

Commissioner Limmer withdrew his motion and Judge Doerfler withdrew his second.

Moved: **Commissioner Limmer**

Seconded: **Commissioner Heiligenstein**

Motion: To extend the current agreement with Williamson County Human Society for 30 days.

Vote: **5 – 0**

AGENDA ITEM 30

Consider approving extension of listing agreement with Scott Jacoby Real Estate for Sutton Co. School lands.

Moved: **Commissioner Hays**

Seconded: **Judge Doerfler**

Motion: To approve a new listing agreement with Scott Jacoby Real Estate for Sutton County School lands, with Item A (2) changed to read: "To be additionally retained by Seller: Half the minerals owned *with the same participation rights in any rents, royalties or bonuses.*"

Vote: **5 – 0**

< Attachment >



10/09/2001

Page 115

TEXAS ASSOCIATION OF REALTORS®

FARM-RANCH-RURAL ACREAGE LISTING AGREEMENT

EXCLUSIVE RIGHT TO SELL



THIS FORM IS FURNISHED BY THE TEXAS ASSOCIATION OF REALTORS® FOR
USE BY ITS MEMBERS. USE OF THIS FORM BY PERSONS NOT MEMBERS
OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED

©Texas Association of REALTORS®, Inc. 1999

1. **PARTIES:** The parties to this agreement (this Listing) are Williamson County (Seller) and Scott Jacoby Real Estate (Broker). In consideration of services to be performed by Broker, Seller appoints Broker as Seller's sole and exclusive real estate agent and grants to Broker the exclusive right to sell the Property for the price and on terms described below.

2. **PROPERTY:** The Property is situated in Sutton County, Texas, described as follows:

1476+/- Acres Survey 1 Abstract 780 Williamson County School Land

or as described on attached exhibit, together with all improvements thereon and all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims and permits, easements, all rights and obligations of applicable government programs and cooperative or association memberships. Included with the Property are the following items, if any: windmills and tanks, domestic water systems, curtains and rods, draperies and rods, valances, blinds, window shades, screens, shutters, awnings, wall-to-wall carpeting, mirrors fixed in place, ceiling fans, attic fans, mail boxes, television antennae and satellite dish with controls and all equipment, permanently installed heating and air conditioning units and equipment, window air conditioning units, built-in security and fire detection equipment, plumbing and lighting fixtures (including chandeliers), water softener, built-in kitchen equipment, garage door openers with controls, built-in cleaning equipment, all swimming pool equipment and accessories, shrubbery, landscaping, permanently installed outdoor cooking equipment, built-in fireplace screens, artificial fireplace logs, and all other property owned by Seller and attached to the above described real property.

The following crops and equipment are included: None

The following property is not included: None

All property described above is called the "Property." The Property shall be subject, however, to the following exceptions, reservations, conditions, and restrictions (if none, insert "none"):

A. Minerals, Royalties, and Timber Interests:

(1) Presently outstanding in third parties:

As recorded in the office of the County Clerk, Sutton County, Texas

(2) To be additionally retained by Seller

Half the minerals owned

B. Mineral Leases:

As recorded in the office of the County Clerk, Sutton County, Texas

C. Surface Leases:

As stated in the Lease Contract between Williamson County and Lessee.

D. Easements:

As recorded in the office of the County Clerk, Sutton County, Texas

E. Restrictions, Zoning Ordinances or other Exceptions (including water rights):

Sutton County Subdivision Regulation Ordinances and the Laws & Ordinances of the State of Texas

(TAR-070) 1-1-96

Initialed for Identification: Jed Seller and _____ Broker/Associate

Page 1 of 6

Scott Jacoby Real Estate P. O. Box 295 802 S. Concho Sonora TX 76950-

Phone: (915)387-9065

Fax: (915)387-2200

Scott Jacoby Real Estate

T3389898.ZFX

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035, (800) 383-9805

3. **LISTING PRICE:** Seller lists the Property described above for the gross amount of \$ 500.00 per acre (Listing Price) and agrees to sell the Property for the Listing Price or for any other price Seller may accept. A sale of the Property may be financed through any one or a combination of the following terms: ☒ conventional loan; ☐ F.H.A. insured loan; ☐ V.A. guaranteed loan; ☐ a loan under the Texas Veteran's Housing Assistance Program; ☐ assumption of an existing note; ☒ cash; ☐ a loan financed by Seller; or through such other terms as Seller may accept. Seller shall pay all typical closing costs charged to sellers of farms, ranches, or rural acreage in Texas, including loan discount points and prepayment penalties (sellers' typical closing costs are those set forth in the Farm and Ranch Earnest Money Contract promulgated by the Texas Real Estate Commission). **NOTICE: Broker does not guarantee that the Property will be appraised or sold for the Listing Price nor does Broker guarantee any net amount Seller might realize from the sale of the Property.**

4. **TERM:** This Listing shall commence on October 5, 2001 (Commencement Date) and terminate at 11:59 p.m. on April 5, 2002 (Termination Date). If on the Termination Date there is a pending contract for the sale of the Property, in whole or part, in effect between Seller and a buyer and the transaction described in such a contract has not closed, Broker's Fee is earned and shall be payable according to paragraph 7. If Seller enters into a binding written contract to sell the Property before the Commencement Date, this Listing shall not commence and shall be void.

5. ASSOCIATION AND FILINGS:

(a) **Association:** Broker is a member of the NAR/TAR Association or Board of REALTORS® (the Association and is bound by its rules.

(b) **Filing of Listing (choose (1) or (2)):**

☐ (1) Broker shall file this Listing with the following Multiple Listing Services (MLS) or other listing services: N/A within the earlier of: (i) the time required by the rules or regulations of the named MLS or listing service; or (ii) 4 days after the Commencement Date of this Listing. Seller authorizes Broker to place the Property on a computerized system of public access through a program of the MLS or other listing service. Seller authorizes Broker, upon a final and closed sale of the Property to submit information about this Listing, the sale of the Property, and contract terms, to the named MLS or listing services for publication to subscribers for market evaluation or appraisal purposes and for disclosure of such information to such persons as Broker deems appropriate, including the appraisal district. Any information or data, including information about a sale, shall become the property of the named MLS or listing services for all purposes. **NOTICE: Submission of information to MLS insures that persons who use and benefit from MLS also contribute information.**

☒ (2) Broker shall not file this Listing with a Multiple Listing Service or any other listing service.

(c) **Cooperation with other brokers:** Cooperating with and compensating other brokers means that Broker will allow other brokers to show the Property to prospective buyers and if another broker procures an acceptable offer, Broker will pay the other broker part of the Broker's Fee described in paragraph 7(a). Broker shall offer cooperation and compensation (choose only one): ☐ only to buyer agents; ☐ only to subagents of Broker; ☒ to both buyer agents and Broker's subagents. Broker will determine the terms and conditions of offers to cooperate with and compensate other brokers.

6. AGENCY RELATIONSHIPS:

(a) Seller acknowledges receipt of the attached exhibit entitled "Information About Brokerage Services", which is incorporated in this Listing for all purposes.

(b) Broker shall exclusively represent Seller in negotiations for the sale of the Property unless Seller authorizes Broker, as set forth below, to act as an intermediary in the event Broker also represents a buyer who offers to purchase the Property (choose (1) or (2)).

☐ (1) **Intermediary Relationship Authorized:** Seller authorizes Broker to show the Property to prospective buyers Broker has agreed to represent. If Broker represents a buyer who offers to buy the Property, Seller authorizes Broker to act as an intermediary between the buyer and Seller, to present any offer such buyer may wish to make, and to assist both Seller and buyer in negotiations for the sale of the Property. Broker's compensation shall be paid by Seller as provided in paragraph 7. If Broker acts as an intermediary between Seller and a buyer, Broker:

(i) may not disclose to the buyer that the Seller will accept a price less than the asking price (Listing Price) unless otherwise instructed in a separate writing by the Seller.

(ii) may not disclose to Seller that the buyer will pay a price greater than the price submitted in a written offer to Seller unless otherwise instructed in a separate writing by the buyer;

(iii) may not disclose any confidential information or any information Seller or the buyer specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the Property;

(iv) shall treat all parties to the transaction honestly; and

(v) shall comply with the Real Estate License Act.

If Broker acts as an intermediary, Broker may appoint a licensed associate(s) of Broker to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Seller and appoint another licensed associate(s) for the same purposes to the buyer.

☒ (2) Intermediary Relationship not Authorized: Broker shall exclusively represent Seller and may not act as an intermediary between Seller and a buyer. Seller understands (choose (i) or (ii)):

☒ (i) Broker exclusively represents sellers of real property and does not represent buyers.

☐ (ii) Broker represents both buyers and sellers of real property. However, Broker shall not show the Property to any buyer Broker represents.

(c) Broker shall not knowingly, during the term of this Listing or after its termination, disclose information obtained in confidence from Seller, except as authorized by Seller or required by law. Broker shall not disclose to Seller any information obtained in confidence regarding any other person Broker represents or may have represented, except as required by law.

7. BROKER'S FEE:

(a) Seller shall pay Broker a fee of (complete (i) or (ii)): (i) \$ _____; or (ii) 5.000 % of the sales price; in cash in Sutton County, Texas when Broker's Fee is earned and payable. In the event of an exchange or breach of this Listing, the Listing Price shall be the sales price for purposes of computing Broker's Fee.

(1) Earned: Broker's Fee shall be earned when any one of the following events occurs during the term of this Listing: (i) Broker individually or in cooperation with another broker procures a buyer who enters into a contract with Seller to buy the Property; (ii) Broker individually or in cooperation with another broker procures a buyer ready, willing, and able to buy the Property at the price and on terms stated in Paragraph 3 or at any other price and on terms acceptable to Seller; (iii) Seller sells, exchanges, agrees to sell, or agrees to exchange the Property to anyone at any price on any terms; or (iv) Seller breaches this Listing.

(2) Payable: Once earned, Broker's Fee shall be payable, either during the term of this Listing or after its termination, at the earlier of any one of the following events: (i) the closing and funding of any sale or exchange of the Property; (ii) Seller's refusal to sell the Property; (iii) Seller's breach of this Listing; or (iv) at such time as otherwise set forth in this Listing. Broker's Fee shall not be payable if a sale of the Property does not close or fund as a result of: (i) Seller's failure without fault of Seller, to deliver a title policy to a buyer; (ii) loss of ownership due to foreclosure or other legal proceeding; or (iii) Seller's failure to restore the Property, as a result of a casualty loss, to its previous condition by the closing date set forth in a contract for the sale of the Property.

(b) If a buyer, with whom Seller has entered into a contract for the sale of the Property during the term of this Listing, breaches such a contract and Seller receives earnest money or a portion thereof as liquidated damages, Seller shall pay Broker one-half of such amount, but not to exceed Broker's Fee stated in paragraph 7(a).

(c) If Seller collects the sales price and/or damages either by suit, compromise, settlement or otherwise from a buyer who breached a contract for the sale of the Property entered into during the term of this Listing, Seller shall pay Broker, after deducting attorneys' fees and other expenses of collection, an amount equal to one-half of the amount collected after deductions or the full amount of the Broker's Fee described in paragraph 7(a), whichever is less.

(d) If within 90 days after the termination of this Listing (the Protection Period), Seller enters into a contract to sell the Property or sells, exchanges or otherwise transfers a legal or equitable interest (excluding a lease with no right to purchase) of the Property to any person whose attention has been called to the Property by Broker, any other broker, or Seller during the term of this Listing, Seller shall pay Broker the Broker's Fee as provided in paragraph 7(a), provided Broker, prior to or within five (5) days after the termination of this Listing, has sent to Seller written notice specifying the names of the persons whose attention has been called to the Property during the term of this Listing. If during the term of the Protection Period such sale, exchange or transfer occurs while the Property is listed exclusively with another Texas licensed real estate broker, this paragraph shall not apply and Seller shall not be obligated to pay Broker's Fee. The term "person" shall be broadly construed to include any individual or entity in any capacity.

(TAR-070) 1-1-96

Initialed for Identification: _____, JLC Seller and _____ Broker/Associate

Page 3 of 6

8. BROKER'S AUTHORITY: Broker shall make reasonable efforts and act diligently to sell the Property. Seller authorizes Broker or Broker's associates to: (a) advertise the Property by means and methods as Broker determines; (b) place a "For Sale" sign on the Property in compliance with any State and local laws, rules, ordinances, restrictions, or covenants; (c) remove from the Property all other signs offering the Property for sale or lease; (d) furnish comparative marketing and sales information about other properties to prospective buyers; (e) disseminate information about the Property to other brokers and their associates; (f) enter the Property at reasonable times to show the Property to prospective buyers; (g) authorize other brokers and their associates, home inspectors, appraisers, and repair personnel to enter the Property at reasonable times to show the Property to prospective buyers or for other pertinent purposes; (h) obtain information from any holder of any note secured by a lien on the Property; (i) upon a final and closed sale of the Property disclose the sales price and terms of sale to other brokers, appraisers, or other real estate professionals; and (j) accept earnest money and deposit the earnest money in trust in accordance with the terms of an earnest money contract. Broker is not authorized to execute any document in the name of or on behalf of Seller with respect to the Property.

9. SELLER'S REPRESENTATIONS AND ADDITIONAL PROMISES:

(a) Seller represents that: (1) Seller has fee simple title to and peaceable possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to convey the Property; (2) Seller is not now a party to a listing agreement with another broker for the sale, exchange or lease of the Property; (3) no person or entity has any right to purchase, lease, or acquire the Property by virtue of an option, right of first refusal, or other agreement; (4) there are no delinquencies or defaults under any deed of trust, mortgage, or other encumbrance on the Property; (5) the Property is not subject to the jurisdiction of any court; and (6) all written information relating to the Property provided to Broker by Seller is true and correct.

(b) Seller shall: (1) cooperate fully in good faith with Broker to facilitate the showing and marketing of the Property; (2) not rent or lease the Property during the term of this Listing without the prior written approval of Broker; (3) not negotiate with any prospective buyer who may contact Seller directly, but refer all prospective buyers to Broker; (4) not enter into a listing agreement with another broker for the sale, exchange or lease of the Property to become effective during the term of this Listing; (5) furnish to a buyer of the Property an owner's policy of title insurance in the amount of the sales price at Seller's expense; and (6) provide Broker with copies of all leases or rental agreements, if any, pertaining to the Property and advise Broker of any tenants moving in or out of the Property.

10. SELLER'S DISCLOSURE OF PROPERTY CONDITION: (choose (a) or (b)):

☐ (a) SELLER'S DISCLOSURE NOTICE is attached as required by Section 5.008 of the Texas Property Code. Seller authorizes Broker to furnish prospective buyers and other brokers with a copy of the attached Seller's Disclosure Notice. Seller represents that the attached Seller's Disclosure Notice was completed to the best of Seller's knowledge and belief and that Seller has disclosed all known material defects and material facts affecting the Property in the attached Seller's Disclosure Notice. Seller agrees to amend the Seller's Disclosure Notice if any material change occurs during the term of the Listing.

☐ (b) DEFECTS TO PROPERTY:

(1) Seller is not aware of any latent structural or other material defect to the Property except:

N/A

(2) Seller is not aware of any environmental hazards or conditions affecting the Property which would violate any federal, state, or local statutes, regulations, ordinances or other requirements and more specifically, but without limitation, that: (i) the Property is not now and never has been used for the storage or disposal of hazardous substances or materials or toxic waste, a dump site or landfill, or the housing of any underground tanks or drums; (ii) no radon, asbestos insulation or fireproofing, ureaformaldehyde foam insulation, lead-based paint, or other pollutants or contaminants of any nature now exist or have ever existed on the Property; (iii) no wetlands, as defined by federal or state law or regulation are on the Property; and (iv) no threatened or endangered species or their habitat, as defined by the Texas Parks and Wildlife Department or the U.S. Fish and Wildlife Service, are on the Property, except as follows:

N/A

(3) Seller is not aware that any part of the Property lies in a flood hazard or flood prone area except

Unknown

Seller shall protect, defend, indemnify, and hold harmless Broker, Broker's associates, and any other brokers or their associates, of and from any damages, costs, attorney's fee, and expenses arising from Seller's failure to disclose any material or relevant information or the giving of any incorrect information to Broker, Broker's associates, any other brokers or their associates, or prospective buyer.

11. BACK-UP OFFERS: Broker shall not be obligated to market the Property after Seller has entered into a binding contract to sell the Property. If a subsequent or back-up offer for the purchase of the Property is submitted to Broker after Seller has entered into a binding contract to sell the Property, Broker ☒ shall ☐ shall not submit the subsequent or back-up offer to Seller. If Broker is to submit subsequent or back-up offers, Seller shall specifically provide in any contract for the sale of the Property that Seller may receive and negotiate subsequent or back-up offers.

12. MUD AND ROLLBACK TAX NOTICE: Broker notifies Seller that: (a) §50.301 of the Texas Water Code provides that Seller shall provide a statutorily prescribed written notice to a buyer, at or before the time of contract, if the Property lies, in whole or part, in a Municipal Utility District (MUD) or water district (failure to timely provide the notice may entitle the buyer to terminate a contract); and (b) a change in the use of the Property prior to or after closing may result in the denial of a special valuation of the Property and in the assessment of additional taxes (Rollback Taxes).

13. LIMITATION OF LIABILITY: Broker and any other broker shall not be responsible in any manner for personal injury to Seller resulting from acts of third parties or loss or damage of personal or real property due to vandalism, theft, freezing water pipes, and any other damage or loss not caused by Broker's negligence. If the Property is or becomes vacant during the term of this Listing, Seller shall notify Seller's casualty insurance company and request a "Vacancy Clause" to cover the Property. Broker shall not be responsible for the security of the Property nor for inspecting the Property on any periodic basis. Seller shall protect, defend, indemnify, and hold harmless Broker, Broker's associates, and any other brokers or their associates, of and from any damages, costs, attorney's fees, and expenses arising from acts of third parties or loss or damage of personal or real property due to vandalism, theft, freezing water pipes and any other damage not caused by Broker's negligence.

14. ESCROW AUTHORIZATION: Seller authorizes, and Broker may so instruct, any escrow or closing agent authorized to close a transaction for the purchase or acquisition of the Property to collect and disburse to Broker the Broker's Fee due under this Listing.

15. IRS: The Internal Revenue Service (IRS) requires a closing agent to report the gross sales price, Seller's tax identification number and other required information to the IRS. Seller shall provide to any closing agent such information at the time of closing. IRS requires a buyer of real property to withhold a percentage of the sales price from Seller if Seller is a foreign person. A foreign person includes nonresident aliens, foreign corporations, foreign partnerships, foreign trusts, or foreign estates. In most sales, Seller will be required to deliver an affidavit that Seller is not a foreign person. Seller certifies that Seller ☐ is ☒ is not a foreign person.

16. SPECIAL PROVISIONS:
None

17. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this Listing that may arise between the parties. If the dispute cannot be resolved by negotiation, the dispute shall be submitted to mediation before resorting to arbitration or litigation. If the need for mediation arises, the parties to the dispute shall choose a mutually acceptable mediator and shall share the cost of mediation equally.

18. ATTORNEY'S FEES: If Seller or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing or any transaction related to or contemplated by this Listing, such party shall be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorneys' fees.

19. NOTICES: All notices shall be in writing and effective when hand delivered, mailed, or sent by facsimile transmission to:

Broker at Scott Jacoby Real Estate
802 S. Concho Sonora, TX 76950
Phone 915-387-9065
Fax 915-387-2200

Seller at Williamson Co. Judge's Office
710 Main St., Ste. 201, TX 78626
Phone 512-943-1550
Fax 512-943-1662

20. AGREEMENT OF PARTIES: Addenda and other related documents which are part of this Listing are: Information About Brokerage Services; ☐ Seller's Disclosure Notice; ☒ N/A. This Listing contains the entire agreement between Seller and Broker and may not be changed except by written agreement. This Listing may not be assigned by either party without the written approval of the other party. This Listing is binding upon the parties, their heirs, administrators, executors, successors, and permitted assigns. All Sellers executing this Listing shall be jointly and severally liable for the performance of all its terms. The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Listing. Should any clause in this Listing be found invalid or unenforceable by a court of law, the remainder of this Listing shall not be affected and all other provisions of this Listing shall remain valid and enforceable to the fullest extent permitted by law.

21. ADDITIONAL NOTICES:

(a) Broker's Fees, or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of REALTORS®, MLS, or any listing service. The amount Seller agrees to pay a broker is negotiable.

(b) Fair housing laws require the Property to be shown and made available for sale to all persons without regard to race, color, religion, national origin, sex, disability or familial status.

(c) If the Property was built before 1978, federal law requires that before a buyer is obligated under a contract to buy the Property, the Seller shall: (1) provide the buyer with a lead hazard information pamphlet (as prescribed by EPA); (2) disclose the presence of any known lead base paint or hazards (including providing the buyer with any lead hazard evaluation report available to Seller); and (3) permit the buyer to conduct a risk assessment or inspection for the presence of lead base paint hazards. A contract for the sale of Property built before 1978 must contain a statutorily prescribed Lead Warning Statement to the buyer.

(d) Broker cannot give legal advice. This is intended to be a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Listing, consult your attorney BEFORE signing.

Scott Jacoby Real Estate
BROKER'S PRINTED NAME

0202419
LICENSE NO.

Williamson County
John C. Daerflinger - County Judge
SELLER'S SIGNATURE
Williamson County

10-9-01
DATE

By:
BROKER'S or ASSOCIATE'S SIGNATURE
Scott J. Jacoby

DATE

SELLER'S SIGNATURE

DATE

SELLER'S SOCIAL SECURITY NUMBER OR TAX I.D. NUMBERS

AGENDA ITEM 31

Consider authorizing the County Judge to execute a development agreement with HEB regarding construction and installation of traffic signals at Cedar Breaks Road and Williams Drive.

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To authorize the County Judge to execute a development agreement with HEB regarding construction and installation of traffic signals at Cedar Breaks Road and Williams Drive.

Vote: **5 - 0**

< Attachment >

John C. Doerfler
County Judge
Williamson County



WILLIAMSON COUNTY COURTHOUSE
710 MAIN, SECOND FLOOR
GEORGETOWN, TEXAS 78626
PHONE (512) 943-1550
FAX (512) 943-1662

October 5, 2001

Bubba Needham
Texas Department of Transportation
Director of Transportation Operations
P.O. Drawer 15426
Austin, Texas 78761-5426

Dear Sir:

It is the intention of Williamson County to act as a sponsor under an Advanced Funding Agreement for the construction and installation of traffic signalization at the intersection of Cedar Breaks Road and Williams Drive in Georgetown, Texas.

On October 9, 2001, the Commissioners' Court passed an Order entering into a Development Agreement with HEB regarding HEB's responsibility to fund the costs of the project.

If you have any questions, please contact Charles Crossfield at (512) 255-8877.

Sincerely,

John C. Doerfler 10-9-01

John Doerfler
County Judge
Williamson County

CDC/kg