

AGENDA
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 46

Notice is hereby given pursuant to V.T.C.A., Government Code, Chapter 551, that the Board of Directors of Fort Bend County Municipal Utility District No. 46 will meet in **regular session, open to the public, at 10:30 a.m., on Tuesday, September 26, 2023**, at 1 Fluor Daniel Dr., Building D, Suite D1-0, Sugar Land, Texas 77478. At the meeting the following items will be considered and acted on:

1. Hear from the public.

CONSENT AGENDA

2. Approval of minutes from meetings held on August 22, 2023, and September 12, 2023.
3. Receive Tax Assessor/Collector's Report and consider taking action thereon, including:
 - a. Discuss delinquent taxes.


ACTION AGENDA

4. Conduct public hearing on proposed 2023 tax rate.
5. Adopt Order Setting 2023 Tax Rate.
6. Approve Amended Notice to Sellers and Purchasers.
7. Review and approve Audit for the fiscal year ending June 30, 2023.
8. Receive Report from Lake Management Services, L.P., and consider taking action as necessary to authorize repairs, purchases, and/or additional maintenance.
9. Receive Operator's Report and consider taking action thereon, including:
 - a. consider taking any action requested by the Operator, including repairs to the District's system;
 - b. review and approve write-off list; and
 - c. authorize termination of water and sewer service to delinquent accounts.
10. Discuss Belmont Shore Park maintenance and consider taking action as necessary to authorize repairs, purchases, and/or additional maintenance, including:
 - a. receive update on Belmont Shore Clean-Up Project.
11. Receive Report from Levee Management Services, LLC and consider taking action thereon.
12. Receive Engineer's Report and consider taking action thereon, including:
 - a. hear update on District facilities;
 - b. consider requests for water and sewer service and consider approving issuance of any utility commitment letters;
 - c. receive update on pump station construction project; and
 - d. approve pay estimates and change orders for construction projects in progress in the District.
13. Receive Report from Touchstone District Services and consider taking action thereon, including:
 - a. authorize website posting and email/text alerts.
14. Hear Attorney's Report and consider taking action thereon, including:
 - a. conduct any director-requested discussions.
15. Receive Bookkeeper's Report and consider taking action thereon, including:
 - a. approve bills submitted to the District for payment.
16. Accept Resignation and Termination of Agreement for Legal Services by and between the District and Coats Rose, P.C. and authorize any action necessary in connection therewith.
17. Approval and execution of Agreement for Legal Services between the District and Polley Garza PLLC and adoption of the Resolution Approving Contingent Fee Contract for Legal Services pursuant to Exhibit A attached hereto.
18. Approval of Order Establishing Office and Meeting Places Outside the District and authorize publication of any required notice.
19. Approval of District Registration Form.
20. Hear and Consider Off Cinco Website Services Proposal.

Pursuant to V.T.C.A., Government Code, Chapter 551, the Board of Directors may convene in closed session to receive advice of legal counsel, discuss matters relating to pending or contemplated litigation, personnel matters, real estate transactions, gifts and donations, security devices and/or economic development negotiations.

EXECUTED this 20th day of September, 2023.

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 46

By: 
Hicham Chiali
Coats | Rose, P.C.,
Attorneys for the District

(SEAL)



Exhibit A
FORT BEND COUNT MUNICIPAL UTILITY DISTRICT NO. 46
NOTICE OF THE CONTINGENT FEE ENGAGEMENT OF BOND COUNSEL

Pursuant to Texas Government Code Section 2254.1036, notice is hereby given that the Board of Directors of Fort Bend County Municipal Utility District No. 46 (the "District"), at the regular public meeting described in the Notice of Meeting to which this Exhibit is attached, will consider the engagement of Polley Garza PLLC (the "Firm") to serve as Bond Counsel for the District based on a contingent fee. In support thereof, the Firm offers the following:

- A. The Firm is proposing to provide its services as Bond Counsel to the District. Such legal services are necessary in order for the District to finance the facilities and provide the services for which the District was created. Bond Counsel services to be provided by the Firm include but are not limited to: (i) evaluating the state constitution, laws, court cases, agency regulations, and agency guidance documents that authorize and otherwise pertain to the issuance, sale and delivery of the bonds, (ii) evaluating federal laws, court cases, agency regulations, and agency guidance documents that pertain to the issuance, sale and delivery of the bonds, including provisions of the Internal Revenue Code and related court decisions, regulations and guidance documents of the U.S. Department of the Treasury and court cases that concern the tax treatment of the bonds, and regulations of the Securities and Exchange Commission that concern the offering of the bonds for sale, (iii) obtaining all requisite approvals from state regulatory agencies for the issuance of the bonds, including, in certain instances, the approval of the Texas Commission on Environmental Quality, (iv) assisting the District in applying for other forms of financial assistance in connection with issuance of bonds, including applications for financial assistance to be filed with the Texas Water Development Board, as requested by the District (v) preparing a transcript of proceedings related to the issuance, sale and delivery of the bonds, (vi) obtaining the approving opinion of such transcript and the bonds from the Attorney General of the State of Texas and coordinating the registration of the initial bonds by the Comptroller of the State of Texas, and (vii) issuing the Firm's legal opinion regarding the validity of the bonds and, in certain issuances, the tax treatment of the bonds for federal income tax purposes.
- B. For over 16 years, attorneys at the Firm have served as Bond Counsel for entities similar to the District and is widely recognized for its experience throughout the State of Texas. The Firm's experience and reputation provide credibility and weight to the legal opinions that will be issued in connection with the issuance, sale and delivery of the District's bonds, which opinions may be considered by prospective purchasers of the bonds.
- C. The Firm has no other relationship with the District other than the District intending to engage the Firm as Bond Counsel and General Counsel.
- D. Bond Counsel services are highly specialized services involving complex legal issues. Such services cannot be adequately performed by District personnel as the District does not employ any legal personnel capable of serving as Bond Counsel. Further, purchasers of bonds have traditionally insisted that a qualified independent attorney or firm of attorneys – rather than an employee of the bond issuer – serve as Bond Counsel.

- E. The legal services of Bond Counsel cannot be adequately performed under a contract providing for the payment of hourly fees as: (i) such legal services involve risk that is directly related to the size of the bond issuance; (ii) an hourly fee structure would require the payment of Bond Counsel fees even if the bonds are not issued, which would be a financial risk for the District; (iii) an hourly fee structure would result in an unpredictable total fee amount that would be difficult to forecast and pay with the proceeds of the bond issuance; and (iv) a contingent fee structure is the standard in the marketplace for experienced providers of such legal services.

- F. Engaging the Firm based upon a contingency fee is in the best interest of the residents of the District because: (i) the arrangement allows the District to have certainty of its costs prior to the issuance of bonds; (ii) the District does not have to pay for Bond Counsel services unless and until bonds are issued; and (iii) the Firm's role as General Counsel will increase the quality, efficiency, and effectiveness of its service as Bond Counsel.