

AN ORDINANCE **2016-03-31-0223**

AUTHORIZING THE GRANTING OF A SANITARY SEWER EASEMENT OVER APPROXIMATELY 4,256 SQUARE FEET OF CITY OWNED REAL PROPERTY LOCATED AT 1920 SOUTH ALAMO IN COUNCIL DISTRICT 1 TO ESS STORAGE SAN ANTONIO, LLC AND WAIVING ASSOCIATED FEES.

* * * * *

WHEREAS, ESS Storage San Antonio, LLC is requesting a sanitary sewer easement on City-owned property located at 1920 S. Alamo Street within New City Block 1009 in City Council District 1; and

WHEREAS, ESS Storage San Antonio, LLC has agreed to allow the City of San Antonio access to the proposed sanitary sewer easement at no cost to the city which will allow future development of city owned property; **NOW THEREFORE**,

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

SECTION 1. The City Manager and her designee, severally, are authorized to grant a sanitary sewer easement to ESS Storage San Antonio, LLC consisting of approximately 4,256 square feet of property as described and in substantially the same form attached as **Exhibit A**. The City Manager and her designee, severally, are further authorized and directed to execute and deliver all other documents and instruments necessary or convenient to effectuate the transactions contemplated by this ordinance and otherwise to do all things necessary or convenient to effectuate the transaction.

SECTION 2. There is no fiscal language associated with this ordinance. All fees associated with this sanitary sewer easement and its approval are waived.

SECTION 3. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under City Code of San Antonio §1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this 31st day of March, 2016.



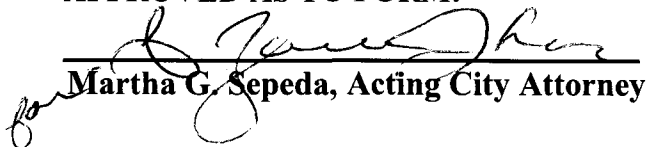
M A Y O R
Ivy R. Taylor

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Martha G. Sepeda, Acting City Attorney

Agenda Item:	13 (in consent vote: 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24)						
Date:	03/31/2016						
Time:	09:12:22 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing ESS Storage San Antonio, LLC to use 4,256 square feet of City-owned property located at 1920 S. Alamo Street for a sanitary sewer easement within NCB 1009, in Council District 1. [Erik Walsh, Deputy City Manager, Mike Frisbie, Director, Transportation & Capital Improvements]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

EXHIBIT A

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 Bexar §

Revocable Sanitary Sewer Easement

Authorizing Ordinance:

SP No.:

Grantor: City of San Antonio

Grantor's Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Bexar County)

Grantee ESS Storage San Antonio LLC
by and through it's manager,
Extra Space Storage LLC dba EXR Storage of Texas LLC

Grantee's Address: 2795 E Cottonwood Parkway
Suite #400
Salt Lake City, Utah 84121-7033

Consideration: Sewer connection and access to Grantee's sanitary
sewer line at no cost to the Grantor for future
development of the Servient Estate.

Description and Purpose of Easement: A 0.0977 of an acre tract of land (12' wide by approximately 355' length - sanitary sewer), as shown in Exhibit A, which is incorporated herein by reference for all purposes as if it were fully set forth, situated in the City of San Antonio, Texas and being over and across New City Block (N.C.B.) 1009 for constructing, reconstructing, inspecting, patrolling, maintaining, and repairing a sanitary sewer line; removing from the easement area all trees and parts thereof, and other obstructions that may interfere with the exercise of the

rights granted hereunder with proper 5 day notice to Grantor; together with the right of ingress and egress over the easement for the purpose of exercising all other rights hereby granted.

Description of Servient Estate: A portion of Lot 44 in New City Block 1009, as shown in Exhibit A, and conveyed to the City of San Antonio of record in Volume 17312 Page 2000 of the Official Public Records of Bexar County, Texas.

Grantor grants, dedicates, and conveys to Grantee, for and in consideration of the benefits accruing to Grantors, to Grantors' other property, and to the public generally, an easement as described above over, across, under and upon the Servient Estate. The easement may be used only for the Purpose of Easement stated above. Grantor covenants for itself, its heirs, executors, successors, and assigns, that no building or obstruction of any kind will be placed on the easement area herein granted except a parking lot, acceptance of which is a condition of the granting of this easement. Grantee may remove from the easement area all trees and parts thereof, and other obstructions not related to Grantor's parking lot or other future use that may interfere with the exercise of the rights granted hereunder upon providing Grantor 5 day written notice before starting any work. Grantor and Grantee acknowledge and agree that Grantee is solely responsible for the maintenance, operation and repair of the sewer line and facilities located in the Easement Area.

This easement shall not become effective unless and until, concurrent with filing this easement, Grantee files and records an instrument, in substantially the same form shown in Exhibit B, releasing Grantor from any and all liabilities which may be incurred in connection with this easement, indemnifies Grantor and agrees to hold Grantor harmless from and against any and all liens and any other loss, damage or liability which Grantor may incur in the granting of this easement.

This easement is further granted upon condition that Grantor's use, operations and public services must not be interrupted on the Servient Estate and the Servient Estate must be restored to its original condition, or better, upon any work by Grantee being completed. Grantee must maintain a ten (10) foot radius will need to be maintained from the existing distribution poles during construction or maintenance, to avoid any failures or damage to City Public Service facilities.

It is a condition of the granting of this easement that Grantee shall and does allow Grantor to connect, and have access to, the sanitary sewer line at no cost to the Grantor for future development of the Servient Estate. Grantor reserves the right to develop the Servient Estate in any manner that Grantor may deem prudent or expedient which does not interfere with the easement purpose. Grantor hereby reserves the right at any time to require relocation of all or any portion of the sanitary sewer line contained in the Sewer Easement as Grantor may deem expedient,

necessary or prudent with respect to the development of the property or adjacent public streets. If Grantor's needs, including a municipally-owned utility of the City of San Antonio, reasonably require relocation, maintenance, or adjustment in the easement area or improvements by Grantee thereto, the relocation, maintenance, or adjustments shall be at Grantee's sole cost and expense. Relocation shall be reflected by a revised metes and bounds defining the new easement areas prepared at the expense of Grantee. Upon such relocation, Grantor shall deliver to Grantee an easement in recordable form for such relocated line and upon recording of such new easement the sewer easement herein conveyed shall terminate. After 14 days' notice to Grantee to Grantee's Address for Notice, Grantor may file a Notice of Non-Compliance for failure to meet these conditions, upon which filing this easement shall be extinguished. The Notice of Non-Compliance shall be a written instrument recorded in the appropriate records of Bexar County, Texas. The instrument need be signed only by Grantor and assert that the easement condition requiring that relocation and/or the providing of a new survey was not met.

Should Grantee fail to comply with a condition of this easement, after 14 days' written notice to Grantee's Address and no cure by Grantee, Grantor may file a Notice of Non-Compliance for failure to meet a condition upon which this easement shall be automatically extinguished. The Notice of Non-Compliance shall be a written instrument recorded in the appropriate records of Bexar County, Texas. The instrument need be signed only by Grantor or Grantor's designee, and assert that an easement condition required under this instrument was not met. Upon being extinguished, all rights and privileges cease, and Grantee must promptly cease use of the easement. Grantee's improvements or appurtenances not removed within 90 days after extinguishing of the easement, become the property of Grantor. Grantor may, without liability to Grantee, dispose of such property at a public or private sale, with ten days' written notice to Grantee at Grantee's Address.

At any time that Grantee, or those claiming through Grantee, cease to use this easement for 12 consecutive months, after 14 days' written notice to Grantee at Grantee's Address Grantor has the right to terminate this easement by means of a written instrument recorded in the appropriate records of Bexar County, Texas. The instrument need be signed only by Grantor and assert that the easement was not used for 12 consecutive months. Grantor's right to terminate lapses after five years from a period of non-use, but each 12 consecutive months of non-use gives Grantor a new right to terminate, so that Grantee's successors need inquire into non-use only within the four years immediately preceding the successor's acquisition.

This Sewer Easement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, mortgagees, successors and assigns.

This Sewer Easement shall be interpreted and construed in accordance with the laws of the State of Texas.

To Have and To Hold the above described easement and rights unto Grantor, its successors and assigns, until its use is abandoned.

This easement is subject to all pre-existing rights of record in the Servient Estate.

Witness my hand, this _____ day of _____, 2016.

Grantor:
City of San Antonio, a Texas municipal corporation

Grantee:
ESS Storage San Antonio LLC, a Texas limited liability company,
By and through its manager,
Extra Space Storage LLC,
dba EXR Storage of Texas LLC

By _____

By: David L. Rasmussen

Printed Name: _____

Printed Name: David L. Rasmussen

Title: _____

Title: VP & General Counsel

Date: _____

Date: 3 - 17 - 2016

Approved As To Form:

City Attorney

State of Texas §

County of Bexar §

This instrument 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 that entity.

Date: _____


Notary Public, State of Texas

My Commission expires: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

This instrument was acknowledged before me on March 17, 2016, by David L. Rasmussen, Manager on behalf of Extra Space Storage LLC, a limited liability company.

Date: March 17, 2016



NOTARY SEAL

Printed Name: Brett Nelson

Notary Public: _____

My Commission Expires: 1-10-18



Exhibit A

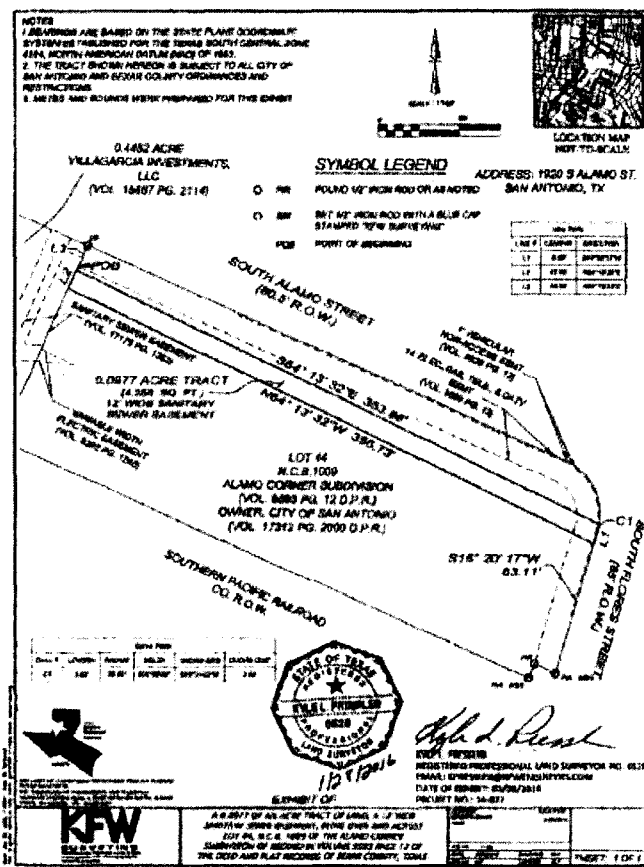


EXHIBIT B

State of Texas §
 § **Know All By These Presents:**
County of Bexar §

Release and Indemnity

Authorizing Ordinance:

Releasing Party: ESS Storage San Antonio LLC

Releasing Party's Address: 2795 E Cottonwood Parkway
Suite #400
Salt Lake City, Utah 84121-7033

Released Party: City of San Antonio

Released Party's Address: P.O. Box 839966,
San Antonio, Texas 78283-3966

Consideration: A 12' wide by approximately 355' length sanitary sewer easement granted by City of San Antonio to ESS Storage San Antonio LLC, as well as other benefits and promises made by the Parties, the receipt and adequacy of which Releasing Party acknowledges, plus the granting of the easement shown in Exhibit A.

Scope of Release/Indemnity: All matters arising out of or relating to personal injury or property damage in any way related to the easement shown in Exhibit A and the property owned by Released Party.

Releasing Party covenants for itself, its administrators, successors, and assigns that it hereby releases, acquits, and forever, discharges any and all claims, actions, and causes of action against Released Party, its officers, agents, and employees for any injuries, damages, losses, costs, or expenses arising out of or resulting from Released Party's use or occupation of the property described in Exhibit A, and any adjoining property owned by Released Party unless arising due to the gross negligence or intentional act of the Released Party.

Releasing Party covenants for itself, and its administrators, successors, and assigns, that it will indemnify and hold harmless Released Party, its officers, agents and employees from and against any and all claims, actions, causes of action, judgments, damages, losses, costs, and expenses (including attorneys' fees) arising out of or resulting from damage or use of Released Party's property as it relates to the property described in Exhibit A, and any

adjoining property owned by Released Party unless arising due to the gross negligence or intentional act of the Released Party.

EXECUTED to be effective _____, 2016.

Releasing Party:

ESS Storage San Antonio LLC, a Texas limited liability company,
By and through its manager,
Extra Space Storage LLC,
dba **EXR Storage of Texas LLC**

By: _____

Printed Name: David L. Rasmussen

Title: VP & General Counsel

Date: _____

State of Texas §

County of Bexar §

This instrument was acknowledged before me on _____ by
_____, partner(s) on behalf of
_____, a partnership.

Date: _____

Notary Public, State of Texas

My Commission expires: _____