

ORDINANCE 2020 _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUERO, TEXAS, AUTHORIZING AND APPROVING A UTILITY EASEMENT FROM ROY MALDONADO, A SINGLE MAN, AS GRANTOR TO THE CITY OF CUERO, AS GRANTEE, ON, OVER, UNDER AND ACROSS REAL PROPERTY, BEING ACROSS LOT 10, BLOCK 8, OF THE OAK PARK ADDITION IN THE CITY OF CUERO, IN DEWITT COUNTY, TEXAS AND AUTHORIZING THE MAYOR'S EXECUTION OF SAID EASEMENT AND DECLARING AN EMERGENCY.

WHEREAS, the ROY MALDONADO, A SINGLE MAN("OWNER") is the owner of Lot 10, Block 8, OAK PARK ADDITION in the City of Cuero, DeWitt County, Texas; and

WHEREAS, the City of Cuero provides utility services to the public, including water, sewer, electricity etc., and is in need of a utility easement on, over, across and under the OWNER'S property described above; and

WHEREAS, the City does herenow approve the Easement in the form attached hereto as Exhibit "A"; and

WHEREAS, this City Council does hereby authorize and direct the Mayor of the City of Cuero to execute the Easement attached hereto as Exhibit "A".

NOWTHEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CUERO, TEXAS:

SECTION ONE. That the City Council of the City of Cuero does hereby approve the Easement from ROY MALDONADO, a single man, to the City of Cuero in the form attached hereto as Exhibit "A";

SECTION TWO. That the Mayor of the City of Cuero, be and she is hereby authorized and directed to sign on behalf of the City of Cuero, the Easement attached hereto as Exhibit "A".

SECTION THREE. In order for the grant of this easement to take place in a timely manner it is necessary that this Ordinance be adopted immediately. Such facts constitute an emergency for the preservation of the public health, safety, and business demanding that the Rule which requires ordinances to be read at more than one meeting of the City Council be and the same is hereby suspended and this Ordinances shall take effect immediately upon and after its passage on first reading.

UPON MOTION OF COUNCILMEMBER _____, SECONDED BY COUNCILMEMBER _____, THAT THE ORDINANCE BE PASSED ON EMERGENCY READING THE _____ DAY OF _____, 2020, AYES: _____ NAYES: _____ MOTION CARRIED.

FINALLY ADOPTED AND APPROVED THE _____ DAY OF _____, 2020.

Sara Post Meyer
MAYOR

ATTEST:

JENNIFER ZUFELT
CITY SECRETARY

APPROVED AS TO LEGALITY:

JAMES K. CRAIN, III
CITY ATTORNEY

EXHIBIT "A"

UTILITY EASEMENT – ROY MALDONADO TO CITY OF CUERO

**THE STATE OF TEXAS :
: KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF DEWITT :**

That ROY MALDONADO, a Single Man, whose address is _____ as hereinafter referred to as "GRANTOR", for and in consideration of One and No/100(\$1.00) and other good, valuable and sufficient consideration, to it in hand paid by the City of Cuero, Texas, a duly and legally chartered municipal corporation, of the County of DeWitt, State of Texas, hereinafter referred to as "GRANTEE" receipt of which is hereby acknowledged,

Have GRANTED, SOLD, TRANSFERRED and CONVEYED, and by these presents do hereby Grant, Sell, Transfer and Convey unto the GRANTEE and GRANTEE’S successors and assigns as follows:

A ten(10) foot wide utility easement for the purposes hereinafter mentioned upon, over, in, under and across Lot 10, Block 8 of the OAK PARK ADDITION, recorded in Volume 57, Page 431 of the Deed Records of DeWitt County, Texas and being more particularly described in a gift deed dated February 19, 2020 from Eddie Maldonado to Roy Maldonado, recorded with Document Number 129851 Official Public Records of DeWitt County, Texas, and together with the right of ingress and egress to and from said lands at any and all times;

Such easement as the tracts above is granted to the GRANTEE and may be used by it, its successors and assigns, only for the purposes of installing, placing, constructing, maintaining, operating, repairing, altering, replacing, upgrading, and removing public utility mains and lines, and customer service lines, including but not limited to water lines, drainage lines, sewer lines, electric distribution and transmission lines, natural gas lines, telephone lines, cable television lines, and telecommunication lines and any and all other related public utilities and appurtenances thereto deemed necessary by said GRANTEE(City) into, over, on, across and through all those certain parcels of land situated in DeWitt County, Texas together with the right of ingress and egress to and from said land at any and all time and being more fully described and located on, over and across said tract as follows:

BEING a 1425 square foot utility easement, being a part of Lot 10, Block 8 of the Oak Park Addition, recorded in Volume 57, Page 431 of the Deed Records of DeWitt County, Texas described in a gift deed dated February 19, 2020 from Eddie Maldonado to Roy Maldonado, recorded with document No. 129851 Official Public Records of DeWitt County, Texas, with said 1425 square foot being more specifically described in **EXHIBIT "A"** and depicted in **EXHIBIT "B"**, with both Exhibits attached hereto and incorporated in herein at length for all purposes.

To Have and to Hold the said easement together with all and singular the rights and appurtenances thereto in anywise belonging unto the GRANTEE, its successors and assigns forever. And GRANTOR does hereby bind GRANTOR and GRANTOR'S heirs, executors, administrators, successors and assigns to WARRANT AND FOREVER DEFEND the same unto GRANTEE and GRANTEE'S successors and assigns, against all persons whomsoever lawfully claiming or to claim the same or any part thereof.

TERMS AND CONDITIONS: The following terms and conditions apply to the Easement granted by this agreement:

This EASEMENT and the rights granted hereunder shall be assignable or transferable, in whole or in part, and the terms and provisions hereof shall be binding upon the officers, directors, successors and assigns of the parties hereto. Further, GRANTOR shall not construct or permit construction of any improvements upon the said land or use the same in any way that would interfere with the City of Cuero's exercise of the rights herein conveyed to it and its safe operation and maintenance of such public utilities.

1. *Character of Easement.* The Easement is nonexclusive and irrevocable.
2. *Duration of Easement.* The duration of the Easement is perpetual.
3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's successors, and assigns the right to use all or part of the Easement Property in conjunction with GRANTEE as long as such use by Grantor and Grantor's successors, and assigns does not interfere with the use of the Easement Property by GRANTEE for the Easement Purpose, and the right to convey to others the right to use all or part of the Easement Property in conjunction with GRANTEE, as long as such further conveyance is subject to the terms of this agreement.
4. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective agents, successors, and permitted assigns.
5. *Choice of Law.* This agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
6. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
7. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.

8. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.

9. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

10. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

11. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

This EASEMENT is executed and effective this ____ day of _____, 2020.

GRANTOR

ROY MALDONADO

GRANTEE
CITY OF CUERO

By: Sara Post Meyer
Its: Mayor

THE STATE OF TEXAS :
:
COUNTY OF DEWITT :

This instrument was acknowledged before me on the ____ day of _____,
2020, by Roy Maldonado.

NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS :
:
COUNTY OF DEWITT :

This instrument was acknowledged before me on the ____ day of _____,
2017, by SARA POST MEYER, who is the Mayor and duly authorized agent for and
acting on behalf of the CITY OF CUERO.

NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT "A"

**LEGAL DESCRIPTION
1425 SQUARE FOOT
UTILITY EASEMENT**

**THE STATE OF TEXAS;
THE COUNTY OF DEWITT;**

BEING a 1425 square foot utility easement, being a part of Lot 10, Block 8 of the Oak Park Addition, recorded in Volume 57, Page 431 of the Deed Records of DeWitt County, Texas and described in a Gift Deed dated February 19, 2020 from Eddie Maldonado to Roy Maldonado, recorded in Instrument #129851 of the Official Records of DeWitt County, said 1425 square foot utility easement being described by metes and bounds as follows:

BEGINNING at a 60d nail set in the northwest right-of-way line of Buchel Street, for the south corner of Lot 9, Block 8, for the east corner of said Lot 10 and the herein described easement;

THENCE, with the northwest right-of-way line of said Buchel Street, *South 24°30'00" West*, a distance of *10.00 feet* to a 60d nail set in the southeast line of said Lot 10 and for the south corner of the herein described easement;

THENCE, crossing said Lot 10, *North 65°30'00" West*, a distance of *142.50 feet* to a 60d nail set in the southeast right-of-way line of an alley, in the northwest line of said Lot 10 and for the west corner of the herein described easement;

THENCE, with the southeast right-of-way line of said alley, *North 24°30'00" East*, a distance of *10.00 feet* to a 60d nail set for the west corner of said Lot 9, for the north corner of said Lot 10 and the herein described easement;

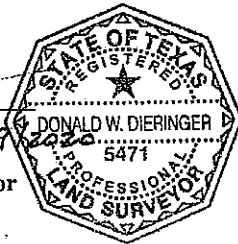
THENCE, with the common line of said Lot 9 and said Lot 10, *South 65°30'00" East*, a distance of *142.50 feet* to **THE POINT OF BEGINNING CONTAINING**, within these metes and bounds *1425 square feet* of land more or less.

Bearings are based on bearing of record in Volume 57, Page 431 of the Deed Records of DeWitt County, Texas.

Reference is made to that Plat accompanying this Legal Description.

The above Legal Description was prepared from an actual survey made on the ground under my supervision in July 2020.

D. W. T.
URBAN SURVEYING, INC. 7/29/2020
By: Donald W. Dieringer
Registered Professional Land Surveyor
Texas No. 5471 Firm #10021101



C1985

Exhibit "B"

EXHIBIT "A"



THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE GROUND UNDER MY SUPERVISION IN JULY 2020.

Donald W. Dieringer

URBAN SURVEYING, INC.
 BY: DONALD W. DIERINGER
 REGISTERED PROFESSIONAL LAND SURVEYOR
 TEXAS NO. 5471

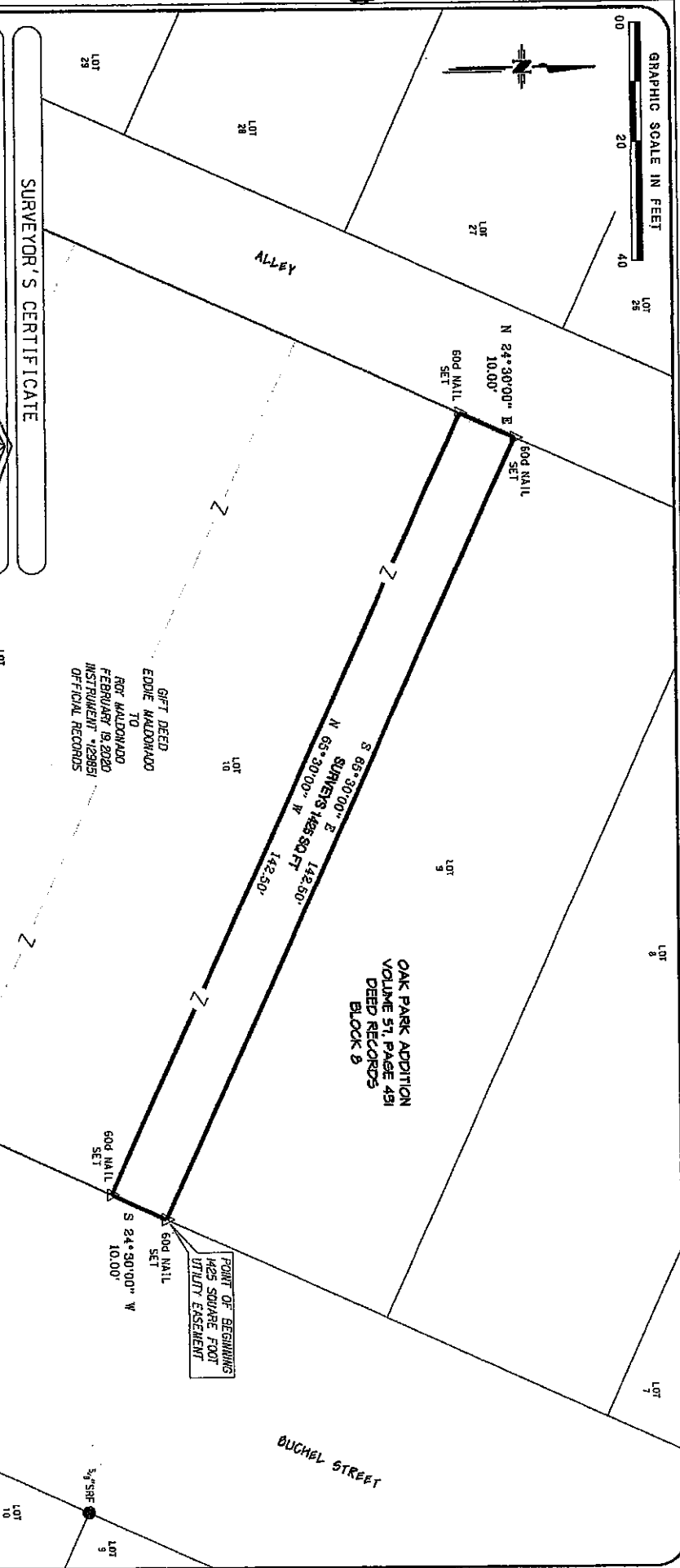
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 URBAN SURVEYING, INC.

SURVEYOR'S CERTIFICATE

SRF = STEEL ROD FOUND

BEARINGS SHOWN HEREON ARE BASED ON THE BEARINGS OF RECORD IN VOLUME 57, PAGE 431 OF THE DEED RECORDS OF DEWITT COUNTY, TEXAS. REFERENCE IS MADE TO THAT LEGAL DESCRIPTION ACCOMPANYING THIS PLAT.

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THERE MAY BE EASEMENTS, OR OTHER MATTERS, NOT SHOWN.



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DRAWN BY: KE
 JOB NO.: C1985