

One-Reading ordinance authorizing Amendment No. 2 to the Construction Manager-At-Risk (CMAR) contract with Garney Companies, Inc. of Kansas City, Missouri for construction services in the amount of \$187,876,831.00, for a total contract amount of \$373,266,623.00; Surface Use Agreements with R.H. Welder Heirs, Ltd, Oakes David Edwards, III Son's Trust 1976A, Jason S. Edwards Son's Trust 1976A, Estate of Oakes David Edwards, Jr, Hamilton-Ingleside Limited, E-H Partnership, Ltd and Diana Welder Hamilton Ranch Partnership, Ltd for a total amount up to \$11,947,397.00; and a Contribution-in-Aid-of-Construction Agreement with American Electric Power, Texas (AEP) for \$8,953,223.00 for the Evangeline/San Patricio Co. Groundwater Program; amending the FY 2026 Capital Budget; and establishing the City's intent to reimburse itself for the prior lawful expenditure of funds relating to any capital expenditures from the proceeds of one or more series of tax-exempt or taxable obligations to be issued by the City in an aggregate amount not to exceed \$294,000,000.00, with FY 2026 funding available from Water Capital Fund.

WHEREAS, there is a statutory exception for this procurement in Local Government Code, Section 252.022(a)(2), as this purchase is necessary to preserve or protect the public health or safety of the City's residents;

WHEREAS, the purpose of the Evangeline Groundwater Project is to transport 28,486 acre feet of groundwater per year from San Patricio County to Nueces County, Texas for use in the City of Corpus Christi CCN;

WHEREAS, City Council finds that these contracts are reasonable and necessary to furnish the ratepayers with water service;

WHEREAS, City Council finds that recovery of the cost of these contracts through the utility rates is reasonable and necessary to preserve the utility's financial integrity;

WHEREAS, the City Council (the *Governing Body*) of the City of Corpus Christi, Texas (the *Issuer*) has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance costs associated with: (1) constructing, improving, enlarging, repairing, and extending the City's combined utility system and the purchase of equipment, supplies, machinery, and other personal property relating to the System, including constructing a well field, pump station, conveyance system, roads and electric utilities (the *Construction Costs*); (2) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the *Engineering Costs*); (3) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the *Architectural Costs*); and (4) the payment of various administrative costs, including the fees of bond counsel, financial advisor, project manager, project consultant, other professionals, and bond printer (the *Administrative Costs*) [the Construction Costs, the Engineering Costs, the Architectural Costs, and the Administrative Costs collectively constitute the costs of the projects that are the subject of this Ordinance (the *Project*)]; and

WHEREAS, the provisions of Section 1201.042, as amended, Texas Government Code (*Section 1201.042*) provide that the proceeds from the sale of obligations issued to

finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the *Department*) released Regulation Section 1.150-2 (the *Regulations*) which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the *Code*); and

WHEREAS, the Issuer intends to reimburse itself, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of funds from the proceeds of one or more series of tax-exempt or taxable obligations (the *Obligations*) that the Issuer currently contemplates issuing obligations in the principal amount of not to exceed \$294,000,000 to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation ultimately to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial circumstances; and

WHEREAS, the Governing Body hereby finds and determines that the adoption of this Ordinance is in the best interests of the residents of the Issuer; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

Section 1. The City Council specifically finds that the foregoing statements included in the preamble of this ordinance are true and correct and adopts such findings for all intents and purposes related to the authorization of this procurement.

SECTION 2. Funding in the amount of \$294,000,000 is appropriated into the Water Capital Fund.

SECTION 3. The Corpus Christi FY2025-2026 Capital Budget adopted by Ordinance No. 033731 is amended to increase revenues and expenditures by \$294,000,000.

SECTION 4. The City Manager or designee is authorized to execute Amendment No. 2 to the Construction Manager-At-Risk contract with Garney Companies, Inc. for construction services for the Evangeline Groundwater Project in the amount of \$187,876,831.

SECTION 5. The City Manager or designee is authorized to execute Surface Use Agreements with R.H. Welder Heirs, Ltd, , Oakes David Edwards, III Son's Trust 1976A, Jason S. Edwards Son's Trust 1976A, Estate of Oakes David Edwards, Jr, Hamilton-Ingleside Limited,

E-H Partnership, Ltd and Diana Welder Hamilton Ranch Partnership, Ltd in an amount up to \$11,947,397.

SECTION 8. The City Manager or designee is authorized to execute a Contribution-in-Aid-of-Construction Agreement with American Electric Power, Texas in the amount of \$8,953,223.

SECTION 9. This Ordinance is a declaration of intent to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations and Section 1201.042 to reimburse itself from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from the Issuer's General Fund or other lawfully available funds of the Issuer.

SECTION 10. The Issuer intends to issue the Obligations and allocate within 30 days after the date of issuance of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

SECTION 11. The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

SECTION 12. The Issuer intends to otherwise comply, in addition to those matters addressed within this Ordinance, with all the requirements contained in the Regulations.

SECTION 13. This Ordinance may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

SECTION 14. With respect to the proceeds of the Obligations allocated to reimburse the Issuer for prior expenditures, the Issuer shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of replacement proceeds, as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issue of tax-exempt obligations.

SECTION 15. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

SECTION 16. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

SECTION 17. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 18. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 19. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 20. This Ordinance shall be in force and effect from and after its final passage, and it is so ordained.

SECTION 21. This section constitutes a written request by the mayor or majority of the members of the Council for this ordinance to be passed finally on the date of introduction due to emergency. The City Council finds and declares an emergency due to the need for immediate action necessary for the efficient and effective administration of City affairs; and suspends the City Charter rule that requires consideration of and voting upon ordinances at two regular meetings so that this ordinance is passed and takes effect upon first reading as an emergency measure.

PASSED and APPROVED on the ____ day of _____, 2026.

ATTEST:

Paulette Guajardo, Mayor

Rebecca Huerta, City Secretary