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P.O. No. 5493
02/01/05 ts amended

ECONOMIC DEVELOPMENT CORP.
BY: *J. G. ...*

ORDINANCE NO. 05-11

AN ORDINANCE AS IT PERTAINS TO ICON BUILDERS, LLC

WHEREAS, the City of Port Arthur entered into a Developer Participation Contract with ICON Builders, LLC, pursuant to Ordinance No. 02-54; and

WHEREAS, ICON Builders, LLC planned to develop a tract of land adjacent to 9th Avenue as to provide up to 67 single lots wherein single family residences will be built; and

WHEREAS, the agreement was signed on December 9, 2002; and

WHEREAS, the projected timetable was for ICON to have at least 56 single family residential units built within eight years and to have 67 single family residential units in the subdivision upon full build-out; and

WHEREAS, ICON Builders and Golf Breeze Development have purchased the 17.091 acres adjacent to 9th Avenue and have constructed public water lines, public sanitary sewer lines, public storm sewers, and a public road within the subdivision; and

WHEREAS, the Director of Public Works and/or the Director of Utility Operations have reviewed the punch list as prepared

by Arceneaux & Gates, as denoted in Exhibit "A", as to the road, water lines, sanitary sewer lines, and storm sewers; and

WHEREAS, the Director of Utility Operations and Director of Public Works have indicated that the road, water lines, sanitary sewer lines, and storm sewers are substantially complete with a punch list of items needing correction; and

WHEREAS, ICON Builders has deposited or will deposit \$11,697 with the City of Port Arthur as to have six street lights installed, which is the estimated cost thereof; and

WHEREAS, ICON Builders will be building up to seven homes this year; and

WHEREAS, if ICON Builders builds four or more homes within one year, and if ICON purchases or pays the costs of the meters and pays for the construction and connections therewith, then Sections 18-39, 110-61, and 110-168 will apply, and a refund will be applicable as to building permit fees, water tap fees, and sewer tap fees as to promote this development under Chapter 380 Local Government Code; and

WHEREAS, the City has agreed to loan ICON 30% of the total contract price of the water lines, sanitary sewer lines, street lights, storm sewers, and a road, or \$160,000, whichever is less; and

WHEREAS, the City has loaned \$118,571 to ICON in reimbursement of 30% of \$395,236.69 in expenditures; and

WHEREAS, ICON Builders, LLC and Golf Breeze Development have paid or incurred \$252,028.55 in additional expenditures for the road, as described in Exhibit "B"; and

WHEREAS, the City now needs to loan ICON Builders \$41,429 under the Development Participation Contract.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR, TEXAS:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the road, water lines, sanitary sewer lines, and storm sewers are herein accepted subject to the completion of the items described in Exhibit "A".

Section 3. That the City Manager and the Director of Finance are herein authorized to disburse \$41,429 to ICON Builders, LLC once the following is complete:

- (a) The items in the punch list described in Exhibit "A" are complete.
- (b) ICON and Golf Breeze Development shall deed the road, sewer lines, water lines, storm sewers, and other public improvements to the City.
- (c) ICON and Golf Breeze shall deliver an affidavit that all suppliers and subcontractors have been paid.

- (d) ICON and Golf Breeze shall also deliver a one-year warranty as to all of the public improvements.
- (e) ICON shall also sign an additional note and deed of trust as to the \$41,429 in substantially the same form as described in Exhibits "B" and "C".
- (f) Confirmation has been received that \$11,697 and such additional funds have been deposited with the City as to insure that street lights will be installed.

Section 4. That the total participation of the City, including the refund of building permits and water and sewer tap fees shall not exceed 30% of the total cost of all the public improvements.

Section 5. That a copy of the caption of this Ordinance shall be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 1st day of Feb., A.D., 2005, at a Regular Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:: AYES Mayor Ortiz, Councilmembers Barker; Henderson, Flood, Thompson; Prince and Sinegal.
 NOES: None.

Oscar A. Ortiz
 OSCAR ORTIZ, MAYOR.

ATTEST:

Evangelina Green

CITY SECRETARY

APPROVED AS TO FORM:

Paul Sobola

CITY ATTORNEY

APPROVED FOR ADMINISTRATION:

H. F. M.

CITY MANAGER

APPROVED AS TO THE AVAILABILITY OF FUNDS:

DIRECTOR OF FINANCE

EXHIBIT "A"



COMPLETION INSPECTION PUNCH LIST

DATE: January 25, 2005

PROJECT: Water, Sewer, Paving and Drainage Facilities
To Serve
Greenway Pointe Estates
A&G Job No. 03-ICN-010 (Construction Phase 03-ICN-011)

ATTENDEES: Kelly Eldridge - City of Port Arthur (CPA)
Ross Blacketter - City of Port Arthur (CPA)
Mark Blackshear - City of Port Arthur (CPA)
Charles Shajari - City of Port Arthur (CPA)
Todd Clark - Jerry Walley Construction (JWC)
Bill Kemp - Jerry Walley Construction (JWC)
Rick Hutchings - U-Con Utilities & Construction (UUC)
Joe M. Wilson Jr., PE - Arceneaux & Gates (A&G)

The following items are to be corrected or completed to comply with the Contract Documents:

GREENWAY POINTE DRIVE

1. Handicap ramps along 9th Ave. are not per plan see sheet 9 of 12.
2. Repair expansion joint sealant at approximate station 0+70.
3. Saw cut curb at control joint at approximate station 6+50.
4. Replace missing wood expansion joint at approximate station 10+50.
5. Repair grout at pipe penetration at storm inlet B6.1 repair damage to inlet top.
6. Trim pipe flush with bench in sewer manhole at station 13+32.86.
7. Raise fire hydrant at station 13+90 to correct elevation.
8. Raise fire hydrant at station 17+90 to correct elevation.
9. Grout or replace throat at inlet B1.
10. Raise rim on sanitary sewer manhole at station 18+81.02.

PLEASANT HILL COURT

11. Reset inlet C2 to correct alignment.
12. Raise fire hydrant at station 2+05 to correct elevation.



WINDY HILL COURT

13. Repair gutter storm sewer inlet D (ie remove concrete slag).
14. Repair grout at pipe penetration at storm sewer inlet D1.
15. Clean out debris from sewer manhole at station 1+89.52.

GENERAL ITEMS

1. Clean and seal all spalls in paving at expansion joints.
2. Replace all damaged and missing curb expansion joints.
3. Grout interior of all sanitary sewer manholes at spacer rings.
4. Operate all valves to ensure proper operation (this will be performed by City of Port Arthur personnel).
5. Straighten and/or adjust all sanitary sewer service cleanouts.
6. Mark all water and sanitary services with stakes as called for on plans
7. Repeat water bacteriological test.
8. Core paving as required in technical specifications.

Miscellaneous

1. Submit As-Built (red-lined) drawings.

END OF PUNCH LIST

EXHIBIT "B"

ICON BUILDERS LLC	CITY OF PORT ARTHUR 444 4TH STREET P.O. BOX 1089 PORT ARTHUR, TX 77641 LENDER'S NAME AND ADDRESS Includes the lender, its successors and assigns	Loan File Number
4424 MARKWOOD		Date February __, 2005
PORT ARTHUR, TX 77642		Loan Amount
AND GOLF BREEZE		Maturity Date: December 31, 2011
DEVELOPMENT, LLC		Renewal Of
BORROWERS NAME AND ADDRESS Includes each borrower above, jointly and severally		

For value received, ICON Builders, LLC and Golf Breeze Development, LLC promise to pay to the City of Port Arthur, at the address listed above the PRINCIPAL sum of ONE HUNDRED SIXTY THOUSAND FIVE HUNDRED SEVENTY-ONE Dollars \$160,000.

■ The principal sum shown above is the maximum amount of principal I can borrow under this note. On October 1, 2004, I have received the amount of \$118,571 as per the developer participation agreement attached as Exhibit "A". On _____, 2005, I received \$41,429.

INTEREST: I agree to pay interest on the outstanding principal balance of \$160,000 at 2% per year until December 31, 2011, in accordance with the Developer Participation Agreement attached as Exhibit "A".

ACCRUAL METHOD: Interest will be calculated on a 360 days per year basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

■ at a rate equal to ten (10%) percent.

ADDITIONAL TERMS: The repayment default terms are as described in the attached Developer Participation Agreement, as approved by Ordinance No. 02-54, approved on October 15, 2002 and Ordinance No. 04-16 approved on March 30, 2004.

THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES UNLESS DELINEATED HEREIN. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

PURPOSE: The purpose of this loan is to finance public improvements per the Developer Participation Agreement as attached as Exhibit "A".

SIGNATURES: I agree to the terms of this note.

I have received a copy on today's date.

SIGNATURE FOR LENDER:

SIGNATURE FOR BORROWER:

CITY OF PORT ARTHUR

ICON BUILDERS, LLC

BY: _____
Mark t. Sokolow
City Attorney

BY: _____
K.T. AKBARI

GOLF BREEZE DEVELOPMENT, LLC

BY: _____
K.T. AKBARI

ACKNOWLEDGMENT

STATE OF TEXAS

§

§

COUNTY OF JEFFERSON

§

This instrument was acknowledged before me on February __, 2005, by K.T. Akbari, President of **ICON BUILDERS, LLC**, a State of Texas corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

ACKNOWLEDGMENT

STATE OF TEXAS

§

COUNTY OF JEFFERSON

§

§

This instrument was acknowledged before me on February ____, 2005
by K.T. Akbari, Manager, of GOLF BREEZE DEVELOPMENT, LLC, a State of
Texas corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

APPLICABLE LAW: The law of the State of Texas will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits City of Port Arthur and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without City of Port Arthur express written consent. Time is of the essence in this agreement.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe the City for charges which are neither interest or principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If the City and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, the City and I agree in writing to the contrary).

INTEREST: If I receive the principal in more than one advance, such advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time.

Notwithstanding anything to the contrary, I do not agree to pay and the City does not intend to charge any rate of interest that is higher than the maximum rate of interest the City could charge under applicable law for

the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent, and is in error, we mutually agree to correct it, and if the City actually collects more interest than allowed by law and this agreement, the City agrees to refund it to me.

INDEX RATE: The index will serve only as a device for setting the rate on this note. The City does not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate City of Port Arthur charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year". If no accrual method is stated, then the City may use any reasonable accrual method for calculating interest.

POST MATURITY DATE: For purposes of deciding when the "Post Maturity Rate" applies, the term "maturity" means the date of the last scheduled payment indicated on this note or the date City of Port Arthur accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS: If this is a single advance loan, the City and I expect that City of Port Arthur will make only one advance of principal. However, the City may add other amounts to the principal if the City makes any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, the City and I expect that the City will make more than one advance of principal. If this is closed end credit, repaying a part of

the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If City of Port Arthur are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then City of Port Arthur may treat those payments made by City of Port Arthur as advances and add them to the unpaid principal under this note, or City of Port Arthur may demand immediate payment of the charges.

SET OFF: I agree that City of Port Arthur may set off any amount due and payable under this note against any right I have to receive money from City of Port Arthur.

"Right to receive money from City of Port Arthur" means:

- (1) any deposit account balance I have with City of Port Arthur;
- (2) any money owed to me on an item presented to City of Port Arthur or in City of Port Arthur possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which City of Port Arthur are entitled to demand payment under the terms of this note at the time City of Port Arthur set off. This total includes any balance the due date for which City of Port Arthur properly accelerates under this note.

If my right to receive money from City of Port Arthur is also owned by someone who has not agreed to pay this note, City of Port Arthur right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. City of Port Arthur right of

set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

City of Port Arthur will not be liable for the dishonor of any check when the dishonor occurs because City of Port Arthur set off this debt against any of my accounts. I agree to hold City of Port Arthur harmless from any such claims against any of my accounts. I agree to hold City of Port Arthur harmless from any such claims arising as a result of City of Port Arthur exercise of City of Port Arthur right of set-off.

REAL ESTATE OR RESIDENCE OF SECURITY: If this note is secured by real estate or a residence that is personal property, the existence of a default and City of Port Arthur remedies for such a default will be determined by applicable law, by the terms of any separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default on this loan and any agreement securing this loan if any one or more of the following occurs:

- (1) I fail to perform any obligation which I have undertaken in this note or any agreement securing this note; or
- (2) City of Port Arthur, in good faith, believe that the prospect of payment or the prospect of my performance of any other of my obligations under this note or any agreement securing this note is impaired.

If any of us are in default on this note or any security agreement, City of Port Arthur may exercise City of Port Arthur

remedies against any or all of us.

REMEDIES: If I am in default on this note, City of Port Arthur has, but is not limited to, the following remedies:

(1) City of Port Arthur may demand immediate payment of my debt under this note (principal, accrued unpaid interest and other accrued charges).

(2) City of Port Arthur may set off this debt against any right I have to the payment of money from City of Port Arthur, subject to the terms of the "Set-Off" paragraph herein.

(3) City of Port Arthur may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.

(4) City of Port Arthur may refuse to make advances to me or allow purchases on credit by me.

(5) City of Port Arthur may use any remedy

City of Port Arthur have under state or federal law.

By selecting any one or more of these remedies City of Port Arthur does not give up City of Port Arthur's right to later use any other remedy. By waiving City of Port Arthur's right to declare an event to be a default, City of Port Arthur does not waive City of Port Arthur's right to later consider the event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEYS FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if City of Port Arthur hires an attorney to collect this note, I also agree to pay any fee City of Port Arthur incur with such attorney plus court costs

(except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs City of Port Arthur incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require City of Port Arthur to do certain things. I will not require City of Port Arthur to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest);
- (3) give notice that amounts due have not been paid (notice of dishonor);
- (4) give notice or intent to accelerate;
- (5) give notice of acceleration.

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). City of Port Arthur may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. City of Port Arthur may do so without notice that it has not been paid (notice of dishonor). City of Port Arthur may without notice release any party to this agreement without releasing any other party. If City of Port Arthur give up any of City of Port Arthur's rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, City of Port Arthur is entitled to only one payment in full.) I agree that City of Port Arthur may at City of Port Arthur's

option extend this note or the debt represented by this note, or any portion of the note or debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any form without affecting my liability for payment of the note. I will not assign my obligation under this agreement without City of Port Arthur's prior written approval.

CREDIT INFORMATION: I agree and authorize City of Port Arthur to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others City of Port Arthur's credit experience with me (such as a credit reporting agency). I agree to provide City of Port Arthur, upon request, any financial statement or information City of Port Arthur may deem necessary. I warrant that the financial statements and information I provide to City of Port Arthur are or will be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform City of Port Arthur in writing of any change in my address. I will give any notice to City of Port Arthur by mailing it first class to City of Port Arthur's address stated on page 1 of this agreement, or to any other address that City of Port Arthur has designated.

EXHIBIT "C"

THE STATE OF TEXAS,
COUNTY OF

} Know All Men By These Presents:

That **ICON BUILDERS, LLC AND GOLF BREEZE DEVELOPMENT, LLC**

of **Jefferson** County, Texas, hereinafter called "Debtors" whether one or more masculine, feminine or neuter, in consideration of the debt hereinafter described and the further consideration of the uses, purposes and trusts herein set forth, have, granted, bargained, sold, aliened, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, convey and confirm unto **Stephen Fitzgibbons, in his capacity as City Manager of the City of Port Arthur, Texas** (hereinafter called "Trustee") and his successors and/or substitutes in trust as hereinafter provided, all of the following described property, lying and situated in the County of **Jefferson**, in the State of Texas, to-wit:

17.091 acres as more fully described in the Legal Description attached hereto as Exhibit "A"

together with all improvements thereon, or hereafter to be placed thereon, and all and singular the rights and appurtenances to the same belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD unto the Trustee, and to his successors and his and their assigns forever, hereby covenanting and agreeing to forever warrant and defend the premises aforesaid, and every part thereof, unto the Trustee and to his successors in trust and his and their assigns against all persons whomsoever lawfully claiming or to claim the same or any part thereof for and upon the following trusts, terms and conditions, to-wit:

That, Whereas, Debtors are justly indebted to

CITY OF PORT ARTHUR

hereinafter called "Beneficiaries" whether one or more, masculine, feminine or neuter, as evidenced by certain promissory note(s), of even date herewith, executed by Debtors and payable to the order of Beneficiaries at Jefferson County, Texas, as follows:

\$160,000 Note at 2% interest as per Developer Participation Contract, as approved by Ordinance No. 02-54 and Ordinance No. 04-16 and Ordinance No. 05-

It is agreed that if default be made in the payment of any principal or interest on said note, or in the performance of the covenants or agreements herein contained, or any of them, then at the option of the legal holder of said note, the whole of the principal debt herein secured shall become due and payable, and may be collected by suit or by proceedings hereunder; and it is further agreed that if said indebtedness is not paid when due, and is placed in the hands of an attorney for collection, or if collected through Probate Court, a reasonable amount as provided in said note shall be added as attorney's fees.

It is also agreed that this Deed of Trust covers any and all renewals of the above described indebtedness.

Now, should Debtors make prompt payment of said indebtedness, and pay, or cause to be paid, all other indebtedness secured by this conveyance, both principal and interest, as the same shall become due and payable, and strictly comply with all the conditions and requirements herein provided, then this conveyance shall become null and void and of no further force or effect, and shall be released at the cost and expense of Debtors. But should Debtors make default in the punctual payment of said indebtedness, or any part thereof, principal or interest, as the same shall become due and payable, or should Debtors in any respect fail to keep and perform any one or more of the conditions herein provided to be kept and performed by Debtors, then, in any such case, the whole amount of said indebtedness remaining shall, at the option of the holder of said indebtedness, immediately mature and become payable (unless otherwise specifically provided herein or in the note or notes secured hereby) and it shall thereupon, or at any time thereafter, the same, or any part thereof, remaining unpaid, be the duty of the Trustee and of his successor or substitute, as hereinafter provided, on the request of the holder of said indebtedness thereof (which request is hereby presumed) to enforce this trust; and after advertising the time, place (including therein the County where said real estate shall be sold) and terms of the sale of all of the above conveyed and described property, or any part thereof (the privilege of selling in whole or in part being hereby granted) for at least twenty-one days successively next before the day of sale, by posting up written or printed notices thereof at the Court House Door of each County, in which any portion of said real estate shall be situated; and after Beneficiaries or any other holder of the indebtedness secured hereby to which the power of sale described herein is related shall have given written notice of the proposed sale by certified mail to each Debtor obligated to pay such debt according to the records of such holder by depositing such notice, enclosed in a postpaid wrapper, properly addressed to such Debtor at the most recent address as shown on the records of the holder of the debt, in a Post Office or official depository under the care and custody of the United States Postal Service for a period of at least twenty-one (21) days preceding the date of sale designated in said notice (the affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service), to sell the same, in accordance with such advertisement, at public auction, at the Court House Door of the County so designated as the place of sale in said notice of sale, on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M. to the highest bidder for cash, selling all property above conveyed as an entirety or in parcels as the Trustee may elect, and make due conveyance to the purchaser or purchasers, with general warranty, binding the Debtors and their heirs and assigns; and, out of the money arising from such sale, the Trustee acting shall pay: first, all the expenses of advertising sale and conveyance, including a commission of five per cent to himself, and then to the holder of said indebtedness, the full amount of principal and interest due and unpaid on said indebtedness, as hereinbefore set forth, and all taxes, assessments, insurance premiums or other advancements made, as provided for herein, with interest thereon, rendering the balance of the purchase money, if any, to the Debtors, their heirs or assigns; and said sale shall forever be a perpetual bar against the Debtors, their heirs and assigns, and all other persons claiming under any of them. It is expressly agreed that the recitals in the conveyance to the purchaser shall be full evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed. The holder of said indebtedness shall have equal rights to become the purchaser at such sale, being the highest bidder.

In case of absence, death, inability, refusal or failure of the Trustee herein named to act, or if Beneficiaries should for any reason whatsoever desire to have another party act as Trustee hereunder, a successor and substitute may be named, constituted and appointed by the holder of said indebtedness, without other formality than an appointment and designation in writing; and this conveyance shall vest in him, as Trustee, the estate and title in all said premises and he shall thereupon hold, possess and execute all the title, rights, powers and duties herein conferred on said Trustee named, and his conveyance the purchaser shall be equally valid and effective; and such right to appoint a successor or substitute Trustee shall exist often and whenever from any of said causes, any Trustee, original or substitute, cannot or will not act or if Beneficiaries should desire further substitutes for any cause.

It is agreed and stipulated that Debtors shall and will at their own proper cost and expense, keep the property and premises herein described, and upon which a lien is hereby given and created, in good repair and condition, and to pay and discharge as they are or may become payable, all taxes and assessments that are or may become payable thereon under any law, ordinance or regulation, whether made by Federal, State, Municipal or any other taxing authority, and shall keep said property fully insured in some company or companies approved by the holder of said indebtedness, to whom the loss, if any shall be payable, and by whom the policies shall be kept. And in case of default made by Debtors in performance of any of the foregoing stipulations, the same may be performed by the holder of said indebtedness, for account and at the expense of Debtors, and any and all expenses incurred and paid in so doing shall be payable by Debtors to holder of said indebtedness with interest at the highest lawful rate per annum permitted thereon in Texas from the date when the same was so incurred or paid, and shall stand secured and payable by and under this deed in like manner with the other indebtedness herein mentioned, and the amount and nature of such expense and time when paid shall be held fully established by the affidavit of the holder of said indebtedness, or the holder's agent, or by the certificate of any Trustee acting hereunder. Provided, however, that the exercise of the right of advancement shall in nowise be considered or constitute a waiver of the right of the holder of said indebtedness to declare same, and all other indebtedness hereunder to be at once due and payable in the manner provided herein.

IT IS UNDERSTOOD AND AGREED, that where the phrase, "highest lawful rate (of interest) per annum permitted thereon in Texas", or words of like import is used herein, the rate of interest shall be that rate payable on all past due principal and all past due interest as set out in the note, or other debt instrument, hereby secured.

IT IS ESPECIALLY AGREED that when, as and if any accelerated maturity of any item secured by this instrument may be declared due under any term of this or any other paper evidencing the debt or any part thereof, that the maximum amount that can be collected for or on account of the debt shall be the principal amount thereof and interest accrued to the date of payment, not to exceed the highest lawful rate per annum permitted thereon in Texas. That if any possible construction of any and all of the papers may seem to indicate any possibility of a different power given to the creditor or any authority to ask for, demand, or receive any larger rate of interest the parties covenant that same is a mistake in calculation or wording which this clause is intended to override and control.

IT IS FURTHER AGREED that, in the event of a foreclosure under the power granted hereby, the owner in possession of said property, or any one claiming under him and in possession as tenant or otherwise, shall thereupon become the tenant at will of the purchaser at such foreclosure sale, and should such tenant refuse to surrender possession of said property upon demand, the purchaser shall thereupon be entitled to institute and maintain the statutory action of forcible entry and detainer, and procure a writ of possession thereunder.

WITNESS

hand this day of

, A.D. 2005

ICON BUILDERS, LLC.

BY:

GOLF BREEZE DEVELOPMENT, LLC.

BY:

ACKNOWLEDGMENT

THE STATE OF TEXAS, }
COUNTY OF.....

BEFORE ME, the undersigned authority,

in and for said County, Texas, on this day personally appeared.....

known to me to be the person.....whose name.....subscribed to the foregoing instrument, and acknowledged to me that
.....he.....executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This.....day of....., A.D. 19.....

(L. S.)

Notary Public in and for the State of Texas.

My Commission Expires.....

ACKNOWLEDGMENT

THE STATE OF TEXAS, }
COUNTY OF.....

BEFORE ME, the undersigned authority,

in and for said County, Texas, on this day personally appeared.....

known to me to be the person.....whose name.....subscribed to the foregoing instrument, and acknowledged to me that
.....he.....executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This.....day of....., A.D. 19.....

(L. S.)

Notary Public in and for the State of Texas.

My Commission Expires.....

CORPORATION ACKNOWLEDGMENT

THE STATE OF TEXAS, }
COUNTY OF..... JEFFERSON

BEFORE ME, the undersigned authority,

in and for said County, Texas, on this day personally appeared.....

K. T. AKBARI

.....known to me to be the person and officer
whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said
ICON BUILDERS, LLC AND GOLF BREEZE DEVELOPMENT, LLC
a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein
expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This.....day of....., A.D. 2005.....

(L. S.)

Notary Public in and for the State of Texas.

My Commission Expires.....

A-450

DEED OF TRUST

TO

Trustee.

Benefit of.....

FILED FOR RECORD

This.....day of....., A.D. 19.....

at.....o'clock.....M.

County Clerk.

County, Texas.

By....., Deputy.

RECORDED

In Volume.....Page.....

Recording Fee \$.....

This Instrument should be filed immediately with the
County Clerk for Record

MARTIN Stationery Co., Dallas