

**ORDINANCE**

**AUTHORIZING ACQUISITION OF A CONSERVATION EASEMENT TOTALING APPROXIMATELY 562.44 ACRES IN UVALDE COUNTY KNOWN AS HIGH PLACES RANCH AND AUTHORIZING PAYMENT TO MISSION TITLE AS ESCROW AGENT IN THE AMOUNT OF OF 538,772.05 FROM PROPOSITION 1 OF THE EDWARDS AQUIFER PROTECTION SALES TAX FUND.**

\* \* \* \* \*

**WHEREAS**, the purpose of the Edwards Aquifer Protection Program is to obtain property rights by fee simple purchase, conservation easements or donations of land over the sensitive zones of the Edwards Aquifer. This program was initiated in May 2000 when voters approved Proposition 3, a 1/8-cent sales tax venue up to \$45 million for the acquisition of lands over the Edwards Aquifer for parks and watershed protection. Proposition 3 ran from 2000 through 2005 and was limited to Bexar County; and

**WHEREAS**, the 2005 Proposition 1 program was an extension of the initial voter-approved Edwards Aquifer protection endeavor and was extended by voters in 2010 and renewed again in 2015. Changes in state legislation allowed watershed protection activities to expand outside of Bexar County; and

**WHEREAS**, the proposed purchase of the conservation easement on the High Places Ranch is located over the Edwards Aquifer Contributing Zone and consists of 562.44 acres in Uvalde County, Texas. The property was initially identified through use of the Scientific Evaluation Team's GIS Spatial Model and subsequent site visits identified favorable recharge features on the property. The High Places Ranch is located immediately west of Garner State Park and within the Dry Frio/Frio River watershed which contributes to significant recharge of the Edwards Aquifer. The Edwards Aquifer Authority issued a geological assessment of the property confirming that preservation would provide high water quantity and very high water quality benefit for the City of San Antonio; and

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

**SECTION 1.** The City Manager or designee is authorized to acquire an aquifer-protection conservation easement on 562.44 acres of land known as High Places Ranch as depicted on the map in **ATTACHMENT I** and substantially in the form attached as **ATTACHMENT II**.

**SECTION 2.** The City Manager or designee is authorized to consummate the transaction contemplated in the described easements. The City Manager or designee should take all other actions necessary or convenient to effectuate the transaction, including agreeing to the form of and executing all necessary or convenient instruments and agreements.

**SECTION 3.** Payment in the amount of \$538,772.05 for a 562.44 acre conservation easement on land known as the High Places Ranch in Uvalde County. Payment is in support of the Edwards Aquifer Land Acquisitions Conservation Easement Proposition 1 Edwards Aquifer

VS  
11/18/2021  
Item

Protection Program Project using the WBS elements and GL accounts in the table below. Funding is provided by the Edwards Aquifer 2015 Fund and the Linear Parks 2015 Fund and is in the FY2022 -FY2027 Capital Improvements Program.

WBS	GL	AMOUNT
26-00638-01-11	5209010	\$490,997.05
26-00638-01-03	5201040	35,500.00
26-00638-01-06	5201040	9,475.00
26-00638-01-11	5201040	2,800.00
<b>TOTAL</b>		<b>\$538,772.05</b>

Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years

**SECTION 4:** The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Fund Numbers, Project Definitions, WBS Elements, Internal Orders, Fund Centers, Cost Centers, Functional Areas, Funds Reservation Document Numbers, and GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 5.** This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

**PASSED AND APPROVED** this 18th day of November, 2021.

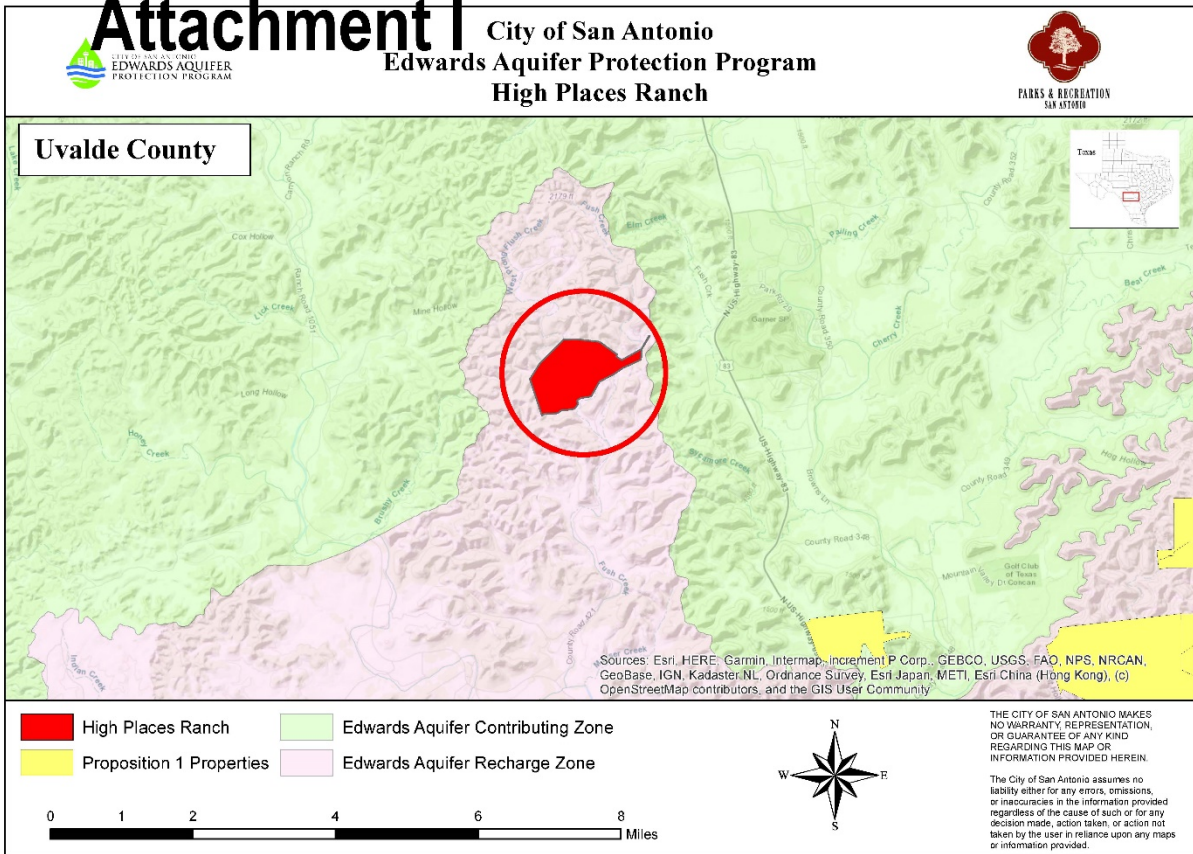
**M A Y O R**  
Ron Nirenberg

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Debbie Racca-Sittre, Acting City Clerk

\_\_\_\_\_  
Andrew Segovia, City Attorney



# Attachment II

**Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before It is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.**

STATE OF TEXAS                   §  
  §           KNOW ALL BY THESE PRESENTS:  
COUNTY OF UVALDE           §

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**Conservation Easement**  
HIGH PLACES RANCH

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<b>Authorizing Ordinance:</b>	
<b>Grantor:</b>	High Places Ranch LLC
<b>Grantor's Address:</b>	1708 Ovid Street, Houston, Texas 77007 (Harris County)
<b>Grantee:</b>	City of San Antonio, a Texas municipal corporation
<b>Grantee's Address:</b>	P.O. Box 839966, San Antonio, Texas 78283-3966 (Bexar County) Attn: Director, Parks and Recreation Dept.
<b>Property:</b>	562.44 acres, as more particularly described on Exhibit A.

### Grant, Rights, and Obligations

Now, Therefore, in consideration of the premises, the mutual covenants and promises contained herein, \$10 in hand paid, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor grants and conveys to Grantee in perpetuity a Conservation Easement ("Easement") in gross over the Property as of the Effective Date. This Easement is created under and is governed by Chapter 183 of the Texas Natural Resources Code, as amended, or its recodification and Section 170 of the Internal Revenue Code.

### Predicate Facts

Grantor owns the Property identified below in fee simple, subject to the Reservations From and Exceptions to Warranty.

The Property sits over the Edwards Aquifer recharge zone, the contributing zone, or both.

Grantor and Grantee both wish to restrict development on the Property in furtherance of protecting indefinitely the quantity and quality of aquifer recharge.

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The characteristics of the Property, its current use and state of improvement, are described in the Report (as defined below).

The Report is a complete and accurate description of the Property as of the date of this Easement, establishing the baseline condition of the Property as of the Effective Date and includes reports, maps, photographs, and other documentation;

In inquiring into the condition of the Property as of the date of this Easement, the Report may be augmented but not contradicted by other evidence.

Grantor and Grantee have the common purpose of protecting the natural condition of the Property to further the Purposes of this Easement in perpetuity.

The rights and obligations arising under this Easement are a bargained-for allocation of property rights between Grantor and Grantee.

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## 1. Basic Information.

**Maximum Number of  
Parcels:** Two

**Maximum Number of  
Building Envelopes:** Two

**No-Development Zones:** As more particularly described on Exhibit B. Structures identified in the Report need not be removed.

**Maximum Increased  
Impervious Cover:** 122,499.432 square feet, which is intended to approximate ½ of one percent of the Property's total acreage, but the square footage controls

**Maximum Impervious Cover  
per Building Envelope:** 25% of the total square feet in the Building Envelope

**Maximum Number of Water  
Wells:** Five

**Report:** The Easement Documentation Report dated September 2021 prepared by Rain Crow Wildlife Consulting relating to the Property, as shown on Exhibit C.

**Exceptions to and  
Reservations from  
Warranty:** As shown on Exhibit D. *All items from Schedule B of title policy except rights of parties in possession and shortages in area.*

All exhibits are incorporated into this Easement by reference for all purposes, as if fully set forth.

## 2. Exhibits.

Exhibit A	Description of Property
Exhibit B	No-Development Zones
Exhibit C	Easement Documentation Report
Exhibit D	Exceptions to and Reservations from Warranty

## 3. Purpose.

This Easement's purpose ("Purpose") is to minimize the chance of materially impairing the quantity or quality of aquifer recharge. In furthering the Purpose, the parties restrict numerous activities on the Property and seek to ensure that the Property remains forever in approximately the same natural state in which it now exists, except as otherwise provided. In addition to the

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specific limitations and requirements of this instrument, Grantor must at all times use its reasonable best efforts to prevent impairment of quality or quantity of aquifer recharge.

## 4. Definitions.

4.01. Building Envelope means an area set aside within the Property in which Structures may be built or added. Building Envelopes 1 and 2 will be a maximum of 11 acres combined and will contain the existing structures as well as additional future structures. **Building Envelopes 1 and 2 are located on Exhibits B and C hereto.**

4.02. Feeder means a device that dispenses or otherwise provides food to livestock or wildlife that sits on legs above the surface of the ground.

4.03. Development means any increase in Impervious Cover as defined in 4.06, removal of vegetation, or mechanical tillage of the soil not otherwise permitted in this Conservation Easement. This definition includes cultivation, earthmoving, land forming, land grading, and land planing.

4.04. Hazardous Materials means (i) any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et. seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and regulations promulgated thereunder (including petroleum-based products as described therein); (iii) other petroleum and petroleum-based products; (iv) asbestos in any quantity or form which would subject it to regulation under any Applicable Laws; (v) polychlorinated biphenyls (PCBs); (vi) or any substance, the presence of which on the Property is prohibited by any Applicable Laws; and (vii) any other substance which, by any Applicable Laws, requires special handling in its collection, storage, treatment or disposal. As used herein, the term "Applicable Laws" means all laws, statutes, ordinances, regulations, and judicial rulings now or hereafter adopted by any governmental authority with jurisdiction over the Property.

4.05. Hunting Blind means a structure of 100 square feet or less used for viewing or hunting wildlife. Blinds may but need not be elevated.

4.06. Impervious Cover means any artificial condition that substantially impedes absorption of water by the soil, including roofs, foundations, parking lots, improved Roads, and anything else covering or placed above the natural surface of the Property. Mobile homes, motor homes, and travel trailers that are used on a temporary basis in accordance with Section 5.03.04 count as Temporary Impervious Cover. Mobile homes, motor homes, and travel trailers used as fixed-permanent structures count as Impervious Cover.

4.07. Confined Animal Feeding Operation means agricultural operations in which livestock or wildlife is confined for at least 45 days in any 12-month period in a corral or similar enclosure in which most of the animals' nutrition is provided artificially.

4.08. Maximum Increased Impervious Cover means the maximum amount of the Property to which Impervious Cover may be added after the Effective Date. It does not include Impervious Cover shown in the Report (or replacements thereof).

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4.09. No-Development Zone means an area set aside within the Property in which no Building Envelopes, improved Roads, or other Development may occur.

4.10. Parcel means a distinct, contiguous tract resulting from a division, subdivision, or partition of the Property allowed under this Easement. A parcel includes any tract resulting from a subdivision plat, conveying part of the Property to another, or other arrangement creating characteristics of a subdivision. Creation of undivided interests in the Property does not create a division, subdivision, or partition.

4.11. Road means any route traveled by a motorized vehicle which route has been improved through the use of base, tar, asphalt, sealant, or other impervious material that would materially impair the recharge capability of the Property. Unimproved trails, two tracks, or paths that do not materially diminish the recharge capability of the Property or paths made by leveling native or Indigenous soil and rock do not constitute a Road or count as Impervious Cover.

4.12. Structure means anything built on or added to the Property, excluding fences, Hunting Blinds, rain catchment systems, shooting ranges, utility poles, and livestock/ranching improvements including Feeders, Animal Shelters, Silos, water troughs, corrals, chutes, animal pens, water tanks, and associated Storage Sheds. Any such fences, Hunting Blinds, rain catchment systems, utility poles, and associated livestock/ranching improvements can be built outside of a Building Envelope, within the limitations outlined in Sections 4.02, 4.05, 4.17, 4.18, 4.19, and 6.02.04, but will count as Impervious Cover if any such improvements have an impervious foundation or bottom that impedes absorption of water into the soil.

4.13. Temporary Impervious Cover means any non-permanent Structure typically used to provide protection from the elements (i.e. tents, awnings, travel trailers, mobile homes, etc.).

4.14. Exotic means not naturally occurring in the Edwards Plateau or South Texas Plains eco-region.

4.15. Indigenous means naturally occurring in the Edwards Plateau or South Texas Plains eco-region.

4.16. Fertilizer means any synthetically produced or manufactured fertilizer. Processed organic fertilizers, such as compost, and naturally occurring fertilizers, such as peat or manure, are not considered to be a synthetically produced or manufactured fertilizer and do not fall under this term.

4.17 Animal Shelter means a two-or-three-sided building or hut constructed for the purpose of creating shelter or a covered area of water and feed for livestock animals. Animal Shelters built outside of a Building Envelope require Grantee approval. Animal Shelters built with no walls or impervious bottom can be built outside of a Building Envelope without Grantee approval.

4.18 Silo means a tall, round metal tower or cylindrical building used to store grass, grain, feed, or other bulk materials. Silos built outside of a Building Envelope require Grantee approval and cannot be constructed as a pit or underground structure.

4.19 Storage Shed means a small single-story building constructed for the purpose of storing materials needed for typical livestock or ranching operations. Storage Sheds built outside of a Building Envelope require Grantee approval.



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4.20 Earthen or Check Dam means a non-permanent dam created from rock, soil, or cut brush placed within a drainage or waterway. Such Earthen or Check Dams must be constructed so that the maximum height of the dam does not exceed the lowest bank of the waterway and is constructed within the natural banks of the waterway. Such Earthen or Check Dams must be constructed in a manner that does not violate applicable laws and regulations

4.21 Outhouse or Privy means a facility or structure intended for the disposal of human excreta.

## 5. Development-Related Provisions.

5.01. Grantor must maintain the Property in substantially the same state shown demonstrated in the Report, except as otherwise provided in this Easement.

5.02. Grantor must not:

5.02.01. Exceed Maximum Increased Impervious Cover or the Maximum Impervious Cover per Building Envelope.

5.02.02. Divide, subdivide or otherwise partition the Property into more Parcels than allowed by the Maximum Number of Parcels.

5.02.03. Except as otherwise expressly allowed by this Easement, build any Structure outside a Building Envelope, build any Structure higher than three stories (except for antenna towers or Silos), or allow a mobile home, motor home, or travel trailer to be permanently lived in or stored on the Property outside a Building Envelope. All such Structures, mobile homes, motor homes, or travel trailers must dispose of raw sewage in compliance with applicable laws and regulations and by an acceptable means approved by the Grantee, which does not result in sewage discharge that will pose a material degradation threat to the quality of water entering the aquifer. Grantor may, however, construct outside the Building Envelopes (i) minor improvements for permitted activities that are easily removable or require minimal surface disturbance (ex. Single-track nature trails, hunting blinds, bird blinds, feeders, minor piers/docks, gazebo, wildlife observatories), and (ii) a windmill, wind turbine or other wind or solar powered electrical generation system to service the Property, to the extent these improvements are utilized for the activities allowed in this Conservation Easement, do not exceed sixty feet (60') in height above the surface without the prior written approval of Grantee, and do not significantly impair or interfere with the Conservation Values.

5.02.04. Install, maintain, repair, or replace more than one septic system for each Structure containing plumbing. Septic systems must be properly permitted and maintained in compliance with applicable laws and regulations, including but not limited to, the Texas Administrative Code (Title 30, Chapter 285), the Health and Safety Code (Title 5, Subtitle A, Chapter 341), and the Texas Commission on Environmental Quality Chapter 213 rules.

5.02.05. Use Outhouses, Privy's, or other similar crude septic systems that are not in compliance with applicable laws and regulations that would pose a material degradation threat to groundwater quality. A Privy or Outhouse may be used for so long as all human excreta is contained and does not contact the soil surface or subsurface. Any such waste

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must also be properly disposed off-site or to an on-site septic system in compliance with applicable laws and regulations. A Privy or Outhouse must not be operated with an open bottom or open earthen hole. Any open earthen hole associated with an Outhouse or Privy must be in-filled with substrate such as soil, sand, or gravel.

5.02.06. Grant any new easements including, but not limited to, utility, road and/or pipeline easements unless required by eminent domain. Despite this proscription, Grantor may, without Grantee's consent but subject to the Maximum Increased Impervious Cover, grant private road and utility easements reasonably necessary to service and to permit access to Parcels and Building Envelopes allowed under this Easement.

5.02.07. Except as otherwise provided in this Easement or as reasonably necessary to conduct activities permitted under this Easement, ditch, drain, fill, dig, or otherwise make permanent, substantial topographical changes. Grantor needs no permission to build stock tanks outside of No-Development Zones, but stock tanks not shown in the Report must not exceed two acres each and must not cause the Property to exceed the Maximum Increased Impervious Cover, if the bottom of the facility is impervious. Stock tanks located in a No-Development Zone or adjacent to a water body including streams, creeks, ponds, or within drainage or recharge areas cannot exceed 1.0 acre in size and will require prior Grantee approval. Such stock tanks must also be constructed and operated in a manner that does not violate applicable laws and regulations.

5.02.08. Except as otherwise provided in this Easement or as reasonably necessary to conduct activities permitted under this Easement, make substantial changes resulting in alteration or channelization of a natural waterway or stream channel that would result in significant changes affecting the size and shape of the water body. Grantor needs no permission to construct Earthen or Check Dams or other non-permanent surface water retention features built to facilitate recharge and within the limitations outlined in Sections 4.20 and 11.01. Other than stock tanks, any permanent surface water retention features or permanent dams require Grantee approval and must not be constructed in a manner that violates applicable laws and regulations.

5.02.09. Drill or allow the existence of more than the Maximum Number of Water Wells on the Property. Water wells drilled by Grantee for monitoring or other Grantee purposes and not used by Grantor do not count against the Maximum Number of Wells. All such wells must be properly permitted, used, and/or plugged in accordance with applicable laws and regulations.

5.02.10. Conduct any business activity on the Property that would draw large numbers of people in excess of 125 to the Property at any one time or that might, as a reasonably expected incident of its conduct, materially impair the quantity or quality of aquifer recharge. For example, a bed and breakfast or guest ranch with 10 or fewer bedrooms is acceptable.

5.03. For so long as the activities are conducted so as not to materially impair the Purpose, Grantor may:

5.03.01. Reside and entertain family and guests on the Property, as well as ecotourism activities or retreats.

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5.03.02. Build maintain, remodel, remove, restore, replace, repair, and rebuild any Structure in Building Envelopes or shown to be on the Property in the Report.

5.03.03. Continue use and enjoyment of the Property for ranching, agriculture, hunting, fishing, recreation, and other uses consistent with other applicable express provisions of this Easement.

5.03.04. Allow short-term use of Temporary Impervious Cover, such as tents, awnings, travel trailers or mobile homes outside Building Envelopes and outside No-Development Zones for up to 30 days. Any use lasting longer than 30 days is not short-term, and once removed, the Temporary Impervious Cover cannot be re-erected for at least 90 days after removal. Temporary Impervious Cover must not cause the Property to exceed the Maximum Increased Impervious Cover.

5.03.05. Engage in all acts and uses that: (i) are permitted by law and (ii) are consistent with the Purpose.

5.03.06 Permit public access or access to non-profits for purposes of hiking, trail uses or nature and wildlife education.

5.04. Building Envelopes 1 & 2 are identified on Exhibits B and C. Grantor may propose adjustments to the location of the Building Envelope locations to Grantee pursuant to the Section titled "Requests for Approval." All areas subject to Building Envelopes must be defined with the same degree of specificity required for identifying real property for conveyance but gps locations are acceptable. If relocated, Building Envelopes must be evidenced by a recorded memorandum signed by both Grantor and Grantee. All residences shown on the Report must be contained in a Building Envelope. If Grantor changes a Building Envelope location, in addition to following the above process, Grantor must ensure that the former Building Envelope area is restored such that it will offer the same quantity and quality of recharge as similar, previously undeveloped areas.

5.05. With Grantee's permission, Grantor may erect cell towers and other antennas outside No-Development Zones, but all such items are subject to the maximum increase in impervious cover.

5.06. Recreational Uses. Grantor shall have the right to engage in and permit others to engage in recreational uses of the Property, including, without limitation, hunting, fishing, caving, mountain biking and camping, that do not require or result in any surface alteration or other development or disturbance of the land (unless *de minimis* in nature and extent) and that do not adversely affect the Conservation Values. Pursuit of wildlife by any form of motorized transportation is not allowed, except for conservation management activities permitted under this Conservation Easement or approved by Grantee. Grantor may charge participants for permitted outdoor recreational uses to the extent that the activities are temporary or seasonal in nature and do not harm the Purpose of the Conservation Easement.

5.07 Home Businesses. Any business that is conducted primarily within the Building Envelopes by, and in the home of, a person residing on the Property and which does not require or result in any surface alteration or other development or disturbance outside the Business Envelopes (unless *de minimis* in nature and extent) and that does not adversely affect the

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Conservation Values is allowed and is not considered an industrial or commercial activity under the Conservation Easement. However, this provision shall not be interpreted to allow any activities to be conducted on the Property that are prohibited elsewhere by this Conservation Easement.

## 6. Agriculture-Related Provisions.

### 6.01. Grantor must not:

6.01.01. Operate a commercial feedlot, poultry farm, or similarly a Confined Animal Feeding Operation. This provision shall not be construed to restrict grazing or the holding and feeding of Grantor's livestock or wildlife in a confined feeding area in connection with gathering, birthing, transporting, caring for or doctoring livestock or wildlife, nor does the term apply to corrals or other holding areas for horses, wildlife or other livestock used by Grantor.

6.01.02. Operate a horticultural nursery.

6.02. For so long as the activities are conducted in such a way as not to materially impair the Purposes of this Easement, Grantor may:

6.02.01. Grow crops, including wildlife food plots, in fields identified in the Report or approved by Grantee.

6.02.02. Hunt and fish on the Property, lease the Property for hunting and fishing, and provide guided and unguided hunts and fishing.

6.02.03. Construct or install fences, Hunting Blinds, and Feeders, even in No-Development Zones.

6.02.04. Permit other outdoor recreation on the Property. In connection with recreation, Grantor may install composting toilets on the Property, but if it does so, Grantor must properly permit and maintain them in accordance with applicable laws and regulations. Grantor may build shooting ranges for so long as any associated shelters are constructed without walls and do not have an impervious bottom.

6.02.05. Foster the presence of wildlife on the Property, including all activities necessary to qualify for wildlife or agriculture valuation.

6.02.06 Grantor shall have the right to control, destroy, or trap predatory and problem animals (e.g., feral hogs) which pose an imminent and material threat to livestock, humans or the Conservation Values by means and methods that are selective and specific to individuals, rather than broadcast, nonselective techniques, unless otherwise approved by Grantee or expressly allowed herein. Any control efforts utilizing biocides are subject to Section 9.01.05.

6.02.07 Habitat Restoration Programs. Subject to the prior written approval of Grantee, Grantor may enroll the Property in programs supporting activities for the purposes of habitat restoration and enhancement, soil and water conservation, or erosion control provided that such activities are consistent with this Conservation Easement and do not adversely affect the Conservation Values. Other habitat restoration and enhancement

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activities shall likewise only be conducted on the Property if expressly allowed herein or with the prior written approval of Grantee.

6.03. For so long as the activities are conducted in such a way as not to materially impair the Purposes of this Easement, Grantor may graze livestock, commercial wildlife, or Exotic game, but only according to a Grantee-provided plan, a United States Department of Agriculture Natural Resource Conservation Service-provided plan (NRCS Plan), or a Texas Parks and Wildlife Department-provided wildlife management plan (TPWD Plan), or a plan provided by a qualified range management specialist, so long as the activities in the provided plan are consistent with the terms of this Easement. Any NRCS Plan, TPWD Plan, or range management specialist plan must be reviewed and approved by Grantee before it may be implemented to assess compliance with the terms of this Easement. If either the United States Department of Agriculture Natural Resource Conservation Service or the Texas Parks and Wildlife Department ceases to exist or ceases to provide such plans, Grantee may designate an alternative, similarly qualified authority to provide grazing and wildlife management plans. Any updates to NRCS or land management plans must be reviewed and approved by the Grantee.

## 7. Vegetation-Related Provisions.

7.01. Grantor must not:

7.01.01. Plant Exotic vegetation on the Property, except for in Building Envelopes and fields permitted under this Easement or subsequently by Grantee.

7.01.02. Plow or use Fertilizers, except in fields or food plots permitted under this Easement or shown in the Report, or approved subsequently by Grantee.

7.01.03. Cut or remove vegetation outside Building Envelopes, except Grantor may, without restriction and anywhere on the property, cut and remove diseased, invasive, or Exotic vegetation or vegetation so damaged by natural forces as to be unable to survive. Grantor may further cut and remove Indigenous or Exotic vegetation to further the Purpose, in Building Envelopes, and as may be reasonably necessary to conduct activities permitted under this Easement, but in so doing, it must minimize erosion and must not otherwise materially impair the Purpose.

7.02. For so long as the activities are conducted in such a way as not to materially impair the Purposes of this Easement, Grantor may manage resources on the land as follows:

7.02.01. Control brush anywhere on the property according to a United States Department of Agriculture Natural Resource Conservation Service-provided plan (NRCS Plan), a plan provided by a qualified range management specialist, or Grantee-provided plan, or participate in other NRCS Technical Assistance Programs designed to assist in conservation planning, so long as the activities in the provided plan are conducted so as not to materially impair the Purpose and are consistent with the terms of this Easement. Any such plan or program must be reviewed and approved by Grantee before it may be implemented to assess compliance with the terms of this Easement. Furthermore, Grantee approval must be granted for brush control proposed in No-Development Zones or on or within 300 feet of a recharge or sensitive feature. If the NRCS ceases to exist or ceases to provide such plans, Grantee may designate an alternative, similarly qualified authority to provide brush control and conservation management plans. Any updates to NRCS or land management plans must be reviewed and approved by the Grantee.

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7.02.02. Cut firewood for use on the Property.

7.02.03. Create firebreaks up to a width not to exceed three times the height of the adjacent vegetation.

## 8. Vehicle-Related Provisions.

8.01. Grantor, Grantee and their Authorized representatives as well as invitees and licensees may use motorized vehicles anywhere on the Property in furtherance of their responsibilities under this Easement and as reasonably necessary for Grantor's residential use, agricultural, ranching, and wildlife management operations, educational programs and maintenance of the Property. No such use may materially impair the Purpose.

8.02. In no event may the Property be used for commercial off-road or rally purposes for any motorized vehicles. This restriction includes, but is not limited to: cars, trucks, motor-bikes, motorcycles and ATVs.

## 9. Storage, Dumping, and Disposition-Related Provisions.

9.01. Grantor must not:

9.01.01. Store chemicals (except those for activities permitted under this Easement) that, if leaked, would materially degrade surface or subsurface water quality. Such chemicals will need to be stored in a secure or enclosed area on a concrete pad to prevent runoff from contaminating any surface or subsurface water.

9.01.02. Dump trash, rubbish, or other waste, except short-term storage of material accumulated in the course of conducting activities permitted under this Easement. All such materials must be stored in a contained area and must be removed from the Property not less often than annually. No such materials may leak chemicals into or otherwise pose a material degradation threat to the quality of water entering the aquifer. If materials are stored within a Building Envelope, they may be used on an on-going basis as long as such materials do not substantially impede absorption of water by the soil.

9.01.03. Dump trash, rubbish, or other waste, except Grantor may actively burn domestic waste as defined in Title 30, Texas Administrative Code, Section 101.1(26) in a container or earthen pit so long as all burning is compliant with Title 30, Texas Administrative Code, Section 111 generally and Section 111.209 specifically (as may be amended) and all other laws, ordinances, or regulations pertaining thereto. Any such container or earthen pit must be either identified in the Easement Documentation Report or located within a Building Envelope and outside of a No-Development Zone and must adhere to the following conditions:

- A. Be actively burned
- B. Not be located within 300 feet of a recharge feature.
- C. Not allow chemicals to leak into or otherwise pose a material degradation threat to the quality of water entering the aquifer.
- D. Not contain any non-combustible materials, including but not limited to tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances.

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- E. Not exceed the established size documented in the Easement Documentation Report or exceed 200 square feet for future domestic waste pits not identified in the Easement Documentation Report and
- F. Properly contain waste with a berm, fence, or other containment to prevent waste from spreading

9.01.04. Generate, store, collect, transport, dispose, dump, or release hazardous waste or materials, in whatever form, or install or permit underground storage tanks on the Property, except:

- A. Grantor may have aboveground storage tanks as long as the tanks are properly permitted and are in compliance with applicable laws and regulations, including but not limited to, the Edwards Aquifer Authority Rules Chapter 713, Subchapter G and the Texas Commission on Environmental Quality Rules Chapter 334, Subchapter F.

9.01.05. Store, use, or apply herbicides, biocides, pesticides, Fertilizers, insecticides, fungicides, rodenticides, or any similar chemicals or agents, except for:

(A) household use or

(B) use of chemicals, including Fertilizers, on a list approved by Grantee, or in a Grantee-approved plan. Such chemicals should be used in accordance with regulations pertaining to use and application and should not be used in a manner that would pose a material degradation threat to the quality of water entering the aquifer. Chemicals should not be used within 300-feet of a recharge feature.

9.02. Grantor represents and warrants, to Grantor's actual knowledge (with no duty to investigate), that:

9.02.01. No Hazardous Materials are or have been generated, treated, stored, used, disposed of, or deposited in or on the Property in such manner as to violate or create any liabilities pursuant to any Applicable Laws, and

9.02.02. No underground storage tanks are located on the Property.

9.02.03. No governmental authority has given notice of violation or alleged violation of any Applicable Law relating to the operations or condition of the Property.

9.03. Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, And Liability Act of 1980, as amended ("CERCLA"), any other applicable federal laws, federal regulations, state laws, county and local ordinances, and any regulations thereunder, all as may be amended from time-to-time.

## 10. Extraction-Related Provisions.

10.01. Grantor must not:

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10.01.01. Use the surface of the Property for any activity related to extracting hydrocarbons or other minerals on or below the surface, including storing hydrocarbons or other minerals. Minerals include not only hydrocarbons but also coal, lignite, uranium, ore, and any other substance that may be removed from the earth.

10.01.02. Extract surface or subsurface water, transfer surface or subsurface water rights for use off the Property, or otherwise use water or water rights other than in direct support of activities Grantor may, consistently with this Easement, otherwise engage in on the Property.

10.01.03. Extract and discharge groundwater at volumes greater than allowed by the more restrictive of the governing groundwater district or by other applicable federal, state, or local laws and regulations.

10.01.04. Sever from surface ownership of the Property the ownership of previously unsevered minerals or convey to another that is not bound by this Easement any severed mineral interest.

10.02. Despite any other provision of this Easement to the contrary, soil, sand, caliche, gravel, or rock may be removed from the surface of the Property so long as such removal:

(A) is solely for use on the Property and for non-commercial purposes, such as, for example, construction, maintenance, and repair of a Road on the Property,

(B) is in conjunction with activities permitted herein,

(C) is accomplished in a manner that does not materially impair the Purpose,

(D) is limited to no more than two one-acre removal sites on the Property at any one time, and any area so disturbed is restored and replanted as appropriate with native vegetation at the conclusion of the removal activity and prior to the creation of any new removal site if a new removal site will exceed the limit of no more than two (2) such sites at any one time, and

(F) is not located within a No-Development Zone and/or within 300 feet of a recharge feature.

10.03. Any activity permitted under this paragraph must be undertaken and this provision must be interpreted in a manner consistent with Section 170(h) of the United States Internal Revenue Code and the Treasury Regulations adopted pursuant thereto.

10.04. No party to this Easement may hereafter extract any severed or unsevered minerals pertinent to the Property. Neither may any party hereto convey any mineral interest or executive right in minerals to another not bound by this Easement. This clause does not prevent a party to this Easement from accepting royalties, bonuses, delay rentals, or other sums due to the party from another with a previously existing right to extract the minerals. Notwithstanding anything above to the contrary, Grantor shall not be prohibited to conduct exploratory activities that are non-invasive and do not otherwise damage or negatively impact the watersheds or aquifer. To the extent Grantor elects to explore for or otherwise extract or exploit any oil, gas or other minerals in or under the Property from a surface location off the Property, Grantor shall use its best efforts to minimize any damage or other negative impact on the watersheds or aquifer by such activity.



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10.05. Grantor may also permit archaeological digs for so long as they are conducted in a manner so as not to materially impair the Purpose. Archaeological activities should not involve the use of heavy equipment or cause disturbance to water features and/or recharge features. Archeological sites will need to be restored and replanted as appropriate with native vegetation at the conclusion of the activity and prior to the creation of any new archaeological sites.

10.06. If any of the minerals under the Property (“Minerals”) are, as of the date of this Easement, owned by someone not a party hereto and if some or all of those Minerals are later acquired by Grantor (or the then owner of the Property), then the Minerals so-acquired immediately become subject to this Easement. This Easement conveys to Grantee the right, to be held jointly with Grantor, to consent or not to any matter pertaining to the Minerals so acquired for which Grantor’s sole consent would otherwise be required. Grantor’s and Grantee’s joint right to consent is such that neither can consent without joinder of the other.

10.07. Both parties acknowledge that the restrictions on alienation and other provisions in this Section are reasonable, because mineral exploitation poses a risk to aquifer recharge.

## 11. Water Flow-Related Provisions.

Grantor must not:

11.01. Except as necessary for permitted purposes, alter natural water courses, lakes, ponds, marshes, or other water bodies, subject to Grantor’s right to have stock tanks and other surface-water retention features and within limitations outlined in Sections 4.20, 5.02.07 and 5.02.08, except during stream restoration or bank stabilization projects.

11.02. Pollute the soil or surface or subsurface water or otherwise engage in activities materially detrimental to water purity or that could materially alter the natural water level or flow in or over the Property. This does not impair the right to use the wells permitted under this Easement for the purposes permitted under this Easement.

11.03. Otherwise, materially and adversely affect the quantity and quality of aquifer recharge.

11.04. For so long as the activities are conducted in such a way as not to materially impair the Purposes of this Easement, Grantor may:

11.04.01 Maintain existing water wells, supply lines and structures;

11.04.02 Maintain existing impoundments for ponds/tanks and associated water supply lines and structures;

11.04.03 Construct at locations approved in advance by Grantee and maintain up to two (2) additional impoundments for ponds/tanks (each not to exceed approximately one (1) acre in surface area) for permitted agricultural use, fire protection, or wildlife enhancement, along with associated water supply lines and structures; and

11.04.04 Construct and maintain up to four (4) new water wells and associated water lines and structures to provide domestic supply to buildings and structures permitted herein and/or to water livestock, wildlife and permitted agricultural operations and conservation activities,

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provided that the newly constructed wells, impoundments and their associated facilities do not deplete or draw down groundwater resources to the extent that springs or caves on the Property or adjacent properties are materially affected or otherwise impair the Conservation Values of the Property.

## 12. Requests for Approval.

12.01. When Grantee's consent is needed for any purpose under this Easement, Grantor must submit all such requests to Grantee in writing. The requests must set out all detail reasonably required by Grantee, including plans, specifications, and designs where appropriate. The request must include a timetable sufficiently detailed to permit Grantee to monitor progress. Grantor must not make changes or take action for which Grantee's approval is required, unless expressly authorized in writing by Grantee.

12.02. Grantee may consult with governmental agencies, nonprofit preservation and conservation organizations, and other advisors concerning appropriateness of any activity proposed under this Easement.

12.03. Grantee may exercise its approval or disapproval rights in its reasonable discretion. Grantee must respond to a request by Grantor within 60 days after the date of Grantee's receipt of the written request, such approval or disapproval being exercised in light of the nature of such request. Grantee's failure to respond timely is not approval of Grantor's request, but Grantee must not unreasonably withhold, condition, or delay its approval.

12.04. In any case during such time as the City of San Antonio is the Grantee and the Grantee's consent or agreement is required under this Easement, other than for an amendment of this Easement, the consent or agreement may be given by the City Manager or the Manager's designee without authorization of City Council. The Manager's delegation of authority to a designee must be in writing. Grantee is not estopped by the actions of anyone to whom the Manager's authority has not been delegated in writing. If the City of San Antonio no longer has a City Manager, the governing body of the City may designate an officer to give consents and agreements called for under this Easement. City Council's approval of this Easement is approval of the delegation of authority to the City Manager contained in this paragraph.

## 13. No Public Access.

Except as expressly provided, this Easement creates no right of access to the general public.

## 14. Ownership Obligations.

Grantor is solely responsible to pay all taxes and assessments levied against the Property. Grantee has no responsibility to Grantor to maintain any part of the Property, except for improvements, if any, installed by Grantee.

## 15. Grantee's Rights.

15.01. In addition to other rights necessarily incident to Grantee's ability to further the Purpose of this Easement, Grantee has the following rights regarding the Property:

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15.01.01. The right to monitor the hydrology of the Edwards Aquifer and other water or geologic formations below the subject Property, subject, however, to the entry requirements set out below.

15.01.02. Upon reasonable notice by phone or email, the right to enter the Property twice a calendar year to inspect and to determine compliance with this Easement. If Grantee finds a potential violation or breach of this Easement, Grantee may, after reasonable notice by phone or email, enter the Property as much as necessary to monitor the status of the problem, obtain evidence for enforcement, or correct the problem at Grantor's expense. In so doing, Grantee must not interfere unreasonably with Grantor's permitted uses of the Property. Grantee shall use its reasonable efforts to assure that its entry corresponds with a time that is both timely and convenient for Grantor.

15.01.03. Upon reasonable notice, the right to install, operate, and maintain necessary Purpose-related monitoring equipment, including a continuous recording rain gauge at locations outside of Building Envelopes (unless Grantor approves in its sole discretion a location inside of a Building Envelope) that do not unreasonably interfere with Grantor's activities otherwise permitted under this Easement. Grantee may install, operate, and maintain fences and other devices reasonably necessary to provide security for the monitoring equipment.

15.01.04. The right to drill, operate, and maintain 4 monitoring wells at locations outside of Building Envelopes (unless Grantor approves in its sole discretion a location inside of a Building Envelope) that do not interfere unreasonably with Grantor's permitted uses of the Property. Grantee may install, operate, and maintain fences and other devices reasonably necessary to provide security for the monitoring wells.

15.01.05. The right to conduct research activities with appropriate research entities related to watershed management, water quality protection, or other similar purposes consistent with the Purposes of this Easement. Grantee may also use the Property for educational purposes, including field trips related to natural science education, but not more often than once annually. Grantee must coordinate all such activities with the Grantor, and Grantee's right to conduct such activities is subject to Grantor's approval, which must not be unreasonably withheld.

15.01.06. The right to review and approve plans of the Grantor involving cave structures and other sensitive hydrogeologic features on the Property.

15.01.07. The right to construct, operate, and maintain at mutually agreed locations outside of Building Envelopes (unless Grantor approves in its sole discretion a location inside of a Building Envelope) one or more recharge structures and associated facilities that do not unreasonably interfere with Grantor's permitted uses of the Property.

15.02. If Grantee's exercise of any rights under this Section 15 disturbs the Property, Grantee will use its good-faith efforts to restore the Property to its previous condition. This includes restoring fences and plugging abandoned wells according to applicable law. Grantee is responsible for maintenance of areas fenced by it, for equipment, any Structure or facilities it places on the Property, and for any contractor or individuals entering the Property pursuant to or in connection with Grantee's rights under this Easement. Except as expressly provided to the contrary, no approval or consent required under this Section may be unreasonably withheld, conditioned or delayed. Grantee will provide 72-hour advance, written notice to Grantor before

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entry, except when immediate entry is necessary or desirable to further the Purpose, to prevent, terminate, or mitigate a violation of this Easement, or to fulfill Grantee's maintenance obligations under this Easement.

15.03. None of the enumerated rights imposes a duty on Grantee to exercise the right.

15.04. Grantor is responsible for remedying violations of this Easement, but Grantee has the right to prevent and correct violations through any means available at law or in equity, including injunction. If Grantee finds a violation, after written notice and reasonable cure period, it may, at its discretion, take appropriate legal action or, at Grantor's expense, eliminate or ameliorate any material, continuing violation of this Easement, including any artificial condition that may materially impair the Purpose. Except when an ongoing or imminent violation might substantially diminish or impair the Purpose, Grantee must give Grantor 20-days' prior written notice before initiating action. If a violation cannot reasonably be corrected within 20 days, Grantee may allow Grantor a longer period that is reasonably necessary under the circumstances to correct the violation. In such case, Grantor must begin corrective action within the 20 days and thereafter diligently and continuously pursue complete correction in good faith. Nothing in this Easement requires Grantor to restore the Property after any act of God or other event over which Grantor had no control, but Grantor must permit Grantee to correct conditions caused by such events that impair quantity or quality of recharge. In so doing, Grantee must not interfere unreasonably with Grantor's permitted uses of the Property.

15.05. Grantor acknowledges that, once pollution enters an aquifer, it may be impossible to undo the damage. Likewise, surface water that might percolate into the aquifer, but that Grantor wrongfully allows to run off, is irreplaceable. Further, loss of the Property and the aquifer as natural phenomena cannot be compensated adequately by damages. Accordingly, the parties acknowledge that, in the case of a material, uncorrected violation of this Easement, Grantee has no adequate remedy at law. In such case, equitable relief generally and an injunction specifically are appropriate remedies.

15.06. Grantee has the right to recover all costs and expenses, including court costs and reasonable attorneys fees, incurred in enforcing this Easement. In the event this Easement is assigned by the City of San Antonio to an entity which is not prohibited from incurring future unfunded debt, then the prevailing party in any dispute regarding this Easement, has the right to recover all costs and expenses, including court costs and reasonable attorneys fees, incurred enforcing this Easement.

15.07. Grantee's remedies are cumulative. Its exercise of one remedy is not an election of remedies and does not waive or limit other remedies. Failure to exercise a remedy on one or more occasions does not waive or limit use of the remedy on other occasions.

15.08. Grantee has discretion whether and how to enforce this Easement. Grantee's delay in or forbearance from exercising rights under this Easement does not waive the rights the exercise of which is delayed or forborne.

15.09 Acts of Third Parties. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from (a) acts of third parties legally authorized to act by recorded instrument or other legally established rights to which the Easement is subject or (b) the wrongful acts of third parties other than Grantor's agents, employees, invitees or contractors, provided Grantor has taken reasonable actions to prevent such third parties from trespassing and from causing harm to

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the Property and has not authorized, consented to, or participated in the acts of such third parties. Grantor shall notify Grantee of any act or occurrence that would adversely affect or interfere with the Conservation Purpose, whether caused by the Grantor's acts or omissions or by a third party or parties. In the event of a violation of this Conservation Easement caused by the wrongful acts of a third party, Grantor shall cooperate fully with Grantee in enforcement of this Conservation Easement, including but not limited to: gathering facts and information relevant to the violation; assigning its right of action to the Grantee; joining in any claim or legal actions; and/or appointing Grantee as its attorney-in-fact for purposes of enforcement, all at the election of Grantee. In the event that such third party acts interfere with the Conservation Purpose and/or Conservation Values of this Conservation Easement, Grantor and Grantee will work together to identify restoration or rehabilitation activities and develop a restoration plan. This Subsection shall not be construed to relieve Grantor of the obligation to clean up garbage or materials dumped on the Property by third parties, to take all reasonable actions to prevent violations of the Conservation Easement by third parties, or to otherwise maintain the Property in a condition consistent with the Purpose of this Conservation Easement. Nothing in subparagraph (b) of this Subsection 6.10 shall prohibit Grantee from bringing an action against Grantor resulting from Grantor's failure to take reasonable actions to prevent violations of the Conservation Easement by third parties or from Grantor's authorization, consent, or participation in the wrongful acts of third parties resulting in violations of the Conservation Easement.

15.10 Enforcement Rights of Others. Nothing in this Conservation Easement is intended to create any right to enforce this Conservation Easement in any third party where not such right otherwise exists under this Conservation Easement or under law.

## 16. Discretionary Consent.

Grantee's consent for activities otherwise prohibited by this Easement may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the prohibited activities listed in this Easement are deemed desirable by both Grantor and Grantee, Grantee may, in its sole discretion, give consent for such activities, subject to the limitations herein. Such requests for consent for otherwise prohibited activities, and consent for such activities requiring Grantee's discretionary consent 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. Grantee may give its consent only if it determines, in its sole discretion, that such activities (1) do not violate the Purpose of this Easement, and (2) enhance or do not materially impair any significant conservation interests associated with the Property and (3) do not convey private inurement or impermissible private benefit upon any person. Notwithstanding the foregoing, Grantee and Grantor have no right or power to agree to any activities that would result in the termination of this Conservation Easement.

## 17. Alienation by Grantee.

17.01. This Easement is in gross and is freely alienable by Grantee, subject to the following conditions:

17.01.01. The transferee must be both a "holder" under Section 183.001 of the Texas Natural Resources Code (as the same may be amended from time-to-time) and also a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code.

17.01.02. The transferee must expressly assume the responsibilities of the Grantee under this Easement.

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17.01.03. Consent of the Grantor or owner of the Property which shall not be unreasonably withheld to any transfer under this section.

17.02. If Grantee ceases to exist or no longer qualifies as a holder under applicable law, the Easement continues. On application by Grantor or Grantee, a court of competent jurisdiction must transfer Grantee's rights under this Easement to a qualified organization having similar purposes that agrees to assume the responsibility. If more than one qualified entity competes for the role, the court should select the entity that, in the court's judgment, is best suited to assure accomplishment of the Purposes.

## 18. Alienation by Grantor.

The Property is freely alienable, in whole or in part, by Grantor, but Grantor must notify Grantee in writing at least 30 days before transfer. The notice must include the name of the buyer, the anticipated closing date, and evidence that the buyer has been given a copy of this Easement. If Grantor transfers all the Property or a Parcel of it to more than one transferee, the joint transferees must, at the closing of the transfer to them, designate a single party to receive notices from Grantee and to give all approvals and consents to Grantee. If the joint transferees do not unanimously designate a contact for Grantee, Grantee may pick one at random with no liability to the other transferees. Grantor's transferees take subject to this Easement. This authorization of partial alienation does not authorize more than the maximum number of Parcels.

## 19. Presumption Against Amendment.

It is the parties' intention that this Conservation Easement will not be amended or modified. In the event of unforeseen circumstances or exceptional situations the Grantee may in its sole discretion consider an amendment or modification to this Conservation Easement, but in no event shall such amendment be made without compliance with Grantee's internal procedures and standards for such modification, and federal, state, and local laws regarding the creation and amendment of conservation easements. No amendment shall be allowed that would adversely affect the qualifications of this Conservation Easement as a "qualified conservation contribution" or "interest in land", or the status of Grantee as a "qualified organization" or "eligible donee", under any applicable laws, including § 170(h) of the Internal Revenue Code or the laws of the State where the Property is located, or that would be inconsistent with the purpose of the Conservation Easement, reduce the Conservation Values, affect the Conservation Easement's perpetual duration or create an impermissible private benefit or private inurement in violation of federal tax law. This Conservation Easement may be amended only if, in the independent and exclusive judgment of Grantee, such amendment does not conflict with or be contrary to or inconsistent with the conservation purposes of this Conservation Easement and complies with all applicable laws and regulations. No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded in the official public records of Uvalde County, Texas. Prior to the signing and recordation of the amended Conservation Easement, such amendment(s) must be agreed upon by Grantee and Grantor.

## 20. Termination, Condemnation.

20.01 Value of Easement and Proceeds. Grantor hereby agrees that at the time of the conveyance of this Conservation Easement, this Conservation Easement gives rise to a real property right, immediately vested in Grantee, with a fair market value that is at least equal to the

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proportionate value that this Conservation Easement, at that time, bears to the value of the Property as a whole at that time.

Accordingly, if this Conservation Easement is extinguished, terminated, or taken by eminent domain as described below, then prior to the payment of any expenses reasonably incurred by Grantee and Grantor in connection with such eminent domain action, Grantee on any sale, exchange, or involuntary conversion of the Property shall be entitled to a portion of the proceeds at least equal to that proportionate value.

With respect to a proposed extinguishment, termination or condemnation action, Grantee stipulates that the fair market value of the Conservation Easement is TWENTY-ONE AND FORTY-NINE HUNDREDTHS percent (21.49%), hereinafter the "Proportionate Share," of the fair market value of the land unencumbered by this Conservation Easement. The Proportionate Share will remain constant over time.

If this Conservation Easement is extinguished, terminated or condemned, in whole or in part, then Grantor must reimburse Grantee an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this Conservation Easement. The fair market value will be determined at the time all or a part of this Conservation Easement is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards of Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and approved by Grantee.

Until such time as Grantee receives the Proportionate Share from Grantor or Grantor's successor or assign, Grantee has a lien against the Property for the amount of the Proportionate Share due Grantee. Grantee shall use any proceeds received in conjunction with this provision and the following provisions in a manner consistent with the Conservation Purpose of this Conservation Easement.

20.02 Extinguishment or Termination. This Conservation Easement may be released, terminated or otherwise extinguished, whether in whole or in part, only if 1) a court with jurisdiction determines a subsequent unexpected change in conditions surrounding the Property makes impossible or impractical the continued use of the Property for the Conservation Purpose of this Conservation Easement, 2) any conditions or limitations imposed by federal or state law are also complied with, and 3) Grantor and Grantee consent in writing to such release, termination or extinguishment.

20.03 Eminent Domain. Whenever all or part of the Property is taken with authority to exercise eminent domain by public, corporate, or other authority so as to terminate or extinguish the restrictions imposed by or so as to make it impossible to fulfill the Conservation Purpose of this Conservation Easement, Grantor and Grantee shall join in appropriate actions and negotiations at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, which proceeds shall be divided in accordance with the value of Grantor's and Grantee's interests, as described above.

Any condemnation proceedings shall be subject to this Conservation Easement. Furthermore, the use or taking of the Property through eminent domain will not be approved unless 1) there is no reasonable and prudent alternative to the use or taking of the Property; and 2) the proposed program or project includes all reasonable planning to minimize harm to the land

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resulting from the use or taking. By statute, these determinations may be made only at a properly noticed public hearing.

Grantor waives the rights of "Termination of Easement" and "Repurchase by Grantor" set forth in Texas Parks and Wildlife Code sections 84.005 and 84.006.

20.04 Property Interests Acquired Under Threat of Condemnation. Grantor shall be permitted to convey a real property interest to a third party entity having the power of eminent domain, provided the following conditions are satisfied: a) the condemning authority has indicated in writing by letter, initiation of legal action, or otherwise, its intent to acquire the real property interest using its power of eminent domain; b) Grantor agrees to provide Grantee with its share of any compensation received by the condemning authority in accordance with Paragraph 20.01 above; and c) Grantee consents to such conveyance, subject to the requirements of the Conservation Easement, which approval shall not be unreasonably withheld if they determine in their sole discretion that the condemning authority has the right to exercise the power of eminent domain and that proceeding in lieu of condemnation by court action offers greater protection of the Conservation Values.

## **21. Interpretation.**

This Easement is to be interpreted under the laws of the State of Texas, resolving any ambiguities and questions of the validity of specific provisions to give maximum effect to its Purposes, without regard to which party was the drafter. This Easement was fully negotiated, and no presumption exists against either party. Nothing in this Easement excuses Grantor from compliance with any applicable law, rule, ordinance, or regulation.

## **22. Severability.**

If any part of this Easement is found invalid or unenforceable, the finding does not affect the remainder.

## **23. Successor, Beneficiaries.**

This Easement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. No third party has the right to enforce any part of this Easement.

## **24. Encumbrance by Grantor.**

Grantor may encumber the Property (including consensual liens) after the effective date of this Easement, but all such encumbrances are subordinate to this Easement. Grantor further acknowledges that Subordination Agreements for liens or similar encumbrances existing as of the Effective Date of this Easement have been, or will be, secured and filed of record as of such Effective Date.

## **25. Appropriations.**

All obligations of the City of San Antonio under this Easement are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year.



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## **26. Notices from Governmental Authorities.**

Grantor must deliver to Grantee copies of any notice of violation or lien relating to the Property received by Grantor from any government authority within five (5) days of receipt. Upon request by Grantee, Grantor must promptly furnish Grantee with evidence of Grantor's compliance with the notice or lien, if compliance is required by law.

## **27. Easement Runs with the Land; No Merger.**

This Easement continues in perpetuity and runs with the land (referred to as "Property" in this Easement). It is binding upon Grantor and all those claiming by, through, or under Grantor. Any right, title, or interest granted in this Easement to Grantee passes to each successor and assign of Grantee and each following successor and assign, and the word "Grantee" includes all such successors and assigns. This Easement survives unity of ownership of the fee and the Easement.

## **28. Effective Date.**

The effective date of this Easement is the date it is recorded in the real property records of the county in which the Property is located or, if the Property crosses county lines, in any county in which a portion of the Property is located.

TO HAVE AND TO HOLD this Easement unto the Grantee and its successors and permitted assigns forever. Without limitation, this Easement conveys to Grantee all development rights in the Property not expressly retained by Grantor. Grantor conveys to Grantee an undivided one-half interest in all mineral executive rights held by Grantor such that no exercise of the executive rights can be made without the joinder of both Grantor and Grantee. Grantor further conveys to Grantee the property right to enforce this Easement according to law. Grantor conveys to Grantee the property rights Grantor would otherwise have to perform activities limited or prohibited by this Easement. Grantor violates its obligations under this Easement if it violates any applicable law the observance of which would further the Purpose.

Grantor further makes subject to this Easement all the following interests, collectively called "Excess Lands": (1) all interest, if any, in excess lands or vacancies (within the meaning of subchapters E and F of Chapter 51 of the Texas Natural Resources Code, as may be amended from time to time) presently held or later acquired by Grantor; (2) all interest in strips or gores between the Property and abutting properties and acreage in adjoining surveys to which Grantors' predecessors in title have superior right; (3) any land lying in or under the bed of any road or highway, opened or proposed, abutting or adjacent to the Property; (4) any land lying in or under the bed of any creek, stream, or river, if any, running through or abutting or adjacent to the Property; and (5) all interests in real property within the boundaries of this Easement title to which is later acquired by Grantor.

Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular this Easement to Grantee and Grantee's administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, but excepting the Exceptions to and Reservations From Warranty.

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**In Witness Whereof**, the parties have caused their representatives to set their hands. By the signature of its representative below, Grantee manifests its acceptance of this Easement.

**Grantor:**  
**High Places Ranch LLC.**

**Grantee:**  
**City of San Antonio**, a Texas municipal corporation

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

:

**Approved as to Form:**

\_\_\_\_\_  
City Attorney

STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

This Easement was acknowledged this date before me by \_\_\_\_\_ /name of signer/, a single/married person/office or position held/ such as general partner/managing partner/President/ of \_\_\_\_\_ /name/, a \_\_\_\_\_ (state, such as Texas) sole proprietorship/general partnership/limited partnership/limited liability partnership/limited liability company/corporation/ in the capacity therein stated and on behalf of such entity.

Date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas

My Commission expires: \_\_\_\_\_

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STATE OF TEXAS           §

COUNTY OF \_\_\_\_\_ §

This Easement was acknowledged before me this date by \_\_\_\_\_,  
\_\_\_\_\_ of the City of San Antonio, a Texas municipal corporation,  
in the capacity therein stated and on behalf of such entity.

Date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas

My Commission expires: \_\_\_\_\_

DRAFT