

CITY COUNCIL
OF
HAVRE DE GRACE, MARYLAND

ORDINANCE NO. 1129

Introduced by _____ Council President Ringsaker

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE ADOPTED PURSUANT TO THE AUTHORITY OF ARTICLE XI-E OF THE MARYLAND CONSTITUTION, THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND AND SECTIONS 33 AND 34 OF THE HAVRE DE GRACE CITY CHARTER, FOR THE PURPOSE OF APPROVING THE MEMORANDUM OF UNDERSTANDING AND AGREEMENT WITH HARFORD COUNTY REGARDING ACCESS TO THE ROBINHOOD ROAD MASTER WATER METER VAULT

On: 11/6/2023

at: 7:00 p.m.

Ordinance introduced, read first time, ordered posted and public hearing scheduled.

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Ordinance having been published according to the Charter, a public hearing was held on November 20, 2023 at 7:07 p.m., and concluded on November 20, 2023 at 7:08 p.m.

EXPLANATION
Underlining indicates matter added to existing law.
[Bold Brackets] indicate matter deleted from existing law.
Amendments proposed prior to final adoption will be noted on a separate page with line references or by handwritten changes on the draft legislation.

WHEREAS, the City entered into a memorandum of understanding dated January 14, 2019, with the City of Aberdeen (“Aberdeen”) to provide potable water to Aberdeen up to a maximum of 900,000 gpd (“Aberdeen Water Agreement”) which provided that each of them would construct certain portions of the water transmission system and related facilities contemplated therein; and

WHEREAS, the facilities and transmission line contemplated under the Aberdeen Water Agreement are near completion and the parties are currently negotiating an Amended and Restated Agreement for Water Purchase updating the Aberdeen Water Agreement (“Amended and Restated Agreement”); and

WHEREAS, Aberdeen previously entered the East Aberdeen Water Service Agreement effective November 3, 2011, with Harford County and the City of Aberdeen for the construction of two (2) master water meter vaults (“Vault Agreement”) which facilitated County distribution of water to certain residents of the City of Aberdeen; and

WHEREAS, to supply water to Aberdeen under the Aberdeen Water Agreement, as amended, the City will need to use one of the two vaults which the County acquired as part of the Vault Agreement with Aberdeen, the particular vault being located near Robinhood Road and referenced herein as the “Robinhood Vault”; and

WHEREAS, because the City requires County approval to access the Robinhood Vault to fulfill its obligations under the Aberdeen Water Agreement, as amended, the City desires to enter into an agreement with the County regarding access to the Robinhood Vault in a form substantially similar as attached hereto as Exhibit 1 (with pertinent exhibits attached thereto) (“Robinhood Vault Agreement”); and

NOW THEREFORE, it is this 4th day of December, 2023, determined, decided, and ordained by a majority of the City Council members that:

1. The Council approves the Robinhood Vault Agreement with the County, and
2. The Mayor is authorized to sign the Memorandum of Understanding and Agreement regarding Robinhood Road Master Water Meter Vault in a substantially similar form as attached hereto as Exhibit 1 and
3. The Mayor is authorized to take such other action needed to execute said agreement making it effective as soon as possible to facilitate the transmission of water to the City of Aberdeen under the Amended and Restated Water Purchase Agreement referenced above.

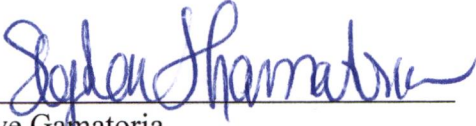
The foregoing Ordinance is hereby approved by the City Council.

ADOPTED by the City Council of Havre de Grace, Maryland this 4th day of December, 2023.

SIGNED by the Mayor and attested by the Director of Administration this 5th day of December, 2023.

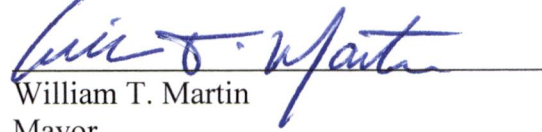
[Signatures to follow on the next page.]

ATTEST:



Steve Gannatoria
Director of Administration

MAYOR AND CITY COUNCIL
OF HAVRE DE GRACE



William T. Martin
Mayor

Introduced/First Reading: 11/06/2023
Public Hearing: 11/20/2023
Second Reading/Adopted: 12/4/2023

Effective Date: 12/5/2023

Exhibit 1

MEMORANDUM OF UNDERSTANDING AND AGREEMENT
Between Harford County and the Mayor and City Council of Havre de Grace
Regarding
Robinhood Road Master Water Meter Vault

THIS MEMORANDUM OF UNDERSTANDING AND AGREEMENT (Agreement”), made this ____ day of _____, 2023, and entered into between HARFORD COUNTY, Maryland, a body corporate of the State of Maryland (hereinafter “the Harford County”) and the MAYOR AND CITY COUNCIL OF HAVRE DE GRACE, a municipal corporation of the State of Maryland (hereinafter the “City”) (“Harford County” and the “City”, respectively, and collectively referred to as the “Parties”).

WHEREAS, effective November 3, 2011, the County executed the East Aberdeen Water Service Agreement between Harford County and the City of Aberdeen (“Aberdeen”) for the construction of two (2) master water meter vaults (“Vault Agreement”) (Exhibit A).

WHEREAS, pursuant to the Vault Agreement, Aberdeen dedicated to the County the two master water meter vaults referenced therein to facilitate County distribution of water to certain residents of the City of Aberdeen.

WHEREAS, the City entered into a memorandum of understanding on June 16, 2020 with Aberdeen to provide potable water to Aberdeen up to a maximum of 900,000 gpd (“Aberdeen Water Agreement”) provided that each of them would construct certain portions of the water transmission system (Exhibit B).

WHEREAS, in reliance upon the promises made in the Aberdeen Water Agreement, the City constructed a transmission line between the City and Aberdeen to facilitate the supply of water to Aberdeen pursuant to the terms of the Aberdeen Water Agreement.

WHEREAS, in order to supply water to Aberdeen under the Aberdeen Water Agreement the City will need to use one of the two vaults which the County acquired as part of the Vault Agreement with Aberdeen, the particular vault being located near Robinhood Road and referenced herein as the “Robinhood Vault”.

WHEREAS, the Robinhood Vault that will be used to facilitate City water transmission to Aberdeen is located on land owned by Harford County, which is depicted as parcel (1) and accessed by an easement across the land of Harford Systems, Inc. as shown on the “Revised Plat” recorded among the Land Records of Harford County at Liber 3875, folio 245. (Attached as Exhibit C) (“Revised Plat”) and Deed of Easement (Exhibit D).

WHEREAS, this City requires County approval to access the Robinhood Vault to fulfill its obligations under the Aberdeen Water Agreement.

WHEREAS, the Parties recognize the need to provide clean potable water to Harford County citizens in a cost effective manner and that the Aberdeen Water Agreement promotes that need.

WHEREAS, Aberdeen and Havre de Grace are negotiating updates to the Aberdeen Water Agreement and now that the infrastructure is in place, the transmission of water to Aberdeen is imminent.

NOW THEREFORE, the County and City agree as follows:

Article 1. Access to the Robinhood Road Vault

1.1 The County agrees to grant a perpetual easement to the City to access the Robinhood Vault for the purpose of fulfilling the water transmission obligations under the Aberdeen Water Agreement.

1.2 The County agrees to grant the City access to the related Utility Easements described above on the terms and conditions set forth herein for the purposes and on the terms expressed in this Agreement for so long as the City supplies water to Aberdeen, and will cooperate with the City in obtaining any necessary approvals from Harford Systems Inc. for the purpose of accessing the utility easements relating to the Robinhood Vault.

1.3 The City will prepare the easements referenced in paragraphs 1 and 2 above subject to review and approval of the County (the “Easements”).

1.4 The County agrees that pursuant to the Easements, the City has the right to access the Robinhood Vault, including the Utility Easements, and to remove the County water meter and related equipment, and install a City of Havre de Grace meter and other equipment to facilitate the transmission of water to Aberdeen pursuant to the terms of the Aberdeen Water Agreement.

1.5 No later than nine (9) months after the execution of the Easements, the City’s meter and related equipment will be operational and the County’s meter and other equipment will be disconnected and removed from the Robinhood Vault. If the County meter and related equipment is not removed within nine (9) months, the time period will automatically extend an additional six (6) months in order to provide additional time to complete the removal of the County meter and equipment from the Robinhood Vault and installation of the City’s meter and related equipment. Any delays beyond the additional six (6) month extension will require an amendment to this Agreement signed by both parties. The City will disconnect and remove the County’s meter and related equipment in the Robinhood Vault in accordance with the standards and requirements set forth in the Harford County Water and Sewer Code at the City’s expense.

1.6 The City agrees to install and maintain backflow preventers at the City’s expense to prevent any cross mixing of water.

1.7 If the City ever ceases transmitting water to Aberdeen by way of the Robinhood Vault, then the City shall have the right to remove its water meter and related equipment and give possession of the Robinhood Vault back to the County after giving the County sixty (60) days written notice, or the County and the City may enter an agreement for the County to lease the City’s water meter and equipment on terms and conditions mutually agreed in writing by the parties.

1.8 The Parties agree to sign any related documents such as easements, license agreements, or assignments to allow the City to have adequate access to the Robinhood Vault and Utility Easement for the purposes herein expressed.

1.9 Once the City meter and related equipment is installed, the County agrees not to access the Robinhood Vault meter and equipment without first obtaining the express written consent from the City’s Director of Public Works or his designee.

1.10 The County agrees to allow the City to deliver water from the newly installed transmission line along Route 40/Pulaski Highway constructed by the City to the newly installed City water meters in the Robinhood Vault by way of the existing County connection to the Robinhood Vault without any additional installation or consideration. The County may inspect the City’s Robinhood Vault connection to ensure it complies with standards and requirements set forth in the Harford County Water and Sewer Code at the City’s expense.

Article 2. General Provisions

2.1 No Inducement. The undersigned parties declare and represent that no promise, inducement, or agreement not herein expressed has been made by or between the parties hereto and that this Amendment contains the entire agreement between the parties hereto regarding the subject matter described herein, and the terms of this Amendment are contractual and not a mere recital.

2.2 Non-Transferable. This Agreement is not transferable or assignable, in whole or in part. Water purchased pursuant to the terms of this Agreement is for emergency purposes only and may not be sold or distributed to any business, residence, or agency of any kind outside of the City limits of Havre de Grace except for the purposes set forth herein.

2.3 Term. This Agreement shall continue in full force and effect until December 31, 2033 unless City or County terminates this Agreement sooner. This Agreement is renewable thereafter by newly signed agreement of the parties as approved by their respective legislative bodies for successive seven (7) year terms, with each term to conclude on December 31st in the seventh year. After review by the respective parties, each such renewal may be amended as agreed by the Parties and must be separately executed by the respective administrations then in office.

2.4 Termination. This Agreement is not subject to termination as long as the City is providing water to Aberdeen. However, the Agreement is subject to termination by mutual written consent of the parties.

2.5 Notice. Written notice under this Agreement shall be provided by first class US mail, overnight courier or hand delivery as follows:

To the City:
City of Havre de Grace
Director of Department of Public Works
711 Pennington Avenue
Havre de Grace, MD 21078

with a copy to:
Director of Administration
711 Pennington Avenue
Havre de Grace, MD 21078

To the County:

2.6. Dispute Resolution. In the event of a dispute between City and County regarding the interpretation of this Agreement, or the rights and obligations of the parties under this Agreement, including any breach of this Agreement, the parties first shall attempt to resolve the dispute through non-binding mediation. If the parties are unable to resolve the dispute through mediation, then each party may assert any legal or equitable claims in the courts having jurisdiction in Harford County. The costs of any mediation shall be divided equally between the parties, except that each party shall pay its own attorney fees. The parties shall pay their own costs and expenses, including attorney fees, in any judicial proceeding except as otherwise may be taxed or awarded by the court.

2.7. Time is of the Essence. Time is of the essence in this Agreement.

2.8. Subject to Appropriation. Any financial obligations of the parties under this Agreement are subject to budgets and/or appropriation of funds as approved by their respective legislative Councils.

2.9. Effective Date. This Agreement shall become effective upon due execution by the City and County following the adoption of any legislation, ordinances, or resolutions approving this Agreement as may be needed to authorize its execution by the County Executive of Harford County and the Mayor of the City of Havre de Grace, respectively.

2.10. Amendment. This Agreement may only be amended in writing and signed by both Parties. Material amendments may require subsequent approval by the Parties' respective legislative bodies.

2.11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have signed their names and affixed their seals on the day and year first above written.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

FOR MAYOR AND CITY COUNCIL OF HAVRE DE GRACE

Witness/Attest:

MAYOR AND CITY COUNCIL OF
HAVRE DE GRACE

By: _____
William T. Martin, Mayor

Approved as to form and legal
Sufficiency this ____ day of _____,
_____, 2023

Recommended for approval this
____ day of _____, 2023

April Ishak, Esq.
City Attorney

E.J. Millisor
Director of Public Works

Tim Whittie, P.E., City Engineer

STATE OF MARYLAND, COUNT OF HARFORD, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 2023, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared WILLIAM T. MARTIN, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledge himself to be the duly elected Mayor authorized to execute this document on behalf of the Mayor and City Council of Havre de Grace and who, in my presence, signed and sealed the foregoing instrument and acknowledged it to be his act and deed in the capacity therein stated, for the uses and purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My commission expires: _____

FOR HARFORD COUNTY:

Witness/Attest:

HARFORD COUNTY

By: _____
Robert Cassilly, County Executive

Approved as to form and legal
sufficiency this ___ day of _____,
2023

Senior Assistant County Attorney

Director of Public Works

Reviewed and concur this _____
day of _____, 2023

Recommended for approval this _____,
day of _____, 2023

Treasurer

Department of Public Works

STATE OF MARYLAND, COUNT OF HARFORD, TO WIT:

I HEREBY CERTIFY, that on this ___ day of _____, 2023, before me, the
subscriber, a Notary Public of the State aforesaid, personally appeared ROBERT CASSILLY,
known to me (or satisfactorily proven) to be the person whose name is subscribed to the within
instrument, and acknowledge himself to be the duly elected County Executive authorized to
execute this document on behalf of Harford County and who, in my presence, signed and sealed
the foregoing instrument and acknowledged it to be his act and deed in the capacity therein stated,
for the uses and purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My commission expires: _____