

**ORDINANCE NO. 20191114-094**

**AN ORDINANCE ADOPTING AND AUTHORIZING EXECUTION OF THE THIRD AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT RELATED TO CAUSE NO. 94-07160, JOSIE ELLEN CHAMPION, ET AL V. CITY OF AUSTIN IN THE 353<sup>RD</sup> JUDICIAL DISTRICT COURT OF TRAVIS COUNTY; AMENDING ORDINANCE NO. 960613-J, ORDINANCE NO. 20181215-013, AND ORDINANCE NO. 20181101-009; AND MODIFYING PROVISIONS OF THE LAKE AUSTIN WATERSHED REGULATIONS IN ORDINANCE NO. 840301-F.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** In this ordinance:

- (1) ORIGINAL AGREEMENT means the 1996 Compromise Settlement Agreement related to Cause No. 94-07160, Josie Ellen Champion, et al v. City of Austin in the 353<sup>rd</sup> Judicial District Court of Travis County.
- (2) FIRST AMENDMENT means the First Amendment to the Original Agreement adopted and authorized by City Ordinance No. 20180215-013.
- (3) SECOND AMENDMENT means the Second Amendment to the Original Agreement adopted and authorized by City Ordinance No. 20181101-009.
- (4) THIRD AMENDMENT means the Third Amendment to the Original Agreement attached as **Exhibit "A"** to this ordinance.
- (5) PROPERTY means Lot 1, Block A, Champion City Park East subdivision, a subdivision in Travis County, Texas, as recorded in Document No. 200300122 of the Official Public Records of Travis County, Texas, locally known as 6401 FM 2222 Road in the City of Austin, Travis County, Texas, and referred to as Tract 3 in the Original Agreement.
- (6) OWNER means HPI Champion Land Investors, LLC, a Texas limited liability company.

**PART 2.** City Council adopts the Third Amendment, which is attached as **Exhibit "A"** and incorporated herein by reference, and authorizes execution by the City Manager.

**PART 3.** To the extent that a conflict exists, Ordinance No. 960613-J, Ordinance No. 20180215-013, and Ordinance No. 20181101-009 are amended by the Third Amendment.

**PART 4.** To effectuate the Third Amendment, City Council modifies the Lake Austin Watershed regulations (Ordinance No. 840301-F), Section 9-10-409 (*Cut and Fill*) subsections (a) and (b) to allow:

A maximum of 55,103.40 square feet of cut over four feet to be allocated as follows; provided that the applicant may transfer the allocated quantities from deeper categories to shallower categories only if the overall allocation does not increase:

- (i) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet;
- (ii) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet;
- (iii) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet.
- (iv) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet;

A maximum of 99,970.20 square feet of fill over four feet to be allocated as follows; provided that the applicant may transfer the allocated quantities from the deeper category to the shallower category only if the overall allocation does not increase:

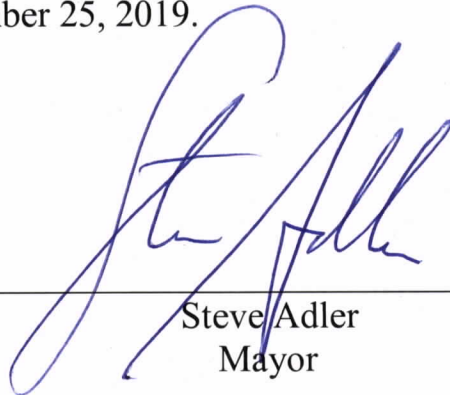
- (i) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet; and
- (ii) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.

**PART 5.** This ordinance takes effect on November 25, 2019.

**PASSED AND APPROVED**


\_\_\_\_\_, November 14, 2019

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\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**



\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**



\_\_\_\_\_  
Jannette S. Goodall  
City Clerk

# **EXHIBIT A**

## **THIRD AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT REGARDING CHAMPIONS TRACT 3**



**THIRD AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT  
REGARDING CHAMPIONS TRACT 3**

This Third Amendment to the Compromise Settlement Agreement (the "Third Amendment") is made and entered into by and between HPI Champion Land Investors, LLC ("Owner") and the City of Austin (the "City") for the purposes and on the terms specified herein and operates in conjunction with the Compromise Settlement Agreement (the "Original Agreement"), effective July 11, 1996, the First Amendment to the Compromise Settlement Agreement (the "First Amendment") effective February 26, 2018, and the Second Amendment to the Compromise Settlement Agreement (the "Second Amendment") effective November 11, 2018. The Original Agreement as amended by the First Amendment and the Second Amendment is herein referenced as the "Agreement as Amended".

**RECITALS**

**WHEREAS**, the City approved an ordinance adopting the Original Agreement between the Champion Assets, Ltd., a Texas limited partnership; Champion-Meier Assets, Ltd., a Texas limited partnership; and Champion Legacy Partners, L.P., a Texas limited partnership, successors to Josie Ellen Champion, Juanita Champion Meier, and Mary Margaret Champion Roberson (the "Champions") and the City on June 13, 1996; and

**WHEREAS**, the City approved an ordinance adopting the First Amendment between 2222 CAP TEXAS, LLC, a Texas limited liability company ("CAP") and the City regarding Champions Tract 3 on February 15, 2018; and

**WHEREAS**, Loop 360 Land LP ("360") PURCHASED Tract 3 from CAP in October 2018; and

**WHEREAS**, the City approved an ordinance adopting the Second Amendment between 360 and the City regarding Champions Tract 3 on November 1, 2018; and

**WHEREAS**, HPI Champion Land Investors LLC ("HPI") PURCHASED Tract 3 from 360 in December 2018 and is the current owner of Tract 3; and

**WHEREAS**, in accordance with Paragraph 7 of the Original Agreement, the City and HPI are executing this Third Amendment to amend the provisions regarding site development and use of Tract 3;

**NOW, THEREFORE**, in consideration of the recitals, the mutual covenants and agreements contained in this Third Amendment, HPI and the City agree as follows:

## TERMS OF AMENDMENT

I. Section 2.g.1.B. of the Agreement as Amended is amended as follows:

B. Cut and fill modifications. Section 9-10-409 (*Cut and Fill*) subsections (a) and (b) are modified to allow:

A maximum of 55,103.40 square feet of cut over four feet to be allocated as follows; provided that the applicant may transfer the allocated quantities from deeper categories to shallower categories only if the overall allocation does not increase:

- (i) a maximum 34,848 square feet of cut greater than 4 feet, but less than 12 feet;
- (ii) a maximum 17,424 square feet of cut greater than 12 feet, but less than 20 feet;
- (iii) a maximum 2,613.60 square feet of cut greater than 20 feet, but less than 24 feet.
- (iv) a maximum 217.80 square feet of cut greater than 24 feet, but less than 28 feet;

A maximum of 99,970.20 square feet of fill over four feet to be allocated as follows; provided that the applicant may transfer the allocated quantities from the deeper category to the shallower category only if the overall allocation does not increase:

- ~~(v)~~(i) a maximum 79,932.60 square feet of fill greater than 4 feet, but less than 12 feet; and
- ~~(vi)~~(ii) a maximum 20,037.60 square feet of fill greater than 12 feet, but less than 20 feet.

II. Miscellaneous Provisions

- A. Binding. This Third Amendment will be binding upon the heirs, representatives, successors and assigns of each of the parties to this Third Amendment.
- B. Applicable Law and Venue. The construction and validity of this Third Amendment shall be governed by the laws of the State of Texas and is performable in Travis County, Texas.
- C. No Party Deemed Drafter. The Owner and the City have both had the opportunity to have legal counsel examine this Third Amendment. Accordingly, this Third

Amendment will not be interpreted for or against either party due solely to the fact that one party was the principal author of this Third Amendment.

- D. Effective Date; Term; Termination. This Third Amendment shall be effective as of the date signed by all parties and shall terminate upon completion of the initial congregate living or multi-family development or 10 (ten) years after the effective date, whichever is sooner. Notwithstanding the foregoing, the restrictive covenant filed pursuant to the terms of the First Amendment will survive expiration of this Third Amendment.
- E. Filing. This Third Amendment shall be filed of record.
- F. Authority. The parties warrant that they have authority to execute this Third Amendment.
- G. Assignment of Owner Rights. The Owner may assign in whole or part its rights and obligations under this Third Amendment to persons purchasing all or part of the Property.
- H. Ratification of Original Agreement, First Amendment, and Second Amendment. Any and all terms and provisions of the Original Agreement, First Amendment, and Second Amendment shall, except as and to the extent expressly amended and modified by this Third Amendment, remain in full force and effect.
- I. Severability. If a court of competent jurisdiction determines that a term or provision of this Agreement is void or unenforceable, the remainder of this Agreement remains effective to the extent permitted by law.

EXECUTED to be effective the \_\_\_\_ day of \_\_\_\_\_, 2019

**HPI Champion Land Investors, LLC**

By: \_\_\_\_\_  
Name: Runi Duvall  
Title: Manager

**THE STATE OF TEXAS   §**

**COUNTY OF TRAVIS   §**

This instrument was acknowledged before me on this the \_\_\_\_ day of November, 2019, by Runi Duvall, Manager of HPI Champion Land Investors, a Texas limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas



**CITY OF AUSTIN,**  
a home-rule municipal corporation

By: \_\_\_\_\_  
Name: Rodney Gonzales.  
Title: Assistant City Manager

**THE STATE OF TEXAS   §**

**COUNTY OF TRAVIS     §**

This instrument was acknowledged before me on this the \_\_\_\_\_ day of November, 2019, by Rodney Gonzales, Assistant City Manager, City of Austin, a home-rule municipal corporation, on behalf of said entity.

\_\_\_\_\_  
Notary Public, State of Texas

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

After Recording, please return to:

City of Austin  
Law Department  
P.O. Box 1088  
Austin, Texas 78767  
Attention: C. Curtis, Paralegal