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PUC DOCKET NO. 52201

APPLICATION OF UTILITIES	§	
INVESTMENT COMPANY, INC.	§	BEFORE THE
AND UIC 13 LLC AND MONARCH	§	
UTILITIES I L.P. FOR SALE,	§	PUBLIC UTILITY COMMISSION
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	OF TEXAS
RIGHTS IN HARRIS, LIBERTY, AND	§	
CHAMBERS COUNTIES	§	

**CYPRESS HILL HOMEOWNERS ASSOCIATION’S
MOTION TO INTERVENE**

COMES NOW Cypress Hill Homeowners Association, Inc. (Cypress Hill) and files this Motion to Intervene in this docket concerning the application filed by Utilities Investment Company, Inc. and UIC 13, LLC (UIC 13) for the sale, transfer, or merger (STM) of certain facilities and certificate rights to Monarch Utilities, LP (Monarch). In support of its motion, Cypress Hill would respectfully show as follows:

I. INTRODUCTION

Pursuant to Order No. 4 and 16 Texas Administrative Code (TAC) §§ 22.101–04, Cypress Hill seeks to intervene in this proceeding. As set forth below, Cypress Hill has a justiciable interest that may be adversely affected by the outcome of this proceeding.

II. AUTHORIZED REPRESENTATIVE

The name and address of the movant is:

Cypress Hill Homeowners Association, Inc.
17903 E. Cypress Hill Circle
Cypress, Texas 77433

Cypress Hill’s authorized representative for service of all pleadings and other documents in this docket and legal representative is:

Benjamin Mathews
Mathews & Freeland, LLP
8140 N. Mopac Expy
Suite 4-200
Austin, Texas 78759

Telephone: (512) 404-7800
Facsimile: (512) 703-2785
Email: bmathews@mandf.com

All pleadings, motions, and other documents in this proceeding should be served on Cypress Hill's authorized representative.

III. TIMELINESS OF INTERVENTION

The deadline for timely interventions is 45 days from the date an application is filed with the Commission, unless otherwise provided by statute, Commission rule, or order of the presiding officer. 16 TAC § 22.104(b). Under 16 TAC § 24.239(b), the intervention period for an STM application must not be less than 30 days. Order No. 4 in this docket established the deadline to intervene as "30 days after notice is issued." Cypress Hill notes that Commission Staff has not yet filed and the administrative law judge has not yet ruled on the sufficiency of the Applicants' notice in this proceeding. But taking as true Applicant's affidavit, filed August 2, 2021, that sufficient notice was issued on July 26, 2021, this motion is timely filed. Alternatively, in the event this motion to intervene is deemed filed late, Cypress Hill respectfully requests the motion be granted under 16 TAC § 22.104(d).

IV. JUSTICIABLE INTEREST

A person has standing to intervene if that person (1) has a right to participate which is expressly conferred by statute, Commission rule or order or other law; or (2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding. 16 TAC § 22.103(b). Cypress Hill is an incorporated association of homeowners located in Harris County, Texas. As stated in its bylaws, Cypress Hill is empowered to manage and administer the affairs and business of the property owners of Cypress Hill, and to prosecute any legal action on behalf of the association.¹ A "member" of the association is any recorded owner of real property in Cypress Hill as further stated in the bylaws. Members of Cypress Hill are retail water ratepayers of UIC 13, LLC under certificate of convenience and necessity 13242 (PWS #1011792).² The

¹ Cypress Hill Homeowners Association's bylaws are attached as Exhibit A.

² Application at 66, 126, 130, 261, and 268.

tariff under which UIC 13, LLC serves Cypress Hill ratepayers was approved by the Commission in Docket No. 43074. Members of Cypress Hill are customers of UIC 13, LLC and would become customers of Monarch in the event this application is approved and the sale is completed. On August 10, 2021, the Board of Cypress Hill unanimously voted to engaged the undersigned to intervene in this proceeding.³ As such, members of Cypress Hill have a justiciable interest which may be adversely affected by the outcome of the proceeding and Cypress Hill is authorized to act on their behalf.

Historically, under the management of UIC 13, LLC and its predecessor entities, Cypress Hill is concerned that its members have not received continuous and adequate service in accordance with 16 TAC §§ 24.205(4) and (5). Members of Cypress Hill have experienced water outages lasting up to 10 days at a time—due to broken water pipes, faulty wiring, electrical equipment failures, and lack of generator backup. Cypress Hill is further concerned that the existing facilities may not have been constructed and maintained in a manner to best accommodate the public in accordance with 16 TAC § 24.209. Cypress Hill desires to bring the inadequacy of the service currently provided⁴ to the attention of UIC 13, Monarch, and the Staff of the Public Utility Commission so that the parties can work together proactively to ensure these important service and safety issues are addressed. However, the outcome of those efforts cannot be known at this time—and as such, Cypress Hill hereby files this Motion to Intervene and reserves the right to request a hearing under 16 TAC § 24.239(h) to determine if this transaction will serve the public interest.

V. PRAYER

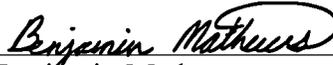
WHEREFORE, PREMISES CONSIDERED, Cypress Hill Homeowners Association, Inc. respectfully requests that this Motion to Intervene be granted, that Cypress Hill be granted party status, and that it receive any and all relief to which it shows that it is justly entitled.

Filed: August 25, 2021

³ The minutes of the August 10, 2021 meeting of the Cypress Hill Homeowners Association Board are attached as Exhibit B.

⁴ 16 TAC § 24.239(h)(5)(A).

Respectfully submitted,



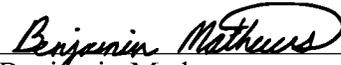
Benjamin Mathews
State Bar No. 24086987

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8140 N. MoPac Expy
Ste. 4-200
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Email: bmathews@mandf.com

ATTORNEYS FOR CYPRESS HILL
HOMEOWNERS ASSOCIATION,
INC.

**PUC DOCKET NO. 52201
CERTIFICATE OF SERVICE**

I certify that a copy of this document was served via email on August 25, 2021, in accordance with the requirements of 16 Tex. Admin. Code § 22.74, Order No. 1 in PUC Docket No. 50946, and Order No. 1 in PUC Docket No. 50664.



Benjamin Mathews

EXHIBIT A:

Bylaws of Cypress Hill Homeowners Association

NOTICE
N

**SUPPLEMENTAL
NOTICE OF DEDICATORY INSTRUMENTS
FOR
CYPRESS HILL HOMEOWNERS ASSOCIATION, INC.**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The undersigned, being the authorized representative of Cypress Hill Homeowners Association, Inc., a property owners' association as defined in Section 202.001 of the Texas Property Code (the "Association"), hereby supplements the "Notice of Dedicatory Instruments for Cypress Hill Homeowners Association, Inc." ("Notice") recorded in the Official Public Records of Real Property of Harris County, Texas on February 12, 2014 under Clerk's File No. 20140056021, which Notice was filed for record for the purpose of complying with Section 202.006 of the Texas Property Code.

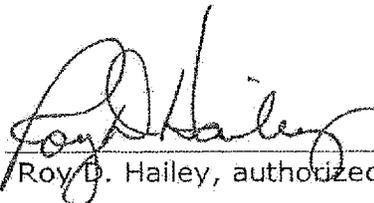
1. Additional Dedicatory Instruments. In addition to the Dedicatory Instruments identified in the Notice, the following document is a Dedicatory Instrument governing the Association:
 - **Certificate of Secretary of Cypress Hill Homeowners Association, Inc. regarding Amended and Restated Bylaws of Cypress Hill Homeowners Association Inc.**

This Supplemental Notice is being recorded in the Official Public Records of Real Property of Harris County, Texas for the purpose of complying with Section 202.006 of the Texas Property Code. I hereby certify that the information set forth in this Supplemental Notice is true and correct and the document attached to this Supplemental Notice is a true and correct copy of the original.

Executed on this 9th day of October, 2014.

CYPRESS HILL HOMEOWNERS ASSOCIATION, INC.

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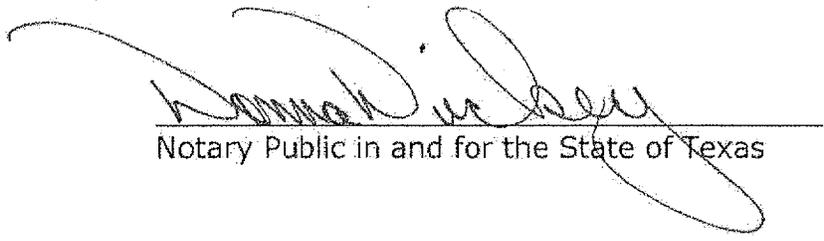
By: 
Roy D. Hailey, authorized representative

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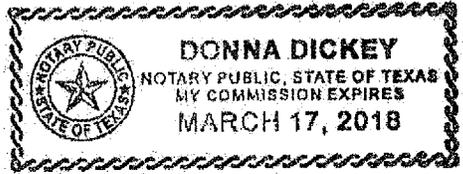
THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned notary public, on this day personally appeared Roy D. Hailey, authorized representative of Cypress Hill Homeowners Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and in the capacity therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 9th day of October, 2014, to certify which witness my hand and official seal.



Notary Public in and for the State of Texas



Return to:
Roy D. Hailey
ROBERTS MARKEL WEINBERG BUTLER HAILEY, PC
2800 Post Oak Blvd., Suite 5777
Houston, Texas 77056

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AMENDED AND RESTATED BY-LAWS
OF
CYPRESS HILL HOMEOWNERS ASSOCIATION, INC.

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**AMENDED AND RESTATED BY-LAWS
OF
CYPRESS HILL HOMEOWNERS ASSOCIATION, INC.
A NON-PROFIT CORPORATION HARRIS COUNTY, TEXAS**

**ARTICLE ONE
NAME, PURPOSES, REGISTERED OFFICE**

SECTION 1 NAME. The name of the corporation is CYPRESS HILL HOMEOWNERS ASSOCIATION, INC. ("Association")

SECTION 2. PURPOSES. As stated in the Articles of Incorporation of the Association and restated here, the purposes for which the Association was formed are:

- (1) To manage and administer the affairs and business of the property owners of CYPRESS HILL, an unrecorded subdivision in Harris County, Texas, described by metes and bounds in Exhibit "A" attached to the Protective Covenants recorded in the Official Public Records of Real Property of Harris County, Texas under County Clerk's File No. G013489 ("Cypress Hill").
- (2) To prosecute and defend any legal actions on behalf of the Association including but not limited to enforcing and defending any and all deed restrictions and protective covenants on Cypress Hill, as determined by the Board of Directors of the Association ("Board").
- (3) To make and perform contracts of every kind for any lawful purpose without limit to amount, with any person, firm, association, corporation, municipality, state, government, or municipal or political subdivision.
- (4) To have and exercise all the rights and powers conferred on nonprofit corporations under the Texas Business Organizations Code, as such law is now in effect or may at any time hereafter be amended.
- (5) To do all other acts necessary or expedient for the administration of the affairs and attainment of the purposes of this corporation.

**ARTICLE TWO
MEMBER GROUPS, VOTING RIGHTS**

SECTION 1. MEMBERS. A "member" of the Association shall be any recorded owner of real property in CYPRESS HILL according to the Official Public Records of Real Property of Harris County, Texas. There shall be only one class of members.

Upon any question of ownership of real property in CYPRESS HILL the party asserting member shall provide the Board a copy of a deed recorded in the Official Public Records of Real Property of Harris County, Texas showing their title to such real property.

SECTION 2. MEMBER GROUPS. A "member group" of the Association shall be any individual member who individually owns one or more lots in CYPRESS HILL, or any collection of members who jointly own one or more lots in CYPRESS HILL. Each member of the Association may participate in only one member group. There shall be only one class of member groups.

SECTION 3. VOTING RIGHTS. Voting rights are limited to member groups, only. Each member group will be entitled to one vote on each matter submitted to a vote of the Association membership. Each member group will be entitled to only one vote regardless of the number of lots owned by that member group. Split votes will not be allowed. The vote of each member group may be cast by any member of that member group. A member group may **not** be disqualified from voting for any reason. Members may vote by proxy, electronically or by means of absentee ballots.

Cumulative voting for Officers and Directors shall not be allowed.

ARTICLE THREE BOARD, DIRECTORS, OFFICERS

SECTION 1. THE BOARD. The Board of Directors of the Association shall be composed of seven members, four of which will be at-large Directors and three of which will be Officers as described in this Article. The Board shall be the governing body of the Association with full rights and authority necessary to pursue the purposes of the Association as stated in Article One of these By-Laws. Members of the Board shall not be compensated.

SECTION 2. AT-LARGE DIRECTORS. There shall be four At-Large Directors on the Board. Any member may serve as an At-Large Director. An At-Large Director will serve a term of two years, from the latter of September 1st or his (her) election and qualification, to the latter of August 31st or the election and qualification of his (her) replacement. At-Large Directors will be elected by a vote of the Association membership as provided for elsewhere in these By-Laws. At-Large Directors may succeed themselves.

SECTION 3. OFFICERS. There shall be three Officers of the corporation as described below. Each must be a member of the Association and each will be a member of the Board. Officers will serve a term of one year running from the latter of September 1st or his (her) election and qualification, to the latter of August 31st or the election and qualification of his (her) replacement. Officers will be elected by a vote of the Association membership as provided for elsewhere in these By-Laws. Officers may succeed themselves.

The duties of each Officer will be:

- (1) President - The President shall preside at all member and board meetings, preserve order, enforce the By-Laws and exercise general supervision of the corporation's affairs. He (she) shall decide all questions of procedure and order, and with the consent of the Board shall appoint all committees and serve as an ex-officio member of each such committee. The President shall also perform such other and additional duties as are customarily performed by such an officer.
- (2) Vice-President - The Vice President shall assist the President in the discharge of his duties and shall perform any and all additional duties delegated to him by the President or the Board. He or she shall also assume the duties of the President in the latter's absence.
- (3) Secretary/Treasurer - The Secretary/Treasurer shall maintain complete records of all

meetings and supervise all correspondence for the corporation. He (she) shall also supervise and maintain records for all of the financial matters of the corporation as required by these By-Laws and as directed by the Board.

SECTION 4. REMOVAL. Any Officer or At-Large Director may be removed from office by a 2/3 majority vote of all of the member groups.

SECTION 5. VACANCIES. Any vacancies on the Board will be filled for the unexpired term of the vacant office by a member of the Association appointed by the Board.

ARTICLE FOUR MEETINGS

SECTION 1. ANNUAL MEETING. The annual membership meeting will be held each year during the month of September with notice being given in accordance with Section 5. At each annual meeting the agenda will include at least the following items:

- (1) Report by the Board on the Association activities since the preceding annual meeting.
- (2) Report by the Secretary/Treasurer on the financial activities since the preceding annual meeting and on the current financial status of the Association.
- (3) Discussion of old and new business.

Other items may be added to the agenda at the discretion of the Board. A quorum of 25% of all member groups will be required for any votes taken at the annual meeting to be valid. A simple majority vote on matters before the membership shall govern unless otherwise required by these By-Laws or by law.

SECTION 2. BOARD MEETINGS. The Board shall meet quarterly. Unless announced otherwise by the Board, all Board meetings will be held on the first Saturday of each quarter at 2:30 p.m. Board meetings will be open to all members who wish to address the Board, subject to the Board's right to adjourn into executive session as allowed by Section 209.0051 of the Code. Board actions will be by majority vote of those Board members present, subject to a required quorum of five (5) Board members. Proxy voting by Board members will not be allowed.

SECTION 3. SPECIAL MEETINGS. Special meetings of the membership or of the Board may be called by the President or by written request of 10% of all member groups.

SECTION 4. CONDUCT OF MEETINGS. All meetings of the membership and of the Board will be conducted in accordance with the Revised Edition of Robert's Rules of Order when not in conflict with these By-Laws.

SECTION 5. NOTICE OF MEMBER MEETINGS. Written notice of each annual or special meeting of the Association shall be sent to each member's address listed with the Association, stating the purpose of the meeting, as well as the time and place where it is to be held. Such notice may be delivered personally, by mail, by facsimile, and to the extent expressly authorized by statute, by electronic message. If a member desires that notice be given at an address other than the lot, the member shall provide the alternative address for the purpose of receiving notice in writing to the Secretary. Notice by facsimile must be sent to the facsimile number provided to the Association in writing by that member. Notice shall be served not less than 10 nor more than 60 days before a meeting. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the

United States mail, first class postage pre-paid, addressed to the member. If faxed, the notice shall be deemed to be delivered as of the date and time shown on a written confirmation that the facsimile was successfully transmitted. If sent by electronic message, the notice shall be deemed to be delivered as provided by applicable statute. The Board may use any other means to deliver a notice of a meeting that may become available with advancements in technology, provided that notice by such means is authorized by statute.

ARTICLE FIVE
NOMINATIONS AND ELECTIONS

SECTION 1. NOMINATIONS. Nominations and elections shall be held in August of each year. The Secretary/Treasurer will send out a nomination form which will solicit nominations and notice of upcoming Association board elections to all member groups either personally, by mail, or by e-mail around August 1st. The nomination forms must be returned within 10 days so that nominations can be transferred to actual voting forms by August 10th. All members who are nominated must confirm that they are willing to accept the nomination. All members of the Association are eligible to run for office or director positions on the Board.

SECTION 2. ELECTIONS. Voting ballots with nominations for all open Officer and Board positions will be sent out to members by August 15th by either written ballot or email electronic ballot. Ballots must be completed as stated in communication advising of the vote. The nominees receiving a majority of the votes cast shall be declared elected.

Secret ballots are prohibited. A member group's vote must be in writing and signed by the member, except for uncontested elections. An electronic ballot is deemed to be in writing and signed.

ARTICLE SIX
COMMITTEES

SECTION 1. STANDING COMMITTEES. There will be one standing committee, the Architectural Review Committee.

The Architectural Review Committee shall be charged with the enforcement of the architectural review activities described in the Protective Covenants of Cypress Hill. As detailed in Article VI, Section 2(b) of the Protective Covenants, the Architectural Review Committee shall consist of three members who are appointed or removed by the Board. Members of the Board can also serve on the Architectural Review Committee.

The Board will oversee the administration of the maintenance of Cypress Hill's roads, common grounds and facilities.

SECTION 2. OTHER APPOINTMENTS. Additional committees as may be considered necessary by the Board may be appointed from time to time by the President with the approval of the Board. The number of members and the duties of such additional committees, as well as those of the standing committee, shall be within the discretion of the Board except as specifically required by these By-Laws.

ARTICLE SEVEN
FISCAL MATTERS

SECTION 1 SIGNATURES. Association checks and contracts under \$1,000 will require the signature of only one of the three officers. Any Association checks and contracts over \$1,000 will

require the signatures of any two of the three officers.

SECTION 2. MAINTENANCE FEE. The maintenance fee called for in Cypress Hill's Protective Covenants shall be payable to the corporation by March 1st of each year. The Board shall enforce the collection of this fee under the terms of the Protective Covenants. The Board may modify the maintenance fee as provided for in Cypress Hill's Protective Covenants.

SECTION 3. NONPAYMENT. Failure to make payment of the fees and assessments as provided for in Section 2 above will result in a late charge of \$10.00 per month per lot until all payments are brought up to date. This late charge in no way limits the corporation from seeking payment of the maintenance fee described in Section 2 of this article via procedures authorized in the Protective Covenants.

SECTION 4. MAINTENANCE OF FUNDS. All funds of the corporation shall be deposited to the credit of the Association in such banks, certificates of deposit or other depositories as the Board may select.

SECTION 5. BOOKS AND RECORDS. Books and records of the Association shall be retained by the Association in accordance with the Association's Document Retention Policy.

SECTION 6. FISCAL YEAR. The fiscal year of the Association shall be from January 1st to December 31st of each calendar year.

ARTICLE EIGHT AMENDMENTS

SECTION 1. AMENDMENTS OF BY-LAWS. These By-Laws may be revised, changed or amended at any regular or special membership meeting as herein provided.

SECTION 2. NOTIFICATION. Any proposed change, revision or amendment to these By-Laws must be provided to each member group in writing at least 10 nor more than 60 days before any vote is taken on such change, revision, or amendment.

SECTION 3. VOTE. Approval of any proposed change, revision or amendment to these By-Laws will require a majority vote or written approval of all the member groups in accordance with Article Two, Section 3.

[The remainder of this page was intentionally left blank.]

CERTIFICATE OF SECRETARY
of
CYPRESS HILL HOMEOWNERS ASSOCIATION, INC.

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The undersigned, being the duly elected, qualified and acting Secretary of Cypress Hill Homeowners Association, Inc., a Texas non-profit corporation ("Association"), does hereby certify that the above "Amended and Restated By-Laws of Cypress Hill Homeowners Association, Inc." were approved by two-thirds (2/3rds) majority vote of all member groups at a meeting of the members held on the 6 day of October, 2014, at which the requisite quorum was present.

**CYPRESS HILL HOMEOWNERS
ASSOCIATION, INC.**

By: Linda Maday

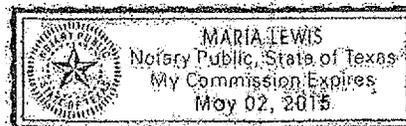
Printed: Linda Maday

Its: Secretary

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 6 day of Oct, 2014 by Linda Maday, Secretary of Cypress Hill Homeowners Association, Inc., on behalf of said corporation.

Maria Lewis
Notary Public in and for the State of Texas



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e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees 56.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

EXHIBIT B:

**Minutes of Aug. 10, 2021 Meeting of Cypress Hill
Homeowners Association Board**

Minutes of
Special Board Meeting for Water System
8/10/21

Attendees

President Tim Burns
Sec/Treas. Kimberly Hanus
Board Barry Plummer
Board Jim Harris
Board Fran Hydar
Vice Pres. Darrell Farmer was out of town and not in attendance

Discussion of the water system owned by J&S Water Co. selling to Monarch Utilities. Agreed that we need a representative on behalf of the subdivision to represent at the Public Utilities Commission. After conference calls between Tim Burns and Barry Plummer with attorneys at different law firms, regarding the system not being up to par and the need for a generator, it was agreed to hire a law firm. The law firm chosen is Matthews & Freeland, LLP.

By unanimous vote the motion was passed that [REDACTED] would be spent for the hiring of Matthews & Freeland, LLP to represent the CHHA and file an intervention.

By unanimous vote the motion was passed to allow Barry Plummer to sign the legal documents required for the filing of such intervention by Matthews & Freeland, LLP.

It was agreed that we would like the system brought up to current standards and a generator provided to be on-site. Half the cost of the generator cost would be shared by the HOA.



Meeting was adjourned.