

**COMMISSIONERS COURT ADJOURNED TO EXECUTIVE SESSION AT 11:17 A.M. ON TUESDAY, DECEMBER 12, 2000**

**AGENDA ITEM 31**

Discuss real estate in Georgetown: (EXECUTIVE SESSION REQUESTED as per VTCA Govt Code sec 551.072 pertaining to real property)

**COMMISSIONERS COURT RECONVENED FROM EXECUTIVE SESSION AT 11:51 A.M. ON TUESDAY, DECEMBER 12, 2000.**

No action was taken in executive session.

< Attachment >



November 7, 2000

Chris Spence  
Wesleyan Retirement Home  
1105 Church Street  
Georgetown, TX 78626

**RE: Offer to Purchase Wesleyan Retirement Home property located on South Church Street,  
Georgetown, Texas**

Dear Chris:

Acting in my capacity as a real estate broker and as Seller's agent, I am submitting this letter to you as an outline of the business terms and conditions under which **WILLIAMSON COUNTY OF THE STATE OF TEXAS** ("Buyer"), would agree to enter a contract with **WESLEYAN NURSING HOMES, INC.** ("Seller"), to purchase the following real property, together with all improvements and real property thereon.

1. Wesleyan Retirement Home Lots 1-8, Block 23, Glasscock Addition, City of Georgetown; Williamson County, Texas; and
  2. Residence and parking lot The south part of Lot 3, all of Lots 4,5 & 6, and the south part of Lot 7, Block 21, Glasscock Addition, City of Georgetown, Williamson County, Texas
- and as further identified in Exhibit "A" attached hereto.

**A. PURCHASE PRICE:** Subject to the terms set forth herein, Buyer would:

1. Enter a contract, at a purchase price of \$3,250,000.00 for the property to be conveyed; and,
2. Deposit with a Title Company mutually acceptable to both parties, as escrow agent, earnest money in the amount of \$25,000.00, within three days of the signing of the contract. The earnest money will be applied to the purchase price at closing. At the termination of the feasibility study, Buyer will deposit an additional \$75,000.00 with the Title Company as additional earnest money.

25K EBN

75,000 EB  
and that's per

**B. CONDITIONS OF THE CONTRACT:** Buyer shall have no obligation to close the contract unless and until the following conditions and contingencies have been approved or waived in writing by Buyer during the period set forth below. The conditions of the contract are:

1. Preliminary Title Report by the Title Company showing good and indefeasible title in Seller's name subject only to the permissible exceptions;

2. The absence of any federal, state, local governmental or other restrictions on Buyer's right and ability to use the property for Buyer's intended purposes. The intended use of the property is to be verified and approved by all regulatory agencies having jurisdiction over the property. Buyer shall independently verify that any setback, buffer zone, landscaping, flood plain, advertising code or other regulatory limitations shall not, in Buyer's sole judgment, unduly interfere with Buyer's proposed use of the property;

3. Verification that all utilities sufficient to handle the requirements of the proposed development by Buyer, are available at not less than one of the boundary lines of the property and shall continue to be available on and to the property after the date of closing on terms solely acceptable to Buyer;

4. The results of an independent physical property inspection conducted by representatives of the buyer, including necessary soil, boring and percolation tests as may be required to determine the physical characteristics of the substrata of the property. Buyer's representatives shall, with the consent of the Seller, have reasonable access to the property during normal business hours throughout the feasibility period described herein for the purpose of conducting the property inspections;

5. Verification that all necessary approvals, licenses, or permits have been issued for any existing improvements pursuant to the governing ordinances by all local, state and federal agencies having authority in respect thereto. All such permits and approvals shall be outstanding and valid and not subject to further appeal, review, attack, or contest or be of questionable validity. All such approvals and permits shall provide ingress and egress to and from all abutting streets acceptable to Buyer, and there shall be no condition to the issuance of any such approval unacceptable to Buyer; and

8. *Complete execution of Lease back as set forth in PT I*

6. The results of a Phase I environmental risk assessment study.

7. *Determination by Buyer that the property is not suitable for Buyer's intended use.*

Buyer shall have a period of forty-five (45) days from the date of the contract to conduct a feasibility review of the above referenced items to determine whether the property is suitable for Buyer's intended use. In the event Buyer determines, in Buyer's sole discretion, that the property is unacceptable, then Buyer shall give written notice to Seller and the Title Company that the contract is terminated and the earnest money held by the title company shall be returned to Buyer without delay. Failure of Buyer to notify Seller of Buyer's decision to terminate the agreement before the end of the feasibility period shall be deemed an election by Buyer to continue the agreement and to proceed to closing.

**C. CLOSING:** The sale and purchase of the property shall be consummated in the offices of the title company on or before thirty (30) days from the termination of the feasibility study period as set forth herein, or ninety (90) days from the date of the contract, whichever is earlier.

**D. TAXES:** Real estate ad valorem taxes, based upon the latest tax bill, shall be pro-rated as of the date of closing. Any other unpaid assessments shall be paid prior to closing.

**E. REAL ESTATE COMMISSIONS:** Seller and Buyer acknowledge that Brashear Properties, Ltd. is acting as Seller's Representative and in its capacity as a Real Estate Broker in the transaction. Seller is responsible for the Real Estate Brokers' sales commission as negotiated between Seller and Broker in a separate agreement. Said commission, to be paid at closing, is expressly contingent upon the closing of the transaction. The parties represent that there are no other brokerage or commission agreements concerning the transaction.

**F. TITLE POLICY:** Seller will, at Seller's expense, furnish Buyer, at closing, an Owner's Policy of Title Insurance, issued by Title Company acceptable to both parties. The policy shall be subject only to any permissible exceptions and shall be for the full amount of the purchase price. The policy shall name Buyer as the named insured and shall have no exception to unpaid back taxes, except for the pro-rata portion of any taxes due for the year of closing.

**G. SURVEY:** At the conclusion of the feasibility study period Seller, at its cost and expense, agrees to have a boundary survey prepared by a surveyor licensed by the State of Texas showing:

1. The location of all boundaries, existing fences, all easements, pipelines, rights-of-way and roads which are of record or are visible on the ground and all improvements, structures and other objects visible on the ground or disclosed by the title policy commitment letter;
2. Whether any of the property lies within the one hundred year flood plain or any designated flood hazard area as designated by any governmental agency and the amount of such acreage so encumbered; and,
3. The number of acres, net of any designated flood plain, right of way, common drives or driveways, or easements traversing the property, contained within the boundaries of the property.

The surveyor shall, in its certification to Seller, Buyer and the Title Company, include its registration number, address, telephone number and the job number of the survey.

**H. ESCROW:** Each party shall pay their own closing costs and any other fees normally assigned to the respective party.

**I. SELLER LEASE-BACK:** The parties agree that the sale of the property is expressly contingent upon the parties executing a written lease agreement, at the same time as the sales contract described herein is executed, allowing Seller to lease back the property from Buyer for a period of up to three (3) years after the closing of this transaction at terms and under conditions acceptable to both parties with a renewal option of the lease for two (2) additional years.


**J. PROPERTY CONDITION:** Buyer understands and agrees that the property being conveyed is being sold in "AS IS, WHERE IS" condition. Neither the Seller nor the Real Estate Broker has represented that the property is suitable for Buyer's intended use.

**K. EXCLUSIVITY:** In consideration of the effort and expense that will be required by Buyer to conduct its due diligence review, commencing on the date of Seller's execution of this letter of intent, Buyer shall have, for a period of 21 days, the exclusive right to negotiate with Seller to structure a transaction to acquire the property provided, that the Buyer proceeds in good faith to negotiate and arrive at a definitive agreement with Seller.

This letter expresses the Buyer's intent to proceed expeditiously to prepare documents satisfactory to the parties to include the business terms set forth in this letter and other requirements as may be necessary. It is understood that no legal rights or obligations will arise between the parties until the execution and delivery of the Contract, except for the provisions regarding exclusive negotiations, shall constitute a binding obligation upon the parties upon the execution of this letter of intent by both Buyer and Seller.

Should you, as Seller, concur with the business terms of the proposed contract as set forth herein, then please indicate your approval by signing where indicated below. Upon receipt of the executed letter of intent, Buyer shall instruct his attorney to draft the contract for the sale of the land. If you have questions, amendments or modifications of the terms contained in this letter, please feel free to call me.

Sincerely,

  
 Ercel Brashear, CCIM  
 {Broker for the Seller}

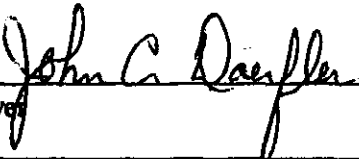
Date: 11/7/00

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Seller and Buyer acknowledge this letter of intent has been prepared as an aid in establishing the business details of the transaction as desired by the principals. It is the goal of the principals that this letter of intent serves as a guide in the drafting of the language of the contract and to outline the key business terms of the agreement between the parties. Each party acknowledges that the Real Estate Broker has advised the principals to consult a lawyer of his or her choice before executing this letter of intent.

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WILLIAMSON COUNTY OF THE STATE OF TEXAS

  
 Buyer

Date: 11-7-00

**ACCEPTANCE:**

I accept the foregoing and agree to sell the property, upon the terms and conditions set forth herein, and have the right, power and authority to accept this agreement. Furthermore, I acknowledge receipt of an executed copy of this agreement.

SIGNED AND ACCEPTED on this 15 day of November, 2000.

**WESLEYAN HOMES, INC.**

Chris G. Spence, President

Seller:



*DRAFT* 11/16/00

TEXAS ASSOCIATION OF REALTORS®  
IMPROVED PROPERTY COMMERCIAL CONTRACT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.  
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1. PARTIES: Wesleyan Homes, Inc.  
(Seller) agrees to sell and convey to Williamson County of the State of Texas  
(Buyer) and Buyer agrees to buy from Seller the Property described below.

2. PROPERTY:

A. The property sold by this contract is called the "Property." The Property is that real property situated in Williamson County, Texas at 1105 S. Church St., Georgetown, TX  
(address) that is legally described as follows: (Identify exhibit if described by attachment.)

Lots 1-8, Block 23, Glasscock Addition, 1.32 acres; and  
Lots 5 & 6 and the south part of Lot 7, Block 21, Glasscock Addition; and  
Lot 4 and the south part of Lot 3, Block 21, Glasscock Addition,  
all of which are further identified on Exhibit "A" attached hereto and made a part of this contract.

B. The Property is sold together with:  
(1) all buildings, improvements, and fixtures;  
(2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;  
(3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;  
(4) Seller's interest in all licenses and permits related to the Property;  
(5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;  
(6) Seller's interest in any trade names, if transferable, used in connection with the Property; and  
(7) the following personal property: \_\_\_\_\_

(Describe any exceptions, reservations, or restrictions in Paragraph 11 or an addendum.)  
(If the Property is a condominium, attach condominium addendum.)

3. SALES PRICE: At or before closing, Buyer will pay the following sales price for the Property:

A. Cash portion payable by Buyer at closing \_\_\_\_\_ \$ 3,250,000.00  
B. Sum of all financing described in Paragraph 4 \_\_\_\_\_ \$ \_\_\_\_\_  
C. Sales price (sum of A and B) \_\_\_\_\_ \$ 3,250,000.00

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3B as follows: (Check all that apply.)

- ☐ A. Third Party Financing: A third party note(s) in the total amount of \$ \_\_\_\_\_ . This contract:
- ☐ (1) is not contingent upon Buyer obtaining third party financing.
- ☐ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Financing Addendum.
- ☐ B. Assumption: In accordance with the attached Financing Addendum, Buyer will assume the unpaid principal balance of the first lien promissory note, which balance at closing will be \$ \_\_\_\_\_ .
- ☐ C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Financing Addendum in the amount of \$ \_\_\_\_\_ .

(TAR-1801) 11-5-99 Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_  
TAR, P.O. Box 2246, Austin, TX 78768-2246

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035, (800) 363-9805

Commercial Improved Contract Concerning 1105 S. Church St., Georgetown, TX

5. **EARNEST MONEY:** Not later than 3 days after the effective date, Buyer must deposit \$25,000.00 as earnest money with Alamo Title Company (escrow agent) at 3021-B Williams Drive, Georgetown, TX 78628 Attn: Tareza Hale (escrow agent's address). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract by providing written notice to Buyer before Buyer deposits the earnest money. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. **TITLE POLICY, SURVEY, AND UCC SEARCH:**

A. **Title Policy:**

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by Alamo Title Company (the title company) in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:  
 (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and  
 (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to area boundaries: (Check (a) or (b) only.)  
☒ (a) will not be deleted from the title policy.  
☐ (b) will be deleted from the title policy at the expense of ☐ Buyer ☐ Seller.
- (3) Buyer may object to any restrictive covenants on the Property within the time required under Paragraph 6D.
- (4) Within 21 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. **Survey:**

- (1) Within 60 days after the effective date: (Check all that apply.)  
☐ (a) Buyer will obtain a survey of the Property at Buyer's expense.  
☒ (b) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date.  
☐ (c) Seller will deliver a true and correct copy of Seller's existing survey of the Property dated \_\_\_\_\_ Seller, at Seller's expense:  
☐ (i) will have the existing survey recertified on a date not earlier than \_\_\_\_\_  
☐ (ii) will not have the existing survey recertified.
- (2) The survey required under Paragraph 6B(1) must be made by a Registered Professional Land Surveyor acceptable to the title company. The survey must:  
 (a) identify the Property by metes and bounds or platted lot description;  
 (b) show that the survey was made and staked on the ground with corners permanently marked;  
 (c) set forth the dimensions and total area of the Property;  
 (d) show the location of all improvements, highways, streets, roads, railroads, rivers, creeks or other waterways, fences, easements, and rights-of-way on the Property with all easements and rights-of-way referenced to their recording information;  
 (e) show any discrepancies or conflicts in boundaries, any visible encroachments, and any portion of the Property lying within the 100-year flood plain as shown on the current Federal Emergency Management Agency map; and  
 (f) contain the surveyor's certificate that the survey is true and correct.

C. **UCC Search:**

- ☒ (1) Within 21 days after the effective date, Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the effective date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Property is located that relate to all personal property on the Property and show, as debtor, Seller and all other owners of the personal property in the last 5 years.

Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_



Commercial Improved Contract Concerning 1105 S. Church St., Georgetown, TX

☐ (2) Buyer does not require Seller to furnish a UCC search.

**D. Buyer's Objections to the Commitment, Survey, and UCC Search:**

- (1) Within 7 days after Buyer receives all of the items required in Paragraphs 6A, 6B, and 6C (the commitment, copies of the documents evidencing title exceptions, survey, and UCC search), Buyer may object to matters disclosed in the items if:
  - (a) the matters disclosed constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or
  - (b) the items show that any part of the Property lies in a 100-year flood plain.
- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 20 days after Seller receives the objections. The closing date will be extended as necessary to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less the independent consideration paid for Buyer's right to terminate under Paragraph 7B(3), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

**7. PROPERTY CONDITION: (Check A or B only.)**

☒ **A. Present Condition: (Check (1) or (2) only.)**

- ☒ (1) Buyer accepts the Property in its present "as-is" condition.
- ☐ (2) Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: \_\_\_\_\_

☐ **B. Feasibility Period and Right to Terminate:**

- (1) Delivery of Property Information: Within \_\_\_\_\_ days after the effective date, Seller will deliver to Buyer the following items to the extent that the items are in Seller's possession or are readily available to Seller. Any item not delivered is deemed not to be in Seller's possession or readily available to Seller. The items Seller will deliver are:
  - (a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;
  - (b) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
  - (c) a current inventory of all tangible personal property owned by Seller that is located on, attached to, and used in connection with the Property's operations;
  - (d) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
  - (e) copies of all current service, maintenance, and management agreements relating to the ownership and operation of the Property;
  - (f) copies of all current warranties and guaranties relating to all or part of the Property;
  - (g) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
  - (h) copies of all leasing or commission agreements that currently relate to all or part of the Property;
  - (i) a copy of the "as-built" plans and specifications of the Property;
  - (j) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
  - (k) a copy of Seller's income and expense statement for the Property from \_\_\_\_\_ to \_\_\_\_\_;
  - (l) copies of all previous environmental assessments, studies, or analyses made on or relating to the Property;
  - (m) real and personal property tax statements for the Property for the previous 2 calendar years; and
  - (n) \_\_\_\_\_
- (2) **Inspections, Studies, or Assessments:**
  - (a) Within \_\_\_\_\_ days after the effective date, Buyer, at Buyer's expense, may complete or cause to be completed inspections, studies, or assessments of the Property, including all improvements and fixtures. Inspections, studies, or assessments may include, but are not limited to:

Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

Commercial Improved Contract Concerning 1105 S. Church St., Georgetown, TX

- (i) physical property inspections (for example, structural pest control, mechanical, structural, electrical, and plumbing inspections);
  - (ii) economic feasibility studies;
  - (iii) environmental assessments (for example, soil tests, air sampling, and paint sampling);
  - (iv) engineering studies; and
  - (v) compliance inspections (for example, compliance determination with zoning ordinances, restrictions, building codes, and statutes).
- (b) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.
- (c) In connection with Buyer's inspections, studies, and assessments, Buyer must:
- (i) employ only trained and qualified inspectors and assessors;
  - (ii) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
  - (iii) abide by any reasonable entry rules or requirements that Seller may require;
  - (iv) not interfere with existing operations or occupants of the Property; and
  - (v) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.
- (d) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph.
- (3) **Right to Terminate:** Buyer may terminate this contract for any reason within 45 days after the effective date by providing Seller with written notice of termination. If Buyer terminates under this paragraph, the earnest money will be refunded to Buyer less \$ 100.00 that Seller will retain as independent consideration for Buyer's right to terminate under this paragraph. The independent consideration is to be credited to the sales price only upon the closing of the sale. Buyer has tendered the independent consideration to Seller upon payment of the full amount specified in Paragraph 5 to the escrow agent. If Buyer does not terminate within the time required, Buyer accepts the Property in its present condition.
- (4) **Return of Property Information:** If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7B(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports (excluding economic feasibility studies) related to the Property that Buyer completed or caused to be completed. This Paragraph 7B(4) survives termination.
- (5) **Contracts Affecting Operations:** After Buyer's right to terminate under Paragraph 7B(3) expires, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's prior written approval.

**8. BROKERS:**

A. The brokers to this sale are:

<u>Brashear Properties, Ltd.</u>	<u>0229867</u>	<u>N/A</u>
Listing Broker	License No.	Other Broker
Listing Broker:		Other Broker represents Buyer.
<input checked="" type="checkbox"/> represents Seller.		
<input type="checkbox"/> acts as an intermediary between Seller and Buyer.		

B. **Fees:** (Check (1) or (2) only.)

- ☒ (1) Seller will pay Listing Broker the fee specified by separate written commission agreement between Listing Broker and Seller. Listing Broker will pay Other Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

- ☐ (2) At closing, Seller will pay:

Listing Broker a total cash fee of:

☐ \_\_\_\_\_ % of the sales price.

☐ \_\_\_\_\_

Other Broker a total cash fee of:

☐ \_\_\_\_\_ % of the sales price.

☐ \_\_\_\_\_

The cash fees will be paid in Williamson County, Texas. Seller authorizes escrow agent to pay the brokers from Seller's proceeds at closing.

Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

**NOTICE:** Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 8 without the written consent of the brokers affected by the amendment.

**9. CLOSING:**

A. The closing of the sale will be on or before see Paragraph 11 or within 7 days after objections to title have been cured, whichever date is later (the closing date). If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

B. At closing, Seller will deliver, at Seller's expense, a ☒ general ☐ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property at closing:

- (1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Property which will not be satisfied out of the sales price unless securing loans Buyer assumes;
- (2) without any assumed loans in default; and
- (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

C. At closing, Seller, at Seller's expense, will also deliver:

- (1) tax statements showing no delinquent taxes on the Property;
- (2) a bill of sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in Paragraph 2 or sold under this contract;
- (3) ~~an assignment of all leases to or on the Property;~~
- (4) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Property or its operations:
  - (a) licenses and permits;
  - (b) maintenance, management, and other contracts; and
  - (c) warranties and guaranties;
- (5) ~~a rent roll current on the day of the closing certified by Seller as true and correct;~~
- (6) evidence that the person executing this contract is legally capable and authorized to bind Seller; and
- (7) any notices, statements, certificates, or other documents required by this contract or law necessary to convey the Property, all of which must be completed and executed by Seller as necessary.

D. At closing, Buyer will:

- (1) pay the sales price in good funds acceptable to the escrow agent;
- (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
- (3) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

E. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

10. **POSSESSION:** Seller will deliver possession of the Property to Buyer on closing in its present or required repaired condition, ordinary wear and tear excepted. Until closing, Seller will operate the Property in the same manner as on the effective date and will not transfer or dispose of any of the personal property described in Paragraph 2B or sold under this contract. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

11. **SPECIAL PROVISIONS:** (Identify exhibit if special provisions are contained in an attachment.)

A. Closing is to be in the offices of the title company on or before thirty (30) days after the termination of the feasibility period as set forth in Exhibit "B" - Seller's Addendum.

B. Bond Insurer's Approval. This contract is expressly contingent upon Seller receiving written approval of the sale of the property from Seller's bond insurer, American Capital Access, within thirty (30) days ("Approval Period") of the effective date of the contract. Seller shall notify Buyer and title company in writing of Seller's receipt of such approval. Failure to communicate such approval to Buyer and title company in writing prior to the expiration of such Approval Period shall constitute evidence of the failure of such condition and shall terminate the contract.

Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

(Continue Special Provisions.)

C. Seller and Buyer agree that the deed from Seller to Buyer shall contain covenants, conditions and restrictions made for the benefit of Seller, and are land use restrictions on the Property against the use and/or operation of the property for any of the following purposes: nursing home facility, assisted living facility or independent retirement living facilities. With the express exception of Seller's subsequent and continued use of the property after closing as set forth under the terms of this contract, the covenants, conditions and restrictions shall impose a burden on the Property and an affirmative duty upon Buyer and all individuals and entities who are from time to time entitled to occupy the Property or any portion thereof under an ownership right or lease, sublease, license, concession or other similar agreement. The covenants, conditions and restrictions shall automatically terminate on the twentieth (20th) anniversary of the date of the recording of the deed transferring ownership of the property from Seller to Buyer.

**12. SALES EXPENSES:****A. Seller's Expenses:** Seller will pay for the following in cash at or before closing:

- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
- (2) release of Seller's loan liability, if applicable;
- (3) tax statements or certificates;
- (4) preparation of the deed and any bill of sale;
- (5) one-half of any escrow fee;
- (6) costs to record any documents to cure title objections that Seller must cure; and
- (7) other expenses that Seller will pay under other provisions of this contract.

**B. Buyer's Expenses:** Buyer will pay for the following in cash at or before closing:

- (1) all loan fees or expenses (for example, application fees, origination fees, discount fees, appraisal fees, assumption fees, recording fees, tax service fees, mortgagee title policy expenses, credit report fees, document preparation fees, interest expense that Buyer's lender requires Buyer to pay at closing, and other fees required by Buyer's lender);
- (2) preparation fees of any deed of trust;
- (3) recording fees for the deed and any deed of trust;
- (4) premiums for flood and hazard insurance as may be required by Buyer's lender;
- (5) one-half of any escrow fee;
- (6) copy and delivery fees for delivery of the title commitment and related documents; and
- (7) other expenses that Buyer will pay under other provisions of this contract.

**13. PRORATIONS, ROLLBACK TAXES, ESTOPPEL CERTIFICATES, RENT, AND DEPOSITS:****A. Prorations:**

- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 13A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

- B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 13B survives closing.
- C. Estoppel Certificates:
- (1) Within N/A days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than N/A by each tenant that leases space in the Property.
  - (2) The estoppel certificates must state:
    - (a) that no default exists under the lease by the landlord or tenant as of the date the estoppel certificate is signed;
    - (b) the amount of the scheduled rents to be paid through the end of the lease and any rental payments that have been paid in advance;
    - (c) the amount of any security deposit;
    - (d) the amount of any offsets tenant is entitled against rent;
    - (e) the expiration date of the lease;
    - (f) a description of any renewal options; and
    - (g) \_\_\_\_\_
- D. Rent and Security Deposits: ~~At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 13D survives closing.~~

#### 14. CASUALTY LOSS AND CONDEMNATION:

- A. If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later than the closing date. If, without fault, Seller is unable to do so, Buyer may:
- (1) terminate this contract and the earnest money, less the independent consideration paid for Buyer's right to terminate under Paragraph 7B(3), will be refunded to Buyer;
  - (2) extend the time for performance up to 15 days and the closing date will be extended as necessary; or
  - (3) accept the Property in its damaged condition and accept an assignment of any insurance proceeds Seller is entitled to receive.
- B. If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
- (1) terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less the independent consideration paid for Buyer's right to terminate under Paragraph 7B(3), will be refunded to Buyer; or
  - (2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to:
    - (a) Seller and the sales price will be reduced by the same amount; or
    - (b) Buyer and the sales price will not be reduced.

#### 15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
- (1) enforce specific performance, or seek other relief as may be provided by law, or both; or
  - (2) terminate this contract and receive the earnest money as liquidated damages, thereby releasing the parties from this contract.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates or the commitment, Buyer may:
- (1) terminate this contract and receive the earnest money, less the independent consideration paid for Buyer's right to terminate under Paragraph 7B(3), as the sole remedy; or
  - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
- (1) enforce specific performance, or seek such other relief as may be provided by law, or both; or
  - (2) terminate this contract and receive the earnest money, less the independent consideration paid for Buyer's right to terminate under Paragraph 7B(3), as liquidated damages, thereby releasing the parties from this contract.

16. ATTORNEY'S FEES: If Buyer, Seller, any broker, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 16 survives closing.

Initialed for Identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_

Commercial Improved Contract Concerning 1105 S. Church St., Georgetown, TX

**17. ESCROW:**

- A. At closing, the earnest money must be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer.
- B. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
- C. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 30 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
- D. Escrow agent will deduct the independent consideration paid for Buyer's right to terminate under Paragraph 7B(3) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- E. If escrow agent complies with this Paragraph 17, each party hereby releases escrow agent from all claims related to the disbursement of the earnest money.
- F. Notices under this Paragraph 17 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.

**18. MATERIAL FACTS:**

A. ~~To the best of Seller's knowledge and belief: (Check (1) or (2) only.)~~

- ☐ (1) ~~Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.~~
- ☐ (2) ~~Seller is not aware of any of the following, except as described otherwise in this contract:~~
  - ~~(a) any material physical defects to the Property;~~
  - ~~(b) any pending or threatened litigation, condemnation, or assessment affecting the Property;~~
  - ~~(c) any environmental hazards or conditions that affect the Property;~~
  - ~~(d) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;~~
  - ~~(e) whether radon, asbestos insulation or fireproofing, urea-formaldehyde foam insulation, lead-based paint or other pollutants or contaminants of any nature now exist or have ever existed on the Property;~~
  - ~~(f) whether wetlands, as defined by federal or state law or regulation, are on the Property; and~~
  - ~~(g) whether threatened or endangered species or their habitat are on the Property.~~

~~(Describe any exceptions to (a) (g) in Paragraph 11 or an addendum.)~~

- B. ~~Each written lease Seller is to furnish to Buyer under this contract must be in full force and effect according to its terms without amendment or modification that is not disclosed to Buyer in writing. Seller must disclose, in writing, to Buyer if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:~~
  - ~~(1) any modifications, amendments, or default by landlord or tenant under the leases;~~
  - ~~(2) any failure by Seller to comply with Seller's obligations under the leases;~~
  - ~~(3) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;~~
  - ~~(4) any non-occupancy of the leased premises by a tenant;~~
  - ~~(5) any advance sums paid by a tenant under any lease;~~
  - ~~(6) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and~~
  - ~~(7) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.~~

- 19. **NOTICES:** All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to:

Williamson County of the State  
 Buyer at \_\_\_\_\_  
710 Main Street  
Georgetown, TX 78626  
Phone 512-943-1550  
Fax 512-943-1662

Wesleyan Homes, Inc.  
 Seller at \_\_\_\_\_  
1105 Church Street  
Georgetown, TX 78626  
Phone 512-863-2528  
Fax 512-869-2687

20. **FEDERAL TAX REQUIREMENT:** If Seller is a "foreign person" as defined by applicable law, or if Seller fails to deliver at closing an affidavit that Seller is not a foreign person, then Buyer will withhold from the sales proceeds at closing an amount sufficient to comply with applicable tax law and deliver the amount withheld to the Internal Revenue Service (IRS), together with appropriate tax forms. IRS regulations require filing written reports if cash in excess of specified amounts is received in the transaction.
21. **DISPUTE RESOLUTION:** The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator.
22. **AGREEMENT OF THE PARTIES:**
- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns.
  - B. This contract is to be construed in accordance with the laws of the State of Texas.
  - C. This contract contains the entire agreement of the parties and may not be changed except by written agreement.
  - D. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
  - E. Buyer ☐ may ☒ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all of Buyer's obligations under this contract.
  - F. Addenda which are part of this contract are: *(Check all that apply.)*
    - ☒ (1) Property Description Exhibit identified in Paragraph 2;
    - ☐ (2) Condominium Addendum;
    - ☐ (3) Financing Addendum;
    - ☐ (4) Commercial Property Condition Statement;
    - ☐ (5) Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards;
    - ☐ (6) Notice to Purchaser of Real Property in a Water District;
    - ☐ (7) Addendum for Coastal Area Property;
    - ☐ (8) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; and
    - ☒ (9) Sellers' Addendum (Exhibit "B"), Lead-based Paint Addendum
23. **TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.
24. **EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.
25. **ADDITIONAL NOTICES:**
- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
  - B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
  - C. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included as part of this contract.
  - D. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
  - E. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

Commercial Improved Contract Concerning 1105 S. Church St., Georgetown, TX

F. If any apartments or other residential units are part of the Property and those units were built before 1978, federal law requires a lead-based paint and hazard disclosure statement to be made part of this contract.

G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers.

26. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts by 5:00 p.m., in the time zone in which the Property is located, on \_\_\_\_\_, the offer will lapse and become null and void.

This is a legally binding contract. READ IT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Buyer's  
Attorney \_\_\_\_\_

Seller's  
Attorney \_\_\_\_\_

DRAPT  
Buyer Williamson County of the State

DRAPT  
Seller Wesleyan Homes, Inc.

Buyer \_\_\_\_\_

Seller \_\_\_\_\_

#### AGREEMENT BETWEEN BROKERS

Listing Broker agrees to pay \_\_\_\_\_ N/A \_\_\_\_\_ (Other Broker) a fee of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

N/A  
Other Broker License No.

Brashear Properties, Ltd. 0229867  
Listing Broker License No.

By: \_\_\_\_\_

By: \_\_\_\_\_  
Ercel Brashear

Other Broker's Address \_\_\_\_\_

2955 Dawn Drive, Unit B  
Listing Broker's Address

Phone \_\_\_\_\_ Fax \_\_\_\_\_

(512) 930-5796 (512) 930-1435  
Phone Fax

#### ESCROW RECEIPT

Escrow agent acknowledges receipt of:

- ☐ A. the contract on this day \_\_\_\_\_ (effective date);  
☐ B. earnest money in the amount of \$ \_\_\_\_\_ in the form of \_\_\_\_\_ on this day \_\_\_\_\_

Escrow Agent  
By: \_\_\_\_\_

Address: \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_





APPROVED BY THE  
TEXAS REAL ESTATE COMMISSION  
**ADDENDUM FOR SELLER'S DISCLOSURE OF INFORMATION  
ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS,  
AS REQUIRED BY FEDERAL LAW**

02-10-97  
**180**

CONCERNING THE PROPERTY AT 1105 S. Church St., Georgetown, TX  
(Street Address and City)

**A. LEAD WARNING STATEMENT:** "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-paint hazards is recommended prior to purchase."

**B. SELLER'S DISCLOSURE:**

1. PRESENCE OF LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS (check one box only):

- ☐ (a) Known lead-based paint and/or lead-based paint hazards are present in the Property (explain): \_\_\_\_\_
- ☒ (b) Seller has no actual knowledge of lead-based paint and/or lead-based paint hazards in the Property.

2. RECORDS AND REPORTS AVAILABLE TO SELLER (check one box only):

- ☐ (a) Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the Property (list documents): \_\_\_\_\_
- ☐ (b) Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the Property.

**C. BUYER'S RIGHTS** (check one box only):

- ☐ 1. Buyer waives the opportunity to conduct a risk assessment or inspection of the Property for the presence of lead-based paint or lead-based paint hazards.
- ☒ 2. Within ten days after the effective date of this contract, Buyer may have the Property inspected for the presence of lead-based paint and/or lead-based paint hazards. If lead-based paint or lead-based paint hazards are present, Buyer may terminate this contract by giving Seller written notice within 14 days after the effective date of this contract.

**D. BUYER'S ACKNOWLEDGMENT** (check applicable boxes):

- ☐ 1. Buyer has received copies of all information listed above.
- ☐ 2. Buyer has received the pamphlet *Protect Your Family from Lead in Your Home*.

**E. BROKERS' ACKNOWLEDGMENT:** Brokers have informed Seller of Seller's obligations under 42 U.S.C. 4852d to: provide Buyer with the federally approved pamphlet on lead poisoning prevention; (b) complete this addendum; (c) disclose any known lead-based paint and/or lead-based paint hazards in the Property; (d) deliver all records and reports to Buyer pertaining to lead-based paint and/or lead-based paint hazards in the Property; (e) provide Buyer a period of up to 10 days to have the Property inspected; and (f) retain a completed copy of this addendum for at least 3 years following the sale. Brokers are aware of their responsibility to ensure compliance.

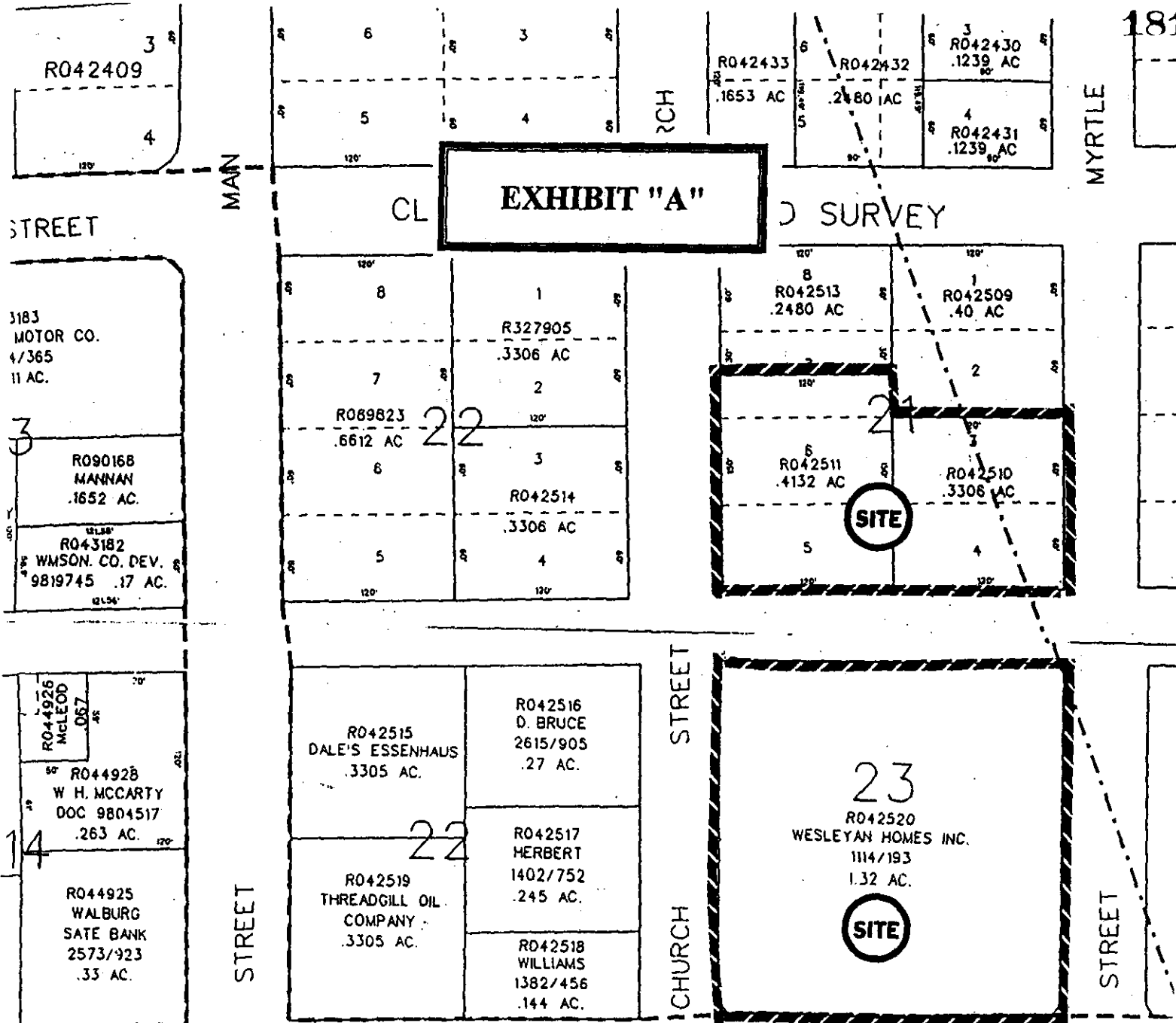
**F. CERTIFICATION OF ACCURACY:** The following persons have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller Wesleyan Homes, Inc. Date \_\_\_\_\_ Buyer Williamson County of the State Date \_\_\_\_\_

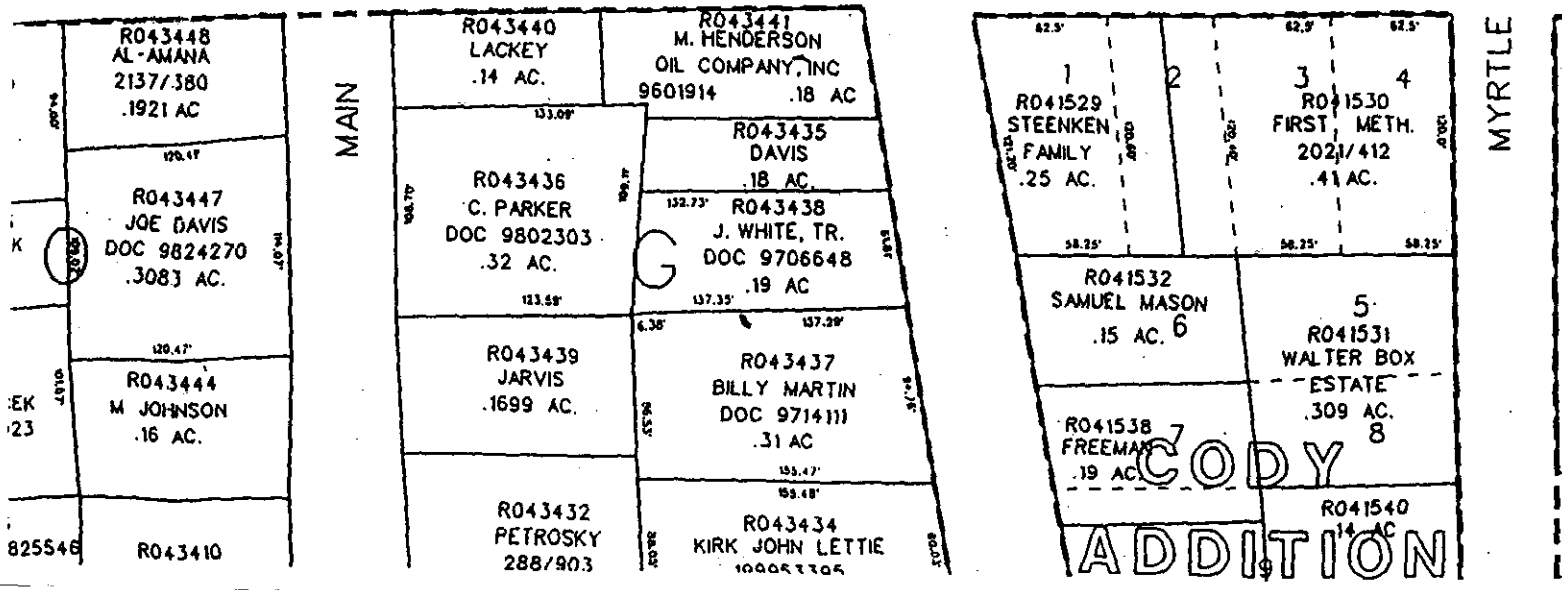
Seller \_\_\_\_\_ Date \_\_\_\_\_ Buyer \_\_\_\_\_ Date \_\_\_\_\_

Listing Broker Excel Brashear Date \_\_\_\_\_ Other Broker \_\_\_\_\_ Date \_\_\_\_\_

The form of this addendum has been approved for voluntary use by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 1-800-250-8732 or (512) 459-6544.



12TH STREET



**EXHIBIT "B"****SELLER'S ADDENDUM TO THE CONTRACT FOR THE SALE OF  
1105 CHURCH STREET, GEORGETOWN, TEXAS**

In addition to the provisions of the contract, Seller and Buyer agree the following conditions shall apply to this transaction:

1. **BUYER REPRESENTATIONS:** Buyer acknowledges and represents to Seller that Buyer is experienced in the ownership and operation of properties similar to the subject property. As a material part of the consideration for this agreement, Seller and Buyer agree that Buyer is taking the property "AS IS" with any and all latent and patent defects and that there is no warranty by Seller or Seller's broker that the property is fit for a particular purpose. Buyer acknowledges that Buyer is not relying upon any representation, statement or other assertion with respect to the property condition, but is relying on its independent examination of the property. Buyer takes the property under the express understanding that there are no express or implied warranties (except for limited warranties of title set forth in the closing documents). This provision of this addendum shall survive the closing of the contract.

2. **SELLER'S OBLIGATIONS:** Within five (5) days of the date of the contract and if in Seller's possession, Seller shall deliver to Buyer:

- A. Copies of all service, management, or maintenance agreements;
- B. Copies of all inspection reports including any environmental reports pertaining to the property so long as such delivery does not violate the terms of such report;
- C. Copies of all appraisals reports commissioned by Seller;
- D. Copies of the "as built" plans and specifications for the property;
- E. Copies of all invoices for utilities and repairs incurred by Seller for the property in the twelve (12) months preceding the date of the contract; and
- F. A current inventory of all tangible personal property owned by Seller that is located on, attached to and used by Seller in connection with the operation of the property.

Buyer shall keep all such information confidential and will not disclose the nature or conclusion in such reports to any third party other than Buyer's consultants, contractors, employees and/or others directly associated with Buyer's effort to purchase the property, unless compelled. Seller may enforce the terms of this confidentiality provision by all legal and equitable remedies available.

3. **FEASIBILITY PERIOD.** Buyer shall have a period of forty-five (45) days from the date of the contract (the "Feasibility Period"), for the right of investigation and inspection of the Property to determine whether or not, in Buyer's sole judgement, the property is suitable for Buyer's intended use.

a. **Access and Indemnity.** Buyer and Buyer's agents shall have the right of access to the Property during normal business hours throughout the Feasibility Period for the purpose of conducting such investigation and inspection as deemed necessary by Buyer. Buyer agrees to provide Seller with copies of all written tests, studies, investigations, and other reports conducted by Buyer or other representatives of Buyer pertaining to the Property. Buyer shall not cause or permit damage or injury to be done to the Property, and Buyer shall repair any damage or injury to the Property resulting from Buyer's investigation and inspection of the Property. Buyer shall indemnify and hold harmless Seller on account of any claims, causes of action, damages, costs and expenses (including attorney's fees) arising out of or

relating to the acts of Buyer, its agents and employees under the provisions of this section. This indemnity shall survive the termination of this Contract.

b. Acceptance by Buyer. If, during the Feasibility Period, Buyer determines in Buyer's sole judgment and discretion that the Property is suitable for Buyer's intended use, Buyer shall give Seller and the Title Company affirmative written notice, on or before the expiration of the Feasibility Period, of Buyer's decision to proceed to the closing of the transaction. Additionally, Buyer shall deposit with the Title Company the sum of \$75,000.00, as additional earnest money to further evidence Buyer's intent to proceed to the closing of the transaction. It is agreed by the parties that in the event that the Contract is terminated after the expiration of the Feasibility Period, for any reason other than a default by Seller, the Earnest Money shall be retained by Seller as liquidated damages.

c. Termination by Buyer. If, during the Feasibility Period, Buyer determines, in Buyer's sole judgement, that the property is not suitable for Buyer's intended use, then Buyer shall, no later than the expiration of the feasibility study period, give Seller and the Title Company written notification of Buyer's decision to terminate the contract. If Buyer does not provide written notice to Seller of Buyer's acceptance or rejection of the Property by the expiration of the Feasibility Period, then it shall be conclusively deemed that the Property is not suitable for Buyer's intended use, the Earnest Money shall be refunded to the Buyer, less the sum of \$100.00 which is to be paid to Seller as independent consideration for Buyer's right to terminate, and both parties shall be released from all further obligations under this Contract. If, for any reason Buyer fails to close this transaction, Buyer shall deliver to Seller all written soil, utility, environmental and feasibility reports prepared by or for Buyer related to the Property which are in possession or in control of Buyer, prior to the release of the earnest money by the Escrow Agent.

#### 4. SPECIAL PROVISIONS:

A. The parties agree that the sale of the property is expressly contingent upon the parties executing a written lease agreement, concurrent with the closing of the contract, allowing Seller to lease back the property from Buyer after the closing of this transaction at terms and under conditions acceptable to both parties. The terms of the lease agreement are to be negotiated during the feasibility period and must be finally accepted by the parties prior to the expiration of the feasibility period. At a minimum, the terms must allow Seller to lease back the property from Buyer for a period of up to two (2) years after the closing of this transaction at terms and under conditions acceptable to both parties with a renewal option for three (3) additional years.

*This is not consistent with the letter of intent item I. I don't know that it makes a lot of difference per*

B. After the expiration of the feasibility period and provided (1) Seller and Buyer have reached an agreement on the terms of the lease agreement and (2) Buyer has elected to complete the purchase of the property, Seller shall not enter into any additional agreements regarding the property without Buyer's specific written approval, which approval shall not be unreasonably withheld.

C. At the time of closing, Seller shall deliver to Buyer:

1. Possession of the Property;
2. Keys to the property; and
3. Personal property used in the operation of the property, if any, along with an executed Bill of Sale transferring possession of such personal property to Buyer.

7. **CONFLICTS:** In the event of a conflict between the provisions of this Seller's Addendum and the provisions of the contract to which this Addendum is attached, the provisions of this Addendum shall prevail.

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*Seller and Buyer acknowledge this Addendum to the Earnest Money Contract has been prepared as an aid in establishing the business details of the transaction as desired by the principals. It is the intent of the principals that this Addendum serves to conform the language of the promulgated contract to the terms of the agreement between the parties. Each party acknowledges that the Real Estate Broker has advised the principals to consult an attorney of their choice before executing this Addendum to the Earnest Money Contract.*

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**SELLER:** Wesleyan Nursing Homes, Inc

**BUYER:** Williamson County of the  
State of Texas

By. \_\_\_\_\_

By. \_\_\_\_\_

**AGENDA ITEM 32**

Discuss and take any appropriate action regarding real estate in Georgetown.

Moved: **Commissioner Heiligenstein**

Seconded: **Judge Doerfler**

Motion: To enter into a feasibility contract for the Wesleyan property with Commissioner Hays continuing to represent the court in negotiations, with the contract to include any professional services needed to determine the value of the property.

Vote: **5 - 0**

**AGENDA ITEM 33**

Discuss and take any appropriate action concerning jail and courts facility projects.

No action taken.

The court asked Jane Tableriou to research whether the county owns 2 half-lots adjacent to the Justice Center.

**AGENDA ITEM 34**

Comments from commissioners.

No comments.

**2:00 P. M.**

**AGENDA ITEM 35**

Work Session-Roads projects

This item was tabled until the December 19, 2000 meeting.

**COMMISSIONERS' COURT ADJOURNED AT 12:10 P.M. ON TUESDAY, DECEMBER 12, 2000.**