

WAIVER AND RELEASE OF OPTION AGREEMENT—CITY OF CUERO TO LUBERSKI PROPERTIES, LLC

STATE OF TEXAS :  
:  
COUNTY OF DEWITT :

**WAIVER AND RELEASE OF OPTION AGREEMENT**

THIS WAIVER AND RELEASE OF OPTION AGREEMENT (this “Release”) is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022 (the “Effective Date”), by the CITY OF CUERO, TEXAS (the “City”), under the following circumstances:

WHEREAS, Luberski Properties, LLC, a California limited liability company (the “Owner”) and the City entered into that certain Option to Purchase Agreement dated May 12, 2021 recorded with instrument **No. 135837** in the Official Public Records of DeWitt County, Texas (the “Option Agreement”), to which the City was granted an option (the “Option”) to purchase a 16.65 acre tract of land located in DeWitt County, Texas, as more particularly described on the attached **Exhibit A** (the “Property”);

WHEREAS, Paragraph 1 of the Option Agreement provides that the City shall be able to exercise its option to purchase the Property only if the Owner fails to begin construction of a building for an egg processing plant on the Property within two(2) years of the date of the Option Agreement; and

WHEREAS, Owner has, in fact, begun construction of a building for an egg processing plant on the Property, within such two-year period, with such date of construction being \_\_\_\_\_, 202\_\_\_\_.

WHEREAS, the City acknowledges that the Owner has begun construction of an egg processing plant on the Property and desires to place this Release of record to confirm that the condition precedent in Paragraph 1 of the Option Agreement cannot occur and that the Option has been RELEASED and shall be of no further force and effect.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City does hereby **WAIVE, RELEASE AND RELINQUISH** unto Luberski Properties, LLC the Option to Purchase the Property as provided in the said Option Agreement. City hereby declares the Property fully released of and from all liens created under the said Option Agreement and acknowledges as follows:

1. The Owner has begun construction of an egg processing plant on the Property and the condition precedent in Paragraph 1 of the Option Agreement cannot occur.

2. The Option Agreement is hereby RELEASED AND TERMINATED and shall be of no further force and effect, and the City shall have no rights thereunder.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURES FOLLOW]*

IN WITNESS WHEREOF, the City has executed this Release as of the date first above written.

CITY:

**CITY OF CUERO, TEXAS**

By: \_\_\_\_\_

Name: Sara Post Meyer

Title: Mayor

STATE OF TEXAS                    )  
                                                  ) SS:  
COUNTY OF DEWITT                )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_, of the City of Cuero, Texas, on behalf of the City.

\_\_\_\_\_  
Notary Public  
Name Printed: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

This instrument prepared by:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**