

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.**

ORDINANCE

**APPROVING AN AMENDMENT TO THE CIBOLO CANYON
CONSERVATION EASEMENT BETWEEN TF CIBOLO CANYONS, L.P.,
AND THE NATURE CONSERVANCY TO REMOVE APPROXIMATELY
30 ACRES FROM, AND ADD APPROXIMATELY 144 ACRES TO, THE
EXISTING CONSERVATION EASEMENT LOCATED NORTH OF THE
CITY OF SAN ANTONIO IN THE EXTRATERRITORIAL
JURISDICTION (ETJ).**

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WHEREAS, October 2002, through Ordinance No. 95579, the City approved a non-annexation agreement with Lumbermen's Investment Corporation for the development of a golf resort community which involved certain requirements to include a conservation easement totaling 700 acres over the Edwards Aquifer; and

WHEREAS, Forestar (USA) Real Estate Group, Inc. granted a conservation easement in 2013 on 768 acres in Bexar County, Texas, to The Nature Conservancy under Doc. 20130106927, O.P.R. Bexar County, Texas; and

WHEREAS, T.F. Cibolo Canyons, L.P., a successor in interest to Forestar (USA) Real Estate Group, Inc. for Cibolo Canyon Master Phase II, requested that U.S. Fish & Wildlife Service amend the Incidental Take Permit No. TE102437 and Habitat Conservation Plan to modify the conservation area by replacing an approximately 30 acre tract no longer supporting breeding golden-cheeked warblers with an approximately 144 acre tract in the development area with sufficient habitat to support breeding golden-cheeked warblers; and

WHEREAS, U.S. Fish & Wildlife Service found that the changes will benefit the golden-cheeked warblers to a greater extent due to expansion of the conservation area and recommended and issued an amended Incidental Take Permit No. TE102437 in July 2024, which authorized the requested change and resulted in an overall increase in the conservation area from approximately 768 acres to 882 acres; and

WHEREAS, T.F. Cibolo Canyons, L.P. has requested an amendment to the Conservation Easement for the proposed modification of the conservation area to fulfill its requirements under the amended Incidental Take Permit No. TE102437 and Habitat Conservation Plan, by replacing the 30.002 acre tract described in the field notes attached herein and made a part hereof as **ATTACHMENT I** with the 143.537 acre tract described in the field notes attached herein and made a part hereof as **ATTACHMENT II**; and

WHEREAS, on July 5, 2024, U.S. Fish & Wildlife Service approved the developer's proposal with an amendment to the habitat conservation plan; and

WHEREAS, Section 11 of the Conservation Easement, which governs the proposed modification, provides the Conservation Easement may be amended with the written consent of the landowner and The Nature Conservancy, along with the prior approval of U.S. Fish and Wildlife Service and the City of San Antonio, consistent with the purposes of the Conservation Easement and in compliance with Chapter 183 of the Texas Natural Resources Code; and

WHEREAS, T.F. Cibolo Canyons, L.P. and Cibolo Canyons Resort Community, Inc., the current landowners of the land subject to the Conservation Easement, and The Nature Conservancy based upon the findings and recommendations of U.S. Fish and Wildlife Service are prepared to move forward with the proposed amendment of the Conservation Easement subject to the prior approval of U.S. Fish and Wildlife Service and the City; and

WHEREAS, U.S. Fish and Wildlife Service has approved the proposed modification of the conservation area to be placed under the Conservation Easement pursuant the amended Incidental Take Permit No. TE102437; and

WHEREAS, the State of Texas has authorized the creation of conservation easements under Chapter 183 of the Texas Natural Resources Code, which provides that conservation easements may be modified in the same manner as other easements; and

WHEREAS, golden cheek warbler protection remains an important purpose of the Conservation Easement, and the easement's conservation purposes can continue to be fulfilled by the proposed amendment; and

WHEREAS, although the City is not a party to the conservation easement, the conservation easement may be amended with written consent by the developer and the Nature Conservancy along with approval by the U.S. Fish and Wildlife Service and the City, which must be evidenced by a duly adopted ordinance; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Council approves the amendment to the Cibolo Canyon Conservation Easement between TF Cibolo Canyons, L.P., and The Nature Conservancy, for the removal of approximately 30 acres from, and addition of approximately 144 acres to, the existing conservation easement. Said approval is conditioned by T.F. Cibolo Canyon L.P.'s acknowledgment under the 2005 Agreement for Services in Lieu of Annexation that the Agreement is still in effect related to annexation and the City would have the authority to annex the property at the end of the term of the Agreement, and that such annexation would be considered voluntary. T.F. Cibolo Canyon, L. P.'s Acknowledgement of Annexation Status letter dated January 16, 2025 is attached hereto and incorporated herein as **ATTACHMENT III**.

SECTION 2. The statements set forth in the recitals of this ordinance are true and correct and are incorporated as a part of this ordinance.

SECTION 3. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 27th day of February, 2025.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney

SG/ml
02/27/2025
Item No. ##

ATTACHMENT I
Field Notes for 30.002 acre tract

SG/ml
02/27/2025
Item No. ##

ATTACHMENT II
Field Notes for 143.537 acre tract

SG/ml
02/27/2025
Item No. ##

ATTACHMENT III

T.F. Cibolo Canyon, L. P.'s Acknowledgement of Annexation Status letter 01-16-25