

ORDINANCE 2018-10-04-0779

**AUTHORIZING THE RELEASE OF A 0.0104 ACRE UTILITY
EASEMENT LOCATED IN NEW CITY BLOCK 173 IN COUNCIL
DISTRICT 1 AS REQUESTED BY DELTA MAIN AND DWYER, LLC.**

* * * * *

WHEREAS, the City of San Antonio ("City") owned and operated the Dwyer Avenue Center for Transitional Housing located at 307 Dwyer Avenue; and

WHEREAS, in 1991, the City acquired a utility easement from the abutting property owner located at 410 S. Main Avenue to provide electrical service for the shelter as described in **Exhibit A** and shown in **Exhibit B**; and

WHEREAS, in 2010, the services provided at the Dwyer Avenue Center for Transitional Housing were relocated to Haven for Hope and the City sold the property to the petitioner, Delta Main and Dwyer, LLC in 2017 ("Petitioner"); and

WHEREAS, the Petitioner also purchased the property at 410 S. Main where the utility easement is located; and

WHEREAS, the Petitioner is replatting the property for a multi-family development and the utility easement is no longer needed and as such Petitioner requests the City release its utility easement so that Petitioner may replat the property; and

WHEREAS, CPS Energy removed cable and equipment from the easement at the Petitioner's request; and

WHEREAS, the request was reviewed and approved by city departments and utilities; **NOW THEREFORE:**

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

SECTION 1. The City Manager or her designee, severally, are authorized to execute and deliver releases of the 0.0104 acre (457.11 square feet) utility easement located in New City Block 173, located in Council District 1, as requested by Delta Main and Dwyer, LLC.

SECTION 2. All attachments to this ordinance are incorporated into it by reference for all purposes as if fully set forth. The City Manager, or her designee, is further authorized to execute and deliver all other documents necessary or convenient to effect the transactions contemplated in the above agreement; and other to do all things necessary or convenient to effectuate the transaction.

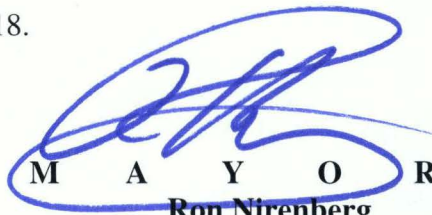
SECTION 3. The disposition of property must be coordinated through the city's Finance Department to assure the removal of these assets into the City's financial records and to record

the proper accounting transactions.

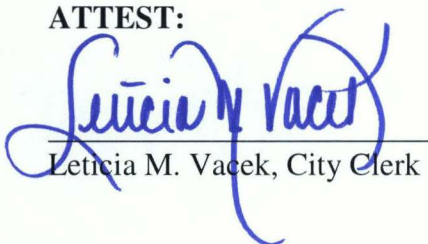
SECTION 4. All presently existing water and wastewater lines and facilities, electric transmission and distribution lines and facilities, gas lines and facilities, communication lines and facilities, or any other public utility lines and facilities, if any, may remain in place despite this Ordinance and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business. Any person wanting removal of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the released utility easements without first reaching an agreement with a utility having lines or facilities in the segment does so at his own risk. After the date of this Ordinance, no utility may add additional utility lines or facilities in the released utility easements.

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 4th day of October, 2018.


M A Y O R
Ron Nirenberg

ATTEST:


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


Andrew Segovia, City Attorney

Agenda Item:	8 (in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20)						
Date:	10/04/2018						
Time:	09:53:06 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance authorizing the release of a 0.0104 acre (457.11 square feet) utility easement located at 410 S. Main, located in Council District 1, as requested by Delta Main and Dwyer, LLC. [Peter Zaroni, Deputy City Manager; Mike Frisbie, Director, Transportation & Capital Improvements]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				
William Cruz Shaw	District 2	x					
Rebecca Viagran	District 3		x			x	
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5	x					
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				x
Clayton H. Perry	District 10		x				

VVS
10/4/2018
Item No. 8

EXHIBIT A

269687 \$15.00

2153533

/mvm 06/20/91

Misc. Easements and Dedications

Return to:

Dwyer Avenue Center

Real Estate Division
City of San Antonio
P. O. Box 839966
San Antonio, Tx. 78283-2966

EASEMENT
(Permanent)

STATE OF Florida)
COUNTY OF (Hillsborough)) KNOW ALL MEN BY THESE PRESENTS:

THAT, RESOLUTION TRUST CORPORATION, AS RECEIVER FOR, PIONEER FEDERAL SAVINGS BANK, hereinafter referred to as "GRANTOR", for and in consideration of SEVEN THOUSAND TWO HUNDRED AND NO/100 (\$7,200.00) DOLLARS to it in hand paid by the CITY OF SAN ANTONIO, a municipal corporation, whose mailing address is P. O. Box 839966, San Antonio, Texas 78283-3966, hereinafter referred to as "GRANTEE", the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto the City of San Antonio, Bexar County, Texas, an underground easement for electrical service purposes under the following described lands located in Bexar County, Texas, said lands being more particularly described as follows, to-wit:

A 0.0105 acre tract of land out of New City Block 173, San Antonio, Bexar County, Texas and being more particularly described by metes and bounds as shown on Exhibit "A" attached hereto and made a part hereof;

together with the right of ingress and egress over said easement for the purpose of providing electrical service to the adjacent Dwyer Street Shelter 307 Dwyer, San Antonio, Texas (Lot 14, N.C.B. 173, Bexar County, Texas), including, but not limited to, the installation, improvement, repair, replacement and/or general maintenance of electrical service and equipment and to also include the erection, placement and removal of scaffolding or other construction and maintenance equipment. "GRANTOR" expressly covenants and agrees itself, its successors and/or assigns, that no building or obstructions, other than moveable structures, of any kind will be placed on said easement herein granted.

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EASEMENT (Permanent) - Page 2

TO HAVE AND TO HOLD the above described easement and rights unto the said CITY OF SAN ANTONIO, its successors and assigns, during the term of this easement. And "GRANTOR" does hereby bind itself, its successors and/or assigns to WARRANT AND FOREVER DEFEND all and singular the above described easement and rights unto the said CITY OF SAN ANTONIO, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under "GRANTOR", but not otherwise.

EXECUTED this 14th day of August, A.D. 1991.

David L. Muzio
RESOLUTION TRUST CORPORATION, AS RECEIVER
FOR, PIONEER FEDERAL SAVINGS BANK.
David L. Muzio

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

This instrument was acknowledged before me on this the 14th day of August, 1991 by RESOLUTION TRUST CORPORATION, AS RECEIVER FOR, PIONEER FEDERAL SAVINGS BANK.

Judith A. Ceballos
NOTARY PUBLIC in and for the State of
~~FLORIDA~~
Florida
Judith A. Ceballos
NOTARY'S PRINTED NAME

Notary Public, State of Florida
My Commission Expires Oct. 20, 1991
MY COMMISSION EXPIRES: Florida Notary Public Association, Inc.

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POWER OF ATTORNEY

OFF 5903 PG 684

KNOW ALL PERSON BY THESE PRESENTS:

The Resolution Trust Corporation ("RTC"), a corporation organized and existing under the laws of the United States of America, with its principal office located in Washington, D.C. has determined it is necessary to appoint a representative to act on its behalf to preserve, maintain or liquidate assets of certain insured savings associations.

The RTC has established a consolidated field office in Tampa, Florida, in order to discharge its responsibilities arising from insured institutions located in the Southeast consolidated field. Mr. David Muzio has been appointed Assistant Director, Contracts, for this consolidated field office.

Therefore, for the purpose of preserving, maintaining or liquidating assets the RTC does hereby authorize and empower David Muzio as its Attorney In Fact to:

1. Sign, seal and deliver as the act and deed of the RTC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the RTC and to give proper receipts and acquittances therefore in the name and on behalf of the RTC;
2. Release, discharge or assign any and all judgments, mortgages on real estate or personal property [including the release and discharge of the same of record in the office of any Prothonotary or Register of Deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the debtor(s)], and to endorse receipt of such payment upon the records in any appropriate public office;
3. Receipt, collect and give all proper acquittances for any other sums of money owing to the RTC for any asset which the above-named may sell or dispose of;
4. Execute any and all transfers and assignments as may be necessary to assign any securities or other choses in action;
5. Sign, seal, acknowledge and deliver any and all agreements as shall be deemed necessary or proper by the Managing Agent in the care and management of any assets;
6. Sign, seal, acknowledge and deliver indemnity agreements and surety bonds in the name of and on behalf of the RTC;
7. Sign receipts for the payment of all rents and profits due or to become due on any assets;

RICHARD AXE
CLERK OF CIRCUIT COURT
HILLSBOROUGH COUNTY

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8. Execute, acknowledge and deliver deeds of real property in the name of the RTC;
9. Extend, postpone, release and satisfy or take such other action regarding any mortgage lien held in the name of the RTC;
10. Execute, acknowledge and deliver in the name of the RTC a power of attorney wherever necessary or required by law to any attorney employed by the RTC;
11. Foreclose any mortgage or other lien on either real or personal property, wherever located;
12. Do and perform every act necessary for the use, liquidation or collection of any assets held in the name of the RTC; and
13. Sign, seal, acknowledge and deliver any and all documents as may be necessary to settle any action(s) or claim(s) asserted against the RTC either as Conservator or in its Corporate capacity.

This Power of Attorney shall be effective immediately and shall continue until such time as this Power of Attorney has been terminated by the Board of Directors of the RTC or by any officer of the RTC authorized to do so by the Board of Directors of the RTC.

IN WITNESS WHEREOF, the RTC by its duly authorized officers empowered in that behalf by appropriate Resolution of its Board of Directors has caused these presents to be executed and subscribed in its name and its corporate seal affixed this 25th day of January, 1990.

RESOLUTION TRUST CORPORATION

BY: William H. Roline, Director
Resolution and Operations Division

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cherie R. Higgins
Ernest Cooper
USGS

ATTEST: William H. Roline
Assistant Executive Secretary

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OFF. 5903 to 686

UNITED STATES OF AMERICA)
DISTRICT OF COLUMBIA)ss

On this 2nd day of February, 1990, before me, a Notary Public in and for the District of Columbia, personally appeared William H. Roelle and William J. Tricarico, to me known personally, who being by me first duly sworn did each depose that they are respectively Director, Resolutions and Operations Division and Assistant Executive Secretary of the Resolution Trust Corporation ("Corporation") in whose name the foregoing Power of Attorney has been executed and subscribed, who further said that the seal affixed to the said Power of Attorney is the corporate seal of the said Corporation and that the said Power of Attorney was executed and subscribed on behalf of the said Corporation and its seal thereto affixed by due authority of the Corporation's Board of Directors and the said William H. Roelle and William J. Tricarico acknowledged the said Power of Attorney to be the free act and deed of the said Corporation.

Blues Trust
Notary Public, District of Columbia
United States of America

My Commission expires:

June 1991



STATE OF FLORIDA)
COUNTY OF DALLAS, TEXAS)

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE RECORD ON FILE IN MY OFFICE DURING MY TERM AND OFFICIAL SEALING 26th DAY OF November, 1990.

RICHARD AKE, CLERK
BY Therese Dabbling, D.C.

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SG & A

A Texas Partnership

P. O. Box 701208

San Antonio, Texas 78270-1208

(512) 496-6066

Metes and bounds description of a 0.0104 (457.11 square feet) tract of land out of N.C.B. 173, San Antonio, Bexar County, Texas and being more particularly described as follows:

BEGINNING: At the northwest point of intersection of Dwyer St. and Old Guilbeau St., N 07 deg 44 min 29 sec E a distance of 287.23 feet along the west right-of-way line of Dwyer St. to a point, then N 82 deg 04 min 31 sec W along a building line a distance of 75.19 feet, then N 65 deg 45 min 31 sec W along a building line a distance of 32.66 feet being the most southwest corner of said tract;

THENCE: N 72 deg 52 min 18 sec W along a line 34.42 feet to a point;

THENCE: N 17 deg 07 min 42 sec E a distance of 7.80 feet to a point;

THENCE: S 72 deg 52 min 18 sec E a distance of 5.40 feet to a point;

THENCE: N 17 deg 07 min 42 sec E a distance of 6.50 feet to a point;

THENCE: S 72 deg 52 min 18 sec E a distance of 29.02 feet to a point;

THENCE: S 17 deg 07 min 42 sec W a distance of 14.30 feet to the point of beginning, and containing 0.0104 (457.11 square feet) acres of land.

I hereby certify that the above metes and bounds are true and correct.



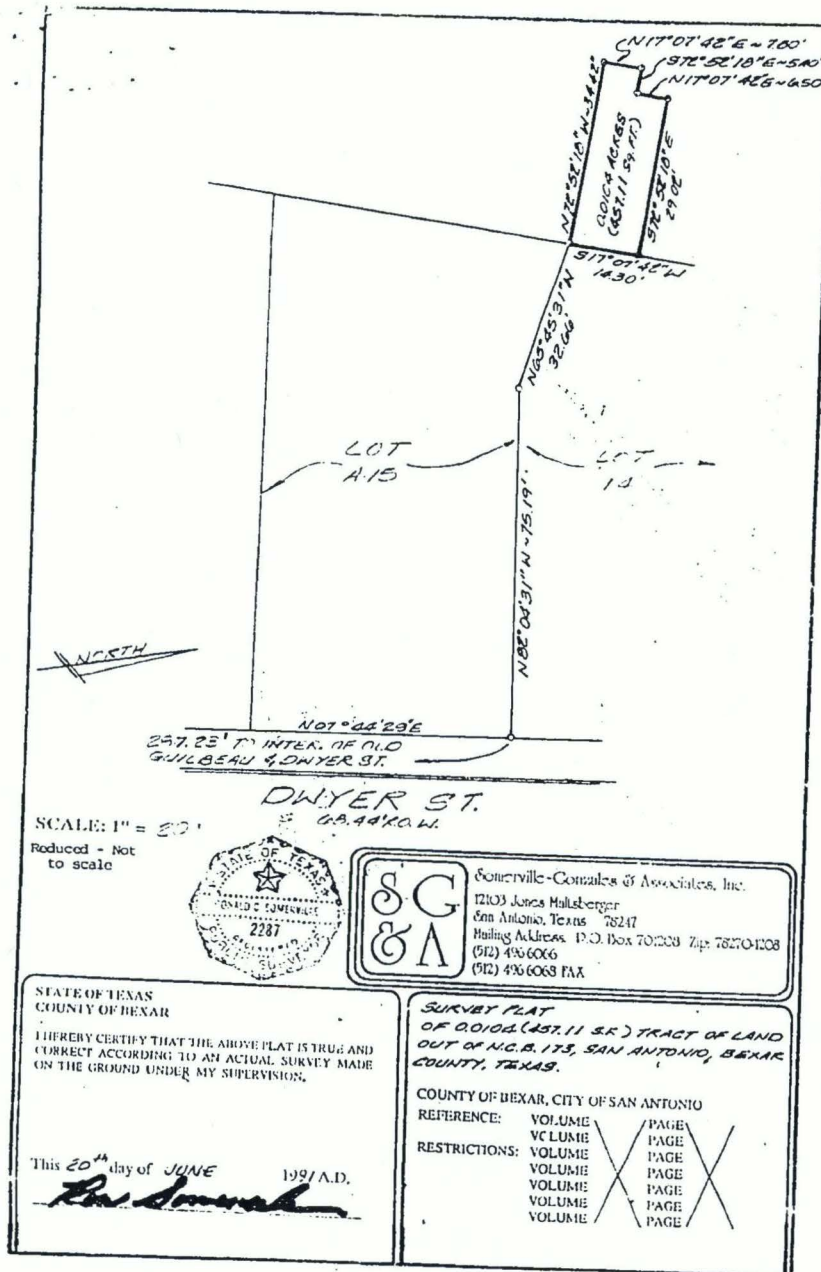
Ronald C. Somerville, R.P.L.S. No. 2287
June 20, 1991

file: dwyer 25



SG & A

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Any provision herein which purports to restrict, limit, extend, or use of the described real property because of force is invalid and of no effect enforceable under Federal Law.
 I hereby certify that this instrument was filed in FILE NUMBER 1000000000 on the date and at the time stated herein by me and was duly RECORDED in the Official Public Records of Real Property of Bexar County, Texas on:



OCT 8 1991

Robert D. Green
 COUNTY CLERK BEXAR COUNTY, TEXAS

RECORDER'S MEMORANDUM
 AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

FILED IN MY OFFICE 1/14/91
 OCT 8 1991 1:31 PM
 ROBERT D. GREEN, County Clerk, Bexar Co.

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EXHIBIT B

