

*Final*

206  
+ 92  
300

CONSERVATION EASEMENT

STATE OF TEXAS §  
COUNTIES OF HOUSTON §  
AND CHEROKEE §

**Grantor:** Forestar (USA) Real Estate Group Inc., a Delaware corporation, authorized to do business in Texas, with its principal office in Austin, Travis County, Texas.

**Grantee:** Conserve East Texas Inc., whose mailing address is P. O. Box 154540, Lufkin, Texas 75915.

**RECITALS:**

A. Grantor owns the parcel of real property (the "Property") situated in Houston and Cherokee Counties, Texas that is more particularly described by metes and bounds in the attached Exhibit "A", which exhibit is incorporated herein by reference and made a part hereof for all purposes, that Grantor desires to conserve and protect with a conservation easement.

B. Grantee has the right and power to obtain easements and other interests in land necessary for among other purposes, the purpose of, conserving and protecting the waters and the soils in the Neches River Basin and is a "qualified organization" under Section 170 (h) of the Internal Revenue Code of 1986 ("Tax Code").

In consideration of the recitals and Ten Dollars, cash in hand paid, the receipt and sufficiency of which are acknowledged and for which no expressed or implied lien is retained, Grantor grants to Grantee, its successors and its assigns, a conservation easement ("Easement") together with a right of access (subject to the conditions in Section 6.2) to the Easement (the "Access Rights"), to have and to hold in perpetuity for the purposes stated in Article 1 of this Easement and subject to the Reservations and Permitted Exceptions as defined in Article 14 of this Easement. Grantor binds itself and its successors and assigns to warrant and forever defend title to the Easement and Access Rights in Grantee, its successors and assigns against every person lawfully claiming the Easement or any part thereof except as to Reservations and Permitted Exceptions, to the extent that such claim arises by, through or under Grantee, but not otherwise. Any and all implied covenants under Section 5.023 of the Texas Property Code are excluded from this conveyance. Neither this Easement nor the Access Rights grant to the general public rights of ingress and egress upon or across the Property or any right of enforcement.

1. **PURPOSE.** The purpose of this Easement is to ensure that the Property will be retained forever as a "working forest." As used in this Easement, the term "working forest" means a multifunctional forest that is managed, sustained and conserved in perpetuity using sound practices to promote and protect the following values associated with the Property: (a) the existing ecosystem that protects and contributes to clean air, clean water, soil maintenance and habitat for wildlife and fish; (b) the character of the Property as predominately hardwood bottomland and its related recreational and scenic qualities, and (c) the production of timber from the Property using best forestry practices in a manner that protects and enhances the other stated values.

2. **NO INCONSISTENT ACTS.** Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the purpose of this Easement or breaches any provision of this Easement. Unless otherwise specified below, nothing in this Easement shall require Grantor to take any action to restore the condition of the Property after any act of God or other event over which Grantor had no control.

3. **PROHIBITED PROPERTY USES.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the foregoing, the following is a listing of activities and uses which are expressly prohibited.

3.1 Limitations on Division and Conveyance. Except as specifically permitted by this Easement, the Property shall not be divided, subdivided or partitioned, or conveyed.

(a) No Partition. Grantor waives and relinquishes any right to partition the Property that Grantor, its successors or assigns now have or in the future may have and covenants that Grantor, its successors and assigns, shall not assert in any proceeding any right to partition any interest owned in the Property.

(b) Involuntary Conveyance. An "involuntary conveyance" as that term is used in this Easement means any conveyance by exercise of the power of eminent domain, foreclosure, levy, execution, other legal process, receivership, bankruptcy or other insolvency action, or intestate passage of title at death or passage of title to a guardian or other personal



representative in the event of incapacity. In the event of an involuntary conveyance, the grantee's trustee, other fiduciary, successors or assigns shall be bound by this Easement to the fullest extent permitted by law.

- (c) Notice. Grantor (or its representative or successor) shall provide Grantee with written notice of: (i) any voluntary or involuntary conveyance of all or part of the Property regardless of whether it is a permitted conveyance under this Easement; or (ii) any planned merger, consolidation, dissolution or other similar change in its business organization where Grantor will not be the surviving business organization. The notice shall be provided promptly (but in no event later than seven days following the event giving rise to the notice obligation) and shall include copies of all relevant documents.
- (d) Liability of Grantor after Permitted Conveyance. Upon a conveyance in compliance with this Easement, Grantor shall be released from all future obligations under the Easement with respect to the Property (or portion thereof) conveyed, unless otherwise reasonably required to obtain the consent of Grantee to the conveyance. No conveyance shall release Grantor from any accrued liability under this Easement.
- (e) Exclusion from Limitations. The limitations on conveyances in Section 3.1 do not preclude the granting of leases, concessions or licenses to use the Property for purpose expressly permitted by this Easement, provided no such lease, concession or license shall be granted for a term of more than ten years (except as otherwise provided in Article 5) without the express prior written approval of Grantee, which approval shall not be unreasonably withheld or delayed. The limitations on conveyances do not preclude a conveyance of the entire Property subject to the terms of this Easement or any merger, consolidation, reorganization, or sale of all or substantially all of the assets of Grantor that includes all of the Property then owned by Grantor or any change in control of Grantor.
- 3.2 Construction. There shall be no construction of buildings, structures, roads, pipelines, utility lines or other improvements on the Property, except for any improvements that may be specifically permitted in either Article 4 or Article 5 of this Easement. Improvements existing as of the date of this Easement may be maintained, repaired and replaced substantially as now constructed in order to continue their current uses where located.
- 3.3 Hydrology; Water Quality. Subject to the prior estates and related rights, powers, privileges and obligations created by any prior reservation or conveyance of groundwater or an interest in the groundwater, there shall be no permanent alteration of groundwater hydrology or depletion of surface or ground water, including alteration of natural watercourses, lakes, ponds, marshes, or wetlands on the Property; provided, however, that the foregoing shall not prohibit wetland or waterfall habitat improvement programs upon such terms as Grantee may approve prior to commencement of such programs. There shall be no activities on the Property or uses made of the Property that pollute or impair the quality of surface or ground water on, in, under or adjoining the Property.
- 3.4 Disposal, Use and Storage of Waste and Related Matters. There shall be no disposal of waste of any kind on, in or under the Property, other than biodegradable tree or vegetation residue normally resulting from forestry activities that are permitted under this Easement. Except as temporarily required to conduct operations under uses permitted by this Easement, no hazardous substances or waste, no toxic materials, and no unsightly or noxious substances or materials shall be stored or used or collected on the Property. Underground storage tanks are not permitted. Collection and treatment areas and control structures for the protection of water or soil shall be properly designed, constructed and maintained in accordance with law, permit conditions and best practices in the forestry industry or, if related to another commercial activity, best practices for that industry.
- 3.5 Damage to Habitat. There shall be no uses of the Property or activities on the property that may threaten the viability of populations of or habitat for species identified on the Property that are then currently listed by either the state or federal government as threatened or endangered, unless the use or activity is consistent with rights reserved by Grantor and authorized by permit or other approval from the appropriate regulatory body required by law for such authorization. Nothing in this Section shall be interpreted to limit the rights of Grantor to apply for or receive any consent, license or permit, habitat conservation or other plan, or otherwise participate in any program or activity consistent with Grantor's reserved rights.



4. **PERMITTED PROPERTY USES.** Grantor retains the following rights:

- 4.1 **Existing Uses.** Grantor shall have the right to continue any activity on or use of the Property that is being conducted as of the date of this Easement and that is not specifically prohibited by this Easement. Prior to making any material change in an existing activity or use of the Property, Grantor shall notify Grantee in writing in order to afford Grantee an opportunity to enforce any provision of this Easement that Grantee may believe will be violated. Grantee's determination of a violation shall have no evidentiary value in any proceeding to resolve a dispute over whether the material change is a violation.
- 4.2 **Uses Not Prohibited.** In addition to the activities and uses specifically permitted by this Easement, Grantor shall have the right to engage in any lawful activity or make any lawful use of the Property that is consistent with the purpose of this Easement, unless specifically prohibited by this Easement.
- 4.3 **Transfer.** Subject to the limitations of Article 3 of this Easement, Grantor shall have the right to sell, give, mortgage, lease, or otherwise convey the Property; provided however, that any such conveyance, mortgage or lease shall be subject to the terms of this Easement. The grant of an undivided interest in the entirety of the Property or a portion thereof that has been previously conveyed in accordance with the terms of this Easement is permitted so long as the grantee expressly waives and relinquishes any right of partition in kind or otherwise by grantee, its heirs, successors and assigns and expressly agrees to assume the obligations under and be bound by the provisions of this Easement. The granting of estates in minerals or other commercially valuable substances under the surface of the Property is excluded from this Section 4.3 and is governed by Article 5 of this Easement.
- 4.4 **Timber Production and Harvesting.** Subject to the limitations of this Section 4.4, Grantor has the right to engage in commercial timber production and to practice silviculture on the Property. Grantor's rights include selected timber thinning, selected cutting (as defined below) of hardwood and clear cutting of pine, prescribed burning, and reforestation for the purposes of wildlife management, forest health and commercial production of timber consistent with the purpose of this Easement. All such activities must be conducted in accordance and compliance with the most currently published silvicultural best management practices for the State of Texas, subject to and in accordance with the following provisions.
- (a) **Sustainable Forestry.** All timber management and harvest activities conducted on the Property must also conform with the Sustainable Forestry Initiative® standards (or equivalent replacement generally recognized in the industry) as such standards may be amended from time to time (the "SFI Standards") and shall not significantly impair, damage or interfere with the purpose of this Easement.
- (b) **Size Limitations.** The maximum size of a pine clear-cut harvest will be 75 acres. The average size of all pine clear-cut harvests within any calendar year will be 50 acres or less. In the event of a subdivision of the Property in compliance with this Easement, the average acres harvested will be determined for each subdivided portion of the Property.
- (c) **Selected Cutting; Select Timber Thinning.** After any harvest of a stand of hardwood or a mixed stand of hardwood and other species, both (a) an average of not less than fifty square feet of basal area of hardwood per acre harvested must remain and (b) for each acre harvested, a basal area of not less than thirty square feet per acre of hardwood trees must remain. For the purpose of determining compliance, Grantor shall designate the area of each acre within the harvest area in a written plan prepared prior to the harvest and delivered to Grantee at least 30 days prior to commencement of harvesting. If an acre within the perimeter of the harvest area has thirty basal square feet of hardwood or less prior to harvest, then hardwood from that acre may not be harvested and that acre shall be excluded in determining the average remaining number of square feet of hardwood basal area remaining for the harvested area. As used in this Easement, (a) the term "selected cutting" means that individual trees or groups of trees within a stand of trees are selected for cutting based upon physical condition or degree of maturity; (b) the term "selected timber thinning" means commercial harvest of selected trees in a stand, often done to remove less desirable trees or to decrease stand density and increase future growth of more desirable trees; (c) the term "harvest" includes a selected cutting or a selected thinning; and (d) "basal area" means the sum of the cross sectional areas in square feet of the standing hardwood trees on an acre at 4.5 feet above the ground. Nothing in this Section 4.4(c) shall limit the right of Grantor to harvest pine from a mixed stand of hardwood and other species so long as such pine harvest is consistent with the other provisions of this Easement.

(d) Included Rights. Notwithstanding the stated limitations, Grantor's right to engage in forestry on the Property includes the right to:

- (i) Salvage timber lost as a result of a hurricane, fire, flood, drought or similar event or to prevent the spread of an insect, disease or forest health pest outbreak to adjacent stands or to recover the economic value of down or damaged timber. If such salvage operations will constitute removal of the timber on more than 25% of the acreage of the Property, Grantor will notify and consult with Grantee prior to commencement of salvage operations. Salvage operations must be conducted in a manner that complies with forestry best management practices in effect as of the date of the operations.
- (ii) Prevent and control fire, as well as to apply fire as a management tool, on the Property and to clear fire lines on the Property. It is recognized that fire is a natural process and occurrence in the surrounding ecosystem and Grantor shall have no obligation to prevent or fight fires on the Property, unless the fire is the result of gross negligence of Grantor or its agents or contractors;
- (iii) Remove dead or diseased trees, or trees that present a hazard to persons or property.
- (iv) Apply forest chemicals and pesticides on the Property in amounts and with frequency that comply with the manufacturer's label directions and recommendations as necessary to accomplish reasonable forest management objectives, while minimizing adverse effects upon the Property and avoiding any impairment of the natural ecosystem.
- (v) Control or eradicate invasive plant species on the Property.
- (vi) Maintain, repair and replace existing forest management roads and associated bridges, water bars, culverts and other road improvements, provided that road repair and associated improvements are consistent with the purpose of the Easement.

4.5 Recreational and Educational Uses. Grantor reserves the right to engage in and permit others, whether or not for consideration, to engage in recreational and educational uses of the Property, including hiking, camping, nature walks, birding, picnicking, horseback riding, bicycling, ATV and four wheel or other recreational vehicle access, lawful hunting and fishing, and other recreational and educational uses as long as such activities are conducted in a manner and intensity that do not significantly adversely impact plant and wildlife habitat on the Property or create erosion. Such rights include the clearing, construction, and maintenance of recreational facilities and beneficial wildlife openings, trails or paths (including raised or elevated portions thereof) for walking, horseback riding, and other recreational or educational activities within and across the Property, including removal of brush and grass for maintenance of the existing scenic overlook on the Property. "Recreational facilities" as used in this provision, includes lodges, cabins, club buildings, study centers and related outbuildings (together, "Structures"), provided those Structures must be confined to one per tract of contiguous Property owned by Grantor or its successor or assigns, except that the 629 acre tract of Property identified as Coon Pond on Exhibit A hereto may have two Structures. No Structure will be located within 150 feet of the river bank and such Structures may be used only for temporary stays and not as full-time residences. The right to construct those types of Structures includes the right to extend and maintain roads and utilities to the Structures, and ordinary residential kitchen and toilet waste facilities to serve the Structures. All improvements constructed and maintained under this provision must comply with all applicable law and regulation and must not collectively or singularly be inconsistent with the purposes of this Easement or violate any other provision of this Easement.

4.6 Predator Control. Grantor shall have the right to control, destroy, or trap predatory and problem animals that pose a material threat to people, other animals, or habitat, subject to applicable law.

4.7 Access Control. Grantor reserves the right to install gates or other barriers and otherwise prohibit and monitor public access upon and across the Property.



5. **MINERALS AND OTHER COMMERCIALY VALUABLE SUBSTANCES.**

5.1 Prior Rights. To the extent, if at all, the Property is subject to prior leases or other severances of rights, title or interest in or to minerals or other commercially valuable substances (such as groundwater), this Easement is subject to such prior rights, title or interest and no reservations in this Easement are intended unlawfully to impair or encumber that right, title or interest; provided the right to use and possess the surface of the Property shall be subject to principles of accommodation of competing uses regardless of dominance of an estate or priority in time to the fullest extent permitted by law.

5.2 Restriction on Mining; Dredging. Subject to the prior rights, Grantor agrees not to conduct or permit use of any of the following activities on, in or under the Property: (a) surface mining using any method now known (such as open pit or quarry) or developed in the future that may be used to recover any mineral or other substance on, in or under the Property; (b) in situ mining methods now known or developed in the future used to extract minerals or other substances in place (such as the mining of substances such as uranium or sulfur by dissolving the substance in place through pumping a solution from the surface through the deposit and recovering the solution at the surface); or (c) dredging or fill operations on or from the Property. As a limited exception to the prohibition on surface mining, extraction or removal of soil, sand, gravel or sod is permitted from existing small excavation areas (not to exceed one half acre) solely for the purposes of reasonable maintenance of existing roads and other facilities on the Property, provided the excavation and related activity is lawful and properly permitted and does not jeopardize qualification of this Easement as a conservation easement under Texas law as then in effect or impair qualification for a deduction of the value as a conservation contribution under the Tax Code. At the time of execution of this Easement, Grantor has not granted any right to surface mine on the Property and no state or federal agency has granted a permit to surface mine and no person is conducting surface mining operations on the property. The probability of surface mining occurring on the Property is so remote as to be negligible.

5.3 Mineral Exploration and Recovery. Nothing in this Easement shall prevent Grantor from granting the right or undertaking (a) to explore for or recover minerals (such as oil and gas) or other commercially valuable substance (such as groundwater) from under the surface of the Property or (b) to store minerals or other substances in subsurface geologic formations, so long as such extraction or storage does not violate this Easement or disturb the surface or create a substantial risk of subsidence of the surface of the Property, and further provided that Grantor hereby expressly releases and waives, on behalf of itself and its successors or assigns, all rights of ingress and egress and all other rights of every kind and character whatsoever to enter upon, use or in any way disturb the surface of the Property or any part thereof, including, without limitation, the right to enter upon the surface of the Property for purposes of exploring for, developing, drilling, producing, transporting, treating, storing or any other purpose incident to the development or production of oil, gas or other minerals in, on and under the Property. Nothing herein, however, restricts or prohibits the exploration or production of the minerals by means of wells that are drilled or mines that open on land other than the Easement but enter or bottom under the Easement. Any person lawfully enabled to extract or store minerals or other substances in, on or under the Property using facilities located on the Property shall use best efforts and practices to prevent the impairment of, damage to or interference with the purpose of this Easement. Seismic or similar exploration operations are not permitted on the Property without the prior consent of Grantee.

6. **GRANTEE'S RIGHTS.** To accomplish the purpose of this Easement, Grantee shall have the following rights:

6.1 Right to Enforce. Grantee has the right to enforce the terms of this Easement. The failure of Grantor or its successors and assigns to timely provide Grantee the harvesting plan as required by Section 4.4(c) shall be considered an imminent violation likely to result in immediate and irreparable harm.

6.2 Right of Entry. Upon not less than 48 hours prior notice from Grantee, Grantor shall provide Grantee, its employees and contractors, with access to the Property, and will escort Grantee's personnel on the Property. Grantee shall not access the Property without providing Grantor such prior notice and Grantor shall have the right to accompany Grantee, its employees or contractors on any visit to the Property. During hunting season access may be limited to days and hours the Property is not in use for hunting activities. Grantee, its employees and contractors shall wear protective clothing and gear as required of Grantor's employees and contractors, but shall be solely responsible for their own safety while on the Property. Grantee acknowledges that entry upon the Property presents risks to Grantee and its employees and contractors and that all entry upon the Property shall be at the sole risk of Grantee, its employees and contractors. Grantor shall have no duty to Grantee and its employees and contractors concerning their entry upon the Property and activities thereon.



6.3 Access Easement. Grantor shall provide Grantee an access easement in the format attached hereto as Exhibit "B".

6.4 Discretionary Consent. Grantee's consent for activities otherwise prohibited may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the prohibited activities listed in Article 3 are deemed desirable by both Grantor and Grantee, Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission shall be in writing and shall describe the proposed activity in sufficient detail to allow Grantee to judge the consistency of the proposed activity with the purpose of this Easement as specified in Article 1. Grantee may give its permission only if it determines, in its sole discretion, that such activities do not violate the purpose of this Easement. Notwithstanding the foregoing, Grantee and Grantor have no right or power to agree to any activities that would result in the termination of this Easement.

7. **RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED.** Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way affect any existing obligation of Grantor as owner of the Property. Among other things, this shall apply to:

7.1 Taxes. Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property.

7.2 Management, Upkeep and Maintenance. Grantor shall be solely responsible for any upkeep and maintenance of the Property that may be required by law or deemed appropriate by Grantor. Grantee shall have no obligation for the upkeep or maintenance of the Property or to insure any improvements on the Property. Grantee has no expressed or implied right to manage or operate the Property under this Easement.

8. **RIGHTS AND REMEDIES OF GRANTEE.** Grantor confers the following rights upon Grantee to maintain perpetually the purpose of this Easement:

8.1 Enforcement. Grantee shall have the right to prevent and correct violations of the provisions of this Easement. If Grantee believes that a violation has occurred, is occurring or is threatened, it may at its discretion take appropriate legal action. Except when an ongoing or imminent violation could substantially diminish or impair the purpose of this Easement, Grantee shall give Grantor written notice of the alleged violation and 60 days to correct it (or to begin good faith efforts to correct the alleged violation in the event the alleged violation cannot be reasonably corrected in sixty days). If Grantor disputes all or part of the allegations of a violation, Grantor shall notify Grantee of the disputed allegations and the grounds for disputing the allegations. The parties agree to engage in good faith negotiations for purposes of resolving any disputed matter. If the parties are not able to resolve the matter, they agree to mediate the dispute before filing any legal action, with each party bearing one-half of the cost of the mediation. If the parties cannot agree on a mediator, either party may petition a court of competent jurisdiction to appoint a mediator. If a court with jurisdiction determines that a violation exists, has occurred or is threatened, Grantee may obtain an injunction to stop it, temporarily or permanently, upon the posting of any required bond. A court may also issue a permanent injunction requiring Grantor to restore the Property to its condition prior to the violation. In any legal action pertaining to this Easement, the prevailing party shall be awarded all of its attorney's fees (including support staff cost, cost of preparing for litigation, computerized research, telephone and facsimile expenses, mileage, deposition cost, postage, duplicating, process service, videotaping and similar costs and expenses) and all of the prevailing party's costs, including costs and fees of technical consultants, expert witnesses and all costs of investigation and documentation. The prevailing party is the party who receives substantially the relief desired, whether by settlement, dismissal, summary judgment or otherwise. The failure of Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time.

8.2 Natural Changes, Emergency Responses. Grantor has (a) no obligation to restore the Property to a former condition where a change in the Property occurs due either to natural causes or to acts of persons beyond Grantor's control and (b) no liability for damages resulting from any such change. Without limitation, natural causes may include natural specie and growth cycle changes in the forest, sedimentation, storms, or floods or forest fires not caused by Grantor's gross negligence. Further, Grantor shall not be liable for damages to the Property or restoration of the Property from changes that result from Grantor's reasonable response to emergencies that affect the Property.

9. **TRANSFER OF EASEMENT.** The parties agree that the benefits of this Easement are assignable. Grantee shall have the right to transfer or assign this Easement to any organization that, at the time of transfer, is a "qualified organization" under Section 170 (h) of the



Tax Code (or successor provision), and that expressly agrees to assume the responsibilities imposed upon Grantee by this Easement. If Grantee ever ceases to exist, is unwilling or unable to discharge its obligations under this Easement, or is no longer qualified under Sec. 170 (h) of the Tax Code (or successor provision), a court of competent jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibilities imposed upon Grantee by this Easement.

**10. AMENDMENT OF EASEMENT.** This Easement may be amended only with the written and signed consent of Grantor and Grantee, or their respective successors and assigns. Any such amendment must be consistent with the purpose of this Easement and shall comply with Sec. 170 (h) of the Tax Code (or any successor provision) so as not to disqualify this Easement as a qualified conservation easement. Any such amendment must also be consistent with Texas Natural Resources Code Chapter 183 (or any successor provision or related regulation) so that this Easement shall continue to be a conservation easement under Texas law. Grantor and Grantee have no right or power to agree to any amendment that would adversely affect the enforceability of this Easement.

**11. TERMINATION OF EASEMENT.** If it is determined that conditions on or surrounding the Property have changed so much that it is impossible to fulfill the conservation purposes set forth in Article 1, this Easement may be terminated by a court of competent jurisdiction at the joint request of both Grantor and Grantee. This Easement may also be terminated in any of the following events.

**11.1 Condemnation.** If condemnation of a part of the Property or of the entire Property by public authority renders it impossible to fulfill any of the conservation purposes set forth in Article 1, the Easement may be terminated upon motion Grantor and Grantee through judicial action in the condemnation proceedings or by declaratory judgment from a court of competent jurisdiction in an action brought by Grantor or Grantee.

**11.2 Proceeds of a Taking.** At the time of the conveyance of this Easement to Grantee, this Easement gives rise to a real property right, immediately vested in Grantee. If the Easement is terminated and the Property is sold or taken for public use, then, as required by Sec. 1.170A-14(g)(6) of the U.S. Treasury Regulations (or any successor regulation), Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award (minus any amount attributable to new improvements made after the date of this conveyance, which amount shall be reserved to Grantor) equal to the ratio of the fair market value of this Easement to the unrestricted fair market value of the Property, as these values are determined as of the date of condemnation. Grantee shall use Grantee's proceeds consistently with the conservation purpose of this Easement.

**12. INTERPRETATION.** Except as to matters governed by federal law, this Easement shall be governed by and interpreted under the laws of Texas, without regard to any conflict of laws principles, resolving any ambiguities and questions of or concerning the validity of specific provisions so as to give maximum effect to its conservation purposes. As used in this Easement, the term "including" or "such as" shall mean by way of example and shall not be a limitation on the scope of the term modified by that word or phrase.

**13. INDEMNIFICATION.** Each party agrees to hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of the activities of the other party on the Property that causes injury to a person(s) or damage to property.

**14. PERMITTED EXCEPTIONS; RESERVATIONS.** This Easement is subject to all liens, leases, easements, encumbrances, servitudes, rights-of-way, prescriptive rights, oil, gas and mineral leases, reservations, conveyances, other grants, and any and all other matters of record or apparent on the Property (the "Permitted Exceptions"). All of the covenant rights or privileges, limitations, conditions and reservations in favor of Grantor that are contained in the provisions of this Easement are collectively referred to as the "Reservations."

**15. NOTICES.** All notices and other communications hereunder shall be in writing and shall be given to the person to be notified using the contact information specified below, by one of the following methods: (a) in person, (b) by facsimile, (c) by an express courier service that maintains and provides written confirmation of delivery, or (d) by certified U.S. mail, postage prepaid, return receipt requested. Delivery by one of the preceding methods will be deemed made (a) in the case of delivery in person, when delivered to the person named in the "attention" line of the contact information specified below, (b) in the case of notification by facsimile, at the time specified on the confirmation of transmission generated by the notifying party's facsimile machine, (c) in the case of notification by express courier service, at the time of delivery recorded by the express courier service, and (d) in the case of notification by U.S. mail, at the time of delivery recorded on the return receipt. If tender of a notice or communication conforming to these provisions is made but affirmatively refused, the notice or communication will be deemed given at the time of the refusal. Email addresses and telephone numbers are also provided below,



for information communication purposes, but no notice or communication delivered solely by email or telephone shall be deemed to have been given.

If to Grantor: Forestar (USA) Real Estate Group Inc.  
1607 Chestnut, Suite R  
Lufkin, Texas 75901  
Attn: SVP – Fiber Resources  
Telephone: 936-639-0660  
Facsimile: 936-639-0665  
E-mail: jeffportwood@forestargroup.com

With copy to: Forestar (USA) Real Estate Group Inc.  
6300 Bee Cave Road  
Building Two, Suite 500  
Austin, Texas 78746  
Attn: General Counsel  
Telephone: 512-433-5200  
Facsimile: 512-433-5203  
E-mail: davidgrimm@forestargroup.com

If to Grantee: Conserve East Texas Inc.  
P. O. Box 154540  
Lufkin, Texas 75915  
Telephone: 936/639-3130  
Facsimile: \_\_\_\_\_

16. **SEVERABILITY.** If any provision of this Easement is found to be invalid, the remaining provisions shall not be altered thereby.

17. **PARTIES; INUREMENT; ACTION.** The term "Grantor" as used in this Easement shall mean the party who at the time of reference is the legal owner of the Property and upon any conveyance of the Property, the new owner (or if jointly owned, the co-owners) shall be deemed Grantor under this Easement. The term "Grantee" shall mean and include the above named Grantee and any of its successors or assigns. Every provision of this Easement that applies to Grantor or Grantee shall also apply to their respective heirs, successors and assigns as their interests may appear. All rights, powers and privileges granted Grantee under this Easement shall inure to Grantor's heirs, successors and assigns, and all liabilities and obligations imposed upon Grantor by this Easement shall be deemed assumed by Grantor's heirs, successors and assigns to the fullest extent permitted by applicable law. All rights, powers and privileges reserved by Grantor under this Easement shall inure to Grantor's heirs, successors and assigns, and all liabilities and obligations imposed upon Grantor by this Easement shall be deemed assumed by Grantor's heirs successors and assigns to the fullest extent permitted by applicable law. In the event of co-ownership of the Property or of the Easement, the following rules shall apply.

17.1 Co-owners of the Easement. A majority in interest of co-owners of the Easement may take any action and make any decision that the original Grantee could take or make under this Easement, provided if there are five or more co-owners of the Easement, then they must delegate the power to take action or make decisions to no more than three co-owners who will act by majority vote on a per capita basis. For these purposes, a co-owner may designate a single representative to act on its behalf. Grantor may enforce this provision requiring five or more co-owners to delegate authority to act by specific performance under a judgment of any court of competent jurisdiction. Without limiting the foregoing, co-owners may exercise the inspection rights collectively no more than four times per year, unless a co-owner has probable cause to believe there has been a material violation.

17.2 Co-owners of the Property. A majority in interest of co-owners of a fee estate in the Property may take any action and make any decision that the original Grantor could take or make under this Easement, provided if there are five or more co-owners of a fee estate in the Property, then they must delegate the power to take action or make decisions to no more than three co-owners who will act by majority vote on a per capita basis. For these purposes, a co-owner may designate a single representative to act on its behalf. Grantee may enforce this provision requiring five or more co-owners to delegate authority to act by specific performance under a judgment of any court of competent jurisdiction. For the purposes of this



provision, owners of (a) any right, title, royalty or other interest in a severed mineral estate (including a right to use or extract valuable substances on, in or under the surface of the Property that are not commonly considered minerals) or (b) a nonpossessory right or interest, lien or a leasehold interest in the surface estate in the Property shall be bound by the action of the co-owners of the surface estate in the Property with respect to this Easement to the fullest extent permitted by law.

**18. RUN WITH THE LAND.** Each of the covenants, conditions, restrictions and limitations in this Easement touch and burden the Property and are intended to run with the land and bind all successive owners of the Property.

**19. MERGER.** The parties agree this Easement shall survive any merger of the fee and easement interests in the Property.

**20. SUBSEQUENT LIENS ON PROPERTY.** No provisions of this Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing shall be subordinate to this Easement.

**21. ADDITIONAL LIMITATIONS ON LIABILITY.** Subject to the provisions of this Easement, Grantor shall be and remain liable for its breach or violation of this Easement only if such breach or violation of this Easement occurs during such time as Grantor is the legal owner of the Property or part thereof and prior to the express assumption of the provisions of this Easement by Grantor's heirs, successor or assigns in accordance with Section 3.1(a), if applicable. The rights and obligations set forth herein are solely those of the parties to it and no third party beneficiary rights or privileges are intended or conferred. Nothing herein shall be construed to limit the ability of Grantee to recover from the proceeds of any insurance under which Grantor is insured, nor to limit in any manner Grantee's power and ability to enforce any of the covenants and restrictions. No consequential damages or punitive damages may be recovered from Grantor as the result of any breach or violation of this Easement. Any agreement to convey a portion of the Property or attempted conveyance of a portion of the Property in violation of the provisions of this Easement shall be void and cannot be enforced.

**22. REFERENCES.** All references to "Articles" are to the bold-faced numbered and named paragraphs of this Easement and the numbered sections thereof. All references to "Sections" are to the numbered sections of particular Articles including any lettered subsections of the referenced Section.

**23. ACCEPTANCE AND EFFECTIVE DATE.** As attested by the signature of its authorized representative affixed hereto, Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Easement. This Easement is to be effective on the date it is recorded.

[SIGNATURE PAGE TO FOLLOW]



EXECUTED effective as of the 31<sup>st</sup> day of December, 2014.

GRANTOR:

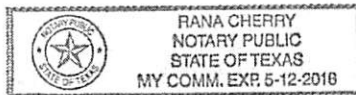
FORESTAR (USA) REAL ESTATE GROUP INC.,  
a Delaware corporation

By: [Signature]  
Name: Jeff Portwood  
Title: Senior Vice President

THE STATE OF TEXAS §

COUNTY OF ANGELINA §

This instrument was acknowledged before me on the 31<sup>st</sup> day of December, 2014 by Jeff Portwood, the Senior Vice President of Forestar (USA) Real Estate Group Inc., a Delaware corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

GRANTEE:

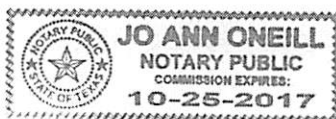
CONSERVE EAST TEXAS INC.

By: [Signature]  
Name: Thomas Duncan MD  
Title: Vice President

THE STATE OF Texas §

COUNTY OF Angelina §

This instrument was acknowledged before me on the 31<sup>st</sup> day of December, 2014 by Thomas E. Duncan the Vice President of Conserve East Texas Inc..



[Signature]  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_



EXHIBIT A: DESCRIPTION OF PROTECTED PROPERTY



- 1) N 08° 03' 38" W 27.81 feet;
- 2) N 12° 06' 53" W 58.33 feet;
- 3) N 43° 06' 45" W 103.44 feet;
- 4) N 62° 59' 48" W 266.72 feet;
- 5) N 82° 57' 28" W 74.87 feet;
- 6) N 43° 31' 31" W 37.36 feet;
- 7) N 11° 22' 23" W 118.07 feet;
- 8) N 05° 38' 58" E 253.04 feet;
- 9) N 49° 51' 38" W 147.83 feet;
- 10) N 46° 58' 57" W 56.93 feet;
- 11) N 37° 06' 45" E 75.42 feet;
- 12) N 64° 11' 01" E 73.69 feet;
- 13) N 80° 53' 21" E 118.79 feet;

THENCE with the meanders of the right bank of San Pedro Bayou, downstream, being the Western boundary line of the above referred to 312.2 acre tract, and common, in part with the Eastern boundary line of that certain 78.835 acre tract, Third Tract, which was conveyed from Eva Moore to Gary Lovell by deed dated September 10, 1996 and recorded in Volume 1062, on Page 741 of the Deed Records of Houston County, Texas (see also 380/472), and common, in part, with the Eastern boundary of 100 acres titled to M. L. Resprance by #8507 in the Probate Records of Houston County, Texas, eighty-two lines as follows:

BEGINNING in Houston County, at the Southwest corner of the above referred to 312.2 acre tract, same being the Northwest corner of that certain 81.39 acre tract which was conveyed from Delphine Powell Taylor, et al, to Veterans Land Board of the State of Texas by deed dated December 16, 1971 and recorded in Volume 489, on Page 283 of the Deed Records of Houston County, Texas, subsequently conveyed to Milton Farmer by deed dated July 18, 1986 and recorded in Volume 839, on Page 755 of the Deed Records of Houston County, Texas, a concrete monument found for corner on the right bank of San Pedro Bayou, from which a 1/4" iron rod found bears N 10° 10' 05" W 8.32 feet, a 26" Blackgum bears N 58° 33' E 36.19 feet, a 28" Water Oak bears S 74° 48' E 0.60 feet, a 10" Sweetgum bears S 27° 48' E 23.37 feet, and a 24" Sweetgum bears S 11° 58' W 28.07 feet;

All that certain tract or parcel of land lying and situated in Houston County, Texas, within the HARDY WARE SURVEY, ABSTRACT NO. 1240, and in Cherokee County, Texas, within the HENRY BURKETT SURVEY, ABSTRACT NO. 149, being all of that certain 312.2 acre tract, Tract No. 2 - Neches River Conservation, which was conveyed from TIM, Inc., to Forestar (USA) Real Estate Group, Inc., by deed dated October 1, 2007 and recorded as Document No. 0708409 in the Deed Records of Houston County, Texas, and out of and a part of that certain 3908.12 acre tract (aggregate), Neches River Conservation - Cherokee County, and part of that certain 2592.09 acre tract, Tract Two, and part of that certain 160 acre tract, A, which was conveyed from TIM, Inc., to Forestar (USA) Real Estate Group, Inc., by deed dated October 1, 2007 and recorded in Volume 1882, on Page 223 of the Deed Records of Cherokee County, Texas, to which reference is hereby made for any and all purposes, being described by metes and bounds as follows, to wit:

FORESTAR (USA) REAL ESTATE GROUP, INC.  
 NECHES RIVER CONSERVATION EASEMENT AREA  
 334.76 ACRE TRACT  
 HARDY WARE SURVEY, ABSTRACT NO. 1240  
 HOUSTON COUNTY, TEXAS  
 HENRY BURKETT SURVEY, ABSTRACT NO. 149  
 CHEROKEE COUNTY, TEXAS



- 14) N 86° 41' 33" E 96.82 feet;
- 15) N 83° 59' 21" E 187.51 feet;
- 16) S 75° 39' 46" E 130.18 feet;
- 17) N 72° 18' 36" E 71.06 feet;
- 18) N 29° 00' 49" E 86.17 feet;
- 19) N 28° 56' 17" E 59.24 feet;
- 20) N 20° 21' 35" E 79.96 feet;
- 21) N 29° 40' 43" W 74.00 feet;
- 22) N 41° 46' 30" W 107.25 feet;
- 23) N 67° 06' 53" W 126.15 feet;
- 24) N 13° 19' 11" W 105.16 feet;
- 25) N 15° 04' 02" W 44.90 feet;
- 26) N 32° 37' 41" W 57.76 feet;
- 27) N 83° 34' 00" W 85.40 feet;
- 28) N 33° 33' 48" E 91.10 feet;
- 29) N 42° 57' 11" E 95.42 feet;
- 30) N 40° 33' 43" E 138.70 feet;
- 31) N 27° 18' 48" E 115.36 feet;
- 32) N 68° 45' 33" E 202.41 feet;
- 33) N 83° 48' 58" E 127.15 feet;
- 34) N 77° 21' 11" E 19.92 feet;
- 35) N 73° 27' 51" E 83.58 feet;
- 36) S 78° 21' 23" E 72.73 feet;
- 37) S 33° 29' 29" E 118.95 feet;
- 38) N 79° 47' 40" E 63.52 feet;
- 39) N 75° 30' 00" E 92.79 feet;
- 40) S 27° 16' 12" E 156.75 feet;
- 41) S 15° 18' 59" E 146.22 feet;
- 42) S 51° 51' 21" E 101.84 feet;
- 43) N 59° 12' 58" E 126.19 feet;
- 44) N 29° 46' 20" E 83.23 feet;
- 45) N 02° 27' 50" W 100.60 feet;
- 46) N 19° 38' 30" W 237.09 feet;

- 47) N 34° 38' 13" W 175.68 feet;
- 48) N 38° 13' 06" W 71.98 feet;
- 49) N 13° 01' 37" E 114.30 feet;
- 50) N 54° 38' 28" E 67.42 feet;
- 51) S 64° 07' 07" E 176.91 feet;
- 52) S 66° 44' 03" E 47.12 feet;
- 53) S 82° 53' 34" E 73.20 feet;
- 54) N 74° 27' 26" E 87.55 feet;
- 55) N 47° 55' 19" E 114.81 feet;
- 56) N 38° 50' 35" E 53.26 feet;
- 57) N 06° 33' 23" W 38.89 feet;
- 58) N 35° 57' 56" W 62.61 feet;
- 59) N 54° 00' 22" W 200.92 feet;
- 60) N 04° 44' 24" E 185.03 feet;
- 61) N 42° 10' 13" E 174.38 feet;
- 62) N 08° 12' 14" W 47.16 feet;
- 63) N 32° 12' 09" W 45.10 feet;
- 64) N 55° 37' 06" W 47.42 feet;
- 65) N 69° 05' 56" W 84.52 feet;
- 66) N 24° 04' 07" W 59.19 feet;
- 67) N 02° 12' 04" E 51.08 feet;
- 68) N 40° 11' 31" E 166.38 feet;
- 69) N 14° 25' 51" E 39.48 feet;
- 70) N 11° 35' 40" W 38.26 feet;
- 71) N 45° 38' 08" W 38.66 feet;
- 72) S 88° 56' 32" W 35.56 feet;
- 73) N 78° 06' 40" W 107.06 feet;
- 74) N 64° 55' 06" W 67.98 feet;
- 75) N 35° 12' 13" W 55.69 feet;
- 76) N 26° 09' 14" W 51.07 feet;
- 77) N 06° 38' 41" W 34.01 feet;
- 78) N 06° 07' 12" E 108.14 feet;
- 79) N 00° 37' 16" E 112.61 feet;



- 80) N 44° 22' 15" E 28.67 feet;
- 81) N 56° 03' 02" E 63.83 feet;
- 82) N 60° 07' 00" E 66.25 feet to junction with the right bank of the Neches River;

THENCE following the meanders of the right bank of the present channel of the Neches River, downstream, fifty-six lines as follows:

- 1) S 69° 33' 47" E 54.45 feet;
- 2) S 65° 43' 00" E 138.77 feet;
- 3) S 74° 23' 50" E 66.41 feet;
- 4) N 87° 21' 36" E 156.25 feet;
- 5) N 70° 06' 09" E 188.70 feet;
- 6) N 49° 36' 49" E 154.09 feet;
- 7) N 61° 19' 40" E 130.66 feet;
- 8) N 54° 48' 35" E 149.41 feet;
- 9) N 50° 10' 43" E 151.35 feet;
- 10) N 42° 04' 16" E 111.62 feet;
- 11) N 12° 53' 32" W 378.73 feet;
- 12) N 62° 52' 17" W 73.48 feet;
- 13) N 80° 55' 40" W 77.29 feet;
- 14) S 87° 41' 09" W 119.36 feet;
- 15) S 67° 45' 47" W 88.59 feet;
- 16) N 72° 07' 41" W 74.39 feet;
- 17) N 86° 09' 31" W 141.03 feet;
- 18) N 71° 18' 14" W 161.69 feet;
- 19) N 64° 02' 35" W 122.19 feet;
- 20) N 63° 13' 13" W 70.21 feet;
- 21) N 53° 27' 12" W 118.04 feet;
- 22) N 44° 01' 28" W 11.18 feet;
- 23) N 03° 39' 24" E 174.46 feet;
- 24) N 59° 03' 51" E 86.41 feet;
- 25) N 76° 09' 36" E 113.60 feet;
- 26) N 76° 28' 09" E 54.20 feet;
- 27) S 84° 28' 32" E 122.52 feet;
- 28) S 72° 45' 44" E 136.94 feet;

- 29) S 58° 23' 44" E 143.64 feet;  
 30) S 55° 48' 51" E 199.90 feet;  
 31) S 55° 21' 43" E 120.76 feet;  
 32) S 78° 40' 18" E 64.56 feet;  
 33) S 78° 43' 39" E 63.33 feet;  
 34) S 73° 58' 48" E 107.38 feet;  
 35) N 55° 25' 40" E 264.04 feet;  
 36) N 37° 28' 29" E 106.10 feet;  
 37) N 34° 08' 07" E 120.57 feet;  
 38) N 26° 39' 46" E 108.02 feet;  
 39) N 70° 32' 30" E 130.83 feet;  
 40) S 45° 25' 45" E 230.23 feet;  
 41) S 63° 03' 08" E 359.74 feet;  
 42) N 70° 35' 17" E 71.13 feet;  
 43) N 72° 56' 58" E 141.98 feet;  
 44) S 76° 52' 00" E 155.70 feet;  
 45) S 53° 05' 41" E 105.99 feet;  
 46) S 35° 42' 57" E 101.24 feet;  
 47) S 57° 44' 34" E 128.16 feet;  
 48) S 80° 52' 18" E 165.33 feet;  
 49) N 88° 38' 01" E 120.12 feet;  
 50) N 85° 10' 47" E 83.97 feet;  
 51) S 28° 18' 54" E 206.94 feet;  
 52) S 14° 37' 09" E into Cherokee County, 111.30 feet;  
 53) S 33° 13' 35" E 192.76 feet;  
 54) S 36° 35' 47" E 173.02 feet;  
 55) N 88° 40' 50" E 73.05 feet to intersection with left bank of a large slough;  
 56) N 82° 06' 10" E 49.95 feet to a point at an intersection with the right bank of said slough, being an abandoned channel of the Neches River, from which a fence end bears S 84° 27' E 23.29 feet, this being the apparent Northwest corner of that certain 1.25 acre tract which was conveyed from Dr. Judson E. Beall to Major Mungrove by deed dated December 17, 1948 and recorded in Volume 268, on Page 170 of the Deed Records of Houston County, Texas;



THENCE following the meanders of the right bank of the abandoned channel of the said Neches River, upstream, 5 lines adjoining the said Musgrove 125 acre tract, as follows:

- 1) S 42° 54' 21" W 102.44 feet;
- 2) S 29° 32' 00" W 346.24 feet;
- 3) S 41° 14' 31" W 234.34 feet;
- 4) S 39° 12' 13" W 113.50 feet;
- 5) S 53° 04' 30" W 44.95 feet to the Northeast corner of the above referred to 312.2 acre tract, a 1/2" iron pipe set for corner from which a fence angle bears S 13° 10' E 56.21 feet, a Red Oak fence corner bears N 59° 10' E 10.20 feet, and a fence angle bears N 60° 59' E 35.87 feet;

THENCE S 15° 49' 24" W (back into Houston County) with the East boundary line of the above referred to 312.2 acre tract, in part with the West boundary line of said Musgrove 125 acre tract, and in part with the West boundary line of that certain 544.30 acre tract, Tract Two, which was conveyed from Tracy Lynn Glazner to Joseph Karl Glazner by deed dated July 26, 2005 and recorded as Document No. 053275 in the Deed Records of Houston County, Texas, 3539.95 feet to the Southeast corner of said 312.2 acre tract, located in the North boundary line of that certain 78.09 acre tract, Tract One, which was set apart to James Loyd Lovell by Partition Deed from Virginia Fern Lovell, et al, dated December 3, 2001 and recorded in Volume 2001, on Page 4882 of the Deed Records of Houston County, Texas, a 1/2" iron pipe set for corner from which a 1/2" from rod found bears N 17° 07' 15" W 114.98 feet and a 1/2" iron rod found bears N 48° 34' 20" W 216.84 feet;

THENCE with the South boundary line of the above referred to 312.2 acre tract, common with the North boundary line of said 78.09 acre tract, four lines as follows:

- 1) N 65° 46' 22" W 711.33 feet to a concrete monument found for corner from which a 20" Pine bears S 82° 36' E 11.36 feet and a 28" Sweetgum bears N 56° 08' W 25.28 feet;
- 2) N 75° 53' 32" W 793.61 feet to a concrete monument found for angle corner;
- 3) S 72° 03' 34" W 755.06 feet to a 1/2" iron rod found for angle corner from which a Sweetgum snag bears N 56° 30' E 10.27 feet and an 18" Figural bears N 11° 50' W 18.96 feet;
- 4) S 71° 30' 24" W 708.33 feet to a concrete monument found for corner from which a fence corner bears N 89° 42' E 2.09 feet, a 16" Elm bears N 02° 03' W 25.45 feet, and a 30" Cow Oak bears S 42° 14' W 23.78 feet, this being the Northwest corner of the said 78.09 acre tract and the Northeast corner of the above mentioned Farmer 81.39 acre tract;

THENCE S 72° 31' 52" W continuing with the South boundary line of the above referred to 312.2 acre tract, and common with the North boundary line of said 81.39 acre tract, 562.38 feet to the place of beginning containing 334.76 acres of land, more or less.

EVERETT GRIFFITH, JR. & ASSOCIATES, INC.  
Engineering and Surveying

*Karey L. Lee* (Signature in blue ink)  
Karey L. Lee (Signature in blue ink)  
Registered Professional Land Surveyor No. 1733  
408 North Third  
Lufkin, Texas 75901  
(936) 634-5328  
March 16, 2011

Legal Description for the Conservation Easement on Sawmill Lake

Houston County, Forestar Compartment 03265, 03266

147.67 Acres

Fieldnotes to all that certain tract of land, being 147.67 acres, more or less, located in the LEONARD WILLIAMS SURVEY, ABSTRACT NO. 94 in Houston County, Texas, Being the residue of the called 894.85 acre tract described as Tract No. 4 in a Deed from TIN, Inc. to Forestar (USA) Real Estate Group, Inc., dated October 1, 2007 and recorded in Document Number 0708409 in the Image Records of Houston County, Texas (IRHCT), to which reference is hereby made for any and all purposes and being described by metes and bounds as follows, to wit:

Beginning at a concrete monument found in the easterly line of a called 139.950 acre tract described in a deed from Silver Carroll Crim and wife Betty Jean Crim to Scott Shartle, recorded in Volume 686, Page 327 DRHCT for the southwesterly corner of said 894.85 acre tract, from which a 10" Elm (X) bears South 20° 32' East 32.4 feet and a pipeline marker bears South 70° 34' East 46.9 feet;

Thence North 20° 43' 19" East 7835.75 feet (basis of bearings) along the common line of the said 139.950 acre tract and the said 894.85 acre tract to a point on the southerly bank of the Neches River for the northerly common corner of the said 139.950 acre tract and the said 894.85 acre tract, from which a concrete monument found for reference bears South 20° 43' 19" West 25.73 feet. From the said concrete monument a 24" Post Oak (X) bears 42° 11' East 33.6 feet and a 38" Elm (band) bears South 24° 38' West 52.4 feet;

Thence S 39° 39' 43" E 18.83 feet to a ½" Iron rod set for the True Point of Beginning in the bank of the Neches River, from which a 24" post oak bears witness to;

Thence S 23° 16' 03" W 1178.21 feet to a ½" Iron rod set for a corner, from which a 18" Willow oak bears witness;

Thence N 63° 19' 11" E 493.9 feet to a ½" iron rod set for a corner, from which a 10" red maple bears witness;

Thence N 63° 54' 08" E 260.83 feet to a ½" iron rod set for a corner, from which a 15" sweetgum bears witness;

Thence N 77° 09' 39" E 510.45 feet to a ½" iron rod set for a corner, from which a 14" loblolly pine bears witness;

Thence N 71° 56' 57" E 1106.44 feet to a ½" iron rod set for a corner, from which a 12" Water oak bears witness;

Thence N 03° 08' 51" E 137.74 feet to a ½" iron rod set for a corner, from which a 12" river birch bears witness;

Thence N 11° 52' 57" E 306.18 feet to a ½" iron rod set for a corner, from which a 11" river birch bears witness;



Thence N 48° 29' 11" E 327.44 feet to a ½" iron rod set for a corner, from which a 13" water oak bears witness;

Thence N 40° 54' 27" E 382.28 feet to a ½" iron rod set for a corner, from which a 30" sweetgum bears witness;

Thence S 84° 50' 41" E 544.28 feet to a ½" iron rod set for a corner, from which a 9" sycamore bears witness;

Thence N 66° 11' 30" E 114.92 feet to a ½" iron rod set for a corner, from which a 6" sweetgum bears witness;

Thence N 45° 07' 35" E 239.93 feet to a ½" iron rod set for a corner, from which a 10" water oak bears witness;

Thence N 53° 51' 11" E 429.70 feet to a ½" iron rod set for a corner, from which a 9" water oak bears witness;

Thence N 59° 47' 54" E 317.68 feet to a ½" iron rod set for a corner, from which a 6" water oak bears witness;

Thence S 74° 58' 34" E 257.50 feet to a ½" iron rod set for a corner, from which a 26" water oak bears witness;

Thence S 61° 13' 17" E 988.12 feet to a ½" iron rod set for a corner, from which a 9" sweetgum bears witness;

Thence S 41° 55' 05" E 252.44 feet to a ½" iron rod set for a corner, from which a 35" oak stump bears witness;

Thence S 55° 54' 56" E 315.89 feet to a ½" iron rod set for a corner, from which a 25" willow oak bears witness;

Thence S 57° 49' 56" E 186.61 feet to a ½" iron rod set for a corner, from which a 21" sweetgum bears witness;

Thence S 37° 42' 37" E 65.44 feet to a ½" iron rod set for a corner, from which a 10" river birch bears witness;

Thence N 55° 42' 37" E 528.37 feet to a ½" iron rod set for a corner in the bank of the Neches River, from which a 6" American holly bears witness; also for reference a ½" iron rod set in the property line of said 894.85 acre tract bears S 25° 12' 04" E 7.13 feet being S 48° 28' 15" W 8.05 feet from the Bank of the Neches River, which also bears witness to the northeasterly corner of said 894.85 acre tract;

Thence up the Neches River following the meanders of the same, generally in a westerly direction, being a northern boundary in the Leonard Williams Survey, A-94 and part of the boundary between Houston County and Cherokee County, to the True Point of Beginning containing 147.67 acres of land, more or less, as determined by a GIS System used by Forestar Group, Inc.

**Legal Description for the Conservation Easement on Coon Pond**

**Cherokee County, Forestar Compartments 03363, 03369, and 03370**

All that certain tract or parcel of land lying and situated in Cherokee County, Texas, within the following surveys: the JOHN MCGREGOR SURVEY, ABSTRACT 34, the MRS MW THOMPSON SURVEY, ABSTRACT 975, the MRS MW THOMPSON SURVEY, ABSTRACT 1065, the HENRY BURKETT SURVEY, ABSTRACT 149, the PC LATHAM SURVEY, ABSTRACT 1066, the MCKINNEY & WILLIAMS, ABSTRACT 623, and the GEORGE RUDELL, ABSTRACT 46 out of and a part of that certain 2,592.09 acre tract described as Tract Two in a deed which was conveyed from TIN, Inc. to Forestar (USA) Real Estate Group, Inc., dated October 1, 2007 and recorded under Clerk's File Number 00570747, Volume 1882, Page 223 of the Official Records of Cherokee County, Texas, to which reference is hereby made for any and all purposes and being described by metes and bounds as follows, to wit:

BEGINING at the point where Temple-Inland Company Road No. 03360D intersects the Neches River on the JOHN MCGREGOR SURVEY, A-34 witnessed by an 18.5" loblolly pine;

Thence S 01° 28' 06" W, 853.03 feet to a ½" iron pipe set for a corner, from which a 19.5" blackgum bears witness;

Thence S 35° 14' 46" W, 2,239.79 feet to a ½" iron rod set for a corner, from which an 18.5" water oak bears witness;

Thence S 09° 34' 53" W, 1,497.20 feet to a ½" iron rod set for a corner, from which a 27.2" overcup oak bears witness;

Thence S 37° 06' 31" E, 1,674.94 feet to a ½" iron rod set for a corner, from which a 13.0" water oak bears witness;

Thence S 22° 19' 01" E, 1,354.00 feet to a ½" iron rod set for a corner, from which a 22.2" blackgum bears witness;

Thence S 41° 45' 56" E, 2,151.46 feet to a ½" iron rod set for a corner, from which a 20.3" sweetgum bears witness;

Thence S 70° 25' 53" E, 1,513.24 feet to a ½" iron rod set for a corner, from which a 9.6" water oak bears witness;

Thence S 77° 42' 51" E, 2,275.87 feet to a ½" iron rod set for a corner, from a 16.2" water oak which witness;

Thence S 87° 11' 15" E, 1,695.99 feet to a ½" iron rod set for a corner, from which a 7.6" blackgum bears witness;

Thence N 79° 42' 45" E, 862.04 feet to a ½" iron rod set for a corner, from which a 7.7" willow oak bears witness;

Thence N 79° 42' 45" E, 564.46 feet to a ½" iron rod set for a corner, from which a 19.8" loblolly pine bears witness;



- Thence N 39° 40' 43" E, 35.10 feet to a ½" iron rod set for a corner, from which a 4.8" loblolly pine bears witness;
- Thence N 74° 14' 34" E, 80.80 feet to a ½" iron rod set for a corner, from which a 19.0" sweetgum bears witness;
- Thence S 81° 07' 38" E, 190.05 feet to a ½" iron rod set for a corner, from which a 12.6" sweetgum bears witness;
- Thence N 85° 17' 34" E, 577.87 feet to a ½" iron rod set for a corner, from which an 18.2" shortleaf pine bears witness;
- Thence N 83° 26' 13" E, 406.02 feet to a ½" iron rod set for a corner, from which an 8.0" cedar bears witness;
- Thence N 67° 06' 05" E, 340.79 feet to a ½" iron rod set for a corner, from which a 17.3" loblolly pine bears witness;
- Thence N 76° 04' 17" E, 125.50 feet to a ½" iron rod set for a corner, from which a 1.7" elm bears witness;
- Thence S 81° 19' 26" E, 252.49 feet to a ½" iron rod set for a corner, from which a 20.0" willow oak bears witness;
- Thence N 57° 50' 55" E, 210.29 feet to a ½" iron rod set for a corner, from which a 21.8" loblolly pine bears witness;
- Thence N 51° 21' 47" E, 348.01 feet to a ½" iron rod set for a corner, from which a 9.5" post oak bears witness;
- Thence N 86° 20' 49" E 177.49 feet to a ½" iron rod set for a corner, from which a 12.0" loblolly pine bears witness;
- Thence N 73° 09' 41" E, 440.39 feet to a ½" iron rod set for a corner, from which a 14.5" post oak bears witness;
- Thence N 69° 09' 28" E, 293.85 feet to a ½" iron rod set for a corner, from which a 10.9" red maple bears witness;
- Thence N 72° 36' 42" E, 363.59 feet to a ½" iron rod set for a corner, from which a 6.0" river birch bears witness;
- Thence N 59° 29' 03" E, 321.78 feet to a ½" iron rod set for a corner, from which a 7.0" water oak bears witness;
- Thence N 84° 41' 04" E, 373.91 feet to a ½" iron rod set for a corner, from which a 21.2" loblolly pine bears witness;
- Thence S 46° 24' 07" E, 323.54 feet to a ½" iron rod set for a corner, from which a 26.6" willow oak bears witness;

Thence S 42° 04' 56" E, 1,355.51 feet to a ½" iron rod set for a corner, from which a 20.3" water oak bears witness;

Thence S 79° 21' 58" E, 969.50 feet to a ½" iron rod set for a corner, from which a 22.4" sweetgum bears witness;

Thence N 68° 18' 59" E, 204.76 feet to a ½" iron rod set for a corner, from which a 15.5" cherrybark oak bears witness;

Thence S 71° 56' 38" E, 290.86 feet to a ½" iron rod set for a corner, from which a 25.4" water oak bears witness;

Thence S 47° 19' 40" E, 237.51 feet to a ½" iron rod set for a corner, from which a 5.5" river birch bears witness;

Thence S 60° 06' 58" E, 517.56 feet to a ½" iron rod set for a corner, from which a 26.0" overcup oak bears witness;

Thence S 80° 38' 53" E, 319.57 feet to a ½" iron rod set for a corner, from which a 28.3" water oak bears witness;

Thence S 82° 39' 15" E 208.22 feet to a ½" iron rod set for a corner, from which a 22.6" loblolly pine bears witness;

Thence S 47° 13' 02" E, 539.78 feet to a ½" iron rod set for a corner, from which a 26.6" loblolly pine bears witness;

Thence S 40° 39' 22" E, 428.03 feet to a ½" iron rod set for a corner, from which a 20.8" loblolly pine bears witness;

Thence N 50° 39' 50" E, 261.49 feet to a ½" iron rod set for a corner, from which a 5.8" elm bears witness;

Thence N 86° 31' 21" E, 16.51 feet to a ½" iron rod set for a corner, from which a 5.8" elm bears witness;

Thence N 87° 05' 07" E, 156.29 feet to a ½" iron rod set for a corner, from which a 14.2" sweetgum bears witness;

Thence S 55° 05' 42" E 461.62 feet to a ½" iron rod set for a corner, from which an 16.2" sweetgum bears witness;

Thence N 86° 43' 20" E, 392.43 feet to a ½" iron rod set for a corner, from which a 14.8" sweetgum bears witness;

Thence N 51° 36' 19" E, 832.03 feet to a ½" iron rod set for a corner, from which a 18.7" sweetgum bears witness;

Thence N 76° 25' 45" E, 2,440.88 feet to a ½" iron rod set for a corner, from which a 17.4" sweetgum bears witness;

Thence N 49° 58' 22" E, 531.22 feet to a ½" iron rod set for a corner, from which a 6.5" cedar elm bears witness;

Thence N 83° 05' 50" E, 379.78 feet to a ½" iron rod set for a corner, from which a 9.5" sweetgum bears witness;

Thence N 60° 05' 12" E, 467.22 feet to a ½" iron rod set for a corner, from which a 13.3" sweetgum bears witness;

Thence N 69° 31' 33" E, 1,608.92 feet to a ½" iron rod set for a corner, from which a 29.2" overcup oak bears witness;

Thence S 89° 18' 39" E, 639.67 feet to a ½" iron rod set for a corner, from which a 16.7" water oak bears witness;

Thence S 66° 15' 16" E, 293.69 feet to a ½" iron rod set for a corner, from which a 22.8" water oak bears witness;

Thence N 58° 24' 25" E, 631.99 feet to a ½" iron rod set for a corner, from which a 13.8" sweetgum bears witness, and being a point in the easternmost property line of said 2592.09 acre tract;

Thence continuing southeasterly with Temple-Inland Company Road No. 03360M and ending on the George Ruddell League Survey, A-46, at the intersection of Temple-Inland Company Road No. 03360M and the Neches River,

Thence up the Neches River following the meanders of the same, generally in a westerly and northerly direction, passing the GEORGE RUDELL, ABSTRACT 46, the PC LATHAM SURVEY, ABSTRACT 1066, the HENRY BURKETT SURVEY, ABSTRACT 149, the MRS MW THOMPSON SURVEY, ABSTRACT 1065, the MRS MW THOMPSON SURVEY, ABSTRACT 975, and the JOHN MCGREGOR SURVEY, ABSTRACT 34, to the point of beginning containing 637.252 acres of land, more or less, as determined by a GIS System used by Forestar Group, Inc.

SAVE AND EXCEPT out of the described 637.252 acre tract the 8.35 acre tract in the HUGH LONG SURVEY, ABSTRACT 1104 heretofore conveyed by Wayne L. Tosh, William E. Tosh and Mary Ann Nichols to T.E. Sword and wife, Sybil I. Sword, date September 18, 1990 and recorded in Volume 1134, Page 798 of the Deed Records of Cherokee County, Texas. A Boundary Line Agreement between Forestar (USA) Real Estate Group Inc. and Harold E. Sword, Tom R. Sword, and Gerald W. Sword was recorded in Volume 2216, Page 329 of the Deed Records of Cherokee County, Texas.

THEREBY, leaving a net acreage of 628.902 acres.



**FORESTAR (USA) REAL ESTATE GROUP, INC.  
206.46 ACRE TRACT - COMPARTMENT NO. 03267  
CONSERVATION EASEMENT AREA  
JACOB PREWITT SURVEY, ABSTRACT NO. 66  
HOUSTON COUNTY, TEXAS**

All that certain tract or parcel of land, lying and situated in Houston County, Texas, within the JACOB PREWITT SURVEY, ABSTRACT NO. 66, being all of that certain 192.87 acre tract described as Tract No. 3 of an aggregated 3597.77 acre tract, Neches River Conservation, which was conveyed from TIN, Inc., to Forestar (USA) Real Estate Group, Inc., by deed dated October 1, 2007 and recorded as Document No. 0708409 in the Deed Records of Houston County, Texas (see also 63/635 - 55/192 - 43/25), to which reference is hereby made for any and all purposes, being described by metes and bounds as follows, to wit:

**BEGINNING** on the right bank of the Neches River, at the Northeast corner of the above referred to 192.87 acre tract which is also the Northwest corner of that certain 139.950 acre tract which was conveyed from Silver Carroll Crim, et ux to Scott Sharle by deed dated April 17, 1981 and recorded in Volume 686, on Page 327 of the Deed Records of Houston County, Texas, at the a concrete monument found for corner from which a 26" Red Oak bears S 45° 54' E 12.88 feet and a 28" Overcup Oak bears S 16° 45' E 28.47 feet;

**THENCE** S 22° 21' 14" W with the East boundary line of the above referred to 192.87 acre tract, common with the West boundary line of said 139.950 acre tract, 4421.94 feet to the Southeast corner of said 192.87 acre tract which is also the Northeast corner of that certain tract which was conveyed, with acreage un-recited, from Natha Lee Pettibone, et al, to Horace Lee Hollingsworth, et ux, by deed dated November 22, 1983 and recorded in Volume 761, on Page 811 of the Deed Records of Houston County, Texas, a concrete monument found for corner from which a fence corner bears S 63° 12' W 1.57 feet, a ½" iron pipe found bears N 73° 06' 12" E 0.23 feet, a 12" Maple bears N 83° 24' E 15.27 feet, and a 28" Overcup Oak bears N 27° 04' W 29.89 feet;

**THENCE** N 72° 55' 04" W with the South boundary line of the above referred to 192.87 acre tract, common with the North boundary line of said Hollingsworth tract, 276.83 feet to a ½" iron pipe set for angle corner;

**THENCE** S 81° 15' 13" W continuing with last named boundary, 538.99 feet to a concrete monument found for angle corner from which an axle found bears S 81° 09' 45" W 68.53 feet;

**THENCE** S 80° 51' 15" W with the South boundary line of the above referred to 192.87 acre tract, in part common with the North boundary line of said Hollingsworth tract, then common with the North boundary line of that certain 97.2 acre tract (98.2 acres less 1 acre) which was described as Tract Four and set apart to Tracy Lynn Glazner and James Loyd Lovell by partition deed dated December 3, 2001 and recorded as Document No. 010000004882 0000 0001 in the Deed Records of Houston County, Texas, 232.41 feet to a concrete monument found for corner from which a Hackberry snag bears S 69° 48' E 18.37 feet;

**THENCE** S 72° 51' 03" W continuing with the South boundary line of the above referred to 192.87 acre tract, common with the North boundary line of said 97.2 acre tract, 313.73 feet to a concrete monument found for angle corner from which a 20" Sweetgum bears N 72° 45' W 25.55 feet and a 26" Elm bears S 22° 09' W 17.48 feet;

**THENCE** N 72° 13' 29" W continuing with last named boundary, 428.67 feet to a concrete monument found for angle corner from which a 30" Overcup Oak bears N 44° 10' E 30.58 feet, an Elm fence angle bears N 06° 05' E 4.53 feet, and a 36" Water Oak bears N 63° 27' W 24.02 feet;

**THENCE** S 87° 46' 51" W continuing with last named boundary, 619.58 feet to the Northwest corner of said 97.2 acre tract, located in the East boundary line of that certain 544.30 acre tract which was described as Tract Three and set apart to Tracy Lynn Glazner and James Loyd Lovell by partition deed dated December 3, 2001 and recorded as Document No. 010000004882 0000 0001 in the Deed Records of Houston County, Texas, subsequently described as Tract Two in deed from Tracy Lynn Glazner to Joseph Karl Glazner dated July 26, 2005 and recorded as Document No. 053275 in the Deed Records of Houston County, Texas, a concrete monument found for corner from which a 26" Blackgum bears N 42° 05' E 37.24 feet and a 24" Elm bears N 59° 57' E 39.48 feet;

THENCE N 02° 37' 27" W with one West boundary line of the above referred to 192.87 acre tract and the East boundary line of said 544.30 acre tract, 70.37 feet to a concrete monument found for angle corner from which a Sweetgum fence angle bears N 34° 41' W 24.09 feet and a 22" Blackgum bears N 47° 25' E 21.16 feet;

THENCE N 36° 11' 43" W with the boundary common to the above referred to 192.87 acre tract and 544.30 acre tract, 743.65 feet to the Northern-Northeast corner of said 544.30 acre tract, same being the apparent East corner of that certain 125 acre tract which was conveyed from Dr. Judson E. Bell to Major Musgrove by deed dated December 17, 1948 and recorded in Volume 268, on Page 170 of the Deed Records of Houston County, Texas, a concrete monument found for corner from which a 20" Sweetgum bears N 25° 42' W 10.51 feet and a Blackgum fence corner bears N 64° 07' W 15.65 feet;

THENCE following the boundary lines common to the above referred to 192.87 acre tract and the said 125 acre Musgrove tract, three lines as follows:

- 1) N 74° 31' 04" W 989.06 feet to a concrete monument found for corner from which a 26" Pine bears S 21° 30' E 7.86 feet, a 34" Pine bears N 74° 29' E 5.12 feet, and a 22" Ash bears N 57° 46' W 16.04 feet;
- 2) S 79° 51' 21" W 475.77 feet to a ½" iron pipe set for corner from which a Blackgum fence corner bears S 53° 39' W 9.02 feet, a 24" Sweetgum bears S 55° 38' E 21.86 feet, and a 24" Elm bears S 78° 51' E 40.87 feet;
- 3) N 35° 19' 15" W 167.79 feet to a concrete monument found for corner on the right bank of the Neches River, from which a 24" Oak fence corner bears S 85° 56' E 12.07 feet and a 24" Water Oak bears S 84° 40' E 33.42 feet;

THENCE with the Northern boundary line of the above referred to 192.87 acre tract, following the meanders of the right bank of the Neches River, downstream, seventy-two lines as follows:

- 1) N 57° 48' 10" E 71.16 feet,
- 2) N 36° 34' 34" E 67.83 feet,
- 3) N 49° 30' 19" E 30.67 feet,
- 4) N 57° 00' 39" E 189.06 feet,
- 5) N 52° 15' 01" E 140.77 feet,
- 6) N 55° 33' 52" E 112.11 feet,
- 7) N 47° 33' 32" E 247.75 feet,
- 8) N 46° 21' 47" E 169.91 feet,
- 9) N 35° 21' 37" E 113.90 feet,
- 10) N 65° 18' 07" E 523.88 feet,
- 11) N 66° 17' 08" E 96.76 feet,
- 12) N 89° 56' 58" E 137.64 feet,
- 13) S 49° 34' 43" E 147.31 feet,
- 14) S 42° 26' 57" E 155.95 feet,
- 15) S 42° 18' 24" E 41.63 feet,
- 16) S 37° 19' 54" E 140.33 feet,
- 17) S 61° 48' 34" E 196.06 feet,


- 18) S 82° 00' 48" E 104.82 feet,
- 19) N 85° 05' 31" E 143.09 feet,
- 20) S 89° 29' 02" E 152.74 feet,
- 21) S 69° 16' 33" E 186.80 feet,
- 22) S 70° 01' 26" E 121.13 feet,
- 23) S 80° 44' 45" E 47.34 feet,
- 24) S 83° 30' 00" E 134.47 feet,
- 25) N 76° 53' 01" E 110.10 feet,
- 26) N 45° 53' 03" E 59.75 feet,
- 27) N 16° 19' 51" E 103.41 feet,
- 28) N 14° 20' 27" E 110.42 feet,
- 29) N 08° 51' 42" E 109.40 feet,
- 30) N 07° 07' 16" E 159.38 feet,
- 31) N 47° 18' 38" W 281.25 feet,
- 32) S 84° 20' 42" W 62.76 feet,
- 33) N 88° 17' 14" W 98.19 feet,
- 34) N 77° 11' 22" W 109.18 feet,
- 35) N 34° 52' 15" W 61.76 feet,
- 36) N 37° 42' 00" E 102.30 feet,
- 37) N 63° 44' 32" E 83.27 feet,
- 38) N 76° 30' 29" E 190.00 feet,
- 39) N 88° 17' 37" E 106.90 feet,
- 40) N 81° 28' 40" E 82.64 feet,
- 41) N 80° 54' 23" E 111.99 feet,
- 42) N 72° 47' 02" E 71.46 feet,
- 43) N 75° 10' 21" E 100.18 feet,
- 44) N 74° 28' 45" E 161.71 feet,
- 45) N 73° 26' 09" E 120.71 feet,
- 46) N 69° 23' 26" E 85.33 feet,
- 47) N 78° 01' 53" E 63.82 feet,
- 48) S 70° 27' 38" E 53.46 feet,
- 49) S 16° 33' 53" E 126.91 feet,
- 50) S 32° 58' 51" E 113.60 feet,



- 51) S 54° 46' 00" E 454.71 feet,
- 52) S 85° 51' 24" E 79.85 feet,
- 53) N 72° 43' 55" E 78.79 feet,
- 54) N 18° 11' 11" E 210.68 feet,
- 55) N 26° 10' 33" W 138.03 feet,
- 56) N 28° 21' 16" W 228.29 feet,
- 57) N 04° 42' 27" W 135.04 feet,
- 58) N 12° 31' 17" E 348.27 feet,
- 59) N 19° 59' 41" E 145.23 feet,
- 60) N 19° 53' 59" E 40.21 feet,
- 61) N 31° 59' 35" E 109.01 feet,
- 62) N 48° 18' 04" E 323.38 feet,
- 63) N 55° 17' 27" E 95.82 feet,
- 64) N 57° 42' 32" E 173.83 feet,
- 65) N 49° 20' 50" E 141.77 feet,
- 66) N 56° 15' 27" E 124.36 feet,
- 67) N 54° 46' 39" E 38.35 feet,
- 68) N 47° 30' 43" E 68.37 feet,
- 69) N 64° 25' 36" E 136.19 feet,
- 70) N 75° 39' 44" E 232.98 feet,
- 71) N 78° 18' 44" E 132.61 feet,
- 72) N 82° 24' 19" E 137.13 feet to the place of beginning containing 206.46 acres of land, more or less.

Basis of Bearings: The Texas State Plane Coordinate System, Central Zone.

EVERETT GRIFFITH, JR. & ASSOCIATES, INC.  
Engineering and Surveying

  
Kasey L. Rice (Signature in blue ink)  
Registered Professional Land Surveyor No. 1733  
408 North Third  
Lufkin, Texas 75901  
(936) 634-5528  
April 13, 2011

SEE ATTACHED PLAT



**EXHIBIT "B": ACCESS EASEMENT FORM**



## Easement Agreement for Access

Date: December 31, 2014

Grantor: Forestar (USA) Real Estate Group Inc.

Grantor's Mailing Address: 6300 Bee Cave Rd.  
Building 2, Ste 500  
Austin, Texas 78746

Grantee: Conserve East Texas

Grantee's Mailing Address: P.O. Box 154540  
Lufkin, Texas 75915

Easement Property: See Exhibit A

Easement Purpose: For providing free and uninterrupted pedestrian and vehicular ingress to and egress to and from the Easement Property.

Consideration: The sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor.

Grant of Easement: Grantor, for the Consideration, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part thereof, to the extent that such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Character of Easement.* The Easement is appurtenant to and runs with all or any portion of the Easement Property, whether or not the Easement is referenced or described in any conveyance of all or such portion of the Easement Property. The Easement is nonexclusive and irrevocable. The Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Easement Property (as applicable, the "Holder").
2. *Duration of Easement.* The duration of the Easement is perpetual.

3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to continue to use and enjoy the surface of the Easement Property for all purposes that do not interfere with or interrupt the use or enjoyment of the Easement by Holder for the Easement Purposes. Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Easement in conjunction with Holder and the right to convey to others the right to use all or part of the Easement in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement and the other users agree to bear a proportionate part of the costs of improving and maintaining the Easement.

4. *Improvement and Maintenance of Easement Property.* Holder has the right to eliminate any encroachments into the Easement Property. Holder does not have any obligation to maintain the Easement Property. Holder has the right to construct, install, maintain, replace, and remove a road with all culverts, bridges, drainage ditches, sewer facilities, and similar or related utilities and facilities under or across any portion of the Easement Property (collectively, the "Road Improvements"). All matters concerning the configuration, construction, installation, maintenance, replacement, and removal of the Road Improvements are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the Road Improvements or for the road to continue onto other lands or easements owned by Holder and adjacent to the Easement Property, subject to replacement of the fences to their original condition on the completion of the work.

5. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

6. *Attorney's Fees.* If any party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

7. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

8. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

9. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.



10. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
11. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
12. *Indemnity.* Each party agrees to indemnify, defend, and hold harmless the other party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this agreement by the indemnifying party.
13. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
14. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
15. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
16. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.
17. *Time.* Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.



EXECUTED effective as of the \_\_\_\_ day of \_\_\_\_\_, 2014.

**GRANTOR:**

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

By: \_\_\_\_\_  
Name: Jeff Portwood  
Title: Senior Vice President

THE STATE OF TEXAS §

COUNTY OF ANGELINA §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2014 by Jeff Portwood, the Senior Vice President of Forestar (USA) Real Estate Group Inc., a Delaware corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

**GRANTEE:**

CONSERVE EAST TEXAS INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

THE STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2014 by  
\_\_\_\_\_, the \_\_\_\_\_ of Conserve East Texas Inc.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

**EXHIBIT A: DESCRIPTION OF EASEMENT PROPERTY**