

WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 35

Minutes of the Meeting of Board of Directors May 13, 2024

The Board of Directors (the "Board") of Waller County Municipal Utility District No. 35 (the "District") met in regular session, open to the public, on May 13, 2024, in accordance with the duly posted Notice of Public Meeting, and the roll was called of the duly constituted members of the Board, as follows:

Victoria A. Battistini, President
Ryan C. Ward, Vice President
Jaclyn Day, Secretary
Daniel C. Feiler, Assistant Secretary
Tiffani S. Walker, Assistant Secretary

all of whom were present with the exception of Directors Day and Walker, thus constituting a quorum. Director Walker entered later in the meeting, as noted herein.

Also present were: Blair Bozoarth of Quiddity Engineering, LLC ("Quiddity"); Jennifer Abad of Municipal Accounts & Consulting, L.P. ("MA&C"); Dana Hollingsworth of Municipal District Services, LLC ("MDS"); Stephen Eustis of Robert W. Baird & Co., Inc. ("Baird"); Patty Rodriguez of BLICO, Inc., dba Bob Leared Interests ("BLICO"); Brian Krueger of FORVIS LLP ("FORVIS"); Trey Patronella of Kudela & Weinheimer ("K&W"); Shamar O'Bryant on behalf of Astro Sunterra, L.P. ("Astro Sunterra"); and Christina Cole and Kris Eddlemon of Schwartz, Page & Harding, L.L.P. ("SPH"). David Daughtry of Kimley-Horn & Associates, Inc. ("KH") entered the meeting after it was called to order, as noted herein.

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

PUBLIC COMMENTS

There were no comments from members of the public.

MINUTES

The Board considered the minutes of its meeting held on April 8, 2024. After discussion regarding the minutes previously forwarded for review, it was moved by Director Feiler, seconded by Director Battistini, and unanimously carried, that said minutes be approved, as written.

ACCEPTANCE OF QUALIFICATION STATEMENTS, AFFIDAVITS OF CURRENT DIRECTOR, ELECTIONS NOT TO DISCLOSE CERTAIN INFORMATION, BONDS, AND OATHS OF OFFICE

The Board next considered the acceptance of Qualification Statements, Elections Not to Disclose Certain Information, Bonds, and Oaths of Office for Victoria Battistini, Ryan Ward, and Daniel Feiler, including the acceptance of Affidavits of Current Director. In that regard, Ms. Battistini, Mr. Ward, and Mr. Feiler presented their Statements of Elected Officer, Oaths of Office, Official Bonds, Elections Not to Disclose Certain Information, and Affidavits of Current Director. After discussion on the matter, it was moved by Director Feiler, seconded by Director Battistini and unanimously carried that the Board approve said Bonds, accept said Statements of Elected Officers, Elections Not to Disclose Certain Information, Oaths, and Affidavits of Current Director and declare Victoria Battistini, Ryan Ward, and Daniel Feiler to be duly elected and qualified Directors of the District.

ELECTION OF OFFICERS

The Board next considered re-organization of the officers of the Board of Directors. The Board members concurred to have all officers remain in their current offices.

DISTRICT REGISTRATION FORM

The Board next considered approving a District Registration Form required by the Texas Commission on Environmental Quality ("TCEQ"). Ms. Cole explained that, in accordance with the Texas Water Code, municipal utility districts are required to file names, mailing addresses, officer positions and terms of new directors with the TCEQ within thirty (30) days after an election or appointment. She advised that, with the Board's approval, SPH will complete the District Registration Form to include newly elected directors' terms of office and will file the form with the TCEQ. After further discussion of the matter, Director Feiler moved that the Board authorize SPH to complete the District Registration Form as discussed and file same with the TCEQ. Director Battistini seconded said motion, which unanimously carried.

ENGAGEMENT OF AUDITOR

The Board considered the engagement of an auditor to prepare the District's audit report for the fiscal year ending May 31, 2024. Mr. Krueger made a presentation to the Board and advised that Forvis' fees for the preparation of said audit report would be \$14,000, plus an administrative fee of \$1,000 to cover items such as report production, copies, postage, and other delivery charges, supplies, and other technology-related costs. A copy of Forvis' engagement letter is attached hereto as **Exhibit A**. Following discussion, Director Feiler moved that (i) Forvis be engaged to conduct an audit of the District's financial statements and prepare the District's audit report for the fiscal year ended May 31, 2024, in accordance with the terms of the engagement letter presented, (ii) the District accept Forvis' Texas Ethics Commission ("TEC") Form 1295 relative to the engagement, and (iii) SPH be authorized to acknowledge the District's receipt of same with the TEC. Director Battistini seconded said motion, which unanimously carried.

TAX ASSESSOR-COLLECTOR REPORT

Ms. Rodriguez presented to and reviewed with the Board a written Tax Assessor-Collector Report ("TAC Report"), for the period ended April 30, 2024, including the disbursements presented therein for payment from the District's tax account, a copy of which TAC Report is attached hereto as **Exhibit B**. After discussion, on motion made by Director Feiler, seconded by Director Battistini and unanimously carried, the Board approved the TAC Report and authorized the payments listed therein.

Director Walker and Mr. Daughtry entered the meeting at this time.

RATIFY PRIOR ADOPTION OF RESOLUTION REQUESTING APPRAISAL OF PROPERTY

The Board next considered ratifying its prior approval and adoption of a Resolution Authorizing Requesting Appraisal of Property (the "Resolution") as of May 1, 2024. Following discussion, Director Feiler moved to ratify and approve in all respects the Board's prior approval and adoption of the Resolution. Director Battistini seconded the motion, which unanimously carried.

OPERATOR'S REPORT

Ms. Hollingsworth presented to and reviewed with the Board the Operations Report dated May 13, 2024, a copy of which is attached hereto as **Exhibit C**. She advised the Board that there are two (2) delinquent accounts in the amounts of \$319.38 and \$378.98, which MDS has been unable to collect. She advised that MDS recommends these accounts be turned over to collections for further collection efforts. Following discussion, Director Feiler moved that MDS be authorized to turn over the subject accounts to collections for further collection efforts, as discussed and as reflected in the Operations Report. Director Battistini seconded said motion, which unanimously carried.

The Board next considered review and approval of a Consumer Confidence Report ("CCR"). Ms. Hollingsworth advised that preparation and distribution of a CCR is not required for the District for calendar year 2023 as the water systems were not active with the TCEQ and the District had no sample schedules. The Board deferred taking action at this time.

ENGINEERING REPORT

Mr. Bozoarth next presented to and reviewed with the Board an Engineering Report dated May 13, 2024, a copy of which report is attached hereto as **Exhibit D**, relative to the status of various engineering and construction projects within the District. Upon review, Director Feiler moved that the Board authorize Quiddity to award construction contracts, subject to SPH's review of the payment and performance bonds and insurance certificates submitted in connection with the contracts to determine if the payment and performance bonds and insurance meet the requirements of the bid specifications, the Texas Insurance Code, the rules of the TCEQ and the provisions of the Texas Water Code and Astro Sunterra's, Gehan Homes, Ltd.'s or KB Home Lone Star Inc.'s,

as applicable, execution of the special conditions of the contracts under which Astro Sunterra, Gehan Homes, Ltd. or KB Home Lone Star Inc., as applicable, guarantees payment of all sums due thereunder, for the construction of: (i) paving facilities to serve Sunterra Sections 65 and 66 to the lowest qualified bidder, Allgood Construction Company, in the amount of \$1,183,547.45; (ii) paving facilities to serve Sunterra Sections 67 and 68 to the lowest qualified bidder, A&M Contractors, Inc., in the amount of \$1,333,862.00; (iii) water, sanitary sewer and drainage facilities to serve Sunterra Section 72 to the lowest qualified bidder, TexaSite, LLC, in the amount of \$1,370,314.40; (iv) paving facilities to serve Sunterra Section 73 to the lowest qualified bidder, Hassell Construction Group, Inc., in the amount of \$1,112,197.25; and (v) water, sanitary sewer and drainage facilities to serve Sunterra Section 74 to the lowest qualified bidder, Blazey Construction Services, LLC, in the amount of \$1,551,371.15; and to authorize the District and SPH to accept and acknowledge the corresponding TEC Form 1295s on behalf of the Board and the District relative to the various construction contracts. Mr. Bozoarth further requested the Board's approval to concur in the approval and/or payment of: (i) Change Order No. 4 in the amount of -\$4,065.00 to Allgood Construction Company, Inc. for work completed on Sunterra Section 53 paving facilities; (ii) Pay Estimate No. 2 in the amount of \$107,760.65 to Principal Services, Ltd. for work completed on Sunterra Section 55 water, sanitary sewer, and drainage facilities; (iii) Pay Estimate No. 1 and Change Order No. 1 in the amounts of \$26,360.10 and \$53,950.00, respectively, to A&M Contractors, Inc. for work completed on Sunterra Section 55 paving facilities; and (iv) Pay Estimate No. 1 in the amount of \$139,731.00 to Principal Services, Ltd. for work completed on Sunterra Sections 65 and 66 water, sanitary sewer, and drainage facilities. Director Battistini seconded the motion, which unanimously carried.

Mr. Bozoarth next presented to and reviewed with the Board a proposal in the amount of \$3,301.00 in connection with road repairs in Sunterra Section 50. Following discussion, Director Feiler moved that the Board approve the proposal, as discussed. Director Battistini seconded the motion, which unanimously carried.

Mr. Bozoarth next requested approval of a proposal in the amount of \$20,500 for Quiddity to prepare a Summary of Costs ("SOC") for the District's proposed Series 2024 Unlimited Tax Road Bonds. Following discussion, Director Feiler moved that Quiddity be authorized to prepare the SOC, as discussed. Director Battistini seconded the motion, which unanimously carried.

The Board considered a request from Quiddity to approve of a proposal in the amount of \$66,000 for preparation of the District's Bond Application Report No. 2. After discussion, Director Feiler moved that proposal from Quiddity be approved, and the President of the Board be authorized to execute same on behalf of the Board and the District. Director Feiler seconded said motion, which unanimously carried.

Mr. Bozoarth next presented to and reviewed a proposed Sanitary Sewer Easement from the District to Harris-Waller Counties Municipal Utility District No. 4. Following discussion, Director Feiler moved that the Board approve the Sanitary Sewer Easement and authorize the President to execute same on behalf of the Board and the District. Director Battistini seconded the motion, which unanimously carried.

Mr. Bozoarth next presented to and reviewed a proposed Water Meter Easement (the

"Easement") from the District to Royal Independent School District. Following discussion, Director Feiler moved that the Board accept the Easement and authorize the President to execute same on behalf of the Board and the District. Director Battistini seconded the motion, which unanimously carried.

2024 ROAD BONDS

The Board deferred approval of a Summary of Costs and engagement of an auditor to prepare an audit of payments to the developer out of the 2024 Road Bonds until the next meeting.

SILT SOLUTIONS, INC.

The Board next considered a report from Silt Solutions, Inc. ("SSI") in connection with storm water pollutions and prevention services. Ms. Cole advised that SSI provided a report for the period April 16, 2024 – May 6, 2024, a copy of which is attached hereto as **Exhibit E**. She advised that SSI has provided a proposal in the amount of \$500 per lot relative to trash pickup, a copy of which is attached hereto as **Exhibit F**. Following discussion, Director Feiler moved that the Board (i) approve the proposal provided by SSI, (ii) authorize the President to execute same on behalf of the Board and the District, and (iii) authorize SPH to accept and acknowledge the associated TEC 1295 form. Director Battistini seconded the motion, which unanimously carried.

RATE ORDER

The Board next considered amending the District's Rate Order relative to builder damage deposits. Following discussion, it was moved by Director Feiler, seconded by Director Battistini, and unanimously carried that the Rate Order be amended, a copy of which amended Rate Order is attached as **Exhibit G**.

LANDSCAPE ARCHITECTURE REPORTS

Mr. Patronella presented to and reviewed with the Board a monthly report prepared by K&W regarding the status of landscape architecture design services for Sunterra Sections 35-36 & 44, 45, 51-52, and 46, a copy of which report is attached hereto as **Exhibit H**. Following discussion, Director Feiler moved to approve the action items requested by K&W for landscape architecture design services for Sunterra Sections 35-36 & 44, 45, 51-52, and 46. Director Battistini seconded the motion, which unanimously carried.

Mr. Daughtry next presented to and reviewed with the Board a monthly report prepared by KH regarding the status of landscape architecture design services within the District, a copy of which is attached hereto as **Exhibit I**. Following discussion, Director Feiler moved to approve Pay Estimate Nos. 3 through 8 and Change Orders 1 through 4 in connection with hardscape, landscape, and irrigation improvements to serve Sunterra Sections 49-50. Director Battistini seconded the motion, which unanimously carried.

BOOKKEEPER'S REPORT

Ms. Abad presented to and reviewed with the Board the Bookkeeper's Report, dated May 13, 2024, attached hereto as **Exhibit J**, including the disbursements presented for payment, as prepared by MA&C. After discussion, it was moved by Director Feiler that the Bookkeeper's Report be approved, and that the disbursements identified in the Bookkeeper's Report be authorized for payment. Director Battistini seconded said motion, which unanimously carried.

OPERATING BUDGET

Ms. Abad then presented to and reviewed with the Board a proposed operating budget for the District's fiscal year ending May 31, 2025, as prepared by MA&C, a copy of which is included in **Exhibit J**. The Board noted certain changes to be made to the budget. After discussion, it was moved by Director Feiler that the operating budget for the District's fiscal year ending May 31, 2025, be adopted, as revised. Director Feiler seconded said motion, which unanimously carried.

DEVELOPER'S REPORT

Mr. O'Bryant discussed the status of development within the District.

SECURITY PATROL REPORT

Ms. Cole presented to and reviewed with the Board the Security Patrol Report prepared by On-Site Services, LLC for the month of April 2024, a copy of which is attached hereto as **Exhibit K**.

ATTORNEY'S REPORT

The Board next considered the Attorney's Report. In connection therewith, Ms. Cole presented to and discussed with the Board a memorandum prepared by SPH, a copy of which is attached hereto as **Exhibit L**, regarding the use of social media by public officials. In connection therewith, Ms. Cole advised the Board that directors should exercise caution when posting about District-related matters on their personal social media pages in light of recent U.S. Supreme Court cases, as further discussed in the memorandum.

FUTURE AGENDA ITEMS

The Board considered items for placement on future agendas. No items were requested to be added to future agendas other than those items discussed hereinabove.

ADJOURNMENT

There being no further business to come before the Board, on motion made by Director Feiler, seconded by Director Battistini, and unanimously carried, the meeting was adjourned.

(SEAL)


Secretary

729149

LIST OF ATTACHMENTS

- EXHIBIT A Engagement Letter – FORVIS LLP
- EXHIBIT B Tax Assessor-Collector's Report
- EXHIBIT C Operations Report
- EXHIBIT D Engineering Report
- EXHIBIT E Report provided by Silt Solutions, Inc.
- EXHIBIT F Proposal provided by Silt Solutions, Inc.
- EXHIBIT G Rate Order
- EXHIBIT H Report provided by Kudela & Weinheimer
- EXHIBIT I Report provided by Kimley-Horn & Associates, Inc.
- EXHIBIT J Bookkeeper's Report; Operating Budget
- EXHIBIT K Security Patrol Report
- EXHIBIT L Memorandum provided by Schwartz, Page & Harding, L.L.P.