

AGENDA ITEM 31

Consider approval and resolution of the Master Agreement Governing Local Transportation Project Advance Funding Agreements from TxDOT.

No action was taken on this agenda item, which will be added to the July 24, 2001 agenda.

AGENDA ITEM 32

Consider approving lease agreement for office space for the County Roads Project Coordinator at 14 Galloping Rd., Round Rock.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Boatright**

Motion: To approve lease agreement for office space for the County Roads Project Coordinator at 14 Galloping Road, Round Rock.

Vote: **5 – 0**

< Attachment >

Office Lease**Terms****Date:** _____, 2001**Landlord:** TLC-EAMAR, LTD. a Texas limited partnership, acting by and through Trine Land Co., Inc., its general partner**Landlord's Address:**1508 S. Lamar Blvd.
Austin, Texas 78704**Tenant:** Williamson County**Tenant's Address:**400 West Main Street, Suite 218
Round Rock, Texas 78664**Premises****Approximate Square Feet:** 164 square feet (see Exhibit "A")**Name of Building:** Building 2**Street Address/Suite:** 14 Galloping Road**City, State, Zip:** Round Rock, Texas 78681-4155**Base Rent (monthly):** \$350.00 (including expenses)**Term (months):** 36**Commencement Date:** May 1, 2001**Termination Date:** June 30, 2004**Security Deposit:** \$-0-**Use:** Office use only**Amount of Liability Insurance:** Death/bodily injury: \$1,000,000.00
Property: \$1,000,000.00

Definitions

"Rent" means Base Rent plus any other amounts of money due Landlord by Tenant.

"Landlord" means Landlord and its agents, employees, invitees, licensees, or visitors.

"Tenant" means Tenant and its agents, employees, invitees, licensees, or visitors.

"Essential Services" means heating, ventilating, air conditioning, water, and utility connections reasonably necessary for occupancy of the Premises for the Use.

"Common Areas" means all facilities and areas of the building that are intended and designated by Landlord from time to time for the common, general, and nonexclusive use of all tenants of the building. Landlord has the exclusive control over and right to manage the Common Areas.

"Building Operating Hours" means 8:00 a.m. to 6:00 p.m. Monday through Friday, except holidays.

"Operating Expenses" means all expenses that Landlord must reasonably pay in connection with the ownership, operation, and maintenance of the building, except principal and interest on any debt, expenditures classified as capital expenditures for federal income tax purposes, and expenses for which Tenant is required to reimburse Landlord.

Clauses and Covenants

A. Tenant agrees to -

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. ☒ Accept the Premises in their present condition "AS IS," the Premises being currently suitable for Tenant's intended Use. ☐ Accept the Premises once the Premises have been improved in accordance with the Tenant Improvements Specifications attached hereto, and to execute the attached **Tenant's Acceptance Letter**.
3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use, condition, and occupancy of the Premises, including the rules and regulations of the building and Parking Facility adopted by Landlord.
4. Pay monthly, in advance, on the first day of the month, the Base Rent to Landlord at Landlord's Address.
5. Pay, as additional Rent, all other amounts due under this lease.
6. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day of the month in which it is due.
7. Pay for all utility services used by Tenant and not provided by Landlord.
8. Pay monthly, in advance, Tenant's Pro Rata Share of the monthly estimated Operating

Expenses and annually, any difference between the estimated Operating Expenses and the actual Operating Expenses, within thirty days of receiving notice of such difference from the Landlord.

9. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

10. Repair, replace, and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain, normal wear excepted.

11. Repair any damage to the Premises or the Common Areas caused by Tenant.

12. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

13. Maintain public liability insurance for the Premises and the conduct of Tenant's business, naming Landlord as an additional insured, in the amounts stated in the lease.

14. Maintain insurance on Tenant's personal property.

15. Deliver certificates of insurance to Landlord before the Commencement Date and thereafter when requested.

16. Indemnify, defend, and hold Landlord harmless from any loss, attorney's fees, court and other costs, or claims arising out of use of the Premises.

17. If requested, deliver to Landlord a financing statement perfecting the security interest created by this lease.

18. Vacate the Premises and return all keys to the Premises on termination of this lease.

19. On request, execute a **Tenant Estoppel Certificate**, in the form attached hereto, that states the Commencement Date and Termination Date of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested.

20. Arrange with Landlord in advance for any heating, air-conditioning, or electrical needs in excess of the services provided by Landlord and pay for such additional services as billed by Landlord.

B. Tenant agrees not to -

1. Use the Premises for any purpose other than that stated in the lease.

2. Create a nuisance.

3. Interfere with any other tenant's normal business operations or Landlord's management of the building.

4. Permit any waste.

5. Use the Premises in any way that is extrahazardous, would increase insurance

premiums, or would void insurance on the building.

6. Change Landlord's lock system.
7. Alter the Premises.
8. Allow a lien to be placed on the Premises.
9. Assign this lease or sublease any portion of the Premises without Landlord's written consent.
10. Park, place or store overnight any vehicle, boat, trailer, storage trailer or other items on the Common Areas without first obtaining the prior written consent of the Landlord.

C. Landlord agrees to -

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date, unless prevented from doing so by some unexpected event beyond the control of the Landlord, such as fire or government intervention.
2. Provide normal utility service connections to the building.
3. Repair, replace, and maintain the (a) roof, (b) foundation, (c) Common Areas, (d) structural soundness of the exterior walls, doors, corridors, and windows, and (e) other structures or equipment serving the Premises, to the extent reasonable, feasible and practical under the circumstances.
4. Insure the building and Common Areas against all risks of direct physical loss in such amounts as Landlord shall deem appropriate; Tenant will have no claim to any proceeds of Landlord's insurance policy.
5. Return the Security Deposit to Tenant, less itemized deductions, if any, within thirty days after the termination of this lease.
6. Provide the following services: (a) air conditioning and heating to the Premises reasonable for Tenant's Use (exclusive of air conditioning or heating for electronic data-processing or other specialized equipment) during Building Operating Hours and at such other times at such additional cost as Landlord and Tenant may agree on; (b) hot and cold water for lavatory and drinking purposes; (c) janitorial service and periodic window washing; (d) elevator service, if necessary, to provide access to and from the Premises; (e) electric current for normal office machines and the building's standard lighting reasonable for Tenant's Use; and (f) lighting in Common Areas and fluorescent lights in the building's standard light fixtures on the Premises.
7. Provide Tenant, on request, with an annual accounting of the Operating Expenses and invoices and an accounting for all heating, air-conditioning, and electrical charges in excess of the services provided by Landlord for which Landlord requests reimbursement and reimburse Tenant promptly for the amount of any estimated Operating Expenses paid by Tenant in excess of actual Operating Expenses.

D. Landlord agrees not to -

1. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the following:

1. **Alterations.** Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at termination of this lease and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

2. **Abatement.** Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

3. **Release of Claims/Subrogation.** Landlord and Tenant release each other from any claim, by subrogation or otherwise, for any damage to the Premises, the building, the Common Areas, or personal property within the building, by reason of fire or the elements, regardless of cause, including negligence of Landlord or Tenant. This release applies only to the extent that it is permitted by law, the damage is covered by insurance proceeds, and the release does not adversely affect any insurance coverage.

4. **Notice to Insurance Companies.** Landlord and Tenant will notify the issuing insurance companies of the release set forth in the preceding paragraph and will have the insurance policies endorsed, if necessary, to prevent invalidation of the insurance coverage.

5. **Casualty/Total or Partial Destruction.**

a. If the Premises are damaged by casualty and can be restored within ninety days, Landlord will restore the Premises, to the extent that insurance proceeds are available therefor, to substantially the same condition that existed before the casualty. If Landlord fails to complete restoration within ninety days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate this lease by written notice to Landlord.

b. If the Premises cannot be restored within ninety days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, the lease will continue and Landlord will restore the Premises as provided in a. above.

c. To the extent the Premises are untenable after the casualty and the damage was not caused by Tenant, the Rent will be adjusted as may be fair and reasonable.

6. **Condemnation/Substantial or Partial Taking.**

a. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

b. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

c. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

7. **Uniform Commercial Code.** Tenant grants Landlord a security interest in Tenant's personal property now or subsequently located on the Premises. This lease is a security agreement under the Uniform Commercial Code. Landlord may file a copy of this lease as a financing statement or execute and file a financing statement on behalf of Tenant.

8. **Default by Landlord/Events.** Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice and failing to provide Essential Services to Tenant within ten days after written notice.

9. **Default by Landlord/Tenant's Remedies.** Tenant's sole remedy for Landlord's default after default is to terminate this lease.

10. **Default by Tenant/Events.** Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning or vacating a substantial portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

11. **Default by Tenant/Landlord's Remedies.** Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

12. **Default/Waiver/Mitigation.** It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.

13. **Security Deposit.** If Tenant defaults, Landlord may use the Security Deposit to pay arrears of Rent, to repair any damage or injury, or to pay any expense or liability incurred by Landlord as a result of the default.

14. **Holdover.** If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

15. **Alternative Dispute Resolution.** Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

16. **Attorney's Fees.** If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

17. **Venue.** Venue is in the county in which the Premises are located.
18. **Entire Agreement.** This lease, together with the attached exhibits and riders, is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to any expressly mentioned exhibits and riders not incorporated in writing in this lease.
19. **Amendment of Lease.** This lease may be amended only by an instrument in writing signed by Landlord and Tenant.
20. **Limitation of Warranties and Indemnity.** THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE. TENANT AGREES TO INDEMNIFY AND HOLD LANDLORD HARMLESS FROM ANY AND ALL CLAIMS OR CLAUSES OF ACTION ARISING OUT OF TENANT'S USE OR OCCUPANCY OF THE PREMISES UNDER THIS LEASE, INCLUDING THOSE CLAIMS OR CAUSES OF ACTION WHICH ARISE OUT OF THE NEGLIGENCE ACTS OR OMISSIONS OF THE LANDLORD, ITS EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, AGENTS OR CONTRACTORS.
21. **Notices.** Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
22. **Abandoned Property.** Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.
23. **Subordination.** Landlord subordinates its security interest and liens to purchase-money security interests in Tenant's personal property.
24. **Base Rent Adjustment.** Beginning one year from the Commencement Date, the Base Rent will be adjusted on each anniversary of the Commencement Date (the "Adjustment Date") to reflect increases in the Consumer Price Index for "All Urban Consumers, U.S. City Average, All Items," issued by the Bureau of Labor Statistics of the United States Department of Labor.
- a. The adjustments in the Base Rent will be determined by multiplying the Base Rent specified in the lease ("Initial Base Rent") by a fraction, the numerator of which is the index number for the last month before the adjustment and the denominator of which is the index number for the first month of the first year of the Term. If the product is greater than the Initial Base Rent, Tenant will pay this greater amount as Base Rent until the next rental adjustment. Base Rent will never be less than the Initial Base Rent.
- b. Landlord will notify Tenant of each adjustment to Base Rent no later than sixty days after the Adjustment Date.
25. **Extension Option.** Tenant has the option to extend the Term as provided in the attached **Extension Option Rider**, if any.

Landlord:

TLC-LAMAR, LTD.

By: Trine Land Co., Inc.

By: Ralph E. Reed
Its President

Tenant:

Williamson County

By: John C. Daehler 7-17-01
County Judge

Tenant Estoppel Certificate**Date:** _____, 2001**Lease****Date:** _____, 2001**Landlord:** TLC-LAMAR, Inc., a Texas limited partnership, acting by and through Trine Land Co., Inc., its general partner**Tenant:** _____, a Texas corporation**Premises:** _____**Addressee:** _____

Tenant certifies to Addressee that -

1. Tenant has accepted and is in possession of the Premises.
2. All required improvements have been completed to the satisfaction of Tenant.
3. Neither Landlord nor Tenant is in default in the performance of the Lease.
4. No rent under the Lease has been paid more than thirty days in advance of its due date.
5. Tenant, as of this date, has no claim of offset against the rent.
6. Tenant understands that Addressee is relying on the representations in this certificate.
7. The current monthly base rent is \$ _____. The next payment is due on _____.
8. The Lease is valid, enforceable, and unmodified.

Williamson CountyBY: John C. Daehler
7-17-01
its County Judge

Extension Option Rider

Landlord hereby grants to Tenant the option to renew this Lease at the end of the term on the following terms and conditions:

1. The Tenant is current and not in default under the Lease.
2. Landlord is the owner of the premises at the Termination Date.
3. Tenant gives Landlord written notice of Tenant's desire to extend the Term of the Lease at least 60 days prior to the Termination Date.
4. The Lease Term may be extended for up to 12 months (the "Extension Term") at the Base Rent then charged to other tenants in Building 1 and 2, but is no event at a Base Rent less than 115% of then current Base Rent, unless Landlord and Tenant mutually agree to a different Extension Term and Base Rent.
5. During the Extension Term, all other provisions of the Lease would remain in effect.
6. If Landlord sells the Premises during the Extension Term the Landlord and its assigns would have the option to terminate the Lease with 60 days advance notice.
7. The Premises subject to the Lease would be the current 500 square feet in Building #2 unless the other tenant(s) in Building #2 desire not to extend their lease(s), in which event, Tenant may be required to lease the remaining portions of Building #2 at a prorata increase in the Base Rent as a condition to Landlord granting the Extension Term.

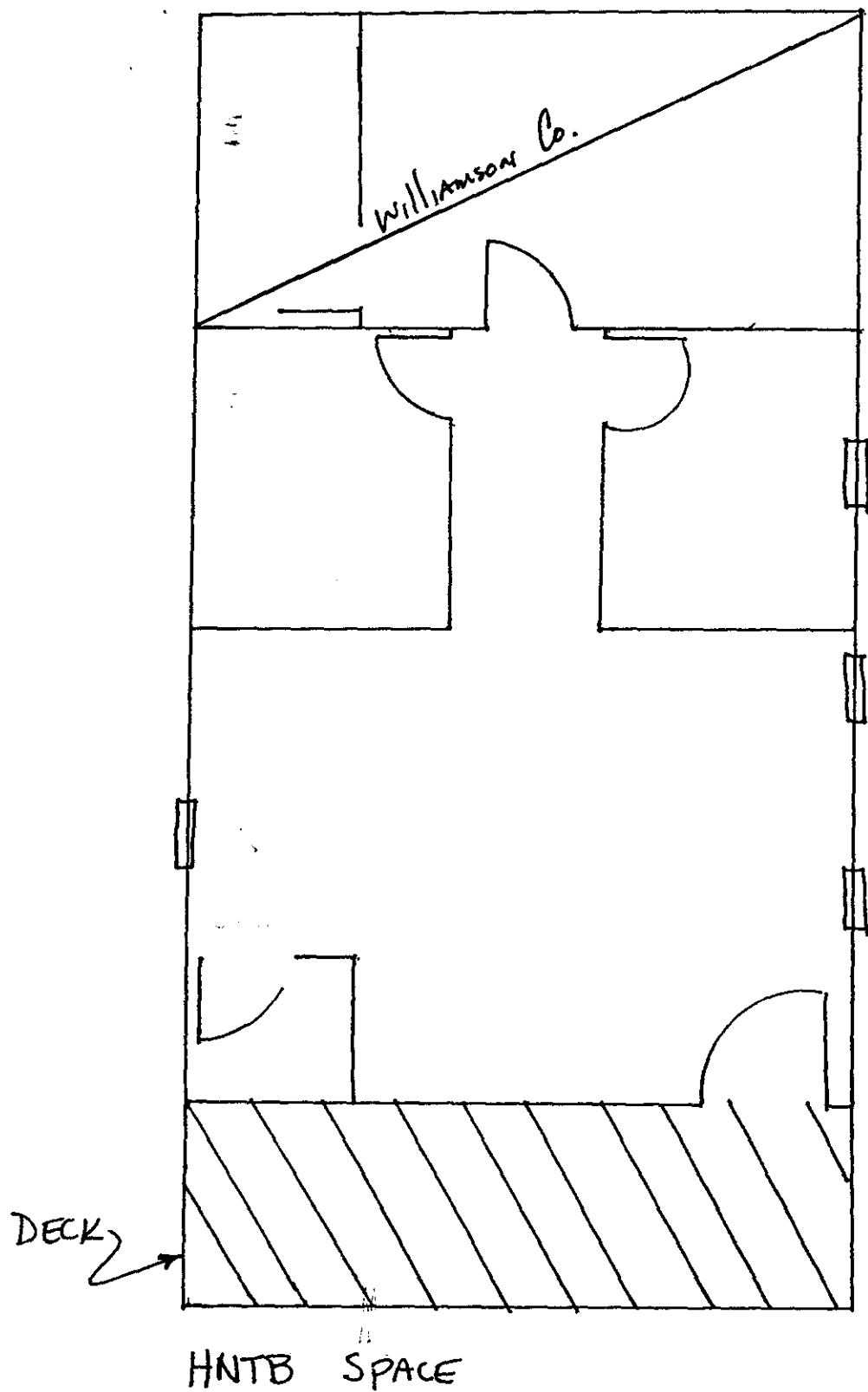


EXHIBIT A - #14 Galloping / Building 2

AGENDA ITEM 33

Hold public hearing regarding the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates.

Judge Doerfler announced the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates open at 10:36 a.m. on Tuesday, July 17, 2001.

No one addressed the court.

Judge Doerfler announced the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates closed at 10:37 a.m. on Tuesday, July 17, 2001.

Judge Doerfler reopened the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates at 10:45 a.m. on Tuesday, July 17, 2001.

James Ellet, a nearby resident, addressed the court with his concerns regarding the resubdivision.

Bill Rockmoor, representative for Bear Creek Country Estates developer, Austin 2000, addressed the court concerning resubdivision issues.

Judge Doerfler announced the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates closed at 10:58 a.m. on Tuesday, July 17, 2001.

AGENDA ITEM 34

Discuss and consider approving the resubdivision of lots 4, 7 & 28, Bear Creek Country Estates.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Heiligenstein**

Motion: To approve the resubdivision of Lots 4, 7 & 28, Bear Creek Country Estates.

Vote: 5 – 0

AGENDA ITEM 35

Consider approving professional services contract for Cobb, Fendley & Assoc. for utility management on Roads Program.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Heiligenstein**

Motion: To approve professional services contract for Cobb, Fendley & Assoc. for utility management on Roads Program.

Vote: 5 – 0

< Attachment >