

Date: September 22, 2023

To: Rebecca Huerta, City Secretary

Peter Zanoni, City Manager

CC: Miles Risley, City Attorney

SUBJECT: Motion to approve a Memorandum of Understanding (MOU) with Port of Corpus Christi Authority on Desalination

Per the City of Corpus Christi Council Policy Section 16, Paragraph D, please place an agenda item(s) on the October 10, 2023 Council meeting for discussion and possible action in regular session for a motion to approve the attached MOU that was approved by the Port of Corpus Christi. The MOU with the Port of Corpus Christi Authority is for future Desalination Facilities and cooperation between the Port of Corpus Christi Authority and the City of Corpus Christi regarding future alternative water supplies.

A copy of the MOU is being provided to the City Attorney to place it in the required format. The City Manager and/or Attorney shall not make any material changes to the elements of the agreement.



Mike Pusley, City Council At-Large



Dan Suckley, City Council District 4



Gil Hernandez, City Council District 5

MEMORANDUM OF UNDERSTANDING
BETWEEN THE PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS, AND
THE CITY OF CORPUS CHRISTI, TEXAS,

This Memorandum of Understanding (the "**MOU**") is made and entered into and effective as of the date of last signature (the "**Effective Date**") by and between the **Port of Corpus Christi Authority of Nueces County, Texas**, a navigation district operating under Article XVI, Section 59 of the Texas Constitution ("**Port**"), whose mailing address is 400 Harbor Drive, Corpus Christi, Texas 78401, and the **City of Corpus Christi, Texas**, a municipal corporation and home rule city of the State of Texas ("**City**"), whose mailing address is P.O. Box 9277, Corpus Christi, Texas 78469. Port and City are sometimes referred to in this Agreement as "**Parties**" and individually as a "**Party**".

WHEREAS, the City is the Regional water supplier and needs to identify drought resistant water supply for the long-term growth of the Coastal Bend;

WHEREAS, the Port and the City have a shared mutual interest in identifying drought-resistant water sources;

WHEREAS, the Port has received the Texas Commission on Environmental Quality's (TCEQ) approval for a Discharge Permit at the Harbor Island site and is pursuing the additional regulatory permits necessary to develop desalination project(s), referred to herein as the "Permits";

WHEREAS, the City maintains a goal of expansion and diversification of its water resources;

WHEREAS, the City has a water rights permit from TCEQ for the inner harbor and continues to pursue all remaining permits for the inner harbor site;

PURPOSE:

NOW THEREFORE, the purpose and intent of this MOU is to provide a framework for collaboration between the City and the Port for the pursuit of drought resistant water supplies for the long-term growth of the Coastal Bend. This MOU affirms the City's position as the regional water supplier. This MOU will set forth the expectation for equally sharing of all costs associated with the development of drought resistant water supplies.

PORT PERMITTED SITE(S)

- 1) The Port, at its sole cost and expense, may continue to pursue all Permits required for development of the desalination project on Harbor Island.

- 2) To further explore the feasibility and expense of a desalination facility on Harbor Island, the City and the Port will jointly engage an agreed upon consultant to secure design options and bids for a proposed desalination facility at Harbor Island, with all cost for said consultant to be paid by the Port. All communications with the engaged consultant, either verbally or in writing, shall include all 3 parties.

- 3) If a desalination facility is to be built on Harbor Island, the City and the Port will jointly decide the best option for the design, construction and operation of the Harbor Island desalination plant. The City and the Port may enter into a contractual agreement ("**HI Joint Agreement**") to determine the terms for the construction and operation of the desalination facility. The intended framework of this joint agreement should include, but is not limited to, the following:
 - a) All costs associated with the construction of any desalination plant along with related infrastructure, and related pipelines will be shared equally.
 - b) Any bids for the desalination plant shall include all costs associated with the construction and operation of the desalination plant and the needed infrastructure to tie that facility into the City's existing water distribution infrastructure including any new pipelines required by this project.
 - c) The desalination plant, associated infrastructure and/or pipelines built on the leased property will be owned jointly by both the Port and by the City.
 - d) The Port will lease the Harbor Island permitted site and/or any other Port property utilized for a desalination facility for the sum of \$1.00 annually for as long as the City operates a desalination facility or water distribution infrastructure on said property.
 - e) Operational management of the desalination plant will be the responsibility of the City, whether operated by the City or a third-party contractor managed by the City.
 - f) Investment recovery, debt retirement, expenses, improvements, future expansion, and/or repairs to this facility will be equally shared by both parties.
 - g) The City will be the sole taker, distributor, and seller of water from the desalination plant located at Harbor Island or any other Port permitted water sources.
 - h) The City will be the sole responsible party for committing any water supply to any new prospective large water users to ensure availability of water and consistency of rates and related surcharges.
 - i) The City acknowledges that the Port cannot execute the HI Joint Agreement without the approval of the Port Commission, and the Port acknowledges that the City cannot execute the HI Joint Agreement without the approval of the City Council.

OTHER DESALINATION SITE(S)

- 1) The City, at its sole cost and expense, may continue to pursue all Permits required for development of the desalination project in the inner harbor. Any concerns or issues

regarding the Permit in the inner harbor site or other city desalination sites, or the permitting process shall be communicated amongst both parties.

- 2) If the City receives the required permits for a desalination plant in the inner harbor, the Port will work with the City to identify Port owned property that could be used for the construction of the plant, including any and all necessary easements. If the Parties identify such a property, the Port and the City will enter into an agreement (the "IH Agreement") that will make such property available to the City (at no cost to the City) for as long as the City operates a desalination facility on said property. The City acknowledges that the Port cannot execute the IH Agreement without the approval of the Port Commission, and the Port acknowledges that the City cannot execute the IH Agreement without the approval of the City Council.
- 3) The Port and the City shall work together on state and federal legislation to support permitting and funding of new water resources. The City and the Port may collaborate to identify, and equally share in, any grants and/or 3rd party funding that may exist to make the cost of these improvements, and any resulting water resources, the most affordable possible for our rate payers.
- 4) Once this MOU is finalized, the City Manager and the Port Chief Executive Officer shall each appoint a single point of contact for their respective entity to be the conduit of official communication for all information not bound by confidentiality agreements related to alternative water supply, desalination and permitting via a recurring meeting that will be set, on a minimum quarterly basis, where the Port's and the City's representatives will meet to continue the collaboration and each side will provide updates of any issues that may arise related to this MOU.
- 5) A joint meeting between the Port Commissioners and the City Council will be scheduled at least annually, or as needed, to review the status and information regarding any desalination or other alternative water supply project(s).
- 6) Each party's obligations under this MOU and continuation of this MOU are subject to availability of funding through the annual budget process.
- 7) This partnership between the Port and the City may extend to any new alternative water sources or future desalination plant(s).

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Understanding to be executed by their duly authorized offices as of the dates provided below each signature, to be effective, however, for all purposes, as of the Effective Date.

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS**

By: _____
Charles W. Zahn, Jr.
Chairman

Date: _____

CITY OF CORPUS CHRISTI

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM

Miles Risley
City Attorney

Date: _____