

**Public Hearing on proposed assessments for Vaky Street from Swantner Drive to Reid Drive, Ivy Lane from Gollihar Road to Horne Road, and Clare Drive from South Padre Island Drive to McArdle Road (the "Project"); Ordinance finding and determining that the property abutting said streets will be specifically and specially benefitted and enhanced to an amount at least equal to the cost to each property owner; levying and imposing assessments totaling \$191,716.44 against property abutting the improvements for the Project; fixing corresponding liens on property and charges against property owners; adopting the attached Preliminary Assessment Roll; providing for subsequent adjustment of assessment amounts and the corresponding liens and charges based on as-built conditions; specifying assessment payment terms and lien enforcement measures; amending the FY 2013 Capital Improvement Budget adopted by Ordinance No. 029565 to transfer \$99,217.38 in unspent Storm Water funds and \$48,592 in unspent Water funds from the Rodd Field/Yorktown Intersection at Airline Road project to the Project; increasing expenditures in the amount of \$147,809.38; and authorizing the City Manager to execute a construction contract with Bay, Ltd. of Corpus Christi, Texas in the amount of \$2,381,270.55 for the Project for the Base Bid and Additive Alternates 1 and 2. (Bond Issue 2008)**

In its Resolution No. 029738, passed on January 29, 2013, the City Council determined that it was necessary to improve and order the improvements of the following roadways in Corpus Christi, Nueces County, Texas:

Vaky Street from Swantner Drive to Reid Drive, Ivy Lane from Gollihar Road to Horne Road, and Clare Drive from South Padre Island Drive to McArdle Road (the "Project")

In that resolution, the City Council also noted that street, curb, gutter, and sidewalk improvements were to be paid for partly by the city and partly by assessments. Driveway improvements were to be paid for entirely by assessments.

On November 26, 1996, the City Council passed Resolution No. 022767, which specified rules which apply to the city street improvements assessment process (the "Assessment Process Rules Resolution"). These rules concerned assessment hearing notice and the assessment hearing itself.

In Resolution No. 029738, passed on January 29, 2013, the City Council scheduled a public hearing on proposed assessments for the Project. The City Council directed that hearing noticed be published and mailed in accordance with the Assessment Process Rules Resolution. Thereafter, notice was published on the following dates: February 4, 2013, February 11, 2013, and February 18, 2013. Written notice was sent via certified mail to owners of property abutting the proposed improvements on February 1, 2013.

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

**SECTION 1.** During the February 26, 2013 City Council meeting, a public hearing was held concerning proposed assessment for the Project. The City Council considered:

- A. Written testimony by the City's Director of Engineering Services and a city-retained real estate appraiser. A copy of the appraiser's written testimony is attached as Exhibit A.
- B. Testimony, if any, by owners of property abutting the proposed improvements and their representatives;
- C. Additional testimony, if any, by the Director of Engineering Services, other members of city staff, and a city-retained real estate appraiser; and
- D. Other testimony and evidence, if any.

After consideration of all testimony and other evidence, the assessment hearing is closed.

**SECTION 2.** Proposed assessments for each property abutting proposed improvements are listed in Exhibit B. These assessments have been calculated according to the requirement of the Code of Ordinances, City of Corpus Christi, (the "Corpus Christi Code") Section 49-2-1 and Texas Transportation Code Chapter 313.

The front-foot rule was applied unless that would have resulted in injustice or inequality. In those cases, however, the City Council has applied special rates or made other equitable adjustment to the assessments, all considering the:

- A. Special benefit the property and the owner receive in enhanced value to the property;
- B. Equities of the owners; and
- C. Adjustment of the apportionment to produce a substantial equality of benefits received and burdens imposed.

**SECTION 3.** The City Council determines that the assessment on each property listed in Exhibit B is just and equitable and does not exceed the special benefit in enhanced value which that property and its owner will receive by construction of the proposed improvements.

**SECTION 4.** The assessments listed in Exhibit B are adopted and fixed as a lien on the property and a personal liability and charge against the property owner.

**SECTION 5.** The Director of Engineering Services, or his designee, is authorized to adjust these assessments and the corresponding liens and charges without further City Council action if it is determined after completion of the proposed improvements that the amount of property actually improved is either greater or less than the amount utilized for purposes of calculating the assessment. Under those circumstances, an adjustment may be made to ensure that the assessment for each property corresponds to as-built conditions. The

adjustment will be made using the same assessment method (front-foot rule, special rate, other equitable adjustment) which was used to calculate the assessment listed in Exhibit B.

It is intended that these adjustments will not be substantial in nature. Thus, they will not trigger any statutory requirement for the City Council to hold a new assessment hearing to impose revised assessments.

**SECTION 6.** The preliminary assessment role for the subject properties is hereby adopted. These assessments have been imposed after due consideration of all testimony and other evidence. They include any appropriate equitable adjustments. They also reflect the correction of any errors, inaccuracies, or irregularities noted at the public hearing. All protests against or objections to the assessments or to the contract for the improvements, other than reflected in Exhibit B. are denied.

**SECTION 7.** In accordance with Corpus Christi Code Section 49-21, a property owner may pay an assessment as follows:

- A. Any property owner against whom and against whose property an assessment as been imposed may pay the whole assessment, without interest, within thirty (30) days after completion and acceptance of the improvement by the City.
- B. Alternatively, an assessment may be paid in 120 or fewer monthly installments. The first installment will be payable within thirty (30) days after completion and acceptance of the improvements by the City. Installments and accrued interest will be due each month thereafter until the assessment is paid.
- C. Alternatively, an assessment may be paid in 10 or fewer monthly installments. The first installment will be payable within thirty (30) days after completion and acceptance of the improvements by the City. One installment and accrued interest will be due each year thereafter until the assessment is paid.

**SECTION 8.** The interest rate on assessments will be the greater of:

- A. Eight (8) percent per annum; or
- B. The interest rate paid by the City on its most recently issued General Obligation bonds.

Assessment installments may be paid at any time before maturity by paying the principal and accrued interest. If a property owner does not timely pay an assessment indebtedness or any part thereof, then the whole indebtedness remaining unpaid, will, at the option of the City, immediately mature and become payable without notice, demand, or presentment of payment.

**SECTION 9.** These assessment liens are first and prior liens on the property affected. They are superior to any other lien or claim other than one for county, school district, or municipal ad valorem taxes. The liens date from January 29, 2013, the date when the Corpus Christi City Council ordered the Project.

**SECTION 10.** A lien against property or the personal liability of a property owner that arises from an assessment under this Ordinance may be enforced by suit or sale of the property assessed in the manner provided by law for sale of property for municipal ad valorem taxes.

Further, the assessments may be collected along with interest, expense of collection, and reasonable attorneys' fees.

**SECTION 11.** The FY 2013 Capital Improvement Budget adopted by Ordinance No. 029565 is amended to increase funds in the amount of \$147,809.38.

**SECTION 12.** Unspent funds in the amount of \$99,217.38 in budgeted Storm Water funds and \$48,592 in budgeted Water funds from the Rodd Field/Yorktown Intersection at Airline Road project are added to the Project.

**SECTION 13.** The City Manager or designee is authorized to execute a construction contract in the amount of \$2,381,270.55 with Bay, Ltd. of Corpus Christi, Texas for the Project to include the Base Bid and Additive Alternates 1 and 2.

**ATTEST:**

**THE CITY OF CORPUS CHRISTI**

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Armando Chapa  
City Secretary

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Nelda Martinez  
Mayor

That the foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

PASSED AND APPROVED, this the \_\_\_\_\_th day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Armando Chapa  
City Secretary

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Nelda Martinez  
Mayor