

**FIRST AMENDMENT TO
AGREEMENT BETWEEN HARRIS COUNTY AND
SHIP CHANNEL CONSTRUCTORS, LLC**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

This First Amendment to Agreement is entered into by **Harris County**, a body corporate and politic under the laws of the State of Texas, hereinafter called "County," acting herein for the **Harris County Toll Road Authority (HCTRA)**, a division of the County, and **Ship Channel Constructors, LLC**, a limited liability company the members of which are **Traylor Bros., Inc. and Zachry Construction Corporation (the "Contractor")**.

WITNESSETH:

WHEREAS, the County and the Contractor entered into an agreement on January 9, 2018 for the construction of the Houston Ship Channel replacement bridge in to support the improvements of the East Sam Houston Tollway between Interstate 10 (East) and SH 225, the Ship Channel Bridge Program, in Harris County, Texas;

WHEREAS, the County and the Contractor now desire to amend the Agreement to update the contract value and contract documents to accommodate the updated ship channel bridge main span design needed to complete performance of the Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

1.

Section 2 (B) of the Agreement, "Contract Documents", which currently reads as follows:

- B) "Contract Documents" - The Contract Documents for the Project shall include the following in this order of precedence:
 - i) Change Orders and Supplemental Agreements;
 - ii) Plans (including General Notes) as amended by Addenda 1-7;
 - iii) Standard Specifications (2017 HCTRA Project Specification Book - Items 100 through 9001) as amended by Addenda 1 -7;
 - iv) this Agreement including all exhibits;
 - v) Addenda 1-7 except as pertains to Plans and Standard Specifications in Sections 2.B) ii) and 2.B) iii), above;

- vi) 2017 HCTRA Project Specification Book (Items 1 through 9).

Is hereby amended to revise Items ii, iii and vi as follows:

- ii) Plans (including General Notes) as amended by Addenda 1-7 and by the final design documents prepared by the Engineer of Record (EOR) appointed by HCTRA for the conceptual VEP submitted by the Contractor.
- iii) Standard Specifications (2017 HCTRA Project Specification Book - Items 100 through 9001) as amended by Addenda 1 -7 and final design documents prepared by EOR for the conceptual VEP submitted by the Contractor.
- vi) 2017 HCTRA Project Specification Book (Items 1 through 9) as modified in the Addendum thereto.

2.

Section 2 (K) of the Agreement, "Payment Bond", which currently reads as follows:

"Payment Bond" - This bond is solely for the protection of all claimants supplying labor and material in the prosecution of the Work provided for in the Agreement. The bond shall be equal to one hundred percent (100%) of the Contract Price, and will be provided by the Contractor within ten (10) days after execution of the Agreement. The Payment Bond will be in the form included within Exhibit A, attached hereto.

Is hereby amended to read as follows:

"Payment Bond" - Each bond is solely for the protection of all claimants supplying labor and material in the prosecution of the Work provided for in the Phased Purchase Order to which it pertains. Each bond shall be equal to one hundred percent (100%) of the value of the individual Phased Purchase Order to which it pertains, and will be provided by the Contractor within ten (10) days after execution of each such Phased Purchase Order. Each Payment Bond will be in the form included within Exhibit A, attached hereto.

3.

Section 2 (L), of the Agreement, "Performance Bond" which currently reads as follows:

"Performance Bond" - This Bond is solely for the protection of the County which is conditioned upon the faithful performance of the Work in accordance with the Contract Documents. The bond shall be equal to one hundred percent (100%) of the Contract Price, and will be provided by the Contractor within ten (10) days after execution of the Agreement. The Performance Bond will be in the form included within Exhibit A, attached hereto.

Is hereby amended to read as follows:

"Performance Bond" - Each bond is solely for the protection of the County which is conditioned upon the faithful performance of the Work in accordance with the Phased Purchase Order to which it pertains. Each bond shall be equal to one hundred percent (100%) of the value of the individual Phased Purchase Order to which it pertains, and will be provided by the Contractor within ten (10) days after execution of each such Phased

Purchase Order. Each Performance Bond will be in the form included within Exhibit A, attached hereto.

4.

Section 2 is amended to add Section 2(P) to read as follows:

“Phased Purchase Orders”: The issuance and execution by County and Contractor of separate phased purchase orders for: (i) completion of the Southbound approaches; (ii) the construction of the Southbound Main Span Bridge; (iii) Demolition of the existing main span bridge; and (iv) the construction of the Northbound Main Span Bridge. The Phased Purchase Orders can be combined and issued at the same time with mutual agreement by both parties.

5.

Section 3(H) of the Agreement, “Contractor’s Responsibilities,” which currently reads as follows:

The Contract Time shall be measured from the date of the Notice to Proceed.

Is hereby amended to read as follows:

The Contract Time shall be measured from the date of the Notice to Proceed for each Phased Purchase Order to be issued as mutually agreed by both parties.

6.

Section 6 (B) of the Agreement, “Construction Work,” which currently reads as follows:

Acceptance and use by County, at County's option, of any substantially completed part of the Work which the Parties mutually agree constitutes a separately functioning and usable part of the Work that can be used by County for its intended purpose without significant interference to Contractor's performance of the remainder of Work, may be accomplished prior to Final Acceptance of all the Work. Contractor shall no longer be responsible for risk of loss not attributable to Contractor for any part of Work that County uses and occupies prior to Final Acceptance as a separately functioning and usable part. Otherwise, County may not occupy or use the Project prior to Final Acceptance.

Is hereby amended to read as follows:

Acceptance by County, at County's option, of any substantially completed part of the Work of a Phased Purchase Order which the Parties mutually agree constitutes a separately functioning part of the Work that can be used by County for its intended purpose without significant interference to Contractor's performance of the remainder of Work, may be accomplished prior to Final Acceptance of the Work under a Phased Purchase Order. Contractor shall no longer be responsible for risk of loss not attributable to Contractor for any part of Work that County accepts and occupies prior to Final Acceptance as a separately functioning and usable part. Otherwise, County may not occupy or use any portion of the Project prior to Final Acceptance. All work completed on the Project prior to the issuance and execution of a Phased Purchase Order including the Southbound approach work, shall be subject to substantial completion and Final acceptance by the County.

7.

Section 6© of the Agreement, "Completion, Transfer and Acceptance", which currently reads in part as follows:

Contractor will not receive Final Payment and release of any remaining retainage until all manuals, warranties, and close out documents have been submitted in accordance with the requirements of the Contract Documents.

Is hereby amended to read as follows:

Contractor will not receive Final Payment and release of any retainage for the accepted work for any Phased Purchase Order until all manuals, warranties, and close out documents have been submitted in accordance with the requirements of the Contract Documents for the accepted work for such Phased Purchase Order. This requirement will apply to the Final Payment for all Phased Purchase Orders issued for each Phase of the Project. Contractor shall be entitled to Final Payment for all work completed prior to the issuance and execution of a Phased Purchase Order.

8.

Section 10 of the Agreement, "Computation of Time", which currently reads as follows:

When any period of time is referred to in documents by days, it will be computed to include the first and the last day of such period. The specified number of calendar days in which the Work is to be completed pursuant to the Contract Documents are consecutive calendar days inclusive of Saturdays, Sundays, and all legal holidays. A calendar day of twenty-four (24) hours measured from midnight to the next midnight shall constitute a day.

In the event that either Party is unable to perform any of its obligations under the Contract Documents or to enjoy any of the benefits because of a Force Majeure event, the Party who has been so affected immediately agrees to give notice to the other Party and agrees to do everything possible to resume performance. If the Force Majeure Event increases Contractor's costs to perform the Work, or otherwise adversely affects Contractor's rights or obligations under the Agreement, then County and Contractor shall agree to amend the contract to adjust Contractor's compensation to account for any increased costs of, performance and to otherwise equitably adjust the terms and conditions as necessary to overcome the adverse effect(s) of such event on Contractor's rights or obligations. Such adjustment will include any Reimbursable Repair, as defined in Item 7, Section 15, of the "General Requirements and Covenants" of the 2017 HCTRA Project Specification Book. Contractor's rights to recover additional costs incurred arising directly from Force Majeure Events shall not include delay and disruption damages. The time used for computation of milestone incentives will not be amended.

Is hereby amended to read as follows:

When any period of time is referred to in documents by days, it will be computed to include the first and the last day of such period. The specified number of calendar days in which the Work is to be completed pursuant to the Contract Documents are as set forth below.

Working days will be charged Monday through Saturday, excluding National Holidays, if weather or other conditions permit the performance of the principal unit of work underway,

as determined by the Engineer, for a continuous period of at least 7 hours per shift. The Contractor has the option of working on Sundays. Provide 24 hours' advance notice to the Engineer when scheduling work on Sundays. Work on National Holidays will not be permitted without written permission of the Engineer. If work requiring an Inspector to be present is performed on a National Holiday or a Sunday and weather or other conditions permit the performance of work for 7 hours, a working day will be charged.

In the event that either Party is unable to perform any of its obligations under the Contract Documents or to enjoy any of the benefits because of a Force Majeure event, the Party who has been so affected immediately agrees to give notice to the other Party and agrees to do everything possible to resume performance. If the Force Majeure Event increases Contractor's costs to perform the Work, or otherwise adversely affects Contractor's rights or obligations under the Agreement, then County and Contractor shall agree to amend the contract to adjust Contractor's compensation to account for any increased costs of, performance and to otherwise equitably adjust the terms and conditions as necessary to overcome the adverse effect(s) of such event on Contractor's rights or obligations. Such adjustment will include any Reimbursable Repair, as defined in Item 7, Section 15, of the "General Requirements and Covenants" of the 2017 HCTRA Project Specification Book, as modified in the Addendum thereto. For avoidance of doubt, the parties acknowledge Contractor has included zero weather days in the schedule for the remaining Work.

9.

Section 11, of the Agreement, "Post Construction Work, Training", which currently reads as follows

As a condition of Final Payment, Contractor shall provide or cause to be provided to County two (2) copies of all training manuals for all equipment, systems and machinery installed by Contractor (or its Subcontractors) in the Project, and training services with respect to the operation and maintenance of the equipment, systems and machinery within the Project, to the extent the same has been installed by Contractor (or its Subcontractors) pursuant to the requirements of the Contract Documents. Such services shall include training of maintenance personnel of County with respect to proper maintenance procedures for the initial startup and continued operation of the equipment, systems and machinery within the Project, training of operation personnel of County with respect to proper use, operation and maintenance of the equipment, machinery and systems within the Project and such other services as may be mutually agreed and specified in the Contract Documents.

Is hereby amended to read as follows:

As a condition of Final Payment for each Phased Purchase Order, Contractor shall provide or cause to be provided to County two (2) copies of all training manuals for all equipment, systems and machinery installed by Contractor (or its Subcontractors) in such phase of the Project, and training services with respect to the operation and maintenance of the equipment, systems and machinery within such phase of Project, to the extent the same has been installed by Contractor (or its Subcontractors) pursuant to the requirements of the Contract Documents. Such services shall include training of maintenance personnel of County with respect to proper maintenance procedures for the initial startup and continued operation of the equipment, systems and machinery within such phase of the

Project, training of operation personnel of County with respect to proper use, operation and maintenance of the equipment, machinery and systems within such phase of Project and such other services as may be mutually agreed and specified in the Contract Documents.

10.

Section 14(D) of the Agreement, "Liquidated Damages", which currently reads as follows

Liquidated Damages. The County will suffer financial loss if the Work is not completed within the Contract Time specified for the Project, plus any extension allowed in accordance with the Contract Documents. The County and Contractor recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by the County if the Work, or specified portions thereof, is not completed on time. Accordingly, instead of requiring any such proof, County and Contractor agree that as liquidated damages for delay (but not as a penalty), for each, day that expires after the Contract Time for completion of Work, or portions thereof, Contractor shall pay the County the daily amount of liquidated damages specified in the Contract Documents until Final Acceptance as defined in Item 5.13.1 of the 2017 HCTRA Project Specification Book subject to the limitations specified in Section E. In case full payment for the Work shall have been made, the County shall have the right to recover from Contractor and the Contractor's Surety the amount of such liquidated damages. The County and Contractor agree that such liquidated damages are a reasonable estimate of the actual damages that will be incurred by the County as a result of such delay, and that payment of liquidated damages shall constitute the sole and exclusive remedy of the County, and the sole and exclusive liability of Contractor, for failure of Contractor to complete the Work, or portions thereof, by the end of the Contract Time.

Is hereby amended to read as follows:

Liquidated Damages. The County will suffer financial loss if the Work is not completed within the Contract Time specified for each Phased Purchase Order of the Project, plus any extension allowed in accordance with the Contract Documents. The County and Contractor recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by the County if the Work, or specified portions thereof, is not completed on time. Accordingly, instead of requiring any such proof, County and Contractor agree that as liquidated damages for delay (but not as a penalty), for each, day that expires after the Contract Time for completion of Work under each Phased Purchase Order, or portions thereof, Contractor shall pay the County the daily amount of liquidated damages specified in the Contract Documents until Final Acceptance as defined in Item 5.13.1 of the 2017 HCTRA Project Specification Book, as modified in the Addendum thereto, occurs for such Phased Purchase Order. In case full payment for the Work shall have been made, the County shall have the right to recover from Contractor and the Contractor's Surety the amount of such liquidated damages. The County and Contractor agree that such liquidated damages are a reasonable estimate of the actual damages that will be incurred by the County as a result of such delay, and that payment of liquidated damages shall constitute the sole and exclusive remedy of the County, and the sole and exclusive liability of Contractor, for failure of Contractor to complete the Work, or portions thereof, by the end of the Contract Time for each Phased Purchase Order.

11.

Section 14(E) of the Agreement, "Contractor's Compensation", which currently reads as follows.

The Contractor shall be liable for liquidated damages as noted in the Contract Documents for milestone dates with the sum of damages for each Milestone period not to exceed:

- i) For Milestone 1: 365 days after the Contract Time for completion of the Milestone
- ii) For Milestone 2: no limit
- iii) For Milestone 3: no liquidated damages assessed
- iv) For Milestone 4: no limit
- v) For Milestone 5: no liquidated damages assessed

Incentives or disincentives are as shown in the Project Milestone section of the General Notes in the Plans.

Is hereby is deleted in its entirety and amended to read as follows:

The Project does not include any incentive milestones or payments due to the Contractor, nor does it include any disincentives or payment due to the County. Prior to the execution of any Phased Purchase Order, the Parties will establish a new Contract Time, new Milestone Dates, and a new provision or provisions for liquidated damages (applicable solely to substantial completion of each Phased Purchase Order) with caps thereon.

12.

Section 14(F) of the Agreement, "Contractor's Compensation", which currently reads as follows:

Acceptance and Final Payment.

- i. All prior Partial Estimates and Payments shall be subject to correction in the Final Estimate and Payment. No estimate or payment except the Final Payment shall be evidence of performance by Contractor. No payment by County shall be construed to be an acceptance of any defective Work or improper materials, or a release from any claim for damages. The acceptance of the Final Payment with respect to the Project shall release County from any and all claims for payment for materials, supplies, services, equipment and labor furnished to the Project by Contractor, except for properly asserted claims identified in writing at the time Contractor submits its request for Final Payment. Contractor will examine the Final Estimate and if correct will certify under oath to the payment by Contractor of all amounts due for services, labor, materials, and supplies furnished to the Project by all- persons and firms in the performance of the Work under the Agreement. Contractor is not required to certify under oath to those matters which Contractor has given a specific written exception to at the time of the request for Final Payment.
- ii. Final Payment, including any remaining retainage attributable to Punch List work, shall not be due Contractor until the following have been submitted to, and found complete and acceptable by the County.
 - a. Copies of all payroll records for all personnel which have been requested by the County and have not previously been submitted.

- b. Final releases and waivers of liens and consent of surety from the Contractor, all Subcontractors, all sub-contractors, and all suppliers.
 - c. A sworn affidavit from the Contractor certifying the payment by him of all amounts due Subcontractors and Suppliers for labor, materials, services, equipment and supplies furnished in the performance of the Work.
 - d. All warranties, guarantees, operations manuals, maintenance manuals, inspection certificates, permits: instructions, spare or replacement parts, and other items of information or material, which may be required in the Specifications, and which have not been submitted at the time of Substantial Completion.
- iii. Neither the signing of a final Certificate for Payment by the Engineer, nor the acceptance of same by the County, nor the making of a final payment, nor the making of any progress payment to the Contractor, shall constitute a waiver of any faulty work or omissions to the Work on the part of the Engineer or County, nor shall they constitute a release of the Contractor from any obligations under the provisions of the Contract Documents.
 - iv. As full and complete compensation for Contractor's performance of the Work in accordance with the terms and conditions of this Agreement, County shall pay to Contractor no more than the Contract Price for the Project as it may be adjusted pursuant to the terms of the Contract Documents. The Contract Price, as it may be adjusted pursuant to the terms of the Contract Documents, constitutes the entire compensation that may be due Contractor for all of the Work and all of Contractor's obligations under the Agreement, including, but not limited to, compensation for all applicable taxes (excluding sales and use taxes, as set forth in Article 3(1)), fees, general conditions costs, profit, mobilization and demobilization costs, overtime premiums and all costs and expenses incurred or to be incurred by Contractor under the Agreement in performance of the Work.

Is hereby amended to read as follows:

Acceptance and Final Payment on Phased Purchase Order Basis.

- i. All prior Partial Estimates and Payments for a given Phased Purchase Order shall be subject to correction in the Final Estimate and Payment pertaining to such Phased Purchase Order. No estimate or payment except the Final Payment for a given Phased Purchase Order shall be evidence of performance by Contractor. No payment by County shall be construed to be an acceptance of any defective Work or improper materials, or a release from any claim for damages. The acceptance of the Final Payment with respect to a Phased Purchase Order shall release County from any and all claims for payment for materials, supplies, services, equipment and labor furnished for such Phased Purchase Order by Contractor, except for properly asserted claims identified in writing at the time Contractor submits its request for Final Payment for such Phased Purchase Order. Contractor will examine the Final Estimate for each Phased Purchase Order and if correct will certify under oath to the payment by Contractor of all amounts due for services, labor, materials, and supplies furnished for such Phased Purchase Order by all persons and firms in the performance of the Work under such Phased Purchase Order. Contractor is not required to certify under oath to

- those matters which Contractor has given a specific written exception to at the time of the request for Final Payment for a Phased Purchase Order.
- ii. Final Payment for a Phased Purchase Order, including any remaining retainage attributable to Punch List work for such Phased Purchase Order, shall not be due Contractor until the following have been submitted to, and found complete and acceptable by the County.
 - a. Copies of all payroll records for all personnel which have been requested by the County and have not previously been submitted.
 - b. Final releases and waivers of liens and consent of surety from the Contractor, all Subcontractors, all sub-contractors, and all suppliers.
 - c. A sworn affidavit from the Contractor certifying the payment by him of all amounts due Subcontractors and Suppliers for labor, materials, services, equipment and supplies furnished in the performance of the Work under such Phased Purchase Order.
 - d. All warranties, guarantees, operations manuals, maintenance manuals, inspection certificates, permits: instructions, spare or replacement parts, and other items of information or material, which may be required in the Specifications, and which have not been submitted at the time of Substantial Completion of such Phased Purchase Order.
 - iii. Neither the signing of a final Certificate for Payment by the Engineer, nor the acceptance of same by the County, nor the making of a final payment, nor the making of any progress payment to the Contractor, shall constitute a waiver of any faulty work or omissions to the Work on the part of the Engineer or County, nor shall they constitute a release of the Contractor from any obligations under the provisions of the Contract Documents.
 - iv. As full and complete compensation for Contractor's performance of the Work on each Phased Purchase Order in accordance with the terms and conditions of this Agreement, County shall pay to Contractor no more than the Contract Price for the Phased Purchase Order as it may be adjusted pursuant to the terms of the Contract Documents. The Contract Price, as it may be adjusted pursuant to the terms of the Contract Documents, constitutes the entire compensation that may be due Contractor for all of the Work and all of Contractor's obligations under the Agreement, including, but not limited to, compensation for all applicable taxes (excluding sales and use taxes, as set forth in Article 3(1)), fees, general conditions costs, profit, mobilization and demobilization costs, overtime premiums and all costs and expenses incurred or to be incurred by Contractor under the Agreement in performance of the Work.

Such section is also hereby amended to include the following:

- v. The requirements included herein shall be deemed for each Phased Purchase Order and not meant for the overall completion of the Project.

13.

Section 17 of the Agreement, "Claims", is amended to add Section 17 (C)

Mutual Release: As of execution of the Phased Purchase Order for the construction of the Southbound Main Span Bridge, each party (the "releasing party") hereby releases and forever discharges the other from and against any and all claims, demands, causes of action, obligations,

liabilities, agreements, costs, debts, requests for extensions of the completion deadlines, expenses (including but not limited to attorneys' fees) and damages, of whatever kind or nature, whether presently known or unknown that the releasing party may possess arising from any omissions, acts or facts that have occurred up until and including the execution date of this Amendment, without limitation.

14.

The Section 18(A) of the Agreement, "Limit of Appropriation ("LOA")", which currently reads as follows:

Contractor understands and agrees, except as otherwise expressly set forth in this Agreement, the understanding and agreement being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that County shall become liable to pay to Contractor hereunder, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Five Hundred Sixty-Seven Million Nine Hundred Eleven Thousand Seven Hundred Fifty and 40/Dollars (\$567,911,750.40) (the "Contract Price"), as certified available by the Harris County Auditor as evidenced by the issuance of a Purchase Order and amendments from the Harris County Purchasing Agent. At the time of the execution of the Agreement, the County represents and warrants that no portion of the funds for this County represents and warrants that no portion of the funds for this Project were provided by or through the United States or the State of Texas and, further, that there is no contract between the County and the United States or between the County and the State of Texas to finance, refinance, or provide money from funds administered by the United States or the State of Texas in relation to the Project.

Is hereby amended to read as follows:

Contractor understands and agrees, except as otherwise expressly set forth in this Agreement, the understanding and agreement being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that County shall become liable to pay to Contractor hereunder, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of \$859,400,000.00 (the "Contract Price"), as certified available by the Harris County Auditor as evidenced by the issuance of a Phased Purchase Order and amendments from the Harris County Purchasing Agent. At the time of the execution of the Agreement, the County represents and warrants that no portion of the funds for this Project were provided by or through the United States or the State of Texas and, further, that there is no contract between the County and the United States or between the County and the State of Texas to finance, refinance, or provide money from funds administered by the United States or the State of Texas in relation to the Project.

14.

Section 18(B) of the Agreement, "Limit of Appropriate ("LOA")", which currently reads as follows:

Contractor understands and agrees, the understanding and agreement also being of the absolute essence of this Agreement, that the County will issue portions of the LOA from multiple fiscal years. The Contractor understands and agrees that the laws governing the letting of contracts for the County require the approval of the Harris County Auditor and his certification that funds are, or will be, available for the payment of the obligations created under the Agreement before such contracts become effective. Therefore, any Work delivered on the Project prior to certification of funds by the County Auditor as evidenced by the issuance or amendment of a Purchase Order by the County Purchasing Agent will be at Contractor's own expense and not payable, except as set forth in subsection 18.G below.

The approximate breakdown of the Contract Price is as follows: Through

Fiscal Year 2019	\$230 million
Fiscal Year 2020	\$ 120 million
Fiscal Year 2021	\$ 75 million
Fiscal Year 2022	\$ 75 million
Fiscal Year 2023	\$ 50 million
Fiscal Year 2024	0.40

Is hereby amended to read as follows:

Contractor understands and agrees, the understanding and agreement also being of the absolute essence of this Agreement, that the County will issue portions of the LOA from multiple fiscal years. The Contractor understands and agrees that the laws governing the letting of contracts for the County require the approval of the Harris County Auditor and his certification that funds are, or will be, available for the payment of the obligations created under the Agreement before such contracts become effective and that the County Auditor's certification represents that the County is authorized by law to enter into such Phased Purchase Orders. Therefore, any Work delivered on the Project prior to certification of funds by the County Auditor as evidenced by the issuance or amendment of a Phased Purchase Order by the County Purchasing Agent will be at Contractor's own expense and not payable, except as set forth in subsection 18.G below.

The approximate breakdown of the Contract Price is as follows: Through

Fiscal Year 2019-2021	\$ 320.6 million
Fiscal Year 2021/2022	\$ 53.0 million
Fiscal Year 2022	\$ 68.6 million
Fiscal Year 2023	\$ 78.6 million
Fiscal Year 2024	\$ 61.7 million
Fiscal Year 2025	\$ 72.2 million
Fiscal Year 2026	\$ 110.2 million

Fiscal Year 2027	\$ 57.5 million
Fiscal Year 2028	\$ 37.0 million

15.

Section 18(G) of the Agreement, "Limit of Appropriation ("LOA")", which currently reads as follows:

If the Work and charges to be provided for will equal or exceed the amount certified available, Contractor will notify the County immediately. If the amount certified is depleted prior to the end of the term of the current Purchase Order, Contractor may terminate all Work hereunder upon the total depletion of the certified funds unless the County certifies additional funds, as evidenced by a written amendment to the Purchase Order or this Agreement, in which event Contractor shall continue to provide the Work herein specified to the extent funds are available.

Is hereby amended to read as follows:

If the Work and charges to be provided for will equal or exceed the amount certified available, Contractor will notify the County immediately. Contractor may immediately terminate any Work under a Phased Purchase Order and concurrently be relieved of any further responsibility under the Contract Documents in the event (i) the County Auditor or County Controller indicates the County cannot pay or is precluded from paying Contractor any more than \$859,400,000.00; (ii) the County Auditor or County Controller fails to provide adequate assurance, upon reasonable request, that County will be able to make payments to Contractor as required; or (iii) if the amount certified is depleted, or appears reasonably likely to be depleted (inclusive of demobilization expenses), prior to the end of the term of the then-current Phased Purchase Order.

16.

Section 26(B) of the Agreement, "Insurance Requirements", reads as follows:

Builder's Risk Insurance: Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form providing constant insurance at one hundred percent of all insurable values as created during construction and, shall increase coverage as necessary to reflect estimated replacement costs. Coverage shall be increased, as needed, to insure the value of subsequent contract modifications and cost of materials supplied or installed by others on a replacement cost basis: Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance. until risk of loss passes to County under the Contract Documents. This insurance shall include interests of the County, the Contractor, Subcontractors and Sub-subcontractors in the Project in the amount of the contract plus value of subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. If the builder's risk insurance requires deductibles, the County shall pay costs not covered because of such deductibles; provided, however, Contractor shall pay the deductible per occurrence to the extent such costs were. caused by the negligence of Contractor or by a Subcontractor, Sub- subcontractor or Supplier or by anyone directly or

indirectly employed, retained or contracted by any of them, or by anyone for whose acts any of them may be responsible or liable. Deductibles covered by the County shall be paid to Contractor as a Change Order and with a commensurate increase in the Limit of Appropriation.

Is hereby amended to read as follows:

Builder's Risk Insurance: Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form providing constant insurance at one hundred percent of all insurable values as created during construction and, shall increase coverage as necessary to reflect estimated replacement costs. Coverage shall be increased, as needed, to insure the value of subsequent contract modifications and cost of materials supplied or installed by others on a replacement cost basis: Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance. until risk of loss passes to County under the Contract Documents for each Phased Purchase Order as the case maybe. This insurance shall include interests of the County, the Contractor, Subcontractors and Sub-subcontractors in the Project in the amount of each Phased Purchase Order plus value of subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for each Phased Purchase Order at the site on a replacement cost basis. If the builder's risk requires deductibles, the County shall pay costs not covered because of such deductibles; provided. however, Contractor shall pay the deductible per occurrence to the extent such costs were. caused by the negligence of Contractor or by a Subcontractor, Sub- subcontractor or Supplier or by anyone directly or indirectly employed, retained or contracted by any of them, or by anyone for whose acts any of them may be responsible or liable. Deductibles covered by the County shall be paid to Contractor as a Change Order and with a commensurate increase in the Limit of Appropriation.

17.

Section 23 of the Agreement, "Indemnification" is hereby amended to include the following:

No Claw Back. Notwithstanding anything contrary in the Contract Documents, and to the extent allowed by law, the County will not, and will have no right to, claim or recover (whether by offset or otherwise) any monies paid to Contractor on or before the effective date of this Contract Amendment except for agreed credit amounts associated with strands and epoxy (approximately \$1.2 million). Future work/ Phased Purchase Orders issued subsequent to this Contract Amendment will be subject to provisions of the Agreement unless noted otherwise.

In addition, the contract amendment confirms the Contractor will not, and will have no right to, claim or recover (whether by offset or otherwise) any monies for claims, demands, causes of action, obligations, agreements, costs, requests for extensions of the completion deadlines, expenses and damages open as of effective date of this contract amendment.

18.

Section 25. of the Agreement, "Authority of County's Director", is amended to add the following new Section 25(C) to read as follows:

Authority to Direct Work: Notwithstanding anything in the Contract Documents to the contrary, the Contractor is not obligated to perform any Work under any Phased Purchase Order unless and until a Change Order is signed by both parties to incorporate the Work contemplated by the Phased Purchase Order.

19.

The applicable Contract Documents for the Project, as referenced in Section 2(B) "Definitions", are amended to include the following:

This contract amendment expressly excludes the following items from Contractor's scope of work and pricing:

- i. All engineering costs to ensure and demonstrate that the construction of the northbound bridge does not lead to operational/traffic restrictions on the southbound bridge, while in service, so that the Main Bridge at all-time meets the project Design Specifications and the requirement of the Specifications.
- ii. Electrical and ITS (except street lighting on Southbound bridge only)
- iii. Contaminated material hauling and disposal
- iv. USD (casting yard) property rent after 2025 (Credit to HCTRA if casting yard is not required till 2025)
- v. Integrated shop drawings for pylons
- vi. Disassembly, handling, and disposal of stay cradles, segment erectors, casting yards and any other on-site items not incorporated or used in the new design
- vii. Trestle for existing bridge demolition and new Northbound bridge (If the dredging can be completed before the SB is completed then no need of trestle)
- viii. Fire suppression system


Contractor's price is based on the following assumptions:

- a. 36-months for Southbound bridge construction and 75 months for project completion schedule duration after NTP is provided
- b. Assumes composite superstructure design will result in 50 lbs. of structural steel per square foot of deck
- c. Assumes painted structural steel purchase of \$2.07/lbs.
- d. Assumes stay cable material purchase of \$25,000,000 (inclusive of Material on Hand)
- e. Assumes redesign will eliminate the stay cradles in favor of anchorages and steel boxes in the pylons
- f. The change order establishes Preliminary GMP pricing, exclusive of allowances and contingencies, based on concept only and is subject to adjustment based on the Engineer of Record's final design

All other terms and conditions of the original Agreement shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

SHIP CHANNEL CONSTRUCTORS, LLC

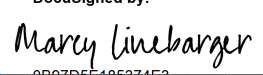
DocuSigned by:

 By _____
 Name Craig Cuppernell
 Title Project Manager
 Date 11/17/2021

HARRIS COUNTY

By _____
 LINA HIDALGO
 County Judge
 Date _____

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
County Attorney

DocuSigned by:

 By _____
 MARCY LINEBARGER
 Assistant County Attorney

ORDER OF COMMISSIONERS COURT

Authorizing a First Amendment to Agreement with Ship Channel Constructors, LLC.

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING A FIRST AMENDMENT TO AGREEMENT WITH SHIP CHANNEL CONSTRUCTORS, LLC TO CLARIFY AND RESTATE THE SERVICES NEEDED TO COMPLETE PERFORMANCE OF THE AGREEMENT AND UPDATE PRICE IN SUPPORT OF THE IMPROVEMENTS OF THE EAST SAM HOUSTON TOLLWAY BETWEEN INTERSTATE 10 (EAST) AND SH 225, THE SHIP CHANNEL BRIDGE PROGRAM

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that:

1. The Harris County Judge is authorized to execute on behalf of Harris County a First Amendment to Agreement in an amount not to exceed \$291,500,000.00 with Ship Channel Constructors, LLC. to increase the contract value and to update necessary contract documents associated with this amendment, in support of the improvements of the East Sam Houston Tollway between Interstate 10 (East) and SH 225, the Ship Channel Bridge Program. The Amendment is incorporated by reference and made a part of this order for all intents and purposes as though set out in full word for word.

2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.