

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

Minutes of Meeting of Board of Directors

January 6, 2021

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on January 6, 2021, in accordance with the duly posted notice of public meeting. The meeting was held via telephone conference call pursuant to Texas Government Code, Section 551.125, as amended, and as modified by the temporary suspension of various provisions thereof effective March 16, 2020, but the Governor of Texas in accordance with the Texas Disaster Act of 1975, all as related to the Governor's proclamation on March 13, 2020, certifying that the COVID-19 pandemic poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas. The roll was called of the duly constituted members of said Board of Directors, as follows:

Susan Ruske, President  
Piero Battistini, Vice President  
Sergio Handal, Secretary  
Steven Olsen, Assistant Secretary  
Tony Feng, Assistant Secretary

all of whom announced they were present, thus constituting a quorum.

Also attending the meeting via telephone conference call were: Robert Pechukas of the Fort Bend County Precinct 3 Commissioner's Office ("Pct. 3"); Sue Theiss and Reina Gonzalez of Texas Department of Transportation ("TxDOT"); Erica Slater of Principal Management Group of Houston ("PMI"), Community Manager for Seven Meadows Community Association, Inc. ("Seven Meadows"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Taylor Watson of Municipal Accounts & Consulting, L.P. ("MAC"); Sherri Greenwood of BKD, LLP ("BKD"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"); Katie May, Christopher Townsend, and Robert Lugo of Inframark ("Inframark"); Diane Davis, Secretary of Seven Meadows' Board of Directors; Robert Ponville, a Director on Seven Meadows' Board of Directors; 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 December 2, 2020. After discussion, Director Olsen moved that the minutes for said meetings be approved, as written. Director Battistini seconded said motion, which unanimously carried.

## **DISCUSSION REGARDING CONSTRUCTION BY FORT BEND COUNTY OF A PROPOSED SIDEWALK ALONG THE EAST SIDE OF KATY GASTON ROAD**

The Board recognized Mr. Pechukas, who reported that Pct. 3 currently has funds budgeted toward various sidewalk projects within Fort Bend County. He stated that Pct. 3 is able to partner with municipal utility districts, including the District, to address such sidewalk projects, provided that the construction projects have not yet started. In connection therewith, he presented an exhibit, a copy of which is attached hereto as **Exhibit A**, depicting the proposed construction of a sidewalk along the east side of Katy Gaston Road between Fry Road and Summerset Ridge Lane (the "Pct. 3 Sidewalk Project") and reported that the estimated total cost of construction for the Pct. 3 Sidewalk Project is \$175,000. Mr. Pechukas advised the Board that twenty-five percent (25%) of the Pct. 3 Sidewalk Project lies within the District's boundaries and that the other seventy-five percent (75%) lies within the boundaries of Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34"). He requested that the Board consider funding fifty percent (50%) of the District's portion of said project and indicated that No. 34 will be asked to do the same. Mr. Pechukas advised the Board that, should either the District or No. 34 decline to participate, Pct. 3 would not move forward with the Pct. 3 Sidewalk Project. Noting that the District previously contributed funds to the sidewalk along the west side of Katy Gaston Road, Director Olsen requested that BGE compare the cost per linear foot for the District's previous Katy Gaston sidewalk project with the proposed Pct. 3 Sidewalk Project. After discussion, the Board concurred to defer the matter and advised that it would notify Mr. Pechukas once a decision has been reached.

Mr. Pechukas left the meeting at this time.

## **PRESENTATION BY TXDOT REGARDING PROPOSED NOISE BARRIERS ALONG STATE HIGHWAY 99 (THE "GRAND PARKWAY")**

The Board next recognized Ms. Theiss, who gave a presentation to the Board, a copy of which is attached hereto as **Exhibit B**, regarding the proposed construction of noise barriers in connection with the planned widening of the Grand Parkway from FM 1093 to Interstate 10. Following the presentation, Ms. Theiss requested that the District consider obtaining the easements required for construction of the noise barriers, noting that the subject tracts are not within the TxDOT right-of-way. Ms. Theiss advised that, upon completion of the project, TxDOT would convey the noise barriers to the District and the District would then be fully responsible for the maintenance of the noise barrier from that point forward. She further advised the Board that a public hearing regarding TxDOT's plans to widen the Grand Parkway is expected to be held sometime in March or April of this year. Ms. Theiss and Ms. Gonzalez then responded to various questions from the Board and Ms. Davis and Mr. Ponville. After

discussion, the Board concurred that it would consider facilitating acquisition of the required easements, subject to Seven Meadows (i) providing such easements at no cost to the District and (ii) agreeing to accept ownership and maintenance responsibility for the noise barriers once they have been constructed.

Ms. Theiss and Ms. Gonzalez left the meeting at this time.

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

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

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

Ms. Flores presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending December 31, 2020, a copy of which is attached hereto as **Exhibit D**. After discussion, it was moved by Director Ruske, 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.

### **RESOLUTION CONCERNING EXEMPTIONS FROM TAXATION**

Mr. Yeates outlined for the Board the various tax exemptions available for the District, including the exemptions provided for by Article VIII, Section 1-b of the Texas Constitution, and Section 11.13 of the Texas Tax Code. He advised that under said provisions, the District may provide for the exemption of up to 20% (but not less than \$5,000, if granted) of the market value of residential homestead improvements for the year 2021, and the District may also exempt residential homesteads of persons who are under a disability for purposes of payment of disability insurance benefits under the Federal Old Age, Survivors and Disability Insurance Act, or its successor, or persons sixty-five years of age or older, from ad valorem taxes levied by the District during the calendar year 2021, and, if any such exemptions are granted, they must be for not less than \$3,000 of the market value of such homesteads. After further discussion of the matter, Director Olsen moved that the District (a) not grant a residential homestead exemption, and (b) grant an exemption of \$30,000 for persons under a disability or sixty-five years of age or older from ad valorem taxes levied by the District during the calendar year 2021, and that the Resolution, attached hereto as **Exhibit E**, relative to same be passed and adopted by the Board and District. Director Handal seconded said motion, which unanimously carried.

### **RESOLUTION AUTHORIZING AN ADDITIONAL PENALTY ON DELINQUENT PERSONAL PROPERTY TAXES**

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes. Mr. Yeates advised that the Board is authorized pursuant to Section 33.11 of the Texas Tax Code, as amended, to impose, under certain conditions, 60 days after the date the taxes become delinquent, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on personal property taxes that remain delinquent as of said 60<sup>th</sup> day, as more fully described in said Resolution. After discussion, it was moved by Director Battistini, seconded by Director Ruske and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Personal Property

Taxes attached hereto as **Exhibit F** be adopted by the Board, and that Perdue, Brandon, Fielder, Collins & Mott, L.L.P. be authorized to collect delinquent personal property taxes beginning April 1, 2021, including the filing of lawsuits, if necessary.

### **DELINQUENT TAX REPORT**

Mr. Yeates presented to and reviewed with the Board a Delinquent Tax Report dated January 6, 2021, 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 G**. The Board noted there were no action items in the report.

### **BOOKKEEPER'S REPORT**

Mr. Watson presented to and reviewed with the Board the Bookkeeper's Report dated January 6, 2021, a copy of which is attached hereto as **Exhibit H**. 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.

### **AUDIT REPORT FOR FISCAL YEAR ENDED SEPTEMBER 30, 2020**

The Board next reviewed and considered approval of the District's audit report for the fiscal year ended September 30, 2020. In connection therewith, Ms. Greenwood presented and reviewed in detail with the Board a draft of the audit report prepared by BKD, together with a draft Management Letter concerning the Board's internal controls over financial reporting and draft management's response to same, copies of which are attached hereto as **Exhibit I**. Ms. Greenwood advised the Board that the Management Letter is being submitted in connection with the requirements of Statement on Auditing Standards No. 115. After discussion, it was moved by Director Olsen, seconded by Director Ruske and unanimously carried, that (i) the audit report for the fiscal year ended September 30, 2020, be approved, subject to final review and comments by the District's consultants, (ii) the draft management response be approved, as presented, and that same be included in the final Management Letter, (iii) the President be authorized to execute the Annual Filing Affidavit on behalf of the Board and the District, and (iv) such audit report and Annual Filing Affidavit be filed with the appropriate governmental authorities, including the Texas Commission on Environmental Quality ("TCEQ").

Director Battistini left the meeting at this time.

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

Mr. Yeates advised the Board that the annual continuing disclosure report, due March 30, 2021, will be filed by the District's disclosure counsel after the audit has been finalized.

### **TEXAS COMPTROLLER OF PUBLIC ACCOUNTS ("COMPTROLLER") SPECIAL PURPOSE DISTRICT PUBLIC INFORMATION DATABASE**

Mr. Yeates informed the Board that, pursuant to provisions of Chapter 403, Government Code, and Chapter 203, Local Government Code, the District is required to annually submit information to the Comptroller for inclusion in the Special Purpose District Public Information Database no later than April 1st of each year. Mr. Yeates recommended that BKD be authorized to prepare and submit the information for the 2021 reporting period. After discussion on the

matter, it was moved by Director Ruske, seconded by Director Olsen and unanimously carried, that BKD be authorized to prepare the required information for the 2021 reporting period and submit same to the Comptroller for inclusion in the Special Purpose District Information Database no later than April 1, 2021.

### **ADOPTION OF RESOLUTION ADOPTING LIST OF QUALIFIED BROKERS**

The Board considered adopting a list of qualified brokers authorized to engage in investment transactions with the District. Mr. Yeates advised that pursuant to the Public Funds Investment Act, the Board is required to review such list at least annually. Mr. Yeates then presented and reviewed with the Board the attached Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District, and a list of financial institutions, brokers and dealers attached thereto, together with a comparison of the list submitted to the list previously adopted by the Board, which are attached hereto as **Exhibit J**. Mr. Yeates further noted that the broker list presented is a list of potential institutions with which the District may engage in investment transactions compiled with the input of the District's Investment Officer, but it is ultimately the Board's decision as to where the District's funds are actually placed. After discussion, Director Ruske moved that (i) the attached Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District be approved by the Board and the District, and (ii) the President and Secretary be authorized to execute same. Director Handal seconded said motion, which unanimously carried.

### **RENEWAL OF DISTRICT INSURANCE COVERAGES**

The Board discussed obtaining insurance proposals for the 2021-2022 term. Mr. Yeates advised the Board that the District's current insurance coverages through Arthur J. Gallagher & Co. ("AJG") are set to expire on March 31, 2021. After discussion on the matter, Director Olsen moved that SPH be authorized to request a renewal proposal from AJG for the District's property, comprehensive boiler and machinery, general, hired/non-owned automobile, commercial umbrella and directors' and officers' liability policies, Directors Position Schedule Bond, Public Employee Blanket Bond and all other policies for the term commencing April 1, 2021. 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 January 6, 2021, a copy of which is attached hereto as **Exhibit K**, relative to the status of various engineering and construction projects within the District, and discussed the matters contained therein. Mr. Safe next updated the Board regarding the status of discussions with Double Oak Erosions relative to the extended 10-year warranty in connection with the contract for repair of an approximate 300-foot portion of Little Prong Creek at Fry Road. After discussion, Director Handal moved that the Board approve all action items listed in the Engineer's Report, including concurrence in approval by No. 34 of Pay Request No. 5 and Final from DSP Industrial, Inc. in the amount of \$55,520.00 for recoating of the ground storage tanks and hydro-tanks at Water Plant No. 1. Director Olsen seconded the 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 January 6, 2021, a copy of which is attached hereto as **Exhibit L**. 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 Olsen, 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. 5 from Republic in the amount of \$76,727.83 for construction of the 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 January 6, 2021, prepared by Champions, for Little Prong Creek and corresponding photographs, a copy of which is attached hereto as **Exhibit M**. Following discussion, the Board noted that no action was required on its part in connection with the Detention and Drainage Facilities Report at this time.

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

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

### **OPERATIONS REPORT**

Ms. May presented to and reviewed with the Board the Operations and Maintenance Report ("O&M Report") for the month of November 2020, a copy of which is attached hereto as **Exhibit N**. Ms. May reported to the Board that the District had approximately 91% 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, a copy of which is attached to the O&M Report. In connection therewith, Ms. May reported that replacement of the lift pump no. 1 at Lift Station No. 2 has been completed.

Ms. May next advised the Board that it is time to proceed with year 2 of the District's 5-year sanitary sewer televising project. In connection therewith, Ms. May requested that the Board authorize Inframark to televise approximately 20,329 linear feet of sanitary sewer line in five sections of the Seven Meadows Subdivision for an estimated cost of \$54,889.65.

Ms. May next presented correspondence from the District customer located at 23122 Sandsage Lane for an adjustment to the customer's water bill which was abnormally high due to damage caused to the irrigation system by a lightning strike, which damage has since been repaired. Ms. May asked that the Board consider authorizing Inframark to bill said customer for the full amount of water at the District's lowest rate tier.

Ms. May next presented a list of two (2) delinquent accounts, a copy of which is included with **Exhibit N**, to be referred to collections in the total amount of \$581.36.

Ms. May next presented to and reviewed with the Board a proposal from LIT to repair the irrigation system at the District's dog park in the total amount of \$1,587.00, a copy of which is attached to O&M Report.

Ms. May next provided an update regarding the status of preparations for the District's

Virtual Native Plant Event, tentatively scheduled to be held in February. After discussion, the Board concurred with Director Ruske's recommendation that said event be deferred until later in the year.

Ms. May next requested that the Board authorize Inframark to provide required information to districts that received water from the District during 2020 prior to the April 1, 2021 deadline, in connection with preparation of Consumer Confidence Reports.

After discussion, Director Handal moved that the Board: (i) authorize Inframark to (a) proceed with the District's year 2 annual sanitary sewer televising project, as detailed above, (b) bill the customer at 23122 Sandsage Lane for the full amount of water usage at the District's lowest rate tier, (c) refer the two (2) delinquent accounts to collections, as discussed above, and (d) provide the necessary information to districts that received water from the District during 2019 prior to the April 1, 2020 deadline; and (ii) approve LIT's proposal for the repair irrigation repairs at the District' dog park, as recommended by Inframark and as discussed above. Director Olsen seconded the motion, which unanimously carried.

Ms. May next requested than an item be added to the agenda for the next Board of Directors meeting to consider adopting a Resolution Approving Submittal of the Water Smart Application for Inclusion in the Association of Water Board Directors Water Smart Partners Program.

### **2020 WATER LOSS AUDIT**

The Board next considered authorizing the District's Operator and Engineer to perform a 2020 Water Loss Audit. Mr. Yeates reported that Section 16.0121 of the Texas Water Code requires a retail public utility, which includes municipal utility districts, providing potable water to perform and file with the Texas Water Development Board ("TWDB") a water audit every five (5) years computing the utility's most recent annual system water loss. He further reported that the audits are to account for various components of system water loss, including distribution line loss, meter inaccuracies, accounting inaccuracies, and theft. Mr. Yeates stated that the information from the audits is to be compiled by regional water planning area to be used in development of regional water plans under Texas Water Code §16.053. After discussion on the matter, it was moved by Director Olsen, seconded by Director Ruske and unanimously carried, that the District's operator and engineer be authorized to (i) perform a 2020 water loss audit for the District, and (ii) file such audit with the TWDB by the March 31, 2021 deadline.

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

The Board considered creation of an official logo for the District. In connection therewith, Director Ruske presented to the other Board members for review a depiction of the proposed logo, a copy of which is attached hereto as **Exhibit O**. After discussion, it was moved by Director Handal, seconded by Director Olsen and unanimously carried, that the proposed logo be approved.

### **ATTORNEY'S REPORT**

The Board considered the Attorney's Report. In connection therewith, Mr. Yeates presented and reviewed with the Board correspondence received from Pinnacle Waste Solutions, LLC dated December 15, 2020, a copy of which is attached hereto as **Exhibit P**, promoting its

residential waste collection and disposal services. The Board noted that no action was required on its part in connection with said correspondence.

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

(SEAL)

/s/ Sergio Handal  
Secretary, Board of Directors

## **TABLE OF EXHIBITS**

**January 6, 2021**

- Exhibit A: Pct. 3 Sidewalk Project Exhibit
- Exhibit B: Project Overview of the SH 99 (Grand Parkway from FM 1093 to I-10)  
Recommended Noise Barrier Presentation
- Exhibit C: FBCCO Monthly Activity Report
- Exhibit D: Tax Assessor-Collector's Report
- Exhibit E: Resolution Concerning Exemptions from Taxation
- Exhibit F: Resolution Authorizing Additional Penalty on Delinquent Personal Property  
Taxes
- Exhibit G: Delinquent Tax Report
- Exhibit H: Bookkeeper's Report
- Exhibit I: Draft Audit Report; draft Management Letter and management's response
- Exhibit J: Resolution Adopting List of Qualified Brokers
- Exhibit K: Engineer's Report
- Exhibit L: Landscape Architect Report
- Exhibit M: Detention and Drainage Facilities Report
- Exhibit N: Operations and Maintenance Report
- Exhibit O: District logo
- Exhibit P: Correspondence from Pinnacle Waste Solutions, LLC