A RESOLUTION OF THE BOARD OF DIRECTORS OF FERN BLUFF MUNICIPAL UTILITY DISTRICT; ESTABLISHING REASONABLE RULES OF PROCEDURE FOR THE INSPECTION AND COPYING OF PUBLIC INFORMATION OF; PROVIDING FINDINGS OF FACT; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF CERTAIN FEES; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR OPEN MEETING

WHEREAS, Fern Bluff Municipal Utility District ("**District**") is a duly created and existing municipal utility district of the State of Texas created and operating under Chapters 49 and 54 of the Texas Water Code, as amended; and

WHEREAS, Chapter 552 of the Texas Government Code is commonly referred to as the Texas Public Information Act ("**Act**"); and

WHEREAS, Section 552.230 of the Act provides that, "A governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay"; and

WHEREAS, Section 552.275 of the Act, "A governmental body may establish reasonable monthly and yearly limits on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time"; and

WHEREAS, the Board of Directors ("**Board**") of the District adopts the rules and procedures (the "**Policy" or "Resolution")** provided under this Resolution, pursuant to Sections 552.230 and 552.275 of the Act;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF FERN BLUFF MUNICIPAL UTILITY DISTRICT THAT:

1.01 The facts and recitations found in the preamble of this Resolution are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

2.01 **Purpose; Findings; Application of Policy.**

(a) The purpose of this Policy is to set forth reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay. The purpose of this Policy is also to establish reasonable time limits that

personnel of the District are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering the District's costs attributable to that personnel time, all in accordance with Section 552.275 of the Act.

(b) The terms and provisions of this Policy shall apply to all requests for inspection and copying of public information received by the District. For purposes of this Policy, "public information" refers to information collected, assembled, or maintained by the District or for the District, if the District owns or has a right of access to the information.

3.01 Legal Construction of Policy; Amendments.

(a) This Policy shall be construed and applied in a manner that is consistent with the provisions of the Act.

(b) This Policy may be amended and supplemented from time to time by the Board and except as otherwise specified by the Board, any such amendment or supplement shall become effective immediately upon adoption.

4.01 Legal Authority.

This Policy is being adopted pursuant to the authority set forth in Sections 552.230, 552.275, and other applicable sections of the Act, and other general laws of the State of Texas.

5.01 Requests for Information; Charges.

(a) All requests for information must be in writing.

(b) Charges incurred in responding to a request for information shall be made on a "per request" basis in accordance with the Act.

(c) Section 552.201(a) of the Act designates the chief administrative officer of a governmental body as the officer for public information; therefore, the District's Board President is the officer for public information for the District.

(d) Pursuant to the authority granted by the Act, the District's general legal counsel shall be the designated agent and public information coordinator (the "**Coordinator**").

(e) All requests for information sent by electronic mail must be sent to the Coordinator at openrecords@fernbluffmud.org. To obtain a physical address for a request, , please call (512) 238-0606.

(f) Individuals contacting members of the Board or consultants of the District with written or verbal inquiries regarding public information held by the District should be advised by the Director to submit their requests in writing directly to the Coordinator.

(g) All charges for production of public information will be assessed pursuant to the Act and applicable rules of the Office of the Attorney General. Section 7.01 below does not replace or supersede any other section of this Policy or other law. It does not preclude the District from charging labor or other fees for a request for inspection or copies for which charges are otherwise authorized.

(h) Subsection 7.01(g) notwithstanding, and regardless of whether or not the District is required to provide a requestor with a written statement under subsection 7.01(d), the District will not produce public information for inspection or duplication or provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the District provides the written statement, the requestor submits a statement in writing to the District in which the requestor commits to pay the lesser of the following:

(1) The actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead, as determined by the rules of the Attorney General; or
(2) The amount stated in the written statement provided under Subsection (d).

If the requestor fails or refuses to submit the written statement under Subsection (d), the requestor is considered to have withdrawn the requestor's pending request for public information.

6.01 <u>Response Time.</u>

(a) The interests of one person requesting public information must be balanced with the interests of all members of the public who rely on the functions of the District. As a result, it is the policy of the District to generally respond to all requests for public information as promptly as reasonably possible, without delay, and without unreasonable interference to the District's immediate business.

(b) The determination of what constitutes a reasonable period of time to respond to a request for information will be based on the facts and circumstances surrounding each request for information. In large part, the response period will be based on the nature of the request. A request for voluminous information which requires an extensive search for responsive information will likely require more time than specific requests for information.

(c) If the District cannot produce public information within ten (10) business days of receipt of the request because of the voluminous nature of the request or otherwise,

then the District shall certify to the requestor in writing or in an electronic notice that the requested information cannot be produced within ten (10) business days, and shall include in such notice the date and hour within a reasonable time when the information will be available. The time period will be based on surrounding circumstances, largely a function of the scope of the request, whether the request will require extensive staff time, and the amount of information that is responsive thereto.

(d) If the requested information is not available because it is in immediate active use or storage, then the District shall certify to the requestor in writing or in an electronic form that the requested information is in active use or in storage, and shall include in such notice the date and hour within a reasonable time when the information will be available for inspection or duplication.

(e) Public information will be made available for inspection or copying during normal business hours. Information will be made available in accordance with the time frames set forth in the Act or as may be specified by the Attorney General as follows:

(1) Documents will be available for ten (10) business days after the date the District makes the information available;

(2) The requestor may file a written request for an additional ten (10) business days during the initial period; and

(3) The District may interrupt a person's time for examination of information if the information is needed for use by the District. The period of interruption is not considered to be a part of the time during which the person may examine the information.

7.01 <u>Limitation on Personnel Time; Cost and Time Estimates; Payments.</u>

(a) In accordance with subsections 552.275(a)—(b) of the Act, the Board establishes a time limit equal to 36 hours per 12-month period, and 15 hours per one-month period, on the amount of time that personnel of the District are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering the District's costs attributable to that personnel time. This time limit shall apply to each 12-month period that corresponds to the District's fiscal year, and each month, commencing as of the date of adoption of this Policy.

(b) In accordance with Section 552.275 of the Act, each time the District complies with a request for public information, the District shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable time period provided under subsection 7.01(a). The amount of time spent preparing the written statement will not be included in the amount of time included in the statement provided to the requestor.

(c) The time spent complying with a request, and the cumulative time spent responding to requests from a requestor during each fiscal year shall be established in accordance with the provisions of Section 552.275 of the Act, and any rules promulgated by the Attorney General in connection therewith.

(d) If in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limits established under subsection 7.01(a), the District shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information is requested. The amount of the charge relating to the cost of locating, compiling, and producing the public information shall be established in accordance with the applicable rules prescribed by the Attorney General.

(e) For purposes of calculating the amount of time spent complying with an individual's public information requests, the District shall not include time spent on the following:

(1) Determining the meaning and/or scope of the requests;
(2) Requesting clarification from the requestor;
(3) Comparing records gathered from different sources;
(4) Determining which exceptions to disclosure, if any, may apply to the responsive information;
(5) Preparing the information and/or correspondence required in connection with submitting information to the Attorney General for an exception determination;
(6) Reordering, reorganizing, or in any other way bringing the information into compliance with well-established and generally accepted information management practices; or
(7) Providing instructions to, or learning by, employees or agents of the District of new practices, rules, and/or procedures, including the management of electronic records.

(f) If the District determines that additional time is required to prepare the written estimate under subsection 7.01(d), it may provide the requestor with a written statement of that determination. Under such circumstances, the District will provide the written statement under subsection 7.01(d) as soon as practicable, but on or before the 10th day after the date the District provides the requestor the statement under this subsection 7.01(f).

(g) The District will not locate, compile, produce, or provide copies of documents or prepare a statement under subsection 7.01(d) in response to a new request, until the date the requestor pays each unpaid statement issued under subsection 7.01(d) in

connection with a previous request or withdraws the previous request to which the statement applies.

(h) The limitation on response time and recovery of cost provisions set forth in this Section 7.01 do not apply if the requestor:

(1) Is a representative of a radio or television station that holds a license issued by the Federal Communications Commission; or

(2) Is a representative of a newspaper that is qualified under Section 2051.044 of the Government Code to publish legal notices or is a free newspaper of general circulation that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(3) Is a representative of a newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public;

(4) Is a representative of a magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public;

(5) Is an elected official of the United States, this state, or a political subdivision of this state; or

(6) Is a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

8.01 Uniform Treatment of Requests for Information.

Except as specifically authorized by law, all requests for public information shall be treated uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

9.01 Comfort and Facility.

Reasonable comfort and facility shall be provided to each requestor for the full exercise of the rights granted to a requestor for the inspection and copying of public information under the Public Information Act in accordance with the procedures set forth in this Policy.

10.01 Permissible Inquiries.

In responding to a request for public information and except as otherwise set forth herein for purposes of clarifying or narrowing the scope of a request, no representative of the District may make an inquiry of a requestor except to establish proper identification.

11.01 Requests for Clarification.

(a) If the information set forth in a request for public information is unclear, a representative of the District may ask the requestor to clarify the request. In requesting clarification, the District's representative shall not inquire as to the purpose for which the requested information will be used. Furthermore, the District's representative must include a statement as to the consequences the requestor will endure if the requestor fails to timely respond to the request for clarification, discussion, or additional information.

(b) A request applies only to information in existence at the time of the request. The District is not required to prepare information in response to a request or notify a requestor if the requested information comes into existence after the request has been made.

(c) The District is not required to compile or extract information if the information can be made available by giving the requestor access to the records themselves.

12.01 Broad Requests for Information.

As noted above, it is the District's policy to make available public information as promptly as possible. Large requests for information that require extensive research or that are voluminous in nature will necessarily require a longer period of time to respond. In the interests of providing information as promptly as possible, therefore, the Districts' representative may discuss with the requestor how the scope of a request that involves a large amount of information might by narrowed. The representative shall not inquire into the purpose for which the information will be used. Furthermore, in the representative's written request for clarification or discussion, the representative must either inform the requestor or include a statement as to the consequences the requestor will endure if the requestor fails to timely respond to the request for clarification, discussion, or additional information.

13.01 Information Excepted from Disclosure.

(a) All public information that is not excepted from disclosure under the Public Information Act, and not otherwise made confidential under Chapter 552 of the Government Code or other law, must be disclosed in response to a request for information in accordance with this Policy and the Public Information Act.

(b) Certain information is excepted from public disclosure under the Public Information Act. By law, certain information may not be disclosed to the public. In other cases, the withholding of information is discretionary.

(c) In the event that a District representative believes that a request for information includes information that is excepted from disclosure under the Public Information Act, then the District shall notify the District's legal counsel immediately for a

determination as to whether the information is excepted from disclosure, and whether the exception is mandatory or discretionary. A request for determination must be filed with the Attorney General of the State of Texas within ten (10) business days of receipt of any request for information that includes information that must be withheld from disclosure under the Public Information Act, or that the District's staff desires to withhold in the event of a discretionary exception from disclosure.

14.01 Inspection Procedures.

A requestor is not authorized to remove, destroy, damage or alter an original copy of a public record. To protect public information, the following procedures shall apply to all requests for inspection of public records:

(1) No backpacks, briefcases, folders, writing tablets or any personal items excepting medical apparatus may be brought to the area where the documents are to be inspected. Writing materials will be made available to the requestor by the District and must be returned to the District staff prior to leaving the inspection area.

(2) Inspection of public information by the public may be videotaped.

(3) Documents in a bound form (3-ring binders, archival-type folders, etc.) may not be removed from the binding by the requestor during an inspection. Loose documents in folders must be kept in the order and original condition provided to the requestor.

(4) A request for copies resulting from an inspection will be fulfilled after completion of the inspection. District staff will document the request for copies upon completion of the requestor's inspection. Requests for copies resulting from an inspection will be made available to the requestor within 5 business days, provided the requestor pays all applicable fees that may be related thereto.

15.01 Disruptive, Threatening, or Abusive Behavior.

(a) Notwithstanding any other provision of this Policy, in the event that the District determines that a requestor has verbally abused or threatened District staff, or otherwise unreasonably disrupted the safe and efficient administration of the District's operations, then the District is hereby authorized to suspend or terminate the requestor's right of inspection of public information in the District's offices, and/or may institute reasonable procedures or controls to mitigate the risk of additional harassment/abuse/disruption.

(b) The District shall ensure that the requestor has a continuing right of access to public information during any suspension/termination period in accordance with the Public Information Act as follows:

(1) In the event that the District receives any additional requests for inspection of information from the requestor during such period of suspension/termination, the District shall identify and gather all responsive

information in a timely manner in accordance with this Policy and the Public Information Act;

(2) The District shall make electronic or paper copies of all responsive information at its sole cost and expense;

(3) The District shall timely mail or otherwise deliver or transmit all such responsive information to the requestor at the District's sole cost and expense; and

(4) The District shall maintain delivery receipts or other evidence to demonstrate that it timely delivered or furnished the information to the requestor.

(c) Any additional time incurred by District personnel in furnishing information to a requestor under this Section during a period in which the requestor's inspection rights have been suspended or terminated shall not be included in the cumulative amount of time spent by the District for purposes of Section 7 of this Policy, if such time would not have been incurred in the event the District had not suspended or terminated the rights of inspection for such requestor.

(d) Except as provided above, this Section shall not alter or impact the District's right to seek payment of costs from the requestor when authorized under the Public Information Act, including payment of costs described in Section 7 of this Policy.

(e) The District may terminate a suspension period, or re-invoke inspection privileges for a requestor, at such time as may be determined in the District's discretion. Upon making any such determination, the Public Information District shall notify District staff members, and the requestor, accordingly.

16.01 Recordkeeping.

(a) The District's staff shall maintain records regarding the amount of time spent by personnel of the District producing public information for inspection or duplication by a requestor.

(b) In the event of redundant or repetitious requests for public information, this document shall be used at a later date to certify to a requestor that information was previously furnished or made available. In such event, the District's staff shall also certify on the form that no subsequent additions, deletions or corrections have been made to the information.

17.01 Costs and Charges.

(a) District staff shall recover all costs incurred by the District in responding to a request for information to the extent provided by applicable law and this Policy; provided, however, the District or its representative may provide public information without charge or at a reduced charge when such waiver or reduction is determined to be in the public interest because providing the copy of the information primarily

benefits the general public, or because the cost of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge; and

(b) Fees and charges will be assessed in accordance with the terms of the Public Information Act, the rules of the Attorney General, and this Policy.

18.01 Repealer.

Any District rule or policy existing prior to the Board's adoption of this Resolution is hereby repealed, to the extent such rule or policy conflicts with the provisions of this Resolution.

19.01 Open Meeting.

The Board considered and adopted this Resolution in a duly noticed open meeting, in compliance with Chapter 551, Texas Government Code, and Section 49.063, Texas Water Code.

ADOPTED AND APPROVED this 11th day of November 2021.

/s/George Sabatino
President, Board of Directors

ATTEST:

/s/Jessica Stempko
Secretary, Board of Directors

(SEAL)