

COMMISSIONERS' COURT ADJOURNED TO EXECUTIVE SESSION AT 10:32 A.M. ON TUESDAY, MAY 11, 2004.

AGENDA ITEM 42

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

No action was taken on this item in Executive Session.

AGENDA ITEM 22 was also discussed in Executive Session.

No action was taken on this item in Executive Session.

COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 11:18 A.M. ON TUESDAY, MAY 11, 2004.

AGENDA ITEM 43

Discuss and take appropriate action on real estate.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Birkman**

Motion: To authorize Judge Doerfler to execute a contract on the County property at the intersection of South Austin Avenue and State Hwy. 29 in the City of Georgetown [the northwest corner lot of South Austin Avenue and Hwy 29, which is also known as the 'old church of Christ site'].

Vote: **5 – 0**

Moved: **Commissioner Hays**

Seconded: **Commissioner Birkman**

Motion: To authorize Judge Doerfler to sign a contract on Block 28 of the Original Townsite of the City of Georgetown (which is also known as the Draeger showroom property).

Vote: **5 – 0**

< Attachment >



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.
©Texas Association of REALTORS®, Inc. 2002

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 of the State of TexasAddress: 701 Main Street, Georgetown, TX 78628Phone: (512) 943-1550Fax: (512) 943-1662Buyer: Clark Lyda, Trustee or assignsAddress: P. O. Box 1757, Georgetown, TX 78627Phone: (512) 868-5932Fax: (512) 868-96652. **PROPERTY:**

- A. "Property" means that real property situated in Williamson County, Texas at 500 S. Austin Ave., Georgetown, TX (address) and that is legally described on the attached Exhibit A or as follows:
Lots 1-8, inclusive, Lot 28, City of Georgetown, Williamson County, Texas

- 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: None

(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\$ 1,227,000.00
- B. Sum of all financing described in Paragraph 4\$ _____
- C. Sales price (sum of 3A and 3B).....\$ 1,227,000.00

Initialed for Identification by Buyer LO Seller YD

(TAR-1801) 2-8-02

Brashear Properties, Ltd 2955 Dawn Drive, #B, Georgetown TX 78628

Phone: 512-930-3796

Fax: 512-930-1435

Ercei Brashear

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

Page 1 of 14

T4201835.ZFX

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX

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 First American Title Company attn: Kandi Nichols (title company and escrow agent) at 115 West 9th Street, Georgetown, TX 78626 (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 21 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.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer CE Seller Jed

Page 2 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX**B. Survey:**(1) Within 21 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 June 1, 2004.
- ☐ (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 10 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);

(TAR-1801) 2-6-02

Initialed for Identification by Buyer CA Seller Jed

Page 3 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX

- (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:

☒ 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 5 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) _____

(TAR-1801) 2-6-02

Initialed for Identification by Buyer BR

Seller JD

Page 4 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX(2) Inspections, Studies, or Assessments:

- (a) Within 45 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 45 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 \$ 100.00 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 \$ _____ 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.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer CA Seller Jed

Page 5 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX

- (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:

Brashear Properties, Ltd.

Cooperating Broker

0229867 License No.

Don Quick & Associates

Principal Broker

347889 License No.

2955 Dawn Dr., #B, Georgetown, TX
Address

1000 N IH-35, #A, Round Rock, TX
Address

(512) 930-5796

Phone

(512) 930-1435

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:

☐ _____ % of the sales price.

☒ _____ % of the sales price.

Principal Broker a total cash fee of:

☐ _____ % of the sales price.

☒ _____ % 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 See Exhibit "B" 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.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer la, Seller jd

Page 6 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX

- 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 indefeasible 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.)*
Exhibit "B" is attached hereto and specifically made a part hereof.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer

BE

Seller

Jed

Page 7 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX**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.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer la Seller jud

Page 8 of 14

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX

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 N/A 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.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer LO Seller Jal

Page 9 of 14

Commercial Contract - Improved Property concerning 500 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.)

(TAR-1801) 2-6-02

Initialed for Identification by Buyer caSeller jos

Page 10 of 14

Commercial Contract - Improved Property concerning 500 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 la Seller jed

(TAR-1801) 2-6-02

Page 11 of 14

Commercial Contract - Improved Property concerning 500 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) Exhibit "B"

(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.

(TAR-1801) 2-6-02

Initialed for Identification by Buyer

la Seller ja

Page 12 of 14

Commercial Contract - Improved Property concerning 500 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 _____ Seller's Attorney is _____

Buyer: Clark Lyda, Trustee Seller: Williamson County of the State

By:  By: 

Printed Name: Clark Lyda, Trustee Printed Name: John Doerfler

Title: _____ Title: County Judge

Buyer: _____ Seller: _____

By: _____ By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

Commercial Contract - Improved Property concerning 500 S. Austin Ave., Georgetown, TX**AGREEMENT BETWEEN BROKERS**

Principal Broker agrees to pay _____ (Cooperating Broker) a fee of \$ _____ or _____ % 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.

Cooperating Broker

Principal Broker

By: _____

By: _____

ESCROW RECEIPT

Escrow agent acknowledges receipt of:

- ☒ A. the contract on this day 5/20/04 (effective date);
☐ B. earnest money in the amount of \$ _____ in the form of _____ on _____.

Escrow Agent: First American Title CompanyAddress: 115 West 9th StreetGeorgetown, TX 78626By: [Signature]
attn: Kandi Nichols

Phone: _____

Fax: _____

EXHIBIT "B"**Addendum to the Commercial Contract – Improve Property**

Williamson County of the State of Texas ("Seller"), and Clark Lyda, Trustee, or assigns ("Buyer"); hereby incorporate this addendum as part of the Commercial Contract – Improved Property ("Contract") between the parties for the sale of Lots 1-8, Block 28, City of Georgetown, Williamson County, Texas.

1. **SELLER'S CONTRACT CONTINGENCIES:** The parties acknowledge the closing of the Contract is specifically contingent upon the completion of the following events:

A. **ACQUISITION OF OTHER PROPERTY:** The parties acknowledge that the closing of the Contract is specifically predicated upon the execution of a binding agreement between Seller and the City of Georgetown ("City") for the acquisition by Seller of the City's 1.239 acres of land, ("Tract 1") as identified on Exhibit B-1, attached hereto, by no later than the termination date of the Feasibility Period ("Feasibility Period") as set forth in Paragraph 7 of the Contract.

If, at the termination of the Feasibility Period, Seller has not entered into a binding agreement with the City, then Buyer may elect, in a separate writing to the Seller and the Title Company, to either:

i) Unilaterally grant Seller an additional thirty (30) days to secure an agreement with the City. In such case Buyer's Feasibility Period will be extended by an additional thirty (30) days. or;

ii) Terminate the Contract by giving written notice to Seller and the Title Company that the Contract is terminated, and the Escrow Deposit held by the Title Company shall be returned to Buyer, less the sum of \$100.00 which is to be paid to Seller as independent consideration for Buyer's right to terminate the Contract.

B. **LEASE BACK PROVISIONS:** Seller may determine, during Buyer's Feasibility Period, to retain possession of the property after closing the Contract. In that event, the parties agree that no later than seven (7) days prior to the termination of Buyer's Feasibility Period, to enter into an mutually approved agreement to lease-back the Premises to Seller after the date of closing. The basic terms of the lease agreement shall be as follows:

i) **TERM:** The term of the lease shall begin on the closing date and shall end twenty-four (24) months after the commencement date ("Primary Term").

ii) **AMOUNT:** The base rent shall be paid in monthly installments of \$10,500.00 per month for the duration of the lease. In addition to the base rent, the Seller agrees to pay all property taxes, insurance, repair and maintenance expenses associated with ownership of the property. These expenses shall be prorated and paid monthly along with the base rent.

iii) **OPTION TO RENEW:** Seller shall have an option to extend the term of the Lease for one (1) twelve (12) month period ("Option Period"), such extended lease period to begin upon the termination of the Primary Term. All the terms of the Lease during the Option Period shall remain the same.

2. **BUYER'S CONTRACT CONTINGENCIES:** The parties acknowledge the closing of the Contract is specifically contingent upon the completion of the following events:

A. **SITE PLAN APPROVAL PERIOD:** The closing of the Contract is expressly contingent upon Buyer obtaining, at Buyer's sole cost and expense, approval of a Site Development Permit ("Site Permit") as defined in the Development Regulations of the City, authorizing the redevelopment of the Property, under terms and conditions that are acceptable to Buyer, in Buyer's sole judgment. Buyer shall have a period of sixty (60) days ("Approval Period") after the later of i.) the expiration of the Feasibility Study Period, as set forth in Paragraph 7 of the Contract, or ii.) the execution of the binding agreement between the Seller and the City set forth in Paragraph 1A, above in which to obtain an approved Site Permit from the City.

If Buyer's Site Permit has not been issued within the Approval Period, then Buyer, at Buyer's sole discretion, may choose one of the following:

- i) Prior to the expiration of the Approval Period, give written notice to Seller and the Title Company that the Contract is terminated, and the Escrow Deposit held by the Title Company shall be returned to Buyer, less the sum of \$100.00 which is to be paid to Seller as independent consideration for Buyer's right to terminate the Contract, or
- ii) Proceed to close the Contract; or
- iii) Buyer may pay to the Seller, the sum of TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) as an Extension Fee for the right to unilaterally extend the time of the Approval Period for one (1) period of thirty (30) days. Concurrent with the delivery of the Extension Fee to Seller, Buyer shall, in writing, notify both the Seller and the Title Company of Buyer's decision to acquire the extension period. The Extension Fee shall be paid directly to Seller and shall apply to the purchase price of the Property.

The failure of Buyer to notify Seller of Buyer's decision to extend the Approval Period before the end of the Approval Period shall be deemed an election by Buyer to terminate the Contract.

Buyer hereby agrees that Buyer shall be required to obtain Seller's prior written approval of any Site Permit application filed by Buyer or any modification thereto, which consent shall not be unreasonably withheld. Buyer shall provide Seller with a copy of all Site Permit submittals filed by Buyer and all revisions thereto.

Buyer further agrees that if Buyer, for any reason, should fail to close the purchase and sale of the Property, Buyer shall have the obligation to deliver to Seller, in conjunction with the written notice of termination, copies of any and all documents reflecting work performed by or on behalf of the Buyer in seeking Site Permit approval including, but not limited to, copies of any and all engineering drawings, analysis and calculations, any other drawings, working drawings, notes, surveys and site plans.

During the Approval Period, Buyer shall not cause or permit damage or injury to be done to the Property and Buyer shall repair any damage or injury to the Property resulting from any action taken by or on behalf of Buyer. Buyer shall indemnify and hold Seller harmless from and against

any and all claims, causes of action, damages, costs and expenses (including attorney's fees) asserted against or sustained by Seller arising out of or relating to the acts of Buyer, its agents, representatives and employees. This indemnity shall survive the termination or Closing of the Contract.

3. **CLOSING:** The closing of the sale of the property shall be on or before thirty (30) days after the termination of the Approval Period or one hundred eighty (180) days after the Effective Date of the Contract, whichever is earlier. The Closing shall occur in the offices of the Title Company.

4. **ASSIGNMENT:** This contract may be assigned by Buyer to a to-be-formed business entity in which the Buyer retains a managing or controlling interest without the written consent of Seller, provided said entity assumes, in writing, all of the obligations of the Buyer. All other assignments will be subject to Seller's prior written approval, which will not be unreasonably withheld provided the Assignee assumes, in writing, all of the obligations of the Buyer. If this contract is assigned by Buyer, Buyer shall continue to be liable to Seller for all of Buyer's obligations hereunder.

5. **CONFLICTING TERMS:** In the event of a conflict between the provisions of this Addendum and the provisions of the contract to which this Addendum is attached; the provisions of this Addendum shall prevail.

Seller and Buyer acknowledge this Addendum to the Contract has been prepared as an aid in establishing the business details of the transaction as desired by the principals. It is the intent of the principals that this Addendum serve to conform the language of the promulgated contract to the terms of the agreement between the parties. Each party acknowledges that the Real Estate Broker has advised the principals to consult an attorney of his or her choice before executing this Addendum or the Contract.

BUYER: CLARK LYDA, TRUSTEE
OR ASSIGNS

SELLER: WILLIAMSON COUNTY OF
THE STATE OF TEXAS

By: _____

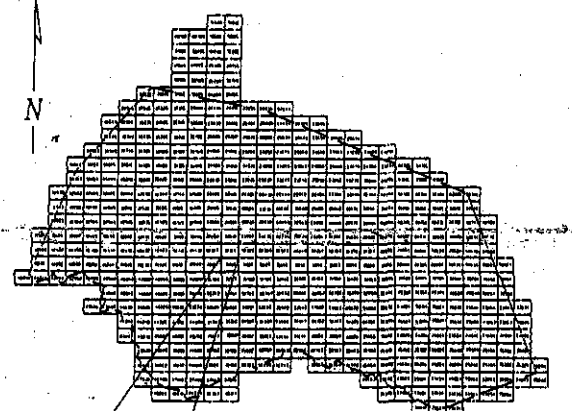
Date: _____

5/12/04
20
ca









By: _____

Date: _____

5-17-04

[illegible]

31014	31016	31018
31214	31216	31218
31414	31416	31418

-  PARCEL BOUNDARY
 ORIGINAL SURVEY
 SUBMISSION BOUNDARY
 ABSTRACT BOUNDARY
 CITY LIMIT
 ISO BOUNDARY
 COUNTY LINE
 M. U. D. LINE

GEORGETOWN I. S. D.

EXHIBIT B-1

AGENDA ITEM 44**Comments from commissioners.**

Commissioner Birkman thanked **Commissioner Limmer** for inviting the members of the Court to the Expo Center.

Commissioner Boatright gave a report on a CAMPO public hearing, which was held on the evening of Monday, May 10, 2004. He also noted that Connie Watson (formerly employed by Sun City, Texas) has accepted the position of Public Information Officer and will begin June 1, 2004.

Judge Doerfler noted that the County has received a grant from the Texas Historical Commission to restore the Courthouse. There was some discussion regarding the early plans to obtain the remaining \$1.5 million, which will be needed to complete the restoration project and the fact that locations for offices to be moved will soon be sought.

Commissioner Limmer expressed his appreciation for the work done by Leo Wood in the acquisition of those funds.

COMMISSIONERS' COURT ADJOURNED AT 11:31 A.M. ON TUESDAY, MAY 11, 2004.