

## NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Special City Council Meeting** will be held by the governing body of the City of Burnet on the **11**<sup>th</sup> **day of June, 2021** at **2:00** p.m. in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, at which time the following subjects will be discussed, to-wit:

This notice is posted pursuant to the Texas Government Code, Chapter §551-Open Meetings.

The following subjects will be discussed, to-wit:

#### **CALL TO ORDER:**

#### **ROLL CALL:**

#### 1. EXECUTIVE SESSION:

1.1) Executive Session: Pursuant to Texas Government Code Sec. 551.072 the City Council of the City of Burnet shall convene in executive session to deliberate on the value of real property and related issues: D. Vaughn

#### 2. RECONVENE TO REGULAR SESSION FOR POSSIBLE ACTION:

- 2.1) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 118 EAST POLK STREET, BURNET TEXAS AND AUTHORIZING THE MAYOR TO EXECUTE AN ASSIGNMENT OF AN EXISTING SALES CONTRACT FOR SAID PROPERTY FOR A TOTAL ACQUISITION COST OF NOT MORE THAN ONE-MILLION DOLLARS: D. Vaughn
- **3. REQUESTS FROM COUNCIL FOR FUTURE REPORTS:** In accordance with Resolution R2020-28 councilmembers may request the City Manager to prepare and present future report on matters of public interest.

#### 4. ADJOURN:

Dated this the 2<sup>nd</sup> day of June, 2021

## CITY OF BURNET CRISTA GOBLE BROMLEY, MAYOR

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the governing body of the above named City, BURNET, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on or before 1:00 p.m. on June 8, 2021, and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

Kelly Dix, City Secretary

#### NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City Council Chamber is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.

#### RIGHT TO ENTER INTO EXECUTIVE SESSION:

The City Council for the City of Burnet reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

#### **RESOLUTION NO. R2021-30**

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 118 EAST POLK STREET, BURNET TEXAS AND AUTHORIZING THE MAYOR OR CITY MANAGER TO EXECUTE AN ASSIGNMENT OF AN EXISTING SALES CONTRACT AND RELATED CLOSING DOCUMENTS.

Whereas, City Council identified as a priority the acquisition of new city hall; and

**Whereas**, the property located at 118 East Polk Street is the site of a vacated Bealls' Department Store; and

Whereas, the property is currently under contract; and

Whereas, the purchaser is willing to assign its contract rights to the city; and

Whereas, City Council deems the location to be a preferable location for a new city hall.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

**Section one. Findings.** That the recitals to this Resolution are incorporated herein for all purposes.

**Section two**. **Approval**. The purchase of the property located 118 East Polk Street is hereby authorized for the amount of One Million Dollars and 00/100s (\$1,000,000.00), which includes both the purchase price and assignment costs.

**Section three. Authorization**. Mayor Crista Goble Bromley, or City Manager David Vaughn, is hereby authorized to execute an assignment of the existing contract rights to the property; execute a real property sales agreement and to take such further action, tender funds for the purchase price and the assignment, pay all additional closing cost, and execute such other ancillary documents reasonably necessary to facilitate the purpose of this resolution and close on the transaction

**Section 5. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act.

**Section 6. Effective Date.** That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 11<sup>th</sup> day of June, 2021.

Kelly Dix, City Secretary

	CITY OF BURNET, TEXAS	
ATTEST:	Crista Goble Bromley, Mayor	_

#### ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("<u>Assignment</u>") is effective as of June 14<sup>th</sup>, 2021 (the "<u>Effective Date</u>") by and between CHARLES B. RICHARDS III, TRUSTEE ("<u>Assignor</u>"), with an address of 1011 W. 40th Street, Suite 300, Austin, Texas 78756, and CITY OF BURNET, TEXAS ("<u>Assignee</u>"), with an address of 1001 Buchanan Drive, Suite 4, Burnet, Texas 78611.

#### BACKGROUND

- A. Assignor entered into that certain TAR Commercial Contract Improved Property dated effective January 5, 2021, by and between The Franklin I. Fickett Charitable Foundation, as Seller ("Seller"), and Assignor, as Buyer (as amended by that certain Commercial Contract Amendment dated effective March 26, 2021 and that certain Commercial Contract Amendment dated effective May 4, 2021, the "Contract"), for the sale and conveyance of that certain parcel of land and improvements thereon located at 118 E. Polk Street in Burnet, Texas 78611, and being more particularly described as LOTS 1-A & 3-A OF REPLAT OF LOT NO. 1 AND PORTIONS OF LOTS NOS. 2 AND 3, BLOCK NO. 17, PETER KERR PORTION, CITY OF BURNET, a Subdivision in Burnet County, Texas, according to the map or plat thereof, recorded in Cabinet 3, Slide 72-B, of the Plat Records of Burnet County, Texas (the "Property").
- B. Assignor desires to assign to Assignee, and Assignee desires to assume, all of Assignor's right, title and interest in and to the Contract to Assignee for the purpose of allowing Assignee to acquire the Property in accordance with the terms, conditions and limitations set forth in the Contract.

#### ASSIGNMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. <u>Assignment</u>. Subject to the terms and conditions herein, Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Contract and rights to any earnest money furnished thereunder. In connection therewith, Assignor has delivered to Assignee copies of all title, survey and other due diligence information in Assignor's possession concerning the Property.
- 2. <u>Assumption of Obligations: Replacement of Earnest Money.</u> Assignee agrees to assume and perform all obligations and duties of the Assignor under the Contract accruing from and after the date hereof. At or before closing under the Contract, Assignee shall deposit with the Title Company under the Contract an amount equal to the earnest money required under the Contract, whereupon the earnest money deposit made by Assignor under the Contract and all accrued interest thereon shall be returned to Assignor.
- 3. <u>Assignment Fee.</u> Within four (4) business days after the Effective Date, or at closing whichever occurs first, Assignee shall pay to "CBR3 Ranches LLC" (affiliate of Assignor) the sum of \$175,000 in immediately available funds as a fee for this Assignment. If

Assignee fails to pay such fee within such time period, Assignor may cancel this Assignment by delivering written notice thereof to Assignee and Seller at any time thereafter but prior to Assignor's receipt of such payment, in which event Assignor shall again be the Buyer under the Contract.

- 4. Assignor's Representations. Assignor hereby represents and warrants to Assignee that: (a) this Assignment has been duly executed and delivered by Assignor and constitutes the legal, valid and binding obligation of Assignor enforceable against Assignor in accordance with its terms; (b) Assignor has full power and authority to assign the Contract to Assignee hereunder; (c) no consent, approval, order or authorization of, or filing with, any court, administrative agency or commission or other governmental authority or instrumentality, or other person or entity is required by or with respect to Assignor in connection with the execution and delivery of this Assignment, other than the consent of Seller as shown below; (d) Assignor is the record and beneficial owner of the Contract, free and clear of any liens, encumbrances, pledges, security interests, voting agreements, options, rights of first offer or refusal, or claims of any nature whatsoever; and (e) neither Assignor nor, to Assignor's knowledge, Seller is in default under the Contract as of the date hereof.
- 5. <u>Governing Law</u>. This Assignment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of Texas.
- 6. Counterparts. This Assignment may be executed in one or more counterparts, which shall be construed together as one document. A telecopy or electronic delivery [i.e., the transmission by either party of its signature on an original or any copy of this instrument via fax machine or over the internet in electronic photostatic format (e.g., .pdf Adobe)] shall be deemed to be the delivery by such party of its original signature hereon.

[signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto make and execute this Assignment to be effective on the date first-above written, which shall be the last date of execution below.

	Assignor:
	CHARLES B. RICHARDS III, TRUSTEE
	Date: June, 2021
	Assignee:
	CITY OF BURNET, TEXAS
	By:Crista Goble Bromley, Mayor
	Attest:
	Kelly Dix, City Secretary
	Date: June, 2021
<b>Consented to by Seller:</b>	
THE FRANKLIN I. FICKETT CHA	RITARI F FOUNDATION
THE FRANKLIN I. FICKLI F CHA	INTIABLE I CONDATION
Rv	
By: Clint Small, Trustee	
Date: June, 2021	



# TEXAS ASSOCIATION OF REALTORS' COMMERCIAL CONTRACT - IMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS SIS NOT AUTHORIZED.

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		Addres	s: <u>1011</u>	W. 40th Street, S	iulte 300, Austin	TX 78756		, yy	. , ,	
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Car	nmer	clai Contract - Improved Property concerning 118 E Polk St.
4,	FIN	ANCING: Buyer will finance the portion of the sales price under Paragraph 3B as follows:
		Third Party Financing: One or more third party loans in the total amount of \$ This contract:
	00	<ol> <li>is not contingent upon Buyer obtaining third party financing.</li> <li>is contingent upon Buyer obtaining third party financing in accommendation with the attached Commercial Contract Financing Addendum.</li> </ol>
	В,	Assumption: In accordance with the attached Commercial Contract Financing Addendum, Buryer will be assume the existing promissory note: secured by the Property, which balance at closing will be a secured by the Property.
X	O,	Seller Financing: The delivery of a promissory note and de ed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum in the amount of \$ 800,000,00
5.	EA	RNEST MONEY:
	Α,	Not later than 3 days after the effective date, Buyer must deposit \$ 10,000.00 as earnest money with Prominent Title Co. Attn: Jackie Rado (escrow agent)
		at (address) (closer)
		If Buyer falls to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.
	1490	Buyer will deposit an additional amount of \$\frac{10,000.00}{0.000}\$ with the title company to be made part of the earnest money on or before:    (i) days after Buyer's right to terminate under Paragraph 7B expires; or   \( \text{M} \) (ii) 90 days to extend the Feasibility period by 30 days.
		Buyer will be in default if Buyer falls to deposit the additional amount required by this Paragraph 55 within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
	Ö.	Buyer may instruct the little company deposit the earnest money in a n interest-bearing account at a federally insured financial institution and to credit any interest to Buyer,
6.	TIT	LE POLICY, SURVEY, AND UCC SEARCH:
	À,	Title Policy:
		(1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy issued by Prominent Title Co. (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 for m of title p olicy unless this contract provides otherwise.
		(2) The standard printed exception as t o discrepancies, conflicts, or shortages in area and boundar 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) Within 15 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 a Buyer's address.
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CIA	7-19(	21) 1-26-10 Initiated for Identification by Seller (C) and Buyer 2 of 1

	<b>1</b> (1	Suyer will obtain a survey of the Property at Bu yer's expense and deliver a copy of the surve y to Seller. The survey must be mad e in accordance with the: (i) ALT A/ACSM Land Title Surve y standards, or (ii) Texas Society of Profession at Surveyors' standards for a Category 1As urvey under the appropriate condition.
	(2)	Seller, at Seller's expense, will turnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
***************************************	<b>K</b> (3	Seller will deliver to Bu yer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company. Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller up to \$3,000.00 (insert amount) of the cost of the new or updated survey at closing occurs.
C	. <u>uc</u>	Search:
Ļ	<b>1</b> (1)	Within days after the effective date; Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCO) search prepared by a reporting service and dated after the effective date. The search must identify documen to 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.
×	1 (2)	Buyer does not require Seller to furnish a UCC search.
E	. Bu	ver's Objections to the Commitment, Survey, and UCC Search:
	(1)	Within 15 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions; any required survey, and any required UCC search, Buyer may object to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or 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 a ssume 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). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of; (i) the date Buyer actually receives the survey; or (li) the deadline specified in Paragraph 6B.
	(2)	Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will, be extended as necessary to provide such time 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 Selle r within 5 d'ays after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independe nt consideration

(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.

under Paragraph 7B(1), will be refunded to Buyer.

Commercial Contract - Improved Property concerning 118 E Polic St.

days after the effective date:

B. Survey: Within 30

Commercial Contract - Improved Properly concerning 118 E Polk St.
7. PROPERTY CONDITION:
A. <u>Present Condition</u> : Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: <u>N/A</u>
B. Feasibility Period: Buyer may terminate this contract for any reason within 90 days after the effective date (feasibility period) by providing Seller written notice of termination, (Check only one box.)
(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 100.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the escrow agent. The Independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer falls to deposit the earnest money. Buyer will not have the right to terminate under this Paragraph 7B.
(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ as independent consideration for Buye r's right to t eminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will re tain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no doll ar amount is stated in this Paragraph 7B(2) or if Buyer falls to pay the independent consideration. Buyer will not have the right to terminate under this Paragraph 7B.
C. Inspections, Studies, or Assessments:
(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer;
(2) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.
<ul> <li>(3) Buyer must:</li> <li>(a) employ only trained and qualified inspectors and assessors;</li> <li>(b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;</li> <li>(c) abide by any reasonable entry rules or requirements of Seller;</li> <li>(d) not interfere with existing operations or occupants of the Property; and</li> <li>(e) restore the Property to its origin all condition if altered due to inspection s, studies, or assessments that Buyer completes or causes to be completed.</li> </ul>
(4) Except for those matters that arise from the n egligence of Seller or Seller's age nts, 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 I indemnify, hold harmless, and defe ind 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.
D. Property Information:
(1) <u>Delivery of Property Information</u> : Within 10 days after the effective date, Seller will deliver to Buyer.
<ul> <li>(a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;</li> </ul>
(TAR-1801) 1-26-10 Initiated for identification by Seller (B) and Buyer (CRF) Page 4 of 13

Co	mme	rofal	Contract - Improved Property concerning 118 E.Polk St.
			(b) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
		00	(c) a current inventory of all personal property to be conveyed under this contract and copies of any
		1579	leases for such personal property; (d) copies of all notes and deeds of trust against the Property that Buyer will a ssume or that Seller
		HOM	will not pay in full on or before closing;
		X	(e) copies of all current service, maintenance, and management agreements relating to the ownership and operation of the Property;
		Ö	(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;
			<ul> <li>(h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;</li> <li>(l) copies of all leasing or commission agreements that currently relate to all or part of the Property;</li> </ul>
		ā	(i) 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:
			(I) a copy of Seller's income and expense statement for the Property from
		_	to
		u	(m) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
			(n) real & personal property tax statements for the Property for the previous 2 calendar years; and
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			manufacture of the state of the
	E.	Cor	Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed. This Paragraph 7D(2) survives termination of this contract:
		Sel	pose of any part of the Property, any interest or right in the Property, or any of the personal property other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, liter may not enter into, amend, or terminate any other contract that affects the operations of the operty without Buyer's written approval.
8,	LE	ASE	
	A.	or (1) (2) (3) (4)	ch written lease Seller is to assign to Buyer under this contract must be in full force and effect cording to its terms. Seller may not enter into any new lease, fall to comply with any existing lease, make any amendment or modification to any existing lease without Buyer's written consent. Seller stidisclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer subsequently occur before closing:  any failure by Seller to comply with Seller's obligations under the leases; any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages; any non-occupancy of the leased premises by a tenant; any advance sums paid by a tenant under any lease;
		(5)	any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
			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.

Oo	mme	relal Contract - Improved Property concerning 118 E Polk St.	
¥1		Esteppel Cartificates: Within days after cartificates signed not earlier than in the Property. The esteppel cartificates must income TAR Form 1938. Commercial Tenant Esteppe by a third party lender providing financing and	the effective date, Seller will deliver to Buyer estopped by each tenant that leases space clude the certifications contained in the current version of Certificate and any additional information requested Paragraph 4 if the the Ird party lender request a such the earliest date that—Seller may deliver the signed
9.	BF	KOKERS:	7-
	A.	The brokers to this sele are:	
		The Retail Connection, L.P.	
		Principal Broker License No. Andrew Sudderin	Cooperating Broker License No.
		Agent 1000 N Lamar Blvd., Sulte 410	Agent
		Address Austin, TX 78703 Address	
		512-485-0888	. And the second of the second
		Phone Fax asudderth@theretallconnectlon.net	Phone
		E-Mail License No.	E-Mail Ligense No.
		Principal Broker: (Check only one box)  represents Seller only, represents Buyer only, It is an intermediary between Seller and Buyer.	Cooperating Broker represents Buyer.
	В,	Fees: (Check only (1) or (2) below.)	**************************************
		(1) Seller will pay Principal Broker the fee specific between Principal Broker and Seller, Principa in the Agreement Between Brokers found belo	l Broker will pay Cooperating Broker the fee specified
	B	(2) At the closing of this sale, Seller will pay:	
		Principal Broker a total pash fee of:  003 % of the sales price.	Cooperating Broker a total cash fee of:  """ "" "" "" "" "" "" "" "" "" "" "" "
		The cash fees will be paid inTravis escrow agent to pay the brokers from the Selle	County, Texas. Seller authorizes ar's proceeds at closing.
		NOTICE: Chapter 52, Texas Property Code, with a lien against the Property.	authorizes a broker to secure an earned commission
	C.	The parties may not amend this Paragraph 9 with amendment.	out the written consent of the brokers affected by the
10.	CL	OSING:	
	A.	The date of the closing of the sale (closing date) (1) 図 30 days after the expiration of the grant days after the expiration days afte	feasibility period.
		(2) 7 days after objections made under Paragraph	
			Ý.
(TA	R-18	01) 1-26-10 infilated for identification by Seller	erid Buyer Page 6 of 13

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- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
- C. At closing, Seller will execute and deliver to Buyer, at Seller's expense, a 

  general 

  special warranty deed. The deed must include a vend or's lien if any part of the sales price is finance d. 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:

(1) with no liens, assessments, or Uniform Commercial Code or other se curity 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 persone 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.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:

(1) tax statements showing no delinquent taxes on the Property;

(2) a bill of sa le with warranties to little 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 ite ms as they relate to the Property or its operations:

Ilcenses and permits: (a)

(b) maintenance, management, and other contracts; and

(0) warrantles and guarantles:

(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;

- (7) an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escr ow agent to: (i) withhold from Seller's proceed as an amount sufficient to comply applicable tax law; and ( ii) deliver the amount to the inter nat Revenue Service together with appropriate tax forms; and
- (8) any notices, statements, certificates, affidavit s, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issua not of the title policy, all of which must be completed and executed by Seller as necessary.

E. At closing, Buyer will:

(1) pay the sales price in good funds acceptable to the escrew agent;

(2) deliver evidence that the person executing the scontract is legally capable and authorized to bind Buyer;

(3) sign and send to each tenant in the Property a written statement that:

(a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and

(b) specifies the exact dollar amount of the security deposit;

(4) sign an assumption of all leases then in effect; and

- (5) execute and deliver a my notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. 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.
- 11. POSSESSION: Seller will deliver possession, of the Property to Buyer upon do sing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and te ar excepted. Any possession by B uver before closing or by Seller after closing t hat is not authorized by a separate written le ase agreement is a lan diord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: (If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D,)

> The Retail Connection will have permission to erect a sign on the property. One or more of the purchasers are licensed real estate agents in the state of Texas. Seller will pay Christi Tennison, Austin Title company a:\$1,000.00 fee for previous title work at closing.

#### 13. 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 and fees:

(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: and

(6) other expenses that Buyer will pay under other provisions of this contract.

#### 14. PRORATIONS:

#### 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, faxes 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 14A(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 pa yment 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.

B. Rollback Taxes: If Seller changes the use of the Property before closing or if a direction of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closin g, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closin g results in add itional assessments for periods: before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

C. Rent and Security Deposits: At closing, Sall for will tend or to Buyer all security deposits and the following advance payments received by Seller foir periods after closing: prepaid expenses, advance rental payments, and of their advance payments paid by tenants. Ren its 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 14C survives closing.

#### 16. 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 and as Seller's sole remedy; or

(2) seek any other relief provided by law. Seller II may II may not enforce specific performance.

B. If without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:

(1) terminate this contract and receive the earnest money, less any independent consideration uniterinate this contract and receive the earnest money, less any independent consideration uniterinated the earnest money, less any independent consideration uniterinated the earnest money.

(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 falls 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 78(1), as liquidated damages and as Buyer's sole remedy; or

(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

#### 16. CASUALTY LOSS AND CONDEMNATION:

A. If any part of the Property is damaged or destroyed by filtre 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(1), will be refunded to Buyer;

(2) extend the time for performance up to 15 days and closing will be extended as necessary; or

(3) accept at closing: (i) the Property in its damaged condition; (ii) an a ssignment 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

(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(1), 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) Buye r and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or any e scrow agent is a prevailing party in any legal proceeding brought under or with relation to the contract or this trainsaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

#### 18. ESCROW:

A. At closing, the earnest money will be applied first to any cash down payment, the n to Buyer's closing costs, and any excess will be ref unded to Buyer. If no closing occurs, escrow agent may require

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payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.

- B. 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 15 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.
- C. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If eacrow agent complies with this Paragraph 18, each party hereby releases escrow agent from all claims related to the disbursal of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to escribe agent are effective upon receipt by escrow agent.
- F. Any party who wrongfully falls or ref uses to sign a release acceptable to escrow agent within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable atterney's fees; and (iv) all costs of suit.
- G. Seller Dayer Intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenuer Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good fall hit carrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange falls to occur.

#### 19. MATERIAL FACTS: To the best of Seller's knowledge and belief: (Check only one box.)

- A. Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.
- M. B. Except as otherwise provided in this contract. Seller is not aware of:

(1) any subsurface: structures, pits, waste, springs, or improvements;

(2) any pending or threatened litigation, condemnation, or assessment affecting the Property;

(3) any environmental hazards or conditions that materially affect the Property;

- (4) 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;
- (5) whether radon, asbesto's containing materials, 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 Properly;
- (6) any wetlands, as defined by federal or state law or regulation, on the Property:

(7) any threatened or endangered species or their habitat on the Property:

- (8) any present or past infestation of wood-destroying insects in the Property's improvements;
- (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
- (10) any material physical defects in the improvements on the Property; or
- (11) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(11) in Paragraph 12 or an addendum.)



- 20. 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.
- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- M B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.
- 21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an affort to resolve any dispute related to this contract t hat may arise. If the dispute cann of be resolved by negot lation, 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. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- Addenda which are part of this contract are: (Check all that apply.) (1) Property Description Exhibit Identified in Paragraph 2; Commercial Contract Condominium Addendum (TAR-1930); (3) Commercial Contract Financing Addendum (TAR-1931); X (4) Commercial Property Condition Statement (TAR-1408); Commercial Confract Addendum for Special Provisions (TAR-1940): (5) Addendum for Seller's Disclosure of Information on Lead -Based Paint and Lea d-Based Paint Hazards (TAR-1906); Notice to Purchaser of Real Property in a Water District (MUD); (8) Addendum for Coastal Area Property (TAR-1915); (9) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916); (10) Information About Brokerage Services; and (11) Addendum

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addends which ere promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

- 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 assigned assumes, in writing, all of Buyer's obligations under this contract.
- 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 performs noe of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.

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(TAR-1801) 1-26-10	Iniliated for Identification by Seller	(05)	and Buyer
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#### 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 S eller to deliver and Buyer to sign the statut dry notice relating to the tax rate, bonded indeb tedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by \$13,257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewers ervice area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. T here may be a period required to construct if nes or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. 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.
- E. If the Property is loca ted seaward of the Gulf Intracoa stal 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.
- F. 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 municip. ality maintains a map t hat 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.
- G. 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.
- H. Section 1958.154, Occupations Code requires Seller to provide Buyer a copy of any mold remediation certificate issued for the Property during the 5 years preceding the date the Seller sells the Property.
- Brokers are not qualified to perform property ins pecilions, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perf orm such services. Buyer should review local building codes. ordinances and other applicable laws to determine their effect on the Property. 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 o r
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.

transaction. CONSULT your attorney BEFORE's Seller: Figkeit Franklin Charitable Foundation	The same
	Duyer
By Clint Syng!	Byt
N By (elgnature): CCF Sorm()	By (signature) 2 B C C
Printed Name: Clint Small	Printed Name: Charles B. Richards III
Tille: Trustee Member	Tille: Trustee
By (signature):	
Printed Name:	
Title:	
AGREEMENT	BETWEEN BROKERS
(use only )! Pa	ragraph 98/11 is effective)
Principal Broker agrees to pay	e fee to be paid to Cooperating Broker)
ee when the Phincipal Broker's tee is received. Thi	e tee to be paid to Cooperating Broker will be:
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☐% of the Principal Broker's fee.	
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Escrow agent is authorized and directed to pay Coo Agreement Between Brokers supersedes any prior Principal Broker By:  Seller's attorney:  Phone & Fax:  E-mail: Seller's attorney requests copies of documents, notices; and other information;	offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS Buyer's attorney: Christopher Bell'  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-320-4545  E-mall: cbell@obell-law.com  Buyer's attorney requests copies of documents, notices, and other information:
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Escrow agent is authorized and directed to pay Coo Agreement Between Brokers supersedes any prior Principal Broker By:  Seller's attorney:  Fhone & Fax:  E-mall:  Seller's attorney requests copies of documents, notices; and other information;  If the title company sends to Buyer.  If Seller sends to Buyer.  ESCR	offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS Buyer's attorney: Christopher Bell  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-320-4545  E-mail: cbell@cbell-law.com  Buyer's attorney requests copies of documents, notices, and other information: When title company sends to Seller.
Escrow agent is authorized and directed to pay Coo Agreement Between Brokers supersedes any prior Principal Broker By:  Address:  Phone & Fax:  E-mall:  Seller's attorney requests copies of documents, notices, and other information;  I the title company sends to Buyer.  J Seller sends to Buyer.  ESCR	offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS Buyer's attorney: Christopher Bell  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-320-4545  E-mall: cbell@obell-law.com  Buyer's attorney requests copies of documents, notices, and other information: By: Buyer's attorney requests copies of documents, notices, and other information: By: Buyer's ends to Seller.  COW RECEIPT
Escrow agent is authorized and directed to pay Coo Agreement Between Brokers supersedes any prior Principal Broker By:  Seller's attorney:  Address:  Fhone & Fax:  Finalli  Seller's attorney requests copies of documents, notices, and other information;  I the title company sends to Buyer.  I Seller sends to Buyer.  Escr  Escr  At the contract on this day	Offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS Buyer's attorney: Christopher Beil'  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-320-4545  E-mall: chell@oball-law.com  Buyer's attorney requests copies of documents, notices, and other information: By the title company sends to Seller. Buyer sends to Seller.  COW RECEIPT  (effective date):
Escrow agent is authorized and directed to pay Con Agreement Between Brokers supersedes any prior Principal Broker By:  Seller's attorney:  Address:  Phone & Fax:  E-mall:  Seller's attorney requests copies of documents, notices, and other information;  If the title company sends to Buyer.  If Seller sends to Buyer.  Escrow agent acknowledges receip of the contract on this day the contract on this day the contract of the agreement of the contract of t	offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS Buyer's attorney: Christopher Bell'  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-320-4545  E-mall: cbell@obell-law.com  Buyer's attorney requests copies of documents, notices, and other information:  Whe title company sends to Seller.  Buyer sends to Seller.  COW RECEIPT  SW 2021  (effective date):  On 01/07/2021
Escrow agent is authorized and directed to pay Coo Agreement Between Brokers supersedes any prior Principal Broker By:  Seller's attorney:  Address:  Phone & Fax:  E-mail:  Seller's attorney requests copies of documents, notices, and other information;  I the title company sends to Buyer.  CI Seller sends to Buyer.  Escrow agent acknowledges receipt of the contract on this day  A the contract on this day  A the contract on this day  A the contract on this day	Offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS Buyer's attorney: Christopher Beil'  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-320-4545  E-mall: cbell@cbell-law.com  Buyer's attorney requests copies of documents, notices, and other information: By the title company sends to Seller. Buyer sends to Seller.  COW RECEIPT  (effective date):
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Escrow agent is authorized and directed to pay Coo Agreement Between Brokers supersedes any prior Principal Broker By:  Seller's altorney:  Address:  Phone & Fax:  E-mailt  Seller's attorney requests copies of documents, notices; and other information;  I the title company sends to Buyer.  I Seller sends to Buyer.  Escr	Offers and agreements for compensation between brokers  Cooperating Broker: By:  TORNEYS  Buyer's attorney: Christopher Bell'  Address: 806 West 10in St., Ste B  Austin, TX 78701  Phone & Fax: 512-920-4545  E-mall: cbell@obell-law.com  Buyer's attorney requests copies of documents, notices, and other information: Christopher Bell'  Buyer's ends to Seller.  COW RECEIPT  Company Sends to Seller.  Compensation: Compensati





# Texas Association of Realtors® COMMERCIAL CONTRACT FINANCING ADDENDUM

ÚSE OP THIS POŘÍM BY PÉRŠONS MYM ARE NOT MUMBERS OF THE TEXAS ASSOCIATION OF REALTORES IS NOT AUTHORIZED. Gřenos angolesný of realtorista inc. 2010

ADDE	DUM TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE PROPERTY AT 118 E Polk St., Burnet, TX 78611
The porti	of the Sales Price not payable in cash will be paid as follows: (Check all that apply.)
	RD PARTY FINANCING:
(	The contract is contingent upon Buyer obtaining a third party loan(s) secured by the Property in the amount of \$
(	Buyer will apply for the third party loan(s) described in Paragraph A(1) promptly after the effective date. If Buyer cannot obtain the loan(s), Buyer may give Seller written notice within
(	Each note to be executed under this addendum is to be secured by vehdor's and deed of trust liens.
DB. A	SUMPTION:
Ţ	Buyer will assume the unpaid principal balance of the existing promissory note secured by the Property payable to which balance at closing will be \$
(	Buyer's Initial payment will be the first payment due after closing. Buyer's assumption of the existing
	in the real property records of the county where the Property is located.
(	If the ungaid principal balance of the assumed loan as of the date of closing varies from the loan balance stated in Paragraph B(1), the cash payable at closing will be adjusted by the net amount of any variance; provided, if the total principal balance of the assumed loan varies in an amount greater than \$
(	Buyer may terminate the contract and the earnest money, less any independent consideration under Paragraph 7B(1) of the contract, will be refunded to Buyer if the note holder on assumption requires:  (a) Buyer to pay an assumption fee in excess of \$ and Seller declines to pay such excess;  (b) an increase in the interest rate to more than %; or  (c) any other modification of the loan documents.
(	Unless Seller is released of liability on any assumed note, Seller requires a vendor's lien and deed of trust to secure assumption, which will be automatically released on execution and delivery of a release by the note holder.
(TÄR÷1931)	26-10. Initialed for Identification by Seller 15. and Buyer 15. Page 1 of 4
Child Hoffand Phone: 806-20	il Esinto, P.O. Box 541 1505 Trinnoc-Lane Childress; TX 79201 197 Fuxt Ched-Holland Untitled Produced with 21/Poznio by zipt ogly: 18070 Filleon Milé Búéd, Prosei; Michigin 48028: www.stbl.ogly.com

Comme	ercial C	Contract Financing Addendum concerning 118 E Polk St., Burnet, TX 78611
		If assumption approval is required by the note holder, Buyer will apply for essumption approval within days after the effective date of the contract and will make every reasonable effort to obtain assumption approval. If Buyer cannot obtain assumption approval, Buyer may give Seller written notice within days after the effective date and the contract will terminate and the earnest money, less any independent consideration under Paragraph 7B(1) of the contract, will be refunded to Buyer. If Buyer does not give such notice within the time required and Buyer does not close because Buyer is not able to assume the existing note, Buyer will be in default.
X C,	SE	L'ER ENANCING:
	(1)	At closing, Buyer will execute and deliver a promissory note (the note) from Buyer to Seller in the amount of \$800,000, bearing4% interest per annum. Matured, unpaid amounts will bear interest at the maximum rate of interest allowed by law.
	(2)	The note will be payable as follows:
		(a) In one payment, due
	X	(b) In installments of \$ 2,666.67
		(c) Interest only in monthly installments for the first vers and thereafter in installments of \$ including interest plus interest beginning after the date of the note and continuing at intervals thereafter for when the entire balance of the note will be due and payable.
	(3)	The note will be secured by veridor's and deed of trust liens and an assignment of leases payable at the placed designated by Seller.
	(4)	The note will provide that if Buyer fails to timely pay an installment within 10 days after the installment is due, Buyer will pay a late fee equal to 5% of the installment not paid.
	(5)	The note Q will to will not provide for liability (personal or corporate) against the maker in the event of default.
	(6)	The note may be prepaid in whole or in part at any time without penalty. Any prepayments are to be applied to the payment of the installments of principal last maturing and interest will immediately cease on the prepaid principal.
	(7)	The lien securing payment of the note will be inferior to any lien securing any superior note described in this addendum. If an owner's policy of title insurance is furnished, Buyer, at Buyer's expense, will furnish Seller with a mortgages title policy in the amount of the note at closing.
	(8)	if all or any part of the Property is sold or conveyed without Seller's prior written consent, Seller, at Seller's option, may declare the outstanding principal balance of the note, plus accrued interest, immediately due and payable. Any of the following is not a sale or conveyance of the Property:  (a) the creation of a subordinate lien;  (b) a sale under a subordinate lien;  (c) a deed under threat or order of condemnation;  (d) a conveyance solely between the parties; or  (e) the passage of title by reason of death of a maker or operation of law.
		· ,

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(TAR-1931) 1-26-10

Page 2 of 4

improvements on the Property.

- (a) If Büyer deposits taxes and insurance deposits with Seller, Buyer agrees that the taxes and insurance deposits are only estimates and may be insufficient to pay total taxes and insurance premiums. Buyer agrees to pay any deficiency within 30 days after Seller notifies Buyer of any deficiency. Buyer a failure to pay the deficiency is a default under the deed of trust.
- (b) If any superior lien holder on the Property collects payments for taxes and insurance, any requirement to deposit taxes and insurance deposits with Seller under this addendum is inoperative so long as payments are being made to the superior lien holder.
- (10) Any event that constitutes a default under any superior lien constitutes a default under the dead of trust securing the note.
- (11) The note will include a provision for reasonable attorney's fees for any collection action,
- (12) Unless the parties agree otherwise, the form of the note and loan documents will be as found in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

D.	CREDIT APPROVAL ON ASSUMPTION OR SELLER FINANCING:
	(1) To establish Buyer's creditworthiness for assumption approval or seller financing. Buyer will deliver to Seller the following information (Buyer's documentation) within

#### DI E. SPECIAL PROVISIONS:

Initialed for Identification by Saller: 60 and Buyer 77

Commercial Contract Financing Addendum concerning 118 E P	olk St,, Burnet, TX-78611
Selfer: The Flokett Franklin Cherkeble Foundation  By: Clind: Sure!!  By (eignature): Aim!!  Printed Name: Clint Small  Title: Trustee	Buyer:  By: Charles B. Richards III. Trustage and or sasigns  By (alguature): 75  Printed Name: Charles B. Richards III  Title: Trustage
By:	Ву:
By (signature):	By (algneture):

Tille: Managing Member

(TAR-1931) 1-26-10

Page 4 of 4

Untitled



#### ADDENDUM TO COMMERCIAL CONTRACT - IMPROVED PROPERTY

This Addendum to Commercial Confinct—Improved Property (this "Addendum") is attached to and made a part of that certain Commercial Contract—Improved Property (the "Contract") by and between Fickett Franklin Charlesle Foundation ("Seller) and Charles B. Richards III, Trustee (together with its successors or assigns, "Buyer"). The terms and conditions of this Addendum shall control over those contained in the Contract. Capitalized terms used but not defined herein shall have the meanings accorded to same in the Contract.

- 1. During the feasibility period, Buyer shall have reasonable access to the Property at all reasonable times during normal business hours, upon appropriate notice to Tenant (if any) as permitted or required under the Lease, for the purpose of conducting reasonably necessary tests, including surveys and archirectural, engineering, geotechnical and environmental inspections and tests; and to meet with Seller's mana gement company representatives, provided that Buyer must give Seller twenty-four (24) hours prior tolophone of email notice of any such inspection or test. At Seller's election, a representative of Seller shall be present at any entry by Buyer or its agents, contractors or employees (collectively, "Buyer Parties"), upon the Property. All persons or entitles conducting tests or inspections on the Property shall be duly qualified, experienced, and, if required by the State of Texas, registered and licensed with the State of Texas for the investigations, inspections and tests which they will perform on the Property. Buyer shall not perform any invasive or intrusive inspection, test or investigation of the Property (including, without limitation, any drillings, test borings, core samplings, or other disturbance of the Property for review of soils, compaction, environmental, structure or other conditions of the Property) without Seller's prior written consent, which consent may be given, withheld or conditioned in Seller's sole discretion.
- 2. In the event that Buyer obtains a Phase I Environmental Site Assessment ("Phase I"), which terms expressly recommend that a Phase II environmental sampling be completed, and a copy of such Phase I is delivered to Seller on or before the date that is twenty-five (25) days following the Effective Date, Buyer shall have the option to terminate this Agreement and receive a refund of the \$1,000 independent consideration deposited in accordance with Section 7(B). If Buyer fails to deliver a copy of such Phase I to Seller within the time-frame set forth above, Buyer's right to terminate Contract and receive a refund of the independent consideration shall be of no further force and effect and such non-refundable deposit shall be non-refundable in all events in accordance with the Contract.
- Seller and Bayer agree that delivery of the information in Paragraph 7.D of the Contract by Seller may include transmission of electronic copies of one or more of such items, or giving access to Buyer to one or more of such items, or giving access to Buyer to one or more of such items through a website porial. Unless Seller specifically and expressly otherwise agrees in writing, Buyer agrees that until the Closing (a) the results of all inspections, analyses, studies and similar reports relating to the Property prepared by or for Buyer utilizing any information acquired in whole or in part through the exercise of Buyer's inspection rights; and (b) all information regarding the Property of whatsoever nature made available to Buyer by Seller or Seller's agents or representatives (the "Propreteury Information") is confidential and shall not be disclosed to any other person except those assisting Buyer with the transaction, or Buyer's lender, if any, and then only upon Buyer making such persons aware of the confidentiality restriction; provided that if the Closing does not occur, the foregoling described results and Proprietary Information shall remain confidential in accordance with this Section 2. Prior to Closing (or if Closing does not occur, then from and after the date hereof), Buyer agrees not to use or allow to be used any such information for any purpose other than to determine whether to proceed with the contemplated purchase. Notwithstanding any other term of the Contract, the provisions of this Section 2 shall survive Closing or the termination of the Contract.



- 4. Seller makes no representations or warranties as to the truth, accuracy, completeness, methodology of preparation or otherwise concerning (i) any engineering or environmental reports or any other materials, data or other information supplied to Buyer in connection with Buyer's inspection of the Property or (ii) the Items described in Paragraph 7D(I) of the Contract (such items; the "Soller Items"), and Seller disclaims all representations or warranties with respect to the Seller Items. It is the parties' express understanding and agreement that any materials which Buyer is allowed to review are provided only for Buyer's convenience in making its own examination and determination prior to the expiration of the feasibility period as to whether it wishes to purchase the Property, and, in doing so, Buyer shall rely exclusively on its own independent investigation and evaluation of every aspect of the Property and not on any materials supplied by Seller. Buyer expressly disclaims any intent to rely on any such materials provided to it by Seller in connection with its inspection and agrees that it shall rely solely on its own independently developed or verified information.
- As a material part of the consideration of the Contract, Buyer hereby agrees and acknowledges 5. that the Property is being sold in an "AS IS, WHERE IS" condition and "WITH ALL FAULTS" as of the date of the Contract and of Closing. Except as expressly set forth in the Contract and the warranty of title set forth in the Deed, no representations or warrantles have been made or are made and no responsibility has been or is assumed by Seller or by any partner, officer, person, firm, agent, attorney or representative acting or purporting to not on behalf of Seller as to (i) this condition of state of repair of the Property. (ii) the compliance or non-compliance of the Property with any applicable laws, regulations or ordinances (including, without limitation, any applicable zoning, building or development codes); (iii) the value, expense of operation, or income potential of the Property; (iv) any other fact or condition which has or might affect the Property or the condition, state of repair, compliance, value, expense of operation or income potential of the Property or any portion thereof, or (y) whether the Property contains asbestos or harmful or toxic substances or pertaining to the extent, location or nature of same. The parties agree that all understandings and agreements heretofore made between them or their respective agents or representatives are merged in the Contract and the attached thereto, which alone fully and completely express their agreement, and that the Contract has been entered into after full investigation, or with the parties satisfied with the opportunity afforded for full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embedded in the Contract of the attachments thereto,

Buyer waives its right to recover from and forever releases and discharges Seller, Seller's affiliates, Seller's investment advisors, managers and consultants, including without limitation, the managers, partners, trustees, shareholders, directors, officers, attorneys, employees and agents of each of them, and their respective heirs, successors, personal representatives and assigns (collectively, the "Releasees") from any and all demands, claims (including, without limitation, causes of action in tort), legal or administrative proceedings, losses, limbilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen (collectively, "Claims"), that may arise on account of or in any way be connected with the Property, the physical condition thereof, or any law or regulation applicable thereto (including, without limitation, claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.); the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (49 U.S.C. Section 1801, et seq.), the Hazardous Transportation Act (42 U.S.C. Section 6901, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), EVEN IF THE SAME ARE CAUSED BY OR RESULT FROM THE NEGLIGENCE OF THE RELEASEES. Without limiting the foregoing, Buyer, upon closing, shall be deemed to have waived, relinquished and released Seller and all other Releasees from any and all Claims, matters arising out of latent or patent defects or physical conditions, violations of applicable laws (including, without limitation, any environmental laws) and any and all other acts, omissions, events,

circumstances or matters affecting the Property. The provisions of this Section 4 shall be incorporated into the Special Warranty Deed delivered by Seller at Closing.

- 6. Buyer shall keep the Property free from any liens arising out of any work performed, materials thrulshed or obligations incurred by or on behalf of Buyer or Buyer's agents with respect to any inspection or testing of the Property by or on behalf of Buyer. If any such lien at any time shall be filled, Buyer shall cause the same to be discharged of record within twenty (20) days thereafter by satisfying the same or. Failure by Buyer to discharge such lien within such twenty (20) day period shall be a material breach of the Contract and shall entitle Seller, at its option, immediately and without notice or any further our period, to declare the Contract to be terminated and to retain the Earnest Money as liquidated damages.
- 7. IN NO EVENT SHALL EITHER SELLER'S OR BUYER'S DIRECT OR INDIRECT PARTNERS, SHAREHOLDERS, OWNERS OR AFFILIATES, ANY OFFICER, DIRECTOR, EMPLOYEE OR AGENT OF THE FOREGOING, OR ANY AFFILIATE OR CONTROLLING PERSON THEREOF HAVE ANY LIABILITY FOR ANY CLAIM, CAUSE OF ACTION OR OTHER LIABILITY ARISING OUT OF OR RELATING TO THE CONTRACT OR THE PROPERTY, WHETHER BASED ON CONTRACT, COMMON LAW, STATUTE, EQUITY OR OTHER WISE.
- 8. The parties hereto each acknowledge and agree that they and, if they so choose, their attorneys have reviewed and revised the Contract and that the normal rule of construction that any ambiguities are to be resolved and construed against the drafting party shall not be employed in the interpretation of the Contract.
- 9. Buyer and Seller agree not to regard the Contract or any memorandum thereof.
- 10. All representations, warranties and covenants of Seller set forth in the Contract shall be merged with the Special Warranty Deed at Closing and shall not survive Closing.
- 11. The term "business day" shall mean a day that is not a Saturday, Sunday or legal holiday for national banks in the location where the Property is Tocated,
- The Contract, including this Addendum, may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Contract. To facilitate executed by a party, who transmits a copy of the signed document to the other party, its agent or the Title Company by scanning and emailing the document, it shall be deemed delivered just as if an original executed counterpart had been delivered; provided that executed originals are promptly thereafter delivered to the Title Company for distribution. Copies of signatures to the Contract are effective as original signatures.
- 13. The acceptance of the Special Warranty Deed by Buyer shall be deemed to be a full performance and discharge of every representation and warranty made by Seller herein and every agreement and obligation on the part of Seller to be performed pursuant to the provisions of the Contract.
- 14. The provisions of the Contract and of the documents to be executed and delivered at Closhig are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly; no third party shall have the right to enforce the provisions of the Contract or of the documents to be executed and delivered at Closing.
- 15. As used herein, the phrases "to Seller's knowledge" and "to Seller's actual knowledge" shall mean to the actual knowledge of Clint Small ("Seller's Representative"), without any duty of inquity or



investigation; provided that so qualifying Seller's knowledge shall in no event give rise to any personal liability on the part of Seller's Representative, or any other officer or employee of Seller, on account of any breach of any representation or warranty made by Seller herein.

- 16. WAIVER OF CONSUMER RIGHTS, BUYER HEREBY WAIVES ALL ITS RIGHTS UNDER THE TEXAS DECEPTIVE TRADE PRACTICES CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ. OF THE TEXAS BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF BUYER'S OWN SELECTION, TENANT VOLUNTARILY CONSENTS TO THIS WAIVER.
- 17. Delivery of the Contract by either Buyer or Seller does not constitute an offer to the other party or an option. The Contract shall not be effective until fully executed by both Seller and Buyer.

Executed effective as of the effective date of the Contract.

SELLER:

FICKETT FRANKLIN CHARITABLE FOUNDATION

Name: \_

BUYER:

CHARLES B. RICHARDS III, TRUSTEE

Name: (

Title: Addison



#### **RESOLUTION NO. R2021-30**

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 118 EAST POLK STREET, BURNET TEXAS AND AUTHORIZING THE MAYOR OR CITY MANAGER TO EXECUTE AN ASSIGNMENT OF AN EXISTING SALES CONTRACT AND RELATED CLOSING DOCUMENTS.

Whereas, City Council identified as a priority the acquisition of new city hall; and

**Whereas**, the property located at 118 East Polk Street is the site of a vacated Bealls' Department Store; and

Whereas, the property is currently under contract; and

Whereas, the purchaser is willing to assign its contract rights to the city; and

Whereas, City Council deems the location to be a preferable location for a new city hall.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

**Section one. Findings.** That the recitals to this Resolution are incorporated herein for all purposes.

**Section two**. **Approval**. The purchase of the property located 118 East Polk Street is hereby authorized for the amount of One Million Dollars and 00/100s (\$1,000,000.00), which includes both the purchase price and assignment costs.

**Section three. Authorization**. Mayor Crista Goble Bromley, or City Manager David Vaughn, is hereby authorized to execute an assignment of the existing contract rights to the property; execute a real property sales agreement and to take such further action, tender funds for the purchase price and the assignment, pay all additional closing cost, and execute such other ancillary documents reasonably necessary to facilitate the purpose of this resolution and close on the transaction.

**Section 5. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act.

**Section 6. Effective Date.** That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

**CITY OF BURNET, TEXAS** 

PASSED AND APPROVED this the 11th day of June, 2021.

Kelly Dix, City Secretary

ATTEST:	Crista Goble Br	omley, Mayor



## TEXAS ASSOCIATION OF REALTORS® COMMERCIAL CONTRACT AMENDMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.

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## AMENDMENT TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED BUYER AND SELLER CONCERNING THE PROPERTY AT

	118 E Polk St., Burnet, TX 78611	
	Effective January 5, 2021 , Seller and Buyer amend the contract as follows: (Check all applicable boxes.)	
☐ A.	Sales Price: The sales price in Paragraph 3 of the contract is changed to:	
	Cash portion payable by Buyer at closing	
	Sum of all financing described in the contract	
	Sales price (sum of cash portion and sum of all financing)	
□ B.	Property Description: The Property's legal description in Paragraph 2A of the contract is changed to:	
☐ <b>C</b> .	Repairs: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing:	

Am	Amendment to Commercial Contract concerning 118 E Polk St., Burnet, TX 78611			
X	D.	<ol> <li>Extension of Feasibility Period: For nominal consider and the consideration described under (1) or (2) Paragraph 7B of the contract is extended until 11:59 p</li> </ol>	below, if any, Buyer's right to terminate under	
	-	(1) The independent consideration for Buyer's right to money if Buyer terminates the contract under Passes . (Insert an amount greater than	aragraph 7B(1) is increased to a total amount of	
		(2) Buyer has paid Seller additional consideration of \$ additional consideration will will not be credited.	for the extension. This ed to the sales price upon the closing of the sale.	
X	E.	. Closing: The closing date in Paragraph 10A of the con	tract is changed to June 4, 2021	
[ ]	F.	Expenses: At closing Seller will pay the first \$Paragraph 13 of the contract.	of Buyer's expenses under	
( ) Arrows	G.	. Waiver of Right to Terminate: Upon final acceptance terminate under Paragraph 7B of the contract.	e of this Amendment, Buyer waives the right to	
	Н.	Other Modifications:		
By:	By (	c/o Clint Small	By (signature): Charles B. Richards III  Charles B. Richards III  By (signature): B. Richards III  Title: Trustee	
By:	***********	Ву		
	-1111	(signature): nted Name: le:	By (signature): Printed Name: Title:	
		932) 1-26-10	Page 2 of 2	

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## TEXAS ASSOCIATION OF REALTORS® COMMERCIAL CONTRACT AMENDMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED ®Texas Association of REALTORS®, Inc. 2010

### AMENDMENT TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED BUYER AND SELLER CONCERNING THE PROPERTY AT

	2 CONTROL OF THE CONT
4	118 E Polk St., Burnet, TX 78611
Effecti boxes	ve January 5, 2021 , Seller and Buyer amend the contract as follows: (Check all applicable
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	Sum of all financing described in the contract
	Sales price (sum of cash portion and sum of all financing)
□ В.	Property Description: The Property's legal description in Paragraph 2A of the contract is changed to:
[] C.	Repairs: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing:

(TAR-1932) 1-26-10

Initialed for Identification by Sellen

\_, and Buyer

Page 1 of 2

Amendment to Commercial Contract concerning 118 E Polk St., Burnet, TX 78611
D. Extension of Feasibility Period: For nominal consideration, the receipt of which Seller acknowledges, and the consideration described under (1) or (2) below, if any, Buyer's right to terminate under Paragraph 7B of the contract is extended until 11:59 p.m. on May 31, 2021
(1) The independent consideration for Buyer's right to terminate that will be deducted from the earnest money if Buyer terminates the contract under Paragraph 7B(1) is increased to a total amount of \$ (Insert an amount greater than the amount in Paragraph 7B(1) of the contract.)
(2) Buyer has paid Seller additional consideration of \$ for the extension. This additional consideration will will not be credited to the sales price upon the closing of the sale.
X E. Closing: The closing date in Paragraph 10A of the contract is changed toJune 30, 2021
F. Expenses: At closing Seller will pay the first \$ of Buyer's expenses under Paragraph 13 of the contract.
G. Waiver of Right to Terminate: Upon final acceptance of this Amendment, Buyer waives the right to terminate under Paragraph 7B of the contract.
H. Other Modifications:
Seller: Fickett Franklin Charitable Foundation  c/o Clint Small  By:  By (signature): Printed Name: Clint Small  Title: Trustee Memeber  Charles B. Richards III, Trustee and or assigns Buyer: to an entity owned by Charles B. Richards III  By:  By (signature): Printed Name: Charles B. Richards III  Title: Trustee
Ву:
By (signature):  Printed Name:  Title:  By (signature):  Printed Name:  Title:
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