

**COMMISSIONERS' COURT ADJOURNED TO EXECUTIVE SESSION AT 11:20 A.M. ON TUESDAY, FEBRUARY 18, 2003.**

**AGENDA ITEM 29**

Discuss real estate, contract for Juvenile Academy building: (EXECUTIVE SESSION REQUESTED as per VTCA Govt Code sec. 551.072 relating to real property).

No action was taken on this agenda item.

**COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 11:40 A.M. ON TUESDAY, FEBRUARY 18, 2003.**

**AGENDA ITEM 30**

Discuss and take any appropriate action on contract for Juvenile Academy property.

Moved: **Judge Doerfler**

Seconded: **Commissioner Hays**

Motion: To authorize **Judge Doerfler** to sign the contract offering with the stipulation that the zoning not change until the Commissioners' Court approves the site plan.

Vote: **4 - 0**

< Attachment >

Wynn, Co.

Approved by the Texas Real Estate Commission for Voluntary Use

Texas law requires all real estate licensees to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

## Information About Brokerage Services

**B**efore working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) of a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

### IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

### IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

### IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License

Act. The broker must obtain the written consent of each party to the transaction to act as an intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If you choose to have a broker represent you, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real estate licensee asks that you acknowledge receipt of this information about brokerage services for the licensee's records.

Williamson County

Buyer (Seller, Landlord or Tenant)

2-28-03  
Date

Texas Real Estate Brokers and Salespersons are licensed and regulated by the Texas Real Estate Commission (TREC). If you have a question or complaint regarding a real estate licensee, you should contact TREC at P.O. Box 12188, Austin, Texas 78711-2188 or 512-465-3960.



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TREC No. OP-K

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(TAR-2501) 1/1/96

Don Quick &amp; Associates 1000 N. IH35, Ste. 300, Round Rock Tx 78681

Phone: 512 255 3000

Fax: 512 380 0441

Don Quick

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TEXAS ASSOCIATION OF REALTORS®

**COMMERCIAL CONTRACT - IMPROVED PROPERTY**

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:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Williamson County Commissioner's Court

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Buyer: W. H. Smalling, Trustee, or assignsAddress: 3345 Bee Cave Rd. Ste. 212, Austin, Tx 78746Phone: (512) 329-5100Fax: (512) 329-57832. **PROPERTY:**

- A. "Property" means that real property situated in Williamson County, Texas at 1102 S. Austin Ave., Georgetown, Tx (address) and that is legally described on the attached Exhibit "A" or as follows:

- B. Seller will sell and convey the Property 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) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except: \_\_\_\_\_

(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 .....\$ 1,030,000.00
- B. Sum of all financing described in Paragraph 4 .....\$ -
- C. Sales price (sum of 3A and 3B) .....\$ 1,030,000.00

Initialed for Identification by Buyer \_\_\_\_\_, \_\_\_\_\_ Seller geo

(TAR-1801) 2-6-02

Don Quick &amp; Associates 1000 N. IH35, Ste. 300 Round Rock Tx 78681

Phone: 512 255 3000

Fax: 512 318 0441

Don Quick

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**4. FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3B as follows:

- ☐ A. Third Party Financing: One or more third party loans 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 existing promissory note secured by the Property, 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 \$ \_\_\_\_\_.

**5. EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 10,000.00 as earnest money with Commonwealth Title Co. 7800 MoPac, Austin, Tx (title company and escrow agent) at \_\_\_\_\_ (title company's address). Buyer will deposit additional earnest money of \$ \_\_\_\_\_ on or before: ☐ (i) the \_\_\_\_\_ day after Buyer's right to terminate under Paragraph 7B(3) expires; or ☐ (ii) \_\_\_\_\_. The title company is the escrow agent under this contract.
- B. 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 and may exercise Seller's remedies under Paragraph 15.
- C. 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 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 discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☐ (a) will not be amended or deleted from the title policy.
- ☒ (b) will be amended to read "shortages in areas" 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 30 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.

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B. Survey:

(1) Within 45 days after the effective date:

- ☐ (a) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller.
- ☒ (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. Seller ☐ will ☐ will not deliver to the title company an affidavit required by the title company for approval of the survey that states that Seller knows of no changes or alterations to the Property as depicted on the survey.
- (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 in a special flood hazard area (an "A" or "V" zone as shown on the current Federal Emergency Management Agency (FEMA) flood insurance rate map); and
- (f) contain the surveyor's certificate that the survey is true and correct.

C. UCC Search:

- ☐ (1) Within \_\_\_\_\_ 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.
- ☐ (2) Buyer does not require Seller to furnish a UCC search.

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

- (1) Within 60 days after Buyer receives the commitment, copies of the documents evidencing title exceptions, any required survey, and any required 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 special flood hazard area (an "A" or "V" zone as defined by FEMA);

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- (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 any independent consideration under Paragraph 7B(3)(a), 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:**

- (1) **Delivery of Property Information:** Within 45 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 personal property to be conveyed under this contract;
  - (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 current utility capacity letters from the Property's water and sewer service provider;
  - (g) copies of all current warranties and guaranties relating to all or part of the Property;
  - (h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
  - (i) copies of all leasing or commission agreements that currently relate to all or part of the Property;
  - (j) a copy of the "as-built" plans and specifications and plat of the Property;
  - (k) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
  - (l) a copy of Seller's income and expense statement for the Property from \_\_\_\_\_ to \_\_\_\_\_;
  - (m) copies of all previous environmental assessments, studies, or analyses made on or relating to the Property;
  - (n) real and personal property tax statements for the Property for the previous 2 calendar years; and
  - (o) \_\_\_\_\_

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Commercial Contract - Improved Property concerning 1102. S. Austin Ave., Georgetown, Tx.(2) Inspections, Studies, or Assessments:

- (a) Within 120 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:
- (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) 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. This paragraph survives termination of this contract.
- (3) Feasibility Period and Right to Terminate: Buyer may terminate this contract for any reason within 120 days after the effective date by providing Seller with written notice of termination. If Buyer does not terminate within the time required, Buyer accepts the Property in its **present "as is" condition** with any repairs Seller is obligated to complete under this contract. (Check only one box.)
- ☐ (a) If Buyer terminates under this Paragraph 7B(3), the earnest money will be refunded to Buyer less \$ \_\_\_\_\_ that Seller will retain as independent consideration for Buyer's right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the full amount specified in Paragraph 5 to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale.
- ☒ (b) Buyer has paid Seller \$ 1,000.00 as independent consideration for Buyer's right to terminate by tendering such amount directly to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B(3), the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration ☒ will ☐ will not be credited to the sales price upon closing of the sale.

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- (4) **Return of Property Information:** If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (i) 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 (ii) 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 of this contract.
- (5) **Contract 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:

W.S. Smalling  
Cooperating Broker

License No.

Don Quick and Assoc. Inc.

Principal Broker

347889 License No.

3345 Bee Cave Rd. Austin, Tx  
Address1000 N IH35, Ste. "A", Round Rock, Tx  
Address(512) 329-5100  
Phone(512) 329-5783  
Fax(512) 255-3000  
Phone(512) 310-0441  
Fax

Cooperating Broker represents buyer.

Principal Broker: (Check only one box)

☒ represents Seller only.☐ represents Buyer only.☐ is an intermediary between Seller and Buyer.B. **Fees:** (Check only one box.)

- ☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.
- ☐ (2) At the closing of this sale, Seller will pay:

Cooperating Broker a total cash fee of:

☒ 2.000 % of the sales price.☐ \_\_\_\_\_

Principal Broker a total cash fee of:

☒ 4.000 % of the sales price.☐ \_\_\_\_\_

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

**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 sixty day from end of feasibility study 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.

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Seller JCD

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- B. At closing, Seller will execute and 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 infeasible 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, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, 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 upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, 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.) Buyer's obligations under this contract are subject to the buyer acquiring either one or both of the adjacent tracts owned by W. Berkm and and W. Ross; each of the adjacent tracts are within Block 65, Old Plat, City of Georgetown, Texas. (See Exhibit "B" for reference). This sale is also subject to the buyer being successful in zoning this property for the purchaser's intended use. If either contingency is not fulfilled, buyer may terminate this contract and receive a refund of the earnest money. Buyer (W.S. Smalling) is a real estate broker in the State of Texas. (b.) The seller reserves the right to approve the final acceptance of the type of rezoning of said tract.

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Should seller disapprove of the zoning to be granted to buyer, seller may void this sale and return the earnest money to purchaser.

## 12. SALES EXPENSES:

### A. Seller's Expenses: Seller will pay for the following 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 at or before closing:

- (1) all loan expenses (for example, application fees, origination fees, discount fees, buy-down fees, commitment 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, loan related inspection fees, amortization schedule fees, courier fees, underwriting fees, wire transfer fees, 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.

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- 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 \_\_\_\_\_ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than \_\_\_\_\_ 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 any independent consideration under Paragraph 7B(3)(a), 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 at closing: (i) the Property in its damaged condition; (ii) an assignment of any insurance proceeds Seller is entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.
- 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 any independent consideration under Paragraph 7B(3)(a), 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.

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Initialed for Identification by Buyer \_\_\_\_\_, \_\_\_\_\_ Seller Feb, \_\_\_\_\_

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Commercial Contract - Improved Property concerning 1102. S. Austin Ave., Georgetown, Tx.**15. DEFAULT:**

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
  - (1) terminate this contract and receive the earnest money as liquidated damages, thereby releasing the parties from this contract; or
  - (2) enforce specific performance, or seek other relief as may be provided by law, or both.
- 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 any independent consideration under Paragraph 7B(3)(a), 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) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(3)(a), as liquidated damages, thereby releasing the parties from this contract; or
  - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.

**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 termination of this contract.

**17. ESCROW:**

- A. At closing, the earnest money will 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 any independent consideration under Paragraph 7B(3)(a) 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.)*

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Initialed for Identification by Buyer \_\_\_\_\_, \_\_\_\_\_ Seller jed

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Commercial Contract - Improved Property concerning 1102. S. Austin Ave., Georgetown, Tx.

- ☐ (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 subsurface structures, pits, waste, springs, or improvements;
  - (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, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
  - (f) whether wetlands, as defined by federal or state law or regulation, are on the Property;
  - (g) whether threatened or endangered species or their habitat are on the Property; and
  - (h) any material physical defects in the improvements 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 the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

**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 currency 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. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

## **22. AGREEMENT OF THE PARTIES:**

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns.

Initialed for Identification by Buyer \_\_\_\_\_, \_\_\_\_\_ Seller JS, \_\_\_\_\_

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Commercial Contract - Improved Property concerning 1102. S. Austin Ave., Georgetown, Tx.

- 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 in writing.
- 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 (MUD);
  - ☐ (7) Addendum for Coastal Area Property;
  - ☐ (8) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; and
  - ☐ (9) \_\_\_\_\_

*(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addendum which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)*

**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.

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Initialed for Identification by Buyer \_\_\_\_\_, \_\_\_\_\_ Seller Joe

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Commercial Contract - Improved Property concerning 1102. S. Austin Ave., Georgetown, Tx.

- 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.
- F. If apartments or other residential units are on the Property and the 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 the offer 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.

**READ THIS CONTRACT 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 is Ric Albers Seller's Attorney is Gene Taylor, County Atty.

Buyer: \_\_\_\_\_ Seller: Williamson County  
 By: \_\_\_\_\_ By: John C. Dwyer 2-28-03  
 Printed Name: \_\_\_\_\_ Printed Name: John C. Dwyer  
 Title: \_\_\_\_\_ Title: County Judge

Buyer: \_\_\_\_\_ Seller: \_\_\_\_\_  
 By: \_\_\_\_\_ By: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_ Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_ Title: \_\_\_\_\_

Commercial Contract - Improved Property concerning 1102. S. Austin Ave., Georgetown, Tx.**AGREEMENT BETWEEN BROKERS**

Principal Broker agrees to pay W.S. Smalling (Cooperating Broker) a fee of \$ \_\_\_\_\_ or 2.000 % of the sales price when the Principal Broker's fee is received. Escrow agent is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

W.S. Smalling

Cooperating Broker

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

Don Quirk and Assoc. Inc.

Principal Broker

By: Don Quirk, Pres.**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 \_\_\_\_\_.

Escrow Agent: Commonwealth Title Co.

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

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

7800 MoPac, Austin, Tx

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_



EXHIBIT A  
LEGAL DESCRIPTION.

Page 1

CHURCH OF CHRIST OF GEORGETOWN TO WILLIAMSON COUNTY.

**TRACT 1:** All of that certain lot or parcel of land lying and being situated in the City of Georgetown, in Williamson County, Texas, and being the North East one Fourth (1/4) of Block Sixty-five (65) of the said City and lying on the west side of Brushy Street (now Austin Avenue), and being the same property conveyed by Nancy M. Briggs to E. A. Strickland, S.K.P. Jackson and Joe Davis, trustees for the Central Christian Church, of Georgetown, Texas, by deed dated November 1st, 1894, and recorded in Vol. 71, page 409, of the deed records of Williamson County, Texas; and being that same land described in a deed dated August 19, 1920, and recorded in Volume 196, Page 447 of the Deed Records of Williamson County, Texas.

**TRACT 2:** Being out of and a part of Block 65 of Lost Addition to the City of Georgetown, Williamson County, Texas, and being described by metes and bounds as follows: BEGINNING at a point in the North line of Block 65 of Lost Addition 120 feet from the N. E. corner thereof, and being the N. W. corner of the Christian Church lot, for the N E corner and beginning corner hereof; THENCE West with the North line of said Block 65 of Lost Addition 40 feet for the N W corner hereof; THENCE South and parallel with the West line of said Church lot 80 feet for the S W corner hereof; THENCE East and parallel with the North line of said Block No. 65 and the North line hereof 40 feet to the S W corner of said Church lot and being the S. E. corner hereof; THENCE North with the West line of said Church lot 80 feet to the place of beginning, this being the same identical lot or parcel of land conveyed by Emil Forsvall, Executor of the estate of Oscar Forsvall, deceased, to H. K. Crissey et ux by deed dated October 20, 1942 and recorded in Vol. 314, page 134, deed records of Williamson County, Texas; and being the same identical lot conveyed by H. K. Crissey, et ux, to Albin Anderson by deed dated October 31, 1942, and recorded in Vol. 314, page 263 of the Deed Records of Williamson County, Texas; and being the same identical lot conveyed by Mrs. Albin Anderson, et al, to John H. Rosenblad, Jr. et ux by deed dated October 14th, 1950; and recorded in Vol. 365, page 126 of the Deed Records of Williamson County, Texas, and being that same land conveyed by deed dated November 29, 1950, and recorded in Volume 365, Page 445, of the Deed Records of Williamson County, Texas.

Both TRACT 1 and TRACT 2 being a part of that land conveyed to CHURCH OF CHRIST OF GEORGETOWN, TEXAS, by deed dated March 18, 1992, and recorded in Volume 2117, Page 647, Official Records of Williamson County, Texas.

In Cause No. 92-103-C277, in the 277th Judicial District Court of Williamson County, Texas, styled CHURCH OF CHRIST OF GEORGETOWN, TEXAS, vs. All Persons Claiming Any Title or Interest in Land Under Deeds Heretofore Given to the Church of Christ of Georgetown, Texas, as Grantee, and the Unknown Heirs of All Such Persons, Deceased. The restrictions set forth in the Deed dated August 19, 1920, and recorded in Volume 196, Page 447 of the Deed Records of Williamson County, Texas, and restrictions set forth in the Deed dated November 29, 1950, and recorded in Volume 365, Page 445 of the Deed Records of Williamson County, Texas, were declared VOID and UNENFORCEABLE.

**TRACT 3:** All that certain lot, tract or parcel of land lying and being situated in the City of Georgetown, Williamson County, Texas, and being a part of what is known as Block No. 64 of Lost Addition to said city and being the east part of a tract of land conveyed to Beatrice Johnson by Ethel M. Perry a widow, by deed dated November 13, 1942, recorded in Vol. 314, Pg. 357, Deed Records of Williamson County, Texas, and being more particularly described as follows:

BEGINNING at a point in the North line of Eleventh Street, at the Southeast corner of the said tract conveyed to Beatrice Johnson by Ethel M. Perry, said point also being the S. W. corner of the property now owned by Sue Eanes;

THENCE West along the North line of Eleventh Street, and the South line of said tract conveyed to Beatrice Johnson by Ethel M. Perry a distance of approximately 63 feet to an iron pin for the S. W. corner hereof;

THENCE N 75 feet to an iron pin for the N. W. corner hereof;



THENCE East and parallel with the N. line of said Eleventh Street a distance of approximately 63 feet to the West line of the said Sue Eanes property, for the N. E. corner hereof;

page 2

THENCE S along the west line of the said Sue Eanes property a distance of 75 feet to the PLACE OF BEGINNING.

TRACT 4: All that certain lot, tract or parcel of land lying and being situated within the City of Georgetown, Williamson County, Texas, and being out of and part of Block 64 of Lost Addition to said City, a part of the block of land sold to the heirs of William Knight by J. N. McFadin by deed recorded in Book 12, Page 129, of the Deed

Records of Williamson County, Texas, and a part of the lot conveyed to Henry Willis Sauer by Mrs. Susie Eanes, a single woman by deed dated April 6, 1949, recorded in Book 355, Page 139, Deed Records of Williamson County, Texas, and the lot herein conveyed being described by metes and bounds as follows:

BEGINNING 70 feet West from the Southeast corner of said Block 64 of Lost Addition to the City of Georgetown, on the North line of 11th Street and the South line of said Block, for the beginning point hereof a stake for corner;

THENCE West with the South line of said Block and the North line of 11th street a distance of 50 feet for corner hereof being also the Southwest corner of the lot sold by Mrs. Susie Eanes, a single woman, to Henry Willis Sauer as referred to in the above mentioned deed;

THENCE North with the West line of the lot sold to Henry Willis Sauer by Mrs. Susie Eanes, a single woman, and parallel with Austin Avenue a distance of 100 feet to the Northwest corner of said Sauer lot and the Northwest corner hereof;

THENCE East along the North line of said Sauer's lot and parallel with 11th Street a distance of 50 feet a stake for the Northeast corner hereof;

THENCE South and parallel with the West line of said Sauer's lot and parallel with Austin Avenue a distance of 100 feet to the PLACE OF BEGINNING.



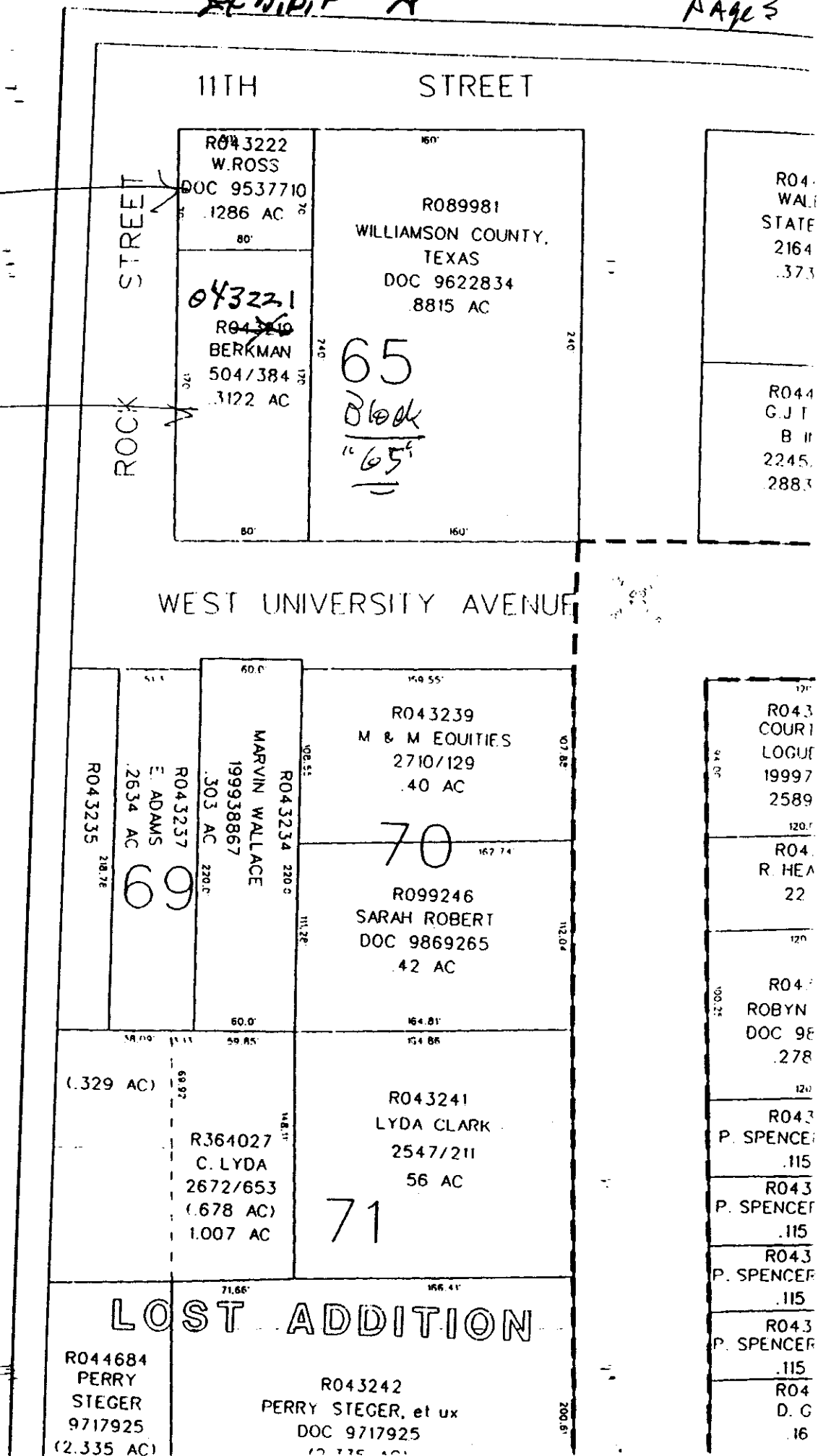
Sch. 6, 4 "A"

Page 3

Ross  
Tract

Berkman  
Tract

Copy of City of  
Georgetown, Texas,  
"Old Plat"



**AGENDA ITEM 31****Comments from commissioners.**

**Judge Doerfler** mentioned that Judge Carter was holding an official opening of the Round Rock office from 2:00 p.m. – 4:30 p.m. today.

John Lincoln from Walburg addressed the court and stated the he and his neighbors are opposed to the possibility of a race track being built by the Texas Track Group on the corner of IH 35 and SH 972.

**COMMISSIONERS' COURT ADJOURNED AT 11:44 A.M. ON TUESDAY, FEBRUARY 18, 2003.**

THE FOREGOING MINUTES recorded on Minutes Pages 1 through 190 inclusive, had at a Special Session of Commissioners' Court of Williamson County, Texas, having been read are hereby approved this 4th day of March, 2003.

  
\_\_\_\_\_  
John C. Doerfler, County Judge

ATTEST: Nancy E. Rister, Clerk County Court & Ex-officio Clerk,  
Commissioners' Court, Williamson County, Texas

By:   
\_\_\_\_\_  
Deputy Clerk