

**EDWARDS AQUIFER AUTHORITY  
State of Texas**

<b>IN THE MATTER OF THE FOLLOWING</b>	)
<b>APPLICATION TO CONVERT BASE IRRIGATION</b>	)
<b>GROUNDWATER:</b>	)
	)
	)
<b>P200-194        Lennar Homes of Texas Land and Construction,</b>	)
<b>(BE00176)      Ltd.</b>	)

**FINAL ORDER GRANTING APPLICATION  
TO CONVERT BASE IRRIGATION GROUNDWATER**

**ON THIS DAY CAME ON TO BE HEARD** the above-styled and numbered Application to Convert Base Irrigation Groundwater (“Conversion Application” or “Application”) of Lennar Homes of Texas Land and Construction, Ltd. (“Applicant”). As set forth below, the General Manager of the Edwards Aquifer Authority (“EAA”) issued notice of his proposed action on the Conversion Application. The Board of Directors (“Board”) of the EAA, after having reviewed and considered the summaries of the evidence for the Conversion Application as contained in the materials in the Board Packet, the arguments and presentation of the General Manager of the EAA, and the arguments and presentations of Applicant, or its representatives, and other applicants or permittees, or their representatives, who may have appeared before the Board, is of the opinion and finds that:

1.        the facts necessary to support the General Manager’s proposed action to grant the Conversion Application have been established by convincing evidence; and
2.        the General Manager’s proposed action is entitled to prevail with reference to the above-styled and numbered application.

Accordingly, the Board is of the opinion and finds that the Conversion Application should

be GRANTED. In support of this Final Order, the Board makes its Findings of Fact and Conclusions of Law as follows:

### **FINDINGS OF FACT**

1. On April 2, 2001, the Maria Aelvoet Estate was granted Initial Regular Permit No. 2001-BE00176 (P100-092) by the EAA in the amount of 114 acre-feet/year (“AF/yr”) (57 AF/yr of base irrigation groundwater rights (“BIG”) and 57 AF/yr of unrestricted irrigation groundwater rights (“UIG”)) based on the irrigation of 57 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. By the administration of the Maria Aelvoet Estate, the historically irrigated acres (“HIA”) and associated Initial Regular Permit No. 2001-BE00176 (P100-092) passed from the Maria Aelvoet Estate to Margaret Z. Tschirhart and Edgar Frank Aelvoet. Upon Edgar Frank Aelvoet’s death, on June 7, 2018, by his will, Edgar Frank Aelvoet’s ownership interest in the HIA and associated Initial Regular Permit No. 2001-BE00176 (P100-092) passed to Margaret Z. Tschirhart. On November 5, 2019, the EAA issued P100-092 (BE00176) to Margaret Z. Tschirhart.

3. On September 16, 2020, due to the Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights approved on July 10, 2020, and recorded as Document # 20200167948, Official Public Records, Bexar County, Texas, the EAA re-issued P100-092 (BE00176) to Margaret Z. Tschirhart.

4. On April 14, 2021, due the sale of 38.4 acres with 31 HIA and associated Regular Permit No. P100-092 from Margaret Z. Tschirhart to Applicant pursuant to Special Warranty Deed dated January 22, 2021, and recorded as Document # 20210021594, Official Public Records, Bexar

County, Texas, the EAA issued Regular Permit P200-194 (BE00176) in the amount of 31 AF/yr of BIG to Applicant.

5. On April 26, 2021, Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. On May 14, 2021, Applicant filed an amended Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant seeks issuance of an order granting the Conversion Application by converting 17.030 AF/yr of BIG to UIG.

6. After receipt of the Conversion Application, the General Manager of the EAA conducted an initial review of the Application for administrative completeness.

7. By letter dated April 26, 2021, the General Manager notified Applicant that he had determined that the Application was administratively complete.

8. After determining that the Conversion Application was administratively complete, the General Manager conducted a technical review of the Application for the purpose of determining if the Application should be granted or denied, in whole or in part.

9. After completing the technical review of the Conversion Application, the General Manager concluded that he should recommend to the Board that the Application be granted in whole.

10. In conjunction with the proposed action, the General Manager prepared a Technical Summary.

11. On October 19, 2021, the General Manager provided written notice to Applicant by

United States mail that the technical review of the Application was complete, provided the proposed action and Technical Summary in support thereof.

12. The Docket Clerk of the EAA scheduled before the Board a presentation by the General Manager on the Conversion Application, his proposed action, and the proposed issuance of a Regular Permit in accordance therewith. The presentation occurred at the regular meeting of the Board held on December 14, 2021, at the official offices of the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas. Notice of public meeting for this meeting was duly and properly posted in accordance with Chapter 551, Texas Government Code. Additionally, an agenda item that is the subject of this Final Order was duly and properly listed in the notice of public meeting.

13. On October 19, 20, and 21, 2021, pursuant to EAA Rule § 707.525, Applicant published a Notice of Proposed Action on Application For Conversion Of Base Irrigation Groundwater To Unrestricted Irrigation Groundwater in five (5) newspapers within the EAA's jurisdiction outlining the General Manager's proposed action.

14. On October 20, 2021, pursuant to § 1.34 of the EAA Act and § 711.342(c) of the EAA's Rules, the EAA provided permit holders, by United States mail, a copy of the Notice Of Proposed Action On Application For Conversion Of Base Irrigation Groundwater To Unrestricted Irrigation Groundwater, outlining the General Manager's proposed action.

15. In accordance with §§ 707.525 and 707.603, the October 19, 2021 written letter to Applicant, the October 19-21, 2021 newspaper publications, and the October 20, 2021 letters to permit holders provided notice of the right for any permit holder to request a contested case hearing on the Application and the General Manager's proposed action. The deadline to request a

contested case hearing was November 22, 2021. No requests were received.

16. The Conversion Application was, contemporaneous with its receipt, affixed with a “date stamp” by the EAA to the front page of the Application indicating its date of receipt by the EAA.

17. Applicant paid the application fee of \$25 at the time the Conversion Application was filed with the EAA.

18. Applicant is not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

19. Applicant has filed with the EAA all applicable reports.

20. The place of use set out in Regular Permit P200-194 (BE00176) includes irrigated land during the historical period. A description of the lands is as follows:

the tract(s) of land more fully described in Special Warranty Deed dated 01/22/2021 as recorded with the County Clerk as Document #20210021594, Official Public Records, Bexar County, Texas; and more specifically the 31 acre-tract more fully described in Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights dated 07/10/2020 as recorded with the County Clerk as Document #20200167948, Official Public Records, Bexar County, Texas.

21. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit No. P200-194 (BE00176) such that, in accordance with EAA Rules § 711.342(c)(6)(A), 17.030 HIA have been developed into a single-family home subdivision.

22. A map showing the location of the HIA is attached as Exhibit A.

23. Applicant is not required to submit a groundwater conservation plan to the EAA.
24. Applicant is in compliance with the Act, the EAA's rules, other permits, and orders of the Board.
25. Applicant is the owner of the land to which the BIG that is the subject of the Conversion Application is appurtenant.
26. Applicant was not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P200-194 (BE00176).

### **CONCLUSIONS OF LAW**

1. Because the Conversion Application seeks to convert BIG in the IRP to UIG associated with a groundwater withdrawal permit issued by the EAA, the Board of Directors of the EAA has jurisdiction over the Application.
2. The Conversion Application meets the requirements of Sections § 711.342(c)(6)(A) of the EAA Rules and, therefore, a change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P200-194 (BE00176) such that these lands have been developed.
3. The Conversion Application otherwise complies with the Act and the EAA's Rules.
4. Accordingly, the Conversion Application should be granted in accordance with this Final Order Based, hereby converting 17.030 AF/yr of BIG to UIG associated with Regular Permit P200-194 (BE00176) and the historically irrigated lands constituting the place of use for this Permit.

## **ORDERING PROVISION**

**IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED** that the above-styled and numbered Conversion Application is hereby **GRANTED** as follows:

1. the General Manager is directed to advise Applicant in writing of the issuance and effect of this Final Order;
2. when appropriate as determined by the General Manager, the General Manager is directed to prepare an amended Regular Permit reflecting the issuance and effect of this Final Order in the form of the approved Regular Permit form and subject to the Conditions for Regular Permits as may be in effect at the time of the issuance of this Final Order, for presentation to the Chairman of the Board of Directors of the EAA for signature; and
3. the General Manager is directed to make appropriate adjustments, changes, or modifications to the EAA's permits and water accounting database consistent with the issuance and effect of this Final Order.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS  
AQUIFER AUTHORITY THIS 14<sup>TH</sup> DAY OF DECEMBER, 2021.

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**LUANA BUCKNER**  
Chairman, Board of Directors  
Edwards Aquifer Authority

**ATTEST:**

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**BENJAMIN F. YOUNGBLOOD III**

Secretary, Board of Directors  
Edwards Aquifer Authority

**APPROVED AS TO FORM:**

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**DARCY ALAN FROWNFELTER**

General Counsel