

RESOLUTION NO. 229

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF HIGHLAND HAVEN, TEXAS ("CITY"), AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF THE AGREEMENT BETWEEN THE CITY AND HIGHLAND UTILITIES, INC. ("HIGHLAND") AND THE AGREEMENT BETWEEN BURRISS WATER MANAGEMENT, INC. ("WMI") AND THE CITY FOR THE PURCHASE OF THE RETAIL PUBLIC UTILITY AND ESTABLISHMENT OF A CITY WATER UTILITY; AUTHORIZING THE ACCEPTANCE OF SPECIAL WARRANTY DEED, BLANKET CONVEYANCE, BILL OF SALE AND ASSIGNMENTS, AND RELATED DOCUMENTS, FOR THE PURPOSE OF THE CITY PURCHASING ALL THE REAL PROPERTY AND PERSONAL PROPERTY OF HIGHLAND, AND ALL THE RIGHTS, TITLES AND INTERESTS OF WMI IN AND TO SUCH ASSETS OR PROPERTY OF HIGHLAND AND CERTAIN OTHER RELATED ASSETS OF WMI, AND OBTAINING THE TRANSFER AND ASSIGNMENT OF ALL CUSTOMER FUNDS AND DEPOSITS HELD BY HIGHLAND AND WMI, INCLUDING BUT NOT LIMITED TO ALL ASSETS, RECEIVABLES AND PERSONAL PROPERTY OF HIGHLAND AND WMI, SAVE AND EXCEPT THE EXCLUDED ASSETS; AND PROVIDING FOR RELATED MATTERS.

Whereas, Highland Utilities, Inc. ("Highland") desires to sell, transfer and convey all of the real and personal property, and all assets of Highland of every nature and kind whatsoever to the City of Highland Haven, Texas (the "City"), save and except only the Excluded Assets as defined in the Agreement Between the City of Highland Haven, Texas, and Highland Utilities, Inc. (the "Highland Agreement");

Whereas, Burriss Water Management, Inc. ("WMI") desires to sell, transfer and convey all of the real and personal property, and all assets of WMI of every nature and kind whatsoever to the City of Highland Haven, Texas (the "City"), save and except only the Excluded Assets as defined in the Agreement Between the City of Highland Haven, Texas, and Burriss Water Management, Inc. (the "WMI Agreement");

Whereas, Highland and WMI are sometimes referred to jointly herein as the "Corporations" and the Highland Agreement and the WMI Agreement are hereinafter referred to collectively in this Resolution as the "Agreements";

Whereas, when used in this Resolution the word "Assets" means and includes all of the assets, both real property and personal property, of Highland and WMI, save and except only the "Excluded Assets" as defined in the Agreements;

Whereas, the Corporations desire to transfer and convey all of their Assets, including but not limited to, the real property and all interests in real property owned, claimed or held by the Corporations, together with all furniture, fixtures, equipment and improvements owned, held or claimed by the Corporations, save and except only the Excluded Assets;

Whereas, the Corporations desire to assign, transfer, and convey to the City all of the Assets, including but not limited to, the equipment, accounts receivable, contract rights, and all other personal property of the Corporations, save and except only the Excluded Assets;

Whereas, the Board of Aldermen of the City of Highland Haven, Texas, desires to purchase all of the Assets, both real and personal, of every nature and kind whatsoever of the Corporations, save and except only the Excluded Assets; and

Whereas, in order to complete the purchase of the retail public water utility and Assets of the Corporations it will be necessary for the City to issue bonds or certificates of obligation in an amount not less than the purchase price and the aggregate cost of issuance and contracting for the purchase;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF HIGHLAND HAVEN, TEXAS, THAT:

Section 1. Execution of the Agreements. The Mayor and officers of the City are authorized and directed to execute the Agreements , as defined above and spread on the minutes of this meeting.

Section 2. Preconditions to Closing and Purchase. The obligations of the City pursuant to the Agreements and the purchase of the water utility and assets of Highland and WMI are subject to (a) the City selling bonds or certificates of obligation and receiving Bond Proceeds, as defined in the Agreements, and (b) the City obtaining the approval of the Texas Commission on Environmental Quality ("TCEQ") for the transfer from Highland to the City of the CCN held by Highland (excluding the Wilderness Cove Subdivision). The actions and authorizations hereinafter set forth in this Resolution are subject to both such preconditions being satisfied, and shall be in full force and effect upon receipt of the Bond Proceeds and the TCEQ's approval of the CCN transfer to the City.

Section 3. Special Warranty Deed Subject only to the two conditions set forth in Section 2 above first being accomplished by the City, the Mayor and officers of the City are authorized and directed to accept and record the Special Warranty Deed, attached as Exhibit "D" to the Highland Agreement, spread on the minutes of this meeting.

Section 4. Bill of Sale. Subject only to the two conditions set forth in Section 2 above first being accomplished by the City, the Mayor and officers of the City are authorized and directed to accept from the Corporations, respectively, the Blanket Conveyance, Bill of Sale and Assignment, attached to the Highland Agreement as Exhibit "E" and to the WMI Agreement as Exhibit "A", and spread on the minutes of this meeting, transferring, assigning and conveying to the City all the equipment, accounts receivable, furnishings, business records, files, documents, bank accounts and all other personal property of the Corporations, save and except only the Excluded Assets.

Section 5. Related Documents. Upon acceptance of the above Special Warranty Deed and Bills of Sale, the Mayor and officers of the City are authorized to execute and deliver any and all documents or other instruments, and to do and cause to be done any and all further acts and things, reasonably necessary or desirable to carry out and effect the intent and purposes of the Agreements and this Resolution; provided that the same shall not be inconsistent with this Resolution.

Section 6. Effective Date. This Resolution shall be in force and effect upon its adoption.

ADOPTED AND PASSED this the 3 day of JUNE, 2009.

Attest:



Dana Turner, City Secretary

City of Highland Haven, Texas



Peter E. Freehill, Mayor

