

ORDINANCE 2020-11-12-0828

AUTHORIZING PAYMENT OF \$5,141,740.57 TO CORRIDOR TITLE AS ESCROW AGENT FOR TITLE ON A CONSERVATION EASEMENT, DUE DILIGENCE AND CLOSING COSTS ON A 1,603.19 ACRE TRACT OF LAND KNOWN AS THE BROWN RANCH LOCATED IN KENDALL COUNTY, TO BE FUNDED FROM THE EDWARDS AQUIFER LAND ACQUISITION - 2015 VENUE PROJECTS FUND INCLUDED IN THE FY 2021 - FY 2026 CAPITAL IMPROVEMENT PROGRAM.

* * * * *

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

SECTION 1. The City authorizes and directs the City Manager or designee, severally, to accept on behalf of the City the aquifer-protection conservation easement acquisition of 1,603.19 acres of land known as Brown Ranch as depicted on the map in **ATTACHMENT I**, being more particularly described by metes and bounds in **ATTACHMENT II**, and substantially in the form attached as **ATTACHMENT III**.

SECTION 2. The City Manager or designee, severally, is authorized and directed to consummate the transaction contemplated in the described easements. The City Manager or designee, severally, 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. Acquisition of a conservation easement is authorized of 1,603.19 acres of land known as Brown Ranch in Kendall County.

SECTION 4. Payment is to be encumbered and made payable in an amount not to exceed \$5,141,740.57 to Corridor Title for a 1,603.19-acre conservation easement on land known as Brown Ranch in Kendall County, including due diligence and closing costs. Payment is in support of the Edwards Aquifer Land Acquisitions Conservation Easement Proposition 1 Edwards Aquifer Protection Project, funded with the Edwards Aquifer 2015 Fund and Linear Parks 2015 Fund using the WBS elements and GL accounts in the table below.

WBS	GL	AMOUNT
26-00638-01-01	5209010	\$5,027,640.57
26-00638-01-03	8204010	85,100.00
26-00638-01-06	5201040	19,000.00
26-00638-01-11	5201040	10,000.00
TOTAL		\$5,141,740.57

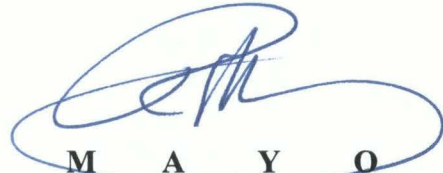
Payment is limited to the amounts budgeted in the Operating and/or Capital Budget funding sources identified. All expenditures will comply with approved operating and/or capital budgets for current and future fiscal years

8 SA 0-51-11-0505

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.


SECTION 6. 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 12th day of November, 2020.




M A Y O R
Ron Nirenberg

ATTEST:



Tina J. Flores, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney



City of San Antonio

City Council

November 12, 2020

Item: 10

Enactment Number:

File Number: 20-6300

2020-11-12-0828

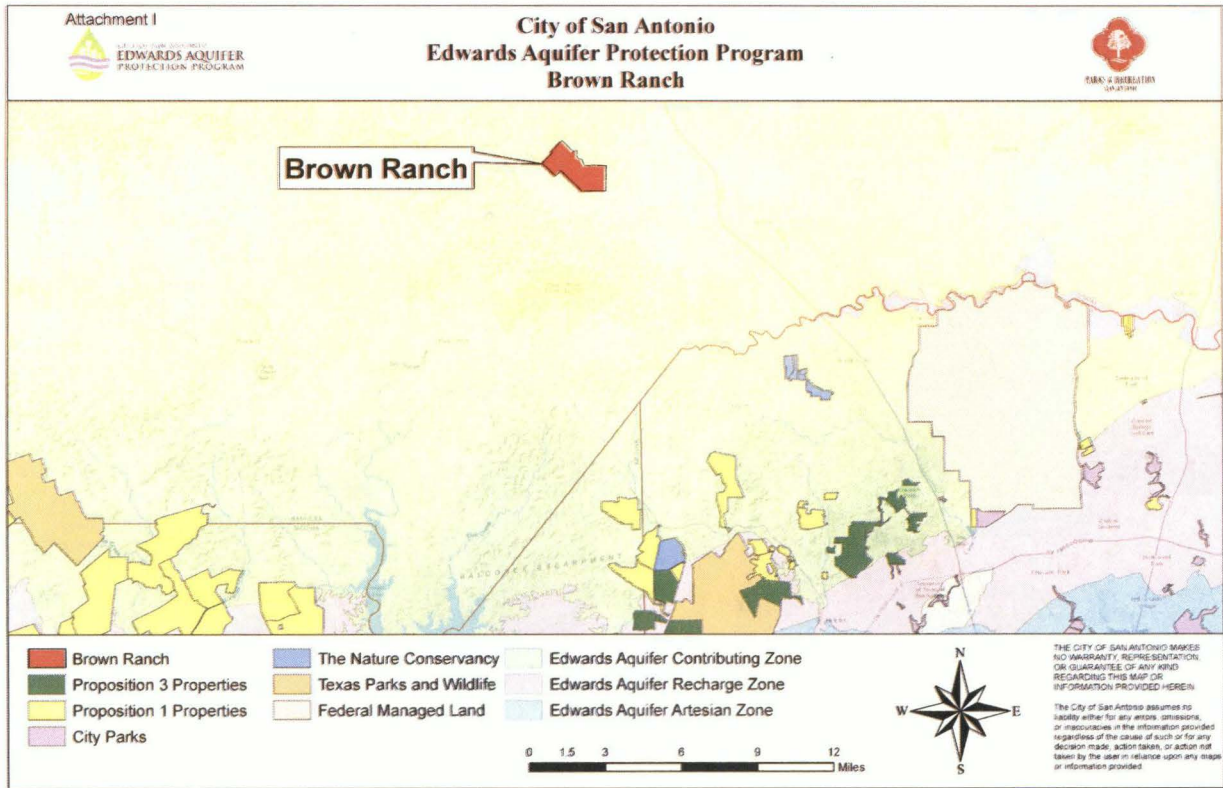
Ordinance approving the acquisition of a conservation easement over the Edwards Aquifer Contributing Zone on a 1,603.19 acre tract of land known as the Brown Ranch in Kendall County from SST Brown Family Partnership, Ltd., at a cost of \$5,141,740.57, to be funded from the Edwards Aquifer Land Acquisition - 2015 Venue Projects Fund included in the FY 2021 – FY 2026 Capital Improvement Program. [Colleen M. Bridger, MPH, PhD, Assistant City Manager; Homer Garcia III, Director, Parks and Recreation]

Councilmember Ana E. Sandoval made a motion to approve. Councilmember Melissa Cabello Havrda seconded the motion. The motion passed by the following vote:

Aye: 11 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage and Perry

VS
11/12/20
Item No. 10

ATTACHMENT I



VS
11/12/20
Item No. 10

ATTACHMENT II

Attachment II



METES AND BOUNDS DESCRIPTION OF

1603.19 Acres of land being approximately
170 acres out of the John Remling Jr. Survey 825, Abstract 590,
174 acres out of the John Remling Sr. Survey 879, Abstract 589,
313 acres out of the F.R. Daugherty Survey 244, Abstract 1085,
614 acres out of the Seale and Morris Survey 877, Abstract 483,
310 acres out of the F.R. Daugherty Survey 2, Abstract 1016,
17.5 acres out of the East Line and Red River Railroad Company Survey 243, Abstract 702, and
4.6 acres out of the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company
Survey 193, Abstract 691, being described as
First Tract, Survey 825, 160 acres,
Second Tract, Survey 879, 160 acres,
Third Tract, Survey 244, 320 acres
Fourth Tract, Part of Survey 243, 7 acres
Fifth Tract, Survey 877, 640 acres
Sixth Tract, (1/2) Survey 2, 320 acres, and
Seventh Tract, Part of Survey 243, 8.71 acres
Save and Except 1.58 acres described in Volume 77 on Page 579 of the Deed Records and Save and Except 5.97
acres, all described in Volume 915 on Page 759 of the Official Public Records of Kendall County, Texas, and
being more particularly described as follows:

BEGINNING at an 8-inch cedar three-way fence post, the southeast corner of this tract, the southeast corner of the Fifth Tract, the ostensible southeast corner of Survey 877, a reentrant corner of Lot 8C, Replat of Champee Springs Ranches, as recorded in Volume 3 on Page 169 of the Plat Records, and a reentrant corner of the Jacob Dedeker Survey 878, Abstract 1086, at a coordinate of N:13841899.72 E:2022870.03;

THENCE S 89°51'23" W 4978.47 feet (record: West 1820 varas) with the south line of Survey 877, and generally following an old wire fence with a new deer-proof fence, with the north line of Lot 8E1, and Lot 8F1, to an 8-inch cedar corner fence post inside a deer-proof fence, a southwesterly corner of this tract, the ostensible southwest corner of Survey 877, the west corner of Survey 878, the south corner of Survey 244, on the northeast line of the Gulf, West Texas and Pacific Railroad Company Survey 871, Abstract 214, and a reentrant corner of Lot 8G, Champee Springs Ranches (Volume 3 on Page 169);

THENCE N 45°53'40" W 6118.21 feet (record: N 45° W 115 varas and N 45° W 2118 varas) with the south line of Survey 244, and generally following a wire fence, at 704.1 feet, passing a found #4 rebar, the north corner of Lot 8G, the ostensible north corner of Survey 871, the east corner of the Beaty, Seale and Forwood Survey 1, Abstract 75, and the east corner of a 119.70 acre tract described in Volume 573 on Page 813 of the Official Public Records as part of Lot 7, Champee Springs Ranch, at 2200.0 feet, passing the east corner of Lot 7B-1, Champee Springs Ranches, recorded in Volume 4 on Page 4 of the Plat Records, and continuing on the same course to a found #4 rebar at the base of an 8-inch cedar corner fence post, a reentrant corner of this tract, the ostensible west corner of Survey 244, the north corner Survey 1, and the north corner of Lot 7B-2 (Volume 4 on Page 4), on the southeast line of Survey 2;

THENCE S 44°14'29" W 1521.58 feet (overall record: S 45° W 1344 varas) with the northwest line of Lot 7B-2 and generally following a wire fence, to an 8-inch cedar 3-way fence post, the west corner of Lot 7B-2, the north corner of Lot 7B-3, the northeast corner of Lot 7B-7, Champee Springs Ranches as recorded in Volume 4 on Page 4, the ostensible northeast corner of the Theodore Koester Survey 1, Abstract 291, and a south corner of this tract;

THENCE N 46°28'51" W 3756.70 feet (record: N 45° W 1344 varas) with the southwest line of Survey 2, remaining northeast of a meandering wire fence, disregarding fence post deflection courses recorded in Champee Springs Ranches Volume 2 on Page 222, and northeast of Lot 7B-7, Lot 7C-1A, and Lot 7C-2A to a 6-inch cedar fence post, a reentrant corner of Lot 7C-2A and a westerly corner of this tract;

Attachment II



THENCE N 13°10'06" W 110.42 feet (overall record: S 13°08'07" E 288.77 feet (Volume 3 Page 169)) with the east line of Lot 7C-2A to a found #4 rebar at the base of an 8-inch cedar fence post, the northwest corner of Lot 7C-2A, the east corner of Lot 7F-1, Champee Springs Ranch (Volume 4 Page 4), the south corner of Lot 7G1, Champee Springs Ranch, as recorded in Volume 4 on Page 76 of the Plat Records, on the southeast line of the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company Survey 193, Abstract 691;

THENCE N 45°12'47" E 2976.66 feet (record: N 45° E 1344 varas) with the southeast line of Survey 193, remaining southeast of an irregular wire fence, disregarding fence post deflection courses recorded in Champee Springs Ranches, according to Volume 4 on Page 76, of the Plat Records, passing Lot 7G1, and Lot 7G2, Champee Springs Ranches (Volume 4 Page 76), to a found #5 rebar at the base of an 8-inch cedar fence post, an east corner of Lot 7G2, and a reentrant corner of this tract;

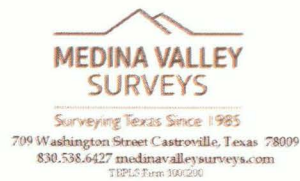
THENCE N 45°14'05" W 366.83 feet (record: N 45°07'11" W 366.11 feet (Volume 3 Page 169)) with a northeast line of Lot 7G2 and generally following a wire fence, to a found #4 rebar at the base of an 8-inch cedar fence post, a reentrant corner of Lot 7G2, a point described in Survey 193 as the southwest corner of Survey 879, and a westerly corner of this tract;

THENCE N 44°39'26" E 3193.21 feet (record: N 45° E 950 varas and N 44°58'36" E 410.58 feet (Volume 3 Page 169)) with the southeast line of Lot 7G2 and generally following a wire fence, at 410.75 feet, passing a found #4 rebar, an east corner of Lot 7G2, and the south corner of a 957.407 acre tract described in Volume 1482 on Page 965 of the Official Public Records, the south corner of the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company Survey 194, Abstract 1123, passing the east corner of Survey 194, the southwest corner of the Tyler Tap Railroad Company Survey 211, Abstract 670, and continuing on the same course to a found #4 rebar, a reentrant corner of the 957.407 acre tract, the north corner of Survey 879, the north corner of this tract, and the northern point of a Boundary Line Agreement recorded in Volume 817 on Page 618 of the Official Public Records;

THENCE the following twelve courses with the Boundary Line Agreement and generally following the meanders of a wire fence:

1. S 45°17'32" E 147.07 feet (record: S 44°53'15" E 147.19 feet) to a found # 4 rebar at the base of a 6-inch cedar fence post;
2. S 45°21'53" E 913.75 feet (record: S 44°50'26" E 914.25 feet) to a 6-inch cedar fence post;
3. S 46°17'30" E 496.84 feet (record: S 45°45'17" E 496.80 feet) to a 6-inch cedar fence post;
4. S 44°28'20" E 125.85 feet (record: S 43°51'02" E 125.83 feet) to a 6-inch cedar fence post;
5. S 43°49'02" E 298.02 feet (record: S 43°09'38" E 298.00 feet) to a 60-penny nail in a 4-inch cedar fence post;
6. S 46°44'24" E 273.61 feet (record: S 46°13'15" E 273.58 feet) to a found #4 rebar capped "Pfeiffer";
7. S 47°13'24" E 268.27 feet (record: S 46°40'32" E 268.33 feet) to a found #4 rebar capped "Pfeiffer";
8. S 44°32'11" E 383.27 feet (record: S 43°59'33" E 383.49 feet) to a found #4 rebar capped "Pfeiffer";
9. S 44°41'33" E 334.51 feet (record: S 43°57'32" E 334.46 feet) to a 6-inch cedar 3-way fence post;
10. S 44°34'34" E 88.96 feet (record: S 44°39'03" E 88.92 feet) to a found #4 rebar capped "Pfeiffer";
11. N 72°02'12" E 4.57 feet (record: N 74°27'06" E 4.63 feet) to a found #4 rebar capped "Pfeiffer";
12. S 50°11'37" E 47.31 feet (record: S 49°56'16" E 46.94 feet) passing the south margin of Upper Cibolo Creek Road, to a found #4 rebar at the base of an 8-inch cedar fence post on the high bank of Cibolo Creek, the last course of the boundary line agreement, to the south corner of the 957.407 acre tract, and a reentrant corner of this tract;

Attachment II



THENCE the following four courses, unfenced, with the south line of the 957.407 acre tract, the south margin of Upper Cibolo Creek Road, on the high bank of Cibolo Creek:

1. N 28°13'08" E 142.00 feet (record: N 28°23'04" E 145.41 feet (Vol. 1482 Page 965)) to a found #4 rebar capped "Pfeiffer";
2. N 60°35'17" E 126.54 feet (record: N 61°19'19" E 123.22 feet (Vol. 1482 Page 965)) to a found #4 rebar capped "Pfeiffer";
3. N 73°57'14" E 178.86 feet (record: N 73°56'38" E 179.03 feet (Vol. 1482 Page 965)) to a found #4 rebar capped "Pfeiffer";
4. S 87°49'55" E 391.73 feet (record: S 87°50'14" E 391.79 feet (Vol. 1482 Page 965)) to a found #4 rebar, a northwest corner of a 212.85 acre tract described in Volume 500 on Page 181 of the Official Public Records, and a northeast corner of this tract;

THENCE the following four courses with the west line of the 212.85 acre tract:

1. S 34°28'23" W 29.02 feet (record: S 38°34'48" W 38.72 feet (Vol. 500 Page 181)) to a point on the high north bank of Cibolo Creek;
2. S 01°54'34" W 299.79 feet (record: S 02°33'21" W 299.79 feet (Vol. 500 Page 181)) crossing Cibolo Creek, to a 6-inch cedar fence post;
3. S 03°20'38" W 344.68 feet (record: S 04°04'13" W 343.50 feet (Vol. 500 Page 181)) generally following a wire fence to a 12-inch Cedar Tree around wire fence;
4. S 05°38'45" W 396.54 feet (record: S 06°12'58" W 397.70 feet (Vol. 500 Page 181)) generally following a wire fence to an 8-inch cedar fence post at the top of a high bluff;

THENCE the following four courses with the west line of the 212.85 acre tract, the east line of the 5.97 acre tract described as "SAVE and EXCEPT - Second Tract" in Volume 915 on Page 759 of the Official Public Records:

1. S 25°04'31" E 108.45 feet (record: S 24°36'22" E 107.76 feet) on the high bank of Cibolo Creek to a point on the cliff face of Cibolo Creek;
2. S 16°34'31" E 448.42 feet (record: S 16°01'11" E 449.18 feet) on the high bank of Cibolo Creek to an 8-inch Cedar Tree in wire, a reentrant corner of this tract;
3. S 74°59'16" E 131.84 feet (record: S 74°09'28" E 130.25 feet) generally following a wire fence, to a braced 4-inch cedar fence post, a deflection point on the northeast line of this tract;
4. S 74°20'15" E 777.90 feet (record: S 73°42'23" E 670.89 feet and S 73°42'23" E 96.90 feet) at 681.8 feet, passing a 6-inch cedar fence post, the east corner of the "SAVE and EXCEPT - Second Tract", and the west corner of the "Seventh Tract" described in Volume 915 on Page 759, and continuing on the same course to a found #4 rebar at the base of an 8-inch cedar fence post, a reentrant corner of the 212.85 acre tract, and a northeast corner of this tract;

THENCE S 23°37'11" E 1315.96 feet (record: S 23°06'06" E 1314.57 feet) with the west line of the 212.85 acre tract, generally following a wire fence to a 6-inch cedar fence post, the northwest corner of the 1.58 acre tract described as the "SAVE and EXCEPT - First Tract" in Volume 915 on Page 759;

Attachment II



THENCE the following seven courses with the south line of the "1.58 acre SAVE and EXCEPT – First Tract", and generally following a wire fence:

1. S 43°55'56" E 63.95 feet (record: S 43°16'34" E 63.95 feet) to an 8-inch cedar corner fence post;
2. N 88°40'50" E 382.65 feet (record: N 89°18'08" E 382.81 feet) to a 6-inch cedar fence post;
3. N 89°28'20" E 221.13 feet (record: S 89°52'18" E 221.13 feet) to a 6-inch cedar fence post;
4. N 87°06'11" E 371.61 feet (record: N 87°47'33" E 370.93 feet) to a 6-inch cedar fence post;
5. N 85°07'23" E 244.18 feet (record: N 85°45'13" E 244.72 feet) to an 8-inch cedar fence post;
6. N 86°28'49" E 134.66 feet (record: N 87°05'59" E 134.81 feet) to a 6-inch cedar fence post;
7. N 87°37'28" E 607.40 feet (record: N 88°16'02" E 607.41 feet) to an 8-inch cedar fence post, the east corner of the 1.58 acre tract, the southeast corner of the 212.85 acre tract, and the southwest corner of a 209.7 acre tract described in Volume 851 on Page 782 of the Official Public Records, and the ostensible southeast corner of Survey 243 and southwest corner of the TP Lowry Survey 870, Abstract 584;

THENCE S 88°28'01" E 2591.44 feet (overall record: East 950 varas) with the south line of the 209.7 acre tract, the south line of Survey 870, and generally following a wire fence to an 8-inch cedar 3-way fence post, the northeast corner of this tract the ostensible northeast corner of Survey 877, a southeast corner of the 209.7 acre tract, the ostensible southeast corner of Survey 870, on the west line of a 11.04 acre tract described in Volume 851 on Page 782 of the Official Public Records, and on the west line of the Orran Davis Survey 1123, Abstract 1267;

THENCE S 02°10'43" W 2773.07 feet (overall record: South 1908 varas) with the west line of Survey 1123, generally following a wire fence, to an 8-inch cedar fence post, the southwest corner of the 11.04 acre tract, the southwest corner of Survey 1123, and the northwest corner of Lot 8C, Champee Springs, and the northwest corner of Survey 878;

THENCE S 01°05'05" W 2489.72 feet (overall record: South 1908 varas) with the west line of Lot 8C, generally following a wire fence, to the POINT OF BEGINNING, contains 1603.19 acres of land.

Record courses refer to Volume 915 on Page 759 unless otherwise noted.
Bearings, Distances, and Coordinates are Grid according to the Texas Coordinate System, South Central Zone, NAD 1983.
A survey plat accompanies this description.

STATE OF TEXAS
COUNTY OF MEDINA
I HEREBY CERTIFY THAT THIS METES AND BOUNDS DESCRIPTION WAS PREPARED FROM AN
ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION ON AUGUST 12-18, 2020.

PAUL T. CAREY, RPLS 4454
Released: October 2, 2020
Job Number: 12176

VS
11/12/20
Item No. 10

ATTACHMENT III

Attachment III

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 KENDALL §

**Conservation Easement
Brown Ranch**

Authorizing Ordinance:	
Grantor:	SST Brown Family Partnership, Ltd.
Grantor's Address:	524 Upper Cibolo Creek Road, Boerne, Texas 78006 (Kendall County)
Grantee:	City of San Antonio, a Texas municipal corporation
Grantee's Address:	P.O. Box 839966, San Antonio, Bexar County, Texas 78283-3966 Attn: Director, Parks and Recreation Dept.
Property:	1,603.19 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.

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.

Attachment III

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

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.

Table of Contents

1. Basic Information.....	3
2. Exhibits.....	3
3. Purpose.....	3
4. Definitions.....	4
5. Development-Related Provisions.....	6
6. Agriculture-Related Provisions.....	8
7. Vegetation-Related Provisions.....	9
8. Vehicle-Related Provisions.....	9
9. Storage, Dumping, and Disposition-Related Provisions.....	10
10. Extraction-Related Provisions.....	11
11. Water Flow-Related Provisions.....	13
12. Requests for Approval.....	13
13. No Public Access.....	14
14. Ownership Obligations.....	14
15. Grantee's Rights.....	14
16. Discretionary Consent.....	16
17. Alienation by Grantee.....	16
18. Alienation by Grantor.....	16
19. Amendment.....	17
20. Termination, Condemnation.....	17
21. Interpretation.....	17
22. Severability.....	17
23. Successor, Beneficiaries.....	17
24. Encumbrance by Grantor.....	17
25. Appropriations.....	18
26. Notices from Governmental Authorities.....	18
27. Easement Runs with the Land; No Merger.....	18

Attachment III

28. Effective Date 18

1. Basic Information.

**Maximum Number of
Parcels:** 1

**Maximum Number of
Building Envelopes:** 6

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

**Maximum Increased
Impervious Cover:** 349,174.78 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:** 4

Report: The Easement Documentation Report dated August 2020 prepared by Adams Environmental, Inc. relating to the Property, as shown on Exhibit C.

**Exceptions to and
Reservations from
Warranty:** As shown on Exhibit D.

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

Attachment III

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. The Building Envelope may not exceed five (5) acres.

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. This definition includes cultivation, earthmoving, land forming, land grading, and land planning.

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).

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

Attachment III

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 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.

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

Attachment III

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 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.

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, Privies, 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 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. Unless Grantee consents in writing, grant new utility, Road, or pipeline easements. Grantee will generally withhold consent except when the easement is granted under threat of condemnation. Despite this proscription, Grantor may, without Grantee's consent but subject to the Maximum Increased Impervious Cover, grant road and utility easements reasonably necessary to service and to permit access to Parcels and Building Envelopes allowed under this Easement.

Attachment III

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. 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 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.

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.

5.03.02. Maintain, restore, 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, and recreation, consistent with other applicable express provisions of this Easement.

5.03.04. Intentionally deleted.

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

5.04. If not identified in this Easement, Grantor may propose Building Envelope locations to Grantee. Grantor's requests for Building Envelope locations are handled according

Attachment III

to the Section titled "Requests for Approval." Areas subject to Building Envelopes must be defined with the same degree of specificity required for identifying real property for conveyance. Approved Building Envelopes must be evidenced by a recorded memorandum signed by both Grantor and Grantee. The property description must be attached to the memorandum. All residences shown on the Report must be contained in a Building Envelope. If Grantor wishes to change a Building Envelope, in addition to following the process for designation of any Building Envelope, Grantor must ensure that the former Building Envelope site is restored such that it will offer the same quantity and quality of recharge as similar, previously undeveloped areas.

5.05. Intentionally Deleted.

6. Agriculture-Related Provisions.

6.01. Grantor must not:

6.01.01. Operate a commercial feedlot, poultry farm, or similarly Confined Animal Feeding Operation. This provision shall not be construed to restrict 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.

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.

6.02.05. Foster the presence of wildlife on the Property.

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 or wildlife, 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

Attachment III

provide such plans, Grantee may designate an alternative, similarly qualified authority to provide grazing and wildlife management plans.

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 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 500-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.

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. Authorized representatives of Grantor and Grantee 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.

Attachment III

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.

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 500 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.
- 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.

Attachment III

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.

Grantee's list may change from time to time and may impose time, quantity, and use restrictions. While the City of San Antonio is the Grantee, the City Manager or City Manager's designee may alter the list without further action or authorization by City Council. Grantor's use of chemicals must conform to the best practices at the time the issue arises, and Grantor must not allow permitted materials to leak into or otherwise pose a material degradation threat to groundwater quality. Grantor must indemnify Grantee from all loss, cost, liability, or expense arising from Grantor's use of such chemicals, with or without Grantee's permission.

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:

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.

Attachment III

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 500 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.

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.

Attachment III

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. 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.

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. If Grantor does not begin approved actions within one year after the date on which Grantee grants its written approval, the approval is void. Grantor may resubmit the request, but previous approval does not estop Grantee from denying approval on resubmission.

12.05. 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

Attachment III

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:

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. 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 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. The right to install, operate, and maintain 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 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.

Attachment III

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 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, 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

Attachment III

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.

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.

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.

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

Attachment III

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. Amendment.

This Easement may be amended only with the written consent of both Grantor and Grantee. Any amendment must be consistent with the Purposes of this Easement and must comply with applicable law, including Sec. 170 (h) of the Internal Revenue Code, as amended from time-to-time, and with Chapter 183 of the Texas Natural Resources Code, as amended from time-to-time. If the Grantee is the City of San Antonio, its consent to an amendment must be authorized by City Council or a successor governing body, in accordance with the City of San Antonio Conservation Easement Amendment Policy ("Policy"). Grantor, upon written request to Grantee, may obtain a copy of the most recent version of such Policy.

20. Termination, Condemnation.

20.01. The Easement may be terminated by judicial declaration if condemnation or a change in conditions on or around the Property renders it impossible to substantially fulfill the Purposes of this Easement.

20.02. Grantee's interest is a compensable property right. If some or all of the Property is condemned or sold in lieu of condemnation, Grantor and Grantee will divide the condemnation proceeds (which, by definition, include proceeds from a sale in lieu of condemnation) as follows: Grantor receives a share equal to the entire award multiplied times a fraction, the numerator of which is the value of the Property burdened by the Easement and the denominator of which is the value of the Property unburdened by the Easement; Grantee receives the rest of the award. Values are measured at the time of condemnation.

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

Attachment III

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.

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.

Attachment III

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.

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:

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 Stuart Brown, Partner of SST Brown Family Partnership, Ltd., a Texas limited partnership, in the capacity therein stated and on behalf of such entity.

Date: _____

Notary Public, State of Texas

VS
11/12/20
Item No. 10

Attachment III

My Commission expires: _____

STATE OF TEXAS §

COUNTY OF _____ §

This Easement was acknowledged before me this date by Phillip Covington, Special Projects Manager 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: _____