

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

Minutes of Meeting of Board of Directors

October 7, 2020

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on October 7, 2020, 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:

Susan Ruske, President  
Piero Battistini, Vice President  
Sergio Handal, Secretary  
Trevor Eynon, Assistant Secretary  
Steven Olsen, Assistant Secretary

all of whom participated in the meeting via telephone conference call, thus constituting a quorum.

Also attending the meeting via telephone conference call were: Erica Slater of Principal Management Group of Houston ("PMI"), Community Manager for Seven Meadows Community Association, Inc. ("Seven Meadows"); Jerry Schroeder of Champions Hydro-Lawn, Inc. ("Champions"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Taylor Watson of Municipal Accounts & Consulting, L.P. ("MAC"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"); David Beyer of Storm Water Solutions, LLC ("SWS"); Katie May of Inframark ("Inframark"); Billy Haehnel, President of the Board of Directors of Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34"); and Bryan Yeates and Melanie Walsh of Schwartz, Page & Harding, L.L.P. ("SPH").

**EXPLANATION OF TELEPHONE CONFERENCE CALL MEETING PROCEDURES AND CALL TO ORDER**

Mr. Yeates explained to the Board the procedures to be used during the telephone conference call meeting. In connection therewith, he informed the participants that the meeting would be recorded, and requested that participants clearly state his or her name before speaking, including when making or seconding a motion. Mr. Yeates further explained that he would conduct a roll call vote for all motions and that Board members should wait to vote on a motion until his or her name has been called. Similarly, Mr. Yeates stated that a full roll call of all participants would be conducted at the start of each telephone conference meeting for attendance purposes.

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 September 2, 2020. After discussion, Director Olsen moved that the minutes for said meeting be approved, as written. Director Ruske seconded said motion, which unanimously carried.

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

Ms. Slater presented a Monthly Contract Deputy Report for the month of September, 2020, regarding FBCCO, a copy of which is attached hereto as **Exhibit A**. It was noted that no action was required of the Board.

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

Ms. Slater next reported that the proposed renewal of the Interlocal Agreement for Law Enforcement Services by and between the District, Fort Bend County (the "County"), Seven Meadows, and No. 35 for the 2020 – 2021 term (the "Agreement") is still under review by the County and noted that the County intends to revise the Agreement to provide for eight-hour shifts instead of ten-hour shifts. She advised the Board that the FBCCO will continue to provide law enforcement services on a month to month basis, per the terms of the previous Agreement.

Mr. Haehnel next advised the Board that No. 34 is proceeding with the installation of license plate readers within the District, pursuant to the terms of a Letter Agreement by and between No. 34 and the Hickory Creek Homeowner's Association relative to same.

## **TAX ASSESSOR-COLLECTOR REPORT**

Ms. Flores presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending September 30, 2020, a copy of which is attached hereto as **Exhibit B**. After discussion, it was moved by Director Ruske, seconded by Director Eynon and unanimously carried, that the Tax Assessor-Collector Report be approved as presented, and that the disbursements identified therein be approved for payment.

Ms. Flores next presented to and discussed with the Board correspondence dated October 6, 2020, a copy of which is included with **Exhibit B**, from Nazish Durrani of Z and Z Works, owner of the property located at 5131 Birch Manor Lane, requesting a waiver of penalties and interest levied against the account for said property in connection with delinquent 2019 taxes. Mr. Yeates next reviewed certain provisions of the Tax Code and advised the Board that it has no discretion to consider a waiver of penalties and interest, barring certain conditions, which conditions are not met in this particular matter. After discussion, it was moved by Director Handal, seconded by Director Olsen and unanimously carried that Tax Tech be authorized to advise the property owner that, because the request for waiver of penalties and interest does not fall within one of the exceptions to the Tax Code, the Board does not have the discretion to consider same.

## **DELINQUENT TAX REPORT**

Mr. Yeates presented to and reviewed with the Board a Delinquent Tax Report dated October 7, 2020, from Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue"), the District's delinquent tax collections attorneys, a copy of which is attached hereto as **Exhibit C**. The Board noted there were no action items in the report.

Mr. Haehnel left the meeting at this time.

## **BOOKKEEPER'S REPORT**

Mr. Watson presented to and reviewed with the Board the Bookkeeper's Report dated October 7, 2020, a copy of which is attached hereto as **Exhibit D**. After discussion, Director Olsen moved that the Bookkeeper's Report be approved and that the disbursements identified therein be approved for payment. Director Ruske seconded said motion, which unanimously carried.

## **ANNUAL ARBITRAGE MAINTENANCE REPORT AND ENGAGEMENT OF ARBITRAGE COMPLIANCE SPECIALISTS, INC. ("ACS")**

Mr. Yeates 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 E**. In connection therewith, Mr. Yeates presented to and reviewed with the Board an engagement letter from ACS, a copy of which is included within **Exhibit E**, for preparation of arbitrage compliance computations as required by the Internal Revenue Service. Mr. Yeates advised the Board that the engagement letter addresses the preparation of the Fifth Year Arbitrage Rebate Reports for the District's \$14,910,000 Unlimited Tax Refunding Bonds, Series 2016 (the "Engagement Letter"). He noted that the fee associated with the preparation of said report is \$2,950.00 and that ACS has provided a Texas Ethics Commission ("TEC") Form 1295. After discussion of the matter, Director Olsen moved that (i) ACS be engaged to prepare the Fifth Year Arbitrage Rebate Report in accordance with the ACS Engagement Letter, (ii) the President be authorized to execute the ACS Engagement Letter on behalf of the Board and District, and (iii) SPH be authorized to acknowledge the TEC Form 1295 received in connection with same. Director Eynon seconded said motion, which unanimously carried.

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

The Board considered the annual review of its Order Establishing Policy for Investment of District Funds and Appointing Investment Officer ("Investment Policy"), and the adoption of a Resolution in connection therewith. Mr. Yeates presented for the Board's adoption a Resolution Regarding Review of Order Establishing Policy for Investment of District Funds and Appointing Investment Officer ("Resolution"). He advised the Board that there were no recommended changes to the Investment Policy at this time. After discussion on the matter, Director Handal moved that the Investment Policy be affirmed, that the Resolution attached hereto as **Exhibit F** be adopted, and that the President and Secretary be authorized to execute same. Director Eynon seconded said motion, which unanimously carried.

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

The Board next considered the status of the District's compliance with Texas Government Code, Chapter 2265, relative to energy reporting requirements. Mr. Yeates reminded the Board that, pursuant to the energy efficiency and reporting requirements set forth in Texas Government Code, Chapter 2265, the District must prepare an annual report of its metered usage of electricity and the aggregate costs for same. In connection therewith, Mr. Watson presented to and reviewed with the Board a Cost and Usage Report, a copy of which is attached to the Bookkeeper's Report. He noted that said report satisfies the statutory reporting requirements. After discussion, Director Olsen moved that Apollo be authorized to place said report on the District's website. Director Ruske seconded the motion, which unanimously carried.

### **ENGINEER'S REPORT**

Mr. Safe presented to and reviewed with the Board a written Engineer's Report, dated October 7, 2020, a copy of which is attached hereto as **Exhibit G**, relative to the status of various engineering and construction projects within the District, and discussed the matters contained therein. In connection with the proposed repair of an approximate 300-foot portion of Little Prong Creek at Fry Road utilizing the SOX erosion repair system ("Little Prong Creek Erosion Repair"), Mr. Safe provided an update regarding the status of discussions with Meadow Brook Farms Golf Club (the "Club") relative to acquiring access through its property to the proposed repair area. Mr. Safe stated that he expects a response from the Club within the next few weeks regarding its price to the District for access through its property to the repair area and advised the Board that BGE will prepare an alternate bid item for the Little Prong Creek Erosion Repair project relative to the increased costs for access to the site in the event that the District does not acquire access from the Club. After discussion, it was moved by Director Handal that the Engineer's Report and all action items listed therein be approved, including (i) concurrence in approval by No. 34 of Pay Request No. 3 from DSP Industrial, Inc. ("DSP") in the amount of \$122,625.00, and (ii) approval of Pay Request No. 4 from DSP in the amount of \$61,425.00 for recoating of ground storage tanks and hydro-tanks at Water Plant No. 1. Director Olsen seconded said motion, which unanimously carried.

### **LANDSCAPE ARCHITECT REPORT**

Mr. Safe next presented to and reviewed with the Board a report from KGA DeForest Design, LLC dated October 7, 2020, a copy of which is attached hereto as **Exhibit H**. In connection therewith, Mr. Safe provided an update regarding the status of the contract with Republic Masonry & Fencing, LLC ("Republic") for the replacement of the existing fences at the District's Joint Wastewater Treatment Plant ("JWTP") and Joint Water Plant ("JWP"). After discussion, it was moved by Director Handal, seconded by Director Ruske and unanimously carried, that the Landscape Architect Report and all action items listed therein be approved, including concurrence in approval by No. 34 of Pay Request No. 2 from Republic in the amount of \$51,236.28 for construction of replacement fences at the District's JWTP and JWP.

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

Mr. Schroeder next presented to and reviewed with the Board a Detention and Drainage Facilities Report dated October 7, 2020, prepared by Champions, for Little Prong Creek and corresponding photographs, a copy of which is attached hereto as **Exhibit I**. Mr. Schroeder next reported that removal of the graffiti on concrete located on Little Prong Creek near Dillon Creek Lane is complete. In connection with the undermining of the concrete float paving at Little Prong Creek, Mr. Schroeder advised the Board that, at its meeting on September 22, 2020, No. 34 approved a proposal prepared by Champions, a copy of which is included with **Exhibit I**, relative to the repair and/or rehabilitation of the concrete float paving and slope at Little Prong Creek near Fry Road in the total estimated amount of \$23,777.50, plus the cost of URETEK flowable fill at \$36.00 per cubic foot, as required. After discussion, Director Ruske moved that the Board concur with No. 34's approval of Champions' proposal. Director Handal seconded the motion, which unanimously carried.

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

The Board considered the status of the District's SWMP. In connection therewith, Mr. Beyer presented to and reviewed with the Board the SWMP Quarter 4 Status Update and Training Report, a copy of which is attached hereto as **Exhibit J**. Mr. Beyer advised the Board that the process for SWMP review and approval by the TCEQ has been delayed due to the COVID-19 pandemic, but noted that the District remains in compliance with the permit throughout the extended process.

Mr. Beyer next discussed the year 2 training and goals under the SWMP and began his training session with the Board and other consultants, the topic of which was the minimum required control measures and bacteria-specific elements. Mr. Beyer next reviewed and explained the program elements of the SWMP and the year 2 goals accomplished to date.

## **OPERATIONS REPORT**

Ms. May presented to and reviewed with the Board the Operations and Maintenance Report ("O&M Report") for the month of August 2020, a copy of which is attached hereto as **Exhibit K**. Ms. May reported to the Board that the District had approximately 100% 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, relative to the District's park facilities, a copy of which is attached to the O&M Report. Ms. May next provided an update regarding the status of preparations for the District's Virtual Native Plant Event, which will be available online to registrants from October 26, 2020 through November 13, 2020.

Ms. May next advised the Board that high temperatures are causing the pumps at Lift Station No. 1 ("LS No. 1") to overheat and lose power and requested that the Board authorize Inframark to install two (2) exhaust fans inside the control panel located at LS No. 1 for an estimated total cost of \$2,250.

Ms. May next presented a proposed water bill insert (the "No Wipes in the Pipes Insert"), a copy of which is included with the O&M Report, advising customers of the potential damage caused to District facilities by flushing certain items and/or substances. She noted that Inframark revised the No Wipes in the Pipes Insert to reflect comments provided by the Board at its meeting on September 2, 2020. After discussion, the Board requested that Inframark make

certain further revisions to the No Wipes in the Pipes Insert. Ms. May requested that the Board designate a Director to review and approve the revisions prior to the next Board meeting.

After discussion, Director Eynon moved that the Board authorize Inframark to: (i) install two (2) exhaust fans, as discussed above; and (ii) revise and distribute the No Wipes in the Pipes Insert in customers' upcoming water bills, with Director Olsen designated to review and approve the revisions prior to distribution. Director Olsen seconded the motion, which unanimously carried.

### **DISCUSSION REGARDING PROPOSED CREATION OF OFFICIAL LOGO FOR THE DISTRICT**

The Board considered creation of an official logo for the District. In connection therewith, Directors Ruske and Eynon discussed the various uses for same. After discussion, the Board requested that Director Ruske prepare some proposed designs for review at the next Board meeting.

### **DISCUSSION REGARDING 2020 DIRECTORS ELECTION**

The Board discussed the status of preparations for the Directors Election to be held on November 3, 2020.

### **AMERICA'S WATER INFRASTRUCTURE ACT OF 2018**

The Board next considered a memorandum prepared by SPH regarding the America's Water Infrastructure Act of 2018 (the "AWIA"), a copy of which is attached hereto as **Exhibit L**. Mr. Yeates discussed the contents of the memorandum including important dates relative to the AWIA and the impact of those dates on the District. Following discussion, Director Olsen moved that BGE and Inframark cooperate to take any and all action necessary to ensure that the District is in full compliance with the requirements of the AWIA to the extent that such requirements are applicable to the District. Director Eynon seconded such motion, which carried unanimously.

### **ATTORNEY'S REPORT**

The Board considered the Attorney's Report. Mr. Yeates advised that the District is in receipt of correspondence from the North Fort Bend Water Authority ("NFBWA"), a copy of which is attached hereto as **Exhibit M** has advised that, effective January 1, 2021, it anticipates increasing its surface water fee rate from \$4.30 to \$4.60 per 1,000 gallons of surface water received and its ground water pumpage fee rate from \$3.95 to \$4.25 per 1,000 gallons pumped. He advised the Board that an item will be included on the agenda for next month's meeting to amend the Rate Order to pass through NFBWA's increased surface water fee rate to be effective as of January 1, 2021.

### **FUTURE AGENDA ITEMS**

The Board considered items to be placed on future agendas. Except as may be reflected above, there were no additional agenda items requested other than routine, ongoing matters.

**ADJOURNMENT OF MEETING**

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

(SEAL)

/s/ Sergio Handal  
Secretary, Board of Directors

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## **TABLE OF EXHIBITS**

**October 7, 2020**

- Exhibit A: FBCCO Monthly Activity Report
- Exhibit B: Tax Assessor-Collector's Report; correspondence requesting waiver of penalties and interest for 2019 tax year
- Exhibit C: Delinquent Tax Report
- Exhibit D: Bookkeeper's Report; Cost and Usage Report
- Exhibit E: Arbitrage Annual Maintenance Report; Engagement Letter, Arbitrage Compliance Specialists
- Exhibit F: Resolution Regarding Review of Order Establishing Policy for Investment of District Funds and Appointing Investment Officer
- Exhibit G: Engineer's Report
- Exhibit H: Landscape Architect Report
- Exhibit I: Detention and Drainage Facilities Report; Champions' proposal for repair of concrete float paving at Little Prong Creek near Fry Road
- Exhibit J: SWMP Quarter 4 Status Update and Training Report
- Exhibit K: Operations and Maintenance Report
- Exhibit L: Memorandum regarding America's Water Infrastructure Act of 2018
- Exhibit M: Correspondence from NFBWA