

# WILLIAMSON COUNTY, TEXAS

CHANGE ORDER NUMBER: 1

1. CONTRACTOR: Capital Excavation Company
2. Change Order Work Limits: Sta. 65+00.00 to Sta. 79+10.00
3. Type of Change(on federal-aid non-exempt projects): Minor (Major/Minor)
4. Reasons: 4B (3 Max. - In order of importance - Primary first)

Project: 1810-265

Roadway: North Mays Ext.

CSJ Number: \_\_\_\_\_

5. Describe the work being revised:

**4B: Third Party Accommodation. Third party requested work.** This Change Order modifies the contract to require that Chandler Creek, LP, a Delaware limited partnership (collectively referred to as "Seller") be an additional insured to Capital Excavation's (Contractor) commercial general liability (CGL) insurance policy and to their commercial auto liability (Auto Liability) insurance policy. Adding the Seller to the Contractor's insurance was in the terms and conditions of the Real Estate Contract between the Chandler Creek, LP and Williamson County. The Real Estate Contract was finalized after the plans were completed.

6. Work to be performed in accordance with Items: See attached Real Estate Contract
7. New or revised plan sheet(s) are attached and numbered: N/A
8. New Special Provisions/Specifications to the contract are attached: ☐ Yes ☒ No
9. New Special Provisions to Item N/A No. N/A, Special Specification Item N/A are attached.
- Each signatory hereby warrants that each has the authority to execute this Change Order (CO).

<p><i>The contractor must sign the Change Order and, by doing so, agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change.</i></p> <p>THE CONTRACTOR Date <u>3/26/20</u></p> <p>By <u>[Signature]</u></p> <p>Typed/Printed Name <u>Scott J. Budd</u></p> <p>Typed/Printed Title <u>Vice President</u></p>	<p><b>The following information must be provided</b></p> <p>Time Ext. #: <u>N/A</u> Days added on this CO: <u>0</u></p> <p>Amount added by this change order: <u>\$0.00</u></p>
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## RECOMMENDED FOR EXECUTION:

[Signature] 4/17/20  
Project Manager Date

N/A  
Design Engineer Date

[Signature] 04/21/2020  
Program Manager Date

## Design Engineer's Seal:

see attached plan sheets

County Commissioner Precinct 1 Date  
☐ APPROVED ☐ REQUEST APPROVAL

County Commissioner Precinct 2 Date  
☐ APPROVED ☐ REQUEST APPROVAL

County Commissioner Precinct 3 Date  
☐ APPROVED ☐ REQUEST APPROVAL

County Commissioner Precinct 4 Date  
☐ APPROVED ☐ REQUEST APPROVAL

[Signature] 5/5/20  
County Judge Date  
☒ APPROVED

# WILLIAMSON COUNTY, TEXAS

**CHANGE ORDER NUMBER:** 1

**Project #** 1810-265

**TABLE A: Force Account Work and Materials Placed into Stock**[illegible]**TABLE B: Contract Items:**

				ORIGINAL + PREVIOUSLY REVISED		ADD or (DEDUCT)	NEW		
ITEM	DESCRIPTION	UNIT	UNIT PRICE	QUANTITY	ITEM COST	QUANTITY	QUANTITY	ITEM COST	OVERRUN/UNDERRUN
	There are no items to be added by this change order.								
TOTALS					\$0.00			\$0.00	\$0.00

## CHANGE ORDER REASON(S) CODE CHART

1. Design Error or Omission	1A. Incorrect PS&E 1B. Other
2. Differing Site Conditions (unforeseeable)	2A. Dispute resolution (expense caused by conditions and/or resulting delay) 2B. Unavailable material 2C. New development (conditions changing after PS&E completed) 2D. Environmental remediation 2E. Miscellaneous difference in site conditions (unforeseeable)(Item 9) 2F. Site conditions altered by an act of nature 2G. Unadjusted utility (unforeseeable) 2H. Unacquired Right-of-Way (unforeseeable) 2I. Additional safety needs (unforeseeable) 2J. Other
3. County Convenience	3A. Dispute resolution (not resulting from error in plans or differing site conditions) 3B. Public relations improvement 3C. Implementation of a Value Engineering finding 3D. Achievement of an early project completion 3E. Reduction of future maintenance 3F. Additional work desired by the County 3G. Compliance requirements of new laws and/or policies 3H. Cost savings opportunity discovered during construction 3I. Implementation of improved technology or better process 3J. Price adjustment on finished work (price reduced in exchange for acceptance) 3K. Addition of stock account or material supplied by state provision 3L. Revising safety work/measures desired by the County 3M. Other
4. Third Party Accommodation	4A. Failure of a third party to meet commitment 4B. Third party requested work 4C. Compliance requirements of new laws and/or policies (impacting third party) 4D. Other
5. Contractor Convenience	5A. Contractor exercises option to change the traffic control plan 5B. Contractor requested change in the sequence and/or method of work 5C. Payment for Partnering workshop
	5D. Additional safety work/measures desired by the contractor 5E. Other
6. Untimely ROW/Utilities	6A. Right-of-Way not clear (third party responsibility for ROW) 6B. Right-of-Way not clear (County responsibility for ROW) 6C. Utilities not clear 6D. Other

**Williamson County Road Bond Program**

**North Mays Extension  
Williamson County Project No. 1810-265**

**Change Order No. 1**

**Reason for Change**

This Change Order modifies the contract to require that Chandler Creek, LP, a Delaware Limited Partnership (collectively referred to as "Seller") be an additional insured to Capital Excavation's (Contractor) commercial general liability (CGL) insurance policy and to their commercial auto liability (Auto Liability) insurance policy. Adding the Seller to the Contractor's insurance was in the terms and conditions of the Real Estate Contract between the Seller and Williamson County. The Real Estate Contract was finalized after the plans were completed.

Refer to the attached Real Estate Contract (Special Provisions, Pg. 3, 2<sup>nd</sup> paragraph, section 8), Chandler Creek, LP must be named on the above policies prior to entering the property.

This Change Order does not change the Contract amount. The original Contract amount was \$10,775,835.75. To date no changes have been made to the original contract amount and no time has been added.

**HNTB Corporation**

James Klotz, P.E.

## **REAL ESTATE CONTRACT**

North Mays Extension—Parcel 7

THIS REAL ESTATE CONTRACT ("Contract") is made by CHANDLER CREEK, LP, a Delaware limited partnership (collectively referred to in this Contract as "Seller") and WILLIAMSON COUNTY, TEXAS (referred to in this Contract as "Purchaser"), upon the terms and conditions set forth in this Contract.

### **ARTICLE I PURCHASE AND SALE**

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

All of that certain 0.398 acre (17,324 Sq. Ft.) of land in the David Curry Survey, Abstract No. 130, and the Ephraim Evans Survey, Abstract No. 212, Williamson County, Texas; being more fully described by metes and bounds in Exhibit "A", attached hereto and incorporated herein (**Parcel 7**);

together with all and singular the rights and appurtenances pertaining to the property, but not to the extent any of such rights and appurtenances benefit any other property (all of such real property, rights, and appurtenances being referred to in this Contract as the "Property"), and any improvements situated on and attached to the Property described in Exhibit "A" not otherwise agreed herein to be retained by Seller, for the consideration and upon and subject to the terms, provisions, and conditions set forth below.

### **ARTICLE II PURCHASE PRICE**

#### **Purchase Price**

2.01. The purchase price ("Purchase Price") for the Property described in Exhibit "A" and any improvements thereon, and any damage to the remaining property of Seller arising solely as a result of the conveyance of the Property by Seller to Purchaser (and not as a result of any acts or omissions of Purchaser or any party operating by, through or under Purchaser), shall be the sum of: (a) ONE HUNDRED FORTY-NINE THOUSAND TWO HUNDRED SIXTY and 00/100 Dollars (\$149,260.00) (the "Cash Consideration"); plus (b) the additional consideration described in Section 2.03 of this Contract.

#### **Payment of Purchase Price**

2.02. The Cash Consideration shall be payable in cash, as provided below in this Contract.

### Special Provisions

2.03. As additional compensation for the Property conveyed herein, and as an obligation which shall survive the Closing of this transaction, Purchaser agrees at its sole cost and expense to cause the reconstruction and reconfiguration of Seller's Water Quality and Detention Pond facilities (collectively, the "Pond") which are impacted by the acquisition of the Property.

Purchaser shall, at Purchaser's sole cost and expense, cause the Pond reconstruction and reconfiguration (collectively, the "Work") to be: (a) carried out in conjunction with the Purchaser's proposed extension of North Mays Street (the "North Mays Extension") in the City of Round Rock, Texas (the "City"); and (b) completed: (i) prior to the completion of the North Mays Extension (the "Completion Deadline"); (ii) in a good and workmanlike manner and without any defects in design or construction; (iii) in compliance with all applicable laws, ordinances, rules, procedures and requirements (collectively, the "Legal Requirements") of the City, the Texas Commission on Environmental Quality and all other governmental and regulatory authorities with jurisdiction over the Property, the Retained Property and the Pond (collectively, the "Governmental Authorities"); (iv) in conformance with the "Final Plans" (defined below); and (v) in conformance with the agreements and requirements set out in this Section 2.03.

Purchaser agrees that: (i) at all times during the prosecution of the Work, Purchaser will, at Purchaser's sole cost and expense, conduct the Work so as to maintain all of Seller's property served by the Pond (collectively, the "Retained Property") in compliance with all permits, laws, ordinances, rules, procedures and requirements applicable to the drainage, detention and filtration of storm water (collectively, the "Stormwater Requirements"); (ii) the Pond, as reconstructed and relocated by Purchaser will be located entirely within the portion of the Retained Property described on Exhibit "D" attached to this Contract and incorporated herein by reference (the "Reconstruction Area"); (iii) Purchaser will design and construct the North Mays Extension with outfall and conveyance structures which will be properly placed and have sufficient capacity to convey storm water flows from the Pond, as reconstructed and reconfigured pursuant to the Work; (iv) Purchaser will be responsible for the adequate conveyance of the downstream drainage of such storm water from the point of outfall across the North Mays Extension; and (v) Purchaser will not remove or materially damage any trees within the Reconstruction Area or any other portion of the Retained Property.

Purchaser will, at Purchaser's sole cost and expense, cause final plans and specifications for the Work ("Final Plans") to be prepared in a manner adequate to: (a) replace all existing storm water detention capacities of the existing Pond; (b) replace all existing storm water filtration capacities of the existing Pond if such filtration capacities are affected by the Work; (c) otherwise restore the Pond to the same or better functionality that existed prior to the Work; and (d) comply with all Legal Requirements, including without limitation any updates or revisions to the existing Pond required to satisfy current Legal Requirements. Purchaser will cause the Final Plans to be prepared with due regard to Seller's input and comments, and Purchaser shall allow a minimum of fourteen (14) days after Purchaser's submission of the proposed Final Plans to Seller for Seller to return any desired comments, after which time Purchaser will consider incorporation of any changes to the proposed Final Plans reasonably requested by Seller, which incorporation shall not be unreasonably withheld, and Purchaser may proceed with completion of the Final Plans.

Purchaser will obtain a written agreement executed by the City in the form attached to this Contract as Exhibit "F" and incorporated herein by reference, with a copy of this Contract attached thereto as Exhibit "A" (the "Governmental Agreement").

After the Escrow Conference and the satisfaction by Purchaser of all of the requirements with respect thereto listed in Article V of this Contract, but not before, Purchaser and Purchaser's employees, agents, contractors, subcontractors, consultants and other parties operating by, through or under Purchaser (collectively, the "Purchaser Parties") may enter upon the Reconstruction Area for the purposes of conducting the Work in conformance with the requirements under this Contract; provided, however, that: (1) the right of entry hereunder will terminate automatically upon the final completion of the Work; (2) any entry of Purchaser and the Purchaser Parties onto the Reconstruction Area is at the sole risk of Purchaser and Purchaser Parties; (3) to the extent allowed by law, Purchaser hereby releases Seller from all liabilities, obligations and claims of any kind or nature arising out of or in connection with the entry of Purchaser and the Purchaser Parties into the Reconstruction Area; (4) to the extent allowed by law, Purchaser agrees to indemnify and save and hold Seller harmless from and against all liabilities, obligations, claims and costs of any kind or nature (including court costs and reasonable attorneys' fees) arising out of or in connection with any activities of the Purchaser and the Purchaser Parties upon or within the Reconstruction Area; (5) neither Purchaser nor any of the Purchaser Parties will have any right to enter upon any portion of the Retained Property other than the Reconstruction Area; (6) neither Purchaser nor any of the Purchaser Parties will disturb, interrupt or interfere with any activities of Seller or Seller's employees, agents, contractors, subcontractors, consultants, tenants, invitees, licensees and other parties operating by, through or under Seller which are outside of the Reconstruction Area; (7) Purchaser shall not permit any liens to attach to the Reconstruction Area or any other portion of the Retained Property by reason of any activities of Purchaser or the Purchaser Parties; (8) prior to entering upon the Property or the Reconstruction Area, Purchaser must (i) provide Seller with the name and the phone number of the project manager for the Work (the "Project Manager") and for each contractor, subcontractor, and assignee who will perform any portion of the Work (individually a "Contractor" and, collectively, the "Contractors"), (ii) cause each Contractor to name Seller and Purchaser as additional insureds on a commercial general liability ("CGL") insurance policy applicable to the Work and all activities on the Property and the Reconstruction Area and on a commercial auto liability ("Auto Liability") insurance policy covering all owned, non-owned or hired automobiles to be used on the Property and the Reconstruction Area, each providing, on an occurrence basis, not less than \$1,000,000.00 combined single limit bodily injury and property damage coverage, (iii) cause each Contractor to provide workers' compensation coverage with the statutorily required limits and employers' liability insurance coverage with limits of not less than \$1,000,000.00 with appropriate waivers of subrogation in favor of Seller, (iv) deliver to Seller a certificate of insurance evidencing the aforementioned insurance coverages which will provide that such insurance may not be terminated without at least ten (10) days' notice to Seller; and (9) upon completion of the Work, Purchaser must: (i) clean up and remove all construction debris, including stakes, tape and other markers placed on the Reconstruction Area, trash, and construction-generated spoils; and (ii) restore all disturbed areas to the same or better condition than that which existed prior to commencement of the Work, taking into consideration the specific improvements proposed to be constructed.

The commencement of construction by Purchaser shall constitute a representation by Purchaser that Purchaser will comply with all of the obligations of Purchaser under this Section 2.03 and that Purchaser has evaluated and satisfied itself as to the conditions and limitations including, without limitation (1) the location, condition, layout and nature of the site, and surrounding areas; (2) generally prevailing climatic conditions; and (3) other similar matters. **Seller assumes no responsibility or liability**

**for the physical condition or safety of the site.** Purchaser shall have the sole responsibility to satisfy itself concerning the nature and location of the site and general and local conditions.

PURCHASER SHALL TAKE ALL STEPS NECESSARY TO PROTECT PERSONS AND PROPERTY AGAINST INJURY OR DAMAGE THAT MAY RESULT FROM THE WORK.

Upon completion of the Work, but in all events prior to the Completion Deadline, Purchaser shall deliver to Seller: (1) a completion certificate addressed to Seller prepared by an independent licensed engineer reasonably acceptable to Seller and in a form reasonably acceptable to Seller, certifying that the Work has been designed and fully and finally completed in conformance with all of the requirements set out in this Section 2.03; (2) all as built drawings, operating guides and other documents necessary for operation of the Pond; (3) a two (2) year written warranty and maintenance bond from Purchaser's construction contractor to Purchaser in substantially the form of Exhibit "E" attached hereto and incorporated herein by reference; and (4) an all bills paid affidavit executed by Contractor and/or Purchaser in favor of Seller in form sufficient to satisfy the provisions of Section 53.085 of the Texas Property Code. The items listed in the preceding sentence are referred to in this Contract as the "Completion Evidence."

After the Completion Evidence is delivered by Purchaser to Seller, representatives of Seller and Purchaser shall inspect the Work at a mutually agreeable time. At such inspection, the representatives of Seller and Purchaser shall prepare a list of all items to be completed or corrected in order to complete the Work as required under this Contract (the "Deficiencies"). Thereafter, Purchaser shall promptly correct such Deficiencies and deliver new Completion Evidence to Purchaser for further inspection under the provisions set forth above. Notwithstanding any provision herein to the contrary, Purchaser shall remain responsible for (and shall remedy at Purchaser's sole expense in a timely manner) any defects in the Work (including any defects in design or construction), regardless of whether or not such defects were listed as Deficiencies in a notice given to Purchaser pursuant to the provisions set out above, but only to the extent of the requirements set out in this Section 2.03 and in the written warranty and maintenance bond referenced above in this Section 2.03.

All of the obligations of Purchaser under this Section 2.03 will survive the Closing and will not be merged into any of the documents executed by Seller and Purchaser in connection with the Closing.

#### Escrow Deposit

2.04. Purchaser shall, within ten (10) business days after the execution of this Contract, deliver directly to Seller, the sum of FIVE THOUSAND and 00/100 DOLLARS (\$5,000.00) in cash or other readily available funds (the "Escrow Deposit"). The Escrow Deposit is nonrefundable to Purchaser and shall be retained by Seller notwithstanding any other provision of this Contract to the contrary, but shall be credited against the Purchase Price at the Closing (hereinafter defined). Seller will have no obligation to maintain the Escrow Deposit in a separate or segregated account, nor will Seller will have any obligation to pay or credit to Purchaser any interest on the Escrow Deposit.

#### Simultaneous Closing Requirement

2.05. Notwithstanding any provision in this Contract to the contrary, Seller's obligation to conduct the Escrow Conference under this Contract is expressly conditioned and contingent upon the concurrent



closing of the sale and purchase transaction evidenced by that certain "Real Estate Contract North Mays Extension – Parcels 9 and 10" dated of even date herewith, by and between Chandler Creek Parcel E&F, L.P. as "Seller" and Williamson County, Texas as "Purchaser" (the "Other Contract"). If for any reason other than a default by Seller the transaction evidenced by the Other Contract does not close concurrently with the Escrow Conference under this Contract, then Seller may terminate this Contract, in which event the Escrow Deposit, if any, shall be retained by Purchaser and thereafter neither party will have any further rights or remedies under this Contract.

### **ARTICLE III PURCHASER'S OBLIGATIONS**

#### Conditions to Purchaser's Obligations

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

#### Miscellaneous Conditions

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

### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER**

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

(1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers, other than as previously disclosed to Purchaser;

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

The Property is being conveyed to Purchaser under threat of condemnation.

### **ARTICLE V CLOSING**

#### Closing Date

5.01. The closing of the sale and purchase of the Property under this Contract ("Closing") shall be held at the office of Independence Title Company (the "Title Company") within ten (10) business days

after: (i) Purchaser has completed the Work; (ii) Purchaser has provided the Completion Evidence to Seller; and (iii) Purchaser has corrected all Deficiencies. The date for the Closing, as provided above, is referred to in this Contract as the "Closing Date".

Seller and Purchaser will conduct a pre-Closing escrow conference ("Escrow Conference") on or before January 31, 2018, or at such time, date, and place as Seller and Purchaser may agree upon, or within 10 days after the completion of any title curative matters if necessary for items as shown on the Title Commitment if Seller has otherwise satisfied all of its requirements under this Contract, including specifically delivery of any required release of mortgage lien or leasehold interest affecting the Property; provided, however, that in no event will Seller be required to deliver releases from tenants in the buildings located on the Retained Property. If Seller has not satisfied these requirements before February 28, 2018, and Purchaser is not otherwise in default, the Escrow Conference shall be extended until such time as completion may occur. At the Escrow Conference: (i) Seller will deliver the Deed in escrow to the Title Company, pursuant to an escrow agreement in form reasonably acceptable to Seller, Purchaser, and the Title Company (the "Escrow Agreement"); (ii) Seller, Purchaser and the Title Company will execute and deliver the Escrow Agreement; (iii) Purchaser will deliver to the Title Company the sum of FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$500,000.00) in readily available funds, to be held by the Title Company pursuant to the provisions of the Escrow Agreement [under the terms of the Escrow Agreement (a) Purchaser will have the right to draw upon the escrowed funds with Seller's written approval, which will not be unreasonably withheld so long as Purchaser provides evidence reasonably acceptable to Seller that the remainder of the Work can be completed at a total expense of \$400,000.00 or less and so long as at least \$100,000.00 is retained in escrow until the Closing, and (b) Seller will have the right to draw upon the escrowed funds in the event of a default by Purchaser under this Contract]; (iv) Purchaser will execute and deliver to Seller a written waiver, in form reasonably acceptable to Seller and Purchaser, pursuant to which Purchaser waives all rights to immunity with respect to the obligations of Purchaser under Section 2.03 of this Contract; (v) Purchaser will deliver the Governmental Agreement to Seller; and (vi) Purchaser will deliver to Seller ninety percent (90%) of the Cash Consideration in readily available funds. Upon satisfaction of those requirements, but not before, Purchaser will be allowed to enter and take possession of the Property and Reconstruction Area for construction of the Work.

Notwithstanding the acquisition of right of possession to the Property by the Purchaser in a condemnation proceeding by depositing the Special Commissioners' award into the registry of the court, Possession of the Property pursuant to this Section for the purposes of construction of the North Mays Extension shall continue to remain in effect until the Purchaser acquires title to the Property either by negotiation, settlement, or final court judgment.

#### Seller's Obligations at Closing

5.02. At the Closing Seller shall:

(1) Deliver to Purchaser a duly executed and acknowledged special warranty deed ("Deed") conveying good and indefeasible title to Williamson County, Texas in fee simple to all of the Property described in Exhibit "A", free and clear of any and all liens and restrictions, including specifically the partial release of any current leases affecting the Property, except for the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;

- (b) Any exceptions approved by Purchaser pursuant to Article III hereof; and
- (c) Any exceptions approved by Purchaser in writing.

The Deed shall be in the form as shown in Exhibit "C", attached hereto and incorporated herein.

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

- (a) The boundary and survey exceptions shall be deleted;
- (b) The exception as to restrictive covenants shall be endorsed "None of Record", except for restrictive covenants which are filed of record and affect the Property; and
- (c) The exception as to the lien for taxes shall be limited to the year of Closing and shall be endorsed "Not Yet Due and Payable".
- (d) Deliver to Purchaser possession of the Property if not previously done.

Seller has no obligation to cure any title objections raised by Purchaser, but upon request shall provide Purchaser with reasonable assistance, at no monetary cost to Seller, in clearing any title objection. If Purchaser is not satisfied with the status of title to the Property, Purchaser may, as Purchaser's sole and exclusive remedy, terminate this Contract by delivering a written notice of termination to Seller on or before the Closing Date.

#### Purchaser's Obligations at Closing

5.03. At the Closing, Purchaser shall:

- (a) Pay the remaining ten percent (10%) of the Cash Consideration to Seller in readily available funds.

#### Prorations

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

#### Closing Costs

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

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

#### **ARTICLE VI BREACH BY SELLER**

In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default, Purchaser may, as Purchaser's sole and exclusive remedy, enforce specific performance of Seller's obligations under this Contract.

#### **ARTICLE VII BREACH BY PURCHASER**

In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in Article III having been satisfied and Purchaser being in default and Seller not being in default hereunder, Seller shall have the right to receive and retain the Escrow Deposit, if any, as liquidated damages for the failure of Purchaser to consummate the purchase of the Property under the terms and provisions of this Contract, and Seller agrees to accept and take this cash payment as its total damages and relief and as Seller's sole remedy hereunder for that default. If no Escrow Deposit has been made, then Seller shall receive the amount of \$5,000.00 as liquidated damages for the failure by Purchaser to consummate the purchase of the Property under the terms and provisions of this Contract.

Notwithstanding the foregoing provisions of this Article VII or any other provision in this Contract to the contrary, however, if Purchaser defaults under any of the obligations of Purchaser under Section 2.03 of this Contract, Seller may exercise any rights or remedies which it may be entitled at law or in equity.

#### **ARTICLE VIII MISCELLANEOUS**

##### Notice

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

##### Texas Law to Apply

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

#### Parties Bound

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

#### Legal Construction

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

#### Prior Agreements Superseded

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

#### Time of Essence

8.06. Time is of the essence in this Contract.

#### Gender

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

#### Memorandum of Contract

8.08. Neither this Contract nor any memorandum, affidavit or other instrument evidencing this Contract or relating hereto (other than the closing documents contemplated under this Contract) shall ever be recorded in the Official Public Records of Williamson County, Texas, or in any other public records. Should Purchaser ever record or attempt to record any such instrument, then notwithstanding any provision in this Contract to the contrary, such recordation or attempted recordation shall constitute a default by Purchaser under this Contract and, in addition to any other remedies provided for herein, Seller shall have the express right to terminate this Contract by filing a notice of said termination in the Official Public Records of Williamson County, Texas, after which Seller will have the right to retain the Escrow Deposit but otherwise neither Purchaser nor Seller will have any further rights, remedies or obligations under this Contract.

Compliance

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

Effective Date

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

Counterparts

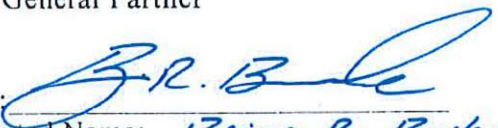
8.11 This Contract may be executed in any number of counterparts, which may together constitute the Contract. Signatures transmitted by facsimile or electronic mail may be considered effective as originals for purposes of this Contract.

**SELLER:**

CHANDLER CREEK, LP,  
a Delaware limited partnership

By: CHANDLER CREEK COMPANY,  
a Delaware corporation,  
its General Partner

Address: 260 East Baker Street, Ste. 100  
Costa Mesa, CA 92626

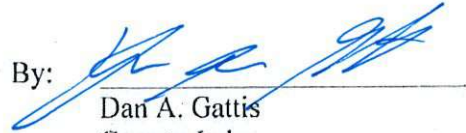
By:   
Printed Name: Brian R. Butler  
Title: President

Date: 1/10/18

**PURCHASER:**

WILLIAMSON COUNTY, TEXAS

By:

  
Dan A. Gattis  
County Judge

Address: 710 Main Street, Suite 101  
Georgetown, Texas 78626

Date: 01-23-2018