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**CITY OF PORT LAVACA**

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**MEETING:** FEBRUARY 9, 2026 **AGENDA ITEM** \_\_\_\_

**DATE:** 2.06.2026

**TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS

**FROM:** JODY WEAVER, INTERIM CITY MANAGER

**SUBJECT:** **CONSIDER APPROVAL OF ACCESS EASEMENT ACROSS CORPORATION DITCH TO EQUALIZER, INC.**

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**Background:**

Equalizer is in the planning stages of shifting their operations from Victoria to Port Lavaca and are working to construct new facilities to store and handle liquid and bulk fertilizer on property they own on FM 1090 across from the Harbor of Refuge. Council approved the Conceptual Plan for this development in November 2025.

A copy of the Concept Plan Sketch is *attached*. Note that Equalizer owns land on both sides of Corporation Ditch. Equalizer is requesting an access easement across the ditch in order to build a crossing structure to facilitate their proposed operations and limit the truck traffic on FM 1090.

The key issue that must be resolved in an Access Easement Agreement is the protection of the existing and future drainage capacity of Corporation Ditch. Any crossing must be designed so as not to impair the ditch's hydraulic performance. As you know, Mott McDonald is currently engaged in designing improvements to Corporation Ditch as part of the GLO CDBG-MIT Round 2 project, but the design capacity of the ditch in that location will not be available until their study is complete.

The proposed easement includes the following language as Section 4 under Terms and Conditions to address this drainage:

1. **Improvements and structures in the easement:**
  - a. The cost to design, construct, use, maintain, replace, repair or modify any and all structures and improvements within the easement shall be at **no expense to the CITY** and is completely the responsibility of the GRANTEE.
  - b. **No improvements or structures shall be constructed without first obtaining written approval from the CITY, based upon a full review of engineered construction plans and drainage capacity calculations, prepared by a licensed professional engineer registered in the State of Texas.**
  - c. GRANTEE acknowledges that the **CITY will dictate the minimum drainage capacity** that any structure constructed in the easement must have. **GRANTEE further acknowledges that these design specifications are being prepared as part of an on-going drainage improvement project of the Corporation Ditch and are not available at the time of execution of this agreement.** CITY agrees that once the design drainage capacity requirements have been established for this easement, such information will be provided to GRANTEE in writing.
  - d. **Any improvement or structure constructed in the easement must be properly maintained by GRANTEE to maintain the required design drainage capacity at all times.**
  - e. Any repair, modification or replacement of any improvement or structure constructed in the easement must adhere to the same terms and conditions as the original construction.
  - f. GRANTEE shall regularly mow or cut back vegetation on any improvements or structures constructed in the easement and to keep the Easement property free of litter, debris or trash generated by the GRANTEE's adjoining property.

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## CITY OF PORT LAVACA

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The easement will remain in place as long as Equalizer or their successors/assigns are actively using the easement as described. If the easement is terminated for any reason, the agreement states that the structure will be removed within 120 days until otherwise mutually agreed upon by both parties. The decision to allow the structure to remain in such a case will depend largely on the condition of the structure at that time. Of course, Equalizer is planning for a long-term operation. Under Agenda item 7 Monday, we are considering the approval of a 5-year lease with options that would provide for a possible 20-year lease. The use of Tract 3 is a part of their planning for this operation.

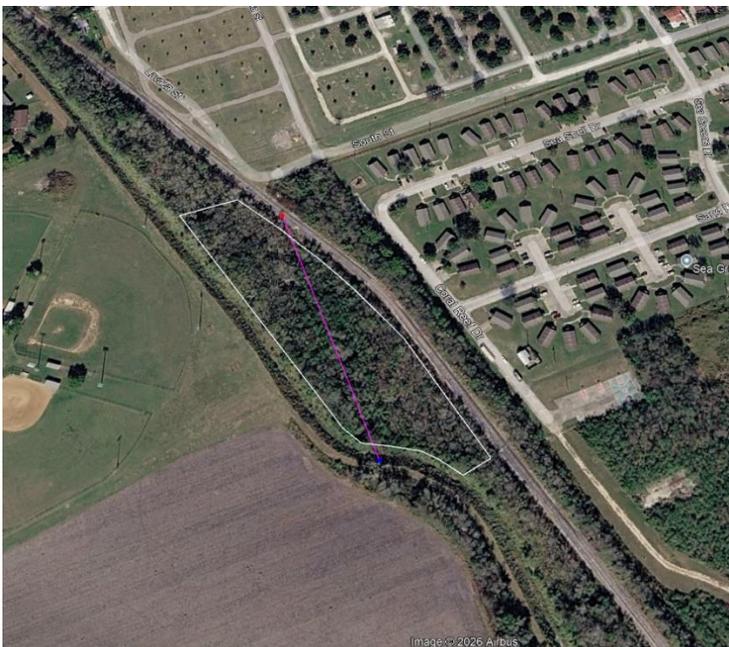
The location of the easement is approximately 500' north along Corporation Ditch from FM 1090. The exact location will be determined based upon the centerline of the as-built constructed structure.

### **Financial Implication:**

The proposed resolution portion of the easement states that the easement provides a valid public benefit as follows:

- a) increased safety to the traveling public by minimizing truck traffic entering and exiting FM 1090 on either side of Corporation Ditch;
- b) less wear and tear and required maintenance on FM 1090 due to increased truck traffic in a short section of the highway.

As such, we are not proposing a payment for the access easement, however the easement does state that further consideration is a commitment by Equalizer to negotiate in Good Faith with the City for the City's acquisition of a drainage easement and possible additional acreage, estimated at no greater than 3.0 acres, situated in property owned by the GRANTEE, with Property ID Number 50839.



This is the tract of land we are discussing. There is an existing drainage ditch (purple line) which accepts the drainage from the storm pipes in S. Lavaca and S. Juanita that run through the cemetery property and drains to Corporation Ditch. We have not been able to locate an easement document for this ditch. You may recall we had preliminary discussions with the previous property owners a year or so ago about acquiring an easement or purchasing the property. Equalizer has recently purchased the full 7.15 acre tract that runs between the ditch and the railroad and adjoins their PID 37357. Equalizer is willing to work with us on acquiring the approximately 3 acre tract shown in white line, (either by donation or mutually agreed upon price) which would provide land

For the easement as well as the opportunity to develop some trails in the wooded area. They are studying a possible need to keep some land along the railroad for a future spur before being able to negotiate an acquisition. They agree to do so in good faith once they have any project needs for their development identified that may affect how many acres will be available for acquisition.

**Recommendation:** Approve Access Easement for Equalizer as presented.