

ORDINANCE

AUTHORIZING 2.13-ACRE GAS EASEMENT WITH GREY FOREST UTILITIES FOR \$65,000 AND GRANTING ACCESS TO PROPERTY OWNED AND CONTROLLED BY THE CITY OF SAN ANTONIO AT LEON CREEK AND THE O. P. SCHNABEL PARK EXPANSION AREA NEAR PRUE ROAD IN COUNCIL DISTRICTS 7 AND 8.

* * * * *

WHEREAS, Grey Forest Utilities is a gas utility company serving the greater northwest area of San Antonio and surrounding municipalities such as Boerne, Helotes, and Leon Valley; Grey Forest Utilities’ service areas are segmented and, as a result, they are requesting an easement from the City of San Antonio (“City”) in order to install a connecting gas line to better serve their existing customers within the Prue Road community who are currently serviced by individual feed lines; and

WHEREAS, an easement from the City will allow Grey Forest Utilities access to City-owned property to install and maintain a gas utility line connecting service to the residents located directly north and south of Prue Road mitigating service interruptions and facilitating repairs; and

WHEREAS, the proposed gas easement as depicted in **Attachment I** will allow Grey Forest Utilities access to Leon Creek Greenway and the O. P. Schnabel expansion area property so they may install and maintain a 4” gas sewer line to connect to existing 2” Grey Forest Utilities gas lines to the north at Parkwood Way and the south at Pembroke Road; and

WHEREAS, the granting of the gas easement will include the acceptance of funds in the amount of \$65,000 from Grey Forest Utilities to be utilized for improvements at O. P. Schnabel Park and is above the appraised value of the gas easement which was calculated to be worth \$33,800.00 by an independent professional appraiser; and

WHEREAS, shared use of the property provides the most cost-effective manner in which Grey Forest Utilities can enhance gas utility service to residents of San Antonio and other municipalities; The proposed gas easement will allow for Grey Forest Utilities to provide a redundancy in gas utility service to their customers in the Prue Road service area and provides funding for improvements at O. P. Schnabel Park and is consistent with the goals and objectives of the SA Park System Plan which recommends identifying partnerships to expand San Antonio’s parks system resources;

WHEREAS, Planning Commission approved the execution of this gas easement on May 12, 2021.

NOW THEREFORE:

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

SECTION 1. The City Manager or designee is hereby authorized to grant a 2.13-acre gas easement in a form substantially similar to **Attachment II** with Grey Forest Utilities giving access

VS
12/9/2021
Item No. ____

to property owned and controlled by the City of San Antonio at Leon Creek and the O. P. Schnabel Park expansion area near Prue Road in Council Districts 7 and 8. This ordinance also authorizes the acceptance of \$65,000.00 from Grey Forest Utilities to be utilized by the Parks and Recreation Department for improvements at O. P. Schnabel Park.

SECTION 2. Funds received in the amount of \$65,000.00 for this ordinance shall be deposited in Fund 29826000, Internal order 8260000000XX and General Ledger 4502220

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Fund Numbers, Project Definitions, WBS Elements, Internal Orders, Fund Centers, Cost Centers, Functional Areas, Funds Reservation Document Numbers, and GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 4. This Ordinance becomes effective immediately upon its passage by eight (8) votes or more and 10 days after passage upon its approval by less than eight (8) votes.

PASSED AND APPROVED this 9th day of December, 2021.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, Acting City Clerk

Andrew Segovia, City Attorney

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NOTICE OF CONFIDENTIALITY RIGHTS: If you are a Natural Person, you may remove or strike any of the following information from this instrument before it is filed for record in the Public Records: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GREY FOREST UTILITIES GAS EASEMENT

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BEXAR §

THAT THE UNDERSIGNED, **City of San Antonio** ("Grantor"), for and in consideration of SIXTY-FIVE THOUSAND AND NO/100 (\$65,000.00) DOLLARS and other good and valuable consideration paid to Grantor by **GREY FOREST UTILITIES**, a municipal gas utility ("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 Grantee, a non-exclusive easement and right-of-way as shown on **Exhibit "A"**, **Exhibit "B"**, and **Exhibit "C"** attached hereto and incorporated herein by reference (the "Easement Area") over, across, under and upon the area of land described as follows (the "Property"):

Being a 0.365 acre (15,918 Sq. Ft.) tract situated in both the J.A. Reus Survey No. 417, Abstract No. 652 and The A. Prue Survey No. 20, Abstract No. 574, Bexar County, Texas, and being a portion of a called 12.023 Acres Tract as described in a Gift Deed to City of San Antonio and recorded in Volume 9942, Page 1758 of the Official Public Records of Bexar County, Texas (O.P.R.B.C.T.), and being more particularly described in **Exhibit "A"**.

Being a 0.560 acre (24,405 Sq. Ft.) tract situated in both the A. Prue Survey No. 20, Abstract No. 574 and the J. Alameda Survey No. 81, Abstract 26, Bexar County, Texas, and being a portion of two (2) tracts – a called 1.210 acres tract described in an agreed judgement of Court in absence of objection to the City of San Antonio and recorded in Document Number 20080269378 of the official public records of Bexar County, Texas (O.P.R.B.C.T.) and a called 5.018 acres tract as described in a Quitclaim deed to City of San Antonio and recorded in Book 13082, Page 1531 of the O.P.R.B.C.T., and being more particularly described in **Exhibit "B"**.

Being a 1.209 acre tract situated in the J. Alameda Survey No. 81, Abstract 26, Bexar County, Texas, and being a portion of Four (4) Tracts – a called 6.098 acres tract as described in a Deed Without Warranty as recorded in Volume 13127, Page 921, a called 4.491 acres tract described in a Warranty Deed as recorded in Volume 7555, Page 1086, a called 94.64 acres tract as described in a General Warranty Deed as recorded in Volume 18635, Page 1998 all to the City of San Antonio and the Official Public Records of Bexar County, Texas (O.P.R.B.C.T.), and a City of San Antonio tract described as New City Block 17930, Blk. P, Lot 11, Concord Annexation according to Bexar County Central Appraisal District and being more particularly described in **Exhibit "C"**.

This Easement is granted for the purpose of (a) placing, constructing, reconstructing, operating, inspecting, repairing, maintaining, rebuilding, replacing, relocating and removing an underground natural gas pipeline and related underground improvements (the "Facilities") within the Easement Area, and (b)

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removing from said Easement Area all trees and parts thereof, or other obstructions, which endanger or may interfere with the exercise of the rights herein granted. In that regard, Grantor expressly covenants and agrees for itself, and its successors and/or assigns, that no building of any kind will be placed on the Easement Area; provided, however, that Grantor reserves the right to use, and grant additional easements over, the Easement Area provided that such use and easements do not unreasonably interfere with Grantee's use of the Easement Area.

During the period of construction, repair, maintenance, removal, or replacement of the Facilities by Grantee within the Easement Area herein granted, Grantee shall have the right to use as temporary construction easements so much of the surface of the Property as may be reasonably necessary for Grantee's construction, repair, maintenance, removal or replacement of said Facilities. Grantee shall include the special project procedures set forth in the attached Special Conditions in its contract with its contractor.

TO HAVE AND TO HOLD the above described easement and rights unto the said Grantee, and its successors and assigns, until the use of said Easement Area for public purposes shall be abandoned, and Grantor hereby binds itself, and its successors and/or assigns, to WARRANT AND FOREVER DEFEND all and singular the above described easement and rights unto Grantee, and its successors and assigns, against every person whomsoever lawfully claiming or to claim the same of any part thereof by, through or under Grantor, subject, however, to all matters of record.

By acceptance of the easement granted herein, Grantee agrees to (a) repair any damage to the Easement Area or the Property caused by Grantee's use of the Easement Area, and (b) indemnify, defend and hold harmless Grantor from any all claims, damages, liabilities or causes of action incurred or suffered by Grantor as a result of Grantee's use of the Easement Area, and further agrees to; (c) indemnify, defend and hold harmless Grantor and its partners, officers, principals, employees, subsidiaries, affiliates, associated corporations and companies, agents, representatives, successors and assigns (collectively the "Indemnified Parties"), from and against any and all claims, demands, damages, causes of actions, losses, costs, charges, fees, penalties, fines, damages, expenses or liabilities of any whatsoever kind and character, including, without limitation, attorneys' fees and expenses, which Grantor shall or may, at any time, suffer, sustain, or incur by reason of, or arising directly or indirectly out of Grantee's and/or its members, managers, officers, principals, employees, subsidiaries, affiliates, licensees, invitees, associated corporations and companies, agents, representatives, successors and assigns' exercising their rights under the Easement or use of the Easement Area in connection therewith. Grantee will pay, on the Indemnified Parties' behalf, any judgment rendered against the Indemnified Parties arising out of any claims indemnified pursuant to this Paragraph or any sum that the Indemnified Parties agree to pay in settlement of any claims indemnified pursuant to this paragraph.

SIGNED AND EXECUTED this ____ day of _____, 2021.

GRANTOR: City of San Antonio

By: Homer Garcia III
Title: Director, Parks and Recreation Department

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SPECIAL CONDITIONS

SPECIAL CONSTRUCTION CONDITIONS FOR LEON CREEK TRAIL (PRUE ROAD) AND O.P. Schnabel expansion area. Special project procedures are required from the Contractor as specified herein. The Contractor shall implement and maintain the special project procedures outlined below, pursuant to the Gas Easement executed between the City and Grey Forest Utilities (GFU), at the appropriate time, prior to and during performance of the work.

1. Contractor shall complete the work in a manner that does not unreasonably impact the Leon Creek Greenway and Alamo Golf Driving Range including impact to recreational activities, park reservations, use of park and trail amenities, vegetation and pedestrian and vehicular access.
2. GFU will specifically comply with all applicable environmental laws regarding environmental protection of the Leon Creek Greenway, Alamo Golf Driving Range and surrounding land.
3. GFU will install temporary "warning, construction ahead" signs as directed by CITY prior to and during work, will minimize vehicular use of the Leon Creek Greenway and Alamo Golf Driving Range to the greatest extent possible, and will direct its contractor to take a high degree of care to ensure the safety of park patrons.
4. GFU will restore the trail and/or park improvements to the extent disturbed by GFU or its contractors to its prior condition.
5. At the conclusion of the Project, equipment and debris will be removed by GFU and GFU will restore the site, to the extent disturbed by GFU or its contractors, to the same condition as prior to the commencement of work on the Project including, but not limited to, grading and establishing grass with a native grass mix, to be approved in advance by CITY.
6. Following notice to GFU and reasonable opportunity to cure, CITY shall have the right and authority to halt any activity within the Property and require the removal of GFU, its employees, agents, consultants, contractors, and/or subcontractors off the Property should any of the requirements of this Gas Easement not be met.
8. No work will occur on the Property between the hours of 11:00 PM and 5:00 AM or at any time on holidays. Contractor may perform work on the weekends provided Contractor does not close any park trails.
9. This Gas Easement constitutes the entire agreement between GFU and the CITY and supersedes any prior understanding, oral or written, between GFU and the CITY with respect to the subject matter of this Gas Easement. The terms of this Gas Easement shall be binding upon and inure to the benefit of the heirs, successors, assigns, and legal representatives of GFU and the CITY.
10. The waiver by either party of a breach or violation of any provisions of this Gas Easement shall not operate as or be construed to be a waiver of any subsequent breach hereof or of any other right herein. GFU and CITY agree that if any portion of this Gas Easement is deemed to be illegal, invalid or unenforceable, such illegal, invalid, or unenforceable provision shall not affect the legality, validity, or enforceability of the remainder of this Joint Use.
11. Absent CITY consent and except as otherwise provided herein below, Contractor shall not use the Property for purposes of staging and material storage. Contractor shall seek CITY approval in advance of any onsite storage, and CITY'S approval shall not be unreasonably withheld. Contractor will be allowed to only have materials that will be installed within 48 hours of arriving on site. Any materials in excess of this amount must be stored off-site (outside of limits of construction/Property) at no additional cost to GFU.
12. All tree and vegetative trimming and removal planning shall be done in coordination with COSA Parks and Recreation Department. A certified and licensed arborist must be onsite at times of tree and vegetative trimming and removal operations. All trees not shown to be removed within the construction limits shall be protected. Contractor shall reference Tree Protection Plans and COSA Standard Specifications for Tree Protection requirements. Contractor shall coordinate with COSA Arborist office to identify preferred

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- access routes that preserve native vegetation. Contractor shall document any pre-existing tree damage or tree health problems with photographs and in Contractor's pre-construction video.
13. Contractor is responsible for protection of work, material, and equipment prior to rain events. The location of the Project is located partly within the 100-year floodplain and floodway areas of Leon Creek. The Project site is susceptible to quickly rising water in response to rainfall events. No material shall be stored in the 100-year floodplain longer than the end of the shift in which it was generated. Contractor is solely responsible for protecting trenches, pits, materials and equipment from damage/inundation of flood waters. Roadways to the project site can be expected to be blocked-off at low water crossings during storm events and for extended periods thereafter. Contractor shall coordinate with GFU to determine whether Contractor may return to work onsite after a heavy rain event/park closure.
 14. Contractor's employees shall only be allowed to park their personally owned vehicles in areas allowed and approved by CITY.
 15. Following notice to GFU and reasonable opportunity to cure, CITY shall have the right and authority to halt any activity within the Property and require the removal of GFU, its employees, agents, consultants, contractors, and/or subcontractors off the Property should any of the requirements of this Agreement not be met.

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