



**CITY OF FAIR OAKS RANCH
AGENDA – CITY COUNCIL SPECIAL MEETING**

September 24, 2018; 11:00 AM
City Hall Council Chambers
7286 Dietz Elkhorn, Fair Oaks Ranch

I. OPEN MEETING

- A. Roll Call – Declaration of a Quorum
- B. Pledge of Allegiance

II. PURPOSE OF SPECIAL CALLED MEETING

Discussion and possible action approving Amendment No. 3 to the Development Agreement among the City of Fair Oaks Ranch and SF Fair Oaks Development LLC, a Texas limited liability company, being the successor in interest to David and Dianne Owens, and to Scott Felder Homes, LLC; and authorizing the City Manager to sign said Agreement.

Tobin E. Maples, City Manager

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III. ADJOURNMENT

Signature of Agenda Approval: _____

I, Christina Picioccio, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times. Said Notice was posted by 11:00 AM, September 21, 2018 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available. The City Council reserves the right to convene into Executive Session at any time regarding an issue on the agenda for which it is legally permissible; pursuant to *Texas Gov't Code* Chapter 551. Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
September 24, 2018

AGENDA TOPIC: Discussion and possible action approving Amendment No. 3 to the Development Agreement among the City of Fair Oaks Ranch and SF Fair Oaks Development LLC, a Texas limited liability company, being the successor in interest to David and Dianne Owens, and to Scott Felder Homes, LLC; and authorizing the City Manager to sign said Agreement.

DATE: September 24, 2018

DEPARTMENT: Administration

PRESENTED BY: City Manager

INTRODUCTION/BACKGROUND:

A Development Agreement between the City of Fair Oaks Ranch, David and Dianne Owens, and Scott Felder Homes was signed February 22, 2016. An amendment to the original Development Agreement (Amendment No. 1), revising the conveyance period to “after January 1, 2017, but before December 31, 2017” was considered and approved by City Council on March 16, 2017.

To ensure the FORHA Board had an opportunity to further vet property tax consequences prior to accepting the conveyance, Amendment No. 2 to the Development Agreement was considered and approved by City Council on December 7, 2017. Amendment No. 2 revised the conveyance period to “after January 1, 2018, but before September 31, 2018.”

Now that the owner and FORHA have fully vetted the tax consequences, the parties to the agreement can dedicate time to finalize the conveyance and easements as prescribed in the Development Agreement. Under consideration today is Amendment No. 3 which has been reviewed by all parties. Amendment No. 3 is being proposed to ensure parties to the agreement have an opportunity to vet and finalize said conveyance and easements. If Amendment No. 3 is approved, the conveyance period would be revised to “after January 1, 2018, but before November 30, 2018.”

Staff does not anticipate any problems with finalizing details and, therefore, concurs with the revised conveyance period.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Allows continuation of discussion toward the goal of FORHA accepting conveyance of property and solidification of prescribed access easements.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

FORHA’s acceptance of the property would allow continuation of current business model to which FORHA owns the parks and trails system.

LEGAL ANALYSIS:

Developer's Attorney created Amendment No. 3 which has been reviewed by the City Attorney.

RECOMMENDATION/PROPOSED MOTION:

I move to approve Amendment No. 3 and authorize the City Manager to sign.

THE STATE OF TEXAS §
COUNTIES OF BEXAR & COMAL §

RECITALS

AGREEMENT

3. Preserve Area. The definition of the Conveyance Period set forth in Section 2.10 of the Agreement is hereby amended to read as follows: “after January 1, 2018, but before November 30, 2018”.

4. Buffer Easements; City Preserve Easement. Section 2.13 of the Agreement is hereby amended to provide that the parties to each of the City Buffer Easement, the FORHA Buffer Easement and the City Preserve Easement, will endeavor to approve such easements as to form on or before November 30, 2018.

5. Miscellaneous.

a. Entire Agreement. This Amendment, together with the Agreement, sets forth the entire understanding of the Parties and supersedes all prior agreements or understanding, whether written or oral, with respect to the subject matter hereof. No amendments or modifications hereto will be valid unless made in writing and signed by all parties. The Amendment shall supersede any conflicting provision of the Agreement and, to the extent that the Agreement does not conflict with this Amendment, the same shall remain in full force and effect.

b. Recordation. The City shall record this Amendment in the Official Public Records of Bexar County, Texas and Comal County, Texas.

c. Binding Effect. The Agreement, as amended by this Amendment, will extend to and be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

d. Execution. The Parties may execute this Amendment in one or more duplicate originals, each of equal dignity.

e. Governing Law. The Agreement, as amended by this Amendment, will be governed by and construed in accordance with the laws of the State of Texas with venue in Bexar County, Texas.

[COUNTERPART SIGNATURE PAGES FOLLOW]

CITY:

CITY OF FAIR OAKS RANCH, TEXAS

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

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COUNTY OF BEXAR §

 This instrument was acknowledged before me on the ____ day of _____, 2018,
by _____, _____ of the City of Fair Oaks Ranch, a Texas General Law
Type A city, on behalf of said city.

NOTARY PUBLIC, State of Texas

DEVELOPER/OWNER:

SF FAIR OAKS DEVELOPMENT LLC,
a Texas limited liability company

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

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COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2018,
by _____, _____ of SF FAIR OAKS DEVELOPMENT LLC,
a Texas limited liability company, on behalf of said limited liability company.

NOTARY PUBLIC, State of Texas