

MINUTES  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165

January 2, 2014

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 January, 2014, 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
Janet Davidson	Assistant Secretary
Keith Maddox	Assistant Vice President

and all of the above were present.

Also present at the meeting were Lori Buckner of Myrtle Cruz, Inc.; David Keel of DAC Services, Inc. ("DAC"); Patty Rodriguez of Bob Leared Interests, Inc.; Chris Hoffman of H2O Consulting, Inc. ("H2O"); Mike Christopher of Jones & Carter, Inc.; Blake Kridel of Storm Water Solutions, LP; Jerry Hlozek of DR Horton Homes; Ryk Holden and Rebecca Correa of Acclaim Energy Advisors; Sylvia Avila of WCA Waste Corporation of Texas; Greg Coleman of Beazer Homes Texas LP; Sherrie Greenwood of BKD, LLP; Bob DeForest of KGA/DeForest Design, LLC; Stephen Eustis and Oscar Ortiz of RBC Capital Markets; Cherie Cross Hyatt of Environmental Allies; and Jessica Holoubek and Jane Miller of Allen Boone Humphries Robinson LLP ("ABHR").

PUBLIC COMMENT

There were no public comments.

MINUTES

The Board considered approving the minutes of the December 5, 2013, regular meeting. After review and discussion, Director Molina moved to approve the minutes of the December 5, 2013, regular meeting, as submitted. Director Maddox seconded the motion, which passed unanimously.

APPROVE AUDIT AND AUTHORIZE FILING WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Ms. Greenwood reviewed a draft audit of the District's financial information for the fiscal year end September 30, 2013, a copy of which is attached to these minutes. Upon a motion made by Director Molina, seconded by Director Davidson, 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 Texas Commission on Environmental Quality.

ACCLAIM ENERGY ADVISORS GEN MAX PROGRAM

Mr. Holden made a presentation regarding Acclaim Reliability Program (GenMax) and said the GenMax program provides backup generation for large consumers of power allowing users to go "off grid" during times of peak demand to avoid potential blackouts, get improved power quality, to avoid price volatility and have opportunity to sell residual power into the grid. Mr. Holden requested approval for authorization to conduct site visits to assess capacity and benefit available to the District through the GenMax program. Following discussion Director Maddox moved to approve the site visits. Director Molina seconded the motion, which passed unanimously.

PRELIMINARY OFFICIAL STATEMENT FOR THE DISTRICT'S SERIES 2014 REFUNDING BONDS

Mr. Eustis reviewed a financial analysis of savings potentially created by the proposed refunding bond issuance, discussed current bond market conditions, issuance costs of the refunding bonds, and scheduling a closing date. Mr. Eustis also discussed the City of Houston's requirements applicable to the District's refunding bonds. Mr. Eustis reviewed the draft Preliminary Official Statement for the District's Series 2014 Refunding Bonds. Following review and discussion, Director Davidson moved to approve the Preliminary Official Statement, subject to final revisions. Director Maddox seconded the motion, which passed unanimously.

DESIGNATE UNDERWRITER

Mr. Eustis discussed the designation of an underwriter for the refunding bonds. Upon a motion by Director Davidson and a second by Director Maddox, the Board voted unanimously to accept the resignation of RBC Capital Markets for the duration of this transaction and approve designation of the District's underwriter, BOSC, Inc., based upon the recommendation of Mr. Eustis.

## PAYING AGENT/REGISTRAR AND ESCROW AGENT

The Board considered appointing a paying agent/registrar for the Series 2014 Refunding Bonds. Following review and discussion, Director Davidson moved to appoint Bank of New York as paying agent/registrar for the Series 2014 Refunding Bonds. Director Maddox seconded the motion, which passed unanimously.

## RESOLUTION AUTHORIZING THE ISSUANCE OF THE DISTRICT'S SERIES 2014 REFUNDING BONDS

Ms. Holoubek presented and reviewed with the directors a Resolution Authorizing the Issuance of the District's Series 2014 Refunding Bonds. After review and discussion, Director Davidson moved to (i) adopt the Resolution Authorizing the Issuance of the District's Series 2014 Refunding Bonds, and (ii) 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 3% and to select the specific 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. Director Maddox seconded the motion, which passed unanimously.

## FINANCIAL AND BOOKKEEPING MATTERS

Ms. Buckner presented and reviewed the bookkeeper's report. She discussed current public fund investment markets, reviewed the District's investment report, and 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 Maddox moved to accept the bookkeeper's report and pay the bills described therein. Director Davidson seconded the motion, which passed unanimously.

Ms. Holoubek next discussed that Lori Buckner of Myrtle Cruz, Inc. will be serving as the District's bookkeeper. The Board concurred that ABHR file with the Texas Commission on Environmental Quality an updated District Registration Form with the new bookkeeper's name and work with Myrtle Cruz, Inc. to update all Depository Pledge Agreements with the new bookkeeper's name and file a disclosure statement with the Texas Ethics Commission.

## TAX ASSESSMENT AND COLLECTIONS MATTERS

Ms. Rodriguez presented the tax assessor/collector's report, a copy of which is attached, reviewed the checks presented for payment from the tax account, reported regarding taxes collected from the 2013 tax levy to date and delinquent taxes. Ms. Rodriguez also reported businesses added to and deleted from the District's business listings under the District's Strategic Partnership Agreement with the City of Houston.

After review and discussion, upon a motion by Director Molina and a second by Director Davidson, the Board voted unanimously to (1) accept the tax assessor/collector's report; and (2) approve payment of the bills.

## OPERATION OF DISTRICT FACILITIES

Mr. Hoffman distributed and reviewed a management and operations report, a copy of which is attached.

Mr. Hoffman reported 45 new residential taps during the month of December, 2013, reviewed routine maintenance and repairs within the District completed and ongoing during the month of December, 2013.

The Board discussed the District's water accountability for the month of December, 2013 and capacity and monitoring of flows at the wastewater treatment plant.

Mr. Hoffman discussed corrosion and pinholes identified during inspection of the ground storage tank at water plant no. 2 and recommended taking water plant no. 2 offline for recoating and repair of the ground storage and hydro-pneumatic tanks. The Board concurred that Mr. Keel prepare plans and specifications for recoating and repair of the ground storage and hydro-pneumatic tanks at water plant no. 2. Mr. Hoffman also recommended repair of the check valve on booster pump no. 2 at water plant no. 2 in the amount of \$3,250.

Mr. Hoffman next reported that the lift pump nos. 1 and 2 at lift station no. 2 failed on Christmas night. He said H2O installed 2 rental bypass pumps and is getting repair and replacement costs.

Mr. Hoffman also discussed a chemical monitoring violation notice received from the Texas Commission on Environmental Quality and H2O's response to same and said no further action is required.

Mr. Hoffman also submitted a resident request for a billing date on the 5<sup>th</sup> of every month.

Following review and discussion, Director Molina moved to (1) approve the District operator's report; and (2) authorize repair of the check valve on booster pump no. 2 at water plant no. 2 for an amount not to exceed \$3,250. The motion, which was seconded by Director Maddox, passed unanimously.

The Board then conducted a hearing on the termination of water service to delinquent utility accounts. Mr. Hoffman reported that the residents on the termination list were mailed written notice prior to the meeting in accordance with the Rate Order, notifying them of the opportunity to appear before the Board to explain, contest, or correct the service bill and to show reason why water service should not be terminated for reason of nonpayment. Director Molina moved that since the residents on the attached list, were neither present at the meeting nor had presented any statement on the matter, water service should be terminated in accordance with the procedures set forth in the Rate Order. Director Maddox seconded the motion, which carried unanimously.

#### GARBAGE RATE INCREASE AND AMENDMENT TO RATE ORDER

The Board reviewed correspondence and discussed with Ms. Avila a consumer pricing index increase of \$0.34 per connection. Following review and discussion, Director Davidson moved to amend the District's Rate Order increasing the base rate for sewer service from \$26.20 to \$26.54 to pass through to customers additional expense associated with garbage collection. Director Molina seconded the motion, which passed unanimously.

Discussion ensued regarding holiday collection routes, updating information on the District website and recycling.

#### REPORT REGARDING DEVELOPMENT WITHIN THE DISTRICT

Mr. Coleman, Mr. Hlozek and Mr. Keel reported homes sales and development in the District.

#### MASTER PARKS PLAN AND PARK MAINTENANCE

The Board reviewed park maintenance and inspection schedule submitted by Lancaster Community Association, Inc. ("LCAI").

Mr. DeForest updated the Board on the status of design and preparation of plans for Option A for proposed improvements to the park at River Pines and reviewed bench, table, fencing, playground equipment and receptacle choices. Mr. DeForest said he would bring plans for Board approval next month.

The Board discussed mowing of District facilities and concurred to place on the agenda for Board review and discussion proposals for mowing of District facilities.

FIRST AMENDMENT TO MAINTENANCE AGREEMENT WITH WINDHAVEN HOMEOWNER'S ASSOCIATION

The Board considered conveyance of Reserve B in Windhaven, Sections 3 and 4 by Special Warranty deed from DR Horton and amending the District's maintenance agreement with Windhaven Homeowner's Association to include reimbursement for Sections 3 and 4. Upon a motion by Director Molina and a second by Director Davidson, the Board voted unanimously to accept Reserve B in Windhaven, Sections 3 and 4 by Special Warranty deed from DR Horton and amending the District's maintenance agreement with Windhaven Homeowner's Association to include reimbursement for Sections 3 and 4.

ENGINEERING MATTERS

Mr. Keel presented the engineer's report, a copy of which is attached, and reviewed the status of constructions projects in the District.

Mr. Keel discussed progress of construction of water, sewer and drainage to serve College Park West, Section \_\_\_\_, and upon the recommendation of Huitt-Zollars, Inc., recommended the Board approve Pay Estimate No. 4 in the amount of \$136,418.58, payable to Clearwater Utilities, Inc.

Mr. Christopher reported the status of design of Mirabella, Section 1, and recommended the Board award the contract to the lowest qualified bidder, Clearwater Utilities, Inc., in the amount of \$775,900. After review and discussion, and because it would result in the best and most economical completion of the project, Director Molina moved to approve the award of the contract to Clearwater Utilities, Inc., subject to verification of payment and performance bonds and insurance. Director Maddox seconded the motion which passed unanimously.

Following review and discussion, Director Molina moved to (1) approve the engineering report; (2) authorize the District engineer to advertise for bids for recoating and repair of the ground storage and hydro-pneumatic tanks at water plant no. 2; and (3) approve Pay Estimate No. 4 in the amount of \$136,418.58, payable to Clearwater Utilities, Inc. for construction of water, sewer and drainage to serve College Park West, Section \_\_\_\_. Director Maddox seconded the motion, which passed unanimously.

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

The Board considered approving the following conveyances from MREC Sterling Canyon, LLC to the District, subject to attorney review:

1. Mirabella storm sewer easement (0.0092 acre; 0.0092 acre; and 0.0095 acre); and
2. Mirabella water line easement (0.1307 acre).

The Board also considered, upon request by J&C, a partial abandonment of a sanitary sewer easement previously conveyed to the District under HCCF No. 0130601810 and accepting a larger replacement easement over the same tract.

Following review and discussion, Director Davidson moved to approve the conveyances listed above. Director Molina seconded the motion, which passed unanimously.

## STORM WATER QUALITY PERMITS AND OTHER STORM WATER ISSUES

Mr. Kridel next discussed permit applications for the storm water quality features at College Park West and Canyon Lakes West. Following review and discussion, Director Molina moved to approve permit applications, for College Park West and Canyon Lakes West. Director Maddox seconded the motion, which passed unanimously.

## SECURITY REPORT

Ms. Miller reported that Chief Ted Heap of Harris County Constable, Precinct 5 said that Harris County is drafting the new contract with a March 1, 2014 start date and that hiring is underway to fully staff the District's contract. Following discussion, Director Davidson moved to authorize ABHR to send termination letters to the following officers, effective February 28, 2014: Paul Ouzenne, Sydney Davis, Michael Elizondo, Marcus Sam, Julian Espinoza, Orlando Salinas and Javier Rojas. Director Molina seconded the motion, which passed unanimously.

## SECURITY MONITORING AGREEMENT AT WASTEWATER TREATMENT PLANT

The Board took no action on this agenda item.

## WEST HARRIS COUNTY REGIONAL WATER AUTHORITY

Ms. Holoubek next reported that the District is required to submit to the West Harris County Regional Water Authority ("WHCRWA") by March 1 annually the total amount of groundwater produced by each well or aggregate system during the preceding calendar year, the purpose for which the groundwater was used and any alternative water supply used.

## RESOLUTION NOMINATING A CANDIDATE TO SERVE AS A DIRECTOR ON THE BOARD OF DIRECTORS OF THE WEST HARRIS COUNTY REGIONAL WATER AUTHORITY

The Board next considered nominating a candidate to serve as a Director on the Board of Directors of the West Harris County Regional Water Authority, but took no action.

## RENEWAL OF DISTRICT'S INSURANCE POLICIES

Ms. Holoubek reported that the District's current insurance policies expire in April, 2014 and asked if the Board would like to request multiple proposals for renewal. Following discussion, the Board concurred to request a proposal from the District's current provider only.

## ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE

Ms. Holoubek reported that districts that have issued or will issue tax-exempt bonds must comply with certain post-issuance compliance requirements (the "Requirements") contained in Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder. She reported on the District's compliance activities during the prior calendar year related to bond financings and said no action is required at this time.

## ANNUAL ENERGY USAGE REPORT

The Board next reviewed a report submitted by Acclaim Energy Advisors for electricity cost and usage from October 2012 through October 2013. Following review and discussion, the Board concurred to authorize ABHR to post the report to the District website.

## 2014 DIRECTORS ELECTION

Ms. Holoubek said Section 31.122 of the Texas Election Code (the "Code") requires the Secretary of the elected Board of Directors to keep his office open for



election duties for at least three hours each day, during regular office hours, on regular business days during the period beginning not later than the 50th day before the election and ending not earlier than the 40th day after the election. Ms. Holoubek noted that the law was amended to allow an agent of the District to serve as the District's agent for election purposes. Following review and discussion, Director Maddox moved to adopt a Resolution Designating an Agent of the Secretary of the Board and to appoint Jane H. Miller as the agent of the Board and to authorize posting of Notice of same at Harris County and in the District. Director Davidson seconded the motion, which passed unanimously.

Ms. Holoubek said that the Notice of Candidate Filing Period will be posted in the District and recommended that the Board authorize posting of same on the District website. The Board concurred to post the notice on the District website and in the District.

The Board next considered use of electronic voting systems and Ms. Holoubek noted that recent legislation exempts District from use of electronic voting machines when less than 250 voters voted at the most recent directors election.

The Board discussed the rate of pay for election officials. After discussion, Director Maddox moved that the Board set the pay for election officials at \$12 per hour. Director Davidson seconded the motion, which carried by unanimous vote.

EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONSULT WITH ATTORNEY REGARDING SWWC SERVICES, INC., AND ANY DAMAGE INCURRED BY THE DISTRICT

The Board determined it was not necessary to meet in executive session.

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

(SEAL)

  
Secretary, Board of Directors



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