

**MINUTES OF MEETING OF  
THE BOARD OF DIRECTORS OF  
VISTA OAKS MUNICIPAL UTILITY DISTRICT**

September 8, 2014

THE STATE OF TEXAS           §  
  §  
COUNTY OF WILLIAMSON       §

A meeting of the Board of Directors of Vista Oaks Municipal Utility District was held on September 8, 2014, at the offices of Gray Engineering, Inc., 8834 N. Capital of Texas Highway, Suite 140, Austin, Texas. The meeting was open to the public and notice was given as required by the Texas Open Meetings Act. A copy of the Certificate of Posting of the notice is attached as **Exhibit "A"**.

The roll was called of the members of the Board:

Douglas Mink	-	President
Leslie Alger	-	Vice President
Mike Asbury	-	Secretary
Keith E. Young	-	Assistant Secretary
Robert Wells	-	Assistant Secretary

and all of the Directors were present, thus constituting a quorum. Also present at times during the meeting were Andrew Hunt of Crossroads Utility Services LLC, the District's general manager and utility operator; John Hines and Herb Edmonson of Gray Engineering, Inc., the District's engineer; Autumn Phillips and Holly Gonzalez of Municipal Accounts & Consulting, L.P., the District's bookkeeper; Rhett Dawson, Nathan Neese, and Chris Blackburn of RMD Holdings, LP; Mike Palmer, an owner of land adjacent to the District; Chris Lane of SAMCO Capital Markets, Inc., the District's financial advisor; Chris Swedlund of McCall Gibson Swedlund Barfoot PLLC, the District's auditor; and John Bartram of Armbrust & Brown, PLLC, the District's general counsel.

Director Mink called the meeting to order at 12:08 p.m. and stated that the Board would first receive citizens' communications and Board member announcements. There being none, Director Mink stated that the Board would next consider approving the minutes of the August 11, 2014 Board meeting. Upon motion by Director Young and second by Director Mink, the Board voted unanimously to approve the minutes.

Director Mink next announced that the Board would consider approving a revised District Registration Form and authorizing the filing of the form with the Texas Commission on Environmental Quality. Mr. Bartram explained that the registration form needed to be updated to reflect the appointment of Director Wells and the new slate of officers. Upon motion by Director Asbury and second by Director Young, the Board unanimously approved the revised District Registration Form attached as **Exhibit "B"** and its filing.

Director Mink then stated that the Board would consider a proposal from McCall Gibson Swedlund Barfoot PLLC ("MGSB") for the audit of the District's financial statements for the fiscal year ending September 30, 2014. Mr. Swedlund directed the Board's attention to his firm's proposal attached as Exhibit "C". He confirmed that the proposed fee for this year's audit was between \$14,000 and \$16,000, and was essentially the same as last year's fee range. Mr. Swedlund also reviewed the fraud questionnaire attached as Exhibit "D", which he stated was provided under Statement on Auditing Standard No. 99 as part of the auditor's audit planning process to document material misstatements caused by fraud. He stated that the questionnaire would be emailed to the Board members separately later during the audit process, and he advised anyone with questions or concerns about fraud to contact his office. After discussion, upon motion by Director Alger and second by Director Wells, the Board voted unanimously to engage MGSB for the audit of the District's financial statements for the fiscal year ending September 30, 2014.

Director Mink then stated that the Board would consider the election items on the Supplemental Agenda. Mr. Bartram reported that the District's 2014 director election was uncontested and that the election could, therefore, be canceled. After discussion, upon motion by Director Wells and second by Director Asbury, the Board voted unanimously to approve the Order Declaring Election of Unopposed Candidates and Canceling November 4, 2014 Director Election attached as Exhibit "E".

Director Mink then stated that the Board would consider the budget and tax items on the agenda and conduct a public hearing on the District's 2014 tax rate. He opened the public hearing and recognized Ms. Lane. Ms. Lane reviewed the Tax Rate Summary attached as Exhibit "F". She stated that the Board had published a proposed tax rate of \$0.7157. However, due to the increase in average home values, she recommended that the District levy a tax rate of \$0.6659 so as not to result in a tax increase for the average homeowner. She stated that the \$0.6659 rate was comprised of a \$0.41 debt service tax and a \$0.2559 operations and maintenance tax. She added that the debt service tax rate was anticipated to stay at \$0.41 for the next few of years and then start dropping in 2019. There being no further public comment on the tax rate, Director Mink then closed the public hearing.

Director Mink then stated that the Board would discuss and consider adopting a budget for the District's 2014-2015 fiscal year. Ms. Gonzalez presented and reviewed a draft budget attached as Exhibit "G", which she explained had been updated based on input since the last Board meeting. Mr. Hunt elaborated on the operations and maintenance items and special projects included in the proposed budget. After discussion, Director Mink moved that the Board approve the budget and the Resolution Adopting Budget attached as Exhibit "H". Director Alger seconded the motion, which then passed unanimously.

Director Mink then stated that the Board would next consider establishing the District's 2014 tax rate. Ms. Lane reiterated her recommendation that the District establish a total tax rate for 2014 of \$0.6659, comprised of a \$0.41 debt service tax and a \$0.2559 operations and maintenance tax. Upon motion by Director Asbury and second by Director Alger, the Board voted unanimously to establish a tax rate of \$0.6659, allocated as recommended by Ms. Lane, and to adopt the Order Levying Taxes attached

as **Exhibit “I”**, with Directors Mink, Alger, Asbury, Young, and Wells all present and voting “aye”.

Director Mink then stated that the Board would consider approving an Amended and Restated Information Form. Mr. Bartram explained that the form needed to be updated to reflect the change in the District’s tax rate. Upon motion by Director Alger and second by Director Asbury, the Board voted unanimously to approve the Amended and Restated Information Form attached as **Exhibit “J”**.

Director Mink next announced that the Board would consider taking action regarding RMD Holdings, LP’s request for pass-through service to a ±38 acre tract north of and adjacent to the District commonly referred to as the Palmer tract. Mr. Dawson introduced Mike Palmer, one of the current owners of the Palmer tract, and David Blackburn, the builder for his proposed project. He stated that he was happy to answer any questions that the Board might have and that he was hopeful that the Board was prepared to move forward. Director Mink advised that, although the Board was not in a position to approve a blanket request for pass-through service at this time, the Board was prepared to develop a list of contingencies, which, if resolved to the mutual satisfaction of the Board and the developer, would give the Board the comfort needed to move forward with the request. At Director Mink’s request, Mr. Bartram then summarized the contingencies as follows:

- (1) completion of a new capacity study by an independent engineer confirming sufficient capacity in the District’s systems to accommodate the pass-through service request;
- (2) the deposit of an additional \$8,000 by RMD Holdings, LP with the District to cover the costs of the new capacity study by the independent engineer and related expenses of Gray Engineering, Inc.;
- (3) payment of the charges for pass-through service, which would include a one-time, up-front, non-refundable, lump sum capacity fee calculated using the same methodology for the fee originally assessed to Williamson County for pass-through service to the County’s Regional Park, as adjusted for inflation, and an on-going operation and maintenance fee of \$3.75 per LUE (to be adjusted annually) for the operation and maintenance of the District’s lift station used to provide pass-through wastewater service;
- (4) negotiation and final approval of all necessary agreements and documentation with the City of Round Rock, Williamson County, and the owner(s) of the Palmer tract regarding pass-through service to the Palmer tract, with the understanding that the City will take the drafting lead as the retail provider;
- (5) annexation of the Palmer tract into the City of Round Rock’s city limits, with appropriate zoning and/or other contractual land use controls reasonably acceptable to the District; and

(6) the condition that the Palmer tract will be developed substantially in accordance with the concept plan attached as **Exhibit "K"**.

Mr. Dawson stated that his plan was to apply for planned unit development or "PUD" zoning, which would require him to exceed certain standard development requirements of the City, and he suggested that this be the standard the deviation from which would require District approval. Mr. Palmer indicated that the proposed PUD ordinance could be submitted to the District before submittal to the City. Director Young stated that, essentially, the Board wanted to know that the project would be developed as proposed, subject to minor modifications. Messrs. Dawson and Palmer then elaborated on the timing of securing the development approvals necessary for the project, which Mr. Dawson likened to dominoes that needed to fall in a certain order. Mr. Palmer stated that, as the landowner, he did not want to encumber the property prematurely. Mr. Dawson noted that he had certain feasibility deadlines approaching with the Palmers and that, at some point, he would need to know that his request for pass-through service was moving in the right direction. Mr. Bartram stated that the Board was aware of those time constraints but stressed that the District also needed to do its due diligence and that there were also certain dominoes, such as the capacity study, that needed to fall in to place on District's side. Director Mink stated that the District was approached regarding pass-through service only two months ago and that it was his feeling that the Board and the District's consultants had gone out of their way to accommodate the request on short notice and within a short timeframe. He stated that he was, therefore, irritated by emails that he had seen from the landowners threatening to develop the property as an "RV" park if the District did not agree to provide pass-through service. Director Mink stated that he hoped that, based on today's discussion, the Palmer family would consider extending the feasibility deadlines as a sign of good faith. Mr. Palmer stated that he had been working on the development of the property for ten years. He indicated that he wanted Mr. Dawson's project to work, but he also stated that, at some point, he need to move forward one way or another. Mr. Dawson stated that he was delighted with the direction of today's discussions and thanked the Board for its time. Director Alger asked if Mr. Dawson had developed other similar projects that she could visit in person. Mr. Dawson suggested Mission Oaks off of Southwest Parkway. After further discussion, Director Asbury moved that, subject to the resolution of the contingencies outlined above, the Board move forward with the pass-through service request for the Palmer tract. Upon second by Director Young, the motion passed unanimously.

Mr. Bartram then directed the Board's attention to the Agreement for the Provision of Limited Professional Services with Murfee Engineering Co., Inc. for a new capacity study in connection with the pass-through service request to the Palmer tract, a copy of which is attached as **Exhibit "L"**. After discussion, upon motion by Director Wells and second by Director Asbury, the Board voted unanimously to approve the agreement subject to legal review of the "fine print" terms and conditions. Mr. Bartram stated that he would confer with Director Young on those details.

Director Mink then stated that the Board would receive the security report and consider taking related action. Mr. Hunt first directed the Board's attention to the

security report attached as **Exhibit “M”**. He then reported that Williamson County had done a “180” on patrol services and that now the only option offered by the County was for districts to engage patrol deputies as independent contractors pursuant to a “simplified” interlocal agreement. He stated that the latest word from the County was an ultimatum that the new agreement must be signed up by October 1<sup>st</sup> and that no changes to the form documents would be considered. Mr. Bartram stated that he had a few concerns with this new independent contractor arrangement, namely worker’s compensation insurance, general liability insurance, and classification of the patrol deputies as independent contractors for federal tax purposes. He stated that it was his understanding that the District’s existing insurance from the Texas Municipal League Intergovernmental Risk Pool (“TML”) would not cover independent contractors, but that additional insurance could be purchased from TML that would add both worker’s compensation and law enforcement liability coverages for the deputies. Mr. Bartram stated that preliminary analysis by Crossroads Utility Services appeared to indicate that, although this additional coverage was not cheap, it was still less expensive than paying the increased \$65 per hour rate under the prior structure offered by the County. He stated that the federal tax issue was more complicated. He noted that the Internal Revenue Service (the “IRS”) had conducted a payroll audit of another local municipal utility district in 2012 and had determined that, when county patrol deputies are paid directly by the entity contracting for their services, the deputies should be treated as employees for federal tax purposes instead of being “1099’d” as independent contractors. Mr. Bartram stated that treating a worker as an employee triggered certain withholding obligations as well as various other employment considerations. He reported that Williamson County had been made aware of the recent IRS determination and had concluded that the IRS was wrong and that the County judge could sue the IRS if the County’s structure was challenged. Mr. Bartram stated that, in an effort to better understand the implications of this issue, he had reached out to the tax attorney that had represented the district that was audited by the IRS in 2012 for his perspective on Williamson County’s position, the cost of which could be split among the other affected districts represented by Armbrust & Brown. Mr. Bartram recommended that, in the interest of time, the Board authorize the subcommittee that historically handled security-related issues (Director Mink and Mr. Hunt) to negotiate and execute a new security patrol agreement with Williamson County if the tax attorney determined that the County’s structure was compliant with federal tax law and, if not, that the matter be brought back for further consideration by the Board in October. Upon motion by Director Wells and second by Director Asbury, Mr. Bartram’s recommendation was unanimously adopted.

Director Mink stated that the Board would next receive a report from the District’s engineer and recognized Mr. Hines. Mr. Hines first directed the Board’s attention to the engineering report attached as **Exhibit “N”**. He reported that the repairs to the hair-line cracks in Phase 1 of the wall project had been completed and that the check had been released to the contractor. At Mr. Hines’ request, Mr. Edmonson then updated the Board with respect to Phase 2 of the wall project. Mr. Edmonson reported that the contractor had finally cleaned up most of the trash and construction debris. He stated that the stone work on the columns was not yet complete and that the mason was scheduled to be back on site later in the week. He anticipated that the project would be finished within a couple of weeks, which was still ahead of the

substantial completion deadline in the contract documents. He indicated that he would go ahead and schedule the walk-through of the disturbed areas to confirm that the HOA's irrigation system was still functioning properly. Mr. Edmonson then concluded the report on Phase 2 of the wall project by presenting and recommending approval of pay estimate no. 2 in the amount of \$115,943.62, a copy of which is attached as **Exhibit "O"**, which he stated reflected work through August 25<sup>th</sup> and 84% completion. Upon motion by Director Asbury and second by Director Young, the Board voted unanimously to approve the pay estimate.

Mr. Hines next reported on Phase 3 of the wall project. He stated that Director Asbury had determined that extending the fence further down the property line of the HOA's recreation center lot adjacent to the AT&T substation was not feasible due to an existing tree and that, therefore, the original depth of 50 feet was sufficient. He next reported that he was still trying to get a meeting scheduled with AT&T to discuss gating the substation as well as possible additional encroachments in Phase 3. Mr. Edmonson confirmed that the design of Phase 3 was complete and asked if the Board wanted to proceed to bid the project. Mr. Bartram stated that the title work for all of the temporary easements required from the adjacent homeowners had been received and that the easement documents were in the process of being prepared. He reminded the Board that, at the August meeting, the Board had decided not to bid the project until the easement on the HOA's recreation center lot, the AT&T issues, and the resident easements were finalized. Mr. Hunt stated that, now that the easement depth for the HOA easement on the recreation center lot had been confirmed, the easement could probably be secured quickly. He suggested that the Board consider authorizing the project to be bid once 75% of the resident easements were in place. Mr. Hines recommended that, regardless of when the project was bid, the fencing around the AT&T substation be included as an add-alternate in case complications with AT&T or other matters arose. The Board generally agreed and, upon motion by Director Asbury and second by Director Young, voted unanimously to authorize Phase 3 of the wall project to be bid once 75% of the temporary construction easements had been secured from the affected residents. Mr. Hines then concluded by announcing that, due to current workloads internally at his firm, Don Bayes would be attending the District's Board meetings until further notice.

Director Mink then stated that the Board would receive a report from the District's bookkeeper. Ms. Phillips first reported on recent fraud activity connected to the District's bank account. She explained that someone had forged checks on the District's account and sent them by FedEx to individuals in several different states. Ms. Phillips stated that due to the bank's diligence and the honesty of several of the recipients of the checks, the bank had frozen the District's account before any funds were transferred. She noted that the checks had all been signed by Princess Leia, a character from the Star Wars movies, and had apparently been sent from the Birmingham, Alabama area. Ms. Phillips stated that she had encountered this type of activity only three times in 11 years and that it was usually connected to a person who had received a payment from the District, such as a customer refund. She stated that she had reviewed the District's records and that one customer refund had been sent to a former customer in Birmingham, Alabama approximately 12 months ago. Ms. Phillips confirmed that a new account had been opened for the District and that the old account

would be officially closed once all of the legitimate checks on the account that were outstanding had cleared. She stated that she had also temporarily discontinued the automatic sweeps from the District's lock-box account until she was able to confirm that the activity was an isolated event. Mr. Hunt stated that he had reported the fraud activity to the Williamson County Sheriff's Department and had been advised that there was probably not much that the Sheriff's Department could do at this time because there was no actual loss and due to the fact that most of the activity had occurred out of state.

Mr. Bartram recommended that Board adopt account resolutions for the District's new operating account and revise the existing account resolutions for the District's other accounts to add Director Wells and remove Director Douthitt. After discussion, upon motion by Director Young and second by Director Mink, the Board voted unanimously to approve (i) revised the Secretary's Certificate and Resolutions Regarding Operating Account attached as **Exhibit "P"**; (ii) the revised Secretary's Certificate and Resolutions Regarding Manager's Account attached as **Exhibit "Q"**; (iii) the revised Secretary's Certificate and Resolutions Regarding Lock Box Clearing Account attached as **Exhibit "R"**; and (iv) all related account signature cards.

Ms. Gonzalez then presented the bookkeeper's report attached as **Exhibit "S"** and reviewed the bills and invoices and account activity for the District's operating, manager's, and lock box accounts; the account balances; the pledged securities reports; the budget comparison; the debt service payment schedule; the balance sheet; the tax collection report; the recycling rebate report; the annual electricity usage report; and the monthly transfers. She noted that the check for the fee of office to Director Douthitt would need to be voided due to his resignation from the Board and that a check for a fee of office to Director Wells for his attendance at the meeting would need to be added. Ms. Gonzalez next reported that two investment CDs were scheduled to mature before the Board's next meeting, and she recommended that these funds be transferred to the District's TexPool account in order to fund the pay estimates for the wall project. After discussion, upon motion by Director Asbury and second by Director Young, the Board voted unanimously to approve the bills, invoices, transfers, and investment recommendations as presented.

Director Mink next recognized Mr. Hunt for purposes of receiving a report from the District's general manager and utility operator. Mr. Hunt reviewed the report attached as **Exhibit "T"**. He stated that operations were going well and that he had no matters that required Board action this month. He next directed the Board's attention to the proposal from Sun\*Tech Electrical Contractors, Inc. for installation of additional street lighting on Artesia Bend, a copy of which is attached as **Exhibit "U"**. Mr. Hunt noted that the total cost was \$3,650 plus an additional \$250 for an LED fixture. He stated that Pedernales Electric Cooperative had confirmed that it would no longer install any of the "old style" halide fixtures and that LED lighting would be required. Mr. Hunt explained that, under such policy, the District would need to plan to convert to LED street lighting in the future. He also stated that he still needed to get in touch with the homeowners on Artesia Bend in order to vet the idea in more detail with the persons that would be the most affected. Director Mink suggested that action on this matter be postponed until after Mr. Hunt's meeting with the affected homeowners. The Board generally agreed.

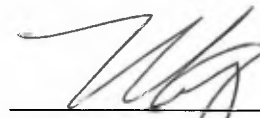
Director Mink then recognized Mr. Bartram for purposes of receiving a report from the District's attorney. Mr. Bartram first reviewed his directives from the previous Board meeting, which he stated were either complete or in process. Mr. Bartram then concluded by reporting that the District had received a ballot for the Texas Municipal League Intergovernmental Risk Pool's 2014 board of trustees election and that, as a member of the risk pool, the District had the opportunity to vote in the election. After discussion, the Board declined to cast a ballot.

Director Mink then asked if there was any further business to come before the Board. There being none, the meeting was adjourned at 2:00 p.m.

*(Signature page follows.)*



(SEAL)



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Mike Asbury, Secretary  
Board of Directors

Date: October 13, 2014