

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165

January 5, 2023

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 5<sup>th</sup> day of January 2023, 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 were Lynnette Park, District resident; Lori Buckner of Myrtle Cruz, Inc. ("MCI"); Maurice Mullaly of DAC Services, Inc. ("DAC"); Patty Rodriguez of Bob Leared Interests, Inc. ("BLI"); Wes Alvey and Chris Hoffman of H2O Consulting, Inc. ("H2O"); Wendy Ramirez with Forvis, LLP; Josh Wailes of Mike Stone Associates, Inc. ("MSA"); David Colunga of Taylor Morrison of Texas, Inc. ("Taylor Morrison"); Robert Oliver of SWA Group ("SWA"); David Beyer of Storm Water Solutions, LLC ("Storm Water"); Tyler Lindgren of KGA/DeForest Design, LLC ("KGA"); and 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 the opportunity to make public comment.

Ms. Park commented regarding a high-water bill and provided a written narrative of her reports to and experience with H2O, a copy of which is attached. She requested that the Board consider adjusting her bill.

There being no other members of the public requesting to make public comment, Director Bentson moved to the next agenda item.

## SECURITY REPORT

The Board reviewed patrol statics and reports for the month of December 2022 and an annual report for 2022.

## MINUTES

The Board considered approving the minutes of the December 1, 2022, regular meeting. Following review and discussion, Director Molina moved to approve the minutes, as presented. Director Barr seconded the motion, which passed unanimously.

## APPROVE AUDIT AND AUTHORIZE FILING WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")

Ms. Ramirez reviewed a draft audit of the District's financial information for the fiscal year end September 30, 2022, a copy of which is attached to these minutes. Upon a motion made by Director Molina, seconded by Director Barr, the Board voted unanimously to (1) approve the audit and management letter subject to final review and comments; and (2) authorize ABHR to file the audit and filing affidavit with the TCEQ.

## RENEWAL OF DISTRICT'S INSURANCE POLICIES

Ms. Milbauer reported that the District's current insurance policies expire in April 2023 and asked if the Board would like to request multiple proposals for renewal. Following discussion, the Board concurred to request a renewal proposal from the District's current insurance provider only.

## 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. Copies of the bookkeeper's report, investment report, budgets, and a list of bills presented for payment are attached.

Ms. Milbauer stated that, in accordance with the District's Investment Policy, Lori Buckner as the bookkeeper and Alan Bentson as the Investment Officer are required to execute disclosure statements that disclose any relationships with banks and brokers who seek to sell investments to the District. She added that the disclosure statements will be filed with the Texas Ethics Commission and the District Records and updated whenever necessary.

Following review and discussion, Director Molina moved to (1) accept the bookkeeper's report and payment of the bills, including additional check no. 1147 in the

amount of \$109,718.93; and (2) accept the disclosure statements pursuant to the District's Investment Policy and the Public Funds Investment Act. Director Barr 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, reported taxable values for the District and defined areas within the boundaries of the District, reported regarding taxes collected to date and delinquent taxes from previous tax years.

Following discussion and review of the information provided by the District's tax assessor collector, Director Molina moved to (1) accept the tax assessor/collector's report; and (2) authorize payment of the bills. Director Barr seconded the motion, which passed unanimously.

OPERATION OF DISTRICT FACILITIES AND PUBLIC UTILITY COMMISSION RULES REGARDING EXTREME WEATHER EMERGENCIES, INCLUDING ISSUANCE OF ONE-TIME NOTICE TO CUSTOMERS AND ADOPT AMENDED RATE ORDER

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 December 2022. Mr. Hoffman reported 58 new residential taps and one commercial tap installed during the month of December 2022. He also reviewed routine maintenance and repairs within the District completed and ongoing during the month of December 2022, reviewed back charges and recommended putting utility taps on hold for developers on the list included in the operations report until those accounts are paid in full.

Mr. Hoffman next discussed rules adopted by the Public Utility Commission of Texas ("PUC") to implement legislation prohibiting certain retail water or sewer providers from imposing late fees or terminating service for nonpayment of water bills that are due during a period when the previous day's highest temperature and the predicted temperature for the next 24 hours is not higher than 28 degrees Fahrenheit. Mr. Hoffman reviewed and discussed the one-time notice of the requirements that must be sent to utility customers by January 31, 2023. Ms. Milbauer then presented a proposed Amended Rate Order incorporating the provisions of the PUC rules, including terms for customers to request and receive a payment schedule for payment of bills due during such an extreme weather emergency

Mr. Hoffman reviewed a list of multiple customer appeals, a copy of which is attached, all requesting adjustments for water leaks pursuant to the District's leak adjustment policy.

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 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) authorize the District operator to place developer taps on hold, as recommended, until back charges are paid in full; (3) authorize the District operator to offer leak adjustments to the customers making an appeal, as requested; (4) authorize the District operator to adjust Ms. Park's bill to the average monthly use and change out her water meter; (5) 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; and (6) adopt the Amended Rate Order and direct that it be filed appropriately and retained in the District's official records. Director Barr seconded the motion, which passed unanimously.

#### REPORT FROM STORM WATER SOLUTIONS

Mr. Beyer reviewed a Storm Water Management Program report provided by Storm Water, a copy of which is attached, and reviewed the following proposals for improvements and repairs to District facilities:

1. Proposal in the amount of \$2,800 to hydro excavate the top of a broken oil grit trash separator in the Villas at Canyon Lakes West;
2. Proposal in the amount of \$9,500 to excavate and backfill voids at the end of the spillway in Villas at Canyon Lakes West;
3. Proposal in the amount of \$3,200 to conduct a quarterly cleaning of stormwater unit CDS 3030-06c in Tealbrook, Section 3;
4. Proposal in the amount of \$3,965 to clean stormwater unit CDS 3030-06c in Tealbrook, Section 3;
5. Proposal in the amount of \$3,115 to clean sediment from the CDS 3030-6c oil grit trash separator at the temporary wastewater treatment plant; and
6. Proposal in the amount of \$3,250 to clean sediment from the CDS 4030-6c oil grit trash separator in College Park West, Sections 3 and 4.

He also reviewed a proposal in the amount of \$55,662 to replace the outfall pipe from the Fry Road channel to Langham Creek. Mr. Mullaly reviewed 2 additional bids submitted for replacement of the outfall pipe from the Fry Road channel to Langham Creek and determined that SWS was the lowest bidder. The Board concurred that, in its judgment, SWS 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 (1) approve the Storm Water Management Report; (2) upon the recommendation of SWS, approve all the proposals presented; and (3) upon the recommendation of DAC, approve a proposal from SWS in the amount of \$55,662 for replacement of the outfall pipe from the Fry Road channel to Langham Creek. Director Barr seconded the motion, which passed unanimously.

#### PARK MAINTENANCE

Mr. Wailes reviewed a park and landscape management report, a copy of which is attached, and reviewed options for new park tables and benches. 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. Lindgren reviewed a landscape architect report from KGA, a copy of which is attached.

Mr. Lindgren stated that bids were received for construction of landscape improvements in Marvida, Section 13 and recommended that the Board award the contract to the low bidder, Triple E. Growers, Inc. d/b/a Triple E. Landscapes ("Triple E") in the amount of \$460,488. 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. Lindgren discussed plans landscaping improvements in Marvida Sections 15 and 16 and requested authorization to design the facilities.

Mr. Lindgren stated that bids were received for construction of landscape improvements in Bridge Creek, Section 6 and recommended that the Board award the contract to the low bidder Triple E in the amount of \$315,205. 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. Lindgren stated that bids were received for construction of landscape improvements in Bridge Creek, Section 7 and recommended that the Board award the contract to the low bidder Triple E in the amount of \$276,498. 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. Lindgren stated that bids were received for construction of landscape improvements in Bridge Creek, Sections 8 and 9 and recommended that the Board award the contract to the low bidder Earth First Landscapes, LLC ("Earth First") in the amount of \$402,799. The Board concurred that, in its judgment, Earth First 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. Lindgren stated that bids were received for construction of landscape improvements in Marvida Sections 18 and 19 and recommended that the Board award the contract to the low bidder Triple E in the amount of \$419,574. 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. Lindgren next discussed the status of construction of landscape improvements in Bridge Creek, Section 5 and recommended that the Board approve Pay Application No. 6 in the amount of \$1,321.40 and Pay Application No. 6 in the amount of \$4,927.47, both payable to Earthcare Management. Mr. Lindgren also recommended approval of Change Order No. 3 deducting \$5,293.72 from the contract. The Board determined that the change order is beneficial to the District.

Mr. Lindgren next reported the status of construction of landscape improvements to serve Marvida Phase I and recommended that the board approve Pay Application No. 8 in the amount of \$160,355.57, payable to Earth First.

Mr. Lindgren reported the status of construction of landscape improvements on the Marvida West Road Extension and recommended that the Board approve Pay Application No. 6 in the amount of \$1,134, payable to Triple E.

Mr. Lindgren next reported the status of construction of landscape improvements to serve Marvida Sections 10 and 11 and recommended that the board approve Pay Application No. 1 in the amount of \$70,447.26, payable to Earth First.

Mr. Lindgren next reported the status of construction of landscape improvements to serve Marvida Section 12 and recommended that the board approve Pay Application No. 1 in the amount of \$61,409.84, payable to Triple E.

Mr. Lindgren next reported the status of construction of landscape improvements to serve Marvida Section 14 and recommended that the board approve Pay Application No. 1 in the amount of \$2,385, payable to Triple E.

The Board determined, upon the recommendation of KGA, that all change orders presented are beneficial to the District.

After review and discussion, Director Molina moved to (1) accept the landscape architect report from KGA; (2) authorize design of landscape improvements and approve proposals for same for projects listed above; (3) approve the pay estimates presented, as recommended by KGA; (4) approve the change orders presented, upon the recommendation of KGA and finding that the change orders are beneficial to the District; (5) award the contract for construction of Marvida, Section 13 Landscape Improvements to Triple E. Growers, Inc. d/b/a Tripe E. Landscapes ("Triple E") in the amount of \$460,488, 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; (6) award the contract for construction of Bridge Creek, Section 6 Landscape Improvements to Triple E in the amount of \$315,205, 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; (7) award the contract for construction of Bridge Creek, Section 7 Landscape Improvements to Triple E in the amount of \$276,498, 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; (8) award the contract for construction of Bridge Creek, Sections 8 and 9 Landscape Improvements to Earth First Landscapes, LLC ("Earth First") in the amount of \$402,799, 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; and (9) award the contract for construction of Marvida, Sections 18 and 19 Landscape Improvements to Triple E in the amount of \$419,574, 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. Director Barr seconded the motion, which passed by unanimous vote.

### SWA GROUP REPORT

Mr. Oliver reviewed a landscape architect report from SWA, a copy of which is attached.

Mr. Oliver reported the status of Avalon at Cypress West Road and Mason road landscape project and recommended that the Board approve Pay Estimate No. 10 in the amount of \$2,672.22, Pay Estimate No. 11 in the amount of \$3,774.65 and Pay Estimate No. 12 in the amount of \$46,661.18, all payable to Millis Development & Construction, LLC ("Millis").

Mr. Oliver also discussed the status of construction of the public scope for the Avalon at Cypress Recreation Center and recommended that the Board approve Pay Estimate No. 2 in the amount of \$119,231.44 and Pay Estimate No. 3 in the amount of \$252,126.86, both payable to Millis.

After review and discussion, Director Molina moved to (1) accept the landscape architect report from SWA; and (2) approve the Pay Estimates presented, upon the recommendation of SWA. Director Barr seconded the motion, which carried unanimously.

### 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 stated that bids were received for the Lancaster water line replacement and recommended that the Board award the contract to Sequeira Civil Construction ("Sequeira") in the amount of \$1,813,399.98. The Board concurred that, in its judgment, Sequeira 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. Avalon at Channel Crossing; Pay Estimate No. 7 in the amount of \$75,971.50, payable to Lonnie Lischka Co. ("Lischka");
2. Avalon at Cypress Lift Station; Pay Estimate 13 in the amount of \$12,350, payable to Sequeira;
3. Avalon at Cypress West Road Phase I water, sewer and drainage Pay Estimate No. 2 and Final in the amount of \$35,777.50, payable to AR Turnkey Construction;
4. Avalon Landing Lane Street Dedication Section 1 water, sewer and drainage; Pay Estimate No. 3.1 in the amount of \$889,306.91 and Pay Estimate No. 3.2 in the amount of \$132,482.43, both payable to Sequeira; and Change Order No. 1 adding \$8,952.13 to the contract total;
5. Avalon Landing Land Street Dedication, Section 1 paving; Pay Estimate No. 1 in the amount of \$150,553.20, payable to Sequeira;
6. Bridge Creek, Section 5 water, sewer and drainage; Pay Estimate No. 6 in the amount of \$86,365.06 and Pay Estimate No. 7 and Final in the amount of \$42,590.86, both payable to Blazey Construction ("Blazey"); and Change Order No. 3 adding \$48,638 to the contract total;
7. Bridge Creek, Section 5 paving; Pay Estimate No. 5 and Final in the amount of \$47,142.41, payable to Blazey; and Change Order No. 1 deducting \$22,937 from the contract total;
8. Bridge Creek, Section 6 water, sewer and drainage; Change Order No. 1 deducting \$8,750 from the District's contract with Hurtado Construction Company;
9. Bridge Creek Section 8 water, sewer and drainage; Pay Estimate No. 3 and Final in the amount of \$10,533, payable to Fellers & Clark;



10. Bridge Creek Section 9 water, sewer and drainage; Pay Estimate No. 3 and Final in the amount of \$9,438.80, payable to Fellers & Clark;
11. Bridge Creek Terrace Drive, Section 2 water and paving; Pay Estimate No. 3 in the amount of \$87,338.03, payable to Harris Construction;
12. Bridge Creek West Lift Station; Pay Estimate No. 6 in the amount of \$68,373, payable to Peltier Brothers Construction LLC;
13. Marvida, Section 12 water, sewer and drainage; Pay Estimate No. 6 and Final in the amount of \$27,627, payable to Fellers & Clark;
14. Marvida, Section 12 paving; Pay Estimate No. 6 and Final in the amount of \$21,099.84, payable to Durwood Greene Construction Co.;
15. Marvida, Section 15 water, sewer, drainage and paving; Change Order No. 2 increasing the District's contract with Gonzalez Construction Enterprise, Inc. ("Gonzalez") by \$1,634.78;
16. Marvida, Section 22 water, sewer, and drainage; Pay Estimate No. 3 in the amount of \$136,170.68, payable to Principal Services
17. Marvida, Section 23 water, sewer, and drainage; Pay Estimate No. 2 in the amount of \$67,945.85, payable to Fellers & Clark;
18. Marvida, Section 24, water, sewer and drainage; Change Order No. 1 adding \$127,040.90 to the District's contract with Gonzalez;
19. Marvida Lift Station No. 2; Pay Estimate No. 5 in the amount of \$187,833.55, payable to Putnam Incorporated;
20. Marvida Phase I Grading; Pay Estimate No. 25 in the amount of \$119,065.75 and Pay Estimate No. 26 in the amount of \$109,718.93, each payable to Paskey Incorporated;
21. Traffic Signal at Morrison Grove and Fry Road; Pay Estimate no. 6 in the amount of \$10,393.16 and Pay Estimate No. 7 and Final in the amount of \$33,116.21, both payable to Traf-Tex, Inc.; and Change Order No. 1 adding \$10,000 to the contract total;
22. West Road Section 1 Conspan; Pay Estimate No. 8 in the amount of \$35,448.54, payable to John Reed & Co.;
23. Mason Road Phase II Drainage; Pay Estimate No. 4 and Final in the amount of \$9,787.90, payable to Crostex Construction;
24. Wastewater treatment plant no. 2; Pay Estimate No. 24 in the amount of \$439,544.78, payable to ALLCO Constructors;
25. Longenbaugh Road Dedication and Reserve water, sewer, drainage and paving; Pay Estimate No. 9 in the amount of \$64,698.11, payable to Fellers & Clark;
26. Water Plant No. 6; Pay Estimate No. 5 in the amount of \$354,970, payable to Long & Son; and Change Order No. 1 adding \$77,950 to the contract total; and
27. Langham Creek Detention Phase 2; Pay Estimate No. 14 in the amount of \$951,602.79, payable to Serco Construction.

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

The Board also considered authorizing a commitment of capacity to HNN Ventures, LLC to serve a medical office building.

Following review and discussion, Director Molina moved to (1) approve the engineering report; (2) based upon the recommendation of Quiddity, 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, Quiddity's and DAC's recommendations; (4) approve a commitment of capacity to HNN Ventures, LLC. to serve a medical office building; and (5) award the contract for the Lancaster water line replacement to Sequeira in the amount of \$1,813,399.98, based upon DAC'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.

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

The Board considered the following abandonments and conveyance of easements and parcels in fee to the District:

1. Partial Abandonment of Sanitary Sewer Easement (0.1293 Acre);
2. Partial Abandonment of Storm Sewer Easement (0.0092 Acre);
3. Partial Abandonment of Water Line Easement (0.1328 Acre);
4. Partial Abandonment of Water Line Easement (0.0356 Acre);
5. Abandonment of Sanitary Sewer Easement (0.0136 Acre; 0.0187 Acre);
6. Abandonment of Storm Sewer Easement (0.0241 Acre);
7. Drainage Easement (0.0223 Acre; 0.0696 Acre);
8. Special Warranty Deed (Reserves) from Taylor Morrison of Texas, Inc.;
9. Special Warranty Deeds (Restricted Reserves in Marvida) from KB Home Lone Star Inc.;
10. Special Warranty Deed (Restricted Reserve A of Marvida Sec 12) from Astro Marvida, L.P. and Pulte Homes of Texas, L.P., collectively;
11. Special Warranty Deed (Restricted Reserves in Marvida) from Pulte Homes of Texas, L.P.;
12. Special Warranty Deed (Restricted Reserve A of Marvida Sec 14) from Astro Marvida, L.P., and K. Hovnanian Houston Marvida LLC, collectively;
13. Special Warranty Deed (Restricted Reserves in Marvida) from K. Hovnanian Houston Marvida LLC.;

14. Special Warranty Deed (Restricted Reserves in Marvida, Tracts 15 through 32) from Astro Marvida, L.P.;
15. Special Warranty Deed (Restricted Reserves in Marvida) from Gehan Homes, Ltd.; and
16. Special Warranty Deed (Restricted Reserves in Marvida) from Chesmar Homes, LLC.

Following review and discussion, Director Molina moved to abandon certain easements, as proposed, above, and to accept the deeds and easements listed above, as recommended by Quiddity and BGE. Director Barr seconded the motion, which passed unanimously.

#### DEVELOPER'S REPORT

Mr. Colunga reported regarding development in the District.

#### GARBAGE/RECYCLING COLLECTION

There was no discussion nor action taken on this agenda item.

#### DISTRICT WEBSITE

There was no discussion nor action taken on this agenda item.

#### WEST HARRIS COUNTY REGIONAL WATER AUTHORITY

There was no discussion nor action taken on this agenda item.

#### ANNEXATION AGREEMENT

There was no discussion nor action taken on this agenda item.

#### ADMINISTRATION BUILDING

There was no discussion nor action taken on this agenda item.

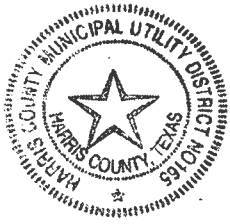
#### ANNUAL REPORT REGARDING POST-ISSUANCE COMPLIANCE POLICY

Ms. Milbauer reported on the District's compliance activities during the prior calendar year related to bond financings and stated that no corrective action is required at this time.

#### EXECUTIVE SESSION PURSUANT TO SECTION 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.



  
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Secretary, Board of Directors

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