

AGENDA ITEM 22

Discuss and take appropriate action on allowing Palace Theater group to use Draeger showroom for practice.

Judge Doerfler addressed the Court.

Moved: **Commissioner Hays**

Seconded: **Commissioner Limmer**

Motion: To allow the Palace Theater group to use Draeger showroom (newly purchased property of the county) for practice, provided they carry their own liability insurance and that they pay for utilities used until such time as the County has another use for the facility.

Vote: **5 - 0**

AGENDA ITEM 23

Discuss and take appropriate action concerning North Great Oaks Interlocal Agreement between Brushy Creek MUD and Williamson County.

Commissioner Hays, Mark Dietz, Harold Gibbs, Joe England, and John McLemore addressed the Court.

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To approve North Great Oaks Interlocal Agreement between Brushy Creek MUD and Williamson County with changes noted as: on Page 3 of 5, in the last sentence, it should read "Section Two", and a provision needs to be added which states, in effect, "Brushy Creek agrees to coordinate with Williamson County in the acquisition of right-of-way along Sam Bass Road."

Vote: **5 - 0**

< Attachment >

**NORTH GREAT OAKS DRIVE
INTERLOCAL AGREEMENT**

THIS INTERLOCAL AGREEMENT is made and entered into effective this 17 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, BCMUD has sought to acquire real property pursuant to the Texas Water Code § 49.222(a); and

WHEREAS, this property is the subject of a Condemnation Petition in Cause No. 04-0033-CCS; *Brushy Creek Municipal Utility District vs. Estate of James Garland Walsh, Deceased; James Garland Walsh, Jr. and Avonia Elizabeth Jaecks, Independent Executors of the Estate of Mildred Lucille Walsh, Deceased; James Garland Walsh, Jr. Individually; and Avonia Elizabeth Jaecks, Individually*; In the County Court at Law No. 3 of Williamson County, Texas; and

WHEREAS, the County and BCMUD desire to participate in the realignment of Great Oaks Drive in Williamson County upon acquisition of fee simple title of the tract to be condemned by BCMUD.

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 1. The County agrees to participate in the relocation of Great Oaks Drive north of Sam Bass Road by paying one-half of the cost of such road relocation up to a County participation of \$100,000. BCMUD will initially pay all costs and will be reimbursed at least at the rate of \$10,000/year for up to a period of ten (10) years. The vacated right-of-way caused by the relocation shall be transferred to BCMUD. The County agrees that a pedestrian trail may be constructed in the right-of-way of Great Oaks Drive north 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 1. 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. BCMUD shall be responsible for acquisition of the right-of-way and its dedication to the County for the relocation of Great Oaks Drive. BCMUD agrees to pay for the costs of the relocation of Great Oaks Drive north of Sam Bass Road to County standards and as further described in Exhibit 2, and dedication of a necessary right-of-way on Sam Bass Road as described in the attached Exhibit 1. BCMUD may construct the water lines and related appurtenances within the right-of-way to be dedicated to the County. BCMUD may construct a pedestrian trail in the right-of-way and will be responsible for its maintenance. 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 coordinate with the County for right-of-way acquisition along Sam Bass Road. BCMUD agrees to fund all costs associated with that relocation and the County will reimburse a portion of those costs as outlined in Section 2 above.

II.

BCMUD Actions

1. **Engineering Plans and Specifications.** Each party shall be responsible for its own engineering and specifications for their respective undertakings. The cost of the preparation of the engineering plans and specifications shall be considered part of the costs of the Great Oaks Drive relocation.

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 2-17-04
JOHN DOERFLEER, County Judge
Williamson County, Texas

**BRUSHY CREEK MUNICIPAL
UTILITY DISTRICT**

By: Mike Taylor
MIKE TAYLOR, General Manager

**Variable Width Right-Of-Way
(For Relocation Of Great Oaks Drive)**

**FIELD NOTE DESCRIPTION OF A
4.510 ACRE TRACT OF LAND OUT OF THE
JAMES GARLAND WALSH and MILDRED LUCILE WALSH,
JAMES GARLAND WALSH, JR. & AVONIA ELIZABETH JAECKS TRACT,
LOCATED IN WILLIAMSON COUNTY, TEXAS**

BEING a 4.510 acre (196,434 square feet) tract of land situated in the Ephraim Evans Survey, Abstract No. 212, and the William Kincaid Survey, Abstract No. 374, Williamson County, Texas; being a portion of the remainder of that certain called 1848.03 acre tract of land described in a Deed from Charles Edwin Walsh and Edith Agnes Walsh, a feme sole to James Garland Walsh, filed for record on December 3, 1957, and recorded in Volume 420, Page 538, Deed Records of Williamson County, Texas (D.R.W.C.T.); and being a portion of the undivided forty-six and one-half percent interest of that certain called 166.48 acre tract of land described in a Gift Deed from James Garland Walsh and Mildred Lucile Walsh to James Garland Walsh, Jr., executed February 27, 1995, and recorded in Document No. 9508005, Official Records of Williamson County, Texas (O.R.W.C.T.), same being recorded in Volume 2684, Page 0507, D.R.W.C.T.; and being a portion of the undivided forty-six and one-half percent interest of that certain called 166.48 acre tract of land described in a Gift Deed from James Garland Walsh and Mildred Lucile Walsh to Avonia Elizabeth Jaecks, executed February 27, 1995, and recorded in Document No. 9508006, Official Records of Williamson County, Texas (O.R.W.C.T.), same being recorded in Volume 2684, Page 0511, D.R.W.C.T.; and being a portion of the undivided one and one-half percent interest of that certain called 166.48 acre tract of land described in a Gift Deed from James Garland Walsh and Mildred Lucile Walsh to James Garland Walsh, Jr., executed April 4, 1996, and recorded in Document No. 9618420, O.R.W.C.T.; and being a portion of the undivided one and one-half percent interest of that certain called 166.48 acre tract of land described in a Gift Deed from James Garland Walsh and Mildred Lucile Walsh to Avonia Elizabeth Jaecks, executed April 4, 1996, and recorded in Document No. 9618421, O.R.W.C.T.; said 4.510 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 1/2-inch iron rod (Control Monument) found marking the common northwest corner of said 166.48 acre tract as described in said Document No.s 9508005, 9508006, 9618420 and 9618421 (hereafter referred to as 166.48 acre tract), and the southwest corner of Lot 1, Block 1, Brushy Creek North Subdivision Section One, filed for record on April 18, 1977, recorded in Cabinet C, Slide 303, Plat Records of Williamson County, Texas, said point being on the easterly right-of-way (R.O.W.) line of

Field Note Description continued
4.510 acre tract

Great Oaks Drive (a dedicated 100 foot wide R.O.W. per said Brushy Creek North Subdivision Section One), said point also being the northwest corner of the herein described tract and being located at Texas State Plane Coordinate grid position $X=3112696.52$ and $Y=10168744.87$, and from which a 1/2-inch iron rod (Control Monument) found marking the northeast corner of said 166.48 acre tract bears North 69 degrees 28 minutes 18 seconds East, at 2,910.49 feet;

THENCE, North 69 degrees 28 minutes 18 seconds East, departing the easterly R.O.W. line of said Great Oaks Drive, and with the common northerly line of said 166.48 acre tract and the southerly line of Block 1 of said Brushy Creek North Subdivision Section One, a distance of 3.89 feet to a calculated point for the northeast corner of the herein described tract, said point also being the beginning of a tangent curve to the left from which the radius point bears North 62 degrees 18 minutes 25 seconds East, at 300.00 feet;

THENCE, departing said common line, and crossing through the interior of said 166.48 acre tract, the following eight (8) calls:

- 1) In a southeasterly direction, with said curve to the left, through a central angle of 57 degrees 04 minutes 03 seconds, an arc length of 298.80 feet, and a chord bearing and distance of South 56 degrees 13 minutes 36 seconds East – 286.61 feet to a calculated point for a corner of the herein described tract and being the end of said curve;
- 2) South 84 degrees 45 minutes 38 seconds East, a distance of 218.82 feet to a calculated point for a corner of the herein described tract and being the beginning of a tangent curve to the right from which the radius point bears South 05 degrees 14 minutes 22 seconds West, at 400.00 feet;
- 3) In a southeasterly direction, with said curve to the right, through a central angle of 65 degrees 07 minutes 30 seconds, an arc length of 454.66 feet, and a chord bearing and distance of South 52 degrees 11 minutes 53 seconds East – 430.58 feet to a calculated point for a corner of the herein described tract and being the end of said curve;
- 4) South 19 degrees 38 minutes 08 seconds East, a distance of 507.99 feet to a calculated point for a corner of the herein described tract and being the beginning of a tangent curve to the right from which the radius point bears South 70 degrees 21 minutes 52 seconds West, at 400.00 feet;
- 5) In a southerly direction, with said curve to the right, through a central angle of 45 degrees 37 minutes 35 seconds, an arc length of 318.53 feet, and a chord bearing and distance of South 03 degrees 10 minutes 40 seconds West – 310.18 feet to a

Field Note Description continued
4.510 acre tract

- calculated point for a corner of the herein described tract and being the end of said curve;
- 6) South 25 degrees 59 minutes 27 seconds West, a distance of 226.32 feet to a calculated point for an angle point and corner of the herein described tract;
 - 7) South 03 degrees 44 minutes 48 seconds East, a distance of 39.05 feet to a calculated point for an angle point and corner of the herein described tract;
 - 8) South 70 degrees 46 minutes 09 seconds East, a distance of 401.65 feet to a calculated point for the southernmost corner of the herein described tract, said point being on the southerly line of said 166.48 acre tract, same being the northerly line of Sam Bass Road – also known as F.M. 175, and from which a 32 inch Live Oak Tree (called 30 inch Liveoak Tree per said deeds for 166.48 acre tract) found marking an angle point along the southerly line of said 166.48 acre tract bears South 72 degrees 43 minutes 40 seconds East, at 193.81 feet;

THENCE, with the southerly line of said 166.48 acre tract, same being the northerly line of said Sam Bass Road, the following three (3) calls:

- 1) North 72 degrees 43 minutes 40 seconds West, a distance of 447.24 feet to a 15 inch Elm Tree (called 12 inch Elm Tree per said deeds for 166.48 acre tract) found for an angle point and corner of the herein described tract;
- 2) North 56 degrees 21 minutes 32 seconds West, a distance of 298.97 feet to a 14 inch Elm Tree (called 12 inch Elm Tree per said deeds for 166.48 acre tract) found for an angle point and corner of the herein described tract;
- 3) North 55 degrees 11 minutes 27 seconds West, a distance of 152.39 feet to a 1/2-inch iron rod (Control Monument) found for the southwest corner of said 166.48 acre tract and a corner of the herein described tract, said point marking the intersection of the easterly R.O.W. line of said Great Oaks Drive and the northerly line of said Sam Bass Road;

THENCE, North 19 degrees 38 minutes 08 seconds West, departing the northerly line of said Sam Bass Road, and with the common easterly R.O.W. line of said Great Oaks Drive and the westerly line of said 166.48 acre tract, a distance of 7.34 feet to a calculated point for a corner of the herein described tract:

THENCE, departing said common line, and crossing through the interior of said 166.48 acre tract, the following eight (8) calls:

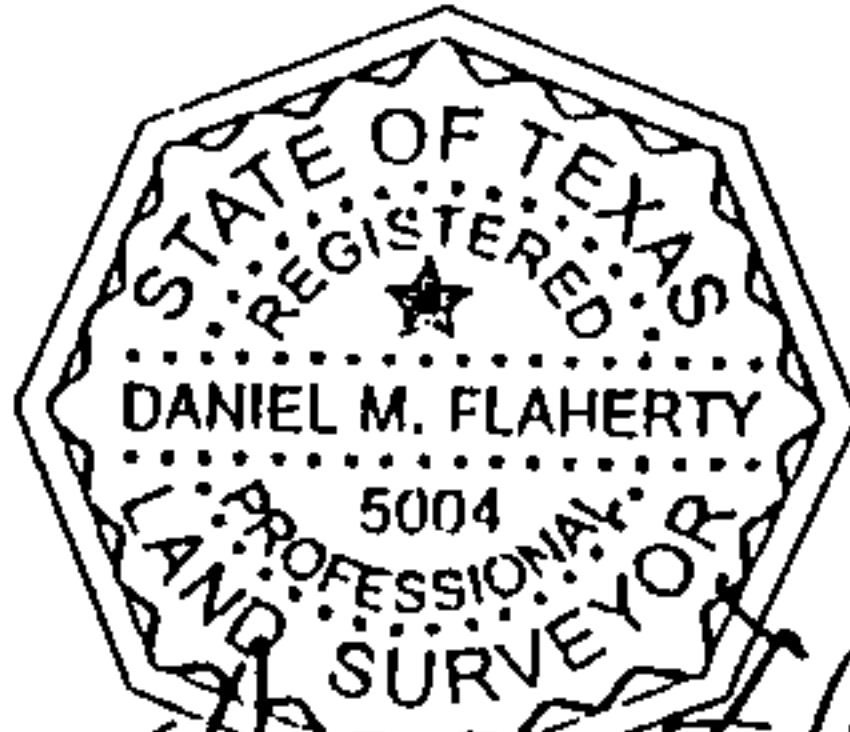
Field Note Description continued
4.510 acre tract

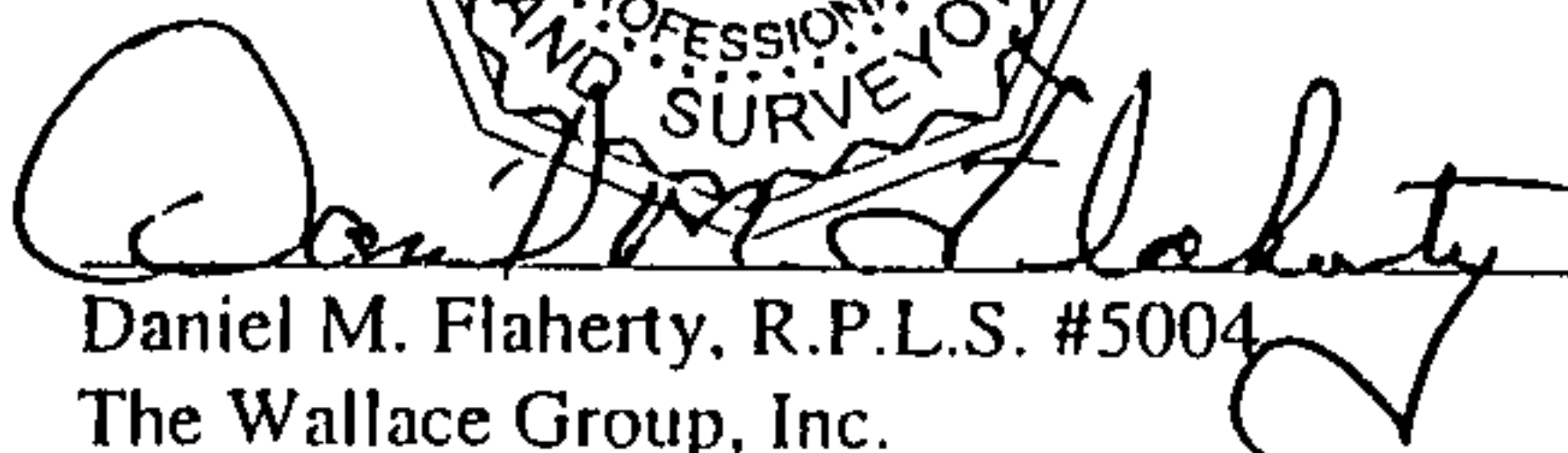
- 1) South 56 degrees 20 minutes 18 seconds East, a distance of 340.68 feet to a calculated point for an angle point and corner of the herein described tract;
- 2) North 77 degrees 00 minutes 01 seconds East, a distance of 49.34 feet to a calculated point for an angle point and corner of the herein described tract;
- 3) North 25 degrees 59 minutes 27 seconds East, a distance of 226.89 feet to a calculated point for a corner of the herein described tract and being the beginning of a tangent curve to the left from which the radius point bears North 64 degrees 00 minutes 33 seconds West, at 300.00 feet;
- 4) In a northerly direction, with said curve to the left, through a central angle of 45 degrees 37 minutes 35 seconds, an arc length of 238.90 feet, and a chord bearing and distance of North 03 degrees 10 minutes 40 seconds East – 232.64 feet to a calculated point for a corner of the herein described tract and being the end of said curve;
- 5) North 19 degrees 38 minutes 08 seconds West, a distance of 507.99 feet to a calculated point for a corner of the herein described tract and being the beginning of a tangent curve to the left from which the radius point bears South 70 degrees 21 minutes 52 seconds West, at 300.00 feet;
- 6) In a northwesterly direction, with said curve to the left, through a central angle of 65 degrees 07 minutes 30 seconds, an arc length of 340.99 feet, and a chord bearing and distance of North 52 degrees 11 minutes 53 seconds West – 322.93 feet to a calculated point for a corner of the herein described tract and being the end of said curve;
- 7) North 84 degrees 45 minutes 38 seconds West, a distance of 218.82 feet to a calculated point for a corner of the herein described tract and being the beginning of a tangent curve to the right from which the radius point bears North 05 degrees 14 minutes 22 seconds East, at 400.00 feet;
- 8) In a northwesterly direction, with said curve to the right, through a central angle of 23 degrees 54 minutes 58 seconds, an arc length of 166.97 feet, and a chord bearing and distance of North 72 degrees 48 minutes 09 seconds West – 165.76 feet to a calculated point for a corner of the herein described tract, said point being on the common easterly R.O.W. line of said Great Oaks Drive and the westerly line of said 166.48 acre tract;

THENCE, North 19 degrees 38 minutes 08 seconds West, with the common easterly R.O.W. line of said Great Oaks Drive and the westerly line of said 166.48 acre tract, a distance of 221.41 feet to the POINT OF BEGINNING of the herein described tract, encompassing within the metes recited 4.510 acres (196,434 square feet) of land, more or less, based on a survey performed by The Wallace Group, Inc. in July of 2003.

Field Note Description continued
4.510 acre tract

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that this field note description was 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.
Old Town Square
One Chisholm Trail, Suite 130
Round Rock, Texas 78681
Ph. (512) 248-0065
Work Order No. 15641

02-12-04
Date

15641-Walsh_FN03.doc

**Variable Width Right-Of-Way,
(To Be Abandoned)**

**FIELD NOTE DESCRIPTION OF A
2.485 ACRE TRACT OF LAND OUT OF THE
GREAT OAKS DRIVE RIGHT-OF-WAY
LOCATED IN WILLIAMSON COUNTY, TEXAS**

BEING a 2.485 acre (108,265 square feet) tract of land situated in the Ephraim Evans Survey, Abstract No. 212, and the William Kincaid Survey, Abstract No. 374, Williamson County, Texas; being a portion of the right-of-way (R.O.W.) of Great Oaks Drive (a dedicated 100 foot wide R.O.W.) per Brushy Creek North Subdivision Section One, filed for record on April 18, 1977, recorded in Cabinet C, Slide 303, Plat Records of Williamson County, Texas; said 2.485 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:

COMMENCING at a 1/2-inch iron rod (Control Monument) found marking the common northwest corner of that certain called 166.48 acre tract of land described in a Gift Deed from James Garland Walsh and Mildred Lucile Walsh to James Garland Walsh, Jr., executed February 27, 1995, and recorded in Document No. 9508005, Official Records of Williamson County, Texas, and the southwest corner of Lot 1, Block 1, of said Brushy Creek North Subdivision Section One, said point being on the easterly R.O.W. line of said Great Oaks Drive, and from which a 1/2-inch iron rod (Control Monument) found marking the northeast corner of said 166.48 acre tract bears North 69 degrees 28 minutes 18 seconds East, at 2,910.49 feet;

THENCE, South 19 degrees 38 minutes 08 seconds East, with the common easterly R.O.W. line of said Great Oaks Drive and the westerly line of said 166.48 acre tract, a distance of 221.41 feet to a calculated point for the northeast corner and **POINT OF BEGINNING** of the herein described tract, said point being located at Texas State Plane Coordinate grid position X=3112770.92 and Y=10168536.36;

THENCE, South 19 degrees 38 minutes 08 seconds East, continuing with the common easterly R.O.W. line of said Great Oaks Drive and the westerly line of said 166.48 acre tract, a distance of 1,065.84 feet to a calculated point for the southeast corner of the herein described tract, and from which a 1/2-inch iron rod (Control Monument) found for the southwest corner of said 166.48 acre tract bears South 19 degrees 38 minutes 08 seconds East, at 7.34 feet, said iron rod also marking the intersection of the easterly R.O.W. line of said Great Oaks Drive and the northerly line of Sam Bass Road – also known as F.M. 175;

Field Note Description continued
2.485 acre tract

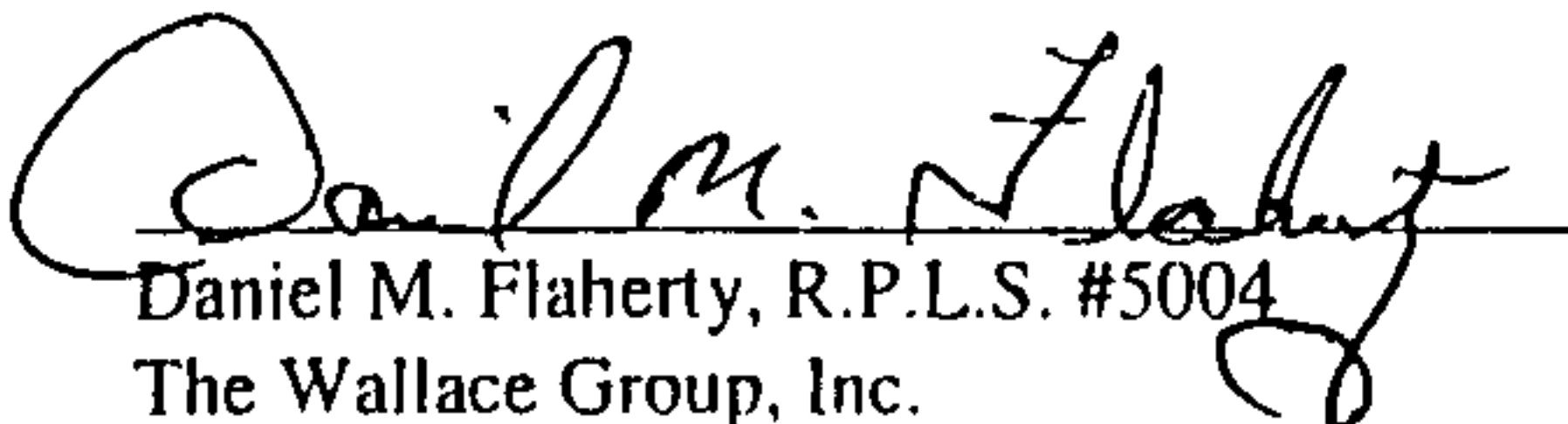
THENCE, North 56 degrees 20 minutes 18 seconds West, departing the common easterly R.O.W. line of said Great Oaks Drive and the westerly line of said 166.48 acre tract, and crossing through the R.O.W. of said Great Oaks Drive, a distance of 167.32 feet to a 1/2-inch iron rod found for the southwest corner of the herein described tract, said point marking the intersection of the westerly R.O.W. line of said Great Oaks Drive and the northerly line of said Sam Bass Road;

THENCE, North 19 degrees 38 minutes 08 seconds West, with the westerly R.O.W. line of said Great Oaks Drive, a distance of 1,151.54 feet to a calculated point for the northwest corner of the herein described tract;

THENCE, North 69 degrees 28 minutes 18 seconds East, crossing through the R.O.W. of said Great Oaks Drive, a distance of 3.31 feet to a calculated point for a corner of the herein described tract, said point also being the beginning of a tangent curve to the left from which the radius point bears North 64 degrees 06 minutes 15 seconds East, at 400.00 feet;

THENCE, in a southeasterly direction, with said curve to the left, through a central angle of 34 degrees 56 minutes 55 seconds, an arc length of 243.99 feet, and a chord bearing and distance of South 43 degrees 22 minutes 13 seconds East - 240.22 feet to the POINT OF BEGINNING of the herein described tract, encompassing within the metes recited 2.485 acres (108,265 square feet) of land, more or less, based on a survey performed by The Wallace Group, Inc. in July of 2003.

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that this field note description was 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.

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One Chisholm Trail, Suite 130

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Work Order No. 15641

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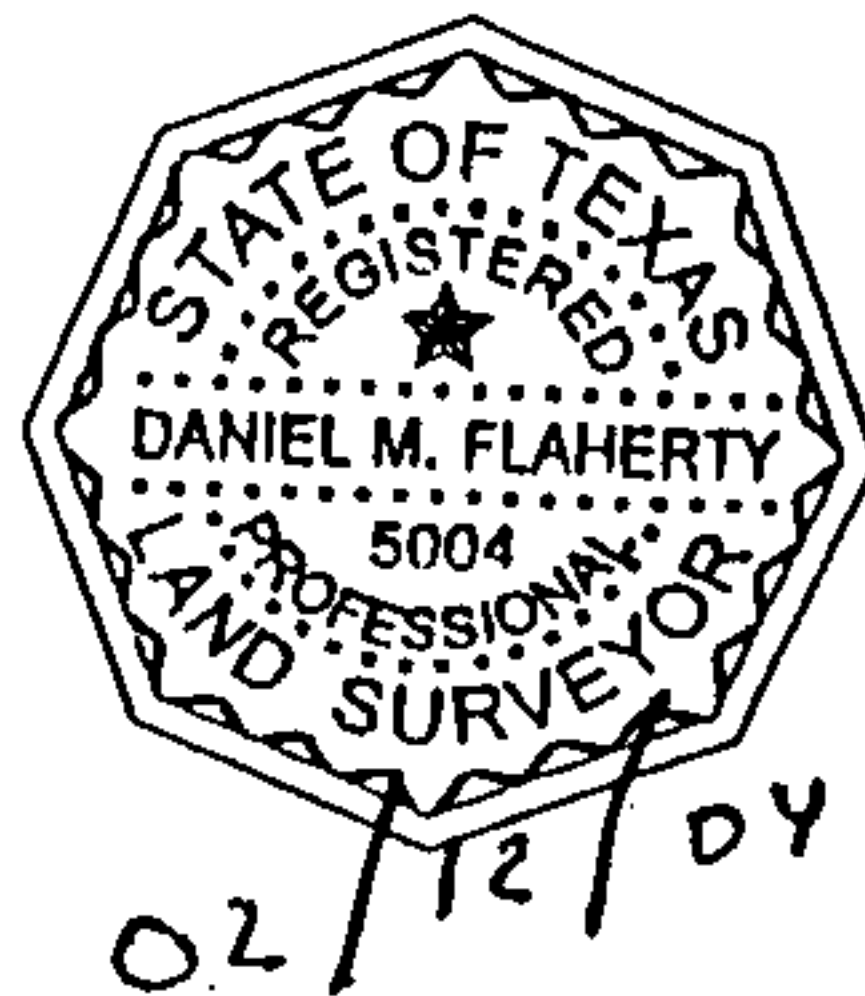
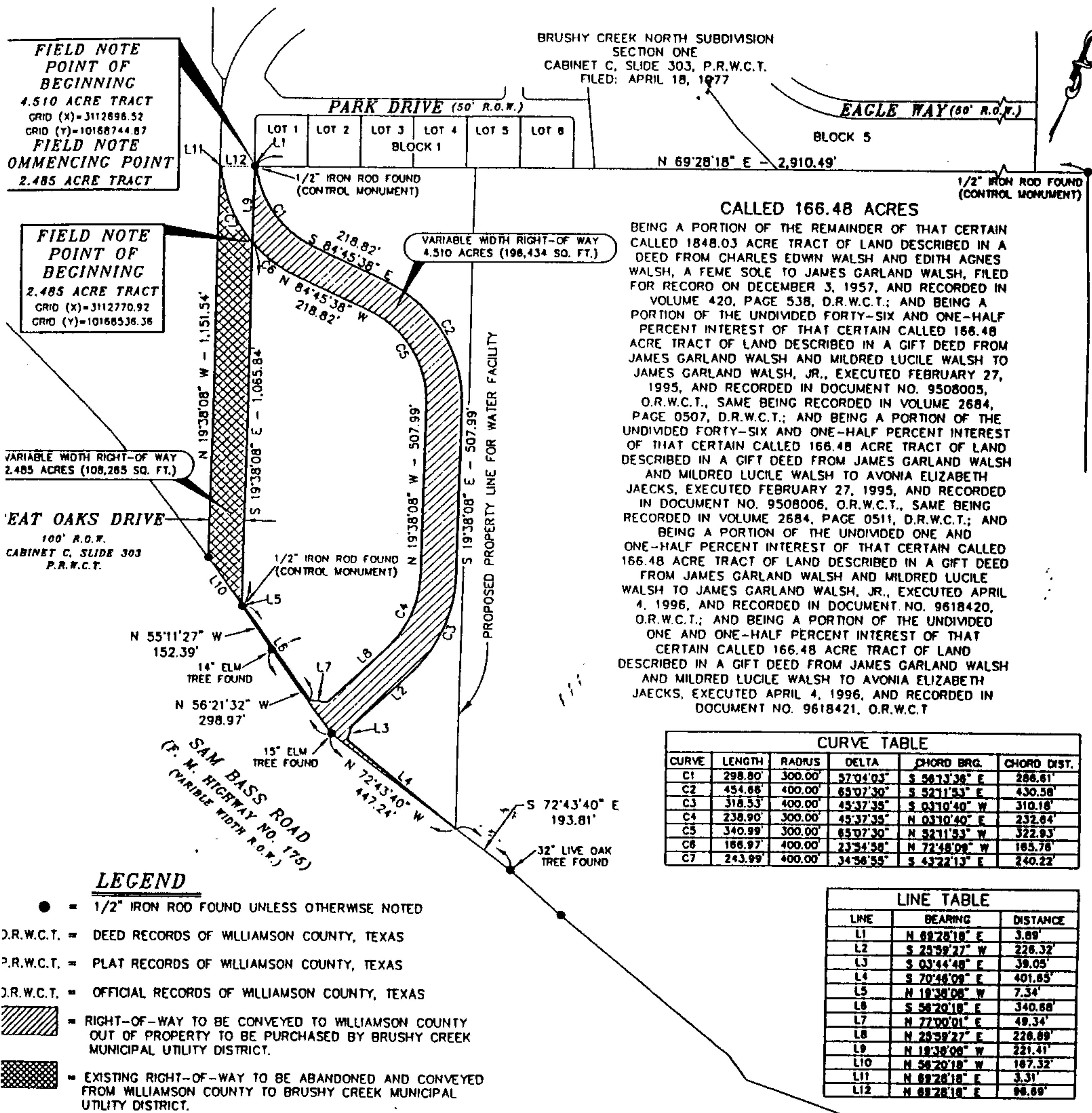


EXHIBIT "A"

DRAWING TO ACCOMPANY FIELD NOTE DESCRIPTION OF A 4.510 ACRE TRACT AND A 2.485 ACRE TRACT



The Wallace Group, Inc.
Engineers ■ Architects ■ Planners ■ Surveyors
Austin ■ Dallas ■ Killeen ■ Round Rock ■ Waco
One Chisholm Trail, Suite 130, Round Rock, Texas 78681
Ph. (512) 248-0065 Fax (512) 246-0359

0 400 800

PLAT NO. RR A-4111

DRAFT DATE 02-12-04 DRAWN BY MJM

WORK ORDER NO. 15641

FIELD BOOK NO. PP 28/35 EAL WALSH EN-03/04

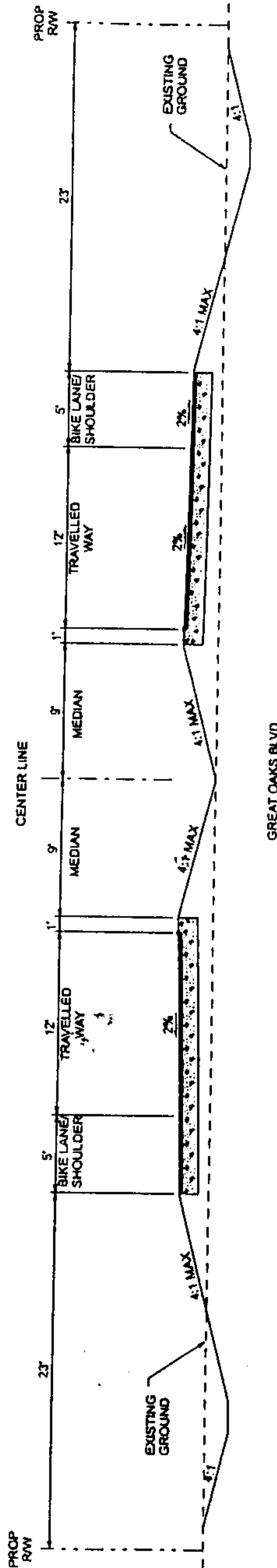


EXHIBIT
2