

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165

March 2, 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 2<sup>nd</sup> day of March 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 Lori Buckner of Myrtle Cruz, Inc. ("MCI"); David Keel and Maurice Mullaly of DAC Services, Inc. ("DAC"); Patty Rodriguez of Bob Leared Interests, Inc. ("BLI"); Wes Alvey, Donnice Hoffman 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"); Robert Oliver of SWA Group ("SWA"); David Beyer of Storm Water Solutions, LLC ("Storm Water"); Kelly Gard of KGA/DeForest Design, LLC ("KGA"); Dane Turner of Best Trash, LLC; and Heather Trachtenberg 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. 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 for the month of February 2023.

MINUTES

The Board considered approving the minutes of February 2, 2023, regular meeting and the February 13, 2023, special meeting. Following review and discussion,

Director Molina moved to approve the minutes, as amended. Director Barr seconded the motion, which passed unanimously.

#### RENEWAL OF DISTRICT'S INSURANCE POLICIES

The Board reviewed an insurance renewal proposal from McDonald & Wessendorff Insurance. Following review and discussion, upon a motion by Director Molina and a second by Director Barr, the Board voted unanimously to authorize renewal of the District's insurance policies through McDonald & Wessendorff Insurance choosing Chubb for comprehensive boiler and machinery coverage.

#### 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.

Following review and discussion, Director Molina moved to accept the bookkeeper's report and payment of the bills. Director Barr seconded the motion, which passed unanimously.

#### ANNUAL REPORT

Ms. Trachtenberg reviewed an Annual Report containing updated financial and operating data to be filed in accordance with the continuing disclosure provisions contained in the District's bond resolutions. Following review and discussion, Director Molina moved to approve the Annual Report, authorize the attorney to submit the District's updated financial and operating data in compliance with the continuing disclosure provisions contained in the bond resolutions, and direct that the Annual Report be filed appropriately and retained in the District's official records. Director Barr seconded the motion, which passed unanimously.

#### ANNUAL REVIEW OF PROCEDURES FOR CONTINUING DISCLOSURE COMPLIANCE

The Board reviewed the District's procedures for continuing disclosure compliance. Ms. Trachtenberg stated that no changes are required at this time.

#### TAX ASSESSMENT AND COLLECTIONS MATTERS, DELINQUENT TAX COLLECTION AND AMENDMENT TO TAX ASSESSOR COLLECTOR'S CONTRACT

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.

Ms. Rodriguez also reviewed a taxpayer appeal for waiver of penalty and interest, a copy of which is attached to these minutes.

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; (2) authorize payment of the bills; and (3) authorize BLI to set up a payment plan for the taxpayer requesting waiver of penalty and interest. 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.

Mr. Hoffman reported 29 new residential taps and 4 commercial taps installed during the month of February 2023.

Mr. Alvey updated the Board regarding a meeting with Harris County Municipal Utility District No. 157 to discuss a plan for repayment in kind of water received through the interconnects located on Rustic Lake and Haven Creek.

Mr. Hoffman discussed an evaluation of Water Plant No. 2 and recommended the following repairs and replacement:

1. repair the booster pump no. 1 for estimated amount of \$8,730;
2. repair motor no. 1 for an estimated amount of \$12,854; and
3. replace the check valve on booster pump no. 1 for an estimated amount of \$7,250.

Mr. Hoffman discussed proposed service rates for Wood Master Homes for 2 addresses located outside the boundary of the District. Following discussion, the Board concurred to bill service at out of district service rates and to confirm its previous decision to bill for taps at 110% of the actual expense to install the tap, subject to receipt of a letter from the landowner requesting annexation of the tract.

Mr. Hoffman reviewed customer appeals, copies of which are attached. Following discussion, the Board concurred to authorize action, as recommended by the District operator, and to defer action on account no. 35949 pending additional investigation.

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 repairs and replacements recommended at water plant no. 2; (3) authorize the District operator to offer leak adjustment and adjustment of billing to a monthly average to customers making an appeal, with the exception of account no. 35949; (4) authorize the District operator to bill service to Wood Master Homes at an out of district service rate; and (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. 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. Following review and discussion, Director Molina moved to approve the Storm Water Management Report. 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 presented the following proposals:

1. proposal for irrigation repair in Amhurst Park for an estimated amount of \$330;
2. proposal for replacement of a light pole base in Amhurst Park for an estimated amount of \$8,165;
3. proposal for irrigation repairs in Cypress Springs Park for an estimated amount of \$340; and
4. proposal for irrigation repairs in Tealbrook Park for an estimated amount of \$200.

Following review and discussion, Director Molina moved to approve the park and landscape management report and authorize all work proposed. Director Barr seconded the motion, which passed unanimously.

## KGA/DEFOREST DESIGN, LLC REPORT

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

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

1. Bridge Creek Section 5 Landscape Improvements; Pay Application No. 9 in the amount of \$668.25, payable to Earthcare Management, Inc. ("Earthcare");
2. Bridge Creek Sections 8 and 9 Landscape Improvements; Pay Application No. 1 in the amount of \$37,665, payable to Earth First Landscapes, LLC ("Earth First");
3. Marvida Phase 1 Landscape Improvements; Pay Application No. 10 in the amount of \$30,039.53, payable to Earth First;
4. Marvida Recreation Center Facility; Pay Application No. 9 in the amount of \$318,169.20, payable to DL Meacham, LP ("DL Meacham");
5. Marvida West Road Extension Landscape Improvements; Pay Application No. 8 and Final in the amount of \$32,917, payable to Triple E Growers, Inc. d/b/a Triple E ("Triple E");
6. Marvida Section 10 and 11 Landscape Improvements; Pay Application No. 3 in the amount of \$123,033.06, payable to Earth First, and Change Order No. 1 adding \$2,212.23 to the contract total;
7. Marvida Section 12 Landscape Improvements; Pay Application No. 3 in the amount of \$121,613.57 and Pay Application No. 4 in the amount of \$5,180.19, both payable to Triple E;

After review and discussion, Director Molina moved to (1) accept the landscape architect report from KGA; (2) approve the pay estimates presented, as recommended by KGA; and (3) approve the change order presented, upon the recommendation of KGA and finding that the change order is beneficial to the District. 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 also discussed the status of construction of the public scope for the Avalon at Cypress Recreation Center and recommended that the Board approve Pay Application No. 5 in the amount of \$59,143.01, payable to Millis Development and Construction, LLC ("Millis").

Mr. Oliver discussed the status of design of the following projects and requested

authorization to advertise for bids for construction:

1. Avalon at Cypress West Road and Avalon River Road Landscape; and
2. Avalon at Cypress West; Avalon Landing Lane Phase I Landscape.

Mr. Oliver an Interlocal Agreement for maintenance of non-standard maintenance items in Harris County's (the "County") right-of-way. Ms. Trachtenberg also presented a letter maintenance agreement with the Avalon at Cypress Homeowner's Association (the "HOA") for the HOA to maintain all of the non-standard items.

After review and discussion, Director Molina moved to (1) accept the landscape architect report from SWA; (2) approve the pay estimates presented, upon the recommendation of SWA; (3) authorize SWA to advertise for bids for construction of the projects listed above; (4) approve an interlocal agreement between the County and the District for maintenance of non-standard items in the County right-of-way; and (5) approve a letter maintenance agreement with the HOA to maintain all the non-standard items in the County right-of-way. Director Barr seconded the motion, which passed 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 7 bids were received for construction of water, sewer, and drainage in Marvida, Section 25 and recommended that the Board award the contract to the low bidder, Fellers & Clark in the amount of \$1,510,500. 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. Mullaly reported the status of the following projects, and presented the following pay applications and change orders:

1. Avalon at Cypress Lift Station; Pay Estimate No. 14 in the amount of \$201.23, Pay Estimate No. 15 in the amount of \$149.15 and Pay Estimate No. 16 in the amount of \$22,646.40, all payable to Sequeria Civil Constructors ("Sequeria");
2. Avalon at Cypress Lift Station Fencing; Pay Estimate No. 4 in the amount of \$3,761.25, payable to Republic Masonry & Fencing; and Change Order No. 2 adding \$4,320 to the contract total;

3. Avalon at Cypress - West Road Phase I Paving; Pay Estimate No. 7 in the amount of \$3,045.07 and Pay Estimate No. 8 and Final in the amount of \$17,810.58, both payable to Unitas Construction;
4. Avalon Landing Lane Street Dedication 1 water, sewer and drainage; Pay Estimate No. 5 in the amount of \$13,459.50, payable to Sequeira;
5. Avalon Landing Lane Street Dedication 1 paving; Pay Estimate No. 3 in the amount of \$597,329.79, payable to Sequeira;
6. Bridge Creek Mason Road Phase 3; Pay Estimate No. 5 and Final in the amount of \$34,481.54 in the amount of Lonnie Lischka Co. ("Lischka");
7. Bridge Creek Terrace Drive, Section 2 water and paving; Pay Estimate No. 5 in the amount of \$216,633.26, payable to Harris Construction;
8. Bridge Creek West Lift Station; Pay Estimate No. 8 in the amount of \$20,700, payable to Peltier Brothers;
9. Marvida, Sections 6 and 7, water, sewer, drainage and paving; Change Order No. 3 adding \$35,326 to the District's contract with Park Construction;
10. Marvida, Section 19; Pay Estimate No. 6 and Final in the amount of \$56,907.09, payable to Principal Services; and Change Order No. 2 deducting \$121,098.20 from the contract total;
11. Marvida, Section 22 water, sewer and drainage; Pay Estimate No. 4 in the amount of \$44,399.34 and Pay Estimate No. 5 and Final in the amount of \$18,623.83, both payable to Principal Services; and Change Order No. 2 deducting \$105,731 from the contract total;
12. Marvida Lift Station No. 2; Pay Estimate No. 7 in the amount of \$38,044.21, payable to Putnam, Inc.;
13. Marvida Lift Station No. 3; Change order No. 1 adding \$29,028.38 to the District's contract with R&B Group;
14. Traffic Signal at Marvida Terrace Drive and FM 529; Pay Estimate No. 3 in the amount of \$49,979.08, payable to CityLynx, Inc.; and Change Order No. 2 adding \$9,576.50 to the contract total;
15. West Road Interconnection; Pay Estimate No. 2 in the amount of \$129,360.82, payable to Sequeira;
16. West Road Section 1; Change Order No. 2 adding \$8,635 to the District's contract with Lindsey Construction; and Change Order No. 3 \$108,810.60 to the contract total;
17. Wastewater treatment plant no. 2; Pay Estimate No. 26 in the amount of \$142,706.02, payable to ALLCO Constructors;
18. Water Plant No. 6; Pay Estimate No. 7 in the amount of \$108,000, payable to Long & Son; and
19. Tealbrook and Amhurst cured-in-place-pipe sanitary sewer rehabilitation; Pay Estimate No. 3 in the amount of \$149,102.64, payable to Insituform; and Change Order No. 1 adding \$30,367.20 to the contract total;
20. Langham Creek Detention Phase 2; Pay Estimate No. 15 in the amount of \$229,842.45, payable to Serco Construction;

21. Longenbaugh Road Detention Pond; Change Order No. 1 adding \$78,129 to the District's contract with Rebel Contractors; and
22. Avalon at Cypress West Drainage Channel; Change Order No. 1 with no increase/decrease to the District's contract with Harris Construction.

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

Mr. Mullaly presented a request for service to a 21.36 acre site located along Fry Road and Bridge Creek Terrace Drive. Following discussion, the Board concurred to authorize DAC to provide a letter of capacity availability to the tract owner.

Mr. Mullaly next discussed updates to the District's Geographical Information System ("GIS") to add new facilities constructed and requested an additional budget amount of \$75,000 to make the updates.

Following review and discussion, Director Barr 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; and (4) award the contract discussed above, based upon the recommendation of Quiddity and DAC, subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractors. Director Green seconded the motion, which passed 4 to 0, with Director Molina absent during voting.

#### RESOLUTION AUTHORIZATION APPLICATION TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ") FOR USE OF SURPLUS FUNDS

Ms. Trachtenberg reviewed a draft Resolution Authorizing Application to the TCEQ for Use of Surplus Funds for storm sewer on West Road. Following review and discussion, Director Molina moved to authorize the resolution and application. Director Barr seconded the motion, which passed unanimously.

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

There was no discussion for this agenda item.

#### DEVELOPER'S REPORT

Mr. Colunga reported regarding development in the District.



GARBAGE/RECYCLING COLLECTION

Mr. Turner discussed garbage and recycling service in the District.

DISTRICT WEBSITE

There was no discussion or action taken on this agenda item.

WEST HARRIS COUNTY REGIONAL WATER AUTHORITY

There was no discussion or action taken on this agenda item.

ANNEXATION MATTERS

There was no discussion or action taken on this agenda item.

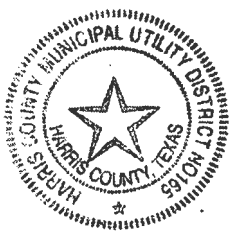
ADMINISTRATION BUILDING

There was no discussion or action taken on this agenda item.

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.



A handwritten signature in black ink, consisting of several loops and flourishes, positioned above a horizontal line.

Secretary, Board of Directors

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