

RESOLUTION

- A. WHEREAS, College Station Independent School District (“CSISD”) desires to purchase 18.74 acres of real property located at the northwestern corner of Rock Prairie Road West and Holleman Drive in College Station, Texas (“Property”); and
- B. WHEREAS, the Property is subject to that certain Commercial Contract – Unimproved Property dated May 2, 2016, by and between BCS Rock Prairie LP as Seller and Michael H. Gentry or assigns, as Buyer (“Contract”) as attached hereto as Exhibit A; and
- C. WHEREAS, CSISD desires to accept the assignment of the Contract from Michael H. Gentry, as Buyer pursuant to that certain Assignment of Commercial Contract – Unimproved Property (“Assignment”) as attached hereto as Exhibit B, and to take all such responsibilities and liabilities of the Buyer contemplated thereby.

NOW, THEREFORE, on motion made and seconded, it is hereby resolved that:

- 1. The Board of Trustees of the College Station Independent School District (“Board”) approves the terms and conditions of that certain Commercial Contract – Unimproved Property dated May 2, 2016, by and between BCS Rock Prairie LP as Seller and Michael H. Gentry or assigns, as Buyer, for the purchase of 18.74 acres located at the northwestern corner of Rock Prairie Road West and Holleman Drive in College Station, Texas (“Property”), for a Sales Price of \$3,061,179.00 (“Contract”), a copy of which is attached hereto as Exhibit A; and
- 2. The Board of Trustees, on behalf of CSISD, shall accept an assignment of the Contract from Michael H. Gentry, and further that CSISD shall assume the responsibilities and liabilities of the Buyer pursuant to the terms of the Contract, and further that the Board President shall have authority to sign that certain Assignment of Commercial Contract – Unimproved Property (“Assignment”), a copy of which is attached hereto as Exhibit B; and
- 3. The Contract includes a procedure to perform and establish an escrow account from the Seller’s sales proceeds to cover the post-closing performance of the obligation to install a lift station to service the Property, to be in service no later than October 15, 2017. The Board of Trustees authorizes the Board President to negotiate and execute an escrow agreement for the foregoing purposes; and
- 4. The Board of Trustees authorizes the Board President, the Superintendent or their appointed designees, to do any and all things necessary to close on the purchase of the Property as described in the Contract and to pay the consideration for such property as described in the Contract, and take all other action contemplated thereby.

Valerie Jochen, President, Board of Trustees of the
College Station Independent School District

Date: _____

EXHIBIT A

Contract



**TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY**

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
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1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: BCS Rock Prairie LP

Address: 7904 N Sam Houston Pkwy W, Houston, TX 77064-3453
 Phone: (979) 260-7000 E-mail: cocooper@caldwellcos.com
 Fax: _____ Other: bfishman@caldwellcos.com

Buyer: Michael H. Gentry or assigns

Address: 1515 Emerald Plaza, College Station, TX 77845
 Phone: (979) 694-7000 E-mail: mike.gentry@westwebblaw.com
 Fax: _____ Other: _____

2. **PROPERTY:**

A. "Property" means that real property situated in Brazos County, Texas at 18.74 ac. at northwest corner of Rock Prairie Rd and Holleman Dr (address) and that is legally described on the attached Exhibit A or as follows:

NOTE: The attached Exhibit A references 18.74 acres, with final layout and composition of the 18.74 acres to be mutually agreed.

B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

*(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
 (If mineral rights are to be reserved an appropriate addendum should be attached.)*

3. **SALES PRICE:**

A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing \$ 3,061,179.00
 (2) Sum of all financing described in Paragraph 4 \$ _____
 (3) Sales price (sum of 3A(1) and 3A(2)) \$ 3,061,179.00

(TAR-1802) 1-1-16

Initialed for Identification by Seller [Signature] and Buyer [Signature]

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West, Webb, 1515 Emerald Plaza College Station, TX 77845
 Phone: (979)694-7000

Fax: (979)694-8000

Gaines West

CSISD Mission

B. Adjustment to Sales Price: (Check (1) or (2) only.)

(1) The sales price will not be adjusted based on a survey.

(2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$ 3.75 per:

(i) square foot of total area net area.

(ii) acre of total area net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

(i) public roadways;

(ii) rights-of-way and easements other than those that directly provide utility services to the Property; and

(iii) _____

(c) If the sales price is adjusted by more than 10.000 % of the stated sales price, either party may terminate this contract by providing written notice to the other party within 5 days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

A. Third Party Financing: One or more third party loans in the total amount of \$ _____ This contract:

(1) is not contingent upon Buyer obtaining third party financing.

(2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR-1931).

B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TAR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.

C. Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR-1931) in the amount of \$ _____.

5. **EARNEST MONEY:**

A. Not later than 3 days after the effective date, Buyer must deposit \$ 7,500.00 as earnest money with University Title Company (title company) at 1021 University Dr. E, College Station TX (address) Kary Mersmann (closer). If Buyer fails 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.

B. Buyer will deposit an additional amount of \$ _____ 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

(ii) _____

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.
- (3) Within 7 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 30 days after the effective date:

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. 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. ~~Seller will reimburse Buyer~~ _____ *(insert amount)* of the cost of the survey at closing, if closing occurs.
- (2) Seller, at Seller's expense, will furnish 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.
- (3) Seller will deliver to Buyer 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 _____ *(insert amount)* of the cost of the new or updated survey at closing, if closing occurs.

C. Buyer's Objections to the Commitment and Survey:

- (1) Within 15 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing 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 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a

special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of 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 Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.

(3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 60 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 \$ 2,500.00 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 title company. 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 fails 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 Buyer's right to terminate 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 retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails 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) Buyer must:
(a) employ only trained and qualified inspectors and assessors;
(b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
(c) abide by any reasonable entry rules or requirements of Seller;
(d) not interfere with existing operations or occupants of the Property; and
(e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 7 days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*
 - (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - (d) copies property tax statements for the Property for the previous 2 calendar years;
 - (e) plats of the Property;
 - (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*
 - (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
 - (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied; and
 - (c) 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.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
 - (1) any failure by Seller to comply with Seller's obligations under the leases;
 - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
 - (3) any advance sums paid by a tenant under any lease;

Commercial Contract - Unimproved Property concerning 18.74 ac. at northwest corner of Rock Prairie Rd and Holleman Dr

- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (5) 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.

B. **Estoppel Certificates:** Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: <u>Caldwell Brokerage Company LLC</u>	Cooperating Broker: <u>Clark Isenhour Real Estate Services LLC</u>
Agent: <u>Clint Cooper</u>	Agent: <u>John R. Clark</u>
Address: <u>7904 N Sam Houston Pkwy W Houston, TX 77064</u>	Address: <u>3838 S. College Bryan, TX 77801</u>
Phone & Fax: <u>(979) 260-7000</u>	Phone & Fax: <u>(979) 268-6840 (979) 268-6841</u>
E-mail: <u>ccooper@caldwellcos.com</u>	E-mail: <u>john@clarkisenhour.com</u>
License No.: <u>9002313</u>	License No.: <u>8999919</u>

Principal Broker: (Check only one box)
 represents Seller only.
 represents Buyer only.
 is an Intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. **Fees:** (Check only (1) or (2) below.)
 (Complete the Agreement Between Brokers on page 13 only if (1) is selected.)

(1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

(2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:
 3.000 % of the sales price.
 _____ .

Cooperating Broker a total cash fee of:
 0.500 % of the sales price.
 _____ .

The cash fees will be paid in Brazos County, Texas. Seller authorizes ~~the title company to pay the brokers from the Seller's proceeds at closing.~~

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:
- (1) _____ days after the expiration of the feasibility period.
 - July 29, 2016 (specific date).
 - _____
- (2) 7 days after objections made under Paragraph 6C have been cured or waived.
- 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, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the title company;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of 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 any 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 closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. **SPECIAL PROVISIONS:** The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*
- see Addendum to Contract attached hereto.

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;
 - (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 of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (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, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 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 payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

- B. **Rollback Taxes:** If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental

payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue; or
(Check if applicable)
 enforce specific performance, or seek such other relief as may be provided by law.
- 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 under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(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. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. 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 paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
 - (1) Seller and the sales price will be reduced by the same amount; or
 - (2) Buyer and the sales price will not be reduced.

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

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company 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 the title company may pay the same to the creditors.

- C. The title company 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 the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. Seller Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue 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 faith to arrange 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 fails 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 Commercial Property Condition Statement (TAR-1408).
- 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, asbestos 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 Property;
 - (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 condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) 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.
- 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 effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. 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.
- D. Addenda which are part of this contract are: *(Check all that apply.)*
 - (1) Property Description Exhibit Identified in Paragraph 2;
 - (2) Commercial Contract Financing Addendum (TAR-1931);
 - (3) Commercial Property Condition Statement (TAR-1408);
 - (4) Commercial Contract Addendum for Special Provisions (TAR-1940);
 - (5) Notice to Purchaser of Real Property in a Water District (MUD);
 - (6) Addendum for Coastal Area Property (TAR-1915);
 - (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
 - (8) Information About Brokerage Services (TAR-2501); and
 - (9) Addendum

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are 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 assignee assumes, in writing, all obligations and liability of Buyer 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 performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. 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 sewer service 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. There may be a period required to construct lines 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 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- 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 municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. 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. Brokers are not qualified to determine the credit worthiness of the parties.
- H. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

26. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on May 6, 2016, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT** your attorney **BEFORE** signing.

Seller: BCS Rock Prairie LP

Buyer: Michael H. Gentry or assigns

By: _____

By: 

By (signature): 

By (signature): _____

Printed Name: Gentry, Michael

Printed Name: _____

Title: _____

Title: _____

By: _____

By: _____

By (signature): _____

By (signature): _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

1161777KT

Commercial Contract - Unimproved Property concerning 18.74 ac. at northwest corner of Rook Prairie Rd and Holleman Dr

AGREEMENT BETWEEN BROKERS
(use only if Paragraph 9B(1) is effective)

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:
 \$ _____, or
 _____ % of the sales price, or
 _____ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____ Cooperating Broker: _____

By: _____ By: _____

ATTORNEYS

Seller's attorney: BRAD FISHMAN Buyer's attorney: Michael H. Gentry

Address: _____ Address: 1515 Emerald Plaza

Phone & Fax: 281 661 6610 Phone & Fax: College Station TX 77845
(979) 694-7000 (979) 694-8000

E-mail: BFISHMAN@CALDWELLCS.COM E-mail: mike.gentry@westwebblaw.com

Seller's attorney requests copies of documents, notices, and other information:
 the title company sends to Seller.
 Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:
 the title company sends to Buyer.
 Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of: 5/2/2016 (effective date):
 A the contract on this day _____
 B. earnest money in the amount of \$ 7,500 in the form of CK # 327766
on 5/5/16 JD

Title company: UTC Address: _____

By: JD Phone & Fax: _____

Assigned file number (GF#): _____ E-mail: _____

Addendum to Commercial Contract – Unimproved Property

This Addendum to Commercial Contract – Unimproved Property ("Addendum") is attached to and incorporated into that certain Commercial Contract – Unimproved Property ("Contract") by and between BCS Rock Prairie LP ("Seller") and Michael H. Gentry or assigns ("Buyer").

- A. Whereas, pursuant to the Contract the Seller desires to sell and the Buyer desires to buy the real property therein described being approximately 18.74 acres of land in Brazos County, Texas ("Property"); and
- B. Whereas, Buyer and Seller desire to set forth additional terms and conditions to the Contract.

Now, therefore, in consideration of the mutual covenants herein expressed and as set forth in the Contract, the Seller and Buyer agree as follows:

1. **Conflict.** In the event of any conflict or ambiguity as between the Contract and this Addendum, this Addendum shall control.
2. **Assignment.** Buyer may assign the Contract to College Station Independent School District ("CSISD") at any time prior to Closing, provided CSISD agrees, in writing, to perform the Buyer's obligations of the Contract. In such case, Buyer shall be relieved of any liability under the Contract. Buyer may not assign the Contract to any other third party without Seller's consent, which may be refused for any reason, in Seller's sole discretion.
3. **Property.** The description of the Property at Exhibit A of the Contract shall be amended and restated with the metes and bounds description of the Property provided in conjunction with the latest survey procured pursuant to Paragraph 6.B. of the Contract.
4. **Broker Fee.** The fee payable to Cooperating Broker at closing pursuant to Paragraph 9.B. of the Contract shall be paid by Buyer at closing. Seller authorizes the title company to pay the Principal Broker's fee from the Seller's proceeds at Closing.
5. **Closing Contingency.** The obligation of Buyer (or Buyer's assignee) to close on the purchase of the Property is contingent on the prior sale by CSISD of certain other real property owned by CSISD located at the corner of Holleman Drive and Deacon W. Drive ("Deacon Tract") at a price and terms acceptable to CSISD, in CSISD's sole discretion. As quickly as reasonably possible after both Seller and Buyer have executed this Contract, the Buyer will work with CSISD to initiate the public bidding process that will be necessary to sell the Deacon Tract. The latest date for Closing on both the Property and the Deacon Tract shall be July 29, 2016.
6. **Lift Station.** Prior to the expiration of the Feasibility Period, Buyer and Seller agree to mutually agree on an engineer's estimate, including a contingency factor, for the installation of a lift station to service the Property for the Buyer's anticipated use of the Property as a school campus. The lift station will have to be in service no later than October 15, 2017. Seller agrees that the amount of the estimated cost shall be placed in an escrow account from the sales proceeds, and shall be used for the construction of the lift station to service the Property. Prior to the expiration of the Feasibility Period, the Buyer and Seller shall agree on the terms of the escrow agreement which shall generally provide the party that commences construction of the lift station will have the use of the escrowed funds for that purpose, and that any funds remaining in escrow after the completion of the lift station and its acceptance by the City of College Station shall be delivered to Seller. If an escrow agreement is not reached on or before the end of the Feasibility Period, Buyer may terminate the Contract and the earnest money shall be refunded to Buyer.
7. **Execution.** This Addendum may be executed in multiple counterparts and a fax or scanned and emailed copy of the signatures of the Seller and Buyer shall be effective for all purposes without the necessity of delivering an original signature.



8. **Contract Effective Date.** This Addendum is executed contemporaneous with the Contract and shall have the same effective date as the Contract.
9. **As Is.** BUYER ACKNOWLEDGES THAT BUYER WILL BE GIVEN A REASONABLE OPPORTUNITY TO INSPECT AND INVESTIGATE THE PROPERTY, EITHER INDEPENDENTLY OR THROUGH AGENTS OF BUYER'S CHOOSING, AND THAT IN PURCHASING THE PROPERTY, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATIONS OF THE PROPERTY AND NOT RELYING ON ANY REPRESENTATIONS OF SELLER OR SELLER'S AGENTS. BUYER ACKNOWLEDGES AND AGREES THAT OTHER THAN THE SPECIAL WARRANTY OF TITLE TO BE SET OUT IN THE DEED AND THOSE EXPRESS REPRESENTATIONS SET FORTH IN PARAGRAPH 19B OF THE CONTRACT, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION (A) THE USE, INCOME POTENTIAL, EXPENSES, OPERATION, CHARACTERISTICS, VALUE, VISIBILITY, ACCESSIBILITY, NATURE, QUALITY OR CONDITION OF THE PROPERTY; (B) THE HABITABILITY, MERCHANTABILITY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE; (C) THE EXISTENCE OF ANY ENVIRONMENTAL HAZARDS OR CONDITIONS AT, ON, UNDER OR ADJACENT TO THE PROPERTY AND THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY CODES, LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY INCLUDING LAWS PERTAINING TO HEALTH OR THE ENVIRONMENT, INCLUDING BUT NOT LIMITED TO, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, THE CLEAN WATER ACT, THE TEXAS HEALTH AND SAFETY CODE, THE TEXAS SOLID WASTE DISPOSAL ACT, AND THE TEXAS WATER CODE, EACH AS MAY BE AMENDED FROM TIME TO TIME, AND INCLUDING ANY AND ALL REGULATIONS, RULES OR POLICIES PROMULGATED THEREUNDER ("ENVIRONMENTAL LAWS"); (D) THE PRESENCE OR SUITABILITY OF ANY UTILITIES OR AVAILABILITY THEREOF; (E) THE PRESENCE OF ANY WETLANDS, ENDANGERED SPECIES OR CULTURAL RESOURCES (F) ANY DEPICTIONS OR DEFECTS ON ANY SURVEY OF THE PROPERTY; AND (G) THE SOIL, GEOLOGICAL, ARCHEOLOGICAL, GEOTECHNICAL, HYDROLOGICAL, AND TOPOGRAPHICAL CONDITIONS, DRAINAGE, FLOODING CHARACTERISTICS, OR OTHER CONDITIONS EXISTING IN, ON, OR UNDER THE PROPERTY. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE AND CONVEYANCE OF THE PROPERTY IS MADE ON AN "AS IS" "WHERE IS" CONDITION AND BASIS WITH ALL FAULTS. BUYER AGREES TO ACCEPT THE PROPERTY SUBJECT TO ALL RISKS, LIABILITIES, CLAIMS, DAMAGES AND COSTS, INCLUDING ANY LIABILITY WITH RESPECT TO ENVIRONMENTAL LAWS AND AGREES THAT SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR OTHER DAMAGES RESULTING OR ARISING FROM OR RELATED TO THE CONDITION OF THE PROPERTY. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, OR OTHER PERSONS. BUYER HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL AND BUYER, WITH BUYER'S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS PARAGRAPH AND UNDERSTANDS THE SIGNIFICANCE OF EACH AND AGREES THAT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE AN INTEGRAL PART OF THIS AGREEMENT, AND THAT SELLER WOULD NOT HAVE AGREED TO SELL THE PROPERTY TO BUYER FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH IN THIS PARAGRAPH. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PROPERTY IS SOLD AND CONVEYED BY SELLER AND PURCHASED AND ACCEPTED BY BUYER SUBJECT TO THE



FOREGOING. This provision shall survive closing and not merge with any other instrument executed or delivered at closing. The foregoing paragraph shall be summarized in the special warranty deed and deemed incorporated therein as if fully set forth at length.

10. **Information.** Buyer agrees that neither Seller nor any contractors who prepared any previous reports, studies, or analyses, including without limitation, environmental assessments, shall have any liability to Buyer or any other party for the accuracy or completeness of same or other Property Information that Seller furnishes to Buyer or with respect to any of the information contained therein. Such information is being provided to the extent in Seller's possession and without representation or warranty of any kind.
11. **Testing.** Notwithstanding anything to the contrary contained herein, no invasive physical testing or sampling shall be conducted during any entry by Buyer or its agents, representatives, or contractors (the "License Parties") upon the Property without Seller's specific prior written consent, which consent may not be unreasonably withheld, delayed or conditioned, provided, however, that prior to giving any such consent, Seller shall be provided with a written sampling plan in reasonable detail in order to allow Seller a reasonable opportunity to evaluate such proposal. If Buyer or any License Party undertakes any borings or other disturbances of the soil, the soil shall be recompactd to its condition as existed immediately before any such borings or other disturbances were undertaken.
12. **Definitions.**

When reference is made in this Contract to Seller's "knowledge", "belief", or "current actual knowledge", or the "best of" any of the foregoing, or that Seller is "aware" or "not aware" as the case may be, such terms shall include only the conscious current, actual knowledge of Seller's Designated Representative, Clint Cooper, and shall not be construed to refer to the knowledge of any other member, officer, director, shareholder, employee, agent, property manager or representative of Seller, its partners or members (including without limitation Seller's counsel and broker), or of any affiliate of any of the foregoing, or to impose or have imposed upon the Designated Representative any duty to investigate or inquire into the matters to which such knowledge, or the absence thereof, pertains, including without limitation the Property Information or the contents of files maintained by the Seller Parties. "Knowledge" does not include constructive knowledge, imputed knowledge, or knowledge that Seller or such individual does not have but could have obtained through further investigation or inquiry. Further, when any such terms are used in connection with environmental hazards or conditions, they are specifically limited to receipt of written notice of such environmental conditions or hazards. There shall be no personal liability on the part of the Designated Representative arising out of any representations or warranties made herein.

All references herein to "written notice" having been given to Seller shall include only those notices actually physically received by the Designated Representative at the Property or principal office of the Designated Representative. To the extent that Buyer knows or is Deemed to Know that Seller's representations and warranties are inaccurate, untrue or incorrect in any way, such representations and warranties shall be deemed modified to reflect Buyer's knowledge or deemed knowledge, as the case may be.

"Deemed to Know" shall have the following meaning: (a) Buyer shall be "Deemed to Know" of the existence of a fact or circumstance to the extent that such fact or circumstance is disclosed by this Contract, the Property Information, other documentation provided by any of the Seller Parties to Buyer or Buyer's Representatives or any studies, tests, reports, inspections, investigations, or analyses prepared by or for or otherwise obtained by Buyer or Buyer's Representatives in connection with the Property; and (b) Buyer shall be "Deemed to Know" that a representation or warranty of Seller is untrue, inaccurate or incorrect to the extent that this Contract, the Property Information, other documentation provided by any of the Seller Parties to Buyer or Buyer's Representatives or any studies, tests, reports, inspections, investigations, or analyses prepared



by or for or otherwise obtained by Buyer or Buyer's Representatives in connection with the Property contains information which is inconsistent with such representation or warranty.

"Buyer's Representatives" shall mean Buyer, its partners and members, and any officers, directors, employees, agents, representatives and attorneys of Buyer, its partners or members.

"Seller Parties" shall mean and include, collectively, (a) Seller; (b) its counsel; (c) Seller's broker; (d) Seller's property manager; (e) any direct or indirect equity owner, officer, director, employee, or agent of Seller, Seller's partners, or Seller's partners' partners, counsel to any of the foregoing; (f) any other entity or individual affiliated or related in any way to any of the foregoing; and (g) the Designated Representative.

13. **Confidentiality.** Buyer shall maintain strict confidentiality with respect to all aspects of this Contract and the Property including, without limitation, any information obtained through Buyer's due diligence process. Except as may be required by law or as may be necessary to evaluate the Property for Buyer's acquisition, Buyer will not divulge any such information to any other persons or entities including, without limitation, appraisers, real estate brokers, or competitors of Seller. Notwithstanding the foregoing, Buyer shall have the right to disclose information with respect to the Property to officers, directors, employees, attorneys, accountants, environmental auditors, engineers and other consultants (collectively, "Related Parties") to the extent necessary for Buyer to evaluate its acquisition of the Property provided that all Related Parties agree to keep such information confidential. Notwithstanding the foregoing or any other provision of this Contract to the contrary, the Seller understands that the Buyer is acting on behalf of the College Station Independent School District ("CSISD"), and upon approval of this Contract by the Board of Trustees of CSISD, the terms and provisions of this Contract shall be subject to public disclosure and the provisions of this paragraph shall terminate. Further, the Seller understands and agrees that the obligation of CSISD to close on the transaction will be subject to the sale of property owned by CSISD at the corner of Holleman Drive and Deacon W. Drive (the "Deacon Tract", as previously defined herein), and in order to sell the Deacon Tract CSISD must place advertisements in a local newspaper and otherwise make the sale of the property publically known in order to receive bids for the purchase of the Deacon Tract. The terms of this paragraph shall not prevent CSISD from referencing as a condition to the sale of the Deacon Tract the fact that CSISD must simultaneously purchase the Property herein described.

14. **Restrictions.** The Property will be conveyed subject to the following protective covenants ("Restrictions") which shall be set forth in the Deed:

a. Subject to the condition precedent set forth below, For until the first to occur of the following: (1) so long as CSISD no longer owns the Property, or (2) the date occurring fifty (50) years following the date of the deed, the Property shall be used as a school, which may include customary improvements related to such use, such as, without limitation, playgrounds, parking lots, out-buildings, trails and detention. The foregoing restrictive covenant is conditioned on the obligation of the Seller to develop a single-family residential neighborhood on the property owned by Seller that is contiguous with the Property. If at any time after the recording of the deed any portion of the Seller's contiguous property is re-zoned for a use other than single-family residential or it is otherwise determined by CSISD that the Seller's contiguous property has not been developed as a single-family residential neighborhood then following ninety (90) days' written notice to the Seller and the filing of an affidavit by CSISD, this restrictive covenant shall terminate.

b. **Nuisances and Prohibited Uses.** No illegal, noxious, hazardous or offensive activity of any kind shall be conducted on any portion of the Property by a Successor Owner, as defined below. No use shall be permitted which is offensive by reason of odor, fumes, vibrations, dust, smoke, radiation, noise or pollution, or that is hazardous by reason of excessive danger of fire or explosion or any use that may cause or produce a nuisance as to any other portion of the Seller's adjacent property. No exterior speakers, horns, whistles, bells or other sound devices (other than customarily used in connection with the operation of a school or other educational facility) shall be

located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any of the Property so as to be offensive or detrimental to adjacent property or its occupants. Without limitation of the generality of the foregoing, no portion of the Property shall ever be used or utilized as the site for display or sale of explosives or fireworks, a flea market, a pawn shop, a bar, lounge, nightclub or tavern, (the term bar, lounge, nightclub or tavern shall include, but not be limited to, any establishment, including restaurants, with more than 40% gross revenues derived from the sale of alcohol), a cemetery, crematorium, mausoleum, or mortuary, a stockyard, a labor camp, a trailer court, junk yard, scrap metal yard or waste material business, a car wash, any dumping disposal, incineration or reduction of garbage or refuse, any fire or bankruptcy sale or auction house operation, massage parlor or sexually oriented business.

c. **Architectural Control.** Before any improvements may be erected on the Property by an owner other than CSISD ("Successor Owner"), such improvements must be approved in writing by Seller or the homeowners' association created for and associated with the residential neighborhood to be developed by Seller. Successor Owner shall prepare and submit to Seller, prior to construction, a proposed building design for all improvements Successor Owner intends to construct. Plans and designs for the Property will be reviewed and (if acceptable to Seller) approved by Seller in its sole discretion. Seller's representatives may inspect the Property during construction for compliance with the Seller-approved plans and designs. However, such approvals and inspections are solely for the benefit of Seller and may not be relied upon by Buyer with respect to conformity with laws, regulations, codes, or ordinances, the physical condition of the Property, the integrity of any structures built on the Property, or for any other purpose. After construction of the initial approved improvements on the Property is completed, any exterior modifications, alterations, additions or replacements made to or with respect to such improvements shall be subject to Seller's prior approval, such approval not be unreasonably withheld.

This architectural control provision shall not apply to the construction of any improvements by CSISD, provided, however, CSISD agrees to use good faith efforts to coordinate its site plan and the aesthetic elements of its improvements with Seller in order to achieve a harmonious design with Seller's surrounding residential project, but notwithstanding such good faith efforts, the final site plan, design and aesthetic elements of any school constructed by CSISD shall be determined in the sole discretion of the Board of Trustees of CSISD.

The Restrictions are a material part of the consideration to Seller in connection with the sale of the Property to Buyer. Buyer hereby agrees, on behalf of itself and its successors and assigns, to the imposition of the Restrictions against the Property. The Restrictions shall be binding upon and enforceable against Buyer and its successors and assigns, and shall be covenants running with title to the Property for the benefit of Seller and Seller's designated successors and assigns. Seller and Buyer irrevocably and unconditionally stipulate and agree that (a) the Deed, which shall convey the Property from Seller to Buyer, shall contain the Restrictions, (b) Seller and Buyer expressly intend to burden both Buyer and all subsequent owners of the Property with the Restrictions and (c) because the Restrictions are contained in the Deed, all subsequent owners of all or any portion of the Property will have notice of the Restrictions.

15. **Adjacent Property.** Buyer may have been given maps, plans, or plats describing future residential development within the area adjacent to the Property, to be known as Mission Ranch, or of additional property. The matters depicted on such maps, plans, or plats are proposed only and are subject to change by Seller at any time and from time-to-time in its sole discretion without further notice. Buyer may not rely on any oral or written representations of Seller or any other person or entity with respect to the future development of any property.
16. **Platting.** Seller shall have no obligation to subdivide, plat or replat the Property prior to Closing, and any such subdivision, platting or replatting requirement that may be imposed upon the Buyer prior to the development of the Property shall be Buyer's obligation and shall not be a condition precedent to Closing. Seller agrees to cooperate with Buyer in submittals to government authorities (e.g., plats) by executing such instruments as may be required of the owner of the



Property in connection therewith, so long as Seller does not incur any monetary obligations with respect thereto. It is agreed by and between Seller and Buyer that unless otherwise required by the City of College Station or any other legal requirement (including site plan adjustments required by the City of College Station as a result of any required traffic impact analysis), the plat submitted by the Buyer and/or the Seller will not provide for a public road from the Seller's adjacent land directly into the Property so that the vehicular ingress and egress to the Property will be from Holleman and Rock Prairie.

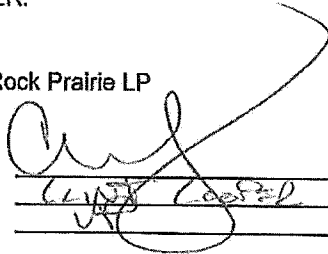
SELLER:

BCS Rock Prairie LP

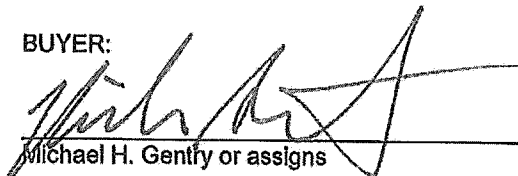
By:

Name:

Title:



BUYER:



Michael H. Gentry or assigns

EXHIBIT B
Assignment

ASSIGNMENT OF COMMERCIAL CONTRACT – UNIMPROVED PROPERTY

FOR VALUE RECEIVED, I, **Michael H. Gentry** hereby sell, assign and transfer to **College Station Independent School District**, herein called the Assignee, all my right, title and interest in and to that certain **Commercial Contract – Unimproved Property** dated **May 2, 2016**, by and between **BCS Rock Prairie LP** as Seller and myself as Buyer, for the purchase by me of that certain 18.74 acres located at the northwestern corner of Rock Prairie Road West and Holleman Drive, College Station, Brazos County, Texas, as described therein.

EXECUTED on the _____ day of _____, 2016.

ASSIGNOR:

Michael H. Gentry

ACCEPTANCE OF ASSIGNMENT

College Station Independent School District hereby accepts the foregoing assignment, agrees to assume and perform all the duties and obligations to be performed by the Buyer under the Contract therein mentioned to the same extent as if **College Station Independent School District** had originally been named as the Buyer in that contract.

EXECUTED on the _____ day of _____, 2016.

ASSIGNEE:

The Board of Trustees, and their successors in office, of College Station Independent School District

By: _____
Name: Valerie Jochen
Title: President of the Board of Trustees of College Station Independent School District