

SETTLEMENT AGREEMENT

This Settlement Agreement, dated to be effective as of the date of the last signature approving this Settlement Agreement (“the Effective Date”), is executed between Forestar Group (USA) Real Estate, Inc., a Delaware corporation (“Forestar”) and the Lost Pines Groundwater Conservation District, a special purpose reclamation district created by special legislative enactment pursuant to Article XVI, Section 59, of the Texas Constitution (“the District”) (each a “Party” and collectively “the Parties”).

RECITALS

A. Forestar submitted applications for Operating and Transport Permits for 10 wells in Lee County seeking authorization to withdraw an aggregate of 45,000 acre-feet per year from the Simsboro aquifer to be used for municipal water supply purposes in Bastrop, Hays, Lee, Travis and Williamson Counties (the “Applications”);

B. After proper notice under District Rule 14.3.C, the Board of Directors of the District (the “Board”) held a public hearing on the Applications at 7:00 p.m. on March 20, 2013, at the Bastrop City Hall in Bastrop, Texas;

C. The Board did not receive a request for a contested case hearing on the Applications before the March 20 public hearing;

D. The Board heard comments on the Applications at the March 20 public hearing including the recommendation to grant the permits described in the Applications from both the Applicant and the District's General Manager; and

E. Aqua Water Supply Corporation filed a request for a contested case hearing on the Applications on April 10, 2013;

F. The City of Giddings filed a request for a contested case hearing on the Applications on May 7, 2013;

G. Environmental Stewardship filed a request for a contested case hearing and/or a request for party status in any contested case hearing on the Applications on May 8, 2013, and Andrew Meyer, Bette Brown, Rhonda Brown Hosea, Phillip A. Brown, Darwyn Hanna, Frank D. Brown, Madeline Brown

Stifflemire, and Walter Richard Brown filed requests for party status in any contested case hearing on the Applications on May 9, 2013;

H. The Board held a hearing on May 15, 2013 to determine whether the requests for contested case hearings filed by Aqua Water Supply Corporation and others described in Paragraphs E, F and G were timely filed under the District Rules;

I. The Board voted to deny all of the requests for contested case hearing on the ground that they were not timely filed under the District Rules;

J. The Board considered the Applications at its May 15, 2013 meeting and voted to grant the Applications, in part, subject to special conditions to be included in the Operating Permits and Transport Permits;

K. The Operating Permits and Transport Permits approved on May 15, 2013, were issued to Forestar by Order dated July 18, 2013;

L. On June 3, 2013, Forestar requested written findings and conclusions regarding the Board's decision on the Applications;

M. On July 17, 2013, the Board approved an order adopting findings and conclusions on the Applications;

N. On August 6, 2013, Forestar filed a motion for rehearing of the Board's decision on the Applications;

O. On November 19, 2013, the Board granted Forestar's motion for rehearing;

P. A rehearing on the Applications was held on December 16, 2013, at which the Board heard public comment, and arguments presented by Forestar and the General Manager;

Q. On January 15, 2014, the Board of Directors of the District voted to deny all requests to modify or amend the terms of the Operating Permits and Transport Permits issued on July 18, 2013, and to adopt the Findings of Fact and Conclusions of Law on Rehearing attached to the Board's January 15, 2014 Order;

R. Forestar timely filed a Second Motion for Rehearing on the Applications on February 4, 2014, in accordance with District Rule 14.6.A;

S. On February 19, 2014, the District denied Forestar's Second Motion for Rehearing and adopted Revised Findings of Fact and Conclusions of Law on Rehearing;

T. On March 14, 2014, Forestar filed the lawsuit styled *Forestar (USA) Real Estate Group, Inc. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 15,369, in the 335th District Court of Lee County, Texas ("the Lawsuit"). In the Lawsuit, Forestar appealed the District's decision on the Applications and asserted various other causes of action against the District and its Board members. The District and Board members denied Forestar's allegations and asserted counterclaims;

U. On May 14, 2015, Forestar filed a Motion to Nonsuit the cause of action against the District's Directors in their individual capacities;

V. On June 30, 2015, the District and Forestar engaged in a mediation under the direction of Mediator Tom Collins;

W. In an effort to avoid continued litigation, buy peace, and provide protections for the Simsboro Aquifer, other permittees and groundwater rights owners within the District, and to Forestar and Forestar's Landowners/Lessors and Customers, the Parties herein agreed to settle and resolve their disputes pursuant to the terms and conditions set forth in this Agreement and for the considerations recited herein;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained in this Settlement Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Mutual Releases.

A. Release of the District: Forestar and its shareholders, employees, agents, affiliates and assigns (the "Forestar Releasing Parties"), hereby release and forever discharge the District and its officers, directors, employees, agents, affiliates and assigns (the "District Released Parties"), from any and all claims, rights, demands, setoffs, rights of offset, defenses, actions, causes of action

(including any statutory claims, constitutional claims, common law claims or claims at equity), damages, costs and expenses, contracts, promises, and obligations of any character whatsoever that the Forestar Releasing Parties ever had or now have or which have been asserted, or which could have been asserted, prior to the Effective Date, in the Lawsuit. Expressly excluded from this release is any claim for a breach of this Settlement Agreement or future decisions or actions of the Board or District.

B. Release of Forestar: the District and its officers, directors, employees, agents, affiliates and assigns (the "District Releasing Parties") hereby release and forever discharge Forestar and its shareholders, officers, directors, employees, agents, affiliates and assigns (the "Forestar Released Parties") from any and all claims, rights, demands, setoffs, rights of offset, defenses, actions, causes of action (including any statutory claims, constitutional claims, common law claims or claims at equity), damages, costs and expenses, contracts, promises, and obligations of any character whatsoever that the District Releasing Parties ever had or now have or which have been asserted, or which could have been asserted, prior to the Effective Date, in the Lawsuit. Expressly excluded from this release are any claim for a breach of this Settlement Agreement or any claim related to the future enforcement of any permit issued by the District to Forestar.

2. **Consideration of Revised Permit.** Within 30 days of the District Court's entry of an order remanding the Lawsuit to the District, the District will hold an open meeting in order to consider the revised permits attached as Exhibit A to this Settlement Agreement. In the event that the District does not issue an order approving the revised permits attached as Exhibit A (the "Permits") within 30 days of the District Court's entry of an order granting the Joint Motion to Remand, then this Settlement Agreement is void in its entirety.

3. **Curtailment.** If any future District-wide or designated management area temporary curtailment of groundwater production required by the District for permits issued by the District affects Forestar's pumping pursuant to the Permits, Forestar agrees to accept and will not contest temporary curtailment of its production at twice the rate of curtailment imposed upon other existing permittees in the District or the designated management area. This provision is not effective unless and until the District adopts a rule change related to the prospective curtailment of permits, including at the ratio of 2:1 which ratio will apply to both Forestar's Permits and to (i) all future permits and/or (ii) permit amendments that

increase the production amounts issued by the District after the Effective Date to other Permittees. Forestar will not oppose or appeal the adoption of any such rule.

4. Payment of the District's Attorney's Fees. Within 30 days of the District's issuance of an order approving and issuing to Forestar the Permits attached as Exhibit A to this Settlement Agreement, Forestar will pay the District \$164,095.17 in reimbursement of the District's attorney's fees incurred in defending the Lawsuit as evidenced by the affidavit from the District's counsel attached as Exhibit B.

5. Release with Prejudice of Claims in the Lawsuit, and Dismissal of the other Lawsuits, and Requests for Contested Case Hearings. Within 10 days of the issuance of the District's Order and the Permits described in Paragraph 4. above:

- A. The Parties will execute a final mutual release with prejudice of all claims in and/or related to the causes of action alleged, or that could have been alleged in the Lawsuit in the form attached as Exhibit C (the Lawsuit) to this Settlement Agreement.
- B. The Parties will cause their attorneys to file the Agreed Motion to Dismiss and Order of Dismissal in the forms attached as Exhibit D to this Settlement Agreement in Forestar's appeal of the Griffin Industries permit).
- C. Forestar will withdraw all of its currently pending requests for contested case hearing before the District. Forestar is precluded from contesting any future permit application on the grounds asserted in its requests for contested case hearings on the City of Bastrop's permit application or the Griffin Industries' permit application.
- D. It is the Parties' intent that Forestar withdraw and dismiss with prejudice all of its currently pending lawsuits, appeals and requests for contested case hearing. If the Parties later determine that they have failed to specifically name such a request or lawsuit pending on the Effective Date in this Settlement Agreement, Forestar will withdraw the request or seek dismissal of the previously unidentified pending contested case hearing request or lawsuit, as appropriate.

- E. This provision is material to the Settlement, as is Forestar's receipt and ability to exercise and use the final Permits in the form and substance reflected in Exhibit A. The failure of Forestar to dismiss its claims and lawsuits, and withdraw any pending hearing requests and/or to withdraw its party status from any pending contested case covered by this Settlement Agreement, or the failure of Forestar to receive and enjoy the benefit of final, non-appealable Permits in the form attached hereto as Exhibit A, shall render this Settlement Agreement null and void.

6. Additional Covenants.

A. Further Assurances. Each of the Parties agrees to use and to cause all persons acting on its behalf to use all reasonable good faith efforts to take all actions and to do all things necessary, proper or advisable to consummate and implement the transactions contemplated hereby. Each of the Parties will, and will cause all persons acting on its behalf to, coordinate and cooperate with the other Parties in exchanging such information and supplying such assistance as may be reasonably requested by the other Parties in connection with the filings and other actions contemplated hereby. Each of the Parties shall, and shall cause all persons acting on its or his behalf to, from time to time, execute and deliver such additional instruments, documents, conveyances or assurances, and take such other actions as shall be necessary, or otherwise reasonably requested by any of the other Parties, to confirm and assure the rights and obligations provided for in this Settlement Agreement and render effective the consummation of the transactions contemplated hereby.

B. Adaptive Management. Consistent with Special Conditions 5 and 7 of the Operating Permits, the Parties acknowledge that the Permits issued pursuant to this Agreement are "living" documents, and will be subject to review periodically, and possibly more often than the 5-year permit renewal process, based upon additional data and science obtained by the District from the Monitoring Well System.

7. Representations and Warranties. In connection with the execution of this Settlement Agreement, the Parties represent and warrant to each other as follows:

A. Each Party represents and warrants that no portion of any claim, right, demand, action, cause of action, or other matter purported to be released herein has been assigned, pledged, encumbered or transferred to any other person or entity.

B. In entering into this Settlement Agreement, each Party acknowledges and warrants that he or it has relied wholly upon its own judgment and knowledge, and has not been influenced to any extent whatsoever in making this Settlement Agreement by any representations or statements, except as set forth herein, regarding the other's liability or any person, firm, corporation, accountant, attorney, or other person firm, corporation, accountant, attorney, or other person representing or acting for the other Party.

C. Each Party represents and warrants that, in executing this Settlement Agreement, no reliance has been made on any promise or agreement that is not expressed in this Settlement Agreement and/or the Exhibits attached hereto and incorporated by reference for all purposes. Each Party further represents that, in executing this Settlement Agreement, no Party is relying upon any statement or representation of any attorney or agent of the Party being released.

D. Each Party has full power, right and authority, to enter into and perform its obligations under this Settlement Agreement.

E. This Settlement Agreement has been duly executed and delivered by each Party and constitutes the valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

F. Neither the execution and delivery of this Settlement Agreement nor the performance by a Party of its obligations hereunder will violate the terms of any contract, agreement or commitment, or any law, regulation or rule by which such Party is bound or affected.

G. Each Party has been represented by legal counsel of its choice in connection with matters set forth herein.

H. The consideration recited in this Settlement Agreement is adequate to make this Settlement Agreement final and binding.

8. Miscellaneous.

A. Governing Law and Choice of Venue. This Settlement Agreement shall be governed by the law of the State of Texas; without regard to its principles of conflicts of laws. The exclusive venue for any dispute under or related to this Settlement Agreement shall be the state district courts of Lee County, Texas.

B. Waivers. The waiver of a breach of this Settlement Agreement or the failure of any Party to exercise any right under this Settlement Agreement shall in no way constitute waiver as to any future breach, whether similar or dissimilar in nature, or as to the exercise of any further right under this Settlement Agreement.

C. Notice. Any notice or other communication required or permitted to be given under this Settlement Agreement will be delivered through legal counsel for the respective Parties, identified below, and shall be in writing, will be delivered personally or by facsimile, mail or express delivery, postage prepaid, and will be deemed given upon actual delivery or, if mailed by registered or certified mail, on the third business day following deposit in the mails.

Counsel for the District:

David P. Lein
Robin Melvin
Graves Dougherty Hearon & Moody
401 Congress Avenue, Suite 2200
Austin, Texas 78701
Facsimile: 512.536.9917

Counsel for Forestar:

Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th Street
Austin, TX 78701
Facsimile 512.225.5565

D. Terminology. All personal pronouns used in this Settlement Agreement, whether used in the masculine, feminine or neuter gender, include all other genders; the singular includes the plural and vice versa. Titles of sections are for convenience only, and neither limit nor amplify the provisions of the Settlement Agreement itself and all references to sections or subdivisions hereof shall refer to the corresponding section or subdivision of this Settlement Agreement unless specific reference is made to such sections or subdivisions of another document or instrument. All exhibits referred to herein are attached hereto and made a part hereof for all purposes.

E. Severability of Provisions. Subject to the provisions of this Agreement relating to (i) Forestar's receipt and enjoyment of final, non-appealable Permits in the form attached hereto as Exhibit A, and (ii) Forestar's release and/or dismissal with prejudice of all pending lawsuits against the District and its Board members as well as the withdrawal of any hearing requests and/or party status in any Permit Application pending before the District on the grounds asserted by Forestar in the matters of the Permit Applications of the City of Bastrop and Griffin Industries as appropriate (collectively the "Key Provisions"), the invalidity or unenforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or provision of this Settlement Agreement shall in no way affect the validity or enforcement of any other provision or any part thereof. The Key Provisions are material to and the basic purpose of this Settlement Agreement, and shall never be subject to compromise, waiver, or determination of invalidity for purposes of this Paragraph 8.E. and/or the Settlement Agreement. If either or any portion of the Key Provisions is found to be invalid and/or unenforceable for any reason, this Settlement Agreement shall become and be null and void in its entirety.

F. Counterparts. This Settlement Agreement may be executed in any number of counterparts, each of which when so executed shall constitute an original copy hereof, but all of which together shall be considered but one and the same document. Signatures by facsimile or electronic mail shall be deemed original.

G. Assignment; Binding Effect. This Settlement Agreement may not be assigned by either Party without the express written consent of the other Party. Subject to the restrictions upon assignment set forth in this Settlement Agreement, this Settlement Agreement shall be binding upon the Parties and inure to the benefit of the Parties, their respective heirs, administrators, successors, and assigns.

H. Entire Agreement. This Settlement Agreement, inclusive of the Exhibits attached hereto, represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the Parties. There are no unwritten oral agreements between the Parties. Each Party has had an opportunity, if he, she or it so desires, to consult with their respective attorney prior to execution of this Settlement Agreement.

I. Procedural Requirements. The Parties warrant that they have satisfied all procedural requirements necessary for the execution and enforceability of this Settlement Agreement.

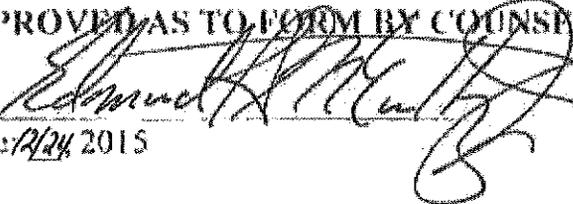
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FORESTAR (USA) REAL ESTATE GROUP, INC.

By 

Its Senior Vice President
Date: 12/24 2015

APPROVED AS TO FORM BY COUNSEL:

By: 
Date: 1/24 2015

LOST PINES GROUNDWATER CONSERVATION DISTRICT

By 

Its President
Date: 1/21 2015

APPROVED AS TO FORM BY COUNSEL:

By: 
Date: 1/21 2015

**LOST PINES GROUNDWATER CONSERVATION DISTRICT
OPERATING PERMIT**

District Well Number: 5933122

Permit Approved: _____

Permittee:

Forestar (USA) Real Estate Group, Inc.
6300 Bee Caves Rd., Bldg. 2, Suite 500
Austin, Texas 78746-5149

Location of Well: approximately 4.5 miles northeast of the City of Lexington and 1.5 miles east of US Highway 77 off County Road 411 in Lee County (W096°58'6" N30°28'22"), Well #1

Permittee is authorized to operate Well No. 5933122 within the Lost Pines Groundwater Conservation District under the following conditions:

Authorized annual withdrawal: See Special conditions

Maximum rate of withdrawal: 3,500 gallons per minute

Aquifer unit: Simsboro

Type of water use: Municipal

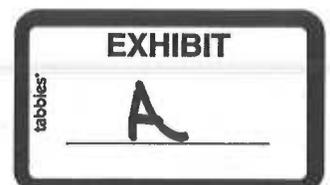
Place of water use: Bastrop, Hays, Lee, Travis and Williamson Counties

Standard Permit provisions:

This Operating Permit is granted subject to the District Rules, the orders of the Board, the District Management Plan, and Chapter 36 of the Texas Water Code. In addition to any well-specific permit provisions and special conditions included in this Operating Permit, this Operating Permit includes the following provisions:

(1) This Permit is granted in accordance with District Rules, and acceptance of this Permit constitutes an acknowledgement and agreement that Permittee will comply with the terms, conditions, and limitations set forth in this Permit, the District rules, the orders of the Board, and the District Management Plan.

(2) Water withdrawn under the Permit must be put to beneficial use at all times, and operation of Well No. 5933122 (the "Permitted Well") in a wasteful manner is prohibited.



(3) Water produced from the Permitted Well must be measured using a water measuring device or method approved by the District that is within plus or minus 10% of accuracy.

(4) The Permitted Well site must be accessible to District representatives for inspection, and Permittee agrees to cooperate fully in any reasonable inspection of the Permitted Well and Permitted Well site by District representatives.

(5) Permittee will use reasonable diligence to protect groundwater quality

(6) Permittee will follow well plugging guidelines at the time of well closure.

(7) The application pursuant to which this Permit has been issued is incorporated in this Permit by reference, and this Permit is granted on the basis of and contingent upon the accuracy of the information provided in that application. A finding that false or inaccurate information has been provided is grounds for revocation of the Permit.

(8) Violation of the Permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawals, may subject the Permittee to enforcement action under District Rules.

(9) Whenever the special conditions in the Permit are inconsistent with other provisions of the Permit or the District Rules, the special conditions will prevail.

Special conditions:

This Operating Permit is granted subject to the following special conditions:

(1) Within ninety (90) days of the issuance of the Permit, Permittee shall enter into the Monitoring Well System Construction and Maintenance Agreement approved by the District Board (the "Monitoring Well Agreement"). Permittee shall construct, operate, and maintain the New Monitoring Wells and the Existing Monitoring Well, as defined in the Monitoring Well Agreement, in accordance with the terms and provisions of the Monitoring Well Agreement. Any violation of the terms of the Monitoring Well Agreement shall constitute a violation of this Permit.

(2) The authorized annual withdrawal amount under this Permit is hereby aggregated with the authorized annual withdrawal amount for the following designated wells: Well No. 5933409 (Well #2); Well No. 5933410 (Well #3); Well No. 5933411 (Well #4); Well No. 5933412 (Well #5); Well No. 5933217 (Well #6); Well No. 5933123 (Well #7); Well No. 5933413 (Well #8); Well No. 5933504 (Well #9); and Well No. 5933505 (Well #10). Well No. 5933122 and the designated wells are collectively referred to as the "Aggregated Wells".

(3) Subject to the other terms of this Permit, Permittee is authorized to withdraw an aggregated annual withdrawal amount of up to 28,500 acre-feet per year from the Aggregated Wells as follows:

(a) Phase I. Permittee may not withdraw water from any Aggregated Well until the date that Permittee conveys the New Monitoring Wells and Monitoring Well Equipment to the District in accordance with the terms and provisions of the Monitoring Well Agreement (the "Phase II Date").

(b) Phase II. If Permittee has a binding contract to provide at least 12,000 acre-feet of water per year to one or more End Users in one or more authorized places of use, then beginning on the Phase II Date, Permittee may withdraw an aggregated annual withdrawal amount of not more than 12,000 acre-feet of water per year from the Aggregated Wells.

(c) Phase III. Permittee may withdraw an aggregated annual withdrawal amount of not more than 20,000 acre-feet of water per year from the Aggregated Wells if and when Permittee submits information to the District demonstrating that:

- (i) At least five years have passed since the issuance of the Permit;
- (ii) Permittee has withdrawn an aggregate amount of at least 6,000 acre-feet per year from a combination of one or more of the Aggregated Wells for three (3) consecutive twelve calendar month periods;
- (iii) the Estimated DFC Year Water Level, as defined in Special Condition (4), is less than the Desired Future Condition for the Simsboro Aquifer in effect when the Permittee submits the information to the General Manager; and

(iv) Permittee has a binding contract to provide at least 20,000 acre-feet of water per year to one or more End Users in one or more authorized places of use.

(d) Phase IV. Permittee may withdraw an aggregated annual withdrawal amount of not more than 28,500 acre-feet of water per year from the Aggregated Wells if and when Permittee submits information to the District demonstrating that:

- (i) Permittee has withdrawn an aggregate amount of at least 15,000 acre-feet per year from a combination of one or more of the Aggregated Wells for three (3) consecutive twelve calendar months periods;

(ii) the Estimated DFC Year Water Level, as defined in Special Condition (4), is less than the Desired Future Condition for the Simsboro Aquifer in effect when the Permittee submits the information to the General Manager; and

(iii) Permittee has a binding contract to provide at least 28,500 acre-feet of water per year to one or more End Users in one or more authorized places of use.

(4) For purposes of this Operating Permit, each of the following terms has the following meanings:

(a) "Monitoring Well System" means the monitoring wells used to calculate the Estimated DFC Year Water Level, as defined in this Special Condition (4), and shall consist of the following: (i) the New Monitoring Wells, as defined in the Monitoring Well Agreement, (ii) other existing wells currently monitored by the District, and (iii) other third-party wells that the District may obtain authorization to monitor and include in the System ("Other Monitoring Wells"). Other Monitoring Wells shall only be added to the Monitoring Well System if the District provides written notice to Permittee of the addition of an Other Monitoring Well to the Monitoring Well System and Permittee does not object to the inclusion of that Other Monitoring Well in the Monitoring Well System within 30 days of the date of the notice. If Permittee timely objects to the inclusion of an Other Monitoring Well in the Monitoring Well System, then the General Manager and Permittee will mutually agree upon a registered professional engineer or a certified groundwater professional with expertise in hydrology, hydraulics and hydrogeology to mediate the dispute. If the General Manager and Permittee are unable to resolve the dispute through mediation, then the General Manager may propose the inclusion of the Other Monitoring Well to the Board of Directors for action.

(b) "Annual Water Level" means the measured or interpolated water level in each Monitoring Well in the Monitoring System that best represents the static water level in that Monitoring Well at the end of a calendar year. All water levels shall be determined using scientifically appropriate methodologies.

(c) "Average Water Level" means the average of Annual Water Levels in all Monitoring Wells, as follows:

$$\frac{\text{Sum of Annual Water Levels in Monitoring Wells}}{\text{Number of Monitoring Wells}} = \text{Average Measured Water Level}$$

(d) "Annual Drawdown" means the change in the Average Measured Water Level between January 1 of a calendar year and January 1 of the previous calendar year, calculated as follows:

Average Water Level – prior year Annual Water Level = Annual Drawdown

(e) “Rate of Change” means the Annual Drawdown on January 1 of a calendar year divided by the Total Production in the previous calendar year/

(f) “Total Production” means the actual reported withdrawals from the Simsboro Aquifer from permitted wells within the District in a calendar year plus the Estimated Simsboro Exempt Well Production for the same calendar year.

(g) “Estimated Exempt Well Production” means 1,143.21 acre-feet per year in 2015, 1,143.21 acre-feet plus 15.14 acre-feet per year for each year after 2015, and 1,976.06 acre-feet per year in 2070.

(h) “Average Rate of Change” means the average of the Rates of Change for each calendar year beginning in 2011 and ending the calendar year before Permittee submits the documentation described in Special Conditions (3)(c) or (d) of the Operating Permits, as follows:

$$\frac{\text{Sum of Rate of Change for past years beginning in 2011}}{\text{Number of past years}} = \text{Average Rate of Change}$$

(i) “Estimated DFC Year Water Level” means the projected water level for the year identified in the then-current Desired Future Condition for the Simsboro Aquifer, calculated by subtracting the Estimated Future Drawdown from the Average Water Level for the calendar year before Permittee submits the documentation described in Special Conditions (3)(c) or (d) of the Operating Permits, as follows:

$$\text{Average Water Level in prior year} - \text{Estimated Future Drawdown} = \text{Estimated DFC Year Water Level}$$

(j) “Estimated Future Drawdown” means the sum of the Estimated Annual Drawdowns for each year beginning in the year in which Permittee submits the documentation described in Special Conditions 3(c) or (d) of the Operating Permit and ending in year identified in the then-current Desired Future Condition for the Simsboro Aquifer.

(k) “Estimated Annual Drawdown” means the Average Rate of Change times the Estimated Existing Well Production plus the Current Phase Withdrawal and the Next Phase Withdrawal for a calendar year, as follows:

$$\text{Estimated Existing Well Production} + \text{Current Phase Withdrawal} + \text{Next Phase Withdrawal} \\ \times \text{Average Rate of Change} = \text{Estimated Annual Drawdown}$$

- (l) "Estimated Existing Well Production" means:
 - (i) 20,298 acre-feet per year from January 1, 2010 to December 31, 2019;
 - (ii) 28,184 acre-feet per year from January 1, 2020 to December 31, 2029;
 - (iii) 31,240 acre-feet per year from January 1, 2030 to December 31, 2039;
 - (iv) 34,295 acre-feet per year from January 1, 2040 to December 31, 2049;
 - (v) 37,361 acre-feet per year in from January 1, 2050 to December 31, 2059;
 - (vi) 40,406 acre-feet per year from January 1, 2060 to December 31, 2069.

(m) "Current Phase Authorized Withdrawal" means the amount of groundwater authorized to be withdrawn in the current phase under the Operating Permit.

(n) "Next Phase Authorized Withdrawal" means the additional amount that would be authorized to be withdrawn in the next phase under the Operating Permit.

(5) The General Manager may approve a weighted average methodology for calculating the Average Water Level or Average Rate of Change if the new methodology is supported by data gathered by the Monitoring Well System.

(6) If Permittee submits information that Permittee claims demonstrates that the conditions for increasing groundwater withdrawal to Phase II or Phase III amounts have been met, then, within 60 days of receipt of the information, the General Manager will notify Permittee, in writing, if the General Manager has determined that the required conditions have been met or if the General Manager disputes that the desired conditions have been met. If the General Manager disputes that the required conditions have been met, the General Manager shall supply the information data and analysis supporting his determination with his written notice. If the General Manager and the Permittee are unable to agree within 60 days of receipt of the information provided by the General Manager disputing that the required conditions have been met, then the General Manager and Permittee will mutually agree upon a registered professional engineer or a certified groundwater professional with expertise in hydrology, hydraulics and hydrogeology to mediate the dispute. If the General Manager and Permittee are unable to resolve the dispute through mediation, Permittee may request a contested case hearing as provided in the District Rules and the Texas Water Code to resolve the dispute. Permittee and the General Manager shall be the sole parties to the contested case hearing.

(7) If the Permittee files an application to renew the Permit, then the General Manager and Permittee shall evaluate the methodology for determining the Estimated DFC Year Water Level described in Special Conditions (3), (4) and (5) based on data collected prior to the date of the application to renew, and jointly propose revisions to the Permit based on that data. If the General Manager and the Permittee are unable to agree to joint proposed revisions within sixty (60) days of the date that the application to renew is filed, then the General Manager and Permittee will mutually agree upon a registered professional engineer or a certified groundwater professional with expertise in hydrology, hydraulics and hydrogeology to mediate the dispute. If the General Manager and Permittee are unable to resolve the dispute

through mediation, then the General Manager may propose revisions to the Permit as provided in District Rule 7.2.

(8) Beginning no later than the fifth (5th) anniversary of the date of issuance of the Permit, Permittee shall have a binding contract or contracts to provide at least 12,000 acre-feet of water per year to one or more End Users in one or more authorized places of use. If Permittee does not have such a contract or contracts, then the aggregated annual withdrawal amount in this Permit shall be automatically reduced to the amount for which Permittee has a binding contract or contracts, and the General Manager is authorized to issue an amendment to this Permit reflecting the reduced amount.

(9) Before providing water withdrawn from the Aggregated Wells to any End User, Permittee shall submit to the District: (a) each End User's water conservation plan and drought contingency plan, if the Texas Water Code or Texas Commission on Environmental Quality rules require the End User to prepare a water conservation plan and drought contingency plan; or (b) if the Texas Water Code or Texas Commission on Environmental Quality rules do not require the End User to prepare a water conservation plan and drought contingency plan, a certification from the End User that the End User agrees to avoid waste and achieve water conservation. Any End User water conservation plans and drought contingency plans that are submitted must comply with the relevant provisions of the Texas Water Code and rules of the Texas Commission on Environmental Quality or successor agency.

(10) This Permit is issued subject to any future production limits adopted by the District under the District Rules that apply within the District or within the applicable management zone.

(11) This Permit is not subject to the District's rules on time limits for the completion of a permitted well or the operation of a permitted well.

(12) Production Fees charge to Permittee under this Permit shall be based upon amounts authorized to be produced under this Permit at the time that Production Fees are due.

Term:

(1) The District may terminate this Permit if the District gives written notice to Permittee that the District has received an application for an Operating Permit for a well whose location would violate District spacing requirements because of that well's distance from the Permitted Well, and Permittee fails to: (a) provide the District with a signed and notarized waiver stating that Permittee does not object to the location of the proposed well within thirty (30) days of the date of such notice; (b) request a variance from the District spacing requirements in the manner provided in the District Rules within thirty (30) days of the date of such notice; or (c) complete the Permitted Well and file the well log required by Texas Occupations Code Section 1901.251 with the District within 180 days of the date of such notice.

(2) This Operating Permit shall be effective for a period of five (5) years from the date the Permit is approved, unless terminated, amended or revoked as provided in the District Rules.

Acceptance of this Permit by the Permittee constitutes acknowledgment and agreement to comply with all of the terms, provisions, conditions, and restrictions stated in the Permit and the rules of the Lost Pines Groundwater Conservation District.

ISSUED:

President, Lost Pines Groundwater
Conservation District Board of Directors
Date: _____

LOST PINES GROUNDWATER CONSERVATION DISTRICT TRANSPORT PERMIT

District Well Number: 5933122

Permit Approved: _____

Permittee:

Forestar (USA) Real Estate Group, Inc.
6300 Bee Caves Rd., Bldg. 2, Suite 500
Austin, Texas 78746-5149

Location of Well: approximately 4.5 miles northeast of the City of Lexington and 1.5 miles east of US Highway 77 off County Road 411 in Lee County (W096°58'6" N30°28'22"), Well #1

Permittee is authorized to transfer water produced from Well No. 5933122 outside the boundaries of the Lost Pines Groundwater Conservation District under the following conditions:

Maximum annual transfer amount: an aggregated annual amount of not more than 28,500 acre-feet per year from Well No. 5933122 (Well #1); Well No. 5933409 (Well #2); Well No. 5933410 (Well #3); Well No. 5933411 (Well #4); Well No. 5933412 (Well #5); Well No. 5933217 (Well #6); Well No. 5933123 (Well #7); Well No. 5933413 (Well #8); Well No. 5933504 (Well #9); and Well No. 5933505 (Well #10), subject to the terms and conditions of the Operating Permits for those wells.

Type of water use: Municipal

Place of water use: Bastrop, Hays, Lee, Travis and Williamson Counties

Standard Permit provisions:

This Transport Permit is granted subject to the District Rules, the orders of the Board, the District Management Plan, and Chapter 36 of the Texas Water Code. In addition to any well-specific permit provisions and special conditions included in this Transport Permit, this Transport Permit includes the following provision:

- (1) Water withdrawn under the permit must be put to beneficial use at all times, and operation of the permitted well in a wasteful manner is prohibited.

Term:

- (1) The term of this Transport Permit shall be three years if construction of a conveyance system has not been initiated prior to the issuance of the permit.
- (2) The term of this Transport Permit shall be thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit.
- (3) A three-year term under subsection (1) shall automatically be extended to a 30-year term under subsection (2) if construction of a conveyance system is begun before the expiration of the initial three-year term.

Acceptance of this permit by the Permittee constitutes acknowledgment and agreement to comply with all of the terms, provisions, conditions, and restrictions stated in the permit and the rules of the Lost Pines Groundwater Conservation District.

ISSUED:

President, Lost Pines Groundwater District
Board of Directors

Date: _____

I move that the Board approve the proposed Settlement Agreement between the District and Forestar (USA) Real Estate Group, Inc.

I move that the Board approve the issuance of Operating Permits and Transport Permits for each of the 10 wells described in Forestar's applications for Operating Permits and Transport Permits in the forms attached to the Settlement Agreement.