

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165

September 2, 2021

The Board of Directors (the "Board") of Harris County Municipal Utility District No. 165 (the "District") met in regular session, open to the public, on the 2<sup>nd</sup> day of September 2021, at the offices of Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas, outside the boundaries of the District, and the roll was called of the members of the Board:

Alan Bentson	President
David Molina	Vice President
Wayne Green	Secretary
Scott Nilsson	Assistant Secretary
Scott Barr	Assistant Vice President

and all of the above were present except Director Molina, thus constituting a quorum.

Also attending the meeting were Lori Buckner of Myrtle Cruz, Inc.; David Keel and Maurice Mullaly of DAC Services, Inc. ("DAC"); Patty Rodriguez of Bob Leared Interests, Inc. ("BLI"); Donnice Hoffman, Wes Alvey and Chris Hoffman of H2O Consulting, Inc. ("H2O"); Josh Wailes of Mike Stone Associates, Inc. ("MSA"); Angel Ruvulcaba of KGA/DeForest Design, LLC ("KGA"); David Colunga of Taylor Morrison of Texas, Inc. ("Taylor Morrison"); Darrin Fentress of BGE, Inc.; Shamar O'Bryant and Justin Patton of Land Tejas Development Company; Stephen Eustis of Robert W. Baird & Co. Incorporated; and Jessica Holoubek, Brooke Milbauer, and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

PUBLIC COMMENT

Director Bentson offered any members of the public attending the meeting by telephone the opportunity to make public comment. There being no members of the public requesting to make public comment, Director Bentson moved to the next agenda item.

SECURITY REPORT

The Board reviewed a patrol report received from Harris County Constable Precinct 5.

## MINUTES

The Board considered approving the minutes of the August 5, 2021, regular meeting. Following review and discussion, Director Barr moved to approve the minutes presented. Director Green seconded the motion, which passed unanimously.

## TAX ASSESSMENT AND COLLECTIONS MATTERS AND DELINQUENT TAX COLLECTION

Ms. Rodriguez discussed the tax assessor/collector's report and delinquent tax report, copies of which are attached, reviewed the checks presented for payment from the tax account and reported regarding taxes collected to date and delinquent taxes from previous tax years.

Ms. Rodriguez also reviewed a delinquent tax report and the delinquent tax attorney's recommendation for accounts to be notified of the District's intent to disconnect water service due to nonpayment of delinquent taxes.

Following discussion and review of the information provided by the District tax assessor collector, Director Barr moved to (1) accept the tax assessor/collector's report; (2) authorize payment of the bills; and (3) authorize the District operator to give written notification, in accordance with the District's Rate Order, of the District's intent to terminate service for nonpayment of delinquent property taxes. Director Green seconded the motion, which passed unanimously.

## 2021 TAX RATE

The Board considered the District's 2021 tax rate. Ms. Holoubek discussed recent legislative changes to the "truth-in-taxation" property tax calculations and tax levy process for water districts in Chapter 49, Texas Water Code. She stated that such legislation established three main categories for water districts, based on a district's development status and/or tax rate. Ms. Holoubek reviewed the definitions for each of the three categories and said the Board must annually determine the District's category for that tax year and follow the associated notice and levy provisions in the Texas Water Code.

Discussion ensued regarding the District's development status. After fully considering relevant data, information, and statutory definitions, the Board determined that the District is a Developing District for the 2021 tax year.

Mr. Eustis distributed and reviewed a debt service tax rate analysis reflecting the recommendation for the District to levy a 2021 water, sewer, and drainage debt service tax rate of \$0.71 per \$100 of assessed valuation, based on the District's initial 2021 certified value of \$1,744,269,359, plus \$239,908,105 representing uncertified value under

protest. He also reviewed the 2021 certified value for Defined Area No. 1 in the amount of \$42,494,096, plus \$2,522,770 representing uncertified value under protest and a 2021 certified value for Defined Area No. 2 in the amount of \$528,773, plus \$16,532,665 representing uncertified value under protest. Copies of the debt service tax rate analyses for the District and both Defined Area Nos. 1 and 2 are attached. The Board then discussed the District's operation and maintenance tax rate for the District, Defined Area No. 1 and Defined Area No. 2. Ms. Holoubek discussed the two-step process for setting the District's tax rate. Following review and discussion, Director Green moved to: (1) adopt a Resolution Regarding Development Status for 2021 Tax Year establishing the District as a Developing district for the 2021 tax year, pursuant to Section 49.23603, Texas Water Code, and providing that the District will follow the tax notice and calculation procedures provided by Section 49.23602(d), Texas Water Code, and direct that the Resolution be filed appropriately and retained in the District's official records; (2) set the public hearing date for October 7, 2021; and (3) authorize the tax assessor/collector to publish notice in the Cypress Creek Mirror-Cy Fair/Cypress edition of the District's meeting on October 7, 2021, to set the proposed 2021 total tax rate of \$0.95 per \$100 in the District of assessed valuation, with \$0.71 allocated for debt service on water, sewer, and drainage bonds and \$0.24 allocated for operations and maintenance and to levy \$0.55 per \$100 in Defined Area No. 1 for operations and maintenance and \$0.55 per \$100 in Defined Area No. 2 for operations and maintenance and authorize the District tax assessor collector to mail notice to the landowners/residents in Defined Area Nos. 1 and 2. Director Barr seconded the motion, which passed unanimously.

#### RESOLUTION REQUESTING APPRAISAL OF PROPERTY AND CERTIFICATE OF ESTIMATED APPRAISED VALUE

The Board considered adopting Resolutions Requesting Appraisal of Property and Certificate of Estimated Appraised Value in the District, Defined Area No. 1 and Defined Area No. 2 as of September 1, 2021.

Following discussion and review of the information provided by the District tax assessor collector, Director Green moved to approve Resolutions Requesting Appraisal of Property and Certificate of Estimated Appraised Value in the District, Defined Area No. 1 and Defined Area No. 2 as of September 1, 2021. Director Barr seconded the motion, which passed unanimously.

#### AUDIT FOR FISCAL YEAR END SEPTEMBER 30, 2021

Ms. Greenwood next presented to the Board an engagement letter for conducting the District's audit for fiscal year ending September 30, 2021, a copy of which is attached. She stated that the proposed fee for the annual audit is \$27,500. Following review and discussion, Director Barr moved that the Board engage BKD, LLP, to conduct the audit for fiscal year ending September 30, 2021. Director Green seconded the motion, which was approved by unanimous vote.

## FINANCIAL AND BOOKKEEPING MATTERS

Ms. Buckner reviewed the bookkeeper's report. She discussed current public fund investment markets, reviewed the District's investment report, reviewed budget to actual revenues and expenses and variances. Following review and discussion, Director Green moved to (1) accept the bookkeeper's report; (2) authorize payment of the bills, with checks for engineering expenses, payment of pay estimates for construction projects and operating expenses; and (3) approve the budget for the fiscal year ending September 30, 2022. Director Barr seconded the motion, which passed unanimously.

## OPERATION OF DISTRICT FACILITIES

Mr. Hoffman distributed and reviewed a management and operations report, a copy of which is attached.

The Board discussed the District's water accountability for the month of August 2021. Mr. Hoffman reported 15 new residential taps installed during the month of August 2021. He also reviewed routine maintenance and repairs within the District completed and ongoing during the month of August 2021 and requested authorization to repair a water main leak at 7223 Greenwood Point Drive and repour the driveway for an estimated cost of \$6,500.

Discussion ensued regarding storm sewer sinkholes around box culverts in Remington Grove. He said that he is working with DAC to come up with repair options and obtain costs estimates.

Mr. Hoffman next discussed (1) lead and copper sampling at 7118 Village Lake; (2) amendment of Section 182.052 of the Utilities Code requiring government-operated utilities to keep certain customer information confidential unless the customer requests disclosure to third parties; and (3) presented a proposed addendum to the District's operating services agreement with EDP increasing the residential tap fee.

Ms. Hoffman next presented a list of delinquent customers and reported the residents on the termination list were delinquent in payment of their water and sewer bills or taxes and were given written notification, in accordance with the District's Rate Order, prior to the meeting of the opportunity to appear before the Board of Directors to explain, contest, or correct their bills and to show why utility services should not be terminated for reason of non-payment.

Following review and discussion, Director Green moved to (1) approve the District operator's report; (2) authorize repair of a water main leak at 7223 Greenwood Point Drive and repour the driveway for an estimated cost of \$6,500; (3) approve a proposed addendum to the District's operating services agreement with EDP increasing the residential tap fee; and (4) authorize termination of delinquent accounts in accordance with the District's Rate Order, and direct that the delinquent customer list

be filed appropriately and retained in the District's official records. Director Barr seconded the motion, which passed unanimously.

#### STORM WATER QUALITY PERMITS AND OTHER STORM WATER ISSUES

There was no discussion for this agenda item.

#### PARK MAINTENANCE AND PROPOSED ENTRY ON DISTRICT PROPERTY

Mr. Wailes reviewed a park and landscape management report, a copy of which is attached and reviewed the following proposals:

1. Proposal for common control wire for park security cameras for an estimated cost of \$800;
2. Proposal to replace fall surface in Cypress Springs Park for an estimated cost of \$7,821;
3. Proposal to replace fall surface in Tealbrook Park for an estimated cost of \$3,131;
4. Proposal to replace fall surface in Remington Grove Park for an estimated cost of \$6,635;
5. Proposal to make irrigation repairs in all parks for an estimated cost of \$3,135;
6. Proposal for tree maintenance in all parks for an estimated cost of \$2,610; and
7. Proposal to make electrical repairs in all parks for an estimated cost of \$1,235.25.

Following review and discussion, Director Barr moved to (1) approve the park and landscape management report; and (2) approve all of the proposals, as recommended by MSA. Director Green seconded the motion, which passed unanimously.

#### KGA/DEFOREST DESIGN, LLC REPORT

Mr. Ruvulcaba reviewed a landscape architect report from KGA, a copy of which is attached.

Mr. Ruvulcaba stated that bids were received for construction of Miramesa South Phase 2 Landscape Improvements and recommended that the Board award the contract to Triple E. Landscapes ("Triple E") in the amount of \$175,217. The Board concurred that, in its judgment, Triple E was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Ruvulcaba next reviewed the plans and specifications and requested the Board authorize him to advertise for bids for the construction of the Bridge Creek Section 5 Landscape Improvements.

Mr. Ruvulcaba then discussed the status of construction of the Bridge Creek Recreation Center Facility and recommended that the Board approve Pay Application No. 8 in the amount of \$243,388.73 and Pay Application No. 9 in the amount of \$7,378.66, both payable to Millis Development ("Millis") and Change Order No.3 to the contract with Millis to increase the contract in the amount of \$3,340. The Board determined that Change Order No. 3 is beneficial to the District.

Mr. Ruvulcaba updated the Board regarding construction of Bridge Creek Sections 2 and 3 Landscape Improvements and reviewed and recommended approval of Pay Estimate No. 2 in the amount of \$62,255.89, payable to Terry's Landscape.

After review and discussion, Director Barr moved to (1) accept the landscape architect report from KGA; (2) award the contract for construction of construction of Miramesa South Phase 2 Landscape Improvements to Triple E in the amount of \$175,217, based upon the KGA's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (3) approve the plans and specifications and to authorize the engineer to advertise for bids for the Bridge Creek Section 5 Landscape Improvements; (4) approve Pay Application No. 8 in the amount of \$243,388.73 and Pay Application No. 9 in the amount of \$7,378.66, both payable to Millis for construction of the Bridge Creek Recreation Center Facility; (5) approve Change Order No. 3 in the amount of \$3,340 as an increase to the contract with Millis, based upon the Board's finding that the Change Order is beneficial to the District and KGA's recommendation; and (6) approve Pay Estimate No. 2 in the amount of \$62,255.89, payable to Terry's Landscape for construction of Bridge Creek Sections 2 and 3 Landscape Improvements. Director Nilsson seconded the motion, which carried unanimously.

#### SWA GROUP REPORT

There was no discussion for this agenda item.

#### ENGINEERING MATTERS

Mr. Mulally discussed the engineer's report, a copy of which is attached, and reviewed the status of construction projects in the District.

Mr. Mullaly plans for facilities to serve Marvida Section 21 and requested authorization to design Marvida, Section 21.

Mr. Mulally stated that bids were received for construction of water, sewer and drainage to serve Marvida Section, 13 and recommended that the Board award the contract to Texasite, LLC ("Texasite") in the amount of \$1,523,677.80. The Board concurred that, in its judgment, Texasite was a responsible bidder who would be most

advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for construction of water, sewer and drainage to serve Marvida, Section 18 and recommended that the Board award the contract to Principal Services in the amount of \$1,101,635.24. The Board concurred that, in its judgment, Principal Services was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for construction of water, sewer, drainage and paving to serve Marvida, Section 19 and recommended that the Board award the contract to Principal Services in the amount of \$1,531,980.45. The Board concurred that, in its judgment, Principal Services was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for Longenbaugh Road Dedication and Reserves and recommended that the Board award the contract to Fellers & Clark in the amount of \$2,184,500. The Board concurred that, in its judgment, Fellers & Clark was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for Marvida Terrace Drive, Section 2 drainage and paving and recommended that the Board award the contract to Fellers & Clark in the amount of \$3,227,000. The Board concurred that, in its judgment, Fellers & Clark was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for construction of water, sewer and drainage to serve Marvida, Section 9 and recommended that the Board award the contract to Beyer Construction ("Beyer") in the amount of \$1,514,450.25. The Board concurred that, in its judgment, Beyer was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for construction of water, sewer and drainage to serve Marvida, Section 12 and recommended that the Board award the contract to Fellers & Clark in the amount of \$1,322,000. The Board concurred that, in its judgment, Fellers & Clark was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for installation of generators at lift station nos. 6, 8 and 9 and recommended that the Board award the contract to

McDonald Municipal & Industrial ("McDonald") in the amount of \$308,469. The Board concurred that, in its judgment, McDonald was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally stated that bids were received for construction of a force main from wastewater treatment plant no. 2 to the lift station and recommended that the Board award the contract to Sequeira Civil Construction ("Sequeira") in the amount of \$444,469. The Board concurred that, in its judgment, McDonald was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project.

Mr. Mulally reported the status of the following projects, and presented the following pay applications and change orders:

1. Water Plant No. 5: Pay Estimate No. 12 in the amount of \$437,231.19, payable to Long & Sons;
2. Waterline to serve Water Plant No. 5; Pay Estimate No. 4 in the amount of \$93,303.14, payable to Macer Express; and Change Order No. 2 increasing the contract in the amount of \$35,070.99;
3. Expansion of wastewater treatment plant no. 1; Pay Estimate No. 10 in the amount of \$471,869.89, payable to R.P. Constructors; and Change Order No. 2 increasing the contract in the amount of \$74,419;
4. Wastewater treatment plant no. 2; Pay Estimate No. 8 in the amount of \$313,460.45, payable to ALLCO, LLC ("ALLCO");
5. Lift station to serve wastewater treatment plant no. 2; Pay Estimate No. 7 in the amount of \$197,715.52, payable to ALLCO;
6. Marvida, Sections 2 and 3; Change Order No. 1 increasing the contract with Bay Utilities in the amount of \$14,105.13;
7. Marvida, Sections 4 and 5; Pay Estimate No. 3 in the amount of \$291,396.78, payable to Bay Utilities;
8. Marvida, Sections 6 and 7; Change Order No. 2 increasing the contract with Park Construction in the amount of \$37,836.77;
9. Marvida Lift Station No. 1; Pay Estimate No. 1 in the amount of \$110,713.50 and Pay Estimate No. 2 in the amount of \$42,768, both payable to Reddico Construction; and Change Order No. 1 increasing the contract in the amount of \$7,455.80;
10. Marvida Drainage Phase I Grading; Pay Estimate No. 11 in the amount of \$40,446.49, payable to Paskey Incorporated ("Paskey");
11. Marvida Drainage Phase I; Pay Estimate No. 8 in the amount of \$52,946.04, payable to Paskey;
12. West Road Section 2 and Morrison Grove Drive Phase 1, water, sewer and drainage; Pay Estimate No. 5 in the amount of \$53,542, payable to Bay



- Utilities; and Change Order No. 2 decreasing the contract in the amount of \$1,098,52;
13. Westgreen, Section 6 water, sewer and drainage; Pay Estimate No. 3 in the amount of \$428,593.08, payable to Clearwater Utilities;
  14. Westgreen, Section 6 paving; Change Order No. 1 increasing the contract with Allgood Construction ("Allgood") in the amount of \$308,198.82;
  15. Traffic signal at Morrison Grove and Fry Road; Pay estimate No. 5 in the amount of \$31,288.66, payable to Traf-Tex, Inc.;
  16. Morrison Grove Drive Phase I paving; Pay Estimate No. 3 in the amount of \$220,446, payable to Beyer;
  17. West Road from Highway 99 to Mason Road Drainage; Pay Estimate No. 2 in the amount of \$240,156.36, payable to Hurtado Construction ("Hurtado");
  18. West Road to Highway 99 to Mason Road Paving; Pay Estimate No. 2 in the amount of \$123,333.27, payable to Hurtado;
  19. Mason Road Phase 1 Drainage; Change Order No. 1 increasing the contract with D.L. Elliott Enterprises in the amount of \$2,375.40;
  20. Avalon at Bridge Creek Ultimate Channel; Pay Estimate 3 in the amount of \$279,205.45, payable to Allgood Construction; and Change Order No. 1 increasing the contract with Allgood in the amount of \$100,044;
  21. Avalon at Cypress Section 1 water, sewer and drainage; Pay Estimate No. 1 in the amount of \$303,883.20, payable to R Construction Civil; and Change Order No. 1 increasing the contract in the amount of \$118,637.96;
  22. 4,000 linear feet mat installation; Pay Estimate No. 2 and Final in the amount of \$170,691, payable to Blue Sky Right of Way, LLC; and
  23. Longenbaugh Road Dedication and Reserves water, sewer and drainage; Change Order No. 1 decreasing the contract amount with Fellers & Clark in the amount of \$78,793.

The Board concurred that the change orders listed above are beneficial to the District.

Following review and discussion, Director Green moved to (1) approve the engineering report; (2) based upon the recommendation of Jones & Carter, Inc. ("J&C"), BGE, Inc. ("BGE") and DAC, approve pay estimates listed above; (3) approve the change orders listed above based upon the Board's finding that the change orders are beneficial to the District and the engineer's recommendation; (4) authorize design of facilities to serve Marvida Section 21; (5) award the contract for construction of water, sewer and drainage to serve Marvida Section, 13 to Texasite in the amount of \$1,523,677.80, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (6) award the contract for construction of water, sewer and drainage to serve Marvida, Section 18 to Principal Services in the amount of \$1,101,635.24, based upon the engineer's recommendation

and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (7) award the contract for construction of water, sewer, drainage and paving to serve Marvida, Section 19 to Principal Services in the amount of \$1,531,980.45, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (8) award the contract for Longenbaugh Road Dedication and Reserves water, sewer and drainage to Fellers & Clark, in the amount of \$2,184,500, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (9) award the contract for Marvida Terrace Drive, Section 2 drainage and paving to Fellers & Clark, in the amount of \$3,227,000, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (10) award the contract for construction of water, sewer, drainage and paving in Marvida, Section 9 to Beyer, in the amount of \$1,514,450.25, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (11) award the contract for construction of water, sewer and drainage to serve Marvida, Section 12 to Fellers & Clark, in the amount of \$1,322,000, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; (12) award the contract for installation of generators at lift station nos. 6, 8 and 9 to McDonald, in the amount of \$308,469, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor; and (13) award the contract for construction of a force main from wastewater treatment plant no. 2 to the lift station to Sequeira, in the amount of \$444,469, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor. Director Barr seconded the motion, which passed by unanimous vote.

#### DISTRICT ADMINISTRATIVE BUILDING

There was no discussion for this agenda item.

#### DEEDS, EASEMENTS, ENCROACHMENTS AND OTHER RIGHT-OF-WAY CROSSINGS

There was no discussion for this agenda item.

DEVELOPMENT IN THE DISTRICT

Mr. Patton and Mr. Colunga discussed plans for development of property in the District.

Ms. Holoubek reviewed a proposed Development Financing Agreement with Gehan Homes. Following review and discussion, Director Green moved to approve the proposed financing agreement. The motion was seconded by Director Barr and passed unanimously.

GARBAGE/RECYCLING COLLECTION SERVICES

There was no discussion for this agenda item.

DISTRICT WEBSITE

There was no discussion for this agenda item.

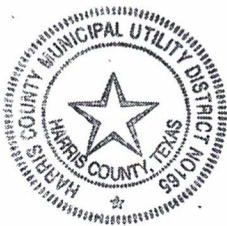
WEST HARRIS COUNTY REGIONAL WATER AUTHORITY

There was no discussion for this agenda item.

EXECUTIVE SESSIONS PURSUANT TO SECTION 551.072 and 551.071 TEXAS GOVERNMENT CODE

The Board determined that it was not necessary to convene in executive session.

There being no additional business to consider, the meeting was adjourned.



*ASST*   
Secretary, Board of Directors

LIST OF ATTACHMENTS TO MINUTES

Minutes  
Page

tax assessor/collector’s report and delinquent tax report .....2  
Auditor engagement letter .....3  
Management and operations report.....4  
park and landscape management report.....5  
landscape architect report.....5  
Engineer’s report.....6