

**AMENDED AND RESTATED
BYLAWS OF THE BRAZORIA-FORT BEND RAIL DISTRICT**

PREAMBLE

The Brazoria-Fort Bend Rail District (“District”) was created by the Brazoria County and Fort Bend County Commissioners Courts on January 27, 2015, pursuant to Texas Transportation Code Chapter 172.

In accordance with Section 172.151 and 172.152 of the Transportation Code, the District’s Board (“Board”) is granted the authority to adopt rules and regulations as it may deem necessary. The Board adopts the following Bylaws:

ARTICLE I: OFFICES, DOMICILE, AND SERVICE

Section 1. Offices. The principal executive office and the principal office of the District are located at Port Freeport’s Administrative Office at 1000 Cherry Street, Freeport, Texas. The mailing address is the same. The District may have other offices as the business of the District may require or make desirable as determined by the Board.

Section 2. Domiciles. The domiciles of the District are Brazoria County and Fort Bend County.

Section 3. Service of Process. The District may be served through its President, or other officer designated by resolution of the Board.

ARTICLE II: BOARD

Section 1. General Powers. The responsibility of the management, control, and operation of the District and its properties is vested in the Board. The Board is responsible for managing the District’s rail transportation system in compliance with the Board’s policies. All operations of the District are essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

Section 2. Number and Tenure. The Board shall not exceed six (6) members. Two (2) members are appointed by the Port Freeport Board of Directors, two (2) members are appointed by the Fort Bend County Commissioners Court, and two (2) members are appointed by the Brazoria County Commissioners Court. The terms of the office of the members of the Board are two years, with no limit to the number of reappointments. Each Board member continues to serve until a successor has been appointed and qualified. Terms expire August 31 of odd-numbered years.

Section 3. Qualifications. Not to exceed six (6) members, the Board shall be residents of Brazoria County or Fort Bend County, Texas. No member of the Board shall have a pecuniary interest or benefit, directly or indirectly, in any contract or agreement to which the District is a party, pursuant to Texas Transportation Code Section 172.110.

Section 4. Removal. Any member of the Board may be removed from office by the party by which the member was appointed pursuant to the procedures established by Texas Transportation Code Section 172.105.

Section 5. Advisory Directors. The Board by majority agreement shall have the authority to appoint Advisory Directors in an ex-officio non-voting capacity

Section 6. Vacancies. Any vacancy in a Board position, whether by death, resignation, disqualification, incapacity to serve, or removal from office, shall be filled for the remainder of the term of that position in a manner provided for in the original appointment of that position pursuant to Texas Transportation Code Section 172.104. Vacancies on the Board shall not impair the power of the Board to transact any and all business of the District so long as a quorum is maintained.

Section 7. Regular Meetings. The Board shall hold at least one meeting a month for the purpose of transacting the business of the District. Regular meetings shall be held at such times, places, and days as the Board shall by majority vote specify. Notices of such regular meetings shall be posted at the administrative office of the District and in accordance with the Open Meetings Act.

Subject to the requirements of the Texas Open Meetings Act, the Board may participate in and hold meetings by means of video or telephone conference or similar communications equipment.

Section 8. Special Meetings. Special Meetings of the Board may be called by the President as necessary. The President may fix any time and any place within the boundaries of the State for holding a special meeting of the Board, and such time and place shall be set out in a written notice of the special meeting supplies to the members of the Board. Notices of special meetings shall be posted at the administrative office of the District and in accordance with the Open Meetings Act.

Section 9. Quorum. A majority of the members of the Board shall constitute a quorum of the Board for the purpose of conducting its business and exercising its powers. No business may be conducted unless a quorum is present. If a quorum is not present at any meeting of the board, a majority of the Board members present may adjourn the meeting to another time and place. Notice of any such adjourned meeting shall be given to all Board members in accordance with Section 8 of Article II of these Bylaws and in accordance with the Open Meetings Law.

Section 10. Officers. The members of the Board shall elect from among their numbers, presiding officers. The presiding officers shall consist of a President, Vice-President, and Treasurer. "Chair" and "Vice Chair" shall mean "President" and "Vice President" respectively. The Board may select a member of the Board or a non-voting non-board member resident of Brazoria County or Fort Bend County to serve as Secretary. The Offices shall be elected annually at the December regular meeting or the next meeting forward, if a meeting is not held in December.

Each Officer of the Board holds office until the successor is duly elected and qualified or until the death, resignation, disqualification, incapacity to serve, removal from office, or otherwise of the Officer. The Board shall fill any vacancy in any office of the Board by election, such appointment to continue until the expiration of the current term of office, which becomes vacant.

Section 11. Procedures at Meetings. The President shall preside at the meetings of the Board. In the absence of the President at any meeting, the Vice-President shall preside. In the absence of the President and Vice-President at any meeting, any member of the Board selected by the members present shall preside. The Secretary shall take minutes at all meetings of the Board. In the Secretary's absence, the presiding officer of the meeting may designate any person to act as Secretary. At the meetings of the Board, the business shall be transacted in such order as the Board may determine.

Section 12. Powers and Duties of the Board Officers.

A. President

- a. The President shall preside at all meetings of the Board and may vote on all matters brought before the Board.
- b. The President shall determine by inspection and investigation if orders and resolutions promulgated by the Board are being carried into effect, and shall report these findings to the Board.
- c. The President may sign and execute for and on behalf of the District contracts of insurance, bonds, deeds, mortgages, debentures, contracts, or any instruments or documents of whatever nature which the Board has authorized to be executed. This does not include checks or drafts on the District's Depository. The President may negotiate contracts on behalf of the Board, provided, however, that all contracts are required to be approved by the Board.
- d. With the assistance of the Secretary, the President shall establish the proposed agenda for each meeting of the Board.
- e. The President shall recommend, subject to approval of the Board, all committee chairs and serve as an ex-officio member of all committees.
- f. The President shall perform in general all duties incident to the office of the President and such other duties as may be prescribed by these Bylaws or assigned by the Board.

B. Vice-President

The Vice-President shall preside at any meeting of the Board when the President is absent and shall have the power and authority of the President and shall perform the duties of the President in case of the disability of the President and shall perform such other duties as may be assigned by the President or by the Board.

C. Treasurer

The Treasurer shall be custodian of all funds, income, and expenditures and shall

report such transactions regularly to the Board, including monthly and annual reports and whenever deemed necessary by the Board and further perform those other duties as may be assigned by the President or by the Board.

D. Secretary

- a. The Secretary shall keep the permanent records of all proceedings and transactions of the District, shall keep the minutes of all official meetings of the board on one or more books provided for such purpose, and shall see that notices are duly given in accordance with the provisions of these Bylaws or as required by law.
- b. The Secretary shall perform, in general, all the duties incident to the office of the Secretary and such other duties as may be assigned by the Board.

Section 13. Manner of Acting. On any question presented, the number of members shall be recorded by the secretary. Action may be taken by the District upon a vote of a majority of the board members present, unless the act of a greater number shall be required by these Bylaws. No Board action or Board recommendation of action shall be effective with respect to the location of new rail lines or the modification of rail lines within either county unless such action or recommendation of action shall have been approved by at least one (1) Director appointed by the respective county.

Section 14. Board Committees. The President shall recommend, subject of approval of the Board, the establishment of committees, membership of each committee, and the Chair for each committee. The Board may refer any matter to a Board committee for consideration. Unless otherwise specified by the Board, all committees shall be advisory in nature without any authority to control public business. The role of a committee shall merely be to report to the Board findings on any given matter for consideration of the Board.

Section 15. Resignation. Any Board member or Board Officer may resign at any time. Subject to the last sentence of Article II, Section 2 of these Bylaws, any such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time is specified, at the time of its receipt by the Secretary or Assistant Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 16. Parliamentary Rules. Except where inconsistent with the Act or these Bylaws, Roberts Rules of Order, Revised, shall govern the proceedings of the Board and its committees. The President may appoint a person to serve as Parliamentarian. Such person may be a member of the Board. The Parliamentarian is not an officer of the Board by reason of such position.

ARTICLE III: CONTRACTS AND LOANS

Section 1. Contracts. All contracts for goods, services, or property in excess of \$15,000.00 are to be let on competitive bids in accordance with Section 172.156 of the Texas Transportation Code and Chapter 262 of the Texas Local Government Code. Procurement of professional services shall be a majority vote of the Board and in accordance with the Texas Professional Procurement Act.

Section 2. Loans. No loans shall be contracted on behalf of the District, and no evidence of indebtedness shall be issued in its name, unless authorized by resolution of the Board, executed and attested by the Secretary.

ARTICLE IV: BANKING AND INVESTMENTS

Section 1. Checks, Drafts, and Related Items. All checks, drafts, notes, or other orders for the payment of money issued in the name of the District shall be signed by 2 of the 3 Board members: President, Vice-President, or Treasurer.

Section 2. Depositories. All funds of the District shall be deposited to the credit of the District in such banks as the Board may designate, and upon such terms and conditions authorizing the issuance of the District's bonds or notes. The Board may authorize the opening and maintenance of general and special accounts within any such depository as it may designate, and may make such special rules and regulations with respect thereto as it may deem appropriate. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

Section 3. Investments. The Board, by resolution, may provide that an authorized representative of the District may invest and reinvest funds of the District and provide for money to be withdrawn from the appropriate accounts of the District for such investments on terms as the Board considers advisable. Such Investments must be made in obligations or securities permitted by the Public Funds Investment Act.

ARTICLE V: AUDIT AND BUDGET

Section 1. Audit. At the conclusion of each fiscal year, the Board shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants, which audit shall be open to public inspection. Also, the Board may conduct an audit at any other time by a majority vote.

At the conclusion of each fiscal year, the Board Treasurer shall conduct an internal review of all the Board's financial activities and make a public report to the Board.

Section 2. Budget. Prior to the Commencement of a fiscal year (October 1 through September 30), or as soon as practical after the commencement of the fiscal year, the Board shall adopt an annual operating budget, which specifies major expenditures by type and amount as well as a capital expenditures budget. Either of such budgets may be amended as deemed appropriate by a majority of the Board. The District may not make operating or capital expenditures in excess of the then budgeted expenditures for a fiscal year. No operating or capital budget is required during the period the District has no income, but is required before expenditure is made.

ARTICLE VI: INDEMNIFICATION OF BOARD MEMBERS

Each board member, including a non-board member Secretary, shall be indemnified by the District against any liability imposed and for any expense reasonably incurred in connection with any claim, action, suit, or proceeding to which that Board member may be a party by reason of being, or having been, a Board member, and against such sums as counsel selected by the Board

shall deem reasonable payment of settlement or any such claim, action, suit, or proceeding; provided, however, that no Board member shall be indemnified with respect to actual damages arising out of a cause of action for a willful act or omission, constituting gross negligence or official misconduct, or with respect to matters for which such indemnification would be unlawful or against public policy. It is the intent of the District to indemnify under this section to be fullest extent permitted by law. The Board shall approve by majority vote public official insurance containing policy limits and coverage, which insurance will be supplied at the cost of the District. The District shall maintain insurance on behalf of any person who serves as an officer, board member, committee member and employee of the District.

ARTICLE VII: AMENDMENTS TO BYLAWS

These Bylaws may be altered, amended, or repealed, or new Bylaws may be adopted, by a two-thirds (2/3) vote of the entire Board at any regular or special meeting of the Board of which notice has been properly given.

PASSED AND APPROVED BY THE BRAZORIA-FORT BEND RAIL DISTRICT BOARD
ON THE 15TH DAY OF SEPTEMBER, 2015.

President

Upendra Sahu
Printed Name

Attest:

Secretary

Michael Siwierka
Printed Name

STATE OF TEXAS

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COUNTY OF BRAZORIA

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BEFORE ME, the undersigned authority, on this day personally appeared Upendra Sahu, President and Michael Siwierka, Secretary, of the Brazoria–Fort Bend Rail District, created by the Commissioners Courts of Brazoria County and Fort Bend County, known to me to be the persons whose names are subscribed above, and acknowledged to me that they understood the same and executed it voluntarily for the purposes and consideration therein expressed and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY
OF _____, 2015.

Notary Public in and for the State of Texas