

Ordinance authorizing an amendment to the Water Arterial Transmission & Grid Main Construction and Reimbursement Agreement with MPM Development, LP to extend the contract term to November 7, 2025, and to increase reimbursement by \$109,742.04 for a total not to exceed amount of \$219,096.24 for construction of a 12-inch water arterial transmission grid main line for residential development, Royal Creek Estates Unit 7; and authorizing future transfer and appropriation of Water and Wastewater Trust Fund revenue up to \$109,742.04 to reimburse the developer in accordance with the agreement.

WHEREAS, the Developer/Owner, in compliance with the City's Unified Development Code ("UDC"), has a plat, approved by the Planning Commission on October 19, 2022, to develop a tract of land, approximately 103.015 acres known as Oso Creek Corner Subdivision;

WHEREAS, under the UDC, the Developer/Owner is responsible for the construction of the Water Arterial Transmission & Grid Main ("Water Improvements");

WHEREAS, under the UDC, the Developer/Owner is eligible for reimbursement of the Developer/Owner's costs for the construction of Water Improvements;

WHEREAS, it is in the best interests of the City to have the Water Improvements constructed to their ultimate capacity under the City's applicable Master Plan;

WHEREAS, the City's participation as Trustee does not create a loan of its credit because Texas Constitution Article 1.1, Section 3 prohibits the City from becoming a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit;

WHEREAS, execution of the Agreement constitutes a promise to pay only to the extent that the assets and future assets of the trust are sufficient for such purpose and that any judgement will only be satisfied out of the assets of the trust and not out of the City's assets and the City is excluded from personal liability;

WHEREAS, the Water Arterial Transmission & Grid Main Trust Fund does not currently have sufficient funds to fully reimburse the Developer/Owner for Water Improvements under the Agreement;

WHEREAS, a construction and reimbursement agreement must be approved by the City Council before the developer starts construction. Reimbursement only shall be made when monies are available in and appropriated from the Water Arterial Transmission & Grid Main Trust Fund. The order of the reimbursement will be determined according to the date construction and reimbursement agreement is approved by the City Council;

WHEREAS, the Agreement approved herein will be fifth-in-line in the order for reimbursement from the Water Arterial Transmission & Grid Main Trust Fund based on the date the agreement is approved by the City Council per UDC 8.5.3.E;

WHEREAS, if the developer is owed funds from the Water Arterial Transmission & Grid Main Trust Fund, reimbursement shall be made as funds are deposited into the trust fund from other development, and/or the developer will be given credit for lot or acreage fees that are due on subsequent final plats filed with the County Clerk per UDC 8.5.3.E; and

WHEREAS, the developer will only proceed with construction if the reimbursement

reflects an update to the cost of construction.

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

SECTION 1. The City Manager or designee is authorized to execute an amendment to the Water Arterial Transmission & Grid Main Construction and Reimbursement Agreement with MPM Development, LP to extend the contract term to **November 7, 2025**, and to increase reimbursement by **\$109,742.04** for a total not to exceed amount of **\$219,096.24** for construction of a 12-inch water arterial transmission grid main line for residential development, Royal Creek Estates Unit 7.

SECTION 2. In the event of a project delay, the City Manager or designee is authorized to execute an extension of the agreement for a period not to exceed a period of 12 months.

SECTION 3. The City Manager or designee is authorized to transfer future revenue of the Water Distribution Main Trust Fund, Wastewater Trunk System Trust Fund and Wastewater Collection Line Trust Fund to the No.4030-21805-777 Water Arterial Transmission & Grid Main Trust Fund, in accordance with the priority established by UDC 8.5.1.C.1.d, 8.5.1.C.2.d, 8.5.2.E.1.d, and 8.5.2.E.2.d, until **\$109,742.04** is appropriated in accordance with this ordinance.

SECTION 4. The City Manager or designee is authorized to appropriate up to **\$109,742.04** from the No.4030-21805-777 Water Arterial Transmission & Grid Main Trust Fund as funds become available to reimburse the Developer for the water transmission line construction and improvements in accordance with the Agreement, this ordinance, and the UDC.

SECTION 5. This ordinance takes effect upon passage.

Introduced and voted on the _____ day of _____, 2023.

PASSED and APPROVED on the _____ day of _____, 2023.

ATTEST:

Paulette Guajardo, Mayor

Rebecca Huerta, City Secretary