

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

Minutes of Meeting of Board of Directors  
October 4, 2023

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on October 4, 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, thus constituting a quorum.

Also present were: Brian Desilets and Eric Gonzalez of Clarity Consulting Corporation ("Clarity"); Avik Bonnerjee of B&A Municipal Tax Service, LLC ("B&A"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Jeff Safe and Jeremy Gaskin of Brown & Gay Engineers, Inc. ("BGE"), Kim Cosco of Champions Hydro-Lawn, Inc. ("Champions"); David Beyer of Storm Water Solutions, LLC ("SWS"); Dawn Mouton and Chris Townsend 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 September 6, 2023. After discussion, Director Handal moved that the minutes for said meeting be approved, as written. Director Feng seconded said motion, which unanimously carried.

**BOOKKEEPER'S REPORT**

Mr. Gonzalez presented to and reviewed with the Board the Bookkeeper's Report dated October 4, 2023, including an Investment Report for the period of September 1, 2023, through September 30, 2023, a copy of which is attached hereto as **Exhibit A**. Mr. Gonzalez noted the debit reflected on the Cash Flow Report for the District's Operator Account in the amount of \$124.31 for AVR, Inc. ("AVR") processing fees, which he advised is to adjust for duplicate payment of such fees. Director Handal requested that Clarity investigate to confirm whether other instances of duplicate payments to AVR have occurred over the past year. After discussion, Director Haleem moved that: (i) the Bookkeeper's Report be approved and that the

disbursements identified therein be approved for payment, and (ii) the Investment Report for September 2023 be approved, and that the District's Investment Officer be authorized to execute same on behalf of the Board and the District. Director Battistini seconded said motion, which unanimously carried.

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

Mr. Gonzalez next presented to and reviewed with the Board an amended Operating Budget for the District's fiscal year ending September 30, 2024, relative to the District's general operating account ("Amended Budget"), a copy of which is attached hereto as **Exhibit B**. He noted that the Amended Budget reflects comments received from various District consultants. After discussion, Director Handal moved that the Amended Budget be adopted. Director Battistini seconded said motion, which unanimously carried. The Board requested that Clarity update the Cash Flow Forecast included with the Bookkeeper's Report to reflect the Amended Budget.

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CHAPTER 2265 RELATIVE TO ENERGY REPORTING**

The Board deferred consideration of the status of the District's compliance with Texas Government Code, Chapter 2265, relative to energy reporting requirements.

**ANNUAL REVIEW OF ORDER ESTABLISHING POLICY FOR INVESTMENT OF DISTRICT FUNDS AND APPOINTING INVESTMENT OFFICER**

The Board considered its annual review of its Order Establishing Policy for Investment of District Funds and Appointing Investment Officer ("Investment Policy") as required by Chapter 2256, Texas Government Code, and the adoption of a Resolution in connection therewith. Ms. Henderson presented for the Board's review an amended Investment Policy and a Resolution Regarding Review of Order Establishing Policy for Investment of District Funds and Appointing Investment Officer ("Resolution"). The Resolution and Investment Policy are attached hereto as **Exhibit C**. Ms. Henderson then discussed the proposed revisions to the District's Investment Policy. After discussion on the matter, Director Handal moved that (i) the amended Investment Policy be approved to reflect the proposed changes, (ii) the Board adopt the Resolution, and (iii) the President and Secretary be authorized to execute the Investment Policy and the Resolution on behalf of the Board and the District. Director Eynon seconded said motion, which unanimously carried.

**SALES AND USE TAX AUDIT REPORT FROM B&A**

Mr. Bonnerjee presented to and reviewed with the Board the Sales and Use Tax Audit Report prepared by B&A, a copy of which is attached hereto as **Exhibit D**. After discussion, the Board noted that no action was required on its part in connection with the Sales and Use Tax Audit Report at this time.

**TAX ASSESSOR-COLLECTOR REPORT**

Ms. Flores next presented to and reviewed with the Board the Tax Assessor-Collector

Report for the month ending September 30, 2023, a copy of which is attached hereto as **Exhibit E**. Following discussion, it was moved by Director Battistini, seconded by Director Feng and unanimously carried that the Tax Assessor-Collector Report be approved as presented and that the disbursements identified therein be approved for payment.

Mr. Bonnerjee left the meeting during the above discussion.

### **DELINQUENT TAX REPORT**

Ms. Henderson presented to and reviewed with the Board a Delinquent Tax Report dated October 4, 2023, from Perdue, Brandon, Fielder, Collins & Mott, L.L.P., the District's delinquent tax collections attorneys. A copy of said report is attached hereto as **Exhibit F**. The Board noted there were no action items in the report.

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

Ms. Henderson presented Monthly Contract Deputy Activity Reports for the months of August and September 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 Reports at this time.

### **INTERLOCAL AGREEMENT FOR ADDITIONAL LAW ENFORCEMENT SERVICES**

The Board next considered renewal of the Interlocal Agreement for Law Enforcement Services by and between the District, Fort Bend County (the "County"), Seven Meadows, and Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34") for the October 1, 2023, through September 30, 2024 term (the "Interlocal Agreement"). In connection therewith, Ms. Henderson advised the Board that SPH reviewed the Interlocal Agreement and had no comments to same, further noting that said Agreement was approved by No. 34's Board of Directors and the Board of Directors of Seven Meadows Community Association, Inc. at their meetings last month. After discussion, it was moved by Director Feng, seconded by Director Shah and unanimously carried, that the Interlocal Agreement be approved and that the President be authorized to execute same on behalf of the Board and the District.

### **ENGINEER'S REPORT**

Mr. Safe presented to and reviewed with the Board a written Engineer's Report, dated October 4, 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. Mr. Safe reported that the replacement of the manual bar screen and splitter box at Wastewater Treatment Plant No. 1 is complete. After discussion, it was moved by Director Eynon that the Engineer's Report and all action items listed therein be approved, including concurrence in No. 34's prior approval of Pay Request No. 2 and Final from AR TurnKee Construction Company, Inc. in the amount of \$51,286.70 in connection with the construction of Little Prong Creek Slope Repair and Outfall Replacement Phase 2. Director Haleem seconded said motion, which unanimously carried.

Mr. Gaskin next addressed the Board regarding the Geographic Information System ("GIS") database created for the District, which, he reported, is ready to be utilized. In

connection therewith, he provided a demonstration of the District's GIS application, including the various aspects of a GIS database and the functions available to the District's Engineer and Operator.

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

Mr. Cosco next presented to and reviewed with the Board a Detention and Drainage Facilities Report ("D&D Report") dated October 4, 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. In that regard, Mr. Beyer presented to and reviewed with the Board a summary of the SWMP Year 5 Goals and Training (the "Training Summary"), a copy of which is attached hereto as **Exhibit J**. He then conducted the second of two required training sessions each year with the Board and other District consultants, thoroughly explaining sources of bacteria and outlining the program elements of the SWMP that deal with these sources.

Mr. Beyer next informed the Board that notice of the Texas Commission on Environmental Quality's (the "TCEQ") decision that the District's SWMP meets all statutory and regulatory requirements and its preliminary approval of the District's permit authorization was published in the *Houston Chronicle* (d/b/a *Sugar Land Sun*) on May 18, 2022, and that copies of the District's SWMP and the TCEQ's Notice of Intent were posted in the Cinco Ranch Branch Library and on Cleanbayous.org. Mr. Beyer reported that no comments were received during the 30-day comment period which followed and stated that SWS is awaiting receipt of the final permit certificate. Mr. Beyer then advised the Board that the TCEQ has released a draft of the District's 2024 permit, the scheduled issuance date for which is January 24, 2024. It was noted that no Board action was required 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 August 2023, a copy of which is attached hereto as **Exhibit K**. Ms. Mouton reported to the Board that the District had approximately 104% 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 \$77.08. After discussion, Director Eynon moved that the Board authorize Inframark to refer one (1) delinquent account to collections. Director Battistini seconded the motion, which unanimously carried.

The Board then discussed the recent drought conditions and implementation of the District's Drought Contingency Plan (the "DCP") water conservation measures. Mr. Safe reminded the Board that Stage 3 of the District's DCP was triggered, following consultation between himself and Director Battistini on September 1, 2023, due to a significant reduction in

the capacity of Water Well No. 1 ("WW No. 1") at the Joint Water Plant and the need to take WW No. 1 offline for evaluation. He then advised the Board that WW No. 1's pump was slightly lowered and put back into service, and that the District was able to reduce its DCP water use restrictions to Stage 2 on September 13, 2023. Mr. Safe reported that No. 34 is coordinating with G-M Services to obtain an inspection report in order to determine whether it is appropriate for No. 34 and the District to reduce their DCP water use restrictions to Stage 1. The Board then concurred with Mr. Safe's recommendation that the District maintain Stage 2 water use restrictions for the time being and that BGE and Inframark continue to work with Directors Battistini and Handal between meetings to review any recommended changes relative to the status of the District's DCP.

Messrs. Gaskin and Beyer exited the meeting during the above discussion.

### **LETTER AGREEMENT WITH NO. 34 RELATIVE TO JOINT FALL COMMUNITY EVENT**

The Board next considered approval of a Letter Agreement with No. 34 memorializing the terms by which each district agrees to fund fifty-percent (50%) of the total cost for planning and conducting the joint Fall Community Event, a copy of which is attached hereto as **Exhibit L**. After discussion, Director Eynon moved that the Board approve said Letter Agreement. 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. In connection with the proposed creation of District email addresses for Directors, Ms. Henderson reviewed certain provisions of House Bill 2815, passed by the 88th Texas Legislature, with the Board. She then advised the Board that she consulted with Jeremy Roach, who recommended that the Board obtain one public email address for the Board at a cost of \$7.00 per month with Apollo IT Consulting ("Apollo") to monitor said email address. She noted that Apollo would charge the District's at its hourly rate for such service. After discussion, the Board requested that Mr. Roach provide the Board with more details relative to the matter at its next meeting in November.

### **ATTORNEY'S REPORTS**

The Board considered the Attorney's Report. With regard Ms. Henderson presented to and reviewed with the Board correspondence from Chole Pedersen, a librarian and educator, a copy of which is attached hereto as **Exhibit M**, requesting that the Board consider including on the District's website a link that explains terms regarding the water cycle that was found by one her students. After discussion, the Board concurred that such link be included on the District's website and requested that SPH coordinate same with Apollo.

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

(SEAL)

  
Secretary, Board of Directors



**TABLE OF EXHIBITS**

**October 4, 2023**

- Exhibit A: Bookkeeper's Report
- Exhibit B: Amended Operating Budget for fiscal year ending September 30, 2024
- Exhibit C: Investment Policy Order and Resolution
- Exhibit D: Sales and Use Tax Audit Report
- Exhibit E: Tax Assessor-Collector's Report
- Exhibit F: Delinquent Tax Report
- Exhibit G: FBCCO Monthly Activity Reports
- Exhibit H: Engineer's Report
- Exhibit I: Detention and Drainage Facilities Report
- Exhibit J: Storm Water Management Plan Training Summary
- Exhibit K: Operations and Maintenance Report
- Exhibit L: Letter Agreement with No. 34 – Joint Fall Community Event
- Exhibit M: Correspondence regarding addition of proposed link to District's website