Davidson County DEEDWARR
Recvd: 10/19/04 15:32 5pgs
Fees:28.00 Taxes:2312.50
20041019-0125822

This Instrument prepared by:
Stokes Bartholomew Evans & Petree, P.A. (CBR)
424 Church Street, Suite 2800
Nashville, Tennessee 37219

| ADDRESS NEW OWNER: | SEND TAX BILL TO: | MAP-PARCEL |
|---|---|---|
| Joseph V. Russell<br>630 Melrose Avenue<br>Nashville, TN 37211 | Same | Map 135<br>Parcel 102 |

# SPECIAL WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of TEN AND NO/100 ($10.00) DOLLARS cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, **BANK OF THE WEST**, a California banking corporation (the "Grantor"), has bargained and sold, and by these presents does transfer and convey unto **JOSEPH V. RUSSELL** (the "Grantee"), his heirs and assigns, those certain tracts or parcels of land in Davidson County, State of Tennessee, described as follows:

See Exhibit A, attached hereto and incorporated herein by this reference.

This conveyance of the property herein, and all covenants and warranties of Grantor contained herein, are made expressly subject to those matters set forth on Exhibit B, attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said Grantee, and Grantee's successors and assigns forever.

Grantor covenants and binds itself, and its successors and assigns, to warrant specially and forever defend the title to the property to the said Grantee, Grantee's heirs and assigns, against the lawful claims of all parties claiming by, through or under the Grantor, but not further or otherwise.

Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**IN WITNESS WHEREOF**, the Grantor has caused this Special Warranty Deed to be executed as of the 12th day of October, 2004.

**BANK OF THE WEST,**
a California banking corporation

By: Gail Wilson

Its: Vice President

STATE OF CALIFORNIA )
COUNTY OF SACRAMENTO )

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared GAIL WILSON, with whom I am personally acquainted ~~(or proved to me on the basis of satisfactory evidence)~~, and who, upon oath, acknowledged Herself to be VICE PRESIDENT of BANK OF THE WEST, the within named bargainor, a California banking corporation, and that She, as such OFFICER, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by Herself as VICE PRESIDENT.

WITNESS my hand, at office, this 12TH day of October, 2004.

Melinda L Zak
NOTARY PUBLIC

My Commission Expires:
July 8, 2007

MELINDA L. ZAK
Commission # 1429267
Notary Public - California
Sacramento County
My Comm. Expires Jul 8, 2007

STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

The actual consideration or value, whichever is greater, for this transfer is $625,000.00.

Affiant

Subscribed and sworn to before me this 14 day of October, 2004.

Notary Public

My Commission Expires:

My Commission Expires JULY 19, 2008

STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.

270106.1/5491.3

**EXHIBIT A**

Land in Davidson County, Tennessee, described as follows:

TRACT 1:

Land located in the 28th Councilmanic District of Nashville, Davidson County, Tennessee, being part of Parcel 102 (and formerly being Parcel 104) on County Property Map 135, and being more particularly described according to a boundary survey prepared by Wamble & Associates, PLLC dated December 17, 1998, as follows:

Beginning at iron rod (new) on the northerly right-of-way line of Murfreesboro Pike (US 70 South/41), said rod being at the intersection of said northerly right-of-way line and the southeasterly right-of-way line of Town Park Drive; thence, following said southeasterly right-of-way line north 31 degrees 28 minutes 16 seconds east 62.35 feet to an iron rod (new) on the southerly right-of-way line of Old Murfreesboro Pike; thence, following said southerly right-of-way line south 72 degrees 21 minutes 54 seconds East 357.77 feet to a point, said point being on the westerly line of a tract of land conveyed to Millard Gotto and Clare E. Gotto, wife, as of record in Deed Book 4766, page 401 in the Register's Office for Davidson County, Tennessee; thence, following the westerly line of said Gotto Property south 03 degrees 32 minutes 29 seconds west 150.45 feet to a point on northerly right-of-way line of Murfreesboro Pike; thence, following said northerly right-of-way line north 58 degrees 31 minutes 48 seconds west 17.87 feet to iron rod (new), thence, south 31 degrees 28 minutes 16 seconds west 15.00 feet to an iron rod (new); thence, north 58 degrees 31 minutes 48 seconds west 400.00 feet to the point of beginning.

Containing 42,001.86 square feet or 0.96 acres.

Excepting therefrom, all that portion thereof, which may lie within the bounds of that tract of land conveyed to the State of Tennessee, in fee simple, by deed recorded in Book 8626, page 713, said Register's Office.

TRACT II:

Land located in the 28th Councilmanic District of Nashville, Davidson County, Tennessee, being part of Parcel 102 (and formerly being a separate parcel 102) on County Property Map 135, and being more particularly described according to a boundary survey prepared by Wamble & Associates, PLLC dated December 17, 1998, as follows:

Beginning at an iron rod (old) on the southerly right-of-way line of Old Murfreesboro Pike said rod being south 72 degrees 21 minutes 54 seconds East 508.55 feet from the intersection of said southerly right-of-way line and the southeasterly right-of-way line of Town Park Drive, said rod also being a point on the easterly line of property conveyed to Millard Gotto and Clara E. Gotto, wife, as of record in Deed Book 4766, page 401 in the Register's Office for Davidson County, Tennessee; thence following said southerly right-of-way line south 72 degrees 21 minutes 54 seconds east 319.63 feet to an iron rod (old), being a point on the westerly line of property conveyed to E. Wayne Wilkerson, et al as of record in Deed Book 8517, page 942 in the Register's Office for Davidson County, Tennessee; thence, following the westerly line at said

Wilkerson Property south 01 degrees 43 minutes 12 seconds east 245.46 feet to an iron rod (old) on the northerly right-of-way line of Murfreesboro Pike (US 70 South/41); thence following said northerly right-of-way line north 58 degrees 31 minutes 48 seconds west 161.78 feet to an iron rod (new); thence, south 70 degrees 10 minutes 40 seconds west 51.26 feet to an iron rod (new); thence, north 58 degrees 31 minutes 48 seconds west 155.84 feet to an iron rod (old), being a point on the easterly line of the aforementioned Gotto Property; thence, following the east line of said Gotto Property north 02 degrees 06 minutes 46 seconds east 193.88 feet to the point of beginning.

Containing 68,338.09 square feet or 1.57 acres.

Excepting therefrom, all that portion thereof which lies within the bounds of that tract of land conveyed in fee simple to the State of Tennessee by deed recorded in Book 8564, page 314, said Register's Office.

TRACT III:

Land located in the 28th Councilmanic District of Nashville, Davidson County, Tennessee, being part of Parcel 102 (and formerly being Parcel 103) on County Property Map 135, and being more particularly described according to a boundary survey prepared by Wamble & Associates, PLLC dated December 17, 1998, as follows:

Beginning at a point on the southern right-of-way line of Old Murfreesboro Pike said point being south 72 degrees 21 minutes 54 seconds east 357.77 feet from the intersection of said southerly right-of-way line and the southeasterly right-of-way line of Town Park Drive, said point also being the northeast corner of a portion of the land inherited by Dorothy McLaughlin Ford, James Patrick Harrigan and Steven F. Harrigan, as of record in Deed Book 6876, page 611 in the Register's Office for Davidson County, Tennessee; thence, following said southerly right-of-way line south 72 degrees 21 minutes 54 seconds east 150.78 feet to an iron rod (old), being the northwest corner of property conveyed to Nell A. Barnes, as of record in Deed Book 9590, page 356 in the Register's Office for Davidson County, Tennessee; thence following the westerly line of said Barnes Property south 02 degrees 06 minutes 46 seconds west 193.86 feet to an iron rod (Old) being on the northerly right-of-way line of Murfreesboro Pike (US 70 South/41) said rod also being the southwest corner of said Barnes Property; thence, following said northerly right-of-way line north 58 degrees 31 minutes 48 seconds west 170.99 feet to a point, said point being the southeast corner of the aforementioned Dorothy McLaughlin Ford, et al property; thence, following the easterly line of said Ford et al Property north 03 degrees 32 minutes 29 seconds east 150.45 feet to the point of beginning.

Containing 25,448.40 square feet or 0.58 acres.

Excepting from said Tracts I, II and III any portion thereof which lies within the bounds of that tract of land conveyed in fee simple to the State of Tennessee by deed recorded as Instrument No. 20040910-0109515, said Register's Office.

Being part of the same property conveyed to BANK OF THE WEST, A CALIFORNIA BANKING CORPORATION, by deed of record as Instrument No. 20030514-0065171, said Register's Office.

**EXHIBIT B**

1. Real estate taxes for 2004, a lien, now due and payable but not yet delinquent, which have been prorated between the parties.

2. Title to that portion of the premises embraced within the bounds of any streets, roads, or highways.

3. Right of way and easement contained in instrument of record in Book 1229, page 2, Register's Office for Davidson County, Tennessee.

4. Agreement for Dedication of Easement for Sanitary Sewers and/or Storm Drainage of record in Book 4767, page 262, said Register's Office.

5. Agreement for Dedication of Easement for Sanitary Sewers, Storm Drainage, Water Mains and Appurtenances of record in Book 6342, page 374, said Register's Office.

6. Slope and working area easements contained in instrument of record in Book 8564, page 314, and Book 8626, page 713, said Register's Office.

7. Agreement for Dedication of Easement for Sanitary Sewers and/or Storm Drainage of record in Book 8573, page 350, said Register's Office.

8. Storm Water Detention Agreement of record in Book 11752, page 424, said Register's Office.