

**AGENDA ITEM 28**

Discuss and take appropriate action on jail/courthouse annex expansion.

Ed Lee updated the court on the jail/courthouse annex expansion.

**COMMISSIONERS' COURT ADJOURNED TO EXECUTIVE SESSION AT 11:38 A.M. ON TUESDAY, AUGUST 19, 2003.**

**AGENDA ITEM 29**

Discuss real estate (EXECUTIVE SESSION as per VTCA Govt. Code sec. 551.071 consultation with attorney.)

There was no action taken in Executive Session.

**AGENDA ITEM 30**

Discuss real property (EXECUTIVE SESSION as per VTCA Govt. Code sec. 551.072 relating to matters of real property.)

There was no action taken in Executive Session.

**COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 12:08 P.M. ON TUESDAY, AUGUST 29, 2003.**

**AGENDA ITEM 31**

Discuss and take appropriate action on real estate.

Moved: **Commissioner Boatright**

Seconded: **Judge Doerfler**

Motion: To authorize Judge Doerfler to sign the contract with Benbrook Development, Ltd. for the dedication of right-of-way for the extension of Oak Grove Road.

Vote: **5 - 0**

< Attachment >

**REAL ESTATE CONTRACT**

State of Texas  
County of Williamson

THIS REAL ESTATE CONTRACT ("Contract") is made by and between BENBROOK DEVELOPMENT, LTD., (referred to in this Contract as "Seller") and the COUNTY OF WILLIAMSON (referred to in this Contract as "Purchaser"), upon the terms and conditions set forth in this Contract.

**ARTICLE I  
PURCHASE AND SALE**

By this Contract, Seller sells and agrees to convey, and Purchaser purchases and agrees to pay for, the tract of land described as follows:

1.68 acres in fee simple (collectively, the "Property"), the location of which shall be approximately in the location shown in Exhibit "A", attached hereto. The final description of the Property will be determined by a survey produced by Purchaser.

together with all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (all of such real property, rights, and appurtenances being referred to in this Contract as the "Property"), **SAVE AND EXCEPT** any improvements, fixtures, and personal property situated on and attached to the Property, for the consideration and upon and subject to the terms, provisions, and conditions set forth below.

**ARTICLE II  
PURCHASE PRICE****Amount of Purchase Price**

2.01. The Property is to be dedicated to the Purchaser.

**ARTICLE III  
PURCHASER'S OBLIGATIONS****Conditions to Purchaser's Obligations**

3.01. The obligations of Purchaser hereunder to consummate the transactions contemplated hereby are subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing.)

Preliminary Title Commitment

3.02. Within ten (10) days after the date hereof, Seller, at Purchaser's sole cost and expense, shall have caused the Austin Title Company ("Title Company") to issue a preliminary title report (the "Title Commitment") accompanied by copies of all recorded documents relating to easements, rights-of-way, etc., affecting the Property. Purchaser shall give Seller written notice on or before the expiration of ten (10) days after Purchaser receives the Title Commitment that the condition of title as set forth in the Title Commitment is or is not satisfactory, and in the event Purchaser states that the condition is not satisfactory, Seller shall promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of Purchaser. In the event Seller is unable to do so within ten (10) days after receipt of written notice, Purchaser may terminate this Contract and it shall thereupon be null and void for all purposes and the Escrow Deposit shall be forthwith returned by the title company to Purchaser, as provided in Article VII. Purchaser's failure to give Seller this written notice shall be deemed to be Purchaser's acceptance of the Title Commitment.

Survey

3.03. Within ten (10) days from the date hereof, Purchaser, at Purchaser's sole cost and expense, shall cause to be delivered a current plat of survey of the Property, prepared by a duly licensed Texas land surveyor. The survey shall be staked on the ground, and the plat shall show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to the Property, if any, and shall contain the surveyor's certification that there are no encroachments on the Property and shall set forth the number of total acres comprising the Property, together with a metes and bounds description thereof.

If any portion of the survey is unacceptable to Purchaser, then Purchaser shall give Seller written notice of this fact. Seller shall promptly undertake to eliminate or modify all the unacceptable portions to the reasonable satisfaction of Purchaser. In the event Seller is unable to do so within ten (10) days after receipt of written notice, Purchaser may terminate this Contract, and the Contract shall thereupon be null and void for all purposes and the Escrow Deposit shall be returned by the title company to Purchaser, as provided in Article VII. Purchaser's failure to give Seller this written notice shall be deemed to be Purchaser's acceptance of the survey.

Miscellaneous Conditions

3.05. Seller shall have performed, observed, and complied with all of the covenants, agreements, and conditions required by this Contract to be performed, observed, and complied with by Seller prior to or as of the closing.

ARTICLE IV  
REPRESENTATIONS AND WARRANTIES  
OF SELLER

Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser also as of the closing date, to the best of Seller's knowledge:

(1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers;

(2) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or any part thereof;

(3) The Property herein is being conveyed to Purchaser under threat of condemnation.

ARTICLE V  
CLOSING

Closing Date

5.01. The closing shall be held at the office of Austin Title, Round Rock office, on or before August 29, 2003, or at such time, date, and place as Seller and Purchaser may agree upon (which date is herein referred to as the "closing date").

Seller's Obligations at Closing

5.02. At the closing Seller shall:

(1) Deliver to Purchaser a duly executed and acknowledged Warranty Deed conveying good and marketable title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (b) Any exceptions approved by Purchaser pursuant to Article III hereof; and

(c) Any exceptions approved by Purchaser in writing.

(2) Deliver to Purchaser a Texas Owner's Title Policy at Purchaser's sole expense, issued by Alamo Title, in Purchaser's favor in the full amount of the purchase price, insuring Purchaser's fee simple title to the Property subject only to those title exceptions listed herein, such other exceptions as may be approved in writing by Purchaser, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (a) The boundary and survey exceptions shall be deleted;
- (b) The exception as to restrictive covenants shall be endorsed "None of Record;" and
- (c) The exception as to the lien for taxes shall be limited to the year of closing and shall be endorsed "Not Yet Due and Payable."
- (d) Deliver to Purchaser possession of the Property.

Purchaser's Obligations at Closing

5.03. At the Closing, Purchaser shall pay the cash portion of the purchase price.

Prorations

5.04. General real estate taxes for the then current year relating to the Property shall be prorated as of the closing date and shall be adjusted in cash at the closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. All special taxes or assessments to the closing date shall be paid by Seller. Agricultural roll-back taxes, if any, shall be paid by Purchaser.

Closing Costs

5.05. All costs and expenses of closing in consummating the sale and purchase of the Property shall be borne and paid as follows:

- (1) Owner's Title Policy and survey to be paid by Purchaser.
- (2) Deed, tax certificates, and title curative matters, if any, paid by Purchaser.
- (3) All other closing costs shall be paid by Purchaser.

(4) Attorney's fees paid by each respectively.

**ARTICLE VII  
ESCROW DEPOSIT**

For the purpose of securing the performance of Purchaser under the terms and provisions of this Contract, Purchaser has delivered to Alamo Title the sum of One Hundred Dollars (\$100.00), the Escrow Deposit, which shall be paid by the title company to Seller in the event Purchaser breaches this Contract as provided in Article IX hereof. At the closing, the Escrow Deposit shall be paid over to Seller and applied to the cash portion of the purchase price, provided, however, that in the event the Purchaser shall have given written notice to the title company that one or more of the conditions to its obligations set forth in Article III have not been met, or, in the opinion of Purchaser, cannot be satisfied, in the manner and as provided for in Article III, then the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

**ARTICLE VIII  
BREACH BY SELLER**

In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default, Purchaser may: (1) enforce specific performance of this Contract; or (2) request that the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

**ARTICLE IX  
BREACH BY PURCHASER**

In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in Article III having been satisfied and Purchaser being in default and Seller not being in default hereunder, Seller shall have the right to receive the Escrow Deposit from the title company, the sum being agreed on as liquidated damages for the failure of Purchaser to perform the duties, liabilities, and obligations imposed upon it by the terms and provisions of this Contract, and Seller agrees to accept and take this cash payment as its total damages and relief and as Seller's sole remedy hereunder in such event.

**ARTICLE X  
SPECIAL PROVISIONS**

10.01. The dedication of the Property is contingent upon the construction by Purchaser of a two lane, curbed and guttered road upon, across and through the Property. If a bid for the construction of said road is not awarded on or before two (2) years from the conveyance of the Property, the Property shall automatically revert to the Seller or their successors and assigns. A reversionary clause

to this effect shall be included in any conveyance document. Irrespective of any provisions listed below, once the award has been made, the Property shall be permanently vested in Purchaser.

10.02 Sellers BENBROOK DEVELOPMENT, LTD. agree to dedicate all right-of-way necessary to connect Halsey Road from Bagdad Road to the proposed extension of CR 276, as shown on Exhibit "A". Additionally, Seller shall construct or cause to be constructed a two lane curbed and guttered road from Bagdad Road to the proposed extension of CR 276 before or simultaneously with the construction of the extension of Oak Grove Road upon the Property.

#### ARTICLE XI MISCELLANEOUS

##### Notice

10.01. Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address set forth opposite the signature of the party.

##### Texas Law to Apply

10.02. This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.

##### Parties Bound

10.03. This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

##### Legal Construction

10.04. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

##### Prior Agreements Superseded

10.05. This Contract constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Time of Essence

10.06. Time is of the essence in this Contract.

Gender

10.07. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Memorandum of Contract

10.08. Upon request of either party, both parties shall promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

10.09 In accordance with the requirements of Section 20 of the Texas Real Estate License Act, Purchaser is hereby advised that it should be furnished with or obtain a policy of title insurance or Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection.

Effective Date

10.10 This Contract shall be effective as of the date it is approved by the Williamson County Commissioner's Court, which date is indicated beneath the Judge's signature below.

Survival of Contract

10.11 The terms and conditions of this Contract shall survive the conveyance of the Property.

SELLER:

BENBROOK DEVELOPMENT, LTD

BY:

ITS: MANAGER

PURCHASER:

County of Williamson

By:

John C. Doerfler  
John Doerfler, County Judge

Date: 8-19-03

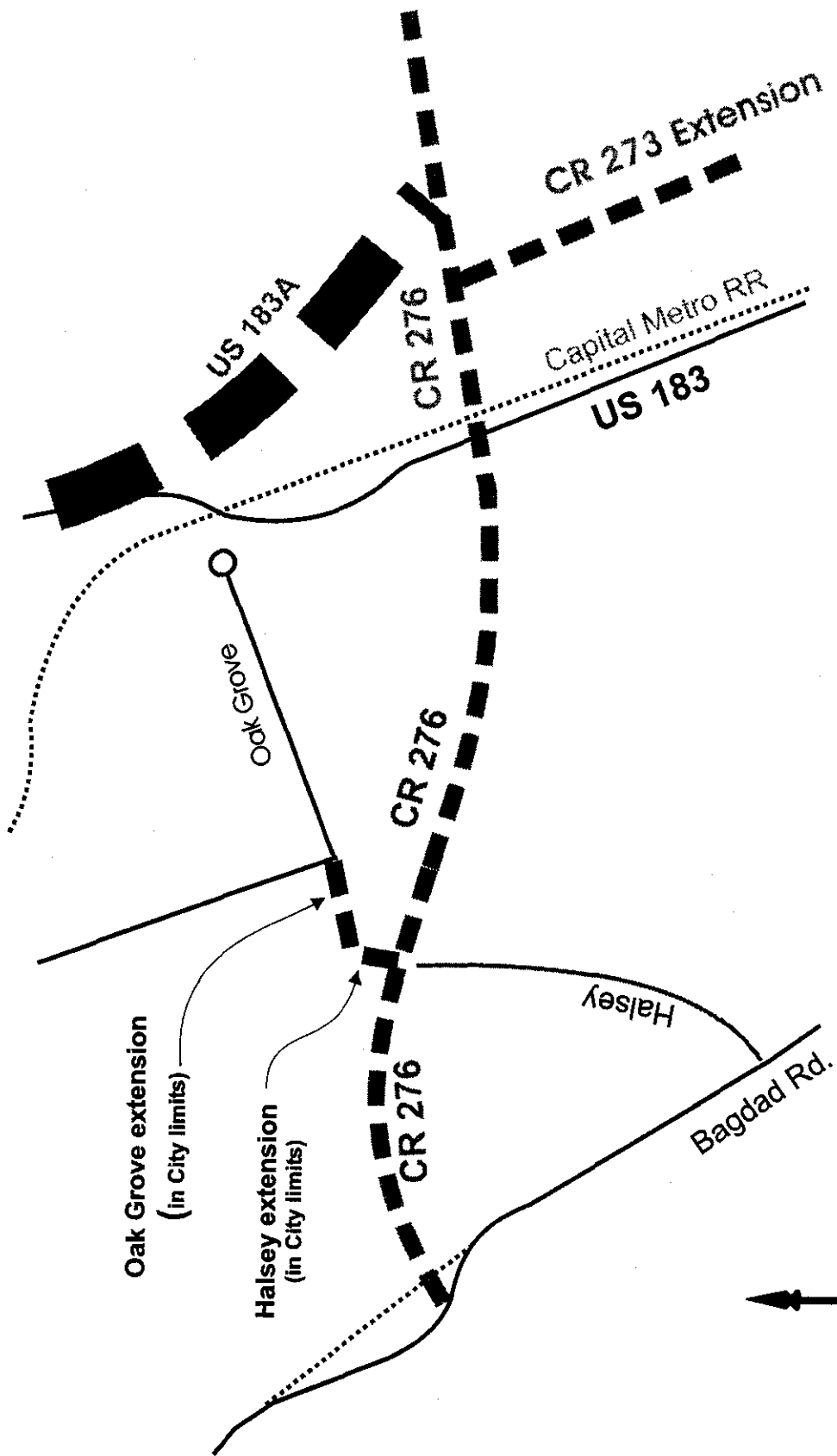


Exhibit "A"

**AGENDA ITEM 32**

Discuss and take appropriate action on real property.

There was no action taken on this agenda item.

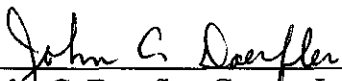
**AGENDA ITEM 33**

Comments from Commissioners

There were no comments from the Commissioners.

**COMMISSIONERS' COURT ADJOURNED AT 12:10 P.M. ON TUESDAY, AUGUST 19, 2003.**

THE FOREGOING MINUTES recorded on Minutes Pages 1 through 314 inclusive, had at a Regular Session of Commissioners' Court of Williamson County, Texas, having been read are hereby approved this 24th day of August, 2003.

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

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

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