

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 439

November 10, 2022

The Board of Directors (the "Board") of Harris County Municipal Utility District No. 439 (the "District") met in regular session, open to the public, on the 10<sup>th</sup> day of November, 2022, at the offices of Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas, outside the boundaries of the District, with access by telephone available to the public, and the roll was called of the members of the Board:

Adam Kramer	President
Jonathan Reichek	Vice President
Nancy Zimmerman	Secretary
Bonny Beasley	Asst. Vice Pres./ Asst. Secretary
Steven M. Burgess	Asst. Vice Pres./ Asst. Secretary

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

Also attending in person or by telephone were Bryan Sheppard of Pape-Dawson Engineers, Inc. ("Pape-Dawson"); Jason Hajduk of IDS Engineering Group ("IDS"); Derek Davenport of McLennan & Associates, L.P. ("M&W"); Brenda McLaughlin of Bob Leared Interests, Inc.; and Hannah Brook and Kerri Houck of Allen Boone Humphries Robinson LLP.

PUBLIC COMMENTS

Director Kramer 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 Kramer moved to the next agenda item.

MINUTES

The Board considered approving the minutes of the October 13, 2022, regular meeting. Following review and discussion, Director Burgess moved to approve the minutes of the October 13, 2022, regular meeting, as presented. Director Zimmerman seconded the motion, which passed unanimously.

FINANCIAL AND BOOKKEEPING MATTERS

Mr. Davenport presented and reviewed the bookkeeper's report, including a list of checks presented for approval, and the District's budget comparison. He then requested Board authorization to enroll in Positive Pay for a cost of \$25.00 per month.

After review and discussion, Director Zimmerman moved to (1) approve the bookkeeper's report and payment of the bills; and (2) authorize enrollment in Positive Pay, as discussed. Director Burgess seconded the motion, which passed unanimously. A copy of the bookkeeper's report is attached.

#### TAX ASSESSOR/COLLECTOR'S REPORT

Ms. McLaughlin presented and reviewed the tax assessor/collector's report for the month of October, including the checks presented for payment. She reported that the District's 2022 taxes were 0.00% collected as of October 31, 2022. A copy of the tax assessor/collector's report is attached. After review and discussion, Director Reichek moved to approve the tax report and payment of the bills from the tax account. Director Zimmerman seconded the motion, which passed unanimously.

#### REPORT FROM STORM WATER SOLUTIONS

Ms. Brook reported that Stucky's LLC is requesting to submit proposals for maintenance of the detention facilities.

#### ENGINEER'S REPORT

Mr. Hajduk reviewed an engineering report from IDS, a copy of which is attached.

Mr. Hajduk reported on the construction of the Wayside Village East Phase I detention facilities, stating the project is substantially complete. He reviewed and recommended approval of Pay Estimate No. 17 in the amount of \$114,437.15, submitted by Paskey Incorporated ("Paskey"), as recommended by Pape-Dawson.

Mr. Hajduk reported on the construction of the Wayside Village West Phase I detention facilities and the Wayside Village Phase I Harris County Flood Control District Improvements. He reviewed and recommended approval of Pay Estimate No. 22 in the amount of \$418,101.95, submitted by Paskey, as recommended by Pape-Dawson.

Mr. Hajduk updated the Board regarding the construction of water, sewer, and drainage facilities to serve Wayside Village, Section 4. He reviewed and recommended approval of Pay Estimate No. 4 in the amount of \$75,462.70, submitted by Principal Services, Ltd., as recommended by Pape-Dawson.

Mr. Hajduk updated the Board regarding the construction of water, sewer, and drainage facilities to serve Wayside Village, Section 12. He reviewed and recommended approval of Pay Estimate No. 1 in the amount of \$1,172,777.90, submitted by Clearwater Utilities, Inc. ("Clearwater"), as recommended by Pape-Dawson. Mr. Hajduk then reviewed and recommended approval of Change Order No. 1 to the

contract with Clearwater for the construction of water, sewer, and drainage facilities to serve Wayside Village, Section 12 to increase the contract in the amount of \$80,706.25 for quantity adjustments, additional items to address agency comments, and increases due to market conditions, as recommended by Pape-Dawson. The Board determined that Change Order No. 1 is beneficial to the District.

Following review and discussion, and based upon recommendation by the engineer, Director Zimmerman moved to (1) approve the engineer's report prepared by IDS; (2) approve Pay Estimate No. 17 in the amount of \$114,437.15 for the construction of the Wayside Village East Phase I detention facilities, as recommended by Pape-Dawson; (3) approve Pay Estimate No. 22 in the amount of \$418,101.95 for the construction of the Wayside Village West Phase I detention facilities and the Wayside Village Phase I Harris County Flood Control District Improvements, as recommended by Pape-Dawson; (4) approve Pay Estimate No. 4 in the amount of \$75,462.70 for the construction of water, sewer, and drainage facilities to serve Wayside Village, Section 4, as recommended by Pape-Dawson; (5) approve Pay Estimate No. 1 in the amount of \$1,172,777.90 for the construction of water, sewer, and drainage facilities to serve Wayside Village, Section 12 project, as recommended by Pape-Dawson; and (6) approve Change Order No. 1 in the amount of \$80,706.25 as an increase to the contract with Clearwater for the construction of water, sewer, and drainage facilities to serve Wayside Village, Section 12, based upon the Board's finding that the Change Order is beneficial to the District and Pape Dawson's recommendation. Director Burgess seconded the motion, which passed unanimously.

#### ACCEPT DEEDS AND EASEMENTS

The Board reviewed a 0.154-acre Water Line Easement to be granted to the District from M&M Sisters, LLC. Following review and discussion, Director Burgess moved to accept the Water Line Easement, as discussed. Director Zimmerman seconded the motion, which passed unanimously.

#### DEVELOPMENT IN THE DISTRICT

Mr. Sheppard reported on development in the District.

#### MEETING PLANNING MATTERS

The Board concurred to meet next on Tuesday, December 8, 2022, at 12:00 p.m., the regular meeting date and time.

#### CONSIDER USE OF EMINENT DOMAIN AUTHORITY TO CONDEMN PROPERTY AND, IF APPROPRIATE, ADOPT RESOLUTION AUTHORIZING ACQUISITION OF REAL PROPERTY TO CONFIRM THE EXISTENCE OF A PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN PROPERTIES AND PROPERTY INTERESTS IN THE AREAS DESCRIBED IN THE RESOLUTION AND AUTHORIZE THE

INITIATION OF CONDEMNATION PROCEEDINGS TO ACQUIRE SUCH PROPERTIES AND PROPERTY INTERESTS

Director Burgess moved that the Board of Directors of Harris County Municipal Utility District No. 439, in a record vote applying to all units of property and property interests to be condemned, adopt a Resolution Authorizing Acquisition of Real Property (the "Resolution") which authorizes the use of the power of eminent domain to acquire properties and property interests in the areas described in Exhibit A to the Resolution, for a water line easement in order to construct, maintain, and operate water lines and facilities. Director Zimmerman seconded the motion, which passed unanimously.

PROPOSAL WITH PAS PROPERTY ACQUISITION SERVICES, LLC ("PAS")

Ms. Brook reviewed a proposal to engage PAS to acquire a certain water line easement on behalf of the District. Following review and discussion, Director Burgess moved to approve the proposal to engage PAS, as discussed. Director Zimmerman seconded the motion, which passed unanimously.

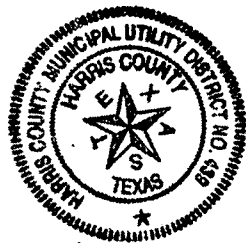
ATTORNEY'S REPORT, INCLUDING ENGAGEMENT OF CONDEMNATION ATTORNEY

Ms. Brook presented a letter to engage Phelps Dunbar, LLP as the District's condemnation counsel for the Board's consideration. After review and discussion, Director Burgess moved to engage Phelps Dunbar, LLP as the District's condemnation counsel. Director Zimmerman seconded the motion, which passed unanimously.

CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.072, TEXAS GOVERNMENT CODE, TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY

The Board did not convene in executive session.

There being no further business to come before the Board, the Board concurred to adjourn the meeting.



*Nancy Zimmerman*  
Secretary, Board of Directors

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