

STATE OF TEXAS §

COUNTY OF HAYS §

AGREED TERMINATION OF DEVELOPMENT AGREEMENT

This Agreed Termination of Development Agreement (“Agreed Termination”) is made and entered into and effective as of the 2nd day of September, 2015 (the “Effective Date”) by and among the City of Kyle, Texas, a Texas home-rule municipal corporation (the “City”) and Felder CND, LLC, a Texas limited liability company (“Felder CND”). The City and Felder CND are sometimes referred to herein as the “Parties.” The Parties agree as follows:

RECITAL

WHEREAS, on February 19, 2015, the City and KYTEX Properties entered into an Amended and Restated Development Agreement recorded in Volume 5144, Page 393, Official Public Records of Hays County, Texas (the “KYTEX Agreement”);

WHEREAS, the KYTEX Agreement pertains to approximately 132.59 acres of land, more particularly described in the attached Exhibit “A” (the “Property”);

WHEREAS, per the terms of the KYTEX Agreement, the KYTEX Agreement is a covenant that runs with title to the Property;

WHEREAS, on May 5, 2015, the City and Scott Felder Homes, LLC (“Felder”) entered into a Development Agreement regarding the Property that is recorded in Volume 05224, Page 255 Official Public Records of Hays County, Texas (the “Felder Agreement”);

WHEREAS, Section 1.05 of the Felder Agreement provided that the Felder Agreement would terminate 180 days after May 5, 2015 unless Felder purchased the Property and delivered a copy of the recorded deed to the City;

WHEREAS, KYTEX Properties conveyed the Property to Felder CND, LLC, an affiliate of Felder on May 22, 2015 by a deed recorded in Volume 5224, Page 246, Official Public Records of Hays County, Texas (“Felder CND Deed”);

WHEREAS, the Parties agree that Felder complied with the requirements of the Felder Agreement to extend the term of the Felder Agreement beyond 180 days;

WHEREAS, Felder and the City desired to amend and restate the Felder Agreement;

WHEREAS, on or about August 12, 2015, the City and Felder entered into a Development Agreement recorded in Volume 5294, Page 735, Official Public Records of Hays County, Texas (the “Felder Development Agreement”);

WHEREAS, on or about September 1, 2015, Felder assigned all of the Developer Rights to Felder CND pursuant to Section 6.01 of the Felder Development Agreement by an assignment recorded in Volume 5314, Page 199 Official Public Records of Hays County, Texas;

WHEREAS, the Parties desire to make the Felder Development Agreement the only development agreement applicable to the Property;

WHEREAS, pursuant to Section 6.05 of the KYTEX Agreement, the Parties desire to terminate the KYTEX Agreement; and

WHEREAS, pursuant to Section 9.05 of the Felder Agreement, the Parties desire to terminate the Felder Agreement.

NOW, THEREFORE, in consideration of the above stated premises and the mutual covenants stated herein, the Parties agree as follows:

1. The above stated recitals are true and correct.
2. The KYTEX Agreement and the Felder Agreement are hereby terminated as of the date hereof.
3. The Felder Development Agreement remains in full force and effect
4. This Agreed Termination, together with any exhibits attached hereto, constitutes the entire agreement between Parties hereto, and may not be amended except by a writing signed by all Parties and dated subsequent to the date hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

DEVELOPER:

Felder CND, LLC

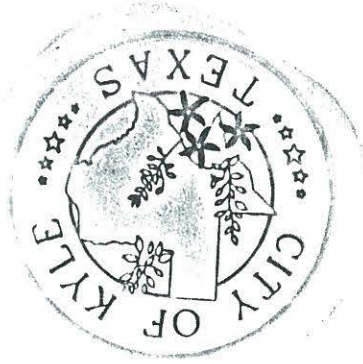
By:


Title: Steve Krasoff, Executive
Committee Member

Felder CND, LLC

By:


Title: Jim Rado, Executive Committee
Member



CITY OF KYLE, TEXAS

By: *R. Todd Webster*
R. Todd Webster, Mayor

Date: 9-18-15

ATTEST:

Amelia Sanchez
Amelia Sanchez, City Secretary

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

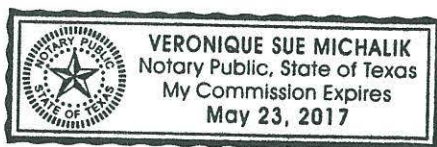
This instrument was acknowledged before me on September 3rd, 2015, by Steve Krasoff, Executive Committee Member of Felder CND, LLC, a Texas limited liability company, on behalf of said limited liability company.



K. Weinstein
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on September 2, 2015, by Jim Rado, Executive Committee Member of Felder CND, LLC, a Texas limited liability company, on behalf of said limited liability company.



Veronique Sue Michalik
Notary Public in and for the State of Texas

EXHIBIT "A"
Property Description

132.59 ACRES
JOHN PHARASS SURVEY
ABSTRACT NO. 361
HAYS COUNTY, TEXAS

Bk Vol Pg
15035774 OPR 5370 293
1 of 4

DESCRIPTION OF A 132.59 ACRE TRACT, PREPARED BY DELTA SURVEY GROUP INC. IN FEBRUARY 2015, LOCATED IN THE JOHN PHARASS SURVEY, ABSTRACT NUMBER 361, HAYS COUNTY, TEXAS, SAID 132.59 ACRE TRACT BEING A REMAINDER OF A CALLED 135.78 ACRE TRACT OF LAND DESCRIBED IN VOLUME 254, PAGE 848, REAL PROPERTY RECORDS, HAYS COUNTY, TEXAS, SAID 132.59 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½ inch iron rod found in the north right-of-way line of Cypress Road (right-of-way varies) for the most southerly southeast corner of said 135.78 acre tract, same being the most southerly corner of the herein described 132.59 acre tract of land, for the **POINT OF BEGINNING**;

THENCE with the north right-of-way line of Cypress Road, same being the south line of said 135.78 acre tract, N66°47'41"W, a distance of 464.63 feet to a ½ inch iron rod with "Delta Survey" cap set for the southeast corner of a 4.78 acre tract of land described in Volume 4719, Page 166, Official Public Records, Hays County, Texas;

THENCE leaving the north right-of-way line of Cypress Road, with the east, north and west lines of said 4.78 acre tract, same being south lines of said 135.78 acre tract the following three (3) courses and distances:

1. N18°25'46"E a distance of 218.68 feet, to a ½ inch iron rod with "Delta Survey" cap set,
2. N76°35'41"W a distance of 683.33 feet, to a ½ inch iron rod with "Delta Survey" cap set, and
3. S45°04'19"W a distance of 426.01 feet, to a 20 inch Live Oak found for the southwest corner of the said 4.78 acre tract, same being a south corner of the said 135.78 acre tract, and also being in the north line of an undefined tract of land (no record ownership or deed reference found);

THENCE with the north lines of said undefined tract, same being the south lines of said 135.78 acre tract the following five (5) courses and distances:

1. S59°45'22"W a distance of 97.79 feet, to a nail found in a 29 inch Live Oak,
2. S47°28'53"W a distance of 371.25 feet, to a ½ inch iron rod found,
3. S52°39'52"W a distance of 14.33 feet, to a ½ inch iron rod found,
4. S59°09'02"W a distance of 164.78 feet, to a ½ inch iron rod found, and
5. S67°49'19"W a distance of 74.92 feet, to a ½ inch iron rod with "Delta Survey" cap set in the north ROW line of said Cypress Road, same being a south line of said 135.78 acre tract;

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JOHN PHARASS SURVEY
ABSTRACT NO. 361
HAYS COUNTY, TEXAS

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THENCE with the north ROW lines of said Cypress Road, same being the south lines of said 135.78 acre tract the following nine (9) courses and distances:

1. N70°08'41"W a distance of 96.94 feet, to a ½ inch iron rod with "Delta Survey" cap set,
2. N64°30'41"W a distance of 79.56 feet, to a ½ inch iron pipe found,
3. N49°42'54"W a distance of 145.14 feet, to a ½ inch iron rod with "Delta Survey" cap set,
4. N47°57'54"W a distance of 437.25 feet, to a ½ inch iron rod with "Delta Survey" cap set,
5. N16°49'54"W a distance of 516.28 feet, to a ½ inch iron rod with "Delta Survey" cap set,
6. N35°14'54"W a distance of 48.31 feet, to a ½ inch iron rod with "Delta Survey" cap set,
7. N56°57'54"W a distance of 49.88 feet, to a ½ inch iron rod found,
8. N80°26'19"W a distance of 476.41 feet, to a ½ inch iron rod found, and
9. N41°17'19"W a distance of 155.64 feet, to a ½ inch iron rod with "Delta Survey" cap set in the east line of that 195.14 acre tract described in a deed to The State of Texas Permanent School Fund, and recorded in Volume 2965, Page 484, Official Public Records, Hays County, Texas, same being the west line of the said 135.78 acre tract;

THENCE with the east line of said 195.14 acre tract, same being the west lines of said 135.78 acre tract the following six (6) courses and distances:

1. N48°29'30"E a distance of 1587.53 feet, to a ½ inch iron rod found,
2. N48°25'30"E a distance of 428.87 feet, to a ½ inch iron rod with "VICKERY" cap found,
3. N25°26'19"E a distance of 39.38 feet, to a mag nail in fence post found,
4. S49°05'26"E a distance of 34.30 feet, to a mag nail in fence post found,
5. N48°35'06"E a distance of 1583.28 feet, to a mag nail in fence post found, and
6. S61°06'30"E a distance of 48.98 feet, to a ½ inch iron rod found in the west ROW line of County Road 136 (Old Stagecoach Road) (ROW varies), same being the northeast corner of said 135.78 acre tract;

THENCE with the west ROW line of said Old Stagecoach Road, same being the east line of said 135.78 acre tract, S16°45'08"E a distance of 258.55 feet, to a ½ inch iron rod with "Delta Survey" cap set for the northeast corner of that 1.00 acre tract described in a deed to Clifton L. Oswalt and recorded in Volume 398 Page 265, Real Property Records of Hays County, Texas;

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THENCE leaving said ROW and with the north and west lines of said 1.00 acre Oswalt tract, and the west and south lines of that 0.12 acre tract described in a deed to Clifton L. Oswalt and recorded in Volume 592 Page 807, Real Property Records of Hays County, Texas, the following three (3) courses and distances:

1. S73°14'47"W a distance of 350.00 feet, to a ½ inch iron rod with "Delta Survey" cap set,
2. S16°45'09"E a distance of 139.46 feet, to a ½ inch iron rod with "Delta Survey" cap set, and
3. N73°14'49"E a distance of 347.70 feet, to a ½ inch iron rod with "Delta Survey" cap set in the west ROW line of said Old Stagecoach Road;

THENCE with the west ROW line of said Old Stagecoach Road, same being the east line of said 135.78 acre tract, S08°02'02"E a distance of 955.72 feet, to an iron rod with "BYRN" cap found for the northeast corner of that 0.615 acre tract conveyed to Martha Prado and recorded in Volume 2257 Page 881, Official Public Records, Hays County, Texas and last described in Volume 729 Page 644, Real Property Records, Hays County, Texas;

THENCE with the perimeter of said 0.615 acre Prado tract and a 1.86 acre tract described in a deed to Audrey Oswalt and recorded in Volume 398 Page 261, Real Property Records, Hays County Texas the following six (6) courses and distances:

1. S81°40'28"W a distance of 232.43 feet, to a ½ inch iron rod with "Delta Survey" cap set
2. S02°39'28"E a distance of 101.12 feet, to a calculated point for the west common corner of the said Prado and Oswalt tract,
3. S03°12'57"E a distance of 30.41 feet, to a calculated point,
4. S02°06'24"E a distance of 47.02 feet, to a fence post found,
5. S02°47'36"E a distance of 157.50 feet, to a ½ inch iron rod found, and
6. N87°19'33"E a distance of 203.13 feet, to a ½ inch iron rod found for the southeast corner of said Oswalt tract, same being in the west ROW line of said Old Stagecoach Road;

THENCE with the west ROW line of said Old Stagecoach Road, same being the east line of said 135.78 acre tract the following four (4) courses and distances:

1. S16°08'07"W a distance of 474.58 feet, to a ½ inch iron rod with "Delta Survey" cap set,
2. S11°17'39"E a distance of 40.97 feet, to a ½ inch iron rod found,
3. S18°34'03"E a distance of 1287.66 feet, to a ½ inch iron rod found, and

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JOHN PHARASS SURVEY
ABSTRACT NO. 361
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4. S56°24'24"W a distance of 10.77 feet, to the **POINT OF BEGINNING** and containing 132.59 acres, more or less.

BEARING BASIS: TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS CENTRAL ZONE, NAD 83/HARN

I, John E Brautigam, hereby certify that the forgoing description represents an on-the-ground survey performed under my direct supervision during February 2015, and is true and correct to the best of my knowledge and belief.

Date: 02-16-15



John E Brautigam
Registered Professional Land Surveyor
No. 5057-State of Texas



Delta Survey Group, Inc.
8213 Brodie Lane, Suite 102
Austin, Texas 78745
TBPLS Firm No. 10004700

Hays TX
Liz Q. Gonzalez
County Clerk
San Marcos, Texas 78666



70 2015 15035774

Instrument Number: 2015-15035774

As

Recorded On: November 06, 2015

OPR RECORDINGS

Parties: KYLE CITY OF

Billable Pages: 8

To FELDER CND LLC

Number of Pages: 9

Comment:

(Parties listed above are for Clerks reference only)

**** THIS IS NOT A BILL ****

OPR RECORDINGS	54.00
Total Recording:	54.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2015-15035774
Receipt Number: 413335
Recorded Date/Time: November 06, 2015 11:44:16A
Book-Vol/Pg: BK-OPR VL-5370 PG-288
User / Station: E Chavez Jr. - Cashiering #8

Record and Return To:

CITY OF KYLE
ORIGINAL TO CUSTOMER
SAN MARCOS TX 78666



State of Texas |
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

Liz Q. Gonzalez

Liz Q. Gonzalez, County Clerk