

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165

October 7, 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 7<sup>th</sup> day of October 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 Green, thus constituting a quorum.

Also attending the meeting either in person or by telephone 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"); David Colunga of Taylor Morrison of Texas, Inc. ("Taylor Morrison"); Darrin Fentress of BGE, Inc.; Angel Ruvulcaba of KGA/DeForest Design, LLC; Justin Patton of Land Tejas Development Company; Stephen Eustis of Robert W. Baird & Co. Incorporated; Sherri Greenwood of BKD, Inc.; Robert Oliver of SWA Group; 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.

The Board and meeting attendees observed a moment of silence in respect of the recent loss of Director Barr's son. Following a brief pause, Ms. Holoubek thanked Director Barr for his contribution to the utility district industry and noted that his personal loss is a loss also deeply felt by and among his industry peers.

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 September 2, 2021, regular meeting. Following review and discussion, Director Molina moved to approve the minutes presented. Director Barr seconded the motion, which passed unanimously.

## FINANCIAL ADVISOR REPORT

Mr. Eustis reviewed a potential, future refunding bond issue to partially refund the District's Series 2014A, Series 2014B and Series 2014 Unlimited Tax Bonds.

Mr. Eustis then reviewed an underwriter selection sheet and recommended that the Board designate Samco Capital Markets ("Samco") as the underwriter for the proposed refunding bond issue.

After review and discussion of costs and potential savings, Director Molina moved to authorize the District's financial advisor to (1) prepare a Preliminary Official Statement; (2) select Samco as the underwriter for the District's proposed future refunding bonds; and (3) take other steps necessary to prepare for the refunding. Director Nilsson seconded the motion, which passed unanimously.

## 2021 TAX RATE

The Board considered the District's 2021 tax rate. Ms. Rodriguez stated that notice was (1) published of the public hearing to be held at today's meeting regarding adoption of the District's proposed 2021 total tax rate of \$0.95; (2) mailed to all taxpayers in Defined Area No. 1 of the public hearing to be held at today's meeting regarding adoption of the District's proposed 2021 total tax rate of \$0.55; and (3) mailed to all taxpayers in Defined Area No. 2 of the public hearing to be held at today's meeting regarding adoption of the District's proposed 2021 total tax rate of \$0.55.

Director Bentson opened the public hearing. There being no comments from the public, Director Bentson closed the public hearing.

Ms. Holoubek presented (1) an Order Levying Taxes reflecting the proposed 2021 tax rate for the District; (2) an Order Levying Taxes reflecting the proposed 2021 tax rate in Defined Area No. 1; and (3) an Order Levying Taxes reflecting the proposed 2021 tax rate in Defined Area No. 2. She then presented an Amendment to Information Form reflecting the tax rate and stated that the Amendment will be filed with the Texas



Commission on Environmental Quality and recorded in the Official Public Records of Harris County.

After review and discussion, Director Molina moved to: (1) adopt an Order Levying Taxes reflecting a total 2021 tax rate of \$0.95 per \$100 of assessed valuation, comprised of \$0.71 to pay debt service on water, sewer, and drainage bonds and \$0.24 for operations and maintenance; (2) adopt an Order Levying Taxes for Defined Area No. 1 reflecting a total 2021 tax rate of \$0.55 for road debt service; (3) adopt an Order Levying Taxes for Defined Area No. 2 reflecting a total 2021 tax rate of \$0.55 for operations and maintenance; (4) authorize execution of the Amendment to Information Form; and (5) direct that the Orders and Amendment be filed appropriately and retained in the District's official records. Director Barr seconded the motion, which passed by unanimous vote.

#### SUPPLEMENTAL REIMBURSEMENT REPORT FOR BOND ANTICIPATION NOTE SERIES 2021 ("BAN")

Ms. Greenwood reviewed a draft of a supplemental developer reimbursement audit setting forth the amounts to be reimbursed to Cypress 856, Ltd. After review and discussion, Director Molina moved to approve the supplemental developer reimbursement report and authorize developer reimbursement subject to receipt of a signed receipt by the developer receiving funds and confirmation of completion and acceptance of facilities from the District engineer. Director Barr seconded the motion. Followed by a roll call vote, the motion passed unanimously with all Directors voting in favor of the motion.

#### 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.

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

#### 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 Molina moved to (1) accept the bookkeeper's report; (2) authorize payment of the bills, including handwritten check no. 2350 in the amount of \$23,609.26, payable to Republic Masonry & Fencing, LLC; and (3) authorize the District bookkeeper to void check no. 2349, payable to Long & Son, Inc. 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 September 2021. Mr. Hoffman reported 21 new residential taps installed during the month of September 2021. He also reviewed routine maintenance and repairs within the District completed and ongoing during the month of September 2021.

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.

Mr. Hoffman also reviewed 2 customer appeals.

Following review and discussion, Director Molina moved to (1) approve the District operator's report; (2) authorize the District operator to offer a leak adjustment to customers submitting an appeal; and (3) 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.

Following review and discussion, Director Molina moved to approve the park and landscape management report. Director Barr 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 first discussed plans for landscape improvements in Marvida Section 12 and presented a proposal for design of same.

Mr. Ruvulcaba updated the Board regarding construction of Bridge Creek Recreation Center Facility and recommended approval of Pay Estimate No. 10 in the amount of \$509.40 payable to Millis Development LLC ("Millis").

Mr. Ruvulcaba next Bridge Creek Sections 2 and 3 Landscape Improvements and recommended approval of Pay Estimate No. 3 in the amount of \$41,318.52, payable to Terry's Landscape.

After review and discussion, Director Molina moved to (1) accept the landscape architect report from KGA; (2) approve a proposal for design of landscape improvements in Marvida, Section 12; (3) approve Pay Application No. 10, payable to Millis in the amount of \$509.40, for construction of the Bridge Creek Recreation Center Facility; (4) approve Pay Estimate No. 3 in the amount of \$41,318.52, payable to Terry's Landscape for construction of Bridge Creek Sections 2 and 3 Landscape Improvements. Director Barr seconded the motion, which carried unanimously.

## SWA GROUP REPORT

Mr. Oliver stated that bids were received for construction of West and Mason Road landscape improvements and recommended that the Board award the contract to Earthcare Management ("Earthcare") in the amount of \$472,223.37. The Board concurred that, in its judgment, Earthcare 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. Following review and discussion, Director Molina moved to award the contract for construction of West and Mason Road landscape improvements to Earthcare in the amount of \$472,223.37, based upon SWA'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.

## ENGINEERING MATTERS

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

Mr. Mullaly discussed plans for facilities to serve Marvida Sections 22, 23 and 24 and requested authorization to design those sections.

Mr. Mullaly stated that bids were received for construction of water, sewer, drainage and paving to serve Bridge Creek Terrace Drive, Section 3 and recommended that the Board award the contract to Fellers & Clark ("Fellers") in the amount of \$2,446,000. The Board concurred that, in its judgment, Fellers 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. Mullaly stated that bids were received for construction of paving to serve Marvida, Section 12 and recommended that the Board award the contract to Durwood Greene ("Durwood") in the amount of \$949,807.50. The Board concurred that, in its judgment, Durwood 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. Mullaly stated that bids were received for construction of paving to serve Marvida, Section 13 and recommended that the Board award the contract to Durwood in the amount of \$1,272,690.50. The Board concurred that, in its judgment, Durwood 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. Mullaly stated that bids were received for construction of water, sewer and drainage to serve Marvida, Section 14 and recommended that the Board award the contract to Texasite, LLC ("Texasite") in the amount of \$1,272,287.32. 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. Mullaly stated that bids were received for water, sewer, drainage and paving to serve Marvida, Section 15 and recommended that the Board award the contract to Gonzalez Construction Enterprise ("Gonzalez") in the amount of \$2,169,928.86. The Board concurred that, in its judgment, Gonzalez 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. Mullaly stated that bids were received for paving to serve Marvida, Section 18 and recommended that the Board award the contract to Beyer Construction ("Beyer") in the amount of \$724,832.45. 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. Mullaly reported the status of the following projects, and presented the following pay applications and change orders:



1. Water Plant No. 2 Fence Replacement; Pay Estimate No. 2 in the amount of 23,609.26, payable to Republic Masonry & Fencing, LLC;
2. Water Plant No. 5: Pay Estimate No. 13 in the amount of \$101,863.75, payable to Long & Sons;
3. Waterline to serve Water Plant No. 5; Pay Estimate No. 5 in the amount of \$25,968.64, payable to Macer Express; and Change Order No. 3 increasing the contract in the amount of \$5,000;
4. Expansion of wastewater treatment plant no. 1; Pay Estimate No. 11 in the amount of \$448,078.47, payable to R.P. Constructors;
5. Wastewater treatment plant no. 2; Pay Estimate No. 9 in the amount of \$102,011.90, payable to ALLCO, LLC ("ALLCO");
6. Lift station to serve wastewater treatment plant no. 2; Pay Estimate No. 8 in the amount of \$70,072.48, payable to ALLCO;
7. Marvida, Sections 2 and 3; Pay Estimate No. 4 in the amount of \$30,381.25, payable to Bay Utilities;
8. Marvida, Sections 6 and 7; Pay Estimate No. 4 in the amount of \$29,804.58 and Pay Estimate No. 5 in the amount of \$245,305.71, both payable to Park Construction;
9. Marvida Drainage Phase I Grading; Pay Estimate No. 12 in the amount of \$243,322.78, payable to Paskey Incorporated;
10. Marvida Drainage Phase I; Pay Estimate No. 9 in the amount of \$152,869.27, payable to Paskey Incorporated;
11. West Road Section 1 Conspan; Pay Estimate No. 2 in the amount of \$131,175 and Pay Estimate No. 3 in the amount of \$190,350, both payable to John Reed & Co.;
12. West Road Section 2 Paving; Pay Estimate No. \$65,610, payable to Lindsey Construction;
13. Mason Road Phase 1 Paving; Pay Estimate No. 1 in the amount of \$188,498.20, payable to Unitas Construction;
14. Avalon at Bridge Creek Ultimate Channel; Pay Estimate 4 in the amount of \$65,772.90, payable to Allgood Construction;
15. Avalon at Cypress Section 1 water, sewer and drainage; Pay Estimate No. 2 in the amount of \$858,553.29, payable to R Construction Civil;
16. Avalon at Cypress Section 3, water, sewer and drainage; Pay Estimate No. 1 in the amount of \$40,296.15, payable to Unitas Construction;
17. Avalon at Cypress Section 4, water, sewer and drainage; Pay Estimate No. 1 in the amount of \$624,545.10, payable to Crotex Construction; and
18. Lift Station No. 16; Pay Estimate No. 1 in the amount of \$16,081.74, payable to Sequiera Civil Construction.

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



Mr. Mullaly next discussed a request from Army Business, LLC for a commitment for water and wastewater service capacity to serve a retail development at the corner of Greenhouse Road and Longenbaugh Road.

Mr. Mullaly also reviewed a request from AHS Residential for water and wastewater capacity to serve a multifamily development. Ms. Holoubek said that the property owner has agreed to advance the funds necessary to oversize the lift station and force main and recommended that the Board authorize a notice of capacity availability only, provided that the owner builds the facilities necessary to serve the site.

Ms. Holoubek next reviewed a Resolution Authorizing Application to the TCEQ for Use of Surplus Funds in the amount of \$398,459 to finance the construction of certain Lift Station SCADA system updates.

Mr. Mullaly next reviewed a proposed Maintenance Agreement for Avalon at Cypress Channel Crossing wherein the District agrees to maintain water, sewer and drainage facilities within Harris County (the "County") right of way.

Following review and discussion, Director Molina 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 Sections 22, 23 and 24; (5) award the contract for construction of water, sewer and drainage to serve Bridge Creek Terrace Drive, Section 3 to Fellers in the amount of \$2,446,000, 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; (6) award the contract for construction of paving to serve Marvida, Section 12 in the amount of \$949,807.50 to Durwood, 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 paving to serve Marvida, Section 13 to Durwood in the amount of \$1,272,690.50, 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 construction of water, sewer and drainage to serve Marvida, Section 14 to Texasite in the amount of \$1,272,287.32, 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 water, sewer, drainage and paving to serve Marvida, Section 15 to Gonzalez Construction Enterprise ("Gonzalez") in the amount of \$2,169,928.86, 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 18 to Beyer, in the amount of \$724,832.45, 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; (11) approve a commitment of capacity to Army Business, LLC to serve a retail development; (12) authorize the District engineer to provide a notice of capacity availability to AHS Residential contingent upon the construction of facilities necessary to serve the tract; (13) approve a Resolution Authorizing Application to the TCEQ for Use of Surplus Funds; and (14) approve a Maintenance Agreement for Avalon at Cypress Channel Crossing. Director Nilsson 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

The Board considered accepting the following conveyances to the District:

1. Drainage Easement (0.0551 Acre) from 99 West 570 Partners, LLC (as to a 44% undivided interest), Terra Prima, Ltd. (as to a 20% undivided interest), Blossom Development, Inc. (as to a 21% undivided interest), and Silvestri Investments of Florida, Inc. (as to a 15% undivided interest), collectively;
2. Drainage Easement (0.0489 Acre) from WLH Communities-Texas LLC;
3. Sanitary Sewer Easement (0.0081 Acre; 0.0081 Acre; 0.0082 Acre; 0.0084 Acre; 0.0747 Acre; 0.0831 Acre; 0.3039 Acre) from WLH Communities-Texas LLC;
4. Water Line Easement (0.0093 Acre; 0.0120 Acre; 0.0133 Acre; 0.0141 Acre; 0.0141 Acre; 0.0160 Acre; 0.0688 Acre; 0.0735 Acre; 0.0764 Acre; 0.0867 Acre; 0.1042 Acre; 0.1387 Acre) from WLH Communities-Texas LLC; and
5. Storm Sewer Easement (0.0282 Acre; 0.0304 Acre; 0.0318 Acre; 0.0436 Acre; 0.2628 Acre; 0.6041 Acre) from WLH Communities-Texas LLC.

The Board also considered approval a proposal from DAC engineering for an environmental survey for a proposed 2.932-acre park site in Bridge Creek.

Following review and discussion, Director Molina moved to accept the conveyances and approve the proposal from DAC. Director Barr seconded the motion, which passed unanimously.

#### DEVELOPMENT IN THE DISTRICT

Mr. Colunga and Mr. Mullaly discussed development in the District.

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 SESSION PURSUANT TO SECTION 551.072 and 551.071 TEXAS GOVERNMENT CODE

The Board determined that it was not necessary to convene in executive session pursuant to Section 551.072, Texas Government Code.

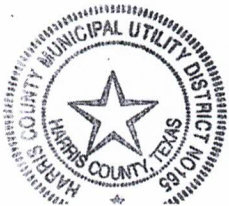
EXECUTIVE SESSION PURSUANT TO SECTION 551.071 TEXAS GOVERNMENT CODE

At 8:07 p.m., Director Bentson announced the Board would convene in executive session to conduct a private consultation with attorney to discuss pending or contemplated litigation, or a settlement offer. Ms. Holoubek, Ms. Milbauer and Ms. Miller were also present during executive session.

RECONVENE IN OPEN SESSION

The Board reconvened in open session at 8:11 p.m. Following discussion, Director Molina moved to (1) adopt the Resolution reflecting: (i) approval of the public notice provided pursuant to Section 2254.1036, Texas Government Code; (ii) adoption of the findings and determinations provided in the public notice as the findings and determinations of the Board; (iii) the Board's findings that the contents of the public notice and the timing and manner of the provision of the notice are in full compliance with Subchapter C, Chapter 2254, Texas Government Code; (iv) the Board's finding that ABHR is a well-qualified law firm on the basis of demonstrated competence, qualifications, and experience; and (v) approval of the contract with ABHR for general counsel and bond counsel legal services; and (2) direct that the Resolution and the contract be filed appropriately and retained in the District's official records. Director Barr seconded the motion, which passed by unanimous vote.

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







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Secretary, Board of Directors

LIST OF ATTACHMENTS TO MINUTES

Minutes  
Page

tax assessor/collector's report and delinquent tax report .....	3
Management and operations report.....	4
park and landscape management report.....	4
landscape architect report.....	5
Engineer's report.....	5