

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165

November 4, 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 4<sup>th</sup> day of November 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, 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 and Daniel Whitton 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; Chett Wignall of Pulte Homes of Texas, LP; 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. 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 October 7, 2021, regular meeting. Following review and discussion, Director Molina moved to approve the minutes presented. Director Barr seconded the motion, which passed unanimously.

### SERIES 2021 UNLIMITED TAX REFUNDING BONDS

Mr. Eustis reviewed the draft Preliminary Official Statement for the District's proposed Series 2021 Refunding Bonds (the "Refunding Bonds").

Ms. Holoubek reviewed a Resolution Authorizing the Issuance of the District's Refunding Bonds.

Ms. Holoubek reviewed the Paying Agent/Registrar Agreement with the Board.

The Board next considered authorizing the Board of Directors to sign all the documents relating to the bond sale and to authorize the attorney and the financial advisor to take all necessary steps to deliver the bonds to the purchaser.

The Board next reviewed a Certificate Regarding Provision of Financial Advice confirming that the Board has relied solely upon the advice of Robert W. Baird & Co. concerning the issuance of the Refunding Bonds and investments of proceeds of the Bonds.

Ms. Holoubek also reviewed an engagement letter with Robert Thomas CPA, LLC to act as the verification agent for the District's proposed Refunding Bonds. She also reviewed an engagement letter with Causey, Demgen & Moore, PC to act as the bidding agent for the Refunding Bonds.

Following review and discussion, Director Molina moved to (1) to approve the Preliminary Official Statement, subject to final revisions; (2) adopt the Resolution Authorizing the Issuance of the District's Series 2021 Refunding Bonds for a maximum par amount not to exceed \$11,500,000; (3) appoint Zions Bancorporation, National Association as the Paying Agent/Registrar Agreement; (4) authorize Director Bentson to act as the District's authorized representative to approve the sale of the refunding bonds, subject to a minimum net present value savings of 4%, and to select the maturities or series of the District's outstanding bonds to be refunded and to perform any actions needed to effect the sale of the Refunding Bonds, including the execution of the Bond Purchase Agreement and any other necessary documents; (5) approve the Certificate Regarding Provision of Financial Advice; (6) engage Robert Thomas CPA, LLC as the District's verification agent for the proposed Refunding Bonds; and (7) approve an engagement letter with Causey, Demgen & Moore, PC to act as the District's bidding agent for the proposed Refunding Bonds. Director Barr seconded the motion, which passed unanimously.

SERIES 2021 UNLIMITED TAX ROAD BONDS (DEFINED AREA NO. 1)

Mr. Keel updated the Board regarding a proposed road bond issue for Defined Area No. 1. Following discussion, the Board concurred to table discussion until additional projects are completed and costs are incorporated into the summary of costs.

Ms. Holoubek stated the District needs to authorize the auditor to proceed with the reimbursement report and presented an engagement letter from BKD, LLP. After review and discussion, Director Molina moved to (1) authorize preparation of a Preliminary Official Statement and Notice of Sale; and (2) engage BKD, LLP to prepare a reimbursement report. The motion was seconded by Director Barr and 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.

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 an aerial map of the District for an amount not to exceed \$1,100. Director Barr seconded the motion, which passed unanimously.

HARRIS COUNTY APPRAISAL DISTRICT BOARD ELECTION

The Board next considered casting its ballot for the election of a person to the Harris County Appraisal District Board. Following review and discussion, Director Molina moved to cast the District's ballot for Charles Brandman. The motion was seconded by Director Barr and 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; and (2) authorize payment of the bills. Director Barr seconded the motion, which passed unanimously.

## ANNUAL REVIEW OF INVESTMENT POLICY

Ms. Holoubek discussed a requirement to annually review the District's Investment Policy to comply with the Public Funds Investment Act, Chapter 2256, Texas Government Code ("PFIA"). Ms. Holoubek said neither ABHR nor the District bookkeeper is recommending any changes at this time and reviewed a Resolution Regarding Annual Review of the Investment Policy. Following review and discussion, Director Molina moved to approve a Resolution Regarding Annual Review of the Investment Policy. Director Barr seconded the motion, which unanimously.

## AUTHORIZED DEPOSITORY INSTITUTIONS AND QUALIFIED BROKER/DEALERS

Ms. Holoubek next discussed a requirement of the PFIA, to annually review, revise and adopt a list of qualified broker/dealers with whom the District may engage in investment transactions. She reviewed a Resolution Establishing the Authorized Depository Institutions and Adopting List of Qualified Broker/Dealers with Whom the District May Engage in Investment Transactions. Following review and discussion, Director Molina moved to approve a Resolution Establishing the Authorized Depository Institutions and Adopting List of Qualified Broker/Dealers with Whom the District May Engage in Investment Transactions. 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 October 2021. Mr. Hoffman reported 28 new residential taps installed during the month of October 2021. He also reviewed routine maintenance and repairs within the District completed and ongoing during the month of October 2021 and requested authorization to repair lift pump no. 2 at lift station no. 10 for an estimated cost of \$5,604.

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 Molina moved to (1) approve the District operator's report; (2) approve repair of lift pump no. 2 at lift station no. 10 for an amount not to exceed \$5,604; 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, and recommended that the Board authorize (1) repair of irrigation in Cypress Springs Park for an estimated cost of \$970; and (2) replacement of irrigation heads in Tealbrook Park for an estimated cost of \$200.

Following review and discussion, Director Molina moved to approve the park and landscape management report and authorize repairs, as recommended. 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 discussed the status of design of Marvida Phase I landscape improvements and requested authorization to advertise for bids for same.

Mr. Ruvulcaba next Bridge Creek Sections 2 and 3 Landscape Improvements and recommended approval of Pay Estimate No. 4 in the amount of \$4,085.78, payable to Terry's Landscape.

After review and discussion, Director Molina moved to (1) accept the landscape architect report from KGA; (2) authorize KGA to advertise for bids for construction of Marvida Phase I landscape improvements; and (3) approve Pay Estimate No. 4 in the amount of \$4,085.78, 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 Avalon at Cypress West Channel Softscape and recommended that the Board award the contract to Earthfirst Landscapes, LLC ("Earthfirst") in the amount of \$806,120. The Board concurred that, in its judgment, Earthfirst 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. Oliver also discussed plans for Avalon at Cypress Recreation Center - Public and requested authorization to design same.

Following review and discussion, Director Molina moved to (1) award the contract for construction of Avalon at Cypress West Channel Softscape to Earthfirst in the amount of \$806,120, 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; and (2) authorize design of Avalon at Cypress Recreation Center - Public. 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 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.

Mr. Mullaly discussed the status of design of the following projects and requested authorization to advertise for bids for construction of:

1. Detention and Drainage to serve the southwest corner of Fry Road and Longenbaugh Road (GIRO Realty); and
2. Remington Grove Stormwater Box Culvert Repair.

Mr. Mullaly stated that bids were received for construction of Bridge Creek Langham Creek Crossing and recommended that the Board award the contract to Earth Builders in the amount of \$1,362,651. The Board concurred that, in its judgment, Earth Builders 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, drainage and paving to serve Bridge Creek, Section 6 and recommended that the Board award the contract to Hurtado Construction ("Hurtado") in the amount of \$368,539.96. The Board concurred that, in its judgment, Hurtado 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, drainage and paving to serve Bridge Creek, Section 7 and recommended that the Board award the contract to Hurtado in the amount of \$488,474.28. The Board concurred that, in its judgment, Hurtado 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 17 and recommended that the Board award the contract to Fellers & Clark ("Fellers") in the amount of \$1,223,000. 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 21 and recommended that the Board award the contract to Texasite, LLC ("Texasite") in the amount of \$1,486,493.99. 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 construction of water, sewer and drainage to serve Westgreen, Section 7 and recommended that the Board award the contract to Texas KB Utilities ("Texas KB") in the amount of \$394,000. The Board concurred that, in its judgment, Texas KB 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, 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 reported the status of the following projects, and presented the following pay applications and change orders:

1. Langham Creek Mass Grading in U500-02 Basin, Phase 2; Pay Estimate No. 9 in the amount of \$583,831.86, payable to Allgood Construction ("Allgood");
2. Water Plant No. 2 Fence Replacement; Pay Estimate No. 2 in the amount of \$42,014.70, payable to Republic Masonry & Fencing, LLC;
3. Water Plant No. 5: Pay Estimate No. 14 in the amount of \$466,925, payable to Long & Sons;
4. Waterline to serve Water Plant No. 5; Pay Estimate No. 6 and Final in the amount of \$39,816.64, payable to Macer Express; and Change Order No. 4 increasing the contract in the amount of \$15,919;

5. Expansion of wastewater treatment plant no. 1; Pay Estimate No. 12 in the amount of \$610,817.27, payable to R.P. Constructors and Change Order No. 3 increasing the contract in the amount of \$42,385;
6. Wastewater treatment plant no. 2; Pay Estimate No. 10 in the amount of \$960,959.07, payable to ALLCO, LLC ("ALLCO") and Change Order No. 2 increasing the contract in the amount of \$224,782.52 including a time extension of 42 days;
7. Lift station to serve wastewater treatment plant no. 2; Pay Estimate No. 9 in the amount of \$171,528, payable to ALLCO;
8. Lift Station SCADA System; Pay Estimate No. 1 in the amount of \$52,217.70, payable to W Industries;
9. Emergency Generators at lift station nos. 6, 8 and 9, including a Resolution Regarding Intent to Reimburse: Pay Estimate No. 1 in the amount of \$43,020, payable to McDonald Industries;
10. Marvida Drainage Phase 2 South; Pay Estimate No. 1 in the amount of \$276,762.91 and Pay Estimate No. 2 in the amount of \$242,610.17, both payable to Allgood;
11. Morrison Grove Drive, Phase I paving; Pay Estimate No. 4 in the amount of \$194,820.68 and Pay Estimate No. 5 in the amount of \$21,790.72, both payable to Beyer Construction;
12. Mason Road Phase 1 Drainage; Pay Estimate No. 1 in the amount of \$74,834.91, payable to D.L. Elliott Enterprises and Change Order No. 2 increasing the contract by \$15,498;
13. Mason Road Phase 1 Paving; Pay Estimate No. 2 in the amount of \$368,975.73, payable to Unitas Construction;
14. Avalon at Bridge Creek Ultimate Channel; Pay Estimate 5 in the amount of \$131,623.32, payable to Allgood and Change Order No. 2 increasing the contract in the amount of \$132,000;
15. Avalon at Cypress Section 1 water, sewer and drainage, including approval of a Submerged Storm Sewer Agreement; Pay Estimate No. 3 in the amount of \$594,304.40, payable to R Construction Civil; and
16. Avalon at Cypress Section 3, water, sewer and drainage; Pay Estimate No. 2 in the amount of \$449,904.15, payable to Unitas Construction.

The Board concurred that the change orders listed above are beneficial to the District. The Board discussed but took no action on Change Order No. 1 increasing the contract with Lindsey Construction by \$387,173.52 for Construction of Paving Facilities in West Road Street Dedication, Section 2.

Mr. Mullaly next discussed a request from Cypress 856, Ltd. for a commitment for water, irrigation and wastewater service capacity to serve the Marvida Recreation Center.



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 BGE's, J&C's and DAC's recommendations; (4) authorize design of facilities to serve Marvida Sections 22, 23 and 24; (5) approve a proposed Maintenance Agreement for Avalon at Cypress Channel Crossing; (6) authorize the District engineer to advertise for bids for construction of Detention and Drainage to serve the southwest corner of Fry Road and Longenbaugh Road and Remington Grove Stormwater Box Culvert Repair; (7) award the contract for construction of Bridge Creek Langham Creek Crossing to Earth Builders in the amount of \$1,362,651, 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, drainage and paving to serve Bridge Creek, Section 6 in the amount of \$368,529.96 to Hurtado, 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 construction of water, sewer, drainage and paving to serve Bridge Creek, Section 7 to Hurtado in the amount of \$488,474.28, 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 paving to serve Marvida, Section 17 to Fellers in the amount of \$1,223,000, 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; (11) award the contract for paving to serve Marvida, Section 21 to Texasite in the amount of \$1,486,493.99, 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 construction of water, sewer and drainage to serve Westgreen, Section 7 to Texas KB, in the amount of \$394,000, 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; (13) award the contract for construction of water, sewer, drainage and paving 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; (14) approve a commitment of water, irrigation and wastewater capacity to Cypress 856, Ltd. to serve the Marvida Recreation Center; and (15) approve a Resolution Regarding Intent to Reimburse the District's operating account for expenses related to installation of Emergency Generators at lift station nos. 6, 8 and 9. 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

The Board considered accepting the following conveyances to the District:

1. Special Warranty Deed (Bridge Creek Park - 2.932 Acres) from WLH Communities-Texas LLC;
2. Storm Sewer and Sanitary Sewer Easement (0.3809 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, "99 West");
3. Water Line Easement (0.748 Acre) from Cypress-Fairbanks Independent School District;
4. Storm Sewer Easement (0.0069 Acre) from 99 West; and
5. Storm Sewer Easement (0.0157 Acre; 0.0705 Acre) from WLH Communities-Texas LLC.

Ms. Holoubek discussed a proposed a drainage easement that the District needs for development in Marvida.

Following review and discussion, Director Molina moved to accept the conveyances presented for Board approval. Director Barr seconded the motion, which passed unanimously.

## DEVELOPMENT IN THE DISTRICT

Mr. Colunga, Mr. Whitton, Mr. Wignall and Mr. Mullaly discussed development in the District.

The Board considered approve Development Financing Agreements with VPTM Cypress LB LLC and TM BTR of Texas LLC. Following review and discussion, Director Molina moved to approve both financing agreements, subject to final review by ABHR. Director Barr seconded the motion, which 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 SESSION PURSUANT TO SECTION 551.071 TEXAS GOVERNMENT CODE

At 7:58 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 8:07 p.m.

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

draft Preliminary Official Statement.....	2
tax assessor/collector's report and delinquent tax report .....	3
Management and operations report.....	4
park and landscape management report.....	5
landscape architect report.....	5
Engineer's report.....	6