

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 16, 2019	ITEM:	BUS-A
DATE SUBMITTED:	July 10, 2019	DEPARTMENT:	Planning and Development
PREPARED BY:	Brant Gary Assistant City Manager	PRESENTER:	Brant Gary Assistant City Manager
SUBJECT:	<p>DISCUSSION AND POSSIBLE ACTION RELATED TO AMENDMENTS TO EXHISTING AGREEMENTS FOR 270.482 ACRES OF LAND AS FOLLOWS:</p> <p>1) THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FULSHEAR, TEXAS, FULSHEAR INVESTMENTS, INC., AND FULSHEAR EQUINE, LLC</p> <p>2) SECOND AMENDMENT TO THE UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR, TEXAS, AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 174</p>		
ATTACHMENTS:	<p>1.) THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT</p> <p>2.) SECOND AMENDMENT TO THE UTILITY AGREEMENT</p>		

EXECUTIVE SUMMARY

The City previously entered into development and utility agreements covering two different tracts near the Polo Ranch development with entities controlled by the Waters group. This is the first of two items regarding these proposed changes. The Waters group proposed certain amendments to these agreements to effect the following:

1. A payment of \$451,515 from Waters to the City for the purchase of 155 utility connections and a commensurate reduction in future capital recovery fees of \$2,913 per ESFC; and
2. Addition of a 47.22 acre tract (Tract C) to be covered by the amendments; and
3. Conveyance of a 25-foot utility easement from Waters to the City, with the City agreeing to bore under FM 359 and connect utilities to adjacent Waters tracts; and
4. Petition for annexation of the Waters tracts into the City and zoning of the tracts in accordance with the site plan and proposed uses set forth in the agreements.

The landowner sees value in the reduced capital recovery fees and the utility connections, while the City needs the ability and the funding to complete the extension of the utilities and would save money over traditional bond financing options. City Staff has worked with Waters' counsel and the City Attorney to draft four amendments to the agreements that will accomplish the desired results. City Staff believes the proposed amendments represent terms that are mutually beneficial to both parties and ultimately provide a benefit to the entire community.

RECOMMENDATION

City Staff would recommend the City Council approve the proposed amendments to the subject Waters tracts development and utility agreements.

**THIRD AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF FULSHEAR, TEXAS,
FULSHEAR INVESTMENTS, INC., AND FULSHEAR EQUINE, LLC**

This Third Amendment to Development Agreement between the City of Fulshear, Texas, Fulshear Investments, Inc., and Fulshear Equine, LLC (this "Amendment"), is made and entered into as of July 16, 2019 (the "Effective Date"), by THE CITY OF FULSHEAR, TEXAS (the "City"), a home rule municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of Fulshear, Texas; FULSHEAR INVESTMENTS, INC., a Texas corporation ("Fulshear Investments"); and FULSHEAR EQUINE, LLC, a Texas limited liability company ("Fulshear Equine") (Fulshear Investments and Fulshear Equine may be collectively referred to herein as "Landowners").

RECITALS

The City and Landowners entered into a Development Agreement dated as of January 5, 2016 (as amended, the "Agreement"), with regard to approximately 270.482 acres of land in Fort Bend County, Texas (the "Property"), as described therein. The Property is located within the corporate boundaries of the City.

Landowners sold a portion of the Property and assigned the rights and obligations under the Agreement to Century Land Holdings of Texas, LLC, with regard to such portion of the Property, and have retained Tract C ("Tract C"), as described or depicted on **Exhibit K** attached hereto. The City and Landowners desire to amend the Agreement with respect to Tract C.

The City is authorized to enter into this Amendment pursuant to Section 212.172 of the Texas Local Government Code and the City of Fulshear Home Rule Charter. The City and Landowners are proceeding in reliance on the enforceability of this Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and Landowners agree as follows:

1. The attached **Exhibit K** is added to the Agreement as **Exhibit K**. The parties agree that only Tract C is covered by this Amendment. No other property located within the District shall be covered by this Amendment.

2. After execution of this Amendment; the Second Amendment to Utility

Agreement dated July 16, 2019, between the City and Fort Bend County Municipal Utility District No. 174; the First Amendment to Development Agreement dated July 16, 2019, between the City and Fulshear Investments Inc., Fulshire Equine, LLC, Mason Equest Investment, Inc., and Louis A. Waters; and the First Amendment to Utility Agreement dated July 16, 2019, between the City and Fulshear Investments Inc., Fulshire Equine, LLC, Mason Equest Investment, Inc., and Louis A. Waters, and upon request from Landowners, the City agrees to proceed promptly with the zoning of Tract C to provide permitted uses for Tract C in accordance with the uses depicted on **Exhibit K**.

3. The Agreement, including this Amendment, as amended hereby, shall remain in full force and effect. In the event of conflict between the Agreement and this Amendment, the Amendment will control.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

CITY OF FULSHEAR, TEXAS

Aaron Groff, Mayor

ATTEST:

Kimberly Kopecky, City Secretary

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the ____ day of _____, 2019, by Aaron Groff, Mayor of the City of Fulshear, Texas.

Notary Public, State of Texas

FULSHEAR INVESTMENTS, INC.,
a Texas corporation

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____ of Fulshear Investments, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

FULSHEAR EQUINE, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

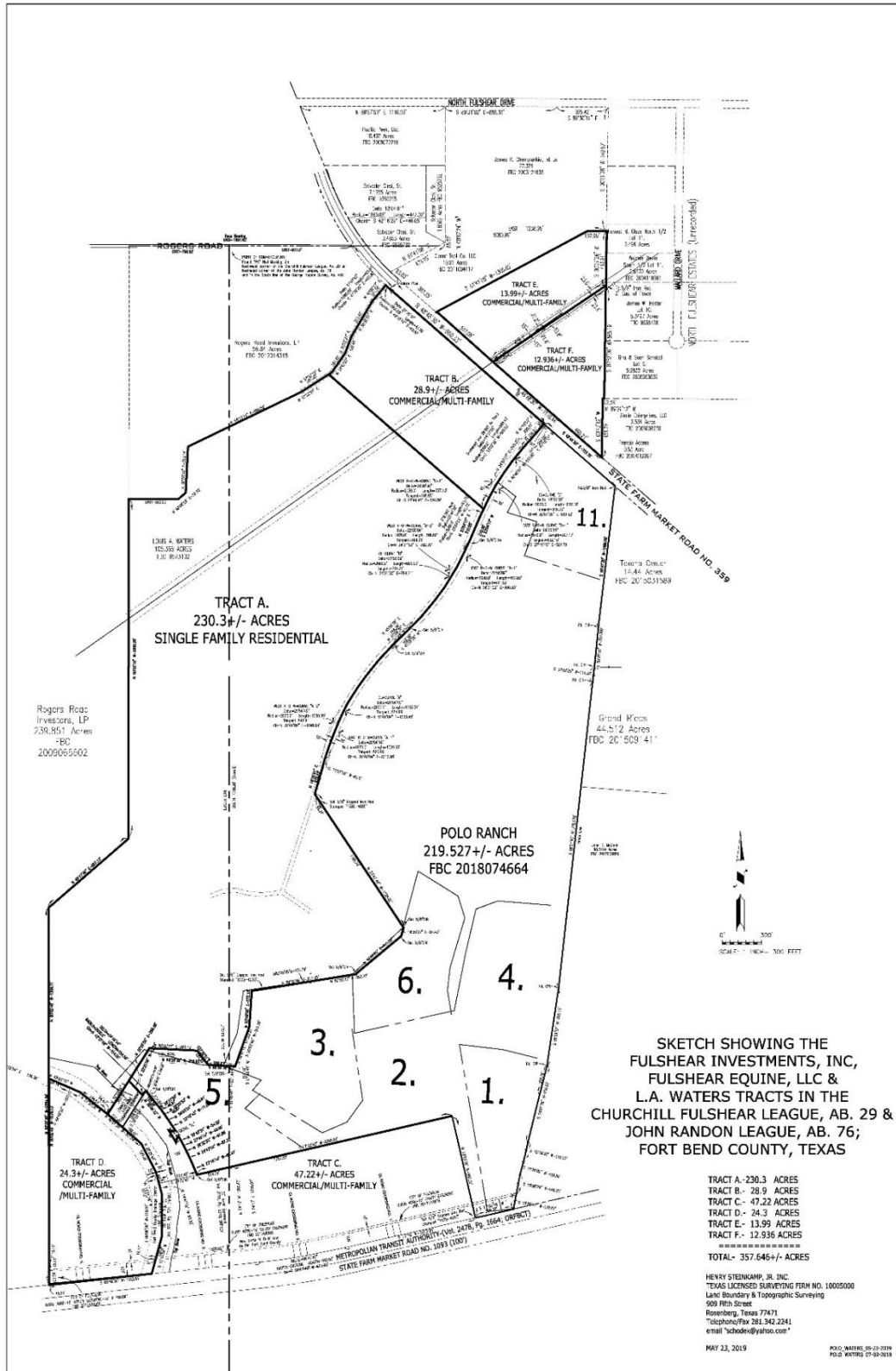
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, _____ of Fulshear Equine, LLC, a Texas limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

EXHIBIT K

Preliminary Development Plan



**SECOND AMENDMENT TO UTILITY AGREEMENT
BETWEEN THE CITY OF FULSHEAR, TEXAS,
AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 174**

This First Amendment to Utility Agreement between the City of Fulshear, Texas, and Fort Bend County Municipal Utility District No. 174 (this "Amendment"), is made and entered into as of the July 16, 2019, by THE CITY OF FULSHEAR, TEXAS (the "City"), a home rule municipality in Fort Bend County, Texas, acting by and through its governing body the City Council of Fulshear, Texas; and FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 174 (the "District"), a political subdivision.

RECITALS

The City, Fulshear Investments, Inc., Fulshear Equine, LLC, and Johnson Development Services, LLC, on behalf of the District (Fulshear Investments, Inc., Fulshear Equine, LLC, and Johnson Development Services, LLC are collectively referred to as "Developer"), entered into a Utility Agreement dated as of January 5, 2016 (the "Original Agreement"), with regard to approximately 270.482 acres of land in Fort Bend County, Texas (the Original Agreement as previously and currently amended is referred to herein as the "Agreement"). Pursuant to the Agreement, the District automatically assumed all rights, duties and obligations of Developer under the Agreement upon creation and confirmation of the District.

Pursuant to the First Amendment to Utility Agreement dated July 16, 2019 (the "Tract 2 First Amendment"), between the City and Fulshear Investments, Inc., Fulshear Equine, LLC, Mason Equest Investment, Inc., and Louis A. Waters, the City has agreed that it will reduce the capital recovery fees owed per ESFC (as defined in the Agreement) with respect to the tracts described or depicted on **Exhibit E** attached hereto, among other terms. Tract C ("Tract C"), as described or depicted on **Exhibit E**, is located within the boundaries of the District and is currently owned by Fulshear Investments, Inc. and Fulshear Equine, LLC.

The City and the District desire to amend the Agreement to conform to the Tract 2 First Amendment with respect to Tract C.

The City is authorized to enter into this Amendment pursuant to Section 212.172 of the Texas Local Government Code and the City of Fulshear Home Rule Charter. The City, the District, and Landowners are proceeding in reliance on the enforceability of this Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and Landowners agree as follows:

1. The attached **Exhibit E** and **Exhibit F** are added as **Exhibit E** and **Exhibit F** to the Agreement. The parties agree that only Tract C is covered by this Amendment. No other property located within the District shall be covered by this Amendment except as specifically set forth in Section 3.02 of the Agreement as amended hereby.

2. The following shall be added to the end of Section 3.02 of the Agreement as a new paragraph:

Section 3.02 Capital Recovery Fees. Notwithstanding the foregoing, the matters set forth in this paragraph shall apply to Tract C ("Tract C") as described or depicted on **Exhibit E** attached hereto and to no other portion of the Property located within the District. Fulshear Investments, Inc. and Fulshear Equine, LLC currently own Tract C. As consideration for Fulshear Investments, Inc., Fulshear Equine, LLC, Mason Equest Investment, Inc., and Louis A. Waters (collectively, "Landowners") purchasing utility connections under that certain First Amendment to Utility Agreement dated July 16, 2019 (the "First Amendment"), between the City and Landowners, any future capital recovery fees paid by the District with respect to Tract C shall be reduced to \$2,913 per ESFC. Landowners may, at their option, sell such purchased utility connections (up to one hundred fifty-five (155) utility connections) as provided in the First Amendment. **Exhibit F** to this Amendment depicts one thousand six hundred eighty four (1,684) utility connections, the required number of utility connections for the portion of the Project located with Tract C and any projects located within Landowners' other tracts described or depicted on **Exhibit E**. City agrees that the Developer may exceed the number of utility connections required by **Exhibit F** by not more than ten percent (10%) without the City's prior approval.

3. The Agreement as amended hereby shall remain in full force and effect. In the event of conflict between the Agreement and this Amendment, the Amendment will control.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

CITY OF FULSHEAR, TEXAS

By: _____
Aaron Groff, Mayor

Date: _____

ATTEST

By: _____
Kim Kopecky, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the ____ day of July, 2019, by Aaron Groff, Mayor of the City Fulshear, Texas.

Notary Public, State of Texas

[Official Notary Stamp]

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 174

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, _____ and _____ of Fort Bend County Municipal Utility District No. 174.

Notary Public, State of Texas

[Official Notary Stamp]

Exhibit E

Preliminary Development Plan

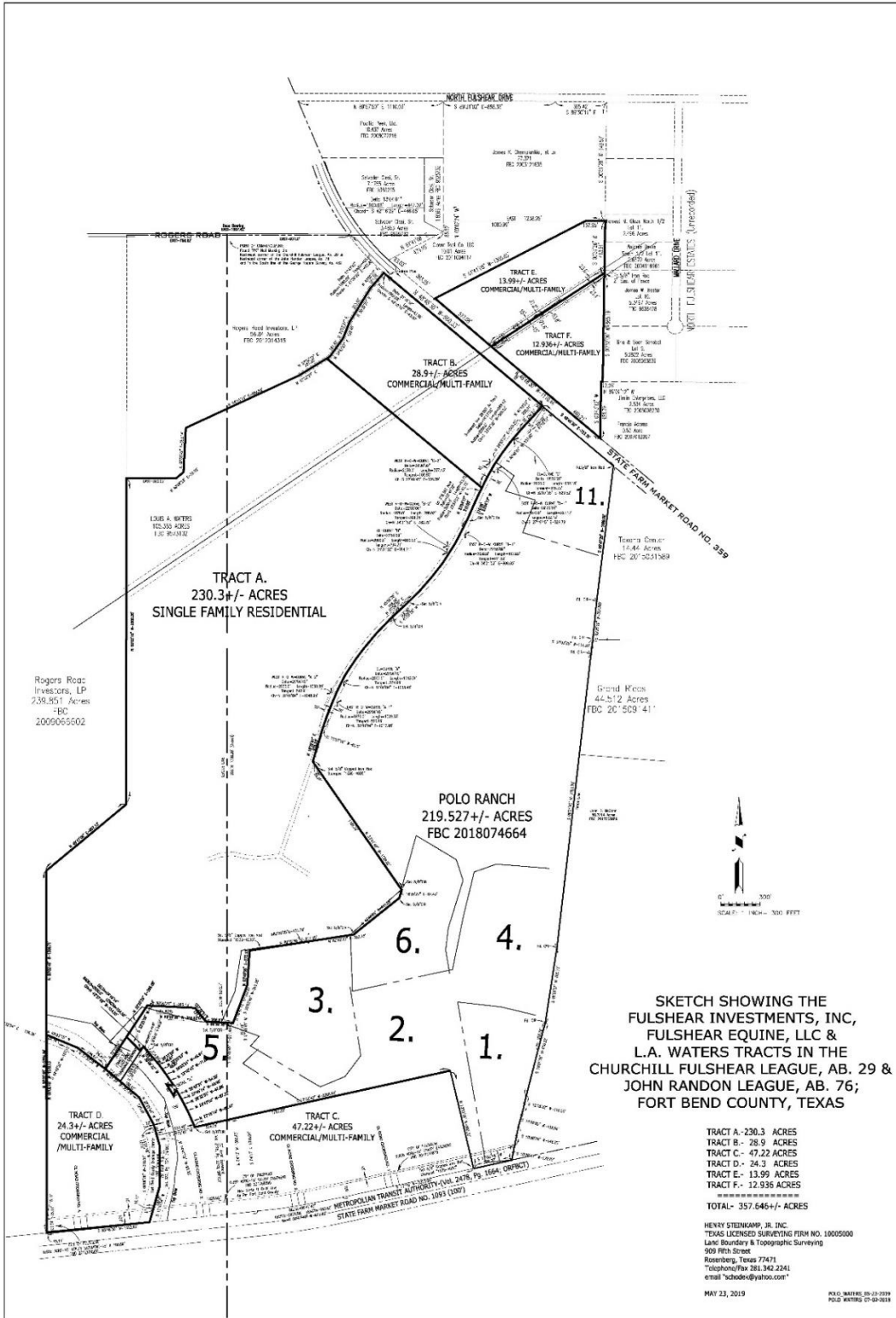


Exhibit F

LOU WATERS TRACT FM 359 SERVICE AREA

	Total Acreage	Connections
Tract A (SF)	119.117	460
Tract B (COM/MF)	28.900	217
Tract E (COM/MF)	13.990	184
Tract F (COM/MF)	12.936	180
Total	174.943	1041

POLO RANCH LIFT STATION SERVICE AREA

	Total Acreage	Connections
Tract A (SF)	111.183	379
Tract C (COM/MF)	47.220	180
Tract D (COM/MF)	24.300	84
Total	182.703	643

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 16, 2019	ITEM:	BUS-B
DATE SUBMITTED:	July 10, 2019	DEPARTMENT:	Planning and Development
PREPARED BY:	Brant Gary Assistant City Manager	PRESENTER:	Brant Gary Assistant City Manager
SUBJECT:	<p>DISCUSSION AND POSSIBLE ACTION RELATED TO AMENDMENTS TO EXHISTING AGREEMENTS FOR 280.315 ACRES OF LAND AS FOLLOWS:</p> <p>1) FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FULSHEAR, TEXAS, FULSHEAR INVESTMENTS, INC., AND FULSHEAR EQUINE, LLC, MASON EQUEST INVESTMENT, INC., AND LOUIS A. WATERS</p> <p>2) FIRST AMENDMENT TO THE UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR, TEXAS, FULSHEAR INVESTMENTS INC., FULSHEAR EQUINE, LLC, MASON EQUEST INVESTMENT, INC., AND LOUIS A WATERS</p>		
ATTACHMENTS:	<p>1.) FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT</p> <p>2.) FIRST AMENDMENT TO THE UTILITY AGREEMENT</p>		

EXECUTIVE SUMMARY

The City previously entered into development and utility agreements covering two different tracts near the Polo Ranch development with entities controlled by the Waters group. This is the second of two items regarding these proposed changes. The Waters group proposed certain amendments to these agreements to effect the following:

1. A payment of \$451,515 from Waters to the City for the purchase of 155 utility connections and a commensurate reduction in future capital recovery fees of \$2,913 per ESFC; and
2. Addition of a 47.22 acre tract (Tract C) to be covered by the amendments; and
3. Conveyance of a 25-foot utility easement from Waters to the City, with the City agreeing to bore under FM 359 and connect utilities to adjacent Waters tracts; and
4. Petition for annexation of the Waters tracts into the City and zoning of the tracts in accordance with the site plan and proposed uses set forth in the agreements.

The landowner sees value in the reduced capital recovery fees and the utility connections, while the City needs the ability and the funding to complete the extension of the utilities and would save money over traditional bond financing options. City Staff has worked with Waters' counsel and the City Attorney to draft four amendments to the agreements that will accomplish the desired results. City Staff believes the proposed amendments represent terms that are mutually beneficial to both parties and ultimately provide a benefit to the entire community.

RECOMMENDATION

City Staff would recommend the City Council approve the proposed amendments to the subject Waters tracts development and utility agreements.

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF FULSHEAR, TEXAS, FULSHEAR INVESTMENTS, INC.,
FULSHEAR EQUINE, LLC, MASON EQUEST INVESTMENT, INC.,
AND LOUIS A. WATERS**

This First Amendment to Development Agreement between the City of Fulshear, Texas, Fulshear Investments, Inc., Fulshear Equine, LLC, Mason Equest Investment, Inc., and Louis A. Waters (this "Amendment"), is made and entered into as of July 16, 2019 (the "Effective Date"), by THE CITY OF FULSHEAR, TEXAS (the "City"), a home rule municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of Fulshear, Texas; FULSHEAR INVESTMENTS, INC., a Texas corporation ("Fulshear Investments"); FULSHEAR EQUINE, LLC, a Texas limited liability company ("Fulshear Equine"); MASON EQUEST INVESTMENT, INC., a Texas corporation ("Mason"); and LOUIS A. WATERS ("Waters") (Fulshear Investments, Fulshear Equine, Mason, and Waters may be collectively referred to herein as "Landowners").

RECITALS

The City and Landowners entered into a Development Agreement dated as of January 5, 2016 (the "Agreement"), with regard to approximately 280.315 acres of land in Fort Bend County, Texas, described by metes and bounds in **Exhibit A** (the "Property").

The City and Landowners now desire to amend the Agreement.

The City is authorized to enter into this Amendment pursuant to Section 212.172 of the Texas Local Government Code and the City of Fulshear Home Rule Charter. The City and Landowners are proceeding in reliance on the enforceability of this Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and Landowners agree as follows:

1. **Exhibit A** to the Agreement is hereby deleted in its entirety and replaced with **Exhibit A** attached hereto, and the area of land covered by the Agreement is hereby amended to be approximately 310.426 acres of land in Fort Bend County, as described or depicted on **Exhibit A** attached hereto as Tracts A, B, D, E, and F ("Tracts A, B, D, E, and F"). The term "Property" under the Agreement is revised to include Tracts A, B, D, E, and F. Tract C, as described or depicted on **Exhibit A** attached hereto, shall not be covered by the Agreement.

2. After execution of this Amendment; the First Amendment to Utility Agreement dated July 16, 2019, between the City, Fulshear Investments., Fulshear Equine, Mason, and Waters; the Third Amendment to Development Agreement dated July 16, 2019, between the City, Fulshear Investments, and Fulshear Equine; and the Second Amendment to Utility Agreement dated July 16, 2019, between the City and Fort Bend County Municipal Utility District No. 174, Landowners agree to petition the City for voluntary annexation of the various parcels of land that comprise the Property prior to commencing development of on such parcel. As each parcel of land is annexed into the City's corporate limits, the City agrees to proceed promptly with the zoning of each parcel to provide permitted uses for the various parcels in accordance with the uses depicted on **Exhibit A**.

3. As a material term and condition of the Development Agreement as amended hereby, Landowners shall grant and convey to the City a 25-foot easement for water, wastewater, and related City-owned facilities as described or depicted on **Exhibit B** attached hereto. Landowners and City agree to execute and deliver and Easement Agreement to effect such conveyance within thirty (30) days of the execution of this Amendment. City agrees to bore under the FM 359 right of way and extend lines to connect utilities to the tracts adjacent to the FM 359 right of way as depicted on **Exhibit B**. Such Easement Agreement will provide that the City agrees to (i) preserve and protect all trees within or adjacent to the 25-foot utility easement, and (ii) permit the construction of paving, curbs, driveways, parking areas, signs, gates, irrigation systems, landscaping, private electrical or other utility lines, sidewalks, and private lighting (collectively, the "Improvements") within the 25-foot utility easement; provided, however, that the City will retain access to the 25-foot utility easement area for the purpose of installing and maintaining permitted City facilities located within the 25-foot utility easement, subject to restoration by the City of the Improvements to as nearly as reasonably practicable to their condition prior to the undertaking of such work.

4. The Agreement, including this Amendment, as amended hereby, shall remain in full force and effect. In the event of conflict between the Agreement and this Amendment, the Amendment will control.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

CITY OF FULSHEAR, TEXAS

Aaron Groff, Mayor

ATTEST:

Kimberly Kopecky, City Secretary

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the ____ day of _____, 2019, by Aaron Groff, Mayor of the City of Fulshear, Texas.

Notary Public, State of Texas

FULSHEAR INVESTMENTS, INC.,
a Texas corporation

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____ of Fulshear Investments, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

FULSHEAR EQUINE, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, _____ of Fulshear Equine, LLC, a Texas limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

MASON EQUEST INVESTMENT, INC.
a Texas corporation

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____ of Mason Equest Investment, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

By: _____
Louis A. Waters

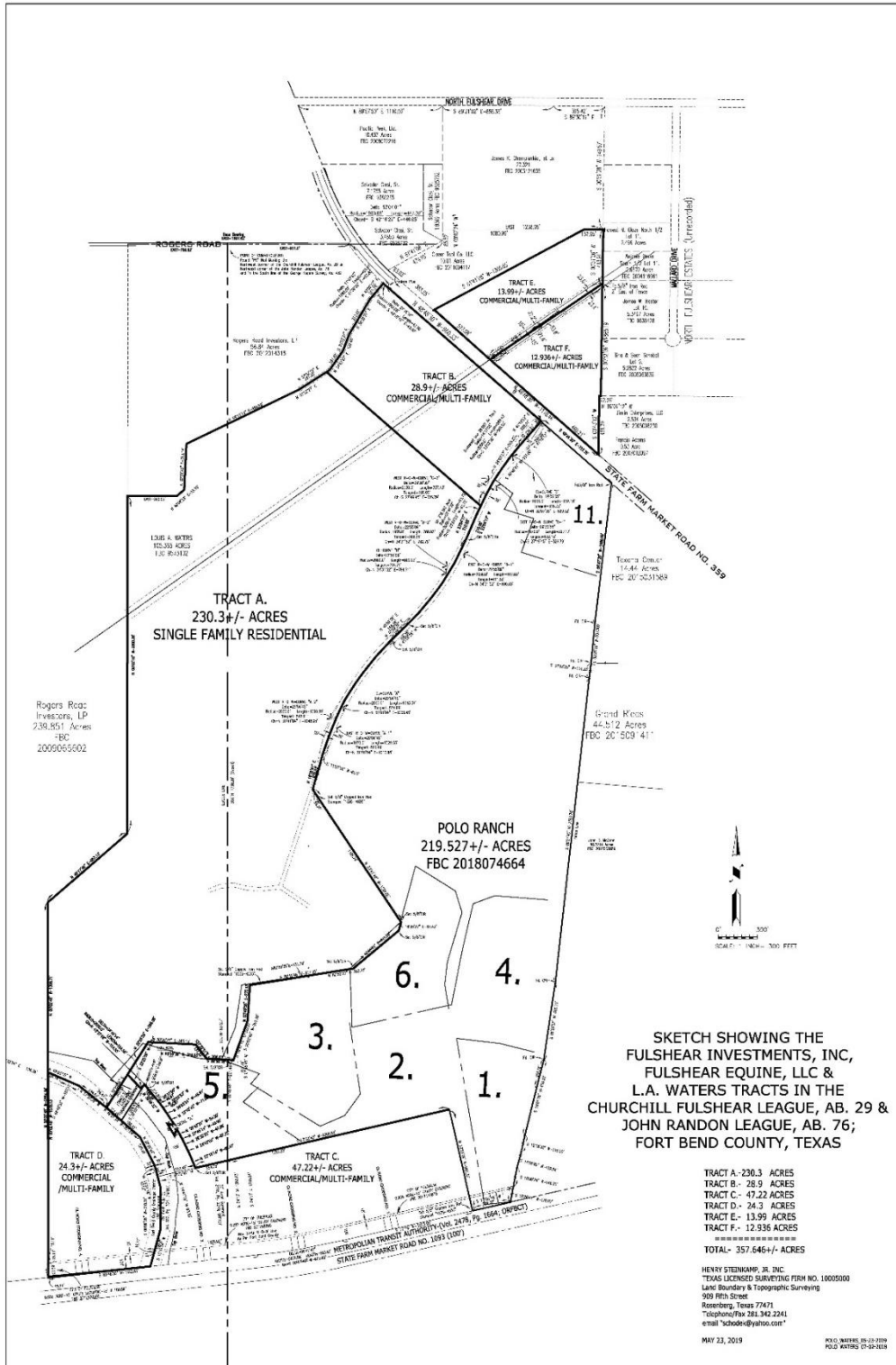
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by Louis A. Waters.

Notary Public, State of Texas

EXHIBIT A

Preliminary Development Plan



0.5595 Acre
(24,372 Sq. Ft.)

EXHIBIT B
Item 1 of 3

Churchill Fulshear League, A-29
Fort Bend County, Texas

STATE OF TEXAS
COUNTY OF FORT BEND

UE3

0.5595 Acre Utility Easement

Being a 25 foot wide, 0.5595 acre (24,372 square foot) tract situated in the Churchill Fulshear League, Abstract No. 29, Fort Bend County, Texas and being part of a called 60.472 acre tract as described in deed filed for record in Vol. 2569 Pg. 506 of the Fort Bend County Deed Records (F.B.C.D.R.) and further described by metes and bounds as follows: (bearings and distances are referenced to the Texas Coordinate System of 1983, South Central Zone, 4204, NAD 83)

COMMENCING for reference at a point for the intersection of the southwest Right-of-Way (R.O.W.) line of F.M. Highway 359 (100 feet wide) and the south R.O.W. line of Rogers Road (60 feet wide) also being the northeast corner of a 56.84 acre tract of land conveyed to Rogers Road Investors, LP by deed filed for record under the Fort Bend County Clerks File (F.B.C.C.F.) No. 2012014316, from which a found 5/8-inch iron rod with cap stamped "RPLS 1534/4035" bears North 87° 39' East, 0.99 feet;

THENCE, departing said south R.O.W. of Rogers Rd., along said southwest R.O.W. of F.M. Highway 359, being the same as the northeast line of the said 56.84 acre tract, and along a curve to the left, having an arc length of 365.18 feet, a radius of 1959.86 feet, a delta angle of 10°40'33", a chord bearing South 44°35'00" East, and a chord distance of 364.65 feet to a point being the southeast corner of said called 56.84 acre tract, the northeast corner of said called 60.472 acre tract, the **POINT OF BEGINNING** and the northeast corner of the herein described easement;

THENCE, continuing along said southwest R.O.W. line of F.M. Highway 359 on a curve to the left, having a length of 42.69 feet, a radius of 1959.86 feet, a delta angle of 01°14'53", a chord bearing of South 50°32'43" East, and a chord distance of 42.69 feet, to an angle point on the east line of the herein described easement;

THENCE, South 51°10'09" East, continuing along said southwest R.O.W. line of F.M. Highway 359, a distance of 935.53 feet to a point being the northeast corner of a called 38.8 acre tract of land conveyed to Fulshear Investments, Inc. by deed filed for record under the F.B.C.C.F. No. 9573103, and the southeast corner of the herein described easement;

THENCE, South 52°37'27" West, departing said southwest R.O.W. line of F.M. highway 359, a distance of 25.74 feet along the north property line of said called 38.8 acre tract to a point being the southwest corner of the herein described easement;


0.5595 Acre
(24,372 Sq. Ft.)

Churchill Fulshear League, A-29
Fort Bend County, Texas

THENCE, North 51°10'09" West, leaving the north property line of said called 38.8 acre, over and across said called 60.472 acre tract, lying 25 feet west of & parallel with said R.O.W. of F.M. Highway 359, a distance of 929.39 feet to a point of curvature on the west line of the herein described easement;

THENCE, along a curve to the right, having a length of 42.19 feet, a radius of 1984.86 feet, a delta angle of 01°13'04", a chord bearing North 50°33'37" West, a chord distance of 42.19 feet, to a point on the south property line of said called 56.84 acre tract, and being the northwest corner of the herein described easement;

THENCE, North 37°41'14" East, along the south property line of said called 56.84 acre tract a distance of 25.02 feet to the said **POINT OF BEGINNING**, containing 0.5595 acres (24,372 square feet) of land.

 7-2-19

David Powell Brister, RPLS 6537



ABBREVIATIONS LEGEND:

- F.B.C.C.F. FORT BEND COUNTY CLERK'S FILE
- FND FOUND
- IR IRON ROD
- No. NUMBER
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- WCS WITH CAP STAMPED
- VOL. VOLUME
- PG. PAGE
- F.B.C.D.R. FORT BEND COUNTY DEED RECORDS

CHURCHILL FULSHEAR LEAGUE, A-29

F.M. HIGHWAY No. 359
(CALLED 100 FEET WIDE)
(TXDOT CONTROL No.543, SECTION 2, JOB 4)

P.O.C.

FND 5/8" IR WCS
"RPLS 1535/4035"
BEARS N 87°39' E, 0.99'

CALLLED 10.01 ACRES
CLOVER TOOL CO., LLC
F.B.C.C.F. No. 2012065326

FND 5/8 IR WCS
1535 4035

REMAINDER OF A
CALLED 24.00 ACRES
L.A. WATERS
F.B.C.C.F. No. 2003016102

FND 5/8 IR WCS
RPLS 2085

P.O.B.

S51°10'09"E 935.53'

N51°10'09"W 929.39'

0.5595 ACRE
(24,372 SQ. FT.)

REMAINDER OF A
CALLED 60.472 ACRES
MASON EQUEST INVESTMENTS, INC.
VOL. 2569 PG. 506 F.B.C.D.R

CALLLED 38 ACRES
FULSHEAR INVESTMENTS, INC.
F.B.C.C.F. No. 9573103

ROGERS ROAD
(CALLED 60 FEET WIDE)
CALLLED 56.84 ACRES
ROGERS ROAD INVESTORS, LP
F.B.C.C.F. No. 201204316
(WIDTH VARIES - AS MONUMENTED)

LINE TABLE

LINE	BEARING	LENGTH
L1	S52°37'27"W	25.74
L2	N37°41'14"E	25.02

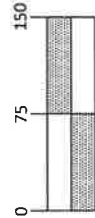
CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	365.18	1959.86	010°40'33"	S44°35'00"E	364.65
C2	42.69	1959.86	001°14'53"	S50°32'43"E	42.69
C3	42.19	1984.86	001°13'04"	N50°33'37"W	42.19

NOTES:

- There exists a separate Metes and Bounds description of this easement.
- Corners have not been staked, unless noted otherwise.
- All bearings shown hereon are based on the Texas Coordinate System of 1983, South Central Zone No. 4204.

GRAPHIC SCALE



1 inch = 150 ft.



David Powell Brister, RPLS 6537

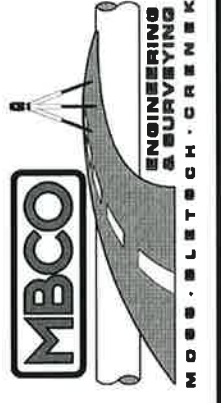
7-2-19

UE3

NO.	DATE	REVISION
1	06/25/2019	MODIFY WIDTH OF ESMT FROM 30' TO 25'
DRAWN BY: JK/JP		SCALE: 1" = 150'
APP'VD BY: DPB		DATE: 05/28/2019
		PRJ. No. 61.19.01 UE3

EXHIBIT OF A
25' WIDE UTILITY EASEMENT
0.5595 ACRE (24,372 SQ. FT.)
CHURCHILL FULSHEAR LEAGUE, A-29
FORT BEND COUNTY, TEXAS

1505 Highway 6 South
Suite 180
Houston, Texas 77077
TBPE Reg. No. F16850
TBPLS Reg. No.
10194112
Phone: 281-760-1656
www.mbcoengineering.com



0.3096 Acre
(13,487 Sq. Ft.)

EXHIBIT B
Item 2 of 3

Churchill Fulshear League, A-29
Fort Bend County, Texas

STATE OF TEXAS
COUNTY OF FORT BEND

UE4

0.3096 Acre Utility Easement

Being a 25 feet wide utility easement containing 0.3096 acre (13,487 square foot) situated in the Churchill Fulshear League, Abstract No. 29, Fort Bend County, Texas, and being part of a called 38.8 acre tract of land conveyed to Fulshear Investments, Inc. under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 9573103, said 0.3096 acre easement further described by metes and bounds as follows: (bearings and distances are referenced to the Texas Coordinate System of 1983, South Central Zone No. 4204, NAD 83)

COMMENCING for reference at the intersection of the curved southwest Right-of-Way (R.O.W.) line of F.M. Highway 359 (100 feet wide) with the south R.O.W. line of Rogers Road (60 feet wide), same being the northeast corner of a 56.84 acre tract of land conveyed to Rogers Road Investors, LP under the F.B.C.C.F. No. 2012014316, from which a found 5/8-inch iron rod with cap stamped "RPLS 1534/4035" bears North 87°39' East, 0.99 feet, same being the beginning of a curve to the left;

THENCE, departing said south R.O.W. of Rogers Road and continuing along the southwest R.O.W. of said F.M. Highway No. 359 and along said curve to the left, an arc length of 407.87 feet, a radius of 1,959.86 feet, a central angle of 11°55'26" and a chord which bears South 45°12'26" East, 407.13 feet to the end of said curve, same being in the northeast line of a called 60.472 acre tract of land conveyed to Mason Equest Investments, Inc. in Volume (Vol.) 2569 Page (Pg.) 506 of the Fort Bend County Deed Records (F.B.C.D.R.);

THENCE, South 51°10'09" East, continuing along the southwest R.O.W., a distance of 935.53 feet to a point for the southeast corner of said called 60.472 acre tract, same being the **POINT OF BEGINNING** and the north corner of the herein described easement;

THENCE, South 51°10'09" East, continuing along said southwest R.O.W., a distance of 526.99 feet to a found 5/8-inch iron rod for the north corner of the remainder of a called 131.863 acre tract of land conveyed to Fulshear Equine LLC, same being the east corner of the herein described easement;

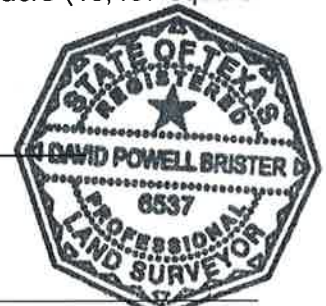
THENCE, South 01°46'11" West, departing the southwest R.O.W. of said F.M. Highway No. 359 and along the north line of the remainder of said called 131.863 acre tract, a distance of 31.33 feet to a point for the south corner of the herein described easement;

THENCE, North 51°10'09" West, departing the north line of the remainder of said called 131.863 acre tract, over and across said called 38.8 acre tract, lying 25 feet west of and parallel with the southwest R.O.W. line of said F.M. Highway 359, a distance of 552.00 feet to a point in the south line of the remainder of the aforesaid called 60.472 acre tract, same being the west corner of the herein described easement;

THENCE, North 52°37'27" East, along the south line of the remainder of said called 60.472 acre tract, a distance of 25.74 feet to the said **POINT OF BEGINNING**, containing 0.3096 acre (13,487 square feet) of land.


David Powell Brister, RPLS 6537

MBCO Engineering, LLC.



ABBREVIATIONS LEGEND:

F.B.C.C.F. FORT BEND COUNTY CLERKS FILE
 F.B.C.D.R. FORT BEND COUNTY DEED RECORDS
 FND FOUND
 IR IRON ROD
 No. NUMBER
 PG. PAGE
 P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCING
 VOL. VOLUME
 WCS WITH CAP STAMPED

CHURCHILL FULSHEAR LEAGUE, A-29

BUS 29

P.O.C.

FND 5/8" IR WCS
 "RPLS 1335/A035"
 BEARS N 87°39' E, 0.99'

REMAINDER OF A
 CALLED 24.00 ACRES
 L.A. WATERS

F.B.C.C.F. No. 2003016102

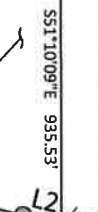
F.M. HIGHWAY No. 359

(CALLED 100 FEET WIDE)
 (TXDOT CONTROL No. 543, SECTION 2, JOB 4)

FND 5/8" IR
 WCS "RPLS 2085"

CALLED 12.963 ACRES
 L.A. WATERS
 F.B.C.C.F. No. 2000029066

P.O.B.



REMAINDER OF A
 CALLED 60.472 ACRES
 MASON EQUEST INVESTMENTS, INC.
 VOL. 2569, PG. 506 F.B.C.D.R.

CALLED 38.8 ACRES
 FULSHEAR INVESTMENTS, INC. (13,487 SQ. FT.)
 F.B.C.C.F. No. 9573103

REMAINDER OF A
 CALLED 131.863 ACRES
 FULSHEAR EQUINE, LLC
 F.B.C.C.F. No. 2013077977

CALLED 220.101 ACRES
 CENTURY LAND
 HOLDINGS OF TEXAS, LLC.
 F.B.C.C.F. No. 2018074664

ROGERS ROAD
 (CALLED 60 FEET WIDE)
 CALLED 56.84 ACRES
 ROGERS ROAD INVESTORS, LP
 F.B.C.C.F. No. 2012102102

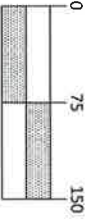
LINE	BEARING	LENGTH
L1	S01°46'11"W	31.33'
L2	N52°37'27"E	25.74'

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	407.87'	1,959.86'	011°55'26"	S45°12'26"E	407.13'

NOTES:

1. There exists a separate Metes and Bounds description of this easement.
2. Corners have not been staked, unless noted otherwise.
3. All bearings shown hereon are based on the Texas Coordinate System of 1983, South Central Zone No. 4204.

GRAPHIC SCALE



1 inch = 150 ft.

David Powell Brister
 Registered Professional Land Surveyor
 Texas Registration No. 6537



REVISION

EXHIBIT OF A

25 FEET WIDE UTILITY EASEMENT
 0.3096 ACRE (13,487 SQ. FT.)
 CHURCHILL FULSHEAR LEAGUE, A-29
 FORT BEND COUNTY, TEXAS



1505 Highway 6 South
 Suite 180
 Houston, Texas 77077
 TBPE Reg. No. F16850
 TPLS Reg. No.
 10194112
 Phone: 281-760-1656
 www.mbcoengineering.com

UE4

NO.	DATE	REVISION
1	06/25/2019	MODIFY WIDTH OF ESM'T FROM 30' TO 25'

DRAWN BY: GM/JP SCALE: 1" = 150' FB No. N/A

APP'VD BY: DPB DATE: MAY 28, 2019 PRJ. No. 69:19.01 UE4

0.0559 Acre
(2,433 Sq. Ft.)

EXHIBIT B
Item 3 of 3

Churchill Fulshear League, A-29
Fort Bend County, Texas

STATE OF TEXAS
COUNTY OF FORT BEND

UE5

0.0559 Acre Utility Easement

Being a 25 foot wide utility easement, 0.0559 acre (2,433 square foot) tract situated in the Churchill Fulshear League, Abstract No. 29, Fort Bend County, Texas and being part of the remainder of a called 131.863 acre tract conveyed to Fulshear Equine, LLC, by deed filed for record under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2013077977, and further described by metes and bounds as follows: (bearings and distances are referenced to the Texas Coordinate System of 1983, South Central Zone, No. 4204)

COMMENCING for reference at a found 5/8-inch iron rod on the southwest Right-of-Way (R.O.W.) line of F.M. Highway 359 (100 feet wide) marking the northeast corner of a called 14.44 acre tract of land conveyed to Texana Center by deed filed for record under the F.B.C.C.F. No. 2015031589 and the southeast corner of a called 220.101 acre tract of land conveyed to Century Land Holdings of Texas, LLC by deed filed for record under the F.B.C.C.F. No. 2018074664;

THENCE, North 51°10'09" West, a distance of 723.21 feet along said southwest R.O.W. of F.M. Highway 359 and the northeast line of said called 220.101 acre tract, to a point for the northeast corner said called 220.101 acre tract, the southeast corner of said called 131.863 acre tract, the **POINT OF BEGINNING** and the southeast corner of the herein described easement;

THENCE, South 38°49'39" West, departing said southwest R.O.W. line of F.M. Highway 359, a distance of 25.00 feet along the common line of said called 220.101 acre and said called 131.863 acre tracts, to a point for the southwest corner of the herein described easement;

THENCE, North 51°10'09" West, departing said common line, a distance of 87.89 feet over and across said called 131.863 acre tract, lying 25 feet west of & parallel with said R.O.W. of F.M. Highway 359, to a point on the southeast line of a called 38.8 acre tract of land conveyed to Fulshear Investments, Inc. by deed filed for record under the F.B.C.C.F. No. 9573103, for the northwest corner of the herein described easement;

THENCE, North 01°46'11" East, a distance of 31.33 feet along the southeast line of said called 38.8 acre tract, to a found 5/8-inch iron rod on said southwest R.O.W. line of F.M. Highway 359, marking the southeast corner of said called 38.8 acre tract, and the northeast corner of the herein described easement;

THENCE, South 51°10'09" East, a distance of 106.77 feet along said southwest R.O.W. of F.M. Highway 359 and the northeast line of said called 131.863 acre tract, to the **POINT OF BEGINNING**, containing 0.0559 acres (2,433 square feet) of land.

David Powell Brister 7-2-19
David Powell Brister, RPLS 6537



MBCO Engineering, LLC.

ABBREVIATIONS LEGEND:

F.B.C.C.F. FORT BEND COUNTY CLERK'S FILE
 FND FOUND
 IR IRON ROD
 No. NUMBER
 P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCING
 WCS WITH CAP STAMPED
 VOL VOLUME
 PG PAGE
 F.B.C.D.R. FORT BEND COUNTY DEED RECORDS

CHURCHILL FULSHEAR LEAGUE, A-29

CALLED 2.534 ACRES
 CLIFFORD & SHERRY SCHULZE
 F.B.C.C.F. No. 2016088190

CALLED 12.963 ACRES
 L.A. WATERS
 F.B.C.C.F. No. 2000029066

F.M. HIGHWAY No. 359
 (CALLED 100 FEET WIDE)
 (TXDOT CONTROL No.543, SECTION 2, JOB 4)

CALLED 6.136 ACRES
 JERRY P. KATZ, TRUSTEE
 F.B.C.C.F. No. 2018039412

0.0559 ACRE
 (2,433 SQ. FT.)

P.O.B.

P.O.C.

FND 5/8" IR

FND 5/8" IR WCS

"WILSON ENG" BEARS

N 33°23' W, 5.42'

FND 5/8" IR BEARS

N 45°34' W, 5.19'

FND 5/8" IR

P.O.C.

N51°10'09"W 723.21'

L5

C1

CALLLED 38.8 ACRES
 FULSHEAR INVESTMENTS, INC.
 F.B.C.C.F. No. 9573103

REMAINDER OF A
 CALLED 131.863 ACRES
 FULSHEAR EQUINE, LLC.
 F.B.C.C.F. No. 2013077977

CALLLED 220.101 ACRES
 CENTURY LAND
 HOLDINGS OF TEXAS, LLC.
 F.B.C.C.F. No. 2018074664

CALLLED 14.44 ACRES
 TEXANA CENTER
 F.B.C.C.F. No. 2015031589

WALLIS STREET
 (WIDTH VARIES)

A S P H A L T

LINE TABLE	
LINE	BEARING LENGTH
L1	S38°49'39"W 25.00
L2	N51°10'09"W 87.89
L3	N01°46'11"E 31.33
L4	S51°10'09"E 106.77
L5	S51°10'09"E 48.91

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	148.04	5779.58	001°28'03"	S51°54'11"E	148.04

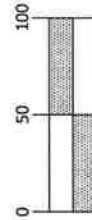


NOTES:

1. There exists a separate Metes and Bounds description of this easement.
2. Corners have not been staked, unless noted otherwise.
3. All bearings shown hereon are based on the Texas Coordinate System of 1983, South Central Zone No. 4204.

David Powell Brister
 David Powell Brister
 Registered Professional Land Surveyor
 Texas Registration No. 6537

GRAPHIC SCALE



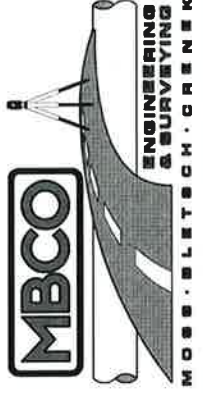
1 inch = 100 ft.

NO.	DATE	REVISION
31		
1	06/25/2019	MODIFY WIDTH OF ESM'T FROM 30' TO 25'

DRAWN BY: JAP	SCALE: 1" = 100'	FB No. N/A
APPVD BY: DPB	DATE: 05/28/2019	PRJ. No. 69.19.01 UE5

EXHIBIT OF A
25 FOOT WIDE UTILITY EASEMENT
 0.0559 ACRE (2,433 SQ. FT.)
 CHURCHILL FULSHEAR LEAGUE, A-29
 FORT BEND COUNTY, TEXAS

1505 Highway 6 South
 Suite 180
 Houston, Texas 77077
 TBPE Reg. No. F16850
 TBPLS Reg. No. 10194112
 Phone: 281-760-1656
 www.mbcoengineering.com



UE5

**FIRST AMENDMENT TO UTILITY AGREEMENT
BETWEEN THE CITY OF FULSHEAR, TEXAS,
FULSHEAR INVESTMENTS, INC., FULSHEAR EQUINE, LLC,
MASON EQUEST INVESTMENT, INC., AND LOUIS A. WATERS**

This First Amendment to Utility Agreement between the City of Fulshear, Texas, , Fulshear Investments, Inc., Fulshear Equine, LLC, Mason Equest Investment, Inc., and Louis A. Waters (this "Amendment"), is made and entered into as of the July 16, 2019, by THE CITY OF FULSHEAR, TEXAS (the "City"), a home rule municipality in Fort Bend County, Texas, acting by and through its governing body the City Council of Fulshear, Texas; and FULSHEAR INVESTMENTS, INC., a Texas corporation ("Fulshear Investments"); FULSHEAR EQUINE, LLC, a Texas limited liability company ("Fulshear Equine"); MASON EQUEST INVESTMENT, INC., a Texas corporation ("Mason"); and LOUIS A. WATERS ("Waters") (Fulshear Investments, Fulshear Equine, Mason, and Waters may be collectively referred to herein as "Landowners").

RECITALS

The City and Landowners entered into a Utility Agreement dated as of January 5, 2016 (the "Agreement"), with regard to approximately 280.315 acres of land in Fort Bend County, Texas, described therein.

The City and Landowners have agreed that if Landowners advance capital recovery fees in accordance with this Amendment, the City will reduce the capital recovery fees owed per ESFC.

The City and Landowners desire to amend the Agreement.

The City is authorized to enter into this Amendment pursuant to Section 212.172 of the Texas Local Government Code and the City of Fulshear Home Rule Charter. The City and Landowners are proceeding in reliance on the enforceability of this Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and Landowners agree as follows:

1. **Exhibit A** to the Agreement is hereby deleted in its entirety and replaced with **Exhibit A** attached hereto, and the area of land covered by the Agreement is hereby amended to be approximately 310.426 acres of land in Fort Bend County, as described or depicted on **Exhibit A** attached hereto as Tracts A, B, D, E, and F. Tract C shall not be covered by the Agreement except as specifically set forth in Section 3.02 of the Agreement as amended hereby. **Exhibit D** attached hereto is hereby added as **Exhibit D** to the Agreement.

2. Section 3.02 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 3.02 Capital Recovery Fees. Upon execution of this Amendment, the Developer will pay the City the amount of Four Hundred Fifty-One Thousand Five Hundred Fifteen and No/100 Dollars (\$451,515.00) in advance for the purchase of one hundred fifty-five (155) utility connections, an amount equivalent to the total current combined capital recovery fees of \$2,913 per ESFC for water supply and waste treatment services for the Project. In addition, any future capital recovery fees paid by the Developer shall be reduced to \$2,913 per ESFC. The Developer may, at its option, sell such purchased utility connections (up to one hundred fifty-five (155) utility connections) to other developers in the Property or in the Fulshear service area; provided, however, that such purchased utility connections may only be sold to a developer outside of the Property (the "Purchaser") if there are City sanitary sewer and water lines adjacent to the tract(s) owned or to be owned by the Purchaser at the time of the sale of such purchased utility connections or the Purchaser agrees to pay for the extension of City sanitary sewer lines and water lines to serve the tract. If Developer sells such connections to a developer who is developing tracts within the Property or Tract C (as described and depicted on **Exhibit A**), such connections may be applied to allowable multifamily or commercial uses within the Project. **Exhibit D** depicts one thousand six hundred eighty four (1,684) utility connections, the required number of utility connections for the Project and Tract C. City agrees that the Developer may exceed the number of utility connections required by **Exhibit D** by not more than ten percent (10%) without the City's prior approval. The City agrees to allocate capacity in the water and sanitary sewer trunk lines being constructed along FM 359 in accordance with **Exhibit D**, and that construction of such water and sanitary sewer lines will be complete by June 30, 2020.

3. The Agreement, including this Amendment, as amended hereby, shall remain in full force and effect. In the event of conflict between the Agreement and this Amendment, the Amendment will control.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

CITY OF FULSHEAR, TEXAS

By: _____
Aaron Groff, Mayor

Date: _____

ATTEST

By: _____
Kim Kopecky, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the ____ day of January, 2019, by Aaron Groff, Mayor of the City Fulshear, Texas.

Notary Public, State of Texas

[Official Notary Stamp]

FULSHEAR INVESTMENTS, INC.,
a Texas corporation

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____ of Fulshear Investments, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

FULSHEAR EQUINE, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, _____ of Fulshear Equine, LLC, a Texas limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

MASON EQUEST INVESTMENT, INC.
a Texas corporation

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, _____ of Mason Equest Investment, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

By: _____
Louis A. Waters

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2019, by Louis A. Waters.

Notary Public, State of Texas

Exhibit A Preliminary Development Plan

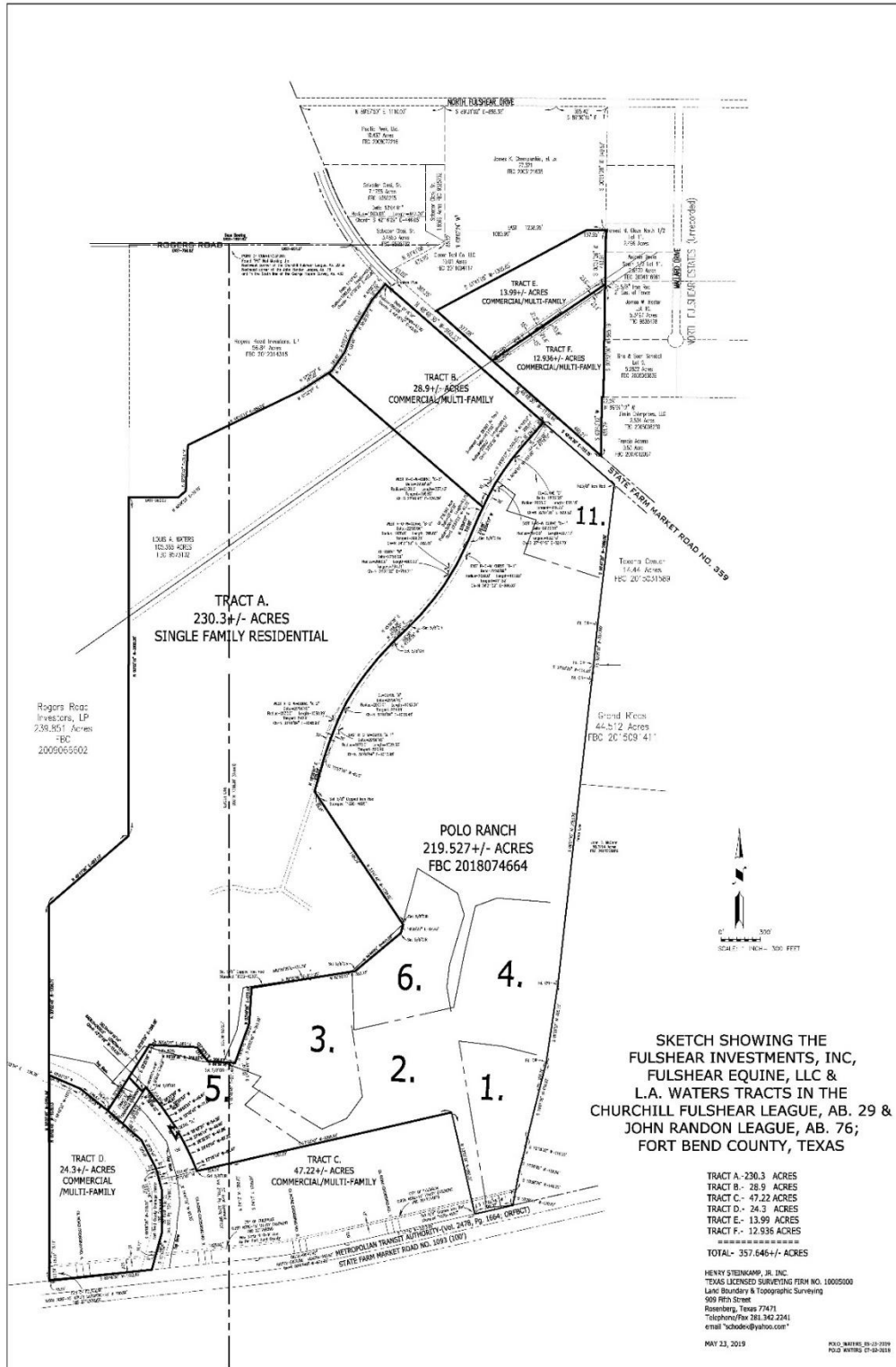


Exhibit D

LOU WATERS TRACT FM 359 SERVICE AREA

	Total Acreage	Connections
Tract A (SF)	119.117	460
Tract B (COM/MF)	28.900	217
Tract E (COM/MF)	13.990	184
Tract F (COM/MF)	12.936	180
Total	174.943	1041

POLO RANCH LIFT STATION SERVICE AREA

	Total Acreage	Connections
Tract A (SF)	111.183	379
Tract C (COM/MF)	47.220	180
Tract D (COM/MF)	24.300	84
Total	182.703	643