

SPRING WEST MUNICIPAL UTILITY DISTRICT

Minutes of Meeting of Board of Directors December 8, 2021

The Board of Directors ("Board") of Spring West Municipal Utility District ("District") met in regular session at 1300 Post Oak Boulevard, Suite 2500, Houston, Harris County, Texas, on December 8, 2021, in accordance with the duly posted notice of meeting. The meeting was also held via videoconference and teleconference pursuant to Texas Government Code Sections 551.125 and 551.127, as amended. The roll was called of the duly constituted officers and members of said Board, as follows:

Beverly F. O'Neal, President
Kim Stephens, Vice President
W. Eugene Norris, Sr., Secretary
Scott Shelnett, Assistant Secretary
Jerome A. Patridge, Assistant Secretary

and all persons attended the meeting, except Director Patridge, thus constituting a quorum.

Also in attendance were: Jorge Diaz of McLennan & Associates, Inc. ("McLennan"); Mark Eyring of Mark C. Eyring, CPA, PLLC ("MCE"); Brenda McLaughlin of Bob Leared Interests, Inc. ("Leared"); Eric Thiry of Environmental Development Partners, LLC ("EDP"); Justin Ring of Odyssey Engineering Group, Inc. ("Odyssey"); Eric Badertscher of Off Cinco, LLC ("Off Cinco"); Robert H. Schultz of RHS Interests, Inc. ("RHS") who entered later in the meeting, as noted herein; Blake Karban and Fred Hazel of Davis Development, Inc. ("Davis"), who entered later in the meeting, as noted herein; Brian Munger of TX Morrow Construction; and Abraham Rubinsky, Gordon Cranner, and Melanie Walsh of Schwartz, Page & Harding, L.L.P. ("SPH"). Mr. Thiry and Mr. Cranner participated in the meeting via videoconference.

PUBLIC COMMENTS

The Board deferred consideration of comments from the public after noting that no members of the public were present.

APPROVAL OF MINUTES

The Board considered approval of the minutes of the Board of Directors meetings held on October 27, 2021, and November 10, 2021. Upon review, Director Shelnett moved that the minutes of the meeting held October 27, 2021 be approved as written. Director Stephens seconded said motion, which unanimously carried. The Board deferred consideration of approval of the minutes of the Board of Directors meeting held on November 10, 2021.

BOOKKEEPER'S REPORT

Mr. Diaz presented to and reviewed with the Board the Bookkeeper's Report for the period of November 11, 2021, through December 8, 2021, a copy of which is attached hereto as **EXHIBIT A**, including the disbursements presented therein for payment from the District's various accounts. Mr. Diaz next presented and reviewed an Investment Report for the period of November 1, 2021, through November 30, 2021, which is included with the Bookkeeper's

Report. After discussion concerning various matters reflected in said Reports, Director Stephens moved that (i) the Bookkeeper's Report and the disbursements presented therein for payment be approved, and (ii) the Investment Report for November 2021 be approved and the District's Investment Officer be authorized to execute same on behalf of the District. Director Shelnutt seconded said motion, which unanimously carried.

APPROVAL OF OPERATING BUDGET FOR FISCAL YEAR ENDING DECEMBER 31, 2022

Mr. Diaz next presented to and reviewed with the Board Draft No. 2 of the proposed Operating Budget for the District's fiscal year ending December 31, 2022, which is attached to the Bookkeeper's Report, and noted that comments from the District's consultants had been incorporated in same. In connection with construction of West Extension of Water Line and Sanitary Sewer Line along Spring Cypress Road (the "West Extension Project"), which is currently underway, Mr. Rubinsky recommended, and the Board concurred, that the expense line item no. 6544 be decreased from a total of \$587,000 to \$65,000 for the fiscal year ending December 31, 2022. After discussion concerning the draft Operating Budget for the fiscal year ending December 31, 2022, Director Shelnutt moved that said Operating Budget be adopted by the Board, subject to revision as discussed above. Director Norris seconded said motion, which unanimously carried.

Mr. Karban and Mr. Hazel entered the meeting during the above discussion.

RESOLUTION AUTHORIZING USE OF SURPLUS CONSTRUCTION FUNDS AND INTEREST EARNED ON CONSTRUCTION FUNDS

The Board next considered the adoption of a Resolution Authorizing Use of Surplus Construction Funds and Interest Earned on Construction Funds in the total amount of \$134,016.39 in connection the rehabilitation and maintenance during the current fiscal year of various facilities previously approved by the Texas Commission on Environmental Quality ("TCEQ") for funding and owned by the District, all in accordance with applicable rules of the TCEQ. After discussion on the matter, Director Shelnutt moved that the Resolution Authorizing Use of Surplus Construction Funds and Interest Earned on Construction Funds attached hereto as **EXHIBIT B** be passed and adopted by the Board. Director Stephens seconded said motion, which unanimously carried.

ENGAGEMENT OF AN AUDITOR TO PREPARE THE DISTRICT'S AUDIT REPORT FOR FISCAL YEARS ENDING DECEMBER 31, 2021, AND DECEMBER 31, 2022

The Board considered the engagement of an auditor to prepare the District's audit reports for the fiscal years ending December 31, 2021 and December 31, 2022. Mr. Eyring addressed the Board and presented an engagement letter dated December 8, 2021, proposing MCE be engaged for a period of two years to prepare the District's annual audits for the fiscal years ending December 31, 2021 and December 31, 2022. He advised the Board that the fees for the preparation of said audits are estimated to be approximately \$10,950 per year, including report production expenses. After discussion on the matter, Director Shelnutt moved that (i) MCE be engaged for a period of two years to prepare the District's audit reports for the fiscal years ending December 31, 2021 and December 31, 2022, at the estimated cost of \$10,950 per year, (ii) the related Texas Ethics Commission ("TEC") Form 1295 from MCE be accepted, and (iii) the

President be authorized to execute the engagement letter on behalf of the Board and the District. Director Norris seconded said motion, which unanimously carried.

Mr. Eyring exited the meeting at this time.

TAX ASSESSOR/COLLECTOR'S REPORT

Ms. McLaughlin next presented to and reviewed with the Board the Tax Assessor/Collector's Report for the month ended November 30, 2021, which is attached hereto as **EXHIBIT C**, including the disbursements presented therein for payment from the Tax Account. Ms. McLaughlin also presented to and reviewed with the Board a Single Line Delinquent Tax Report, included with the Tax Assessor/Collector's Report, dated December 6, 2021. After discussion, Director Norris moved that the Tax Assessor/Collector's Report be approved and that the disbursements identified in the Report be approved for payment from the Tax Account. Director Stephens seconded said motion, which unanimously carried.

DELINQUENT TAX REPORT

The Board deferred consideration of a Delinquent Tax Report from Perdue, Brandon, Fielder, Collins & Mott, L.L.P., the District's Delinquent Tax Collections Attorneys, after noting that a report was not due this month. Mr. Rubinsky stated that the next quarterly report will be provided in January 2022.

OPERATOR'S REPORT

Mr. Thiry presented to and reviewed with the Board the Operator's Report dated December 8, 2021, a copy of which is attached hereto as **EXHIBIT D**, and discussed various repair and maintenance items noted therein.

Mr. Thiry next advised the Board that lift pump no. 2 at Lift Station No. 3 (Spring Plaza) ("LP No. 2"), which is approximately 16 years old, has failed. Mr. Thiry stated that the estimated total cost for repair or replacement of said pump with a similar model KSB pump is approximately \$13,540. Director Shelnutt recommended that EDP work with Odyssey to investigate replacing the failed KSB pump with an appropriate model Flygt brand pump. After discussion, it was moved by Director Shelnutt, seconded by Director Stephens and unanimously carried, that EDP be authorized to replace lift pump no. 2, as recommended by Odyssey, for an amount not to exceed \$16,000.

Mr. Thiry next discussed the District's low water accountability for the year to date and responded to various inquiries from the Board. There ensued a lengthy discussion regarding the possible reasons for the lower than average water accountability within the District, as well as EDP's efforts to determine the cause(s) of same. Mr. Thiry advised that EDP has been unable to determine the source of any major water loss but will continue to investigate same.

Mr. Schultz entered the meeting at this time.

STATUS OF ASSIGNMENT AND AMENDMENT OF AGREEMENT FOR OPERATING SERVICES

The Board next considered the status of an Assignment and Amendment of Agreement for Operating Services ("Assignment and Amendment") by and among the District, EDP and

Inframark, LLC ("Inframark") in connection with the recent sale of EDP to Inframark. Mr. Rubinsky noted that the Board approved the Assignment and Amendment at its meeting held on November 10, 2021, subject to SPH's final approval of same. With regard thereto, Mr. Rubinsky reported that SPH has completed its review of the revised Assignment and Amendment and provided final approval of same to EDP.

STORM WATER QUALITY INSPECTION REPORTS

Mr. Rubinsky noted that the Storm Water Quality Inspection Reports prepared by Storm Water Solutions for October 2021 and November 2021, copies of which are attached hereto as **EXHIBIT E**, were circulated to the Board for its review prior to today's meeting. The Board noted that no action was required in connection with the Storm Water Quality Inspection Reports at this time.

DRAINAGE AND DETENTION FACILITIES MAINTENANCE REPORT

The Board next considered the Drainage and Detention Facilities Maintenance Report from SM&M (the "D&D Report") dated December 6, 2021, a copy of which is attached hereto as **EXHIBIT F**. Mr. Rubinsky reviewed the D&D Report with the Board. Director Shelnett requested that SM&M provide larger photographs in the D&D Report going forward, particularly of the various drainage facilities (versus the lift station and plant sites). The Board noted that no action was required in connection with the D&D Report at this time.

AMENDED AND RESTATED CONSTRUCTION AND MAINTENANCE AGREEMENT WITH HANNOVER FOREST HOMEOWNERS ASSOCIATION

The Board deferred consideration of the proposed Amended and Restated Construction and Maintenance Agreement between the District and Hannover Forest Homeowners Association in connection with maintenance by the District of the Hannover Forest, Section Two Detention Pond.

ENGINEER'S REPORT

Mr. Ring presented and reviewed in detail with the Board a written Engineer's Report dated December 8, 2021, 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. Mr. Ring responded to various inquiries from the Board. It was then moved by Director Stephens, seconded by Director Norris and unanimously carried that the Engineer's Report and all action items listed therein be approved, including approval of Pay Request No. 3 in the amount of \$110,607.22 from DL Glover, Inc. for construction of the West Extension Project.

PROPOSED ANNEXATION AND DEVELOPMENT OF APPROXIMATE 27.6 ACRE TRACT LOCATED AT THE SOUTHWEST CORNER OF SPRING STUEBNER AND HOLZWARTH ROADS

The Board deferred consideration of the proposed annexation and development of an approximate 27.6 acre tract located at the southwest corner of Spring Stuebner and Holzwarth Roads. Mr. Ring reminded the Board that Odyssey has requested but not yet received a deposit of \$15,000 from the landowner to cover the costs of said annexation.

PROPOSED ANNEXATION OF PROPERTY LOCATED AT 1731 SPRING CYPRESS ROAD (STARBUCKS)

The Board next discussed the status of the proposed annexation of the property located at 1731 Spring Cypress Road (Starbucks). Mr. Ring advised that Odyssey has completed plans for the construction of facilities to serve the tract and has submitted same to TxDOT for approval. Mr. Rubinsky then advised that SPH is now in contact with the landowner and has received documentation concerning the legal ownership of the tract and will be proceeding with the preparation of annexation petitions.

REVIEW OF ANNEXATION FEASIBILITY REPORT IN CONNECTION WITH PROPOSED ANNEXATION AND DEVELOPMENT OF APPROXIMATE 0.50 ACRE TRACT LOCATED ON F.M. 2920

The Board deferred consideration of the proposed annexation and development of an approximate 0.50 acre tract located along the northern right-of-way of F.M. 2920, outside the boundaries of the District, after Mr. Ring noted that there are no new updates to report at this time.

STATUS OF WATER SUPPLY AND SEWER SERVICE CONTRACT BETWEEN THE DISTRICT AND CENTRO CRISTIANO EL ALFA Y LA OMEGA, INC.

The Board deferred further consideration of the status of the out-of-District Water Supply and Sewer Service Agreement between the District and CCAO.

ISSUANCE OF UTILITY COMMITMENTS

The Board deferred consideration of requests for Utility Commitments after noting that no new requests were received by the District during the previous month.

DEVELOPERS' REPORTS

The Board considered the developers' reports. In that regard, the Board recognized Mr. Schultz of SPSC Development Partners, L.P.'s ("SPSC Partners"), who updated the Board on the status of the development plans for the Spring Pines Shopping Center project (the "SPSC Project"). Mr. Schultz reviewed the history of the SPSC Project to date and made a presentation to the Board, a copy of which is attached hereto as **Exhibit H**, regarding proposed changes to the development plan, which now includes the prospective sale of an approximate 13.96 acre portion of SPSC Partners' tract to Davis, which is currently constructing a 285 unit apartment project on 10.26 acres in the SPSC Project. Mr. Karban next addressed the Board regarding the proposed development of a 400-unit multi-family project by Davis on the subject tract and reviewed preliminary site plans for the proposed project with the Board, copies of which are included in **Exhibit H**. In connection therewith, he advised the Board that Davis is requesting a Utility Commitment for 191 equivalent single-family connections ("esfcs") of water and wastewater treatment capacity to serve the proposed development of the 13.96 acre tract. Mr. Rubinsky noted that, after transferring 136 esfcs to DD Holzwarth 10.26, LLC for its multi-family project currently under construction on the southernmost portion of SPSC Partners' tract, SPSC Partners has 389 esfcs of capacity remaining from its original utility commitment of 525 esfcs, and may allocate the 191 esfcs requested by Davis for the development of the subject tract. Director Shelnett inquired as to the proposed location for ingress and egress to the project. Mr. Karban advised that Davis expects the primary entrance/exit to be from Louetta Glen Road. Director

Shelnutt advised that Louetta Glen Road is a narrow and congested road and that Davis should consider relocating the primary entrance/exit to the project to Holzwarth Road, which can accommodate the traffic much better than Louetta Glen Road. Mr. Karban noted that Harris County ultimately will have to approve the ingress and egress from any public right-of-way, but that Davis will review Director Shelnutt's concern and request to open vehicular access to Holzwarth Road. Director Shelnutt further requested that Davis include a backslope swale in its development plans for the portion of the property that abuts the Spring Pines Detention Pond in order to prevent sheet flow from the project from flowing over the banks of the pond, which would cause erosion of such banks. He further inquired whether the existing fire line constructed by SPSC to save its proposed development will have to be relocated or abandoned due to conflicts with the proposed apartment buildings. Msrs. Karban, Hazel, Munger and Schultz responded to Director Shelnutt's concerns and to various other questions from the Board. After discussion, Director Stephens moved that the Board (i) approve a Utility Commitment to Davis (or its affiliated entity to be created to develop the project) for the capacities requested, subject to (a) its closing on the acquisition of the subject tract prior to January 31, 2022, and (b) receipt of TEC Form 1295 from Davis relative to same, and (ii) authorize the President to execute said Commitment on behalf of the Board and District. Director Norris seconded said motion, which unanimously carried.

NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY ("AUTHORITY")

The Board next considered matters related to the Authority. In that regard, Mr. Rubinsky discussed recent activities of the Authority, including the status of construction of the Northeast Water Purification Plant Expansion project.

HARRIS COUNTY CONSTABLE'S OFFICE ("HCCO") MONTHLY ACTIVITY REPORT

Mr. Rubinsky presented to and reviewed with the Board a security report received from the HCCO for the months of October 2021 and November 2021, copies of which are attached hereto as **EXHIBIT I**, on the current status of criminal activities in the District and surrounding areas. No action was taken by the Board relative to said matter.

RATIFY PRIOR APPROVAL OF UPDATED DISTRICT REGISTRATION FORM

Mr. Rubinsky next requested that the Board ratify its prior authorization for SPH to prepare an updated District Registration Form to be filed with the Texas Commission on Environmental Quality in connection with the change in officer positions of Directors Norris and Patridge. After discussion on the matter, Director Stephens moved that the Board's prior authorization for SPH to prepare and file an updated District Registration Form, as discussed above be ratified in all respect. Director Shelnutt seconded said motion, which unanimously carried.

MATTERS RELATED TO MAY 7, 2022 DIRECTORS ELECTION

Mr. Rubinsky reported on issues related to the District's Directors Election (the "Election") to be held on May 7, 2022. In connection therewith, Mr. Rubinsky presented to and discussed with the Board a Memorandum prepared by SPH, a copy of which is attached hereto as **Exhibit J**, regarding (i) participation in the joint election with Harris County (the "County"), (ii) publication of notice regarding accessible voting systems, and (iii) posting of Notice Regarding

Candidate Filing Period. Mr. Rubinsky advised that the County will administer the Election if the District participates in the County's joint election. He further noted that if the District elects not to contract with the County and to hold an independent Election, Section 49.111, Texas Water Code, provides an exemption from the requirement to provide certain electronic voting systems at the Election if the District's previous directors election was canceled as uncontested or if fewer than 250 voters voted in the District's previous directors election. Mr. Rubinsky noted that the District is exempt from said requirement because the District's previous directors election was canceled as uncontested. Following discussion, it was moved by Director Shelnut, seconded by Director Norris and unanimously carried, that SPH be authorized to (i) notify the County of the District's intent to participate in the joint Election, (ii) provide notice of the District's intent not to provide electronic voting systems for said Election by publication in a newspaper of general circulation in an area that includes the District, in case the District subsequently elects to hold an independent Election, and (iii) post the required Notice Regarding Candidate Filing Period.

ATTORNEY'S REPORT

The Board next considered the Attorney's Report. In connection therewith, Mr. Rubinsky advised that he had nothing further to report of a legal nature that was not included under another agenda item.

CLOSED SESSION

The Board determined that it would not be necessary to meet in Closed Session at this time.

OTHER MATTERS

The Board considered items to be placed on future agendas. After consideration, no specific items other than routine and ongoing matters and those items already discussed above were requested.

ADJOURNMENT

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



Secretary, Board of Directors



EXHIBITS

December 8, 2021

- Exhibit A: Bookkeeper's Report
- Exhibit B: Resolution Authorizing Use of Surplus Construction Funds and Interest Earned on Construction Funds
- Exhibit C: Tax Assessor-Collector Report; Single Line Delinquent Tax Report
- Exhibit D: Operator's Report
- Exhibit E: Storm Water Quality Inspection Reports
- Exhibit F: Detention and Drainage Facilities Maintenance Report
- Exhibit G: Engineer's Report
- Exhibit H: Presentation regarding proposed revised development plans for the SPSC Project
- Exhibit I: HCCO Security Report (October and November 2021)
- Exhibit J: Memorandum regarding May 7, 2022 Directors Election