- t. Temporary Easement Agreement dated May 29, 1996, executed by A. R. Dieringer and wife, Elvira B. Dieringer and Arleen D. Salge to The County of Bee, State of Texas, recorded in Volume 546, Page 231 of the Official Public Records of Bee County, Texas.
- u. Sanitary Control Easement dated May 29, 1996, executed by A. R. Dieringer and wife, Elvira B. Dieringer and Arleen D. Salge to the County of Bee, recorded in Volume 546, Page 236 of the Official Public Records of Bee County, Texas.
- v. There is expressly excluded from coverage hereunder, and this Company does not insure title to oil, gas and other minerals of every kind and character, in, on and under the property herein described. This policy does not insure against loss sustained by the owner of the surface of said property through the exercise of the right of ingress and egress and/or any other right of privilege incident to the ownership of said mineral estate.

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
On: Feb 22, 2005 at 01:56P

Document Number: 142425

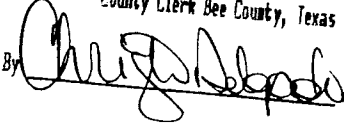
Amount 64.00

Mirella E. Davis
County Clerk
By
Anna Garza, Deputy
Bee County

STATE OF TEXAS COUNTY OF BEE
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the Official Public Records of Bee County,
Texas stamped hereon by me.

Feb 22, 2005

Mirella E. Davis
County Clerk Bee County, Texas

By  Deputy

LOAN AGREEMENT

This Loan Agreement dated as of February 17, 2005, is between the Texas Water Development BOARD ("BOARD") an agency of the State of Texas and the Tynan Water Supply Corporation ("CORPORATION"), a water supply corporation created pursuant to the provisions of Article 1434a, Vernon's Annotated Texas Civil Statutes (now, Chapter 67, Texas Water Code). The CORPORATION has applied for a loan from the BOARD to provide monies to finance acquisition, construction, improvements and/or extensions to the CORPORATION'S sewer system to serve the members of the CORPORATION. In consideration of the mutual covenants and agreements contained in this Loan Agreement, the BOARD and the CORPORATION (Parties) agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01. DEFINITIONS. In addition to all other words and terms defined herein, and unless a different meaning or intent clearly appears from the context, the following words and terms shall have the following meanings, respectively, whenever they are used herein:

Additional Notes - Parity debt issued by CORPORATION for any lawful purpose subsequent to execution of this Agreement.

Agreement - This Loan Agreement, together with all exhibits attached to this Loan Agreement, and all amendments and supplements to this Loan Agreement.

Annual Debt Service Requirements - For any Fiscal Year, the amount required to pay the principal and interest for the outstanding amount of the Note coming due in such Fiscal Year.

Application - The application for financial assistance submitted by the CORPORATION to the BOARD, in reliance upon which the Loan is to be made in accordance with the terms of this Agreement, as amended or supplemented in the manner mutually acceptable to the BOARD and the CORPORATION.

Article - Any subdivision of this Agreement designated with a roman numeral.

Certificate of Convenience and Necessity - Certificate of Convenience and Necessity Number 20910 to the service area currently served by the CORPORATION.

Closing - The time at which the requirements for either Pre-Design Funding or loan closing have been completed and an exchange of debt for funds to either the CORPORATION, an Escrow Agent Bank or an Escrow Agent has occurred.

Construction (including variations of "to construct") - Any one or more of the following:

- (a) preliminary planning to determine the feasibility of a wastewater project;
- (b) engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions;
- (c) the expense of any condemnation or other legal proceeding;
- (d) erecting, building, acquiring altering, remodeling, improving, or extending a wastewater project; or
- (e) the inspection or supervision of any of the items listed in this subdivision.

Construction Fund - The Fund maintained at the depository bank of the CORPORATION into which loan proceeds shall be released by the BOARD for payment of the cost of the Project.

Contingency Fund - An amount accumulated from the Gross Revenues of the Waterworks and Sewer System and deposited into a fund separate and apart from other funds of the CORPORATION, for the purpose of maintenance, upkeep, operation, and replacements to the System, an amount equal to three (3) times the average monthly operation and maintenance costs of the System. All expenditures from the Contingency Fund must be approved by the Development Fund Manager of the BOARD as long as this Agreement is in full force and effect.

Cost - With respect to the Project, the cost of the Construction of the Project, including, without limitation, the cost of the acquisition of all land, rights-of-way, property rights, easements, and interest, the cost of all machinery and equipment, financing charges, interest during construction, necessary reserve funds, cost of estimates and of engineering, architectural and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of Constructing such Project, administrative expense, and such other expense as may be necessary or incident to the acquisition, construction, reconstruction, improvement, and expansion thereof, the placing of the same in operation, and the financing of the Project.

Deed of Trust - The Deed of Trust and Security Agreement of even date herewith executed by the CORPORATION which establishes a security interest to secure the debt obligation to the BOARD by providing for a lien on certain real and personal property constituting the CORPORATION'S Waterworks and Sewer System, in substantially the form attached hereto as Exhibit A of this Agreement.

Escrow - The transfer of funds to a custodian of the funds which will act as the escrow agent or trust agent.

Escrow Agent - The third party appointed to hold the escrow funds which are not eligible for release to the CORPORATION.

Escrow Agent Bank - The financial institution which has been appointed to hold the escrow funds which are not eligible for release to the CORPORATION.

Event of Default- A default as defined in Article VII of this Agreement.

Fiscal Year - The consecutive twelve-month period of the CORPORATION certified to the BOARD as its fiscal year, which currently is the twelve-month period commencing January 1 and ending December 31.

Gross Revenues - All revenues and income of every nature derived or received by the CORPORATION from the operation and/or ownership of the Waterworks and Sewer System (exclusive of restricted gifts, grants, requests, donations and contributions), including the interest income from the investment or deposit or money in any Fund created by this Agreement.

Loan Proceeds - The Note proceeds that are released by the BOARD pursuant to the Pre-Design Funding Option in accordance with the provisions of Section 4.01 and/or are wired by the BOARD to the Construction Fund in accordance with the provisions of Section 6.01 of this Agreement.

Loan - The loan as described in Section 3.01.

Loan Payments or Payments - Payments required to be made by the CORPORATION to amortize the Note in accordance with the Repayment Schedule and to pay other amounts due with respect to the Note, all as provided for in this Agreement, including (1) the principal of, and interest on such Notes when due (whether at stated maturity or upon acceleration of stated maturity), (2) any other payments required hereunder.

Net Revenues - All Gross Revenues less Operation and Maintenance Expenses.

Note - the Promissory Note, a copy of which is attached hereto as Exhibit B to this Agreement.

Operation and Maintenance Expenses - All reasonable and necessary expenses required for the efficient operation and maintenance of the Waterworks and Sewer System, including, without limitation, insurance premiums in connection with the BOARD, administrative expenses, salaries, labor, fees, materials, contractual and professional services, keeping the Waterworks and Sewer System in good condition and working order making all needed repairs, and providing for all needed periodic and non-recurring items of maintenance.

Parties - BOARD and CORPORATION.

Pre-Design Funding Option - Pursuant to Chapter 363, section 363.16 of the BOARD rules, an option that provides the opportunity to secure loan proceeds for the pre-design, design or building costs associated with the Project.

Project - The land, buildings, equipment, facilities, and improvements which will be funded, in whole or in part, by the BOARD, a copy of which description is attached hereto as Exhibit C to this Agreement.

Release - The time at which funds are made available by the BOARD to the CORPORATION for expenditure on eligible costs of the Project.

Repayment Schedule - The schedule of monthly Loan Payments due from the CORPORATION to amortize the Note, subject to revision, with the release of funds by the BOARD and attached hereto as Exhibit D.

Reserve Fund - The fund maintained in trust at the CORPORATION's depository bank for payment of Loan Payments in the event of failure by the CORPORATION to make payments on the requisite Loan Payments date.

Resolution - BOARD resolution number 02-44, dated May 15, 2002, approving the Application of the CORPORATION and authorizing the execution of this Agreement.

Revenue Fund - The fund created and held by the Corporation to be maintained as long as the Loan is outstanding and unpaid. All Gross Revenues of the Waterworks and Sewer System, excepting investment and income from the Reserve Fund, shall be credited to the Revenue Fund immediately upon receipt. All Operation and Maintenance Expenses of the Waterworks and Sewer System shall be paid from such amounts credited to the Revenue Fund as a first charge against the Waterworks and Sewer System revenues.

State - The State of Texas.

System or Waterworks and Sewer System - All properties, facilities and plants currently owned and operated by the CORPORATION for water supply treatment and transmission thereto, and potable water, and for sewage collection and treatment, together with future improvements, extensions, enlargements and additions thereto.

United States - The United States of America.

Water Code - Chapter 17, Texas Water Code, Vernon's Texas Codes Annotated.

ARTICLE II. RECITALS, FINDINGS, AND REPRESENTATIONS

Section 2.01. RECITALS, FINDINGS AND REPRESENTATIONS OF THE BOARD.
The BOARD hereby finds and represents as follows:

(a) It is an agency of the State, organized and existing under the constitution and statutes of the State, including particularly the Water Code.

(b) It has determined, in the public interest, that it will finance the Cost of the Project, in reliance upon the information provided by the CORPORATION in the Application, and will make the Loan for such purpose in the manner provided in the Water Code and as described in this Agreement.

(c) It is authorized to execute and deliver this Agreement pursuant to applicable laws, including the Water Code.

(d) It has taken all action and has complied with all provisions of law with respect to the adoption of the Resolution and the due authorization, execution, delivery and performance of this Agreement, and this Agreement has been duly executed and constitutes a valid and binding of the BOARD, enforceable against the BOARD in accordance with its terms.

Section 2.02. RECITALS, FINDINGS AND REPRESENTATIONS OF THE CORPORATION. The CORPORATION hereby finds and represents as follows:

(a) It was created pursuant to the provisions of Article 1434a, Vernon's Annotated Texas Civil Statutes (now, Chapter 67, Texas Water Code), and the Texas Non-Profit Corporation Act, is fully qualified to transact business in the State, and is fully authorized by law and corporate proceedings to execute and deliver this Agreement and the Note.

(b) It has submitted the Application to the BOARD seeking financial assistance in paying the Costs of the Project; and there has been no material change in the affairs or financial condition of the CORPORATION since filing the Application with the BOARD.

(c) The Application accurately describes the Project and does not contain any misstatement of fact and does not omit any fact that would materially affect the Project as described in the Application.

(d) It has been duly certified to provide sewer utility services under its Certificate of Convenience and Necessity, and it will do or cause to be done all things necessary to preserve and keep in full force and effect the Certificate of Convenience and Necessity.

(e) It will take all necessary actions throughout the term of this Agreement to maintain its corporate existence in accordance with the provisions of Article 1434a, Vernon's Annotated Texas Civil Statutes (now, Chapter 67, Texas Water Code.)

(f) The governing body of the CORPORATION has approved this Agreement and the Note by written resolution within the context of an open meeting held in accordance with the provisions of Chapter 551, Texas Government Code.

(g) It has taken all action and has complied with all provisions of law with respect to the authorization, execution, delivery and performance of this Agreement and the Note, and the consummation of the transactions contemplated hereby and thereby, and this Agreement and the

Note have been duly executed and constitute valid and legally binding obligations of the CORPORATION, enforceable against it in accordance with their respective terms.

(h) The execution of this Agreement and the performance of the transactions contemplated hereby will not violate any law or regulation, or its Articles of Incorporation, or Bylaws, or any judicial order, judgment, decree, or injunction, or contravene the provisions of or constitute a default under any agreement, indenture, note, resolution, or other instrument to which the CORPORATION is a party.

(i) It has disclosed to the BOARD all financial obligations of the CORPORATION secured by the Gross Revenues.

Section 2.03. NO WAIVER OF SOVEREIGN IMMUNITY. The execution of this Agreement and related documents shall not constitute a waiver of sovereign immunity provided pursuant to applicable laws.

ARTICLE III. LOAN TERMS AND NOTE

Section 3.01. LOAN TERMS. In consideration of the CORPORATION's duties and obligations to Construct the Project, as described in Article V hereof, the BOARD agrees to loan to the CORPORATION the principal sum of Thirty One Thousand Dollars (\$31,000.00) (hereinafter referred to as the "Loan"), the proceeds of the Loan, bearing interest at fixed rates as set forth in the Note and Repayment Schedule. The term of the Loan is for 19 years from March 4, 2005. The Loan is evidenced by a Note of even date herewith made payable to the BOARD. The CORPORATION agrees to use the Loan and its proceeds solely for activities to further the purposes set forth in the Application and in accordance with the Resolution, the terms and conditions of this Agreement, the Note, the Deed of Trust, and the rules, regulations, and policies of the BOARD. All approvals, permits and authorizations necessary in connection with the construction and operation of the Project must be completed and received by CORPORATION prior to the release of funds for construction.

Section 3.02. ISSUANCE OF NOTE. (a) In consideration of the covenants and agreements as set forth in this Agreement, and to enable the BOARD to make the Loan, this Agreement is executed to assure the payment of the Note, and to provide for the due and punctual payment by the CORPORATION of the Loan Payments to be made pursuant to the Note. The CORPORATION shall make the Loan Payments as provided in this Agreement.

(b) Notwithstanding any provisions of this Agreement or any other contract or agreement to the contrary, the CORPORATION'S approval of this Agreement shall be the CORPORATION's agreement that all covenants and provisions herein affecting the CORPORATION shall, upon the delivery of the Note, become unconditionally valid and binding covenants and obligations of the CORPORATION so long as the Note and the interest thereon are outstanding and unpaid. The obligation of the CORPORATION to make promptly, when

due, all Loan Payments specified herein shall be absolute and unconditional, and said obligation may be enforced as provided in this Agreement, regardless of any other provisions of this Agreement or any other contract or agreement to the contrary.

Section 3.03. INTEREST. The interest to be paid on the unpaid principal balance of the Note will be payable as shown on the Repayment Schedule attached to the Note, such Repayment Schedule of interest and principal will be computed on the basis of a 360-day year of twelve 30-day months.

Section 3.04. LOAN PAYMENTS. (a) Payment of all Loan Payments shall be made from the Revenue Fund and deposited as required by this Agreement and the Note including all such payments which may come due because of the acceleration of the maturity of the Note upon default, or otherwise, under the provisions of this Agreement. Loan payments shall be structured for payment related to the date of the release of the funds and shall be made not more than 30 days after Closing.

If the date for the payment of the principal of or interest on this loan shall be a Saturday, Sunday, legal holiday or day on which banking institutions where the depository bank is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or day on which banking institutions are required or authorized to close and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

(b) Recognizing that the Loan Payments will be the sole source for the payment of the Note, the CORPORATION shall be unconditionally obligated to make and pay, or cause to be made and paid, each Loan Payment regardless of whether or not the CORPORATION actually acquires or completes the Project, or whether or not the CORPORATION actually approves, purchases, receives, accepts, or uses the Project; and such payments shall not be subject to any abatement, set-off, recoupment, or counterclaim; and the holders of the Note shall be entitled to rely on this Agreement and representation, notwithstanding any provisions of this Agreement or any other contract or agreement to the contrary, and regardless of the validity of, or the performance of, the remainder of this Agreement or any other contract or agreement. In consideration of its obligation to make or pay, or cause to be made or paid, the Loan Payments, the CORPORATION hereby pledges and grants a lien to the BOARD of the Gross Revenues of the System, as provided in Section 6.02 hereof.

Section 3.05. PAYMENTS TO THE CORPORATION. From the proceeds of the Note, loan proceeds shall be wired by the BOARD directly into the Escrow account maintained in the depository bank of the CORPORATION.

Section 3.06. RESERVE FUND. Simultaneously with the transfer by the BOARD of the Note proceeds, the CORPORATION shall initiate monthly deposits in the Reserve Fund from available funds of the CORPORATION, on or before the first, 10th or 15th day or other date in order to correspond with dates for other parity debt, commencing on or before the first day of the month next following the transfer of the loan proceeds (from operating revenues

and/or from earnings on investments in the Reserve Fund) an amount not less than 1/60th of the average Annual Debt Service Requirements on the Note until the Reserve Fund contains an amount at least equal to 100% of the average Annual Debt Service Requirements of the Note (the "Required Reserve").

As and when Additional Notes, issued in accordance with the provisions of Section 3.07, are delivered, the Required Reserve shall be increased to an amount specified in the resolution authorizing the issuance of such additional notes, but in no event shall the Required Reserve ever be less than 100% of the average annual Debt Service Requirements of all outstanding Notes. Any additional amount required shall be so accumulated by the deposit in the Reserve Fund of all or any part of said required additional amount in cash immediately after the delivery of the Note, or by the deposit of said required additional amount (or any balance of said required additional amount not deposited in cash as permitted above), made on or before the 1st day of each month following the delivery of the then proposed Note, of not less than 1/60th of said required additional amount (or 1/60 of the balance of said required additional amount not deposited in cash as permitted above). The Reserve Fund shall be used to pay the principal of or interest on the Note at any time when there is not sufficient money available for such purpose, or to pay the debt service on the last maturing Note to pay Loan Payments.

For the purpose of determining the amount on deposit to the credit of the Reserve Fund, investments in which money in such account shall have been invested shall be computed at the market value of such investment. The amount on deposit to the credit of the Reserve Fund shall be computed by the CORPORATION at least annually, and shall be computed immediately upon any withdrawal from the Reserve Fund.

When and so long as the money and investments in the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but when and if the Reserve Fund at any time contains less than the Required Reserve (other than during the initial build-up period permitted in the first paragraph of this Section or as the result of the issuance of Additional Notes as provided in the second paragraph of this Section), the CORPORATION covenants and agrees to cure the deficiency in the required Reserve Fund within twelve (12) months from the date the deficiency in funds occurred.

Section 3.07. ADDITIONAL NOTES. (a) Subject to the provisions of subparagraph (b) hereof, the CORPORATION reserves the right to issue additional parity debt to the BOARD, to be known as Additional Notes, which, when issued and delivered, shall be payable from and secured by this Agreement and shall be covered by the Deed of Trust in the same manner and to the same extent as the current Note.

(b) No Additional Notes nor additional parity debt shall be issued to a third party unless:

(I) The written consent of the BOARD is obtained.

(ii) A certificate is executed by the President or the chief administrative officer of the CORPORATION to the effect that no default exists in connection with any of the covenants or requirements of the Agreement, and the Contingency Fund and the Reserve Fund each contains the amount then required to be on deposit therein;

(iii) An independent certified public accountant, or independent firm of certified public accountants, acting by and through a certified public accountant, signs a written certificate to the effect that, in his or its opinion, during either the next preceding fiscal year, or any twelve consecutive calendar month period ending not later than 90 days preceding the month in which the then proposed Additional Notes is authorized, the Net Revenues were at least 1.25 times the average Annual Debt Service Requirements of all Notes and Additional Notes which are scheduled to be outstanding after the delivery of the then proposed Additional Notes. It is specifically provided, however, that in calculating the amount of Net Revenues for the purposes of this subparagraph (iii), if there has been any increase in the rates or charges for services of the Waterworks and Sewer System which is then in effect and which has been in effect for at least 60 days prior to the month in which the resolution authorizing the issuance of the proposed Additional Notes is authorized, but which was not in effect during all of the entire period for which the Net Revenues are being calculated (hereinafter referred to as the "entire period") then the certified public accountant, or in lieu of the certified public accountant a firm of consulting engineers, shall determine and certify the amount of Net Revenues as being the total (i) the actual Net Revenues for the entire period, plus (ii) a sum equal to the aggregate amount by which the actual billings to customers of the Waterworks and Sewer System during the entire period would have been increased if such increased rates or charges had been in effect during the entire period.

(c) All certifications must be delivered to the BOARD at least 30 days prior to any Additional Notes being issued.

(d) The CORPORATION further reserves the right to issue notes, or other obligations of inferior liens and notes, or other obligations payable from sources other than Net Revenues pledged herein.

(e) All Notes of all series from time-to-time issued and delivered under this Agreement shall be equally and ratably secured together.

ARTICLE IV. REPAYMENT

Section 4.01. REPAYMENT OF LOAN. (a) The CORPORATION unconditionally agrees that it shall make Loan Payments to the BOARD in lawful money of the United States, and in such amounts and at such times as shall be necessary to make full and prompt payment of the principal and interest on the Note when due, and all fees and expenses for the Note, and of all other amounts required to be paid by this Agreement. Upon the issuance and delivery of the Note to the BOARD and the transfer of the loan proceeds into the Construction Fund, the CORPORATION shall have received, and the BOARD shall have given full and complete

consideration for the CORPORATION'S obligation hereunder to make Loan Payments. The obligations of the CORPORATION to make the payments required by this Agreement shall be absolute and unconditional and shall not be subject to diminution by set-off, recoupment, counterclaim, abatement, or otherwise, and until such time as all Loan Payments shall have been made or provision therefor shall have been made in accordance with the Agreement, the CORPORATION: (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for in this Agreement; (ii) will perform and observe all of its other agreements contained in this Agreement; and (iii) will not terminate this Agreement for any cause including failure of the Project to comply with the plans and specifications therefor, any acts or circumstances that may constitute failure of consideration, destruction of, or damage to the Project, frustration of commercial purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States or the State, or any political subdivision of either, or any failure of the BOARD to perform and observe any agreement, whether expressed or implied, or any duty, liability, or obligation arising out of or in connection with this Agreement. Nothing contained in this Section shall be construed to release the BOARD from the performance of any of the agreements on its part contained herein.

(b) All interest paid or agreed to be paid on the Loan shall, to the extent permitted by applicable law, be allocated and spread throughout the full term of the Note until payment in full of the principal of the Note (including the period of any renewal or extension thereof) so that interest thereon for such full period shall not exceed the maximum amount permitted by applicable law.

(c) The Loan Payments shall be made semi-annually on a date to correspond with dates for parity in accordance with the Repayment Schedule as stated and supplemented in Exhibit D attached hereto and at the interest rates specified in the Note. It is the intent of the parties hereto that the obligation of the CORPORATION to pay interest on the Note shall commence on the date the loan proceeds are released, either through the Pre-Design Funding Option or are deposited into the Construction Fund.

Section 4.02. SEMI-ANNUAL REPAYMENTS. Principal and interest will be paid in semi-annual amortized payments according to the Repayment Schedule.

Section 4.03. APPLICATION OF LOAN REPAYMENTS. Each repayment shall be applied first to the payment of the accrued interest and second to the payment of the principal.

Section 4.04. LATE CHARGES. The CORPORATION shall pay a late charge of \$25.00 if a payment is not received within 15 days following the due date. The late charges shall be considered unpaid if not received within 30 calendar days of the missed due date for which it is imposed. Acceptance of the late charges by the BOARD does not constitute a waiver of default.

Section 4.05. WIRE TRANSFER. On or before the date that the BOARD delivers funds to the CORPORATION, the BOARD shall provide the CORPORATION with a

Repayment Schedule. The CORPORATION agrees to make semi-annual principal and interest payments according to the Repayment Schedule. For purposes of this Agreement, the date the BOARD delivers loan proceeds to the CORPORATION shall be considered the date that the BOARD wires funds to the CORPORATION'S bank account. On the repayment dates, the CORPORATION shall wire all principal and/or interest payments due according to instructions provided by the BOARD.

Section 4.06. PREPAYMENT. The obligations may be prepaid only in inverse order of maturity, and on any date beginning on or after the first interest payment date which is ten (10) years from the dated date of the obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption.

ARTICLE V. THE PROJECT

Section 5.01. APPROVALS AND PERMITS. The CORPORATION agrees to obtain the necessary approvals and permits for this construction, improvements and extensions of the Project.

Section 5.02. CONSTRUCTION. (a) The Project shall be Constructed in accordance with plans and specifications submitted to and approved by the BOARD.

(b) The Project shall be Constructed with all reasonable dispatch, and the CORPORATION will use its best efforts to cause the Construction of the Project to be completed as soon as practicable, delays incident to strikes, riots, acts of God, or the public enemy, or other causes beyond the reasonable control of the CORPORATION only excepted; but if for any reason there should be delays in such Construction there shall be no diminution Loan Payments to be made by the CORPORATION hereunder, and no resulting liability on the part of the BOARD.

(c) The CORPORATION shall Construct the Project or cause the Project to be Constructed and the BOARD shall have no responsibility or liability whatsoever with respect to the Project and the Construction thereof. It is agreed and understood that the CORPORATION has entered or will enter into and execute all agreements and contracts necessary to assure and accomplish the actual Construction of the Project and that the CORPORATION will carry out, pay, supervise, and enforce all such agreements and contracts, and will provide for such insurance on and in connection with the Construction of the Project as is required by law and this Agreement. The CORPORATION shall pay, from proceeds from the Loan, and from any available income or earnings derived therefrom, and from other funds of the CORPORATION to the extent necessary, the entire Cost of the Project. The CORPORATION shall promptly pay all taxes, including specifically all sales taxes and ad valorem taxes, in connection with the Project and the Construction thereof.

Section 5.03. TITLE. The BOARD shall have no right, title, or interest in and to the Project except as created by the Deed of Trust. Except for making the Loan to the CORPORATION in the manner provided in this Agreement, the BOARD shall not be

responsible or liable in any manner for any claims, losses, damages, penalties, costs, taxes, or fines with respect to the Construction, operation, maintenance, or ownership of the Project.

Section 5.04. OPERATION. The CORPORATION represents and covenants that it will operate and maintain the Project, or cause the Project to be operated and maintained, and will pay, or cause to be paid, all costs and expenses of operation and maintenance of the Project, including all applicable taxes, and that it will keep or cause to be kept in force adequate insurance on the Project as is prudent customarily carried by persons engaged in the same business and operating systems like the Project. It is understood and agreed that the BOARD shall have no duties or responsibilities whatsoever with respect to the operation or maintenance of the Project, or the performance of the Project for its designed purposes.

ARTICLE VI. FINANCING THE PROJECT

Section 6.01. THE CONSTRUCTION FUND. Loan proceeds which are held in Escrow may be deposited by the CORPORATION into the Construction Fund and used only for payment of Project Costs.

Section 6.02. SECURITY FOR THE LOAN. The obligations of the CORPORATION under this Agreement shall be a direct general obligation to the CORPORATION. As additional security for the payment of the Loan Payments and as further consideration for the Loan made hereunder, there is attached to this Agreement, and made a part hereof as additional security for the payment of Loan Payments, a Deed of Trust for the benefit of the holders of the Note, and to further secure the prompt payment of the Loan Payments and the performance by the CORPORATION of its other obligations hereunder, the CORPORATION hereby pledges and assigns to the BOARD, and grants a security interest in, all Gross Revenues of the Waterworks and Sewer System.

Section 6.03. FLOW OF FUNDS. Money in the Revenue Fund shall be applied in the following manner and order of priority:

(A) First, to pay the interest on and principal due on the Note and any Additional Notes in accordance with the provisions of Sections 4.01 and 4.02 hereof;

(B) Second, to the Reserve Fund amounts required to attain the Required Reserve in accordance with the provisions of Section 3.06 hereof; provided that immediately prior to any such transfers the deposits required or payments made by Section 6.03(A) above have been made or provided for;

(C) Third, to the payment of Operation and Maintenance Expenses; provided that immediately prior to any such transfers the deposits required or payments made by Sections 6.03(A) and (B) above have been made or provided for;