

CITY COUNCIL

READ FILE COVER SHEET

Subject: **Ordinance 1129 concerning Approving MOU and Agreement with Harford County regarding Water Meter Vault**
(Public Hearing)

Date: **11/7/2023**

Notice: Any comments made after 5:00 p.m. on the Thursday before the Council Meeting will not be seen in the agenda packet.

- Purpose:
- FYI
 - Read and Comment as Needed**
 - Action Required by November 20, 2023**
 - In Confidential File Drawer

Approve:

Johnny Boker Yes No No Comment
Comment: _____

Casi Boyer Yes No No Comment
Comment: _____

Vicki Jones Yes No No Comment
Comment: _____

Jim Ringsaker Yes No No Comment
Comment: _____

Jason Robertson Yes No No Comment
Comment: _____

Tammy Lynn Schneegas Yes No No Comment
Comment: _____

Note: N/A

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

A Public Hearing is scheduled for November 20, 2023 at 7:00 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.

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33 **WHEREAS**, the City entered into a memorandum of understanding dated January 14,
34 2019, with the City of Aberdeen (“Aberdeen”) to provide potable water to Aberdeen up to a
35 maximum of 900,000 gpd (“Aberdeen Water Agreement”) which provided that each of them
36 would construct certain portions of the water transmission system and related facilities
37 contemplated therein; and
38

39 **WHEREAS**, the facilities and transmission line contemplated under the Aberdeen Water
40 Agreement are near completion and the parties are currently negotiating an Amended and Restated
41 Agreement for Water Purchase updating the Aberdeen Water Agreement (“Amended and Restated
42 Agreement”); and
43

44 **WHEREAS**, Aberdeen previously entered the East Aberdeen Water Service Agreement
45 effective November 3, 2011, with Harford County and the City of Aberdeen for the construction
46 of two (2) master water meter vaults (“Vault Agreement”) which facilitated County distribution of
47 water to certain residents of the City of Aberdeen; and
48

49 **WHEREAS**, to supply water to Aberdeen under the Aberdeen Water Agreement, as
50 amended, the City will need to use one of the two vaults which the County acquired as part of the
51 Vault Agreement with Aberdeen, the particular vault being located near Robinhood Road and
52 referenced herein as the “Robinhood Vault”; and
53

54 **WHEREAS**, because the City requires County approval to access the Robinhood Vault to
55 fulfill its obligations under the Aberdeen Water Agreement, as amended, the City desires to enter
56 into an agreement with the County regarding access to the Robinhood Vault in a form substantially
57 similar as attached hereto as Exhibit 1 (with pertinent exhibits attached thereto) (“Robinhood Vault
58 Agreement”); and
59

60 **NOW THEREFORE**, it is this ____ day of _____ 2023, determined,
61 decided, and ordained by a majority of the City Council members that:
62

- 63 1. The Council approves the Robinhood Vault Agreement with the County, and
- 64 2. The Mayor is authorized to sign the Memorandum of Understanding and Agreement
65 regarding Robinhood Road Master Water Meter Vault in a substantially similar form
66 as attached hereto as Exhibit 1 and
- 67 3. The Mayor is authorized to take such other action needed to execute said agreement
68 making it effective as soon as possible to facilitate the transmission of water to the City
69 of Aberdeen under the Amended and Restated Water Purchase Agreement referenced
70 above.
71

72 The foregoing Ordinance is hereby approved by the City Council.

73
74 ADOPTED by the City Council of Havre de Grace, Maryland this ____ day of _____,
75 2023.

76
77 SIGNED by the Mayor and attested by the Director of Administration this __ day of
78 _____, 2023.

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ATTEST:

MAYOR AND CITY COUNCIL
OF HAVRE DE GRACE

Steve Gamatoria
Director of Administration

William T. Martin
Mayor

Introduced/First Reading: 11/06/2023
Public Hearing:
Second Reading/Adopted:
Effective Date:

Public Hearing

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**

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

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

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

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

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

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

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

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

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

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

44 NOW THEREFORE, the County and City agree as follows:

45 **Article 1. Access to the Robinhood Road Vault**

46 1.1 The County agrees to grant a perpetual easement to the City to access the
47 Robinhood Vault for the purpose of fulfilling the water transmission obligations under the
48 Aberdeen Water Agreement.

49 1.2 The County agrees to grant the City access to the related Utility Easements
50 described above on the terms and conditions set forth herein for the purposes and on the terms
51 expressed in this Agreement for so long as the City supplies water to Aberdeen, and will cooperate
52 with the City in obtaining any necessary approvals from Harford Systems Inc. for the purpose of
53 accessing the utility easements relating to the Robinhood Vault.

54 1.3 The City will prepare the easements referenced in paragraphs 1 and 2 above subject
55 to review and approval of the County (the “Easements”).

56 1.4 The County agrees that pursuant to the Easements, the City has the right to access
57 the Robinhood Vault, including the Utility Easements, and to remove the County water meter and
58 related equipment, and install a City of Havre de Grace meter and other equipment to facilitate the
59 transmission of water to Aberdeen pursuant to the terms of the Aberdeen Water Agreement.

60 1.5 No later than nine (9) months after the execution of the Easements, the City’s meter
61 and related equipment will be operational and the County’s meter and other equipment will be
62 disconnected and removed from the Robinhood Vault. If the County meter and related equipment
63 is not removed within nine (9) months, the time period will automatically extend an additional six
64 (6) months in order to provide additional time to complete the removal of the County meter and
65 equipment from the Robinhood Vault and installation of the City’s meter and related equipment.
66 Any delays beyond the additional six (6) month extension will require an amendment to this
67 Agreement signed by both parties. The City will disconnect and remove the County’s meter and
68 related equipment in the Robinhood Vault in accordance with the standards and requirements set
69 forth in the Harford County Water and Sewer Code at the City’s expense.

70 1.6 The City agrees to install and maintain backflow preventers at the City’s expense
71 to prevent any cross mixing of water.

72 1.7 If the City ever ceases transmitting water to Aberdeen by way of the Robinhood
73 Vault, then the City shall have the right to remove its water meter and related equipment and give
74 possession of the Robinhood Vault back to the County after giving the County sixty (60) days
75 written notice, or the County and the City may enter an agreement for the County to lease the
76 City’s water meter and equipment on terms and conditions mutually agreed in writing by the
77 parties.

78 1.8 The Parties agree to sign any related documents such as easements, license
79 agreements, or assignments to allow the City to have adequate access to the Robinhood Vault and
80 Utility Easement for the purposes herein expressed.

81 1.9 Once the City meter and related equipment is installed, the County agrees not to
82 access the Robinhood Vault meter and equipment without first obtaining the express written
83 consent from the City’s Director of Public Works or his designee.

84 1.10 The County agrees to allow the City to deliver water from the newly installed
85 transmission line along Route 40/Pulaski Highway constructed by the City to the newly installed
86 City water meters in the Robinhood Vault by way of the existing County connection to the
87 Robinhood Vault without any additional installation or consideration. The County may inspect the
88 City’s Robinhood Vault connection to ensure it complies with standards and requirements set forth
89 in the Harford County Water and Sewer Code at the City’s expense.

90 **Article 2. General Provisions**

91 2.1 No Inducement. The undersigned parties declare and represent that no promise,
92 inducement, or agreement not herein expressed has been made by or between the parties hereto
93 and that this Amendment contains the entire agreement between the parties hereto regarding the
94 subject matter described herein, and the terms of this Amendment are contractual and not a mere
95 recital.

96 2.2 Non-Transferable. This Agreement is not transferable or assignable, in whole or in
97 part. Water purchased pursuant to the terms of this Agreement is for emergency purposes only and
98 may not be sold or distributed to any business, residence, or agency of any kind outside of the City
99 limits of Havre de Grace except for the purposes set forth herein.

100 2.3. Term. This Agreement shall continue in full force and effect until December 31,
101 2033 unless City or County terminates this Agreement sooner. This Agreement is renewable
102 thereafter by newly signed agreement of the parties as approved by their respective legislative
103 bodies for successive seven (7) year terms, with each term to conclude on December 31st in the
104 seventh year. After review by the respective parties, each such renewal may be amended as agreed
105 by the Parties and must be separately executed by the respective administrations then in office.

106 2.4. Termination. This Agreement is not subject to termination as long as the City is
107 providing water to Aberdeen. However, the Agreement is subject to termination by mutual written
108 consent of the parties.

109 2.5. Notice. Written notice under this Agreement shall be provided by first class US
110 mail, overnight courier or hand delivery as follows:

111 To the City:
112 City of Havre de Grace
113 Director of Department of Public Works
114 711 Pennington Avenue
115 Havre de Grace, MD 21078
116
117

118 with a copy to:
119 Director of Administration
120 711 Pennington Avenue
121 Havre de Grace, MD 21078

122
123 To the County:
124 _____
125 _____
126 _____
127

128 2.6. Dispute Resolution. In the event of a dispute between City and County regarding
129 the interpretation of this Agreement, or the rights and obligations of the parties under this
130 Agreement, including any breach of this Agreement, the parties first shall attempt to resolve the
131 dispute through non-binding mediation. If the parties are unable to resolve the dispute through
132 mediation, then each party may assert any legal or equitable claims in the courts having jurisdiction
133 in Harford County. The costs of any mediation shall be divided equally between the parties, except
134 that each party shall pay its own attorney fees. The parties shall pay their own costs and expenses,
135 including attorney fees, in any judicial proceeding except as otherwise may be taxed or awarded
136 by the court.

137 2.7. Time is of the Essence. Time is of the essence in this Agreement.

138 2.8. Subject to Appropriation. Any financial obligations of the parties under this
139 Agreement are subject to budgets and/or appropriation of funds as approved by their respective
140 legislative Councils.

141 2.9. Effective Date. This Agreement shall become effective upon due execution by the
142 City and County following the adoption of any legislation, ordinances, or resolutions approving
143 this Agreement as may be needed to authorize its execution by the County Executive of Harford
144 County and the Mayor of the City of Havre de Grace, respectively.

145 2.10. Amendment. This Agreement may only be amended in writing and signed by both
146 Parties. Material amendments may require subsequent approval by the Parties' respective
147 legislative bodies.

148 2.11. Counterparts. This Agreement may be executed in one or more counterparts, each
149 of which shall be deemed an original and all of which shall constitute one and the same document.

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

152 [SIGNATURES TO FOLLOW ON NEXT PAGE]
153
154

155 FOR MAYOR AND CITY COUNCIL OF HAVRE DE GRACE

156

157 Witness/Attest:

MAYOR AND CITY COUNCIL OF
HAVRE DE GRACE

158

159

160 _____

By: _____

161

William T. Martin, Mayor

162

163 Approved as to form and legal

Recommended for approval this

164 Sufficiency this ____ day of

____ day of _____, 2023

165 _____, 2023

166

167 _____

168 April Ishak, Esq.

E.J. Millisor

169 City Attorney

Director of Public Works

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Tim Whittie, P.E., City Engineer

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175 STATE OF MARYLAND, COUNT OF HARFORD, TO WIT:

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

184

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

186

187

Notary Public

My commission expires: _____

188

189

190

191 FOR HARFORD COUNTY:

192 Witness/Attest:

HARFORD COUNTY

193
194 _____

By: _____
Robert Cassilly, County Executive

195
196
197 Approved as to form and legal
198 sufficiency this ___ day of _____,
199 2023

200
201 _____
202 Senior Assistant County Attorney

Director of Public Works

203
204
205 Reviewed and concur this _____
206 day of _____, 2023

Recommended for approval this _____,
day of _____, 2023

207
208
209 _____
210 Treasurer

Department of Public Works

211
212 STATE OF MARYLAND, COUNT OF HARFORD, TO WIT:

213
214 I HEREBY CERTIFY, that on this ___ day of _____, 2023, before me, the
215 subscriber, a Notary Public of the State aforesaid, personally appeared ROBERT CASSILLY,
216 known to me (or satisfactorily proven) to be the person whose name is subscribed to the within
217 instrument, and acknowledge himself to be the duly elected County Executive authorized to
218 execute this document on behalf of Harford County and who, in my presence, signed and sealed
219 the foregoing instrument and acknowledged it to be his act and deed in the capacity therein stated,
220 for the uses and purposes therein contained.

221
222 IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My commission expires: _____