

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

Minutes of Meeting of Board of Directors  
March 6, 2024

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on March 6, 2024, 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 Feng and Haleem, thus constituting a quorum. Directors Feng and Haleem entered the meeting after it was called to order, as noted herein.

Also present were: Eric Gonzalez of Clarity Consulting Corporation ("Clarity"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Avik Bonnerjee of B&A Municipal Tax Service, LLC ("B&A"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"); Dawn Mouton of Inframark ("Inframark"); and Kate Henderson and Melanie Walsh of Schwartz, Page & Harding, L.L.P. ("SPH").

The President called the meeting to order and declared it open for such business as might regularly come before it.

**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 February 7, 2024. After discussion, Director Battistini moved that the minutes for said meeting be approved, as written. Director Handal seconded said motion, which unanimously carried.

Director Feng entered the meeting during the above discussion.

**BOOKKEEPER'S REPORT**

Mr. Gonzalez presented to and reviewed with the Board the Bookkeeper's Report prepared by Clarity Consulting Corporation ("Clarity") dated March 6, 2024, including an Investment Report for the period February, 2024, through February 29, 2024, a copy of which is

attached hereto as **Exhibit A**. With regard to the proposed transfer of a portion of the District's funds out of the current money market account into one or more Certificates of Deposit ("CD"), Mr. Gonzalez reported that Clarity investigated CD interest rates and found that the highest rate currently available is approximately 4.5% for a one-year term, which is lower than the District is currently receiving on its money market account. Following discussion regarding the current investment climate, the Board concurred to take no action at this time in connection with the proposed transfer of District funds. It was then moved by Director Eynon that: (i) the Bookkeeper's Report be approved and the disbursements identified therein be approved for payment, with the exception of check no. 10426 payable to McDonald and Sechrist, LLP in the amount of \$12,509, which was voided, and including additional check no. 10443 payable to McDonald & Wessendorff in the amount of \$12,509 in connection with the renewal of the District's insurance policies and bonds for the 2024-2025 policy term; and (ii) the Investment Report for February 2024 be approved, and the District's Investment Officer be authorized to execute same on behalf of the Board and the District. Director Handal seconded said motion, which unanimously carried.

Director Haleem entered the meeting during the above discussion.

### **STATUS OF CONTINUING DISCLOSURE REPORT**

Ms. Henderson next presented to the Board correspondence from McCall, Parkhurst & Horton, L.L.P. ("McCall"), the District's Disclosure Counsel, regarding the approval of an Annual Financial and Operating Report pursuant to SEC Rule 15c2-12 ("Annual Report") relative to the District's Series 2015, Series 2016 and Series 2021 Refunding Bonds, a copy of which is attached hereto as **Exhibit B**. After discussion on the matter, the Board concurred that the Annual Report prepared by McCall be approved and McCall be directed to file same with the appropriate agencies as required by SEC Rule 15c2-12 on behalf of the Board and District prior to the March 30, 2024 deadline, as previously authorized by the Board.

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

Ms. Flores next presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending February 29, 2024, a copy of which is attached hereto as **Exhibit C**. 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.

### **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, it was noted that no action was required by the Board in connection with the Sales and Use Tax Audit Report at this time.

Mr. Bonnerjee left the meeting at this time.

### **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 April.

### **UNCLAIMED PROPERTY**

The Board considered authorizing District consultants to research the District's accounts for unclaimed property and to authorize Clarity to prepare an Unclaimed Property Report as of March 1, 2024. Ms. Henderson advised the Board that the District's consultants will review their records and provide Clarity with a current listing of any unclaimed property in the District's accounts for preparation of the Unclaimed Property Report. She further advised the Board that Clarity will file the report with the Comptroller of Public Accounts of the State of Texas (the "Comptroller") and discharge any unclaimed funds to the Comptroller by July 1, 2024. After discussion, Director Haleem moved that the consultants be authorized to provide current listings of any and all unclaimed property to Clarity and that, should any unclaimed property exist, Clarity be authorized to file an Unclaimed Property Report with the Comptroller. Director Feng seconded said motion, which unanimously carried.

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

Ms. Henderson presented Monthly Contract Deputy Activity Reports for the month of February 2024, regarding FBCCO, a copy of which is attached hereto as **Exhibit E**. 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 March 6, 2024, a copy of which is attached hereto as **Exhibit F**, relative to the status of various engineering and construction projects within the District, and discussed the matters contained therein. In connection therewith, Mr. Safe discussed the proposed rehabilitation of Water Well No. 1 at the Joint Water Plant (the "WW No. 1 Rehabilitation Project") with the Board, including certain issues to be addressed relative to overhead District power lines in the vicinity of Water Well No. 1. After reviewing the various available options considered by BGE and the operator for Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34") to address certain safety concerns while maintaining power at the Joint Water Plant throughout the duration of the WW No. 1 Rehabilitation Project, Mr. Safe reported that, upon consultation with Director Battistini and the President of No. 34's Board, MOC obtained and installed insulating power line covers at the site for the total estimated cost of \$25,000, which action was ratified in all respects by No. 34's Board at its meeting held last week.

Mr. Safe next requested that the Board authorize BGE to perform a service line connection survey within a portion of Hickory Creek in connection with the lead service line inventory required by the EPA Lead and Copper Rule Revisions. He noted that the cost for said services will be charged at an hourly rate at an estimated total amount of \$5,000. After discussion, it was moved by Director Handal, seconded by Director Eynon and unanimously carried, that the Board authorize BGE to perform a service line connection survey within a portion of Hickory Creek, as discussed above.

### **AVALON REQUEST RELATIVE TO DETENTION PONDS**

With regard to the recent inquiries from the Board of Directors of Avalon at Seven Meadows Community Association, Inc. ("Avalon") regarding rehabilitation of the amenity lakes

located within the Avalon community, Ms. Henderson reported that, upon review of the District's records, SPH and BGE have determined that the District is not responsible for the maintenance of the bulkheads as they are considered an amenity feature to the detention ponds owned by the District. She advised the Board that, at the time of their construction, the District was not legally allowed to pay for the bulkheads and was advised by a representative of the developer that the bulkheads would be maintained by Avalon. Ms. Henderson further noted that, in accordance therewith, Section 6.2 of the Declaration of Covenants, Conditions and Restrictions for Avalon (the "CCRs"), as recorded under Fort Bend County Clerk's File No. 2004092496, states that the lot owners (as defined in the CCRs) are responsible for cleaning and repairs to any bulkhead along a lot owner's property line. After discussion, Director Eynon moved that the Board authorize SPH to prepare and send a letter to Avalon (i) providing notice of the Board's decision to decline funding for repairs to the bulkheads at the detention ponds located within the community and outlining the reasons for such decision, and (ii) memorializing the District's obligations with regard to maintenance of the hydraulic features of the detention ponds and related drainage system.

#### **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") after noting that no report was received from Champions for consideration at today's meeting. Ms. Henderson then advised the Board that a certain portion of Little Prong Creek at Fry Road, which was previously repaired by Double Oak Erosion ("Double Oak") utilizing the SOX erosion repair system, has deteriorated further since the District's last Board meeting. Mr. Safe reported that BGE has been in contact with Double Oak regarding repair and rehabilitation of the area. He summarized such discussions for the Board, noting that Double Oak has indicated that it believes it has identified the underlying reason for the repeated failure of the SOX erosion repair system in the particular area in question and also that Double Oak would prefer to postpone repairing the area until slightly later in the year, when weather conditions may be more favorable.

Ms. Flores left the meeting during the above discussion.

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

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

#### **ANNUAL FILINGS OF CRITICAL LOAD STATUS FACILITIES**

Ms. Henderson advised that Section 13.1396 of the Texas Water Code, as amended, requires that a District must annually submit to each electric distribution utility and each retail electric utility provider a list of its facilities which may qualify for critical load status and various emergency contact information for a determination that the facilities qualify for critical load status. After discussion on the matter, Director Battistini moved that Inframark be authorized to make such annual filings on behalf of the District, with BGE to assist Inframark, if required. Director Eynon seconded the motion, which unanimously carried.

## **OPERATIONS REPORT**

Ms. Mouton presented to and reviewed with the Board the Operations and Maintenance Report ("O&M Report") for the month of January 2024, a copy of which is attached hereto as **Exhibit G**. Ms. Mouton reported to the Board that the District had approximately 102% water accountability for the reporting period and discussed repairs made throughout the District. She then reviewed with the Board an inspection report from Landscape Images of Texas ("LIT"), relative to the District's park facilities. In connection therewith, Ms. Mouton advised the Board the removal of a fallen oak tree located within the District's Dog Park has been completed, as previously authorized by the Board.

Director Feng next inquired about sidewalk repairs in the approximate total amount of \$4,000 reflected in the O&M Report presented a last month's Board meeting and requested that Ms. Mouton investigate the matter to confirm whether the information provided is correct. Ms. Mouton stated that she will research the matter and present her findings at the next Board meeting.

Ms. Mouton then requested the Board's authorization to send one (1) contractor back charge invoice in the total amount of \$516.48 for repair of damage caused by MP Technologies, LLC in 2019, to collections.

With regard to the status of review of the District's Drought Contingency Plan (the "DCP") and Water Conservation Plan ("WCP"), Ms. Mouton reported that Inframark has reviewed the District's current DCP and WCP and is not recommending any revisions to either of said documents at this time.

After discussion, it was duly moved by Director Battistini, seconded by Director Handal and unanimously carried, that Board authorize Inframark to send the contractor back charge invoice to collections, as discussed above.

## **WATER CONSERVATION PLAN ANNUAL IMPLEMENTATION REPORT**

The Board next considered authorizing Inframark to prepare and file the Annual Implementation Report regarding the District's Water Conservation Plan with the Texas Water Development Board and the North Fort Bend Water Authority ("NFBWA"). After discussion, Director Battistini moved that Inframark be authorized to prepare the Annual Implementation Report and file same with the Texas Water Development Board and NFBWA prior to the May 1, 2024, deadline. Director Feng seconded said motion, which carried unanimously.

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

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

## **GRIFFIN ELEMENTARY PARENT TEACHER ASSOCIATION (THE "GRIFFIN PTA") REQUEST FOR FUNDING**

The Board next considered the Griffin PTA's previous request for funding from the District for proposed playground improvements at the school. In connection therewith, Ms. Henderson reviewed her recent communications with Joelle Hardin with the Board. The Board discussed the District's primary function of water, sewer and drainage and the District's history of

not contributing funds to other schools in the area for similar requests. After a lengthy discussion, the Board concurred to decline the Griffin PTA's solicitation and requested that SPH convey the Board's decision to Ms. Hardin and the reasons therefore.

### **ATTORNEY'S REPORTS**

The Board considered the Attorney's Report. Ms. Henderson briefly discussed matters related to the District's Directors Election to be held on May 4, 2024.

### **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 Eynon seconded said motion, which unanimously carried.



  
Secretary, Board of Directors

**TABLE OF EXHIBITS**

**March 6, 2024**

- Exhibit A: Bookkeeper's Report
- Exhibit B: Continuing Disclosure Report
- Exhibit C: Tax Assessor-Collector's Report
- Exhibit D: Sales and Use Tax Audit Report
- Exhibit E: FBCCO Monthly Activity Reports
- Exhibit F: Engineer's Report
- Exhibit G: Operations and Maintenance Report