

**Affidavit of Right of Way Easement****Date:** February 21, 2006**Affiant:** Kenneth Otte

Affiant on oath swears that the following statement is true and is within the personal knowledge of Affiant:

On or about July 5, 1996 in a Deed executed by Calvin C. Otte to the undersigned, Kenneth Otte, Calvin C. Otte reserved a 12 foot wide easement over and across the property convey to me, said Deed being recorded in Volume 308, Pages 803 - 806, Real Property Records of Gillespie County, Texas.

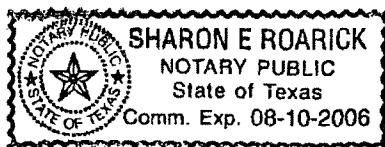
That easement is the same as the easement as is described in the attached Metes and Bounds Description attached hereto and made a part hereof and is merged with the 12 foot wide easement granted and/or reserved in the aforementioned Deed executed by Calvin C. Otte on or about July 5, 1996.

This Affidavit of Right of Way Easement is not intended to increase or diminish or change the 12 foot easement granted in the Deed of July 5, 1996, but is intended to only identify the location of the said 12 foot easement.

Signed on this 21 day of February, 2006.

Kenneth Otte  
Kenneth Otte

SUBSCRIBED AND SWORN TO before me on February 21, 2006, by Kenneth Otte.



Sharon E Roarick  
Notary Public, State of Texas

Return to:

Calvin C. OTTE

319 Friendship Ln.

Fitzgeraldsburg, TX 78624

**METES AND BOUNDS DESCRIPTION  
TWELVE-FOOT (12') WIDE ACCESS EASEMENT**

Being a Twelve-Foot (12') Wide Access Easement situated in Gillespie County, Texas; being in and a part of Survey No. 12, Justa Flores, Abstract No. 217, Gillespie County, Texas; being an access easement to serve that certain 100.6 acre tract having been conveyed from Harry Hitzfeld and Mary Hitzfeld to Willie L. Otte by Warranty Deed executed the 21<sup>st</sup> day of May, 1953; same 100.6 acre tract having been conveyed to the Calvin C. Otte Separate Property Living Trust recorded in Volume 308, Page 791, Deed Records of Gillespie County, Texas; and said easement being more particularly described by metes and bounds as follows:

**BEGINNING** at a 60d nail set marking the West terminus of the herein described access easement and the East terminus of Otte Road; said 60d nail bears N68°45'W, 2124.0 feet from the Southwest corner of said 100.60 acre tract;

**THENCE** with the centerline of said access easement, the following courses:

N66°10'36"E, 158.87 feet to a 60d nail set;

N5°10'23"W, 101.07 feet to a 60d nail set;

N16°14'48"E, 96.05 feet to a 60d nail set;

N5°52'02"E, 247.78 feet to a 60d nail set;

N42°58'53"E, 50.29 feet to a 60d nail set;

N69°08'17"E, 135.21 feet to a 60d nail set;

N58°08'01"E, 74.53 feet to a 60d nail set;

N51°57'48"E, 108.20 feet to a 60d nail set;

N62°30'04"E, 280.27 feet to a 60d nail set;

S89°33'44"E, 77.22 feet to a 60d nail set;

N78°11'23"E, 124.79 feet to a 60d nail set;

N59°49'23"E, 133.80 feet to a 60d nail set;

N68°26'59"E, 143.09 feet to a 60d nail set;

N86°21'56"E, 67.67 feet to a 60d nail set;

S73°07'35"E, 109.49 feet to a 60d nail set;

N88°09'20"E, 122.41 feet to a 60d nail set;


S84°33'27"E, 286.99 feet to a 60d nail set;

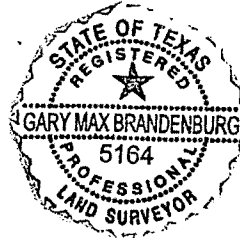
N79°33'14"E, 69.05 feet to a 60d nail set;

N57°59'09"E, 118.70 feet to a 60d nail set in the west line of said 100.6 acre tract having been conveyed from Harry Hitzfeld and Mary Hitzfeld to Willie L. Otte by Warranty Deed executed the 21<sup>st</sup> day of May, 1953 and to the Calvin C. Otte Separate Property Living Trust recorded in Volume 308, Page 791, Deed Records of Gillespie County, Texas; said nail marking the East terminus of the herein described access easement and being located S 01°11'11" E, 855.15 feet from the Northwest corner of said 100.6 acre tract.

This is a companion document to a plat of this survey dated October 18, 2005. Bearings cited herein based on rotation of True North derived by GPS Observations.

Prepared this the 15<sup>th</sup> day of February, 2006.

  
Gary Max Brandenburg  
Registered Professional Land Surveyor No. 5164  
TEXAS LAND BOUNDARIES  
2616 Junction Hwy.  
Kerrville, Texas 78028  
830-257-3839



CALVIN C. OTTE

TO

KENNETH OTTE

## SPECIAL CASH WARRANTY DEED

Date: July 5, 1996

Grantor: CALVIN C. OTTE

Grantor's Mailing Address (including county):

CALVIN C. OTTE  
332 W. Hackberry  
Fredericksburg, Tx. 78624  
Gillespie County

Grantee: KENNETH OTTE

Grantee's Mailing Address (including County):

KENNETH OTTE  
1305 Oakhill Dr.  
Plano, Tx. 75075  
Collin County

Consideration: TEN AND NO/100 DOLLARS and other good and valuable consideration.

Property (including any improvements):

Being all that certain 200 acres of land, part of Survey No. 12, grantee, Justa Flores, described by metes and bounds as follows: Beginning in east line of said Survey No. 12 and S. E. corner of John Heep's land, for N. E. corner of this tract; Thence West 1760 varas to stake in East line of J.A. Hahn's land, P.O. 10 brs. S. 35 1/2 E. 16 1/2 vrs., P.O. 6' brs. N. 31 E. 17 1/2 vrs.; Thence South 357 varas to stake for S.W. corner, L.O. 7 brs. N. 68 E. 8 -1/5 vrs., Hackberry 7 brs. N. 52 E. 9 4/5 vrs.; Thence East 1010 varas to stone mound near bank of creek; Thence South along the middle of creek to a point 1027 varas due south of north line of this tract, st. md. L.O. 12 brs. S. 34 E. 17-1/5 varas, L.O. 6 brs. N. 59 E. 18-4/5 varas; Thence East 656 varas to east line of Survey No. 12; Thence North 1027 varas to place of beginning, bearings marked H, **SAVE AND EXCEPT** that 36 acres of land, more or less, out of the west part rt of said 200 acre tract, conveyed by Willie L. Otte, et ux, to Otto Kolmeier, by deed dated March 2, 1923, recorded in Volume 31, pages 258 -259 of the Deed Records of GILLESPIE County, Texas, and **SAVE AND EXCEPT** 31.45 acre tract of land is described by metes and bounds as follows, to wit:

BEGINNING at a 1/2 inch steel bar set at a fence corner post in the occupational West Line of the Justa Flores Survey No. 10, abstract No. 216, and in the West Line of that 100.6 acre tract of land described of record in Volume 70, page 623 of said Deed

Records, and in the occupational East line of said Justa Flores Survey No. 12, for the N. E. Corner of 159 acre tract of land described of record in Volume 133, pages 197-199 of said Deed Records, for the E. S. E. corner of said 200 acre Otte Tract, for the S.E. Corner of this tract of land;

THENCE with the general course of a fence along the North line of said 159 acre tract and a South line of said 200 acre tract, S. 89 deg. 58 min. 30 sec. W. 1226.04 feet to a 1/2 inch steel bar set, for the S. W. Corner of this tract of land;

THENCE North 1179.62 feet to a 1/2 inch steel bar set in fence, for the N. W. Corner of this tract of land;

THENCE with the general course of a fence, S. 84 deg. 13 min. 55 sec. E., at 894.7 feet the center of a pipe corner post at end of fence, 1232.28 feet in all to a 1/2 inch steel bar set in fence in said occupational survey line, and in the West line of said 100.6 acre tract, and in the East line of said 200 acre tract, for the N. E. Corner of this tract of land;

THENCE with the general course of a fence, South 1055.25 feet to the place of BEGINNING.

#### **Reservations From and Exceptions to Conveyance and Warranty:**

Easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens and conveyances, that affect the property; taxes for the current year, the payment of which Grantee assumes.

For Grantor and Grantor's successors and assigns, in common with Grantee and Grantees successors, Grantor reserves an easement and right-of-way for the purposes of ingress and egress across the property conveyed by this deed to Grantee (the "servient tenement"). This easement is for the benefit of other property owned by Grantor, which adjoins the servient tenement and is described as follows:

*All of a 31.45 acre tract of land is described by metes and bounds as follows, to wit:*

*BEGINNING at a 1/2 inch steel bar set at a fence corner post in the occupational West Line of the Justa Flores Survey No. 10, abstract No. 216, and in the West Line of that 100.6 acre tract of land described of record in Volume 70, page 623 of said Deed Records, and in the occupational East line of said Justa Flores Survey No. 12, for the N. E. Corner of 159 acre tract of land described of record in Volume 133, pages 197-199 of said Deed Records, for the E. S. E. corner of said 200 acre Otte Tract, for the S.E. Corner of this tract of land;*

*THENCE with the general course of a fence along the North line of said 159 acre tract and a South line of said 200 acre tract, S. 89 deg. 58 min. 30 sec. W. 1226.04 feet to a 1/2 inch steel bar set, for the S. W. Corner of this tract of land;*

*THENCE North 1179.62 feet to a 1/2 inch steel bar set in fence, for the N. W. Corner of this tract of land;*

*THENCE with the general course of a fence, S. 84 deg. 13 min. 55 sec. E., at 894.7 feet the center of a pipe corner post at end of fence, 1232.28 feet in all to a 1/2 inch*

steel bar set in fence in Said occupational survey line, and in the West line of said 100.6 acre tract, and in the East line of said 200 acre tract, for the N. E. Corner of this tract of land;

THENCE with the general course of a fence, South 1055.25 feet to the place of BEGINNING.

AND

All that certain tract or parcel of land lying and being situated in the County of GILLESPIE, State of Texas, being 100.6 acres, more or less, part of Survey No. 10, patented to S. H. Euckie and Wm. McCraven, assignees of Justa Flores, by Patent No. 628, Volume 2, dated April 22, 1845, being the same tract of land convey by Harry Hitzfeld, et ux, to Willie L. Otte, by deed dated May 21, 1953, recorded in Volume 70, page 623, of the Deed Records of GILLESPIE County, Texas, to all of which instruments reference is made and the same and their records are made a part hereof for all pertinent purposes.

This reserved easement shall be located upon and across the existing, unpaved roadway running through the servient tenement to Otte Road. Grantee and Grantee's successors shall have the unrestricted right at all times and from time to time to relocate the existing roadway so long as reasonable and comparable ingress and egress upon and across the servient tenement are always provided to the above-described adjoining property. Grantee and Grantee's successors shall have no duty to maintain the roadway, except in its current, unpaved condition, and the roadway shall never be required to be maintained at a width in excess of 12 feet.

Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executor, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through or under Grantor, but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

  
CALVIN C. OTTE

ACKNOWLEDGMENT

STATE OF TEXAS

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COUNTY OF GILLESPIE

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This instrument was acknowledged before me on July 5, 1996, by CALVIN C. OTTE.



*Ginger Reichenau*

Notary Public, State of Texas

PREPARED IN THE OFFICE OF:

Calvin C. Otte  
Attorney At Law  
4230 LBJ Freeway  
Suite 411  
Dallas, Tx. 75244

AFTER RECORDING RETURN TO:

Kenneth Otte  
1305 Oakhill  
Plano, Tx. 75075