

REGULAR AGENDA

AGENDA ITEM 13

Consider granting easement along Great Oaks Drive to Brushy Creek MUD.

Agenda Item 13 was moved from the Consent Agenda by **Commissioner Hays**, who addressed the Court regarding the necessity of making a decision on this easement at this meeting. **Dale Rye** addressed the Court in his capacity as Assistant County Attorney regarding the pending contract between Williamson County and the Brushy Creek M.U.D. Harold Gibbs addressed the court as a long-term resident of the Great Oaks subdivision who would lose a great deal if a water line came across one of his lots.

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To grant easement along Great Oaks Drive to the Brushy Creek M.U.D. in regards to a waterline and a hike-and-bike trail (providing no private property is encroached upon without the consent of the lot owner, and that the trail is not wider than ten feet), while striking the language from the contract regarding a realignment of Great Oaks Drive.

Vote: **5 – 0**

< Attachment >

SOUTH GREAT OAKS

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into effective this 26 day of February, 2004, by and between WILLIAMSON COUNTY (the "County") and BRUSHY CREEK MUNICIPAL UTILITY DISTRICT (the "BCMUD"), a conservation and reclamation district created and operating as a municipal utility district under Art. XVI, Sec. 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code situated in the County of Williamson, State of Texas.

WITNESSETH:

WHEREAS, V.T.C.A., Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that any one or more public agencies may contract with each other for the performance of governmental functions or services for the promotion and protection of the health and welfare of the inhabitants of this State and the mutual benefit of the parties; and

WHEREAS, the County and BCMUD desire to participate in the placement of a water transmission line within the right-of-way along Great Oaks in Williamson County as well as the construction of a pedestrian trail within such right-of-way; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the undersigned parties agree as follows:

I.

FINDINGS

1. **Recitals.** The recitals set forth above are incorporated herein for all purposes and are found by the parties to be true and correct. It is further found and determined that BCMUD and

the County have authorized and approved this Agreement by resolution or order adopted by their respective bodies, and that this agreement will be in full force and effect when approved by each party.

2. **The County's Undertakings.** In order to promote the public health, safety, and welfare, public convenience and necessity require the future establishment of public right-of-ways and related works on the property described in the attached Exhibit "A". The County grants an easement within the right-of-way of Great Oaks south of Sam Bass Road and terminates at the southern edge of the intersection with Oak Meadows Drive for the purpose of constructing water transmission lines and such easement shall be within the property as further described in Exhibit "A", for the purpose of construction and any repairs required by BCMUD during the term of the easement. No other entity may utilize the easement without obtaining approval from the County and BCMUD. Such approval from BCMUD shall not be unreasonably withheld. If at any time the County or any other entity requires that the water line, in part or in its entirety, must be relocated for any purposes whatsoever not initiated by BCMUD, the County or the requesting entity will be responsible for the entire cost of such relocation. Further, in such case, the BCMUD water line will remain fully active until the replacement portion is in place and is operational. The County agrees to participate in the cost of resurfacing the road after the installation by providing manpower and labor to resurface the road. The County agrees that a pedestrian trail may be constructed in the right-of-way of Great Oaks Drive south of Sam Bass Road.

3. **BCMUD's Undertakings.** In order to promote the public health, safety, and welfare, public convenience and necessity require the establishment and operation of a water pipeline and related works on the property described in the attached Exhibit "A". Public convenience and

necessity require the acquisition of an interest in the Property for the purposes of construction, reconstruction, operation, and maintenance of a water pipeline and related works. The BCMUD agrees to construct water pipelines within the right-of-way of Great Oaks as further described in Exhibit "A". Such work shall occur at such hours and in conjunction with such traffic planning as required by the County to allow access by owners of property adjacent to the construction during the time of construction. BCMUD agrees to reimburse the County for all costs associated with the provision of materials required for resurfacing of Great Oaks Drive after the pipeline construction is completed. BCMUD agrees to construct a pedestrian trail in the right-of-way of Great Oaks Drive including the removal or trimming of such trees as is necessary to construct a 10 ft. trail. BCMUD shall be responsible for the maintenance of such trail.

II.

BCMUD Actions

1. **Engineering Plans and Specifications.** Each party shall be responsible for its own engineering and specifications for their respective undertakings.

III.

General and Miscellaneous

1. **Prior Written Agreements.** This Agreement is without regard to any and all prior written contracts or agreements between BCMUD and Williamson County regarding any other subject or matter, and does not modify, amend, ratify, confirm or renew any such other prior contract or agreement between the Parties.
2. **Other Services.** Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the Parties to undertake or not to undertake any other, or to provide or to not provide any service, except as specifically set forth in this

Agreement or in a separate written instrument executed by both Parties. The County shall not be obligated to fund any additional monies other than as stated herein.

3. **Governmental Immunity.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either of the Parties nor to create any legal rights or claim on behalf of any third party. Neither BCMUD or Williamson County waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

4. **Amendments and Modifications.** This Agreement may not be amended or modified except in writing executed by both BCMUD and Williamson County, and authorized by their respective governing bodies.

5. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the Parties shall be construed and enforced in accordance therewith. The Parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, to give effect to the intent of this Agreement and be deemed to be validated and enforceable.

6. **Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

7. **Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date above first written, when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

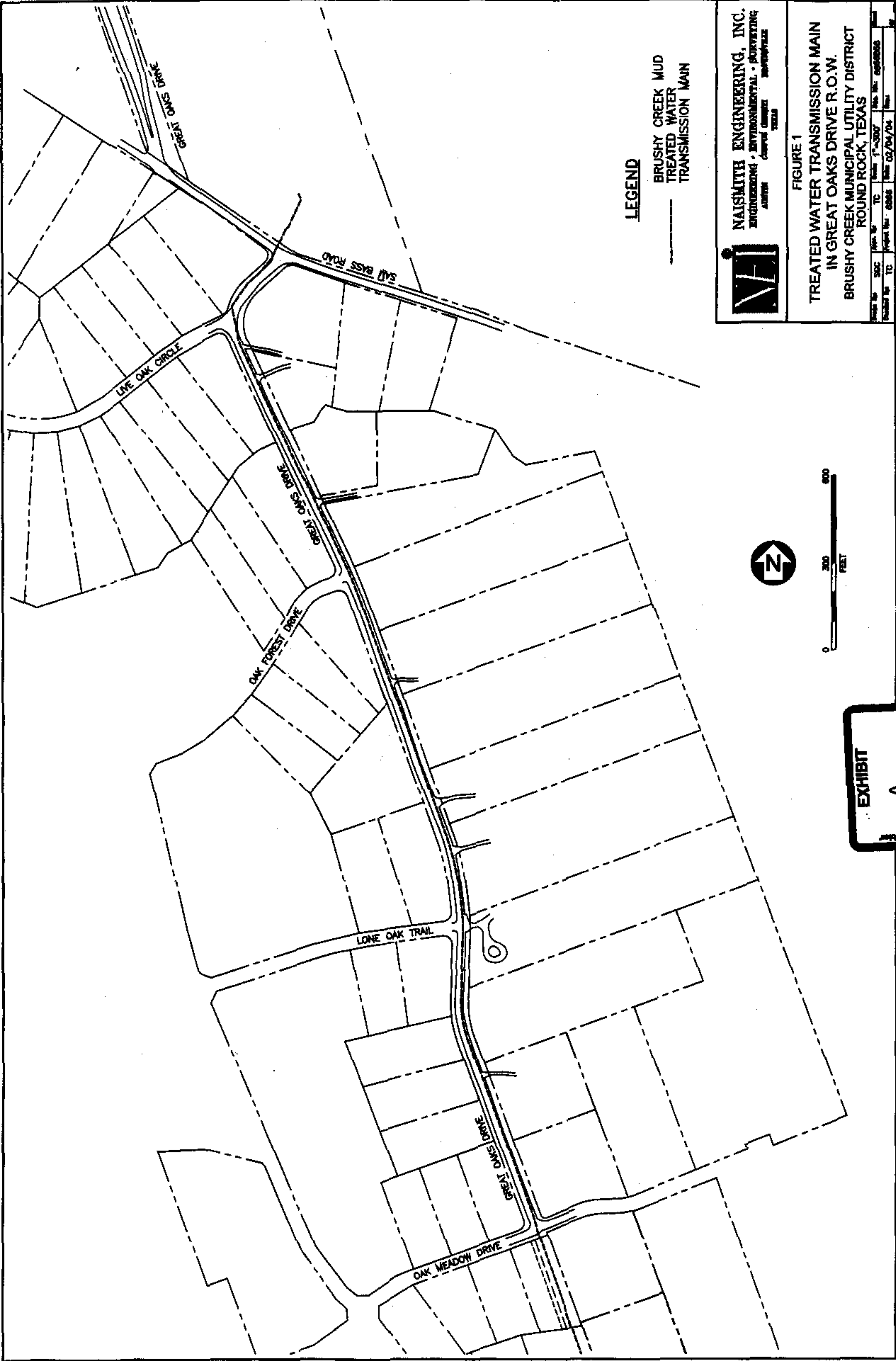
IN WITNESS WHEREOF, the Parties have executed and attested this Agreement by their officers thereunto duly authorized.


WILLIAMSON COUNTY

By: John C. Doerfler 12-16-03
JOHN DOERFLER, County Judge
Williamson County, Texas

**BRUSHY CREEK MUNICIPAL
UTILITY DISTRICT**

By: Mike Taylor
MIKE TAYLOR, General Manager





NAISMITH ENGINEERING, INC.
ENGINEERING • ENVIRONMENTAL • SURVEYING
AUTOMATIC • CAPUT ENGINE • SURVEILLANCE
TEXAS

FIGURE 1

**TREATED WATER TRANSMISSION MAIN
IN GREAT OAKS DRIVE R.O.W.
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT
ROUND ROCK, TEXAS**

Project No.	582C	Sheet No.	TC	Scale	1"=200'	Map No.	00000000
Revision No.	TC	Project No.	0000	Date	02/04/04	Rev.	

EXHIBIT
A