

AGENDA ITEM 31

Consider approving interlocal agreement for Co Rd. 176 between Williamson County and Brushy Creek Municipal Utility Dist.

Mark Dietz addressed the Court in his capacity as an attorney representing the Brushy Creek Municipal Utility District.

Moved: **Commissioner Hays**

Seconded: **Commissioner Birkman**

Motion: To approve interlocal agreement for Co Rd. 176 between Williamson County and Brushy Creek Municipal Utility Dist.

Vote: **4 – 0**

< Attachment >

DIETZ & ASSOCIATES, P.C.
Attorneys At Law

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Telephone (512) 244-9314
Facsimile (512) 244-3766

R. Mark Dietz
Melissa G. Dietz

J. Lee Jarrard, Jr.
Douglas G. Cornwell

June 3, 2004

The Hon. John Doerfler
County Judge
Williamson County Courthouse
710 Main Street, Second Floor
Georgetown, Texas 78626

via Hand Delivery

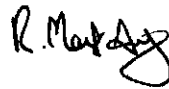
Re: County Road 176 Interlocal Agreement by and between Williamson County and
Brushy Creek Municipal Utility District

Dear Judge Doerfler:

Please find attached the proposed County Road 176 Interlocal Agreement between Williamson County and Brushy Creek Municipal Utility District which we would ask be put on the agenda for Tuesday, June 8, 2004. By separate copy I am providing this Agreement to David Hayes, Joe England, and Dale Rye. This Agreement was the subject of discussions between the parties, and we believe this Agreement correctly reflects our understanding.

Please do not hesitate to contact me should you have any questions.

Sincerely yours,



R. Mark Dietz

RMD/ca
Attachment

| | | |
|------------|-----------------------------|---------------|
| cc w/encl: | Commissioner Greg Boatright | Hand Delivery |
| | Mr. Joe England | Hand Delivery |
| | Mr. Dale Rye | Hand Delivery |

**COUNTY ROAD 176
INTERLOCAL AGREEMENT**

THIS INTERLOCAL AGREEMENT is made and entered into effective this 8th day of June, 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 desires to acquire additional right-of-way for County Road 176; and

WHEREAS, the County and BCMUD desire to participate in the placement of a water transmission line within the right-of-way along County Road 176 in Williamson County; 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 along County Road 176 described in the attached Exhibit "A". The County shall acquire 40 feet of right-of-way and utility easement and a 10 foot temporary construction easement described therein by contract or eminent domain. The County appoints BCMUD as its agent for acquisition. The County shall thereafter grant an easement on said property for the purpose of placement of water lines.

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". BCMUD agrees to act as agent for the County and to acquire this real property interest described in the attached Exhibit "A".

4. **Costs of Acquisition.** BCMUD shall pay seventy-five (75%) percent of all costs associated with the acquisition of the property defined in this agreement. The County shall pay twenty-five (25%) percent of all costs. BCMUD may advance costs and the County shall reimburse BCMUD for its share of costs.

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 6-8-04
JOHN DOERFLER, County Judge
Williamson County, Texas

**BRUSHY CREEK MUNICIPAL
UTILITY DISTRICT**

By: Mike Taylor
MIKE TAYLOR, General Manager

EXHIBIT "A"**40 Foot Wide Right-Of-Way & Utility Easement**

**FIELD NOTE DESCRIPTION OF A
2.694 ACRE TRACT OF LAND OUT OF THE
CAROLYN SUE MEIHAUS & MARGARET ELIZABETH CROSLIN TRACT,
LOCATED IN WILLIAMSON COUNTY, TEXAS**

BEING a 2.694 acre (117,371 square feet) tract of land situated in the John T. Church Survey, Abstract No. 140, Williamson County, Texas; being a portion of that certain called Two (2) acre tract of land (Ninth Tract), 53 acre tract of land (Fifth Tract), and 38 acre tract of land (Second Tract) described in a Deed from E.D. Mason and wife, Fannie L. Mason to Carolyn Sue Meihaus and Margaret Elizabeth Croslin, filed for record on February 15, 1968, and recorded in Volume 505, Page 290, Williamson County Deed Records (W.C.D.R.); said 2.694 acre tract being more particularly described by metes and bounds as follows with bearings based on the Texas State Plane Coordinates NAD83/93 HARN, Texas Central Zone, which is based upon the published positions of the City of Round Rock Control Monuments No. 01-005, 01-031 and 01-032:

BEGINNING at a 3/4-inch iron rod found marking the intersection of the northerly line of County Road No. 176 (Co. Rd. 176), the easterly line of said 2 acre tract (Ninth Tract), and the westerly line of that certain called 44.31 acre tract of land described in a Wrap Warranty Deed With Vendor's Lien from John L. Dennis, Trustee to David Bawcom, Trustee, executed on September 8, 1986, and recorded in Volume 1735, Page 876, Official Records of Williamson County, Texas (O.R.W.C.T.); said point being the southeast corner of that certain called 0.05 acre tract of land described in a Easement Deed from Charlie Bess Davis and husband, Monroe Davis, Carolyn Sue Davis Bush and husband, William E. Bush, Margaret Elizabeth Davis Croslin and husband, Charles W. Croslin to Pedro G. Zamora and wife, Odessa Zamora and Michael G. Jones and wife, Anita Dias Jones, executed June 4, 1980, and recorded in Volume 798, Page 169, W.C.D.R.; said point also being the easternmost corner of the herein described tract and being located at Texas State Plane Coordinate grid position X=3102284.61 and Y=10188526.89;

THENCE, with the northerly line of said Co. Rd. 176, along the general line of an existing fence, the following five (5) calls:

- 1) South 66 degrees 31 minutes 20 seconds West, a distance of 37.42 feet to an angle point for corner of the herein described tract;
- 2) South 68 degrees 32 minutes 02 seconds West, a distance of 108.95 feet to an angle point for corner of the herein described tract;
- 3) South 69 degrees 42 minutes 40 seconds West, a distance of 87.34 feet to an angle point for corner of the herein described tract;

Exhibit "A" continued
Description of 2.694 acre tract

- 4) South 68 degrees 26 minutes 54 seconds West, a distance of 531.71 feet to an angle point for corner of the herein described tract;
- 5) South 67 degrees 43 minutes 23 seconds West, a distance of 177.54 feet to an angle point for an interior corner of the herein described tract;

THENCE, with the westerly line of said Co. Rd. 176, continuing along the general line of an existing fence, the following six (6) calls:

- 1) South 19 degrees 25 minutes 32 seconds East, a distance of 104.60 feet to an angle point for corner of the herein described tract;
- 2) South 21 degrees 30 minutes 47 seconds East, a distance of 107.68 feet to an angle point for corner of the herein described tract;
- 3) South 20 degrees 19 minutes 23 seconds East, a distance of 420.06 feet to an angle point for corner of the herein described tract;
- 4) South 21 degrees 05 minutes 19 seconds East, a distance of 296.82 feet to an angle point for corner of the herein described tract;
- 5) South 21 degrees 11 minutes 31 seconds East, a distance of 264.58 feet to an angle point for corner of the herein described tract;
- 6) South 21 degrees 38 minutes 31 seconds East, a distance of 773.66 feet to a point for the southernmost corner of the herein described tract;

THENCE, North 74 degrees 03 minutes 31 seconds West, departing the westerly line of said Co. Rd. 176, and crossing through the interior of said 38 acre tract (Second Tract), a distance of 50.48 feet to a point for corner of the herein described tract;

THENCE, partway crossing through the interior of said 38 acre tract (Second Tract) and partway crossing through the interior of said 53 acre tract (Fifth Tract), and with a line 40 feet west of and parallel with the westerly line of said Co. Rd. 176, the following six (6) calls:

- 1) North 21 degrees 38 minutes 31 seconds West, a distance of 743.03 feet to an angle point for corner of the herein described tract;
- 2) North 21 degrees 11 minutes 31 seconds West, a distance of 264.77 feet to an angle point for corner of the herein described tract;
- 3) North 21 degrees 05 minutes 19 seconds West, a distance of 297.12 feet to an angle point for corner of the herein described tract;
- 4) North 20 degrees 19 minutes 23 seconds West, a distance of 419.92 feet to an angle point for corner of the herein described tract;
- 5) North 21 degrees 30 minutes 47 seconds West, a distance of 107.99 feet to an angle point for corner of the herein described tract;

Exhibit "A" continued
Description of 2.694 acre tract

- 6) North 19 degrees 25 minutes 32 seconds West, a distance of 143.38 feet to a point for the westernmost corner of the herein described tract;

THENCE, partway crossing through the interior of said 53 acre tract (Fifth Tract) and partway crossing through the interior of said 2 acre tract (Ninth Tract), with a line 40 feet north of and parallel with the northerly line of said Co. Rd. 176, the following five (5) calls:

- 1) North 67 degrees 43 minutes 23 seconds East, a distance of 215.85 feet to an angle point for corner of the herein described tract;
- 2) North 68 degrees 26 minutes 54 seconds East, a distance of 532.40 feet to an angle point for corner of the herein described tract;
- 3) North 69 degrees 42 minutes 40 seconds East, a distance of 87.37 feet to an angle point for corner of the herein described tract;
- 4) North 68 degrees 32 minutes 02 seconds East, a distance of 107.83 feet to an angle point for corner of the herein described tract;
- 5) North 66 degrees 31 minutes 20 seconds East, a distance of 38.55 feet to a point for the northernmost corner of the herein described tract, said point being on the common easterly line of said 2 acre tract (Ninth Tract) and the westerly line of said 44.31 acre tract, same being the easterly line of said 0.05 acre tract, and from which a 1/2-inch iron rod found marking the northeast corner of said 2 acre tract (Ninth Tract), same being the northeast corner of said 0.05 acre tract bears North 20 degrees 51 minutes 31 seconds West, at 69.06 feet;

THENCE, South 20 degrees 51 minutes 31 seconds East, with the common easterly line of said 2 acre tract (Ninth Tract) and the westerly line of said 44.31 acre tract, same being the easterly line of said 0.05 acre tract, a distance of 40.04 feet to the POINT OF BEGINNING of the herein described tract, encompassing within the metes recited 2.694 acres (117,371 square feet) of land, more or less, based on the survey and exhibit drawing made by The Wallace Group, Inc. on February 2, 2004.

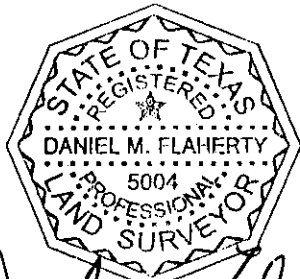
10 Foot Wide Temporary Construction Easement

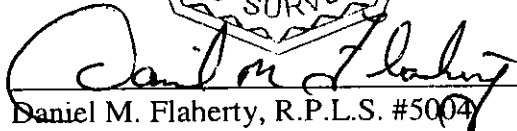
In addition, it is intended to create a ten-foot (10) wide Temporary Construction Easement adjacent and parallel to the northerly line and the westerly line of the above described utility easement. This Temporary Construction Easement contains a computed area of 0.679 acre (29,588 square feet) of land.

Exhibit "A" continued
Description of 2.694 acre tract

An easement exhibit drawing of even survey date herewith accompanies this field note description.

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that this field note description and the easement exhibit drawing attached hereto were prepared from an actual survey of the property performed on the ground and that the same is true and correct.




Daniel M. Flaherty, R.P.L.S. #5004

The Wallace Group, Inc.
One Chisholm Trail, Suite 130
Round Rock, Texas 78681
Ph. (512) 248-0065
Work Order No. 15641

02-02-04
Date

See attached Plat No. RR E-1763
15641-FN20.doc

COMMISSIONERS' COURT ADJOURNED TO EXECUTIVE SESSION AT 10:10 A.M. ON TUESDAY, JUNE 8, 2004.

AGENDA ITEM 32

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.

COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 11:45 A.M. ON TUESDAY, JUNE 8, 2004.

AGENDA ITEM 33

Discuss and take appropriate action on real estate.

There was no action taken on Agenda Item 33.

AGENDA ITEM 34

Comments from commissioners.

Judge Doerfler discussed closing the County Government on Friday, June 11, 2004, as part of a National Day of Mourning in memory of former President Ronald Wilson Reagan. The decision was made that the County will be closed on that date.

COMMISSIONERS' COURT ADJOURNED AT 11:52 A.M. ON TUESDAY, JUNE 8, 2004.

THE FOREGOING MINUTES recorded on Minutes Pages 1 through 260 inclusive, had at a Special Session of Commissioners' Court of Williamson County, Texas, having been read are hereby approved this 15th day of June, 2004.

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

By: 
Deputy Clerk