A

Agenda Item # 6
Council Meeting Date: 10/12/2006
RFCA Tracking No: R-544

CITY OF SAN ANTONIO
Request for Council Action

DEPARTMENT: City Manager's Office **DEPARTMENT HEAD:**

COUNCIL DISTRICT(S) IMPACTED:
City Wide

SUBJECT:
The Amended and Restated Water Provision Agreement SAWS & the City

SUMMARY:
A. This ordinance approves (A) the amendment to Non-Annexation Agreement to extend deadlines for commencing construction of the hotel and golf courses by 6 months and to extend deadlines for completing construction by 17 months, to include a force majeure clause, to require an additional 130 acre linear park and to eliminate the City's obligation to provide firefighting services when the developer has conveyed a tract of land to an organization that provides such services; (B) the amendment of the Declaration of Restrictive Covenants to provide that any golf course placed on the land after the Non-Annexation Agreement is terminated will be subject to the Golf Course Environmental Management Plan, to restrict the uses of the 130 acre linear park, to permit the developer to relocate open space on the land if a golf course is designated but not constructed and to provide that any firefighting improvements on a designated tract of 2.858 acres of the land will not be counted as impervious cover in some circumstances; and (C) the amendment to the Wage Standards Agreement to provide that the Wage Standard applicable to hotel employees and certain golf course employees will be the greater of either a fixed dollar amount, which will increase annually under that agreement until the hotel is complete and open to the public, or the lesser of the City's Living Wage or the federal government wage standards utilized in determining eligibility for certain governmental benefit programs (based upon weighted average poverty thresholds for a family of 4).

B. The attached ordinance approves an Amended and Restated Water Provision Agreement between San Antonio Water System (SAWS) and Forestar (USA) Real Estate Group, Inc., (formerly Lumbermen's Investment Corporation - LIC) that provides for the irrigation of golf courses and the golf learning center located within the area depicted on Exhibit A (Property).

BACKGROUND INFORMATION:
In December, 2005, City Council approved the execution of a Services Agreement in Lieu of Annexation, Declaration of Restrictive Covenants, Firefighting Services Agreement, Landowners' Consent to Annexation and a Wage Standards Agreement, providing a 25 year non-annexation

term that commenced on the 4th anniversary of the agreement, or when the hotel and golf courses were complete, whichever occurred first. The maximum non-annexation term was 29 years from the date of the Agreement.

The background and summary of proposed changes to the original Water Provision Agreement between SAWS and LIC approved by SAWS Board Resolution No. 02362, and referenced in the Amended and Restated Agreement for Services in Lieu of Annexation between the City and LIC dated January 28, 2005, and executed on December 9, 2002, are as follows:

- Forestar (USA) Real Estate Group, Inc., owns land located within the SAWS' certificated service area and owns groundwater wells that are capable of producing groundwater from the Trinity Aquifer (Trinity Wells).

- Pursuant to the terms of the original Water Provision Agreement, Forestar (USA) Real Estate Group, Inc., (formerly LIC) was to construct irrigation water production facilities required to develop the Trinity Wells and convey the Trinity Wells and related production facilities and easement rights to SAWS.

- SAWS was to own and operate the Trinity Wells and the related production facilities and provide untreated raw groundwater to irrigate the golf courses and golf learning center. SAWS was to charge the developer $.37 per 1000 gallons to cover the estimated cost of operation and maintenance of the Trinity Wells and production facilities (Estimated Operational Charges). If the actual costs of operation were more or less than this estimated amount, appropriate payments or credits would be made by the parties.

- The original Water Provision Agreement provided that in addition to the Trinity Wells, the Developer could purchase supplemental water from SAWS. The Developer was required to purchase and convey EAA permitted water rights to SAWS in a quantity equal to twice the amount of supplement water sought from SAWS.

- The original Water Provision Agreement provided that the Trinity Well Water acquired by Developer would not be subject to drought restrictions. Similarly, the supplemental water would not be subject to drought restrictions, but only if the Developer purchased and conveyed to SAWS the EAA permitted water rights in an amount equal to twice the quantity of water sought from SAWS. Finally, any potable water sought from SAWS would be subject to drought restrictions.

- Forestar (USA) Real Estate Group, Inc., (formerly LIC) has now ascertained that subsequently because of a closed loop irrigation system required by the Environmental Management Plan of January 6, 2005, the quality and quantity of groundwater produced from the Trinity Well Facilities is not suitable for golf course turf grass.

- Pursuant to the amended agreement, SAWS will now relinquish its right to acquire ownership of Trinity Well facilities on Forestar (USA) Real Estate Group, Inc., Property.

- Forestar (USA) Real Estate Group, Inc., will at its sole expense acquire and administer an alternative non-potable water supply source for irrigation of the golf courses. The alternative source of water supply will be Edwards Aquifer groundwater wells. It is currently contemplated that these wells will be used in conjunction with the Trinity Wells for irrigation of the golf

courses and golf learning center.

- SAWS will be the sole purveyor of retail potable water and wastewater services within the Property, including all residential and commercial development, and irrigation of roadway medians, within the Property.

- After establishment of the turf grasses, Forestar (USA) Real Estate Group, Inc., (formerly LIC) agrees to comply with, and to cause operators of the golf courses and golf learning center within the property to comply with all applicable water conservation measures and restrictions. Upon completion of grow-in, the Developer is required to make available for purchase by SAWS, EAA permitted water rights in a quantity equal to 1000 acre-feet. The purchase price will not exceed Developer's average cost of acquisition of the water rights, per acre-foot. SAWS will be obligated to purchase the water only if Developer's bid is lowest or only bid submitted through the bid process.

- Under the Amended and Restated Water Provision Agreement, SAWS agrees to make available an emergency supply of irrigation water in a quantity not to exceed 100 acre-feet. The Developer must transfer to SAWS water rights in a quantity equal to any emergency water supplied by SAWS.

- Developer will have the right to assign rights in the offsite irrigation facilities to any lender providing financing to Developer as security for any obligation of Developer. However, upon foreclosure of any such security interest or deed of trust, such lender shall be subject to all duties, restrictions and obligations of the Developer herein.

- Pursuant to Resolution No. 06-289, dated September 7, 2006, the SAWS Board approved the Amended and Restated Water Provision Agreement and conditioned it on City Council approval by October 31, 2006. If the City Council fails to approve the Amended and Restated Water Provision Agreement by October 31st, then the Water Provision Agreement of December 9, 2002 will remain in full force and effect.

- The Amended and Restated Water Provision Agreement becomes effective upon approval by the City Council for the City of San Antonio, which must take place by October 31, 2006.

ISSUE:
Approval of these amendments is needed to provide additional time to for the construction of the hotel and golf course resort.

ALTERNATIVES:
If this item is not approved, the Services Agreement in Lieu of Annexation will automatically terminate on January 27, 2007, unless commencement of construction has occurred at least 30 days' prior to that date.

FISCAL IMPACT:

If approved and the project continues to completion, this item will result in the payment of a greater wage standard to the hotel employees and certain identified golf course employees than under the current agreement. If approved and the Developer continues the project beyond December 1, 2007, this item will provide additional open space/parkland of approximately 130 acres. The Developer and Marriott International, Inc. have agreed to reimburse to the City the fees of City's retained counsel incurred in connection with these revisions.

Forestar (USA) Real Estate Group, Inc., will be responsible for the payment to SAWS of all applicable water and wastewater rates and fees as recited in the Restated Agreement for the provision of retail water and wastewater services within the Property, including all residential and commercial development, and irrigation of roadway medians, within the Property. The Developer will also be responsible for all costs of acquisition and development of the offsite Edwards Aquifer groundwater well(s) that will serve as the source of irrigation water for the golf courses and golf learning center. SAWS will purchase the EAA water rights made available by the Developer through a bid process if the Developer's bid is the lowest or only bid; the Developer's bid will not exceed the Developer's average cost of acquisition of the water rights.

RECOMMENDATION:
Staff recommends approval.

ATTACHMENT(S):

	File Description	File Name
B	Subitem A - Summary of Changes to Non-Annexation Agreement	SubitemA - Summary of Changes to Non-Annex Agrmt.pdf
C	Subitem A - First Amendment to Amended and Restated Agreement for Services in Lieu of Annexation	SubitemA - First Amdt to Amd and Restated Agrmt for Svcs in Lieu of Annex.pdf
D	Subitem A - Summary of Changes to Declaration of Restrictive Convenants	SubitemA - Summary of Changes to Decl of Rest Convenants.pdf
E	Subitem A - Second Amendment to Declaration of Restrictive Convenants	SubitemA - Second Amdt to Decl of Rest Convenants.pdf
F	Subitem A - Summary of Changes to Wage Standards Agreement	SubitemA - Summary of Changes to Wage Std Agrmt.pdf
G	Subitem A - Second Amendment to Wage Standards Agreement	SubitemA - Second Amdt to Wage Stds Agrmt.pdf
H	Subitem B - Amended and Restated Water Provision Agreement	SubitemB - Amd and Restated Water Prov Agrmt.pdf

APPROVED FOR COUNCIL CONSIDERATION:
Jelynne Burley Deputy City Manager

B

SUMMARY OF CHANGES TO NON-ANNEXATION AGREEMENT

1. Hotel size increases from 800 rooms to 1,000 rooms (plus or minus 10%)

2. An event of Force Majeure suspends a duty to perform under the Agreement (other than a duty to pay money) for so long as the existence or effect of that event prevents the ability to perform that duty. All such suspensions cannot exceed a total of 3 years, unless the suspension is caused by a governmental agency exercising a governmental function, in which case the suspension cannot exceed a total of 5 years.

   No suspension extends the overall term of the Non-Annexation Agreement.

3. The City is excused from providing Firefighting Services if the Developer has conveyed or leased any part of the Property to a volunteer fire department, emergency services district or other organization offering fire service.

4. The following deadlines are extended:

   a. Deadline for commencement of hotel construction is changed from January 27, 2007 to July 1, 2007

   b. Deadline for commencement of golf course construction is changed from January 27, 2008 to July 1, 2008

   c. Deadline for completion of at least 2 golf courses is changed from January 27, 2010 to July 1, 2011 (but Developer can have up to 18 additional months if it demonstrates continual, diligent prosecution of the work)

   d. Deadline for completion of the hotel is changed from January 27, 2010 to July, 1, 2011 (but Developer can have up to 18 additional months if it demonstrates continual, diligent prosecution of the work)

5. The following new events of default (with notice and cure rights) are added:

   a. Linear parkland of approximately 130 acres is not created by December 1, 2007; and

   b. Unpaved trail head and trail on the linear parkland are not completed by July 1, 2011.

C

FIRST AMENDMENT TO
AMENDED AND RESTATED AGREEMENT
FOR SERVICES IN LIEU OF ANNEXATION

This **FIRST AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR SERVICES IN LIEU OF ANNEXATION** ("***Amendment***") is made by **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation, formerly known as **LUMBERMEN'S INVESTMENT CORPORATION** ("***Developer***"), **CCRHD LIMITED PARTNERSHIP**, a Delaware limited partnership ("***CCHRD***" and, with Developer, the "***Developer Parties***"), **JOHN PIERRET, CRAIG KNIGHT, CHUCK HUDSON, GARY McATEE** and **BOBBY MANN** (collectively,"***Representatives***"), and the **CITY OF SAN ANTONIO, TEXAS**, a municipal corporation ("***City***"), subject to approval of the ordinance as described in **Section 2.3** hereof, as of the date shown immediately preceding the signatures of the undersigned parties (the "***Execution Date***").

RECITALS

A. Unless defined in this Amendment, each capitalized term appearing in this Amendment will have the meaning ascribed to such term in the Amended and Restated Agreement For Services in Lieu of Annexation dated January 28, 2005, among City and the Developer Parties ("***Services Agreement***").

B. City, Representatives and Developer entered into the Original Agreement dated December 9, 2002, pursuant to which City agreed to the continuation of the extraterritorial status of the Land as therein provided.

C. Since the Original Agreement was filed for record in the Official Records, Developer has conveyed approximately 30.86 acres of the Land to CCHRD, a partnership controlled by Developer.

D. The parties to the Original Agreement have amended and restated the Original Agreement, as more fully set forth in the Services Agreement.

E. The parties now desire to amend the Services Agreement, as set forth in this Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants and conditions contained in this Amendment, and other good and valuable consideration, the Parties agree as follows, which agreement is an amendment to and shall be a part of the Services Agreement:

ARTICLE I
AMENDMENTS TO THE SERVICES AGREEMENT

1.1 **Additional Definitions**. The following definitions are hereby added to the "Definitions and Interpretations" section of the Services Agreement:

> "***Completion of Golf Courses***" means at least two (2) golf courses have been fully constructed on the Land and are being operated as PGA Tournament Players Club courses under the terms of the Golf Course License Agreement.
>
> "***Completion of Hotel Construction***" means that Completion of Construction has occurred and the Hotel is open to the general public for occupancy.
>
> "***Force Majeure Event***" means the occurrence of Act of God, strike, lockout, act of the public enemy, act or omission in the exercise of a governmental function by any Governmental Authority, action undertaken by military authority, civil insurrection, riot, fire, explosion, act of war or act of terrorism, sabotage, fire or other casualty or any other similar event, if such occurrence causes or results in a Party's inability to perform a duty, obligation, covenant or agreement of such Party under this Agreement and is neither within the reasonable control of such Party nor caused by such Party.

1.2 **Amended Definitions**. The following definitions, as set forth in the "Definitions and Interpretations" section of the Services Agreement, are hereby amended and restated in their entirety as follows:

> "***Agreement***" means this Amended and Restated Agreement for Services in Lieu of Annexation, as same may be amended from time to time in accordance with its terms.
>
> "***Developer***" means Forestar (USA) Real Estate Group, Inc., a Delaware corporation, formerly known as Lumbermen's Investment Corporation.
>
> "***Hotel***" means the first "full service, resort style" hotel with approximately 1,000 (within a margin of ten percent) guestrooms to be constructed on the Land.
>
> "***Ordinance***" means the Ordinance duly passed and approved by the City Council of City approving the execution and delivery of this Amendment by City.
>
> "***Water Provision Agreement***" means the Amended and Restated Water Provision Agreement between SAWS and Developer, as approved by resolution of the SAWS Board of Trustees passed and approved on September 7, 2006 and as approved by City pursuant to the Ordinance.

1.3 Firefighting Services. Section 3.2 of the Services Agreement, entitled "**Fire Protection Services by City**" is hereby amended and restated in its entirety as follows:

"**3.2 Fire Protection Services by City**. As authorized by *Section 43.0563(c), Texas Local Government Code*, City has agreed to provide fire protection services to the Land and its inhabitants in accordance with the Firefighting Services Agreement. Upon receipt of (a) notice that Developer has executed the Firefighting Services Agreement and (b) Developer's certification that no part of the Land has been conveyed or leased to a volunteer fire department, an emergency services district or other organization offering fire or emergency services to the inhabitants of the Land, City shall execute and deliver to Developer the Firefighting Services Agreement."

1.4 Termination Events Without Opportunity to Cure. Section 8.2 of the Services Agreement, entitled "**Termination Events Without Notice and Opportunity to Cure**" is hereby amended and restated in its entirety as follows:

"**8.2 Termination Events Without Notice and Opportunity to Cure.** City may terminate this Agreement without notice and without Developer having an opportunity to cure if:

8.2.1 Completion of Golf Courses. The Completion of Golf Courses has not occurred on or before July 1, 2011, or, subject to satisfaction of the following conditions, on or before January 1, 2013:

8.2.1.1 on or before July 1, 2011, Developer shall provide notice to City setting forth the reasons that Completion of Golf Courses will not occur on or before July 1, 2011;

8.2.1.2 Developer shall continuously and diligently pursue all work necessary to achieve Completion of Golf Courses; and

8.2.1.3 upon request of City's Representative, but in no event more often than monthly, Developer shall provide notice to City's Representative that describes (i) the progress towards achieving Completion of Golf Courses that has occurred since the last such notice, (ii) the work remaining to be performed and (iii) the estimated time needed to complete the remaining work.

8.2.2 Completion of Hotel Construction. Completion of Hotel Construction has not occurred on or before July 1, 2011, or, subject to satisfaction of the following conditions, on or before January 1, 2013:

8.2.2.1 on or before July 1, 2011, Developer shall provide notice to City setting forth the reasons that Completion of Hotel Construction will not occur on or before July 1, 2011;

8.2.2.2 Developer shall continuously and diligently pursue all work necessary to achieve Completion of Hotel Construction; and

8.2.2.3 upon request of City's Representative, but in no event more often than monthly, Developer shall provide notice to City's Representative that describes (i) the progress towards achieving Completion of Hotel Construction that has occurred since the last such notice, (ii) the work remaining to be performed and (iii) the estimated time needed to complete the remaining work.

8.2.3 Commencement of Hotel Construction has not occurred on or before July 1, 2007.

8.2.4 Commencement of Golf Course Construction has not occurred on or before July 1, 2008."

1.5 **Termination Events With Opportunity to Cure.** Section 8.3 of the Services Agreement, entitled "**Termination Events With Notice and Opportunity to Cure**" is hereby amended to include the following additional subsections **8.3.13** and **8.3.14**:

"**8.3.13** Developer's failure to file a Linear Park Supplement (as described in the Declaration of Restrictive Covenants), plat or plat amendment in the Official Records identifying and describing the Linear Parkland (as defined in the Declaration) on or before December 1, 2007.

8.3.14 Developer's failure to construct, at Developer's expense, an unpaved trail head and trail on the Linear Parkland on or before July 1, 2011."

1.6 **Force Majeure.** A new provision is added to the Services Agreement as **Section 8.6 Force Majeure**, as follows:

"**8.6 Force Majeure.**

8.6.1 Mitigation. Each Party shall use commercially reasonable efforts to mitigate delays caused by any Force Majeure Event.

8.6.2 Notice. Each Party whose performance under this Agreement is prevented by a Force Majeure Event shall provide notice to the other Parties within a reasonable time after the initial occurrence of the Force Majeure Event. The notice shall

describe the facts and circumstances of the Force Majeure Event and the anticipated effect of the Force Majeure Event on the performance of such Party's obligations, duties, covenants and agreements under this Agreement, which notice shall be supplemented from time to time upon the request of another Party. Such Party shall also give notice to the other Parties of its ability to resume performance under this Agreement within a reasonable time following the termination of the Force Majeure Event.

8.6.3 Effect of Force Majeure Event. Except only as provided in **Subsection 8.6.4** below, for so long as a Party is unable to perform a duty, obligation, covenant or agreement under this Agreement because of the existence or the effect of a Force Majeure Event, other than an obligation to pay or cause to be paid money, the performance of such duty, obligation, covenant or agreement will be suspended. In no event will the total days of such suspension due to a Force Majeure Event exceed three (3) years in the aggregate, unless that Force Majeure Event results from an act or omission in the exercise of a governmental function by a Governmental Authority, in which case the total days of such suspension of performance will not exceed five (5) years in the aggregate.

8.6.4 Term. No Force Majeure Event or any resulting suspension of performance of any Party to this Agreement will cause the Term to be extended."

1.7 Notices. Section 10.3 is amended to provide that the addresses of Developer for purposes of notice, until changed in accordance with the Agreement, are:

Developer:
Forestar (USA) Real Estate Group, Inc.
14755 Preston Road, Suite 710
Dallas, Texas 75254
Attention: President

With copies to:
Forestar (USA) Real Estate Group, Inc.
1300 S. MoPac Expressway
Austin, Texas 78746
Attention: General Counsel

and

William T. Kaufman
Kaufman & Associates, Inc.
100 W. Houston Street, Suite 1250
San Antonio, Texas 78205.

ARTICLE II
MISCELLANEOUS

2.1 Ratification of Services Agreement. Except as expressly amended by this Amendment, all terms and provisions of the Services Agreement remain unamended, unmodified and in full force and effect. Developer and City hereby restate and reconfirm to the other the representations, agreements and covenants of each as set forth in the Services Agreement. The Services Agreement, as hereby amended, and all rights and powers created pursuant thereto, are in all respects ratified and confirmed. From and after the Execution Date, all references to the Services Agreement shall be deemed to mean the Services Agreement, as so amended.

2.2 Validity and Authority. Each Party confirms to each other Party that:

2.2.1 The execution and delivery of this Amendment has been duly and validly authorized, and no other proceeding is necessary, as a matter of law or otherwise, to authorize this Amendment on its behalf or to effect the amendments to the Services Agreement contemplated hereby;

2.2.2 This Amendment has been duly and validly executed and delivered by it; and

2.2.3 Assuming this Amendment constitutes a valid and binding obligation of each other Party hereto, this Amendment constitutes its valid and binding agreement, enforceable against it in accordance with its terms.

2.3 City Ordinance. The execution and delivery of this Amendment by Developer Parties and Representatives is an offer to amend the Services Agreement upon the terms and conditions set forth herein. Unless executed and delivered by City pursuant to the Ordinance on or before November 7, 2006, this Amendment will have no force or effect and the offer of Developer Parties and Representatives will be automatically withdrawn.

2.4 Counterparts. This Amendment may be executed in counterparts, each of which, when executed and delivered, shall for all purposes be deemed an original. All of the counterparts, when taken together, shall constitute but one and the same Amendment.

THEREFORE, IN WITNESS WHEREOF, the Parties have executed this Amendment this _____ day of _____, 2006.

[remainder of page intentionally blank; signatures appear on following pages]

Signed on the date appearing opposite each party's signature.

DEVELOPER PARTIES:

FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation

By: _____
John Pierret
Executive Vice President

CCRHD LIMITED PARTNERSHIP, a Delaware limited partnership

By: LIC VENTURES, INC., its general partner

By: _____
John Pierret
Executive Vice President

REPRESENTATIVES:

_____
John Pierret

_____
Craig Knight

_____
Chuck Hudson

_____
Gary McAtee

_____
Bobby Mann

CITY: **CITY OF SAN ANTONIO, TEXAS**, a municipal corporation

_____
Sheryl Sculley
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

D

SUMMARY OF CHANGES TO DECLARATION OF RESTRICTIVE COVENANTS

1. Developer is required to restrict "approximately 130 acres" for use as a linear park for the public not later than December 1, 2007. The restriction is perpetual. Procedure is established for this to be accomplished.

2. Developer is required to construct an unpaved trail head and trail on the linear park not later than July 1, 2011.

3. Currently, any tract designated as a golf course, if not used for that purpose, must remain open space. Developer can substitute a tract or tracts of equivalent size as open space and regain the right to develop the tract previously designated as a golf course.

4. If a fire station is built on an identified 2.858 acre tract, those improvements will not be counted by SAWS' in its calculation of overall impervious cover.

5. If a golf course is built at any time on the property, even after termination of the Non-Annexation Agreement, the Golf Course Environmental Management Plan will apply.

revised: 10-05-06-v2

E

SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIVE COVENANTS

This **SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIVE COVENANTS** ("***Second Amendment***") is made by **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation, formerly known as **LUMBERMEN'S INVESTMENT CORPORATION** ("***Developer***"), **CCRHD LIMITED PARTNERSHIP**, a Delaware limited partnership ("***CCHRD***" and, with Developer, the "***Declarants***") and the **CITY OF SAN ANTONIO, TEXAS**, a municipal corporation ("***City***"), as of the date on which this Second Amendment is filed in the Official Public Records of Real Property of Bexar County, Texas (the "***Filing Date***").

RECITALS

A. Unless defined in this Second Amendment, each capitalized term appearing in this Second Amendment will have the meaning ascribed to such term in the Declaration of Restrictive Covenants dated January 7, 2003, filed for record on such date with the County Clerk of Bexar County, Texas and recorded in Volume 9766, Page 1682, Official Public Records of Bexar County, Texas, as amended by that First Amendment to the Declaration of Restrictive Covenants dated February 24, 2005, filed for record on such date with the County Clerk of Bexar County, Texas and recorded in Volume 11241, Page 1463, Official Records ("***First Amendment***").

B. City, the five representatives appointed by the Bexar County Commissioners Court under *Section 43.0562(b), Texas Local Government Code* and Developer entered into that certain Agreement for Services in Lieu of Annexation ("***Original Agreement***") dated December 9, 2002, pursuant to which City agreed to the continuation of the extraterritorial status of the Land as therein provided.

C. As a condition of the Original Agreement, City required and Developer did restrict the Land, and such divisions, subdivisions and phases thereof by and with the covenants and restrictions described in the Declaration.

D. Since the Declaration was filed for record in the Official Records, Developer has conveyed approximately 30.86 acres of the Land to CCHRD, a partnership controlled by Developer.

E. The parties to the Original Agreement have amended and restated the Services Agreement, as more fully set forth in that certain Amended and Restated Agreement for Services in Lieu of Annexation dated as of January 28, 2005 ("***Services Agreement***"), and City and Declarants have amended the Declaration of Restrictive Covenants, as more fully set forth in the First Amendment.

F. The parties to the Services Agreement have entered into an amendment thereto, as more fully set forth in the First Amendment to the Amended and Restated Agreement for Services in Lieu of Annexation and, in connection with such amendment, the City and Declarants have further amended the Declaration as described in this Second Amendment and to the extent herein provided.

G. Declarants have full power and authority to enter into this Second Amendment and to make the terms hereof applicable to the Land and binding and enforceable against the Landowners pursuant to the Declaration.

H. Hereinafter, references to the Declaration shall mean and refer to the Declaration as amended by the First Amendment.

NOW, THEREFORE, Declarants do hereby declare that each portion of the Land shall be owned, held, mortgaged, transferred, sold, conveyed, occupied and enjoyed subject to those restrictions and easements expressly made applicable to such portion of the Land pursuant to the Declaration and this Second Amendment, which restrictions and easements shall run with such Land, shall be binding upon and inure to the benefit of Declarants, all parties having right, title, or interest in or to the Land or any part thereof, and their respective heirs, legal representatives, successors, and assigns. Each contract or deed conveying the Land or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the restrictions and easements made applicable thereto in accordance with the Declaration and this Second Amendment, regardless of whether or not the same are set out in full or by reference in said contract or deed.

ARTICLE I
AMENDMENTS TO THE DECLARATION

1.1 Amended Definitions. Each of the following definitions appearing in the "Definitions" section of the Declaration are hereby amended and restated as follows:

> *"**Declaration**"* means this Declaration of Restrictive Covenants, as same may be amended from time to time in accordance with its terms.
>
> *"**Supplement**"* means a supplement to this Declaration in the form attached hereto as **Exhibit "C-1"**, executed and filed in the Official Records.

1.2 Additional Definitions. The following definitions are hereby added to the "Definitions" section of the Declaration, as follows:

> *"**Linear Parkland**"* means that portion or portions of the Land comprising approximately 130 acres, more or less, to be designated by a Linear Parkland Supplement, plat or plat amendment filed in the Official Records, as more fully described in **Section 1.10** of this Declaration."

"Linear Parkland Supplement" means a supplement to this Declaration in the form attached hereto as **Exhibit "C-2"**, executed and filed in the Official Records.

1.3 Firefighting Improvements. A new **Section 1.9** is added to the Declaration, as follows:

"**1.9 Firefighting Improvements Constructed on the Land.** SAWS shall exclude from the calculations required to be made pursuant to **Section 1.3** of this Declaration, any fire station and all related improvements that are constructed on that portion of the Land, being a 2.858 acre tract, more or less, described by metes and bounds on **Exhibit "D"** to this Declaration."

1.4 Parkland. A new **Section 1.10** is added to the Declaration, as follows:

"**1.10 Linear Park.** On or before December 1, 2007, Declarant shall execute and cause to be filed for record in the Official Records a Linear Parkland Supplement, plat or plat amendment to identify and describe the Linear Parkland, which will extend from the southern boundary of the Land to the northern boundary of the Land. The Linear Parkland Supplement, plat or plat amendment shall identify such tract or tracts of land as the Linear Parkland, with reference to this Declaration, and upon such filing and thereafter, the Linear Parkland will be restricted to use as a public park. Declarant shall improve the Linear Parkland, at Declarant's expense, with an unpaved trail head and trail and shall complete such improvements on or before July 1, 2011. If multiple tracts are identified as comprising the Linear Parkland, the tracts shall be physically linked together by pedestrian access. Declarant, or other owner or owners of the Linear Parkland or any portion thereof, shall maintain the portion of the Linear Parkland so owned, at its expense, until such time as either (a) title to such Linear Parkland has been conveyed to a property owners association that has assumed the obligation of maintenance thereof or (b) a Governmental Authority has assumed the obligation of maintenance thereof."

1.5 Permitted Uses. Section 3.2 of the Declaration, entitled **"Permitted Uses"** is hereby amended and restated in its entirety as follows:

"**3.2 Permitted Uses.** The Golf Course Tracts shall not be used, leased, or occupied, directly or indirectly for any purpose other than either Golf Course Permitted Uses or Open Space Area. If any portion of a Golf Course Tract is not improved for Golf Course Permitted Uses, or if so improved and such use has been permanently abandoned, such portion will be and is hereby restricted as Open Space Area in perpetuity unless and until a qualified portion of the Land of equivalent size has been restricted as Open Space Area by Supplement, plat, plat amendment or by dedication, in perpetuity. If a qualified portion of the Land of equivalent size has been restricted as Open Space Area by Supplement, plat, plat amendment or dedication, in perpetuity, the use restrictions of **Article 3** of this Declaration (limiting the Golf Course Tracts either to Golf Course Permitted Uses or Open Space Area) will not apply to the tract of equivalent size previously designated and restricted as a Golf

Course Tract for so long as such tract is not used for Golf Course Permitted Uses. For the purposes of this **Section 3.2**, the phrase "***qualified portion of the Land***" means Land not encumbered by the Conservation Easement or designated or restricted as Open Space Area or parkland in a Supplement, Linear Parkland Supplement, plat, plat amendment or other instrument filed in the Official Records. Once so designated or restricted as Open Space Area, such portion of the Land may not be further restricted or encumbered."

1.6 Termination and Survival. Section 6.2 of the Declaration, entitled "**Termination and Survival**" is hereby amended and restated in its entirety as follows:

"**6.2 Termination and Survival.** Declarant may terminate this Declaration if the Services Agreement has terminated prior to the Completion of Construction of the first hotel on the Land. If the Services Agreement is terminated prior to the Completion of Construction of the first hotel on the Land, Declarant shall file in the Official Records an affidavit signed and sworn to by Declarant, stating that (i) the Services Agreement has terminated and (ii) Completion of Construction of the first hotel on the Land has not occurred. Thereafter, this Declaration shall be of no further force or effect except as those matters which are stated in this Declaration to survive termination and except as follows:

6.2.1 if, at the time of such termination, any portion of the Annexation Tracts is used as a golf course and/or has been designated or deemed as Open Space Area under the use restrictions set forth in **Section 3.2**, such use restrictions will survive termination of this Declaration and shall apply to all such golf courses and/or Open Space Area; and

6.2.2 if, at the time of such termination or at any time subsequent to such termination, any portion of the Annexation Tracts is used as a golf course, the Golf Course Environmental Management Plan and the requirements of **Section 3.6** hereof will survive termination and shall apply to all such golf courses."

1.7 Notices. Notices to Declarant pursuant to **Section 7.1** shall be sent to the following addresses:

Developer: Forestar (USA) Real Estate Group, Inc.
14755 Preston Road, Suite 710
Dallas, Texas 75254
Attention: President

With copies to: Forestar (USA) Real Estate Group, Inc.
1300 S. MoPac Expressway
Austin, Texas 78746
Attention: General Counsel

and William T. Kaufman
Kaufman & Associates, Inc.
100 W. Houston Street, Suite 1250
San Antonio, Texas 78205.

Declarant may change its addresses for notice, from time to time, by filing an instrument of record in the Official Records that identifies Declarant's changed addresses and refers to this Declaration.

1.8 Supplement. Exhibit "C" to the Declaration, Form of Supplement Declaration of Restrictive Covenants is amended and restated in its entirety as set forth in **Exhibit "C-1"** to this Second Amendment. All references to "**Exhibit C**" in the Declaration shall hereafter mean and refer to **Exhibit "C-1"**.

1.9 Exhibit "C-2" Form of Linear Parkland Supplement. A new exhibit is attached as **Exhibit "C-2"** to the Declaration in the form attached to this Second Amendment as **Exhibit "C-2"**.

1.10 Exhibits. The listing of Exhibits to the Declaration is amended to include: **Exhibit "C-2": Form of Linear Parkland Supplement** and **Exhibit "D": Description of 2.858 Acre Tract.**

ARTICLE II
MISCELLANEOUS

2.1 Ratification of Declaration. Except as expressly amended by this Second Amendment, all terms and provisions of the Declaration remain unamended, unmodified and in full force and effect. The Declaration, as so amended, and all rights and powers created pursuant thereto, are in all respects ratified and confirmed. From and after the Filing Date, all references to the Declaration shall be deemed to mean the Declaration, as hereby amended, and the amendments to the Declaration set forth in this Second Amendment will be deemed to be a part of and will be interpreted in accordance with the Declaration.

2.2 Validity and Authority. The execution and delivery of this Second Amendment has been duly and validly authorized by the shareholders of each entity comprising the Declarants, and no other proceeding on the part of each such entity is necessary, as a matter of law or otherwise, to authorize this Second Amendment or to effect the amendments to the Declaration contemplated hereby. This Second Amendment has been duly and validly executed and delivered by the Declarants. The execution hereof by Declarants complies with all requirements for a valid and binding amendment of the Declaration, as set forth in **Section 6.1** of the Declaration, and without limiting the generality of the foregoing, Declarants have not, prior to the date on which this Second Amendment has been executed by Declarants, assigned to any person or entity its authority to amend or supplement the Declaration. The Declaration, as hereby amended, is binding upon and enforceable against all Landowners and creates validly enforceable Restrictions upon the Land, according to its terms, without the joinder or consent of any additional party.

2.3 Counterparts. This Second Amendment may be executed in counterparts, each of which, when executed and delivered, shall for all purposes be deemed an original. All of the counterparts, when taken together, shall constitute but one and the same Amendment.

Signed on the acknowledgment date noted below:

[remainder of this page intentionally blank - signatures appear on following pages]

DECLARANTS:

FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation

By: _____
John Pierret
Executive Vice President

CCRHD LIMITED PARTNERSHIP

By: LIC VENTURES, INC., its general partner

By: _____
John Pierret
Executive Vice President

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on _____, 2006, by JOHN PIERRET, Executive Vice President of FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation, and LIC VENTURES, INC., the general partner of CCRHD LIMITED PARTNERSHIP, a Delaware limited partnership, on behalf of said corporation and partnership.

[SEAL]

_____
Notary Public, State of Texas

My Commission Expires:

_____
Printed/Typed Name

_____

CITY: **CITY OF SAN ANTONIO, TEXAS**, a municipal corporation

_____
Sheryl Sculley
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

THE STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on _____, 2006, by SHERYL SCULLEY, as City Manager of the CITY OF SAN ANTONIO, TEXAS, a municipal corporation, on behalf of said corporation.

[SEAL]

_____
Notary Public, State of Texas

My Commission Expires:

_____
Printed/Typed Name

E

EXHIBIT C-1
TO
SECOND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

EXHIBIT C-1
TO
DECLARATION OF RESTRICTIVE COVENANTS

FORM OF SUPPLEMENTAL DECLARATION OF RESTRICTIVE COVENANTS

This **SUPPLEMENTAL DECLARATION OF RESTRICTIVE COVENANTS** (***"Supplement"***) is made this ____ day of _____, 200__, by Forestar (USA) Real Estate Group, Inc., a Delaware corporation (***"Declarant"***) as a supplement to that certain Declaration of Restrictive Covenants dated as of January 7, 2003, recorded in Volume 9766, Page 1682 of the Official Public Records of Real Property of Bexar County, Texas, as amended (***"Declaration"***). All capitalized terms not defined herein will have the meaning provided in the Declaration.

A. The Declaration requires Declarant to identify the portions of the Land to be owned, used and occupied (*for Golf Course Permitted Uses/ as Open Space Area*), as more particularly described in **Article 3** of the Declaration.

B. Declarant has determined the location of the (*Golf Course Tract/ Open Space Area*) and desires to identify and restrict the same in accordance with the Declaration.

NOW, THEREFORE, for and in consideration of the premises, the Declaration is hereby supplemented as follows:

1. Description of (*Golf Course Tract/ Open Space Area*). From and after the date on which this Supplement has been filed for record in the Official Records, the portion or portions of the Land described in **Schedule 1** to this Supplement, attached hereto as a part hereof for all purposes, will be (*Golf Course Tract/ Open Space Area*) and will be owned, used, occupied and improved subject to the Restrictions applicable to the (*Golf Course Tract/ Open Space Area*) as set forth in the Declaration.

2. Survival and Enforcement. The Restrictions applicable to the (*Golf Course Tract/ Open Space Area*), as set forth in the Declaration, will be deemed to be covenants running with the (*Golf Course Tract/ Open Space Area*), will survive termination of the Declaration and will be enforceable by the Enforcing Authorities in accordance with **Article 5** of the Declaration notwithstanding such termination.

3. Miscellaneous. Except as set forth in this Supplement, the Declaration will continue in effect in accordance with its terms.

Witness the hand of an authorized representative of Declarant on the acknowledgment date shown below.

DEVELOPER:

FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2006, by JOHN PIERRET, Executive Vice President of FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation, and LIC VENTURES, INC., the general partner of CCRHD LIMITED PARTNERSHIP, a Delaware limited partnership, on behalf of said corporation and partnership.

[SEAL]

_____
Notary Public, State of Texas

My Commission Expires:

_____
Printed/Typed Name

_____

EXHIBIT C-2
TO
SECOND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

EXHIBIT C-2
TO
DECLARATION OF RESTRICTIVE COVENANTS

FORM OF LINEAR PARKLAND SUPPLEMENTAL DECLARATION

This **LINEAR PARKLAND SUPPLEMENTAL DECLARATION** (*"**Linear Parkland Supplement**"*) is made this ____ day of _____, 2007, by Forestar (USA) Real Estate Group, Inc., a Delaware corporation (*"**Declarant**"*) as a supplement to that certain Declaration of Restrictive Covenants dated as of January 7, 2003, recorded in Volume 9766, Page 1682 of the Official Public Records of Real Property of Bexar County, Texas, as amended (*"**Declaration**"*). All capitalized terms not defined herein will have the meaning provided in the Declaration.

1. The Declaration requires Declarant to restrict the Linear Parkland for use as a public park approximately 130 acres, more or less, on or before December 1, 2007, by filing this Linear Parkland Supplement, a plat or a plat amendment that identifies such Linear Parkland in the Official Records and restricts its use.

2. Declarant has determined the location of the Linear Parkland and desires to identify and restrict the same in accordance with the Declaration.

NOW, THEREFORE, for and in consideration of the premises, the Declaration is hereby supplemented as follows:

1. Description of Linear Parkland. From and after the date on which this Linear Parkland Supplement has been filed for record in the Official Records, the portion of the Land described in **Schedule 1** to this Linear Parkland Supplement, attached hereto as a part hereof for all purposes, will be the Linear Parkland and will be owned, used, occupied and improved subject to the Restrictions applicable to the Linear Parkland as set forth in the Declaration.

2. Survival and Enforcement. The Restrictions applicable to the Linear Parkland, as set forth in the Declaration, will be deemed to be covenants running with the Linear Parkland, will survive termination of the Declaration and will be enforceable by the Enforcing Authorities in accordance with **Article 5** of the Declaration notwithstanding such termination.

3. Miscellaneous. Except as set forth in this Linear Parkland Supplement, the Declaration will continue in effect in accordance with its terms.

Witness the hand of an authorized representative of Declarant on the acknowledgment date shown below.

DEVELOPER:

FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2006, by JOHN PIERRET, Executive Vice President of FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation, and LIC VENTURES, INC., the general partner of CCRHD LIMITED PARTNERSHIP, a Delaware limited partnership, on behalf of said corporation and partnership.

[SEAL]

_____
Notary Public, State of Texas

My Commission Expires:

_____

_____
Printed/Typed Name

EXHIBIT D
TO
SECOND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

EXHIBIT D
TO
DECLARATION OF RESTRICTIVE COVENANTS

DESCRIPTION OF 2.858 ACRE TRACT

FIELD NOTES
FOR

A 2.858 acre, or 124,493 square feet, more or less, tract of land being out of that 194.2434 acre tract recorded in Volume 3812, Pages 1580-1584 of the Official Public Records of Real Property of Bexar County, Texas, and being out of the W.M. Brisbin Survey No.89½, Abstract 54, County Block 4900 of Bexar County Texas. Said 2.858 acre tract being more fully described as follows:

BEGINNING: At a set ½" iron rod with a yellow cap marked "Pape-Dawson" in the west right-of-way line of Bulverde Road, an 86-foot right-of-way, said iron rod located 43.00 feet left of Bulverde Road center line Station 39+03.31, at the most southerly northeast corner of Parcel 12F, a 1.904 acre tract of land being a portion of the old right-of-way of Bulverde Road;

THENCE: Departing the west right-of-way line of Bulverde Road, along and with the east line of Parcel 12F the following bearings and distances;

S 87°28'16"W, a distance of 418.13 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 73°07'57"W, a distance of 151.84 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 30°12'08"W, a distance of 113.80 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 01°05'28"E, a distance of 97.95 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 33°47'18"E, a distance of 229.50 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" on the west right-of-way line of said Bulverde Road;

THENCE: Northeasterly, along and with the west right-of-way line of Bulverde Road, with a curve to the left, said curve having a radial bearing of N 55°47'04" E, a radius of 1088.00 feet, a central angle of 24°33'41", a chord bearing and distance of S 46°29'46" E, 462.84 feet and an arc length of 466.40 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson";

THENCE: S 58°46'37"E, along and with the west right-of-way line of Bulverde Road, a distance of 181.34 feet to the POINT OF BEGINNING and containing 2.858 acres of land in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: July 17, 2001
JOB No.: 3538-17
DOC.ID.: H:\3538\17\SVYDPT\FIELD NOTES for a 2.858 acre tract.doc

F

SUMMARY OF CHANGES TO WAGE STANDARDS AGREEMENT

1. Under the existing agreement, the wage standard is a fixed hourly wage that escalates by $0.25 each year until the hotel is open and operating.

2. The revised wage standard requires the payment of a fixed hourly wage or a Living Wage, whichever is greater. It is determined by the following formula:

   a. First, the City's Living Wage is compared to the Federal standard used to determine eligibility by HHS (using poverty guidelines for a family of 4) to determine which is lower.

   b. Second, the *lesser* of these two indexes is compared to the fixed hourly wage set forth in the Wage Standards Agreement.

   c. If the fixed hourly wage is greater, it is the wage standard. If the lesser of the two indexes is greater than the fixed hourly wage, the wage index determines the wage standard.

revised: 10-05-06 (v2)

G

SECOND AMENDMENT TO THE WAGE STANDARDS AGREEMENT

This **SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIVE COVENANTS** ("***Second Amendment***") is made by **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation, formerly known as **LUMBERMEN'S INVESTMENT CORPORATION** ("***Developer***") and the **CITY OF SAN ANTONIO, TEXAS**, a municipal corporation ("***City***"), to be effective as of the later date on which this Second Amendment has been signed by Developer or City (the "***Execution Date***").

RECITALS

A. Unless defined in this Second Amendment, each capitalized term appearing in this Second Amendment will have the meaning ascribed to such term in the Wage Standards Agreement by and between Developer and City and dated effective November 1, 2002 ("***Wage Standards Agreement***"), as amended by First Amendment to the Wage Standards Agreement dated January 28, 2005 between City and Declarant ("***First Amendment***").

B. City, the five representatives appointed by the Bexar County Commissioners Court under *Section 43.0562(b), Texas Local Government Code* ("***Representatives***") and Developer entered into that certain Agreement for Services in Lieu of Annexation ("***Original Agreement***") dated December 9, 2002, pursuant to which City agreed to the continuation of the extraterritorial status of the Land as therein provided.

C. As a condition to the City's agreements under the Original Agreement, Developer agreed contractually to impose certain wage standards for each Hotel and golf course to be operated upon the Annexation Tracts by entering into that certain Wage Standards Agreement.

D. Thereafter, the Original Agreement was amended and restated, as more fully set forth in that certain Amended and Restated Agreement for Services in Lieu of Annexation dated as of January 28, 2005, by and among City, Representatives, Declarant ant and CCHD ("***Services Agreement***"), and in connection therewith, City and Developer amended the Wage Standards Agreement, as more fully set forth in the First Amendment.

E. The parties to the Services Agreement have entered into an amendment thereto, as more fully set forth in the First Amendment to the Amended and Restated Agreement for Services in Lieu of Annexation and, in connection with such amendment, the City and Declarants have further amended the Wage Standards Agreement as described in this Second Amendment and to the extent herein provided.

F. Hereinafter, references to the Wages Standards Agreement shall mean and refer to the Wage Standards Agreement as amended by the First Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants and conditions contained in this Second Amendment, and other good and valuable consideration, the Parties agree as follows, which agreement is an amendment to and shall be a part of the Wage Standards Agreement:

ARTICLE I
AMENDMENTS TO THE WAGE STANDARDS AGREEMENT

1.1 Definitions and Interpretations.

1.1.1 The following definition from the "Definitions" section of the Wage Standards Agreement is hereby amended and restated in its entirety, as follows:

"Agreement" means this Wage Standards Agreement, as amended.

"Wage Standard" means as defined on ***"Exhibit C"*** to this Agreement.

1.1.2 The following additional definitions are hereby added to the Definitions section of the Wage Standards Agreement.

"City Living Wage" means the minimum hourly wage for City's permanent, full-time civilian employees under the Pay Plan set forth in the City's annual budget in effect as of the Hotel Completion Date.

"Federal HHS Wage" means the hourly wage calculated by dividing the U.S. Department of Health and Human Services (***"HHS"***) "poverty guidelines" issued each year in the *Federal Register* by HHS that are applicable to "four persons in a family unit" (published by HHS as an annual amount) by 2080 (hours worked annually), as most recently published prior to the Hotel Completion Date.

"Living Wage" means the lesser of the City Living Wage or the Federal HHS Wage.

1.2 Notices. Section 6.1 is amended to provide that the addresses of Developer for purposes of notice, until changed in accordance the Agreement, are:

Developer: Forestar (USA) Real Estate Group, Inc.
14755 Preston Road, Suite 710
Dallas, Texas 75254
Attention: President

With copies to: Forestar (USA) Real Estate Group, Inc.
1300 S. MoPac Expressway
Austin, Texas 78746
Attention: General Counsel

William T. Kaufman
Kaufman & Associates, Inc.
100 W. Houston Street, Suite 1250
San Antonio, Texas 78205

1.3 Amendment. A new **Section 6.11** is added to the Wage Standards Agreement, as follows:

"**6.11 Amendment.** This Agreement may only be amended, supplemented, modified, or waived by an instrument in writing signed by the party against whom the enforcement of the amendment, supplement, modification or waiver shall be sought, and in the case of City, approved by the action of City Council."

1.4 Exhibits. A new **Section 6.12** is added to the Wage Standards Agreement, as follows:

"**6.12 Exhibits.** The following exhibits are attached to this Wage Standards Agreement and are made a part hereof by reference for all purposes:

Exhibit "A": Description of the Land
Exhibit "B": PGA Tour Employees - Employment Positions
Exhibit "C": Definition of "Wage Standard".

ARTICLE II
MISCELLANEOUS

2.1 Ratification. Except as expressly amended by this Second Amendment, all terms and provisions of the Wage Standards Agreement remain unamended, unmodified and in full force and effect. The Wage Standards Agreement, as so amended, and all rights and powers created pursuant thereto, are in all respects ratified and confirmed. From and after the Execution Date, all references to the Wage Standards Agreement shall be deemed to mean the Wage Standards Agreement, as so amended, and the amendments to the Wage Standards Agreement set forth in this Second Amendment will be deemed to be a part of and will be interpreted in accordance with the Wage Standards Agreement

2.2 Validity and Authority. Each of the undersigned parties confirms to each other party that:

2.2.1 The execution and delivery of this Second Amendment has been duly and validly authorized, and no other proceeding is necessary, as a matter of law or otherwise, to authorize

this Second Amendment on its behalf or to effect the amendments to the Services Agreement contemplated hereby;

2.2.2 This Second Amendment has been duly and validly executed and delivered by it; and

2.2.3 Assuming this Second Amendment constitutes a valid and binding obligation of each other party hereto, this Second Amendment constitutes its valid and binding agreement, enforceable against it in accordance with its terms.

2.3 Counterparts. This Second Amendment may be executed in counterparts, each of which, when executed and delivered, shall for all purposes be deemed an original. All of the counterparts, when taken together, shall constitute but one and the same Second Amendment.

[remainder of this page intentionally blank; signatures appear on following pages]

Signed by each party as of the date of the acknowledgment of such party.

DECLARANTS:

FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation

By: _____
John Pierret
Executive Vice President

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on _____, 2006, by JOHN PIERRET, Executive Vice President of FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation, on behalf of said corporation.

[SEAL]

_____
Notary Public, State of Texas

My Commission Expires:

_____
Printed/Typed Name

_____

CITY: **CITY OF SAN ANTONIO, TEXAS**, a municipal corporation

_____
Sheryl Sculley
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

THE STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on _____, 2006, by SHERYL SCULLEY, as City Manager of the CITY OF SAN ANTONIO, TEXAS, a municipal corporation, on behalf of said corporation.

[SEAL]

_____
Notary Public, State of Texas

My Commission Expires:

_____
Printed/Typed Name

EXHIBIT "C"

TO

WAGE STANDARDS AGREEMENT

For the purposes of this Agreement, the term "Wage Standard" means the hourly rate of pay determined as of the Hotel Completion Date. The Wage Standard will be, if the Hotel Completion Date occurs

(a) prior to October 1, 2007, the greater of the Living Wage or $9.75;

(b) on or after October 1, 2007 but before October 1, 2008, the greater of the Living Wage or $10.00;

(c) on or after October 1, 2008 but before October 1, 2009, the greater of the Living Wage or $10.25;

(d) on or after October 1, 2009 but before October 1, 2010, the greater of the Living Wage or $10.50;

(e) on or after October 1, 2010 but before October 1, 2011, the greater of the Living Wage or $10.75

(f) on or after October 1, 2011 but before October 1, 2012, the greater of the Living Wage or $11.00; or

(g) on or after October 1, 2012 but before October 1, 2013, the greater of the Living Wage or $11.25.

If Hotel Completion Date occurs on or after October 1, 2013, the Wage Standard will be the greater of (i) the Living Wage or (ii) an amount equal to the sum of $11.25 plus $0.25 for each anniversary of October 1 that occurs after October 1, 2012, but prior to the Hotel Completion Date. For example, if the Hotel Completion Date occurs on or after October 1, 2013 but before October 1, 2014, the Wage Standard will be the greater of (i) the Living Wage or (ii) $11.50.

H

RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AMENDING AND RESTATING THE WATER PROVISION AGREEMENT BETWEEN THE SAN ANTONIO WATER SYSTEM AND FORESTAR (USA) REAL ESTATE GROUP, INC., (FORMERLY LUMBERMEN'S INVESTMENT CORPORATION–LIC); AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER TO EXECUTE THE AMENDED AND RESTATED WATER PROVISION AGREEMENT BETWEEN THE SAN ANTONIO WATER SYSTEM AND FORESTAR (USA) REAL ESTATE GROUP, INC., (FORMERLY LIC) AND ALL DOCUMENTS RELATED THERETO; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, pursuant to Board Resolution No. 02362, San Antonio Water System (System) and Lumbermen's Investment Corporation (LIC) entered into that certain "Water Provision Agreement" executed December 9, 2002 (the "Original Agreement") setting forth the terms and conditions pursuant to which the System agreed to furnish a water supply for irrigation of the golf course(s), golf learning center, and roadway medians within the boundaries of that certain real property more particularly described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, the original agreement provided for the conveyance of certain groundwater wells and related facilities (the "Well Facilities," as more particularly defined in the original agreement) by LIC to the System, and further provided for the operation of the Well Facilities by the System for the provision of irrigation water by the System to the golf course(s), golf learning center, and roadway medians within the boundaries of the Property; and

WHEREAS, LIC has now become Forestar (USA) Real Estate Group, Inc. (Forestar) and has subsequently determined that the quality and quantity of groundwater produced from the Well Facilities is not suitable for irrigation of golf course turf grasses, and desires to obtain an alternative supply of irrigation water to be made available for irrigation of the golf course(s) and golf learning center within the boundaries of the Property; and

WHEREAS, the System and Forestar desire to amend and restate the Original Agreement as provided for herein, and to seek City of San Antonio approval of the Amended and Restated Water Provision Agreement because it is referenced in the Amended and Restated Agreement for Services in Lieu of Annexation entered into between the City of San Antonio and LIC on January 28, 2005.

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the Amended and Restated Water Provision Agreement between the System and Forestar in substantially the form attached hereto as Exhibit B is hereby approved.

2. That the President/Chief Executive Officer is hereby authorized to execute the Amended and Restated Water Provision Agreement between the System and Forestar in substantially the form of Exhibit B, and all documents related thereto. The Restated Agreement becomes effective upon approval by the City Council of the City of San Antonio, which must approve it by October 31, 2006. If City Council's approval is not obtained by October 31, 2006, the Water Provision Agreement of December 9, 2002 remains in full force and effect. Under such circumstances, the Amended and Restated Water Provision Agreement shall be null and void for all purposes, according to its terms.

3. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

4. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

5. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 7th day of September, 2006.

_____

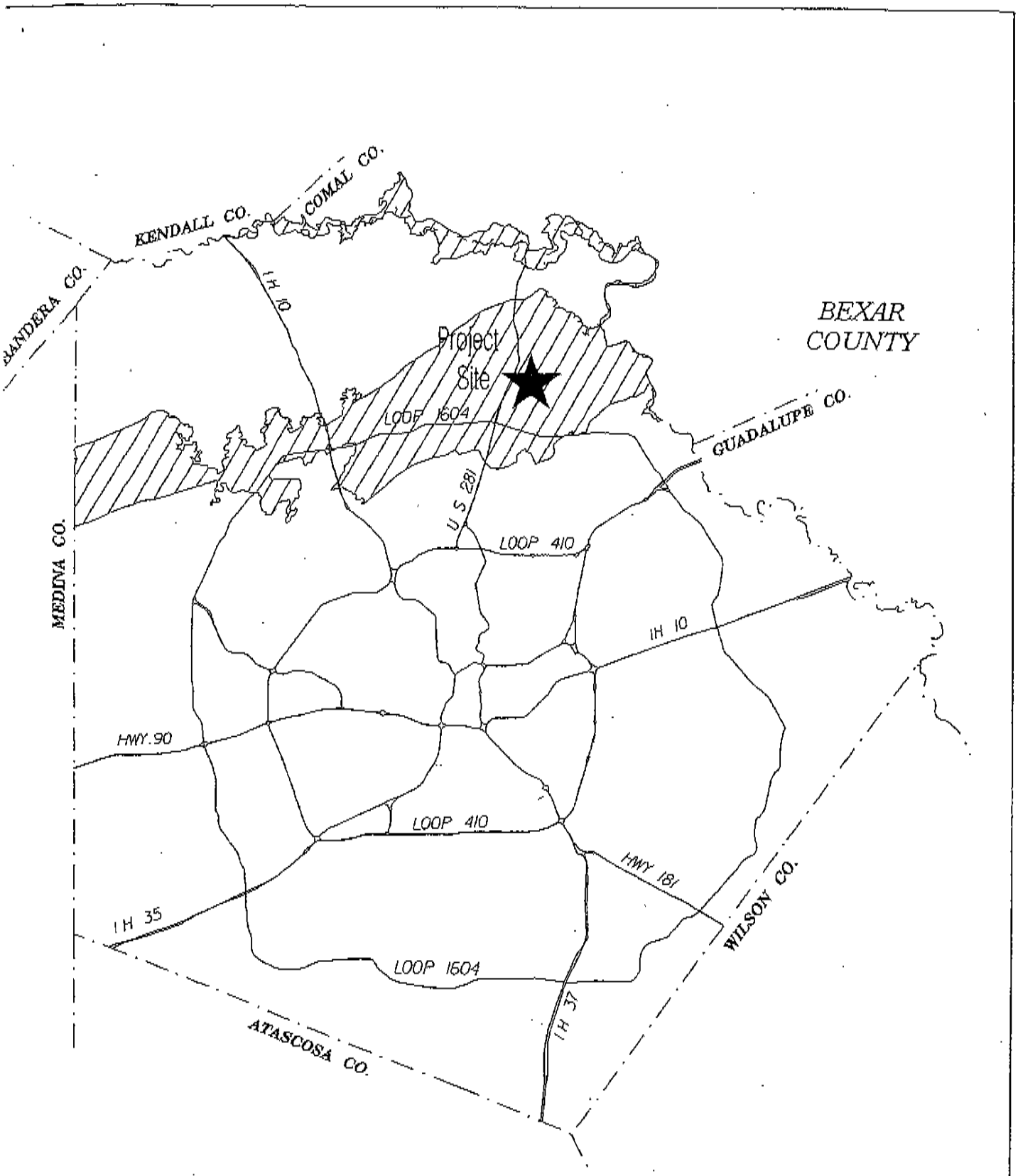
Alexander E. Briseño, Chairman

ATTEST:

_____

Salvadore M. Hernández, Secretary

Exhibit "A"



LUMBERMEN'S INVESTMENT CORP.
2,861 ACRE TRACT

AMENDED AND RESTATED WATER PROVISION AGREEMENT

This Amended and Restated Water Provision Agreement (this "Restated Agreement") is entered into by and between the San Antonio Water System, a wholly owned municipal utility of the City of San Antonio (the "System") and Forestar (USA) Real Estate Group Inc., a Delaware corporation (the "Developer"), together the "Parties."

Recitals

WHEREAS, the Developer was formerly known as Lumbermen's Investment Corporation, which changed its name effective April 24, 2006, to Forestar (USA) Real Estate Group Inc.; and

WHEREAS, the System and the Developer entered into that certain "Water Provision Agreement" executed December 9, 2002 (the "Original Agreement") setting forth the terms and conditions pursuant to which the System agreed to furnish a water supply for irrigation of the golf course(s), golf learning center, and roadway medians within the boundaries of that certain real property more particularly described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, the Original Agreement provided for the conveyance of certain Trinity Aquifer groundwater wells and related facilities (the "Trinity Well Facilities") by the Developer to the System, and further provided for the operation of the Trinity Well Facilities by the System for the provision of irrigation water by the System to the golf course(s), golf learning center, and roadway medians within the boundaries of the Property; and

WHEREAS, the Parties have subsequently determined that the quality and quantity of groundwater produced from the Trinity Well Facilities is not suitable for irrigation of golf course turf grasses, and the Parties desire to provide for an alternative supply of irrigation water to be made available for irrigation of the golf course(s) and golf learning center within the boundaries of the Property; and

WHEREAS, the System and the Developer desire to amend and restate the Original Agreement as provided for herein.

NOW THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the Parties hereto agree as follows:

Article I.
Purpose and Effect on Prior Agreements

1.01 Purpose. The purpose of this Restated Agreement is to set forth the revised terms and conditions pursuant to which a supply of irrigation water will be made available to the golf course(s) and golf learning center within the boundaries of the Property.

1.02 Effect on Prior Agreements.

(a) This Restated Agreement is in addition to that certain Water Service Agreement granted to Developer pursuant to the San Antonio Water System Board of Trustees Resolution No. 02-361 (the "Water Service Agreement"), which sets forth the terms and conditions pursuant to which the System will provide retail potable water service to the proposed residential and commercial development within the Property. The Water Service Agreement shall remain in effect for all purposes.

(b) This Restated Agreement, upon execution by the Parties and upon delivery to the System of an ordinance amending the Amended Services Agreement that recognizes and approves this Restated Agreement, shall amend and supersede the Original Agreement for all purposes.

(c) If the City of San Antonio has not approved an ordinance amending the Amended Services Agreement that recognizes and approves this Restated Agreement by October 31, 2006, then in that event this Restated Agreement shall be of no force or effect, and the Water Provision Agreement shall continue in full force and effect as if this Restated Agreement had never been signed.

Article II.
Ownership and Operation of Facilities

2.01 Ownership of Trinity Well Facilities and Related Rights.

(a) Subject to the terms and conditions of this Restated Agreement, the System hereby agrees to release the Developer of its obligation to convey to the System the Well Facilities and the Real Property Interests (as such terms are more particularly defined in the Original Agreement). The "Well Facilities" identified in the Original Agreement are referred to as the "Trinity Well Facilities" in this Restated Agreement.

(b) Except as otherwise provided in this Agreement, Developer may assign, convey, lease, transfer, or otherwise release its ownership interests in any or all of the Trinity Well Facilities, including all rights, permits, licenses or other authorizations to operate the Trinity Well Facilities without the prior written consent of the System. Anything to the contrary contained in the prior sentence notwithstanding, the Developer may not assign, convey,

lease, transfer, or otherwise release any of such rights to a public or private water utility without the prior written consent of the System. Any assignment, conveyance, lease, transfer, or release that is permitted by this section will be effective only after written notice to the System of such event and after the assignee, buyer, lessee, or other transferee agrees to assume, perform, and be subject to, all duties, obligations and restrictions relating to operation and use of the Trinity Well Facilities contained in paragraph 2.02 hereof. The System may require any such person or entity to execute an instrument evidencing its assumption of all terms, obligations, and restrictions set forth in paragraph 2.02. Any person's failure to execute such instrument shall render any purported transfer or assignment null and void. In addition to the foregoing, Developer, its successors and assigns shall have the right to assign any of its rights in the Trinity Well Facilities, upon written notice but without the consent of the System, to any lender providing financing to Developer, as security for any obligation of Developer, its successors or assigns. Upon foreclosure of any such security interest or deed of trust, such lender shall be subject to all duties, restrictions and obligations of the Developer herein.

2.02 Operation of Trinity Well Facilities. The Trinity Well Facilities may be used only for irrigation of the golf course(s) and golf learning center within the Property, including storage of such water in lakes located within the Property prior to irrigation. With prior written consent of the System, the Trinity Well Facilities also may be used for other non-potable purposes within the Property. The water supply produced from the Trinity Well Facilities may not be used or transported outside the Property without the prior written consent of the System. The operation of the Trinity Well Facilities in a manner that directly adversely impacts (by quality or quantity) the production of groundwater by wells currently owned by the System in the vicinity of the Property (the "System Well Facilities") is prohibited. In the event that any operation or use of the Trinity Well Facilities by Developer directly adversely impacts the System Well Facilities, as determined by the System based on objective hydrological modeling or other empirical data, then the System shall provide written notice thereof to Developer of the specific manner in which Developer's operation of the Trinity Well Facilities is directly causing an adverse impact to the System Well Facilities. Upon receipt of such notice, the Developer shall discontinue use or operation of the Trinity Well Facilities until it has developed and implemented a mitigation plan, subject to the System's prior review and approval (not to be unreasonably withheld or delayed), that eliminates the direct adverse impact on the affected System Well Facilities.

2.03 Golf Course Irrigation System. The Developer shall be solely responsible for design, construction, operation, ownership, repair, and maintenance of all facilities located within the Property that are designed or operated for purposes of irrigating the golf course(s) and golf course learning center (the "Golf Course Irrigation System").

Article III.
Irrigation Water

3.01 Irrigation Supply.

(a) Except as set forth in Section 3.05 below with respect to emergency water supply, the Developer hereby releases the System from any obligation to provide or make available a supply of water within the Property for irrigation of the golf course(s) and the golf learning center.

(b) The System shall be the sole purveyor of retail potable water and wastewater services within the Property, including to all residential and commercial development, and irrigation of roadway medians, within the Property. The System shall provide such retail water service in accordance with the terms of the System's Water Service Agreement

(c) The Developer hereby assumes sole responsibility for securing an alternative water supply source for irrigation of the golf course(s) (including maintenance of lake water levels for lakes on the Property that are used as reservoirs for golf course irrigation water) and golf learning center within the Property. The irrigation water supply secured by Developer must be non-potable, and may not consist of wastewater effluent (whether treated or not). The irrigation of the golf course(s) and golf learning center with potable water, as defined in 30 Tex. Admin. Code §291.3, is specifically prohibited, except as provided in Section 3.05 below. In addition to the Trinity Well Facilities, the System authorizes Developer to construct and operate an Edwards Aquifer groundwater production well or wells and related facilities to provide sources of irrigation water on the lands described in Exhibit "B" attached hereto; provided Developer obtains all permits and authorizations required by, and otherwise operates such groundwater production facilities in accordance with, all applicable regulatory requirements, including those set forth in Chapter 34 of the City Code of the City of San Antonio. Upon submission of a permit application and payment of the permit fee required by §34-572, City Code of Ordinances, the System will issue a well drilling permit or permits authorizing construction and drilling of such wells located in the area described in Exhibit "B". Developer specifically agrees that it shall be responsible for all costs and expenses associated with securing the alternative irrigation water supply and transporting the water supply to the Property for irrigation of the golf courses and golf learning center. By way of example and without limitation, Developer will be responsible for the following:

(i) securing all permits, rights, and other authorizations or approvals required for the alternative irrigation water supply;

(ii) payment of all costs of design, engineering, materials, labor, construction and inspection arising in connection with the construction of facilities required to produce, transport, store, pump and deliver the alternative irrigation water supply to the Golf Course Irrigation System (the "Offsite Irrigation Facilities"); and

(iii) payment of all costs in connection with obtaining governmental approvals, certificates, permits, easements, rights-of-way, or sites required as a part of the construction of the Offsite Irrigation Facilities. The System will not be liable to any contractor, engineer, attorney, materialman or other party employed or contracted by Developer in connection with the construction or operation of the Offsite Irrigation Facilities.

3.02 Offsite Irrigation Facilities.

(a) General. The Developer shall be solely responsible for design, construction, operation, repair, ownership and maintenance of the Offsite Irrigation Facilities.

(b) Right of First Refusal. The Developer hereby grants to the System a non-revocable right of first refusal to purchase the Offsite Irrigation Facilities should Developer offer to sell the Offsite Irrigation Facilities to a public or private water utility, or to any other person or entity that will use the Offsite Irrigation Facilities for any purposes other than irrigation of the golf course(s) and golf learning center located within the Property (including storage within lakes prior to irrigation) (the "Authorized Purposes"). The Developer may not transfer, assign or convey all or any portion of the Offsite Irrigation Facilities to a public or private water utility, or to any other person or entity that will use the Offsite Irrigation Facilities for any purposes other than the Authorized Purposes without providing ninety (90) days prior written notice to the System, which notice shall specify the proposed terms and consideration for the transfer and conveyance. The System shall have the right to purchase the Offsite Irrigation Facilities under the same terms and consideration set forth in the written notice. In the event the System does not purchase the Offsite Irrigation Facilities during the 90 day period, then the Developer may proceed with the proposed transfer only in accordance with the terms and consideration set forth in the written notice. Upon completion of such transfer and assignment, the Developer shall provide a copy of the final transfer instruments and related agreements to the System. The Developer acknowledges and agrees that any purported transfer, conveyance or assignment of the Offsite Irrigation Facilities except in accordance with the foregoing procedures shall be null and void. In addition to the foregoing, Developer, its successors and assigns shall have the right to assign any of its rights in the Offsite Irrigation Facilities, upon written notice but without the

consent of the System, to any lender providing financing to Developer, as security for any obligation of Developer, its successors or assigns. Upon foreclosure of any such security interest or deed of trust, such lender shall be subject to all duties, restrictions and obligations of the Developer herein.

3.03 Acquisition and Conveyance of EAA Permitted Water Rights.

(a) The Developer will acquire a minimum of 2000 acre-feet of Edwards Aquifer Authority (the "EAA") permitted water rights (the "Irrigation Water Supply") for use as irrigation water for the golf courses and for the golf learning center located on the Property. Not less than 1000 acre-feet of the Irrigation Water Supply shall be transferable initial regular permit EAA water rights purchased by Developer for subsequent sale and conveyance to the System, as hereinafter provided. The Offsite Irrigation Facilities shall produce and deliver the Irrigation Water Supply to the golf course irrigation system.

(b) The period of time from the commencement of the installation and/or planting of turf grasses and related vegetation (the "Golf Course Vegetation") within the golf courses and golf learning center until such time as the Golf Course Vegetation is established shall constitute the "Grow-In Period". Developer agrees that the total Grow-In Period will not extend beyond a twenty four (24) month period from commencement of installation and/or planting any Golf Course Vegetation, subject to Force Majeure (as defined in Section 6.02). A Force Majeure event in the second year may extend the Grow-in Period one additional year, but may not extend the Grow-in Period beyond 36 total months. The Parties currently anticipate that the Grow-In Period will commence on or about on May 1, 2008 and will conclude on or about September 30, 2008. In the event of unforeseen delays or circumstances, or should Developer determine to establish the Golf Course Vegetation in phases, then the period for installation and establishment of the Golf Course Vegetation may extend into subsequent years, subject to all of the following restrictions:

(i) Under no circumstances shall the Grow-In Period for any Golf Course Vegetation extend beyond July 1, 2011, or in the case of Force Majeure (as defined in Section 6.02), beyond July 1, 2012;

(ii) In the event that Developer establishes the Golf Course Vegetation in phases, then the Grow-In Period for each phase of Golf Course Vegetation shall not exceed six (6) months; provided that in the event of Force Majeure (as defined in Section 6.02), the Grow-In Period for that phase may be extended for an additional six month period the immediately subsequent year; and

(iii) Each phase of Golf Course Vegetation shall be subject to the Drought Restriction Rules (as defined in Section 3.04 below) upon the expiration of the Grow-In Period for that phase of vegetation.

(c) Within one hundred eighty (180) days after expiration of the Grow-In Period for all Golf Course Vegetation, the System shall provide written notice to the Developer of its intent to purchase EAA permitted water rights. The System may acquire the EAA permitted water rights in accordance with the competitive bidding process set forth in Chapter 252 of the Texas Local Government Code, or in accordance with any other procedures determined in the sole discretion of the System. Upon receipt of such notice, Developer shall make available for sale and conveyance to the System 1000 acre-feet of the Irrigation Water Supply (the "System Water Rights"). The System Water Rights must be EAA transferable initial regular permit water rights that may be withdrawn from the Edwards Aquifer at the System's existing groundwater pumping facilities for municipal purposes. The purchase price at which the Developer shall make available the System Water Rights for purchase by the System shall not be greater than the actual sum paid by Developer for acquisition of the Irrigation Water Supply. The Developer agrees to maintain and provide to the System documentation as necessary to demonstrate the costs of acquisition of the Irrigation Water Supply for purposes of confirming the appropriate purchase price to be paid by the System. The System shall be under no obligation to purchase the System Water Rights from Developer unless Developer submits the lowest bid, or the only bid, in response to an invitation by the System, or submits the lowest price for such water rights in response to any other procedure employed by the System to acquire such rights pursuant to this section.

3.04 Water Conservation and Drought Restrictions.

(a) With the sole exception of irrigation of the Golf Course Vegetation during the Grow-In Period (as applicable) or any variances approved by the System as provided in Section 3.04(c) below, all irrigation of the golf course(s) and golf learning center within the Property shall be subject to all water conservation measures and restrictions included within the following: (i) that certain "Amended and Restated Agreement For Services In Lieu Of Annexation" dated January 28, 2005 and entered into among the City of San Antonio; the Developer; and John Pierret, Craig Knight, Chuck Hudson, Gary McAtee, and Bobby Mann, all as representatives appointed by the Bexar County Commissioners Court (the "Amended Services Agreement"); (ii) the Golf Course Environmental Management Plan, as defined in the Amended Services Agreement; and (iii) all conservation and drought restriction provisions and requirements set forth in the City of San Antonio City Code, Sections 34-271 through 34-350 that apply to all golf courses within the corporate limits of the City

of San Antonio, as amended and superseded from time to time, provided that such amendments do not specifically apply only to the Property or the golf courses or golf learning center located upon the Property, or which have that effect (all of the above are collectively referred to as the "Drought Restriction Rules").

(b) During the Grow-in Period, the Golf Course Vegetation shall not be subject to the Drought Restriction Rules; provided, however, immediately upon establishment of any contiguous portion of the Golf Course Vegetation during the Grow-In Period, such established contiguous portion of the Golf Course Vegetation shall thereafter become subject to the Drought Restriction Rules for all purposes.

(c) In the event of a conflict between the Drought Restriction Rules and the requirements of the Golf Course Environmental Management Plan ("EMP"), the Developer may request a variance from the Drought Restriction Rules. The System shall consider any such variance in good faith, taking into consideration the unique closed loop system required under the EMP, but shall be under no obligation to approve any such request.

3.05 Emergency Water Supply.

(a) The System agrees to provide an emergency supply of irrigation water to Developer for irrigation of the golf course(s) and golf learning center located within the Property in accordance with the terms and conditions set forth in this Section 3.05.

(b) For purposes of this Restated Agreement, an "emergency" shall mean an act of God, unforeseen circumstance, disaster, maintenance events, operational interruptions, and similar events that significantly impact the Developer's ability to irrigate the golf course(s) and golf learning center with the alternative water supply identified under Section 3.01 above. The term shall not include drought conditions, lapse of groundwater production permit authorizations or other legal impediments, but may include replacement or construction of facilities or similar events.

(c) In the event of an emergency event (as previously defined), the System will provide emergency water service in accordance with the following terms and procedures:

(i) the Developer must request in writing that the System provide emergency water service, which notice must specify the expected duration of the emergency event and an estimate of the quantity of emergency water supply sought by Developer from the System;

(ii) the System will use its reasonable efforts to respond to any such request within 24 hours of receipt, or if the request is made after 3 p.m. on

a regularly scheduled System work day, or on a weekend or holiday, the System will use reasonable efforts to respond to any such request by 5 p.m. of the next regularly scheduled System work day.

(iii) the availability of an emergency water supply is limited to 100 acre-feet per emergency event, except as otherwise agreed by the System in its sole and absolute discretion, and further limited by the quantity of EAA water supply temporarily transferred by the Developer to the System, as provided in Section 3.05(d) below. In the event that the Developer has no EAA permitted water rights available for temporary transfer to the System in accordance with Section 3.05(d) below for whatever reason, then the System shall have no obligation to provide an emergency water supply to the golf courses or golf learning center;

(iv) the emergency supply of water may only be used for irrigation of the golf course(s) and golf learning center within the Property and for no other purpose. The emergency water supply may not be sold or transferred to others;

(v) the provision of emergency water service is subject to a determination by the System that a bona fide emergency, as defined above, exists and that delivery of emergency water service to the Developer will not endanger the public health, safety, or welfare of System customers;

(vi) emergency water service will be provided only for the shorter of the following periods: (1) the reasonable duration of the emergency giving rise to the request for emergency water service; (2) the reasonable duration needed to repair damage to the Developer's facilities occasioned by such emergency; (3) the duration of the System's ability to provide emergency water service to the Developer as determined by the System; or (4) two weeks. In the event that the emergency exceeds the shortest of the foregoing periods, the Developer may make written request to the System to continue emergency water service beyond said initial period. The System may continue or resume such emergency water service for an additional period up to two (2) weeks, or such shorter period as the System shall determine appropriate and necessary, but only if the System determines that the emergency giving rise to the initial request for emergency service has not been abated, and that the Developer has exercised reasonable diligence in attempting to remove the disability giving rise to the initial request for emergency water service.

(d) Within five (5) days after the commencement of delivery of an emergency water supply or within three (3) days after the conclusion of the emergency period, whichever is sooner, the Developer shall prepare and file at its sole cost and expense all appropriate applications to the EAA for temporary transfer of EAA permitted groundwater withdrawal

rights to the System in a quantity sufficient to provide for municipal use by the System a quantity of water equivalent to the amount of emergency water requested by Developer in the notice furnished to the System under Section 3.05(c)(i) above. The application shall authorize use of the groundwater by the System during the emergency period, as specified by Developer in its notice to the System, to ensure that Developer transfers to the System groundwater withdrawal rights equal to the quantity to be made available by the System during the emergency. Thereafter, Developer shall diligently prosecute each such application at its sole cost and expense until final approval is received. The Developer shall amend the application as necessary to reflect the actual quantity of water used and the duration of emergency water service provided by the System during the emergency. The transferred EAA withdrawal rights must authorize the System to withdraw groundwater from the Edwards Aquifer at the System's existing groundwater pumping facilities for municipal purposes, and shall be in a form reasonably approved by the System. If the Developer has more than three (3) applications for transfer of EAA withdrawal rights pending without approval, the System shall be under no obligation to make available an additional emergency water supply to the golf course(s) and golf learning center.

(e) The emergency water supply will be made available by the System to the golf course(s) and golf learning center only in accordance with Ordinance 101684, adopted by the City Council of the City of San Antonio, as amended and superseded from time to time. In the event of a conflict between the terms of said ordinance and this Restated Agreement, the terms of this Restated Agreement shall prevail.

(f) Developer will be responsible for construction of all facilities and equipment required to extend and connect the Golf Course Irrigation System to the System's water transmission system (collectively, the "Interconnect Facilities"), as follows:

(g) Developer will promptly pay the costs of the Interconnect Facilities as they become due, including, without limitation, all costs of design, engineering, materials, labor, construction and inspection arising in connection with the Interconnect Facilities; all payments arising under any contracts entered into by Developer for the construction of the Interconnect Facilities; all costs incurred by Developer in connection with obtaining governmental approvals, certificates, permits, easements, rights-of-way, or sites required as a part of the construction of the Interconnect Facilities; and all out-of-pocket expenses incurred in connection with the construction of the Interconnect Facilities. The System will not be liable to any contractor, engineer, attorney, materialman or other party employed or contracted with in connection with the construction of the Interconnect Facilities.

(i) Upon completion of construction of the Interconnect Facilities, the Developer will provide the System with a certificate of completion from the Developer's engineers certifying that the Interconnect Facilities have been completed in accordance with the approved plans and specifications.

(ii) All physical facilities to be constructed or acquired as a part of the Interconnect Facilities will be designed by a qualified registered professional engineer selected by Developer and approved by the System, which approval will not be unreasonably withheld or delayed. The design will be subject to the approval of the System, and shall comply with the System's design criteria.

(iii) Developer shall be responsible for securing all easements and real property interests required for the Interconnect Facilities. As specified by the System, the easements and real property interests shall be transferred and assigned to the System, at no cost to the System, in a form specified in advance by legal counsel to the System.

(iv) All construction contracts and other agreements related to the Interconnect Facilities will contain provisions to the effect that any contractor, materialman or other party thereto will look solely to Developer for payment of all sums coming due thereunder and that the System will have no obligation whatsoever to any such party.

(v) The construction contract and all change orders for the Interconnect Facilities will be subject to review and approval by the System, which shall not be unreasonably withheld

(vi) The Interconnect Facilities will be constructed in a good and workmanlike manner and all material used in such construction will be substantially free from defects and fit for their intended purpose. The System may have an on-site inspector inspect and approve the construction. The Developer shall not cover or allow to be covered any portion of the Interconnect Facilities until the System has approved the facilities. The Developer shall pay the System for inspections in accordance with the standard fees set forth in the System's rules and regulations.

(vii) Upon completion of construction of the Interconnect Facilities, the Developer agrees to furnish the District with computer files of the as-built or record drawings of each facility promptly upon completion thereof.

(h) Rates, Fees and Charges.

(i) With respect to all emergency irrigation water delivered to the golf course(s) and golf learning center, the System shall charge, and the Developer shall pay, the System's rates, fees, and charges for emergency

water service, as identified in Ordinance 101684, as amended or superseded from time to time.

(ii) The Developer shall pay for all water that is delivered through the emergency point(s) of delivery to the golf course(s) and golf learning center, as measured by the meter(s) installed at each point of delivery. Payments shall be made by the Developer to the System in accordance with the System's standard rules and procedures for its retail customers; provided, however, that all payments under this Restated Agreement shall be paid to the System on or before the due date specified on the invoice, or if no due date is specified, on or before thirty (30) days from the date of the invoice. Payments shall be mailed to the address indicated on the invoice, or can be hand-delivered to the System's headquarters in San Antonio, Texas, upon prior arrangement. Payment must be received at the System's headquarters by the due date in order not to be considered past due or late. In the event payment is not received by the due date, the System shall be authorized to take any and all actions set forth under the City's Code of Ordinances and/or the System's rules for a customer who fails to timely pay for service.

Article IV.

Term

4.01 Expiration of Term. This Restated Agreement shall remain in effect for an initial term of twenty five (25) years after its effective date, unless sooner terminated by mutual agreement of the Parties or otherwise according to the terms hereof. Upon the expiration of the initial term, this Restated Agreement shall automatically renew for two additional twenty five year terms, unless the Developer provides written notice to the System prior to the expiration of either such term that the Developer desires for this Restated Agreement to terminate upon the expiration of the term, in which event this Restated Agreement shall terminate upon the expiration of such term.

4.02 Effect of Expiration or Termination.

(a) Upon the expiration or termination of this Restated Agreement, the System and Developer shall negotiate in good faith the terms and conditions of a new agreement pursuant to which the System shall make available to the golf courses and golf learning center a supply of irrigation water; but in any event, the Developer, its successors or assigns, shall continue to own any rights it or they may have in the Trinity Well Facilities, and the Offsite Irrigation Facilities, including any water rights related thereto.

(b) The following terms of this Restated Agreement shall survive the termination of this Agreement:

(i) The right of first refusal granted to the System with respect to the Offsite Irrigation Facilities set forth in Section 3.02(b);

(ii) The restrictions applicable to operation of the Trinity Well Facilities set forth in Section 2.02;

(iii) The restrictions regarding authorized sources of irrigation water for the golf course(s) and golf learning center set forth in Section 3.01(c);

(iv) The applicability of the Drought Restriction Rules as set forth in Section 3.04 of this Agreement; and

(v) The right of Developer, its successors and/or assigns, to use the Trinity Well Facilities, the Golf Course Irrigation System, the Edwards Aquifer groundwater production wells and related facilities that are described in Section 3.01 (c), and the Offsite Irrigation Facilities to produce and provide irrigation water for irrigation of the golf course(s) and the golf learning center located on the Property.

Developer specifically agrees that the System may record this Restated Agreement in the Real Property Records of Bexar County, Texas and that upon such recordation, the foregoing terms shall run with the Property; shall be binding upon Developers and all parties having any right, title or interest in or to the golf course(s) and golf learning center, the Offsite Irrigation Facilities, and/or the Trinity Well Facilities; their respective heirs, successor and assigns; and shall inure to the benefit of, and be enforceable by, the System. Each contract or deed conveying the golf course(s) and golf learning center, the Offsite Irrigation Facilities, and the Trinity Well Facilities shall conclusively be held to have been executed, delivered and accepted subject to these terms.

Article V.
Remedies

5.01 Remedies. Should a Default occur (as defined in Section 5.02), after providing notice and an opportunity to cure in accordance with Section 5.02 below, the Parties shall each have the right to terminate this Restated Agreement or to enforce this Restated Agreement by specific performance, injunction, or any other remedy at law or in equity, in a court of competent jurisdiction including but not limited to an action for damages.

5.02 Notice and Opportunity to Cure. If either Party (referred to herein as the "Defaulting Party") fails to comply with its obligations under this Restated Agreement or is otherwise in breach or default under this Restated Agreement (collectively, a "Default"), then the other Party (referred to herein as the "Non-Defaulting Party") may not invoke any rights or remedies with respect to the Default until and unless: (i) the Non-Defaulting Party delivers to the Defaulting Party a written notice (the "Default Notice") which specifies all of the particulars of the Default and specifies the actions necessary to cure the Default; and (ii) the Defaulting Party fails to cure, within ten (10) days after the Defaulting Party's receipt of the Default Notice, any matters specified in the Default Notice which may be cured solely by the payment of money or the Defaulting Party fails to commence the cure of any matters specified in the Default Notice which cannot be cured solely by the payment of money within a reasonable period of time after the Defaulting Party's receipt of the Default Notice or fails to thereafter pursue curative action with reasonable diligence to completion.

5.03 Notice of Default to Developer. Should Developer assign this Restated Agreement as permitted by Section 6.03, then in that event the System agrees to deliver to Developer, contemporaneously with the delivery to any Defaulting Party, any Default Notice and any second notice delivered to an assignee or Defaulting Party. Developer shall have the same right, but not the obligation, at its sole option and election to cure any Default for which notice is given pursuant to the requirements of this Article. The System shall accept the performance by Developer of actions that timely remedy a Default as curing any such default.

5.04 Waiver of Special and Consequential Damages. Notwithstanding any provision herein to the contrary, Developer waives all present and future claims for special

and consequential damages against the System arising from or related to this Restated Agreement. Such waiver shall survive any termination or expiration of this Restated Agreement.

Article VI.
Miscellaneous Provisions

6.01 Estoppel Certificates. Within thirty (30) days of written request by either Party, the other Party will execute and deliver to the requesting Party a statement certifying that: (a) this Restated Agreement is unmodified and in full force and effect or, if there have been modifications, that this Restated Agreement is in full force and effect as modified and stating the date and nature of each modification; (b) there are no known current uncured defaults under this Restated Agreement, or specifying the date and nature of each default; and (c) any other information that may be reasonably requested. A Party's failure to deliver a requested certification within this 30-day period will conclusively be deemed to constitute a confirmation that this Restated Agreement is in full force without modification, and that there are no known uncured defaults on the part of the requesting Party. The President/Chief Executive Officer, or General Counsel, of the System, or their respective successors, shall be authorized to execute any requested certificate on behalf of the System.

6.02 Force Majeure. In the event that any Party is rendered unable, wholly or in part, to perform any of its obligations under this Restated Agreement by force majeure, upon the provision of written notice which fully relates the particulars of the claimed force majeure, including but not limited to the dates on which it commenced and ceased or is expected to cease by the Party claiming force majeure to the other as soon as is reasonably practicable after the occurrence of the cause relied upon, the obligations of the Party claiming force majeure, to the extent they are affected by the force majeure, shall be suspended during the continuance of any inability of performance so caused. This Restated Agreement shall not be terminated by reason of any such cause but shall remain in full force and effect. Any Party rendered unable to fulfill any of its obligations under this Restated Agreement by reason of force majeure shall exercise the reasonable and timely diligence to remove such inability. The suspension of obligations of a Party to this Restated Agreement pursuant to this Section shall be added to the time specified in other provisions of this Restated Agreement for the purpose of calculating the date on which certain conditions of this Restated Agreement are to be satisfied. For purpose of this Restated Agreement, "force majeure" includes, but is not limited to, acts of God, strikes, lockouts, acts of the public enemy, orders of any kind of the government of the United States or of the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or dams that result in partial or entire failure of water supply, insofar as each of the foregoing or such other circumstances are beyond the reasonable control of the Party in question.

6.03 Assignment. Upon prior written notice to the System, Developer may assign this Restated Agreement, in whole or in part without the prior written consent of the System, to any subsequent owner of the golf course(s) and learning center located within the Property. Anything to the contrary contained in the prior sentence notwithstanding, the Developer may not assign its rights or obligations hereunder, in whole or in part, to a public or private water utility without the prior written consent of the System. Upon assignment, the Developer shall be released from all further obligations hereunder, and the System shall be released of all further obligations to the Developer. Any assignment by Developer or its successors will be effective only after written notice to the System of the assignment and provided that the assignee agrees to assume and perform, and be subject to, all duties, restrictions and obligations of the Developer herein, including without limitation, those restrictions relating to the operation of the Offsite Irrigation Facilities, the Trinity Well Facilities and authorized uses of the water produced therefrom. The System may require any assignee to execute an instrument evidencing its assumption of all terms, conditions, restrictions, and obligations of this Restated Agreement, and failure to execute any such instrument shall render the purported transfer and assignment null and void for all purposes. Subject to the limitations contained herein, this Restated Agreement shall bind and inure to the benefit of the successors and assigns of the Parties. In addition to the foregoing, Developer, its successors and assigns shall have the right to assign its rights under this Agreement, upon written notice but without the consent of the System, to any lender providing financing to the Developer, as security for any obligation of Developer, its successors and/or assigns. Upon foreclosure of any such security interest or deed of trust, such lender shall be subject to all duties, restrictions and obligations of the Developer herein.

6.04 Notices. All written notices required by the terms of this Restated Agreement shall be in writing and deposited in the United States mail addressed to such Party at the address set forth below:

If to the Developer:

Forestar (USA) Real Estate Group Inc.
14755 Preston Road, Suite 710
Dallas, Texas 75254
Attention: President

And copy to:
Forestar (USA) Real Estate Group Inc.
1300 S. Mopac Expressway
Austin, Texas 78746
Attention: General Counsel

If to the System:

San Antonio Water System
President/Chief Executive Officer
P.O. Box 2449
San Antonio, Texas 78298-2449

Each Party's address may be changed by such Party by notice in writing to the other Parties hereto.

6.05 Interpretation of Agreement. This Restated Agreement or any portion hereof shall not be interpreted by a court of law to the detriment of a Party based solely upon that Party's authorship of the Agreement or any portion hereof. The use of the word "including" shall not be interpreted to mean a limitation of the terms following such word.

6.06 Severability. If for any reason, any one or more paragraphs of this Restated Agreement are held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining paragraphs of the Restated Agreement as a whole. Moreover, in the event of any such judgment, the Parties agree to use their best efforts to revise this Restated Agreement as necessary to accomplish the original purposes and intent of the invalidated provision.

6.07 Entire Agreement. This Restated Agreement constitutes the entire agreement between the Parties hereto and supersedes all prior agreements, understandings and arrangements, oral or written, between the Parties with respect to the subject matter hereof.

6.08 Cooperation. Each Party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Restated Agreement.

6.09 Governing Law. This Restated Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas. The sole venue for any disputes arising out of this Restated Agreement shall be a court of competent jurisdiction in Bexar County, Texas.

6.10 Execution in Counterparts. This Restated Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to one and the same instrument.

6.11 Amendments and Waivers. This Restated Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. The waiver by any party hereto of a breach of any term or provision of this Restated Agreement shall not be construed as a waiver of any subsequent breach.

6.12 Authority to Execute. The signatory below for the Developer has the authority to execute this Restated Agreement on behalf of the Developer. The System has the authority to enter into this Restated Agreement pursuant to a duly adopted resolution of its Board of Trustees and its President/Chief Executive Officer has the authority to execute this Restated Agreement.

ACCEPTED AND AGREED to in all things by the Parties.

Forestar (USA) Real Estate Group Inc.

By: _____ Date: _____
Name: _____
Title: _____

SAN ANTONIO WATER SYSTEM

By: _____ Date: _____
Name: _____
Title: President/Chief Executive Officer

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on _____, 2006, by _____, in his position as _____ of Forestar (USA) Real Estate Group Inc., a Delaware corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on _____, 2006, by _____, in his position as President/Chief Executive Officer of the SAN ANTONIO WATER SYSTEM, a Texas municipal water utility, on behalf of said utility.

_____
Notary Public, State of Texas

Exhibit A
Description of Property

TRACT ONE

A 1392.7 acre, or 60,666,506 square feet, more or less, tract of land being comprised of Evans – North Loop Subdivision recorded in Volume 9544, Page 33 of the Deed and Plat Records of Bexar County, Texas, and that 1394.189 acre tract recorded in Volume 5792, Pages 1701-1709 of the Official Public Records of Real Property of Bexar County, Texas. Said tract being out of the E. Martin Survey No. 89, Abstract 524, County Block 4909, the Rompel Koch & Voges Survey No. 1, Abstract 1020, County Block 4901, the W.M. Brisbin Survey No.89½, Abstract 54, County Block 4900, the El Paso Irr. Co. Survey No. 92.1, Abstract 845, County Block 4910 and the Adolphus Harnden Survey No. 478 1/3, Abstract 350, County Block 4911 of Bexar County Texas. Said 1392.7 acre tract being more fully described as follows:

BEGINNING: At a found ½" iron rod with a yellow cap marked "Pape-Dawson" in the north right-of-way line of Evans Road, a 110-foot right-of-way, said iron rod also being the southeast corner of Fossil Ridge Subdivision, Unit 1, recorded in Volume 9548, Pages 197-204 of the Deed and Plat Records of Bexar County, Texas, out of a 403.9458 acre tract described in instrument recorded in Volume 5257, Pages 1293-1301 of the Official Public Records of Real Property of Bexar County, Texas, a corner of the aforementioned 1394.189 acre tract;

THENCE: N 23°23'37"W, bearings being based of the North American Datum of 1983, from State Plane Coordinates established for the Texas South Central Zone, departing the north right-of-way line of Evans Road, along and with the east line of Fossil Ridge Subdivision, a distance of 1203.02 feet to a found ½" iron rod at an angle point, (N 24°59'47"W, 1274.56' by deed, the distance of 1274.56 feet being comprised of this call for 1203.02 feet, and the remainder being the distance to the old right-of-way line of Evans Road which is described in a Evans Road right-of-way map dated April of 1987);

THENCE: N 23°30'17"W, along and with the east line of Fossil Ridge Subdivision, a distance of 450.07 feet to a found ½" iron rod set in concrete at an angle point;

THENCE: N 23°32'11"W, along and with the east line of Fossil Ridge Subdivision, a distance of 709.21 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point, said iron rod also being the southwest corner of a 229.000 acre save and except tract described in instrument recorded in Volume 5792, Pages 1701-1709 of the Official Public Records of Real Property of Bexar County, Texas, said 229.00 acre save and except tract being out of a 1623.189 acre tract recorded in Volume 3041, Pages 979-983 of the Official Public Records of Real Property of Bexar County, Texas, (N 25°07'30"W by deed);

THENCE: N 73°12'18"E, departing said east line of Fossil Ridge Subdivision, a distance of 2007.69 feet to a point;

THENCE: N 01°22'40"W, a distance of 376.50 feet to a point;

THENCE: N 13°37'20"E, a distance of 825.00 feet to a point;

THENCE: N 23°30'23"W, a distance of 400.85 feet to a point;

THENCE: Along the arc of a curve to the left, said curve having a radial bearing of N65°11'27" W, a radius of 760.00 feet, a central angle of 48°18'57", a chord bearing and distance of N 00°39'05" E, 622.06 feet, and an arc length of 640.89 feet to a point;

THENCE: Along the arc of a curve to the right, said curve having a radial bearing of N58°53'08" E, a radius of 1000.00 feet, a central angle of 55°55'25", a chord bearing and distance of N 03°09'09" W, 937.77 feet, and an arc length of 976.05 feet to a point;

THENCE: N 31°06'52"W, a distance of 110.00 feet to a point;

THENCE: S 58°53'08"W, a distance of 486.65 feet to a point;

THENCE: Along the arc of a curve to the left, said curve having a radial bearing of S23°53'08" W, a radius of 1000.00 feet, a central angle of 55°00'00", a chord bearing and distance of S 86°23'08" W, 923.50 feet, and an arc length of 959.93 feet to a point;

THENCE: N 66°06'52"W, a distance of 1650.00 feet to a point;

THENCE: Along the arc of a curve to the right, said curve having a radial bearing of N06°06'52" W, a radius of 1400.00 feet, a central angle of 30°00'00", a chord bearing and distance of N 81°06'52" W, 724.69 feet, an arc length of 733.04 feet to a point;

THENCE: S 83°53'08"W, a distance of 126.94 feet to a point;

THENCE: S 23°30'23"E, a distance of 603.61 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at an interior corner of the said 1394.189 acre tract being the northeast corner of the aforementioned 403.9458 acre Fossil Ridge Subdivision parent tract;

THENCE: S 89°24'59"W, along and with the north line of the 403.9458 acre tract, a distance of 1581.35 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point, (S 87°49'00"W, 7167.93' by deed, the distance of 7167.93 feet being comprised of this call for 1581.35 feet, the next call for 1373.99 feet, 4091.02 feet along the north line of the aforementioned 194.2434 acre tract and a distance of 21.92 feet to the old right-of-way line of Bulverde Road which is described in a Bulverde Road right-of-way map dated November of 1985);

THENCE: S 89°24'59"W, along and with the north line of the 403.9458 acre tract, a distance of 1373.99 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at the northwest corner of the 403.9458 acre tract and the northeast corner of the aforementioned 194.2434 acre tract;

THENCE: S 89°24'59"W, along and with the south line of the 1394.189 acre tract and the north line of the 194.2434 acre tract, a distance of 4090.16 feet to a found ½" iron rod with yellow cap marked "Pape-Dawson" in the east right-of-way line of Bulverde Road and at the northwest corner of the said 194.2434;

THENCE: Along and with the east right-of-way line of Bulverde Road the following bearings and distances;

N 10°32'43" W, a distance of 2.67 feet to a point;

Northeasterly with a curve to the right, said curve having a radius of 999.00 feet, a central angle of 22°37'38", a chord bearing and distance of N 00°46'06"E, 391.97 feet and an arc length of 394.52 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of tangency;

N 12°04'55"E, a distance of 214.65 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of curvature;

Northeasterly, with a curve to the right, said curve having a radius of 1102.00 feet, a central angle of 30°40'02", a chord bearing and distance of N 27°24'56" E, 582.82 feet, and an arc length of 589.84 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of tangency;

N 42°44'57"E, a distance of 274.54 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at the southwest corner of a 135.532 acre tract described in instrument recorded in Volume 5350, Page 2076-2081 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: N 89°25'08"E, departing the east right-of-way line of Bulverde road, along and with the south line of the 135.532 acre tract, a distance of 5968.30 feet to a found ½" iron rod at the southeast corner of the said 135.532 acre tract;

THENCE: N 23°29'40"W, a distance of 1190.36 feet, (N 25°05'12"W, 3406.40' by deed, the combined deed distance of 3406.40 feet in this call and that of the deed distance of 1064.15 feet quoted in the next call, being comprised of this call of 1190.36 feet, and next two calls of 2783.83 feet, and 494.80 feet), to a found ½" iron rod at the northeast corner of the 135.532 acre tract and the southeast corner of a 1350.297 acre tract recorded in Volume 4859, Pages 292-312 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: N 23°29'40"W, along and with the east line of the 1350.297 acre tract, a distance of 2783.83 feet, (N 25°18'04"W, 1064.15' by deed) to a found ½" iron rod marked MBC at an angle point;

THENCE: N 23°54'32"W, along and with the east line of the 1350.297 acre tract, a distance of 494.80 feet to a found ½" iron rod at the northwest corner of this tract;

THENCE: N 55°13'56"E, along and with the south line of the 1350.297 acre tract, a distance of 346.08 feet to a found ½" iron rod at an angle point;

THENCE: N 55°17'34"E, along and with the south line of the 1350.297 acre tract, a distance of 381.68 feet to a found ½" iron rod at an angle point;

THENCE: N 54°44'11"E, along and with the south line of the 1350.297 acre tract, a distance of 894.23 feet to a found ½" iron rod at an angle point, (N 53°31'36"E, 2026.43' by deed);

THENCE: N 55°46'21"E, along and with the south line of the 1350.297 acre tract, a distance of 403.85 feet to a found iron rod in the northwest corner of a 785.4 acre tract out of a 927.064 acre tract recorded in Volume 5362, Pages 756-764 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: S 54°16'26"E, departing the south line of the 1350.297 acre tract, along and with the west line of the 785.4 acre tract, a distance of 3325.13 feet to a found iron rod at an angle point, (S 55°52'24"E, 3325.13' by deed);

THENCE: S 54°11'40"E, along and with the west line of the 785.4 acre tract, a distance of 5267.86 feet to a fence post at an angle point,(S 55°47'33"E, 5277.27' by deed);

THENCE: S 50°09'55"E, along and with the west line of the 785.4 acre tract, a distance of 253.64 feet to a found iron rod in the northeast corner of a 51.788 acre tract described in instrument recorded in Volume 7002, Pages 658-662 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: S 03°57'49"E, departing the west line of the 785.4 acre tract, along and with the west line of the 51.788 acre tract, passing at 1048.25 feet a fence post at the southwest corner of the 51.788 acre tract and the northwest corner of a 30.04 acre tract described in instrument recorded in Volume 5362, Pages 1539-1542 of the Official Public Records of Real Property of Bexar County, Texas and continuing along and with the west line of the 30.04 acre tract a total distance of 1479.02 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point, (S 05°30'33"E, 1478.86' by deed);

THENCE: S 08°30'05"E, along and with the west line of the 30.04 acre tract, a distance of 382.99 feet to a found ½" iron rod at an angle point (S 09°56'00"E, 382.42' by deed);

THENCE: S 01°31'55"W, along and with the west line of the 30.04 acre tract, passing at 396.50 feet a fence post at the southwest corner of the said 30.04 acre tract and the northwest corner of a 24.95 acre tract described in instrument recorded in Volume 4884, Pages 1495-1498 of the Official Public Records of Real Property of Bexar County, Texas, and continuing along and with the west line of the 24.95 acre tract a total distance of 1192.66 feet to a found 5/8" iron rod at the southwest corner of the 24.95 acre tract and the northwest corner of a 185.610 acre tract of land described in instrument recorded in Volume 4525, Pages 164-167 of the Deed Records of Bexar County, Texas, (S 00°10'35"E, 1193.13' by deed);

THENCE: S 16°01'29"W, along and with the west line of the 185.610 acre tract, a distance of 5051.21 feet, (S 14°18'24"W, 2685.40' and S 14°33'47"W, 2366.39' by deed); to a found ½" iron rod in the north right-of-way line of Evans Road, a 110 foot right-of-way;

THENCE: N 77°10'31"W, along and with the north right-of-way line of Evans Road, passing at 1600.26 feet the southwest corner of Evans – North Loop Subdivision recorded in Volume 9544, Page 33 of the Deed and Plat Records of Bexar County, Texas, and continuing for a total distance of 2134.38 feet to a found ½" iron rod at a point of curvature;

THENCE: Northwesterly, along the arc of a curve to the right, said curve having a radius of 2578.39 feet, a central angle of 8°52'15", a chord bearing and distance of N 72°44'24" W, 398.80 feet, and an arc length of 399.20 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of tangency;

THENCE: N 68°18'16"W, a distance of 213.96 feet to the POINT OF BEGINNING and containing 1392.7 acres of land, in Bexar County, Texas. Said tract being described in accordance with a survey prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: October 22, 2002
JOB No.: 3538-24
DOC.ID.: H:\3538\24\WORK\FN\021018-A4-1394.doc

TRACT TWO

A 229.0 acre, or 9,973,288 square feet, more or less, tract of land being comprised of that 229.00 acre save and except tract described in instrument recorded in Volume 5792, Pages 1701-1709 of the Official Public Records of Real Property of Bexar County, Texas, said 229.00 acre save and except tract being out of a 1623.189 acre tract recorded in Volume 3041, Pages 979-983 of the Official Public Records of Real Property of Bexar County, Texas. Said tract being out of the E. Martin Survey No. 89, Abstract 524, County Block 4909, the El Paso Irr. Co. Survey No. 92.1, Abstract 845, County Block 4910 and the Adolphus Harnden Survey No. 478 1/3, Abstract 350, County Block 4911 of Bexar County Texas. Said 229.0 acre tract being more fully described as follows;

COMMENCING: At a found ½" iron rod with a yellow cap marked "Pape-Dawson" in the north right-of-way line of Evans Road, a 110-foot right-of-way, said iron rod also being the southeast corner of Fossil Ridge Subdivision, Unit 1, recorded in Volume 9548, Pages 197-204 of the Deed and Plat Records of Bexar County, Texas, out of a 403.9458 acre tract described in instrument recorded in Volume 5257, Pages 1293-1301 of the Official Public Records of Real Property of Bexar County, Texas, and a corner of a 1,394.189 acre tract described in instrument recorded in Volume 5792, Pages 1701-1709 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: N 23°23'37" W, bearings being based of the North American Datum of 1983, from State Plane Coordinates established for the Texas South Central Zone, departing the north right-of-way line of Evans Road, along and with the east line of Fossil Ridge Subdivision, a distance of 1,203.02 feet to a found ½" iron rod at an angle point, (N 24°59'47" W, 1,274.56' by deed, the distance of 1,274.56 feet being comprised of this call for 1,203.02 feet, and the remainder being the distance to the old right-of-way line of Evans Road which is described in a Evans Road right-of-way map dated April of 1987);

THENCE: N 23°30'17" W, along and with the east line of Fossil Ridge Subdivision, a distance of 450.07 feet to a found ½" iron rod set in concrete at an angle point;

THENCE: N 23°32'11" W, along and with the east line of Fossil Ridge Subdivision, a distance of 709.21 feet to the POINT OF BEGINNING at a found ½" iron rod with a yellow cap marked "Pape-Dawson", being the southwest corner of the 229.0 acre tract herein described;

THENCE: N 23°31'11" W, along and with the east line of Fossil Ridge Subdivision, passing at 104.93 feet a found ½" iron rod with a yellow cap marked "Pape-Dawson" at the northeast corner of Lot 17, Block 4 of Fossil Ridge Subdivision, and continuing for a total distance of 1,289.32 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at the northeast corner of said Fossil Ridge Subdivision;

THENCE: N23°31'11" W, along and with the east line of the aforementioned 403.9458 acre Fossil Ridge Subdivision parent tract, a distance of 2,726.01 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at an interior corner of the said 1,394.189 acre tract;

THENCE: N 23°30'23" W, a distance of 603.61 feet to a point;

THENCE: N 83°53'08" E, a distance of 126.94 feet to a point;

THENCE: Along the arc of a curve to the right, said curve having a radial bearing of S 06°06'52" E, a radius of 1,400.00 feet, a central angle of 30°00'00", a chord bearing and distance of S 81°06'52" E, 724.69 feet, an arc length of 733.04 feet to a point;

THENCE: S 66°06'52" E, a distance of 1,650.00 feet to a point;

THENCE: Along the arc of a curve to the left, said curve having a radial bearing of N 23°53'08" E, a radius of 1,000.00 feet, a central angle of 55°00'00", a chord bearing and distance of N 86°23'08" E, 923.50 feet, and an arc length of 959.93 feet to a point;

THENCE: N 58°53'08" E, a distance of 486.65 feet to a point;

THENCE: S 31°06'52" E, a distance of 110.00 feet to a point;

THENCE: Along the arc of a curve to the right, said curve having a radial bearing of S 58°53'08" W, a radius of 1,000.00 feet, a central angle of 55°55'25", a chord bearing and distance of S 03°09'09" E, 937.77 feet, and an arc length of 976.05 feet to a point;

THENCE: Along the arc of a curve to the left, said curve having a radial bearing of S 5°11'27" E, a radius of 760.00 feet, a central angle of 48°18'57", a chord bearing and distance of S00°39'05" W, 622.06 feet, and an arc length of 640.89 feet to a point;

THENCE: S 23°30'23" E, a distance of 400.85 feet to a point;

THENCE: S 13°37'20" W, a distance of 825.00 feet to a point;

THENCE: S 01°22'40" E, a distance of 376.50 feet to a point;

THENCE: S 73°12'18" W, a distance of 2,007.69 feet to the POINT OF BEGINNING and containing 229.0 acres of land in Bexar County, Texas. Said tract being described in accordance with a survey prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: October 22, 2002
JOB No.: 3538-24
DOC.ID.: 3538\24\Word\FN\021018-A3-229

TRACT THREE

A 187.20 acre, or 8,154,390 square feet, more or less, tract of land out of that 194.2434 acre tract recorded in Volume 3812, Pages 1580-1584 of the Official Public Records of Real Property of Bexar County, Texas, being out of the W.M. Brisbin Survey No.89½, Abstract 54, County Block 4900 in Bexar County, Texas. Said 187.20 acre tract being more fully described as follows:

BEGINNING: At a found ½" iron rod with a yellow cap marked "Pape-Dawson" in the east right-of-way line of Bulverde Road, an 86-foot right-of-way, being at a northwest corner of Fossil Creek Subdivision, Unit 1, recorded in Volume 9541, Pages 177-178 of the Deed and Plat Records of Bexar County, Texas, and the southernmost corner of the herein described tract;

THENCE: Northwesterly, along and with the east right-of-way line of Bulverde Road with a curve to the left, having a radial bearing of S 67°45'32" W, a radius of 1,313.00 feet, a central angle of 22°59'41", a chord bearing and distance of N 33°44'18" W, 523.42 feet and an arc length of 526.95 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at the south corner of a 1.511 acre tract known as Parcel 12E, formerly being a portion of the right-of-way of Old Bulverde Road and deeded to Evans Road North Loop Venture in an unrecorded deed executed by County Judge Tom Vickers in July of 1988;

THENCE: Departing the east right-of-way line of Bulverde Road, along and with the boundary of the 1.511-acre tract the following bearings and distances;

N 04°41'26" W, a distance of 198.12 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 21°13'51" W, a distance of 59.48 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 44°11'00" W, a distance of 83.79 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 63°24'38" W, a distance of 432.95 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 70°15'43" W, a distance of 71.04 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 79°40'49" W, a distance of 370.52 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" on the east right-of-way line of Bulverde Road;

THENCE: Departing the boundary of the 1.511-acre tract, along and with the east right-of-way line of Bulverde Road the following bearings and distances;

N 58°46'37" W, a distance of 310.51 feet, to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of curvature;

Northeasterly with a curve to the right, said curve having a radius of 1002.00 feet, a central angle of 34°57'20', a chord bearing and distance of N 41°17'57" W, 601.87 feet and an arc length of 611.31 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of tangency;

N 23°49'18" W, a distance of 788.47 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of curvature;

Northwesterly with a curve to the left, said curve having a radius of 1,475.00 feet, a central angle of 14°53'03", a chord bearing and distance of N 31°15'49" W, 382.10 feet and an arc length of

383.17 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at the south corner of a 0.034 acre tract known as Parcel 12G, formerly being a portion of the right-of-way of Old Bulverde Road and deeded to Evans Road North Loop Venture in an unrecorded deed executed by County Judge Tom Vickers in July of 1988;

THENCE: Departing the east right-of-way line of Bulverde Road, along and with the boundary of the 0.034-acre tract the following bearings and distances;

N 30°24'18" W, a distance of 110.18 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 64°10'27" W, a distance of 52.20 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" on the east right-of-way line of Bulverde Road;

THENCE: Departing the boundary of the 0.034-acre tract, along and with the east right-of-way line of Bulverde Road the following bearings and distances;

N 41°59'45" W, a distance of 123.38 feet to a found ½" iron rod at a point of curvature;

Northeasterly with a curve to the right, said curve having a radius of 999.00 feet, a central angle of 31°27'02", a chord bearing and distance of N 26°16'14" W, 541.51 feet and an arc length of 548.37 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at a point of tangency;

N 10°32'43" W, a distance of 219.57 feet to a found ½" iron rod at the northwest corner of the aforementioned 194.2434 acre tract, the west corner of a 1394.189 acre tract recorded in Volume 5792, Pages 1701-1709 of the Official Public Records of Real Property of Bexar County, Texas and at an angle point;

THENCE: N 89°24'59" E, departing the east right-of-way line of Bulverde road, along and with the south line of the 1,394.189 acre tract, a distance of 4,090.16 feet to a found ½" iron rod with yellow cap marked "Pape-Dawson" at the northwest corner of a 403.9458 acre tract described in instrument recorded in Volume 5257, Pages 1293-1301 of the Official Public Records of Real Property of Bexar County, Texas and the northeast corner of the aforementioned 194.2434 acre tract;

THENCE: S 19°21'43" W, along and with the west line of the 403.9458 acre tract, a distance of 1,027.05 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point, (S17°48'10" W, 1,026.69 feet by deed);

THENCE: S 89°26'18" W, along and with the 403.9458 acre tract, a distance of 480.00 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

THENCE: S 00°19'34" E, along and with the 403.9458 acre tract, passing at 1,437.69 feet a found 60 penny nail at the northwest corner of Fossil Creek Subdivision, Unit 1, and continuing for a total distance of 2,422.64 feet to a found ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point, (S 01°56'52" E, 2,422.66 feet by deed);

THENCE: S 60°02'12" W, along and with Fossil Creek Subdivision, Unit 1, a distance of 500.02 feet to the POINT OF BEGINNING and containing 187.20 acres of land, in Bexar County, Texas. Said tract being described in accordance with a survey prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: October 18, 2002
JOB No.: 3538-24
DOC.ID.: 3538\24\Word\FN\021018-a1-194

TRACT FOUR

A 785.4 acre, or 34,210,000 square feet, tract of land being the remainder of that 927.064 acre tract described in deed from Henry Van de Walle et al to Dan F. Parman in Volume 3089, Page 1393-1399 of the Official Public Records of Real Property of Bexar County, Texas, and conveyed to Peter Wolverton in Volume 5382, Page 756-764 of the Official Public Records of Real Property of Bexar County, Texas out of the E. Martin Survey 89, Abstract 524, County Block 4909, the E. Gonzales Survey 441, Abstract 288, County Block 4902, the Salvador Flores Survey No. 440, Abstract 243, County Block 4907, the Jil Jimenez Survey 358, Abstract 821(Bexar) 682(Comal), County Block 4905, the W. H. Hughes Survey No. 478, Abstract 345(Bexar) 364(Comal), County Block 4906, and the F. Valdez Survey No. 478½, Abstract 787, County Block 4908, in Bexar and Comal Counties, Texas. Said 785.4 acres being more particularly described as follows:

BEGINNING: at a set ½" iron rod with yellow cap marked "Pape-Dawson" at the southernmost corner of this tract, on the south line of said 927.064 acre tract, at the southwest corner of a 99.900 acre tract out of said 927.064 acre tract, the southwest corner of said 99.900 acre tract and said 927.064 acre tract being S 64°40'20" E, a distance of 780.00 feet to a found ½" iron rod, S 65°48'16" E, a distance of 1696.16 feet to a found ½" iron rod;

THENCE: Along and with the south line of said 927.064 acre tract the following calls and distances:

N 65°40'20"W, at 29.25 feet passing the northeast corner of a 51.788 acre tract conveyed to John B. Webb in Volume 7002, Page 658-682 of the Official Public Records of Real Property of Bexar County, Texas, and continuing with the south line of said 927.064 acre tract for a total distance of 1636.13 feet to a found ½" iron rod;

N 49°15'20"W, a distance of 1274.99 feet to a found ½" iron rod at the northwest corner of said 51.788 acre tract, the northeast corner of a 1394.189 acre tract conveyed to Lumbermans Investment Corporation in Volume 5792, Page 1701-1709 of the Official Public Records of Real Property of Bexar County, Texas, by deed N 50°51'38" W, 1276.71 feet;

N 50°09'55"W, a distance of 253.64 feet to a found ½" iron rod, by deed N 51°46'13"W, 246.49 feet;

N 54°11'40"W, a distance of 5267.86 feet to a found ½" iron rod in a 30" Live Oak, by deed N 55°47'33" W, 5276.83 feet;

N 54°16'26"W, a distance of 3325.13 feet to a found ½" iron rod at the southwest corner of the said 927.064 acres, the northwest corner of said 1394.189 acre tract, on the southeast line of a 1350.297 acre tract conveyed to the Poerner Family Partnership in Volume 4869, Page 292-312 of the Official Public Records of Real Property of Bexar County, Texas, by deed N 55°52'19" W, 3325.35 feet;

THENCE: N 54°59'55"E, a distance of 2448.93 feet to a found ½" iron rod at the northwest corner of said 927.064 acre tract, by deed N 53°24'02" E, 2449.06 feet;

THENCE: Continuing with the north line of said 927.064 acre tract the following calls and distances:

S 41°19'21"E, a distance of 1536.97 feet to a found ½" iron rod, by deed S 42°55'36" E, 1536.87 feet;

N 79°13'24"E, a distance of 849.81 feet to a found ½" iron rod, by deed N 77°37'30" E, 849.79 feet;

S 80°58'59"E, a distance of 1577.28 feet to a found ½" iron rod in 18" Cedar, by deed S 82°36'03" E, 1577.43 feet;

S 19°36'38"E, a distance of 238.56 feet to a found ½" iron rod in 17" Cedar, by deed S 21°16'00" E, 238.76 feet;

S 31°12'31"E, a distance of 408.74 feet to a found ½" iron rod in 20" Cedar, by deed S 32°46'48" E, 408.62 feet;

THENCE: S 38°28'19"E, a distance of 513.61 feet to a found ½" iron rod at the north corner of a 7.312 acre tract conveyed to John L. and Mary H. McClung in Volume 6934, Page 826-829 of the Official Public Records of Real Property of Bexar County, Texas, the north corner of that 40.955 acre tract out of said 927.064 acre tract conveyed to John O. Spice in Volume 6932, Page 279-286 of the Official Public Records of Real Property of Bexar County, Texas;

THENCE: Along and with the south line of said 40.955 acre tract the following calls and distances:

S 76°31'41"W, a distance of 408.43 feet to a set ½" iron rod with cap marked "Pape-Dawson", by deed S74°57'31" W, 408.99 feet;

S 09°28'05"E, a distance of 244.99 feet to a found ½" iron rod, by deed S 11°10'57"E, 245.63 feet;

S 44°28'05"E, a distance of 310.27 feet to a found ½" iron rod, by deed S 46°10'57" E, a distance of 310.00 feet;

S 59°36'52"E, a distance of 289.82 feet to a found ½" iron rod, by deed S 61°10'57" E, 290.07 feet;

S 88°19'58"E, a distance of 1558.63 feet to a found ½" iron rod, by deed East 1558.42 feet;

S 66°02'47"E, a distance of 318.27 feet to a found ½" iron rod, by deed S 67°40'05" E, 318.43 feet;

S 88°18'36"E, a distance of 895.37 feet to a found ½" iron rod, by deed East, 894.76 feet;

N 74°47'26"E, a distance of 418.72 feet to a found ½" iron rod, bent, by deed N 73°10'20" E, 417.94 feet;

S 88°07'27"E, at 626 feet passing the centerline of the Cibolo Creek and continuing for a total distance of 954.80 feet to a found ½" iron rod at the southeast corner of said 40.955 acre tract, on the east line of said 927.064 acre tract;

THENCE: Along and with the east line of said 927.064 acre tract the following calls and distances:

S 16°12'32"E, a distance of 527.73 feet to a set ½" iron rod with cap marked "Pape-Dawson" in the centerline of said Cibolo Creek, by deed S 17°50'29" E;

THENCE: S 63°21'01"E, a distance of 311.99 feet to a set ½" iron rod with cap marked "Pape-Dawson" on the northeast corner of the said E. Martin Survey, on the south line of the said W. H. Hughes Survey 478, from which a 60" Live Oak bears N 43°E, a distance of 32.6 feet (11 ¾ varas) called a double 20" Live Oak in the deed of 392.0 acres from Dierks to 4D Bar Ranch recorded in Document 98-06026868 of the Official Records of Comal County, by deed S63°15'29"E, 328.78 feet;

THENCE: S 10°13'15"E, along and with the west line of said 392.0 acres, called as southerly line of the Joseph Thompson Survey 758, a distance of 2453.77 feet to a set ½" iron rod with cap marked "Pape-Dawson" in the centerline of the Cibolo Creek, the northeast corner of the aforementioned 99.900 acre tract, by deed S 11°45'29" E;

THENCE: Along and with the north and west line of said 99.900 acre tract the following calls and distances:

S 79°50'41" W, a distance of 1149.13 feet to a set ½" iron rod with cap marked "Pape-Dawson", by deed S78°14'31"W, 1150.73 feet;

S 08°48'58" W, a distance of 1577.45 feet to a set ½" iron rod with cap marked "Pape-Dawson", by deed S 07°12'48" W, 1577.45 feet;

THENCE: S 24°18'58"W, a distance of 249.84 feet, by deed S 22°42'48" W, 250.00 feet, to the POINT OF BEGINNING and containing 785.4 acres in Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc..

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: September 19, 2000
JOB No.: 9988-00
DOC.ID.: N:\SURVEY00\0-10000\9988-00\9988-00.doc

TRACT FIVE

A 2.858 acre, or 124,493 square feet, more or less, tract of land being out of that 194.2434 acre tract recorded in Volume 3812, Pages 1580-1584 of the Official Public Records of Real Property of Bexar County, Texas, and being out of the W. M. Brisbin Survey No.89½, Abstract 54, County Block 4900 of Bexar County Texas. Said 2.858 acre tract being more fully described as follows:

BEGINNING: At a set ½" iron rod with a yellow cap marked "Pape-Dawson" in the west right-of-way line of Bulverde Road, an 86-foot right-of-way, said iron rod located 43.00 feet left of Bulverde Road center line Station 39+03.31, at the most southerly northeast corner of Parcel 12F, a 1.904 acre tract of land being a portion of the old right-of-way of Bulverde Road;

THENCE: Departing the west right-of-way line of Bulverde Road, along and with the east line of Parcel 12F the following bearings and distances;

S 87°28'16"W, a distance of 418.13 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 73°07'57"W, a distance of 151.84 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 30°12'08"W, a distance of 113.80 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 01°05'28"E, a distance of 97.95 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 33°47'18"E, a distance of 229.50 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" on the west right-of-way line of said Bulverde Road;

THENCE: Northeasterly, along and with the west right-of-way line of Bulverde Road, with a curve to the left, said curve having a radial bearing of N 55°47'04" E, a radius of 1088.00 feet, a central angle of 24°33'41", a chord bearing and distance of S 46°29'46" E, 462.84 feet and an arc length of 466.40 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson";

THENCE: S 58°46'37"E, along and with the west right-of-way line of Bulverde Road, a distance of 181.34 feet to the POINT OF BEGINNING and containing 2.858 acres of land in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: July 17, 2001
JOB No.: 3538-17
DOC.ID.: F:\Data\3767 City of San Antonio\007 Cibolo Creek project\Annexation\Complete Documents\Services Agreement 12-06-02 v2.wpd

TRACT SIX

A 0.4893 acre, or 21,313 square feet, more or less tract of land being out of that 194.2434 acre tract recorded in Volume 3812, Pages 1580-1584 of the Official Public Records of Real Property of Bexar County, Texas, and being out of the W.M. Brisbin Survey No.89½, Abstract 54, County Block 4900 of Bexar County Texas. Said 0.4893 acre tract being more fully described as follows:

BEGINNING At a set ½" iron rod with a yellow cap marked "Pape-Dawson" in the west right-of-way line of Bulverde Road, an 86-foot right-of-way, said iron rod located 43.00 feet left of Bulverde Road center line Station 21+68.58 at the southeast corner of this tract;

THENCE: S 60°26'26"W, departing the west right-of-way line of Bulverde Road, a distance of 26.83 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" on the east line of Parcel 12D, a 0.769 acre tract of land being a portion of the old right-of-way of Bulverde Road;

THENCE: Along and with the east line of Parcel 12D, the following bearings and distances;

N 32°32'25"W, a distance of 52.11 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 47°54'19"W, a distance of 128.87 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

N 27°44'21"W, a distance of 98.42 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" at an angle point;

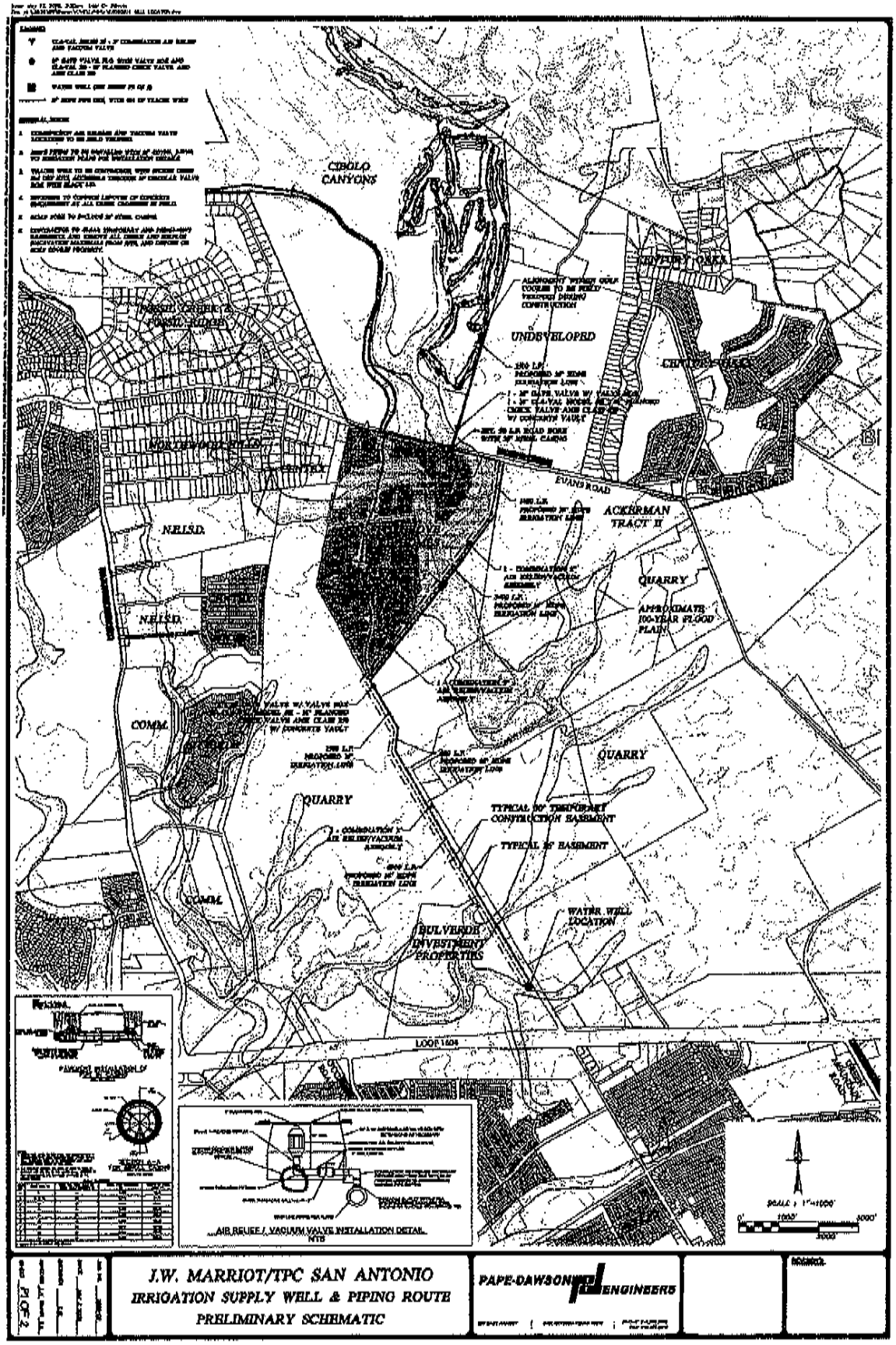
N 04°41'26"W, a distance of 135.59 feet to a set ½" iron rod with a yellow cap marked "Pape-Dawson" in the west right-of-way line of Bulverde Road;

THENCE: Southeasterly, along and with the west right-of-way line of Bulverde Road, along the arc of a curve to the right, said curve having a radial bearing of S49°42'58" W, a radius of 1227.00 feet, a central angle of 18°34'00", a chord bearing and distance of S 31°00'02" E, 395.87 feet, and an arc length of 397.61 feet to the POINT OF BEGINNING and containing 0.4893 acres of land in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc..

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: July 17, 2001
JOB No.: 3538-17
DOC.ID.: F:\Data\3767 City of San Antonio\007 Cibolo Creek project\Annexation\Complete Documents\Services Agreement 12-06-02 v2.wpd

Exhibit B

Description of Offsite EAA Well Facilities Location


CIBOLO CANYONS
UNDEVELOPED
EVANS ROAD
ACKERMAN TRACT II
QUARRY
APPROXIMATE 100-YEAR FLOOD PLAIN
N.E.I.S.D.
COMM.
BULVERDE INVESTMENT PROPERTIES
WATER WELL LOCATION
LOOP 1604
SCALE: 1"=1000'
AIR RELIEF / VACUUM VALVE INSTALLATION DETAIL
J.W. MARRIOT/TPC SAN ANTONIO
IRRIGATION SUPPLY WELL & PIPING ROUTE
PRELIMINARY SCHEMATIC
PAPE-DAWSON ENGINEERS