

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

Minutes of Meeting of Board of Directors

April 1, 2020

The Board of Directors ("Board") of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District"), met on April 1, 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"); Esther Flores of Tax Tech, Inc. ("Tax Tech"); Avik Bonnerjee of B&A Municipal Tax Service, LLC ("B&A"); Taylor Watson of Municipal Accounts & Consulting, L.P. ("MAC"); Jeff Safe of Brown & Gay Engineers, Inc. ("BGE"); Robert DeForest of KGA/DeForest Design, LLC ("KGA"); Katie May of Inframark ("Inframark"); Matthew May of Best Trash, LLC ("Best Trash"); 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. There being no members of the public present, the Board continued to the next item of business.

RESOLUTION ADOPTING TEMPORARY POLICIES AND PROCEDURES IN RESPONSE TO COVID-19 PANDEMIC

Mr. Yeates stated that the Governor of Texas issued a 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. As a result of such proclamation, effective March 16, 2020, the Governor suspended certain provisions of the Texas Open Meetings Act (the "Act") pursuant to Section 418.016, Texas Government Code, to allow the governing boards of political subdivisions, such as the District, to meet via telephone conference call during the pendency of the COVID-19 pandemic. Accordingly, Mr. Yeates counseled the Board regarding the adoption of temporary policies and procedures for conducting Board meetings and other District administrative matters during the COVID-19 pandemic and presented a Resolution Adopting Temporary Policies and Procedures in Response to COVID-19 Pandemic (the "Resolution"), attached hereto as **Exhibit A**. He then explained the provisions of the Resolution in detail with the Board. Following discussion, Director Ruske moved that the Resolution be adopted as presented, and that SPH be authorized to take any additional action necessary in connection with implementing the Resolution. Director Eynon seconded the motion, which unanimously carried.

APPROVAL OF MINUTES

As the next order of business, the Board considered approval of the minutes of its meeting held on March 4, 2020. After discussion, Director Eynon moved that the minutes for said meeting be approved as written. Director Handal 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 March, 2020, regarding FBCCO, a copy of which is attached hereto as **Exhibit B**. It was noted that no action was required of the Board.

DISCUSSION REGARDING ADDITIONAL SECURITY MEASURES WITHIN THE DISTRICT

The Board deferred discussion regarding whether to consider additional security measures for the District pending the results of a survey to be conducted by Seven Meadows of its residents regarding matters of security within the neighborhood and further updates from Fort Bend County Municipal Utility District No. 34, of Fort Bend County, Texas ("No. 34").

TAX ASSESSOR-COLLECTOR REPORT

Ms. Flores presented to and reviewed with the Board the Tax Assessor-Collector Report for the month ending March 31, 2020, a copy of which is attached hereto as **Exhibit C**. After discussion, it was moved by Director Olsen, 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. In connection with the approved disbursements, Ms. Flores stated that Tax Tech will coordinate with MAC for the execution of checks as appropriate.

RESOLUTION AUTHORIZING ADDITIONAL PENALTY AND AUTHORIZE DELINQUENT TAX ATTORNEYS TO COLLECT DELINQUENT REAL PROPERTY TAXES

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes. Mr. Yeates advised that the Board is authorized, pursuant to Section 33.07 of the Texas Tax Code, as amended, to impose, under certain conditions on July 1, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on taxes that remain delinquent as of July 1 of the year in which they became delinquent. He noted that the additional penalty to be imposed by this Resolution will not apply to delinquent personal property taxes which have incurred an additional penalty pursuant to that certain Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes, which was passed and approved by the District on January 8, 2020. After further discussion, it was moved by Director Eynon, seconded by Director Ruske, and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes, a copy of which is attached hereto as **Exhibit D**, be adopted by the District, and that Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue") be authorized to proceed with the collection of the District's 2019 delinquent real property tax accounts on July 1, 2020, subject to proper notice having been given as provided in said Resolution, including the filing of lawsuits as necessary.

DELINQUENT TAX REPORT

Mr. Yeates presented to and reviewed with the Board a Delinquent Tax Report dated April 1, 2020, from Perdue, the District's delinquent tax collections attorneys, a copy of which is attached hereto as **Exhibit E**. The Board noted there were no action items in the report. Mr. Yeates stated that the next quarterly report will be provided in July.

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 F**. Mr. Bonnerjee briefly discussed the cyclical nature of sales tax revenues with the Board and requested that Directors notify B&A if and when they become aware of new businesses opening within the District. After discussion, Director Eynon moved to approve the Sales and Use Tax Audit Report. Director Ruske seconded the motion, which carried unanimously.

Mr. Bonnerjee left the meeting at this time.

REVIEW OF EVO METRICS REPORT

The Board deferred further consideration of an EVO Metric Reports prepared by Municipal Financial Services, LLC ("MFS") for the fiscal year ended September 30, 2019, as well as the status of its contract with MFS.

BOOKKEEPER'S REPORT

Mr. Watson presented to and reviewed with the Board the Bookkeeper's Report dated April 1, 2020, a copy of which is attached hereto as **Exhibit G**. Director Olsen inquired about the District being substantially over budget on its sewer maintenance and repair costs for the current fiscal year. Mr. Watson reported that cost of approximately \$36,000 associated with manhole repairs within the District account for the majority of the variance. Ms. May advised

that such costs be coded to sanitary sewer televising and cleaning work to which Mr. Watson stated that he would revise the Bookkeeper's Report accordingly. After discussion, Director Olsen moved that the Bookkeeper's Report be approved and that the disbursements identified therein be approved for payment, subject to revision as discussed above. Director Ruske seconded said motion, which unanimously carried.

STATUS OF CONTINUING DISCLOSURE REPORT

Mr. Yeates advised the Board that the annual continuing disclosure report was filed by the District's disclosure counsel on March 27, 2020, which was prior to the March 30, 2020, deadline.

ENGINEER'S REPORT

Mr. Safe presented to and reviewed with the Board a written Engineer's Report, dated April 1, 2020, 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 advised the Board that BGE directed DSP Industrial ("DSP") to suspend work on the interior coatings of Ground Storage Tank ("GST") No. 1 and Hydro-Tank ("HT") Nos. 1 and 2 at Water Plant No. 1 ("WP No. 1") after it was discovered that said coatings are thicker than the typical 75% coating and therefore require additional effort and cost to remove. Mr. Safe reported that, upon its initial discovery of the thicker than expected interior coating on HT No. 1, DSP proceeded with removal by air-chipping without first notifying BGE. He advised the Board that the air chipping method is not recommended by BGE due to the risk of structural damage to facilities. He further reported that DSP has stated it will not pursue payment from the District for the additional cost to remove the interior coating on HT No. 1 as such additional cost was not authorized. Mr. Safe next discussed with the Board the various options for addressing the interior coatings on HT No. 2 and GST No. 1 and requested that the Board authorize BGE to prepare a change order to the District's contract with DSP for point repairs to the interior coatings on HT No. 2 and GST No. 1 rather than a completely recoating the interiors of both tanks, resulting in savings to the District of approximately \$17,000. After a lengthy discussion, Director Ruske moved that BGE be authorized to prepare a change order to the District's contract with DSP relative to the interior recoating of HT No. 2 and GST No. 1, as recommended. Director Olsen seconded said motion, and the motion carried with Directors Ruske, Olsen, Battistini and Eynon voting aye and Director Handal abstaining.

The Board next considered the status of the replacement of fences at the Joint Water Plant and Joint Wastewater Treatment Plant (collectively, the "Plants"). In that regard, Mr. DeForest reported that construction plans for same are complete and that, at its meeting on March 24, 2020, the Board of Directors of No. 34 authorized KGA to advertise for bids for the replacement of the existing fences at the Plants, with the base bid providing for construction masonry unit block construction and an alternate bid providing for brick thinwall construction. Mr. DeForest presented an exhibit depicting examples of such materials, a copy of which is included under **Exhibit H**.

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

Mr. Yeates presented to and reviewed with the Board a Detention and Drainage Facilities

Report dated April 1, 2020, prepared by Champions, for Little Prong Creek and corresponding photographs, a copy of which is attached hereto as **Exhibit I**. 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. With regard to the proposed erosion repairs to Little Prong Creek at Fry Road, Mr. Safe advised the Board that No. 34 deferred consideration of the matter as it was unable to receive Double Oak's presentation on March 24, 2020, due to the telephonic nature of the meeting.

STORMWATER MANAGEMENT PROGRAM ("SWMP")

The Board considered the status of the District's Stormwater Management Program. 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 February 2020, a copy of which is attached hereto as **Exhibit J**. Ms. May reported to the Board that the District had approximately 97% 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 also presented two (2) accounts to be referred to collections in the amount of \$369.35.

Ms. May next reported that Inframark received a request from the District customer located at 25906 Orchard Knoll Lane, whose service was disconnected prior to the COVID-19 outbreak, for waiver of the reconnection charge as well as late fees and penalties. She advised the Board that said customer is currently receiving service and reviewed the customer's current circumstances and payment history with the Board.

Ms. May next advised the Board that the following projects have been completed: (i) the punch list of items to be addressed in connection with the recoating of Lift Station No. 2; (ii) the fire hydrant repairs; (iii) the commercial water meter repairs; and (iv) replacement and installation of signage at the District's Family and Dog Parks.

Ms. May noted that the District's Native Plant event originally scheduled for March 28, 2020, had been postponed due to the outbreak of COVID-19. A new date has yet to be determined.

The Board next considered the status of the District's Identity Theft Prevention Program (the "Program"). In connection therewith, Ms. May presented to and reviewed with the Board the Annual Program Report (the "Report"), a copy of which is attached to the O&M Report. She advised that said Report (i) indicates that no incidents of identity theft have occurred during the period of January 2019 through December 2019, and (ii) recommends that no changes be made to said Program at this time. The Board concurred with said recommendation.

The Board considered authorizing Inframark to prepare a draft Consumer Confidence Report ("CCR") for review by the Board. Mr. Yeates advised that pursuant to CCR requirements promulgated by the United States Environmental Protection Agency and the Texas Commission on Environmental Quality ("TCEQ"), the District is required to provide a report containing various information regarding the District's water supply to all customers of the District by July 1, 2020.

The Board next considered the disposition of delinquent utility accounts during the pendency of the COVID-19 pandemic. In that regard, Ms. May presented to and reviewed with the Board correspondence received from Fort Bend County Judge KP George, a copy of which is included with the O&M Report, requesting that all municipal utility districts located within Fort Bend County suspend service disconnections and late fees through at least May 1, 2020. Ms. May next presented to and discussed with the Board a draft of a modified Delinquent Notice (the "Delinquent Notice") prepared by Inframark, a copy of which is included with the O&M Report, proposed to be utilized during the pendency of the COVID-19 pandemic. Director Eynon requested that Inframark make certain changes to the layout of the proposed Delinquent Notice, and Mr. Yeates recommended that certain language regarding additional fees be removed.

After discussion, Director Olsen moved that the Board authorize: (i) Inframark to refer the two (2) delinquent accounts to collections, as detailed above; (ii) Inframark to remove the late fees and penalties in the total amount of \$57.58 charged to the customer at 25906 Orchard Knoll Lane for the period of March 1, 2020, to March 12, 2020, and freeze but not remove the remaining late fees and penalties on said customer's account; (iii) Inframark to suspend service disconnections and late fees or penalties incurred after the local disaster proclamation on March 12, 2020, through May 6, 2020; (iv) Inframark to suspend door hangers for all District customers through May 6, 2020; (v) Inframark to utilize the modified Delinquent Notices, subject to revision as discussed above; (vi) Inframark to prepare a draft CCR; and (vii) SPH to review the draft CCR for compliance with the TCEQ's regulatory requirements and its 2020 template. Director Ruske seconded said motion, which unanimously carried.

NORTH FORT BEND WATER AUTHORITY ("NFBWA") WATER CONSERVATION PLAN ANNUAL IMPLEMENTATION REPORT

With regard to the Annual Implementation Report regarding the District's Water Conservation Plan, Ms. May stated that said report will be filed with the Texas Water Development Board and NFBWA prior to the May 1, 2020, deadline, as previously authorized by the Board.

ATTORNEY'S REPORT

The Board next considered the Attorney's Report. In that regard, Mr. Yeates discussed with the Board correspondence from Best Trash, dated March 16, 2020, a copy of which is attached hereto as **Exhibit K**, notifying the District of a Consumer Price Index ("CPI") increase for garbage collection and recycling collection services for the District. Mr. Yeates noted that, due to the CPI increase for this year, the garbage and recycling collection fee will increase 2.973%, from \$17.28 to \$17.80, effective as of June 1, 2020. Mr. Yeates further advised that Best Trash is requesting an additional increase of \$0.85 per connection per month due to unusual increases in operating expenses. Mr. Yeates advised the Board that, should the additional increase be approved by the Board, the monthly rate for residential sanitary sewer and solid waste collection, disposal and recycling services will increase from \$17.28 to \$18.65 per connection per month, effective June 1, 2020. Mr. Yeates noted that the District may need to amend its Rate Order to address the CPI increase and additional increase requested by Best Trash. Mr. May then responded to various questions from the Board regarding Best Trash's request for an additional increase. After discussion, the Board concurred that (i) SPH be authorized to prepare an amendment to the Residential Solid Waste Collection, Disposal and Recycling Agreement between Best Trash and the District relative to the increase in the base rate to be paid to Best Trash, as discussed above, for consideration at its next meeting; and (ii) an

amendment of the District's Rate Order with respect to the monthly residential sanitary sewer service rate was not necessary at this time.

Mr. May next advised the Board that Best Trash has prepared a notice regarding certain protocols which have been put in place due to the COVID-19 pandemic (the "Notice") and requested that the Notice be provided to District customers. After discussion, the Board concurred to authorize Inframark to provide the Notice to District customers in their upcoming water bills. The Board also requested that the Notice be posted to the District's website and be provided to the Directors for further distribution to the community.

ORDER POSTPONING DIRECTORS ELECTION

Mr. Yeates stated that the Governor of Texas issued a 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. As a result of such proclamation, effective March 18, 2020, the Governor suspended Sections 41.0052(a) and (b) of the Texas Election Code, and Section 49.103 of the Texas Water Code, to allow political subdivisions that would hold their general and special elections on May 2, 2020, to postpone such elections to the next uniform election date occurring on November 3, 2020. Mr. Yeates reminded the Board that the District ordered a general election to be held on May 2, 2020, for the election of two (2) directors (the "Election"). He counseled the Board regarding the challenges of conducting the Election on the May 2, 2020, uniform election day and recommended that the Election be postponed to the next uniform election date occurring on November 3, 2020, in accordance with the Governor's recommendation. In connection therewith, he presented an Order Postponing Directors Election (the "Order"), attached hereto as **Exhibit L**. He then explained the provisions of the Order in detail with the Board. Following discussion, Director Handal moved that the Order be adopted as presented and the District's Election Agent be authorized to post a copy of the Order at the public places used for the posting of meeting notices of the District prior to April 20, 2020. Director Battistini seconded the motion, which unanimously carried.

FUTURE AGENDA ITEMS

The Board considered items to be placed on future agendas. After consideration, no specific items other than routine and ongoing matters and those previously discussed at the day's meeting were requested.

ADJOURNMENT OF MEETING

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

(SEAL)

/s/ Sergio Handal
Secretary, Board of Directors

TABLE OF EXHIBITS

- Exhibit A: Resolution Adopting Temporary Policies and Procedures in Response to COVID-19 Pandemic
- Exhibit B: FBCCO Monthly Activity Report
- Exhibit C: Tax Assessor-Collector's Report
- Exhibit D: Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes
- Exhibit E: Delinquent Tax Report
- Exhibit F: Sales and Use Tax Audit Report
- Exhibit G: Bookkeeper's Report
- Exhibit H: Engineer's Report; Exhibit depicting examples of proposed materials for replacement fences
- Exhibit I: Champions Maintenance Report
- Exhibit J: Operations and Maintenance Report; Correspondence from Fort Bend County Judge requesting suspension of service disconnections;
- Exhibit K: Correspondence from Best Trash
- Exhibit L: Order Postponing Directors Election