

**FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 35,**  
**OF FORT BEND COUNTY, TEXAS**

Minutes of Meeting of Board of Directors  
December 7, 2022

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on December 7, 2022, at 1300 Post Oak Boulevard, Suite 2500, Houston, Harris County, Texas 77056, in accordance with the duly posted notice of public meeting, and the roll was called of the duly constituted officers and members of said Board, as follows:

Piero Battistini, President  
Sergio Handal, Vice President  
Tony Feng, Secretary  
Shah Haleem, Assistant Secretary  
Trevor Eynon, Assistant Secretary

and all of said persons were present, except for Directors Handal and Feng, thus constituting a quorum.

Also present were: Eric Gonzalez and Brian Desilets of Clarity Consulting Corporation ("Clarity"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"); Jerry Schroeder of Champions Hydro-Lawn, Inc. ("Champions"); Robert Lugo of Inframark ("Inframark"); and Kate Henderson and Melanie Walsh of Schwartz, Page & Harding, L.L.P. ("SPH").

**COMMENTS FROM THE PUBLIC**

The Board began by opening the meeting for public comments. No comments from the public were presented.

**APPROVAL OF MINUTES**

As the next order of business, the Board considered approval of the minutes of its meeting held on November 9, 2022. After discussion, Director Battistini moved that the minutes for said meeting be approved, as written. Director Haleem seconded said motion, which unanimously carried.

**BOOKKEEPER'S REPORT**

Ms. Henderson presented to and reviewed with the Board the Bookkeeper's Report dated December 7, 2022, a copy of which is attached hereto as **Exhibit A**. After discussion, Director Battistini moved that the Bookkeeper's Report be approved and that the disbursements identified therein be approved for payment, with the exception of check nos. 9541 and 9543, which were voided. Director Haleem seconded said motion, which unanimously carried.

**RATIFY PRIOR ACTION REGARDING TERMINATION OF AGREEMENT FOR BOOKKEEPING SERVICES WITH MUNICIPAL ACCOUNTS & CONSULTING, L.P.**

The Board considered ratifying its prior action regarding termination of the District's

Second Amended and Restated Agreement with Municipal Accounts & Consulting, L.P. ("MAC"), effective December 9, 2022. After discussion on the matter, Director Battistini moved that the Board's prior action regarding termination of the District's Bookkeeping Agreement with MAC be ratified and authorized in all respects. Director Haleem seconded the motion, which carried unanimously.

### **APPROVAL OF AGREEMENT FOR BOOKKEEPING SERVICES**

The Board next considered the approval of a Bookkeeping Agreement (the " Agreement") between the District and Clarity. . Mr. Desilets presented to and reviewed with the Board the Agreement, a copy of which is attached hereto as **Exhibit Band** answered various questions pertaining to same. After discussion on the matter, Director Battistini moved that the Agreement be approved and the related Texas Ethics Commission Form 1295 from Clarity be accepted and SPH be authorized to acknowledge receipt of same. Director Haleem seconded said motion, which unanimously carried.

### **AMENDED ORDER ESTABLISHING POLICY FOR INVESTMENT OF DISTRICT FUNDS AND APPOINTING INVESTMENT OFFICER**

The Board next considered amending its Order Establishing Policy for Investment of District Funds and Appointing Investment Officer ("Investment Policy"). With regard thereto, Ms. Henderson presented to and reviewed with the Board an amended Investment Policy, attached hereto as **Exhibit C**. Ms. Henderson then discussed the proposed revisions to the District's Investment Policy related to appointing Mr. Desilets as the District's new Investment Officer. After discussion on the matter, Director Battistini moved that (i) the amended Investment Policy be approved to reflect the proposed changes, and (iii) the President and Secretary be authorized to execute the Investment Policy on behalf of the Board and the District. Director Haleem seconded said motion, which unanimously carried.

### **DISTRICT REGISTRATION FORM**

Ms. Henderson next presented and reviewed with the Board a District Registration Form to be filed with the Texas Commission on Environmental Quality ("TCEQ") in connection with the engagement of Clarity as the District's Bookkeeper. After discussion on the matter, Director Haleem moved that the District Registration Form be approved as presented, and SPH be authorized and directed to file same with the TCEQ by the appropriate deadline. Director Battistini seconded said motion, which unanimously carried.

### **LOCAL GOVERNMENT OFFICERS LIST**

Ms. Henderson reminded the Board that, pursuant to Chapter 176 of the Texas Local Government Code, the District is required to maintain a list of Local Government Officers, which includes the members of the Board and the District's Investment Officers in connection with conflict of interest disclosure requirements. After discussion on the matter, Director Haleem moved that the District update its list of local government officers as required by law. Director Battistini seconded said motion, which unanimously carried.

### **FORT BEND COUNTY CONSTABLE'S OFFICE ("FBCCO") ACTIVITY REPORT**

The Board deferred consideration of a Monthly Contract Deputy Report from FBCCO.

## **STATUS OF CONVERSION TO LED BULBS AND PAINTING OF THE DECORATIVE LIGHT POLES IN THE COMMUNITY BY CENTERPOINT ENERGY**

The Board deferred consideration of the status of conversion to LED bulbs and painting of the decorative light poles in the community by CenterPoint Energy ("CenterPoint"), noting that no new updates have been received.

### **TAX ASSESSOR-COLLECTOR REPORT**

Ms. Flores presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending November 30, 2022, a copy of which is attached hereto as **Exhibit D**. Ms. Henderson next reported that a District taxpayer has submitted an appeal for waiver of the accrued penalties and interest on delinquent property taxes for the 2021 tax year. Ms. Henderson then reviewed the facts and circumstances surrounding the matter and advised the Board that, in this case, applicable tax law prohibits the Board from granting the taxpayer's appeal. Following discussion, it was moved by Director Battistini, seconded by Director Eynon and unanimously carried, (i) that the Tax Assessor-Collector Report be approved as presented and that the disbursements identified therein be approved for payment, and (ii) the taxpayer's appeal be denied and Tax Tech be authorized to notify the taxpayer on behalf of the Board and the District.

### **DELINQUENT TAX REPORT**

Ms. Henderson reported that a Delinquent Tax Report was not received this month from Perdue, Brandon, Fielder, Collins & Mott, L.L.P., the District's delinquent tax collections attorneys. She stated that the next quarterly report will be provided in January.

### **ENGINEER'S REPORT**

Mr. Safe next presented to and reviewed with the Board a written Engineer's Report dated December 7, 2022, a copy of which is attached hereto as **Exhibit E**, relative to the status of various engineering and construction projects within the District, and discussed the matters contained therein. With regard to the proposed purchase and installation of an emergency generator at the joint remote water well site ("Remote Well Generator Project"), Mr. Safe reported that BGE received three (3) bids for the project. He then presented to and reviewed with the Board a bid tabulation, a copy of which is attached to the Engineer's Report. Mr. Safe then reported that, at its meeting held on November 22, 2022, the Board of Directors of Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34") awarded the contract for the Remote Well Generator Project to McDonald Municipal and Industrial ("MMI") in the total estimated amount of \$572,369, which reflects MMI's bid after the deduction of the supplemental bid items in the amount \$6,100 for interior LED lighting and \$36,000 for a stainless steel exhaust system, and requested that the Board concur with No. 34's prior action relative to said contract. Mr. Safe advised that, after the deduction of such supplemental items, MMI had the lowest qualified bid. Mr. Safe next presented to and reviewed with the Board a proposal from BGE for the implementation of a Geographic Information System ("GIS") database for the District, a copy of which is included with **Exhibit E**. After further discussion, it was moved by Director Eynon, seconded by Director Haleem and unanimously carried, that the Engineer's Report be approved and that the Board: (i) concur with No. 34's prior award of the contract for the Remote Well Generator Project to MMI, as discussed above; and (ii) approve BGE's proposal in the total estimated amount of \$72,000 for the implementation of a GIS database – Phase 3 Application, as detailed in BGE's proposal.

## **PROPOSED AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION ("TXDOT")**

The Board deferred consideration of a proposed agreement with TxDOT relative to the proposed construction of noise barriers in connection with the planned widening of the Grand Parkway from FM 1093 to Interstate 10 (the "Grand Parkway Project") after noting that no new updates have been received.

## **CHAMPIONS HYDRO-LAWN, INC. ("CHAMPIONS") MAINTENANCE OPERATIONS AT LITTLE PRONG CREEK**

The Board deferred consideration of a Detention and Drainage Facilities Report ("D&D Report").

## **STORMWATER MANAGEMENT PROGRAM ("SWMP")**

The Board considered the status of the District's SWMP. Mr. Henderson advised the Board that there were no updates regarding the District's SWMP at this time.

## **OPERATIONS REPORT**

Mr. Lugo presented to and reviewed with the Board the Operations and Maintenance Report ("O&M Report") for the month of October 2022, a copy of which is attached hereto as **Exhibit F**. Mr. Lugo reported to the Board that the District had approximately 96% water accountability for the reporting period, discussed repairs made throughout the District, and reviewed with the Board an inspection report from Landscape Images of Texas ("LIT"), relative to the District's park facilities. He noted that tree trimming at the District's Dog Park and Family Park sites is complete. Mr. Lugo then presented six (6) accounts to be referred to collections in the total amount of \$829.01. Mr. Lugo next presented to and reviewed with the Board a proposal from Image 360, a copy of which is included with the O&M Report, for the fabrication of an aluminum "No Parking" sign with vinyl laminate lettering in either the amount of (a) \$69.96 for a 12-inch by 18-inch sign or (b) \$114.54 for an 18-inch by 24-inch sign. It was noted that Inframark would be responsible for installation of the proposed sign at the District's Family Park. A discussion ensued regarding the wording and information to be displayed on the proposed sign. Mr. Lugo noted that the cost for fabrication of the aluminum sign may increase should the Board decide to increase the number of words on the sign. Director Shah then requested the Board consider installing a plaque or bench at the Family Park. After further discussion of the various other matters contained in the O&M Report, it was moved by Director Eynon, seconded by Director Haleem and unanimously carried, that Inframark be authorized to: (i) send the six (6) accounts to collections, as discussed above; and (ii) proceed with fabrication of an 18-inch by 24-inch aluminum sign with vinyl laminate lettering by Image 360, displaying the same wording as the existing sign at the District's Dog Park, and install said sign at the District's Family Park.

## **NORTH FORT BEND WATER AUTHORITY ("NFBWA") WATER PROVIDER CONSERVATION PROGRAM (THE "PROGRAM") – 2022 REPORT AND 2023 ENROLLMENT**

Mr. Lugo next discussed with the Board the status of the District's participation in the 2022 Program. He stated that the District has acquired the pointes necessary to qualify for the 2022 Program. The Board next considered the District's enrollment in the 2023 Program. After

discussion, it was moved by Director Eynon that Inframark be authorized to complete and submit the NFBWA enrollment form for the 2023 Program once it becomes available on behalf of the Board and the District. Director Haleem seconded the motion, which unanimously carried.

### **ELECTRONIC LOCKBOX PROGRAM**

The Board deferred consideration of Inframark's implementation of Central Bank's Electronic Lock Box Program.

### **IMPLEMENTATION OF PUBLIC UTILITY COMMISSION OF TEXAS RULES RELATING TO SENATE BILL 3**

Ms. Henderson presented to and reviewed with the Board a Memorandum prepared by SPH detailing the Public Utility Commission of Texas' (the "PUC") publication of 16 TAC, Sections 24.173 and 24.364 relating to the implementation of Senate Bill 3 ("S.B. 3"). A copy of the Memorandum is attached hereto as **Exhibit G**. The Board was informed that a notice containing certain required information must be provided to each of the District's retail water or sewer customers prior to January 31, 2023. After discussion, Director Eynon moved to approve the required notice language prepared by SPH and to authorize Inframark to include the approved notice as an insert into the District's next utility bill. Director Haleem seconded the motion, which carried unanimously.

### **AMENDMENT TO DISTRICT RATE ORDER**

Ms. Henderson next presented to and reviewed with the Board an amended Rate Order. She advised that this Rate Order would allow sixty (60) days to refund deposits to customers and would address changes in the law resulting from the PUC's implementation of S.B. 3. After discussion, Director Haleem moved that (i) the District's Rate Order be amended to incorporate the PUC's implementation of S.B. 3, and (ii) effective as of January 1, 2023, any and all Rate Orders heretofore adopted by the Board be revoked, and the amended Rate Order attached hereto as **Exhibit H** be passed and adopted. Director Battistini seconded said motion which unanimously carried.

### **DISTRICT WEBSITE AND MASS NOTIFICATION MESSAGING MATTERS**

The Board deferred consideration of the continued operation of the District's website and the continuing implementation of the District's mass notification system.

### **ATTORNEY'S REPORT**

The Board considered the Attorney's Report. In that regard, Ms. Henderson and Mr. Safe reported that, at its meeting held on November 22, 2022, No. 34's Board of Directors authorized its operator, Municipal Operations & Consulting, L.P. ("MOC"), to replace on an emergency basis the fine drum screen located at the headworks of the Joint Wastewater Treatment Plant (the "Joint WWTP"), which had failed, for an estimated total cost of between \$80,000 to \$85,000, and SPH and BGE to prepare correspondence directed to the TCEQ requesting emergency approval of the project. Ms. Henderson advised that the TCEQ had granted its approval to move forward with the project.

**CLOSED SESSION**

The Board determined that it would not be necessary to meet in Closed Session at this time.

**FUTURE AGENDA ITEMS**

The Board considered items for placement on future agendas. No other specific agenda items other than routine and ongoing matters, or those discussed above, were requested.

**ADJOURNMENT OF MEETING**

There being no further business to come before the Board, Director Haleem moved that the meeting be adjourned. Director Eynon seconded said motion, which unanimously carried.

(SEAL)



  
Secretary, Board of Directors

**TABLE OF EXHIBITS**

**December 7, 2022**

- Exhibit A: Bookkeeper's Report
- Exhibit B: Bookkeeping Agreement – Clarity Consulting Corporation
- Exhibit C: Investment Policy
- Exhibit D: Tax Assessor-Collector's Report
- Exhibit E: Engineer's Report
- Exhibit F: Operations and Maintenance Report
- Exhibit G: Memorandum Regarding PUC Rules Implementing S.B. 3
- Exhibit H: Rate Order