

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

Minutes of Meeting of Board of Directors  
September 6, 2023

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on September 6, 2023, 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 Directors Handal and Shah, thus constituting a quorum. Directors Handal and Shah entered after the meeting was called to order, as noted herein.

Also present were: Eric Gonzalez of Clarity Consulting Corporation ("Clarity"); Sherri Greenwood of FORVIS, LLP ("FORVIS"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"), who entered later in the meeting, as noted herein; Dawn Mouton 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 August 2, 2023. After discussion, Director Eynon moved that the minutes for said meeting be approved, as written. Director Battistini seconded said motion, which unanimously carried.

**BOOKKEEPER'S REPORT**

Mr. Gonzalez presented to and reviewed with the Board the Bookkeeper's Report dated September 6, 2023, including an Investment Report for the period of August 1, 2023, through August 31, 2023, a copy of which is attached hereto as **Exhibit A**. After discussion, Director Battistini moved that: (i) the Bookkeeper's Report be approved and that the disbursements identified therein be approved for payment, including additional check no. 10257 payable to SPH in the amount of \$8,230.79 and excluding check nos. 10234 and 10241, which were voided, and (ii) the Investment Report for August 2023 be approved, and that the District's Investment

Officer be authorized to execute same on behalf of the Board and the District. Director Eynon seconded said motion, which unanimously carried.

Director Handal entered the meeting during the above discussion.

### **OPERATING BUDGET FOR FISCAL YEAR ENDING SEPTEMBER 30, 2024**

Mr. Gonzalez next presented to and reviewed with the Board a proposed budget for the District's fiscal year ending September 30, 2024, regarding the District's general operating account, a copy of which is attached hereto as **Exhibit B**. After discussion, Director Feng moved that the draft budget for the general operating account for the fiscal year ending September 30, 2024, be adopted. Director Battistini seconded said motion, which unanimously carried.

Director Haleem and Mr. Safe each entered the meeting during the above discussion.

### **ENGAGEMENT OF AUDITOR**

The Board considered the engagement of an auditing firm to prepare the District's audit report for the fiscal year ending September 30, 2023. In connection therewith, Ms. Greenwood presented and reviewed with the Board a proposed engagement letter with FORVIS for the audit of the District's financial statements. She stated that the estimated cost to prepare the District's audit report is \$21,800, plus an administrative fee of \$1,000 to cover items such as report production, copies, postage and other delivery charges, and technology related expenses. After discussion on the matter, Director Handal moved that (i) FORVIS be engaged to prepare the District's audit report for the fiscal year ending September 30, 2023, in accordance with the terms of the engagement letter attached hereto as **Exhibit C**, (ii) that the President be authorized to execute same on behalf of the Board and District, and (iii) the Texas Ethics Commission ("TEC") Form 1295 from FORVIS be accepted. Director Eynon seconded said motion, which carried unanimously.

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

Ms. Flores next presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending August 31, 2023, a copy of which is attached hereto as **Exhibit D**. Following discussion, it was moved by Director Handal, seconded by Director Battistini and unanimously carried that the Tax Assessor-Collector Report be approved as presented and that the disbursements identified therein be approved for payment.

### **PUBLIC HEARING REGARDING ADOPTION OF THE DISTRICT'S 2023 TAX RATE**

The Board conducted a hearing regarding the imposition of a proposed debt service tax rate and a maintenance tax rate for 2023. After noting that no members of the public appeared to address the Board concerning said matter, the public hearing was closed.

### **CONSIDER LEVY OF THE DISTRICT'S 2023 TAX RATE**

The Board then discussed the levying of the 2023 tax rate. Ms. Flores confirmed that notice had been published in *The Katy Times* newspaper, a copy of which notice is attached

hereto as **Exhibit E**, in accordance with all legal requirements and as directed at the previous meeting. After discussion on the matter, Director Battistini moved that: (i) the Board adopt the tax rate as proposed at the District's August 2, 2023, meeting and as reflected in the notice, being a 2023 debt service tax rate of \$0.255 per \$100 of assessed valuation and a 2023 maintenance tax rate of \$0.10 per \$100 of assessed valuation, resulting in a total 2023 tax rate of \$0.355 per \$100 of assessed valuation; (ii) the Order Levying Taxes attached hereto as **Exhibit F** be adopted in connection therewith; and (iii) the President be authorized to execute and the Secretary to attest same on behalf of the Board and the District. Director Feng seconded said motion, which carried unanimously.

### **AMENDMENT TO DISTRICT INFORMATION FORM**

Ms. Henderson presented to and discussed with the Board an Amendment to the Fourth Amended and Restated District Information Form ("DIF") relative to the District's 2023 tax rate. After discussion regarding the amendment to the DIF, Director Handal moved that (i) the DIF be approved, and (ii) the Board members present be authorized to execute same on behalf of the Board and the District. Director Battistini seconded said motion, which carried unanimously.

### **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 October.

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

Ms. Henderson presented a Monthly Contract Deputy Activity Report for the month of July 2023, regarding FBCCO, a copy of which is attached hereto as **Exhibit G**. It was noted that no action was required by the Board in connection with the FBCCO Report at this time.

### **ENGINEER'S REPORT**

Mr. Safe presented to and reviewed with the Board a written Engineer's Report, dated September 6, 2023, a copy of which is attached hereto as **Exhibit H**, relative to the status of various engineering and construction projects within the District, and discussed the matters contained therein. After discussion, it was moved by Director Eynon that the Engineer's Report and all action items listed therein be approved, including approval of Pay Estimate No. 4 in the amount of \$110,250 from McDonald Municipal and Industrial in connection with the contract for Installation of Permanent Emergency Generator at Remote Well Site. Director Handal seconded said motion, which unanimously carried.

The Board next considered the District's proposed participation in the North Fort Bend Water Authority ("NFBWA") effluent reuse program. In connection therewith, Mr. Safe reported that the District's and Fort Bend Municipal Utility District No. 34, of Fort Bend County, Texas' ("No. 34") Reclaimed Water Sub-Committees met last week to review and discuss the NFBWA's response to the Sub-Committees' comments to the NFBWA's term sheet related to a proposed Reclaimed Water Facilities Agreement (the "NFBWA Agreement"). He and Ms. Henderson then provided a summary of the discussion that took place at said meeting. After reporting that the NFBWA declined to make any substantive changes to its original term sheet

submitted to the District and No. 34, Mr. Safe advised the Board that the District's and No. 34's Sub-Committees' recommendation is not to proceed with the proposed NFBWA Agreement. After a lengthy discussion, Director Eynon moved to concur with the Sub-Committee's recommendation that the District decline to proceed with the proposed NFBWA Agreement. Director Handal seconded the motion, which unanimously carried. The Board further concurred that it is willing to reconsider the matter should the NFBWA indicate its willingness to negotiate the terms of such Agreement in the future. The Board then requested that SPH advised the NFBWA of same and requested that this item be removed from the agenda going forward.

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

Ms. Henderson next presented to and reviewed with the Board a Detention and Drainage Facilities Report ("D&D Report") dated September 6, 2023, prepared by Champions, for Little Prong Creek and corresponding photographs, a copy of which is attached hereto as **Exhibit I**. It was noted that no action was required of the Board in connection with the D&D Report at this time.

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

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

Director Eynon left the meeting at this time.

**OPERATIONS REPORT**

Ms. Mouton presented to and reviewed with the Board the Operations and Maintenance Report ("O&M Report") for the month of July 2023, a copy of which is attached hereto as **Exhibit J**. Ms. Mouton 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. She next presented one (1) delinquent account to be referred to collections in the total amount of \$130.24.

Ms. Mouton next presented a copy of correspondence received from the NFBWA, a copy of which is included with the O&M Report, providing notice that there are no anticipated changes to its current Groundwater Reduction Plan and Surface Water Fees for 2024.

With regard to the District's joint community event to be conducted at the District's Family Park in cooperation with No. 34, Ms. Mouton presented a draft flyer prepared by Inframark, a copy of which is attached to the O&M Report, advertising the event scheduled for October 14, 2023, for the Board's review and requested authorization to distribute said flyer to District customers. After discussion the Board concurred to approve the flyer, subject to certain revisions requested by SPH, and authorized Inframark to distribute same to District customers.

The Board then discussed the recent drought conditions, implementation of Stages 1 and 3 of the District's Drought Contingency Plan (the "DCP"), and communication to customers regarding same. Ms. Henderson advised the Board that Stage 1 was triggered, in accordance

with the terms of the District's DCP, when the NFBWA initiated Stage 1 water conservation measures on August 24, 2023. She further reported that Stage 3 was triggered, following consultation between Mr. Safe and Director Battistini, on September 1, 2023, after No. 34's Operator and Engineer, in consultation with the President of No. 34's Board of Directors, implemented Stage 3 of No. 34's DCP due to a significant reduction in the capacity of Water Well No. 1 ("WW No. 1") at the Joint Water Plant. Mr. Safe advised the Board that an investigation is currently underway to determine whether WW No. 1's pump may be lowered and stated that, in the meantime, No. 34's Operator is seeking additional surface water capacity from the NFBWA to supplement the District and No. 34 in the short term. Ms. Mouton then reported that the District received correspondence earlier today from a District resident indicating that it appears that Seven Meadows Community Association, Inc. ("Seven Meadows") has not stopped irrigating neighborhood landscape areas, in violation of the Stage 3 water use restrictions currently in place. Ms. Henderson then reviewed with the Board various provisions set forth in certain sections of the District's DCP relative to the imposition of penalties and/or disincentive charges for violations of mandatory water use restrictions. Directors Battisti and Handal then noted that, although Apollo IT Consulting confirmed that a text alert providing notice to subscribers regarding the implementation of Stage 3 had been disseminated on September 2, 2023, none of the Board members had received such an alert. A lengthy discussion ensued regarding a proposed course of action to enforce compliance with the mandatory water use restrictions.

Ms. Mouton next advised the Board that Inframark received a request from a District resident to repair a sidewalk safety hazard, which the resident believed to be caused by the District's sanitary sewer manhole, photographs of which are included with **Exhibit J**. She reported that a dye test was performed by Inframark which indicated that there are no problems with the sanitary sewer manhole and it is not the issue.

Director Eynon reentered the meeting at this time.

The Board then discussed installation of a commemorative bench at the District's Family Park. In connection therewith, Ms. Mouton presented a proposal in the estimated total amount of \$2,785 for the purchase and installation of such bench, a copy of which is included with **Exhibit J**. Following discussion regarding the draft for the proposed memorial engraving reflected in said proposal, the Board requested certain revisions to the language for engraving. Ms. Mouton noted that such change will slightly alter the total cost reflected in the subject proposal.

After discussion, Director Feng moved that: (i) the Board authorize Inframark to (a) refer one (1) delinquent account to collections, (b) issue warnings to violators of mandatory water use restrictions, as necessary, for at least one week and, thereafter, begin imposing the required surcharge as appropriate, with Directors Battistini and Handal appointed to a Sub-Committee to authorize Inframark to enforce such provisions of the DCP, and (c) contact all homeowners' associations within the District to communicate the mandatory water use restrictions currently in place and provide notice of the possible surcharges to be imposed for noted violations; (ii) the District resident's request to repair a sidewalk be denied as Inframark's inspection confirmed that the District's facilities did not cause damage to the subject sidewalk; and (iii) approve the proposal for installation of a commemorative bench, as discussed above, for an amount not to exceed \$2,785. Director Haleem seconded the motion, which unanimously carried.

Ms. Flores and Mr. Gonzalez exited the meeting during the above discussion.

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

The Board deferred consideration of the continued operation of the District's website. The Board concurred to re-send the alert notice to customers regarding Stage 3 of the DCP.

### **ATTORNEY'S REPORTS**

The Board considered the Attorney's Report. With regard to a District customer's recent request that the District trim and mitigate root intrusion from certain trees within a District-owned Reserve located adjacent to the customer's property, Ms. Henderson reported that Inframark and SPH contacted the customer in question and Seven Meadows, respectively, to explain the Board's position relative to the Maintenance Agreement between the District and Seven Meadows, as previously authorized by the Board.

Ms. Henderson next presented to and reviewed with the Board the Annual Maintenance for Arbitrage Analysis Report by Municipal Risk Management Group, LLC relative to the District's outstanding bonds, a copy of which is attached hereto as **Exhibit K**. Ms. Henderson that there were no action items in the report.

### **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 Handal moved that the meeting be adjourned. Director Battistini seconded said motion, which unanimously carried.

(SEAL)



  
Secretary, Board of Directors

**TABLE OF EXHIBITS**  
**September 6, 2023**

- Exhibit A: Bookkeeper's Report
- Exhibit B: Operating Budget for fiscal year ending September 30, 2024
- Exhibit C: Engagement Letter – FORVIS, LLP
- Exhibit D: Tax Assessor-Collector's Report
- Exhibit E: Water District Notice – 2023 Tax Rate
- Exhibit F: Order Levying Taxes
- Exhibit G: FBCCO Monthly Activity Report
- Exhibit H: Engineer's Report
- Exhibit F: Detention and Drainage Facilities Report
- Exhibit J: Operations and Maintenance Report
- Exhibit K: Arbitrage Annual Maintenance Report