

MINUTES OF MARCH 18, 2024 MEETING
HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 46

A meeting was duly called by the Commissioners of **Harris County Emergency Services District No. 46** on March 18, 2024, at the Atascocita Fire Department Headquarters Building, located at **18425 Timber Forest Drive, Humble, Texas 77346**.

The meeting was called to order at 7:00 p.m., by Board President **TOM TRUVER**. Those Commissioners present were **TOM TRUVER, JAMES CONE, JOHN BOLLUM** and **RON CLARKE**. Commissioner **BUDDY RICE** was not present for this meeting. Also in attendance were Chief of Department Mike Mulligan, Director of ITC & Operations Support Mike Wassell, Assistant Chief of Operations Terry Wygal, Ira Coveler and Melissa Wiggins of Coveler & Peeler, P.C., District legal counsel, Ricardo Martinez of Martinez Architects, Mr. Cee Freeman of MACO Construction, and other members of the public and Department. All parties in attendance joined together in the pledge of allegiance prior to addressing District business.

The Board first opened the floor to receive public comments, though no comments were offered by other members of the public and Department who were at the meeting. Commissioner **BOLLUM** stated that he wanted to share his compliments to the Department for the new apparatus at Station 39. Chief Mulligan added a “push in” of the new apparatus had occurred and another “push in” would be scheduled at the opening of Station 29. Chief Mulligan expressed thanks to everyone who attended the recent ceremony and Chief Mulligan offered his congratulations to the Department.

The Board next discussed the cancellation of the District’s upcoming May 4, 2024 Commissioner election. Mr. Coveler advised the Board that applications had only been received from incumbent Commissioner **BOLLUM** and incumbent Commissioner **CLARKE**. He next shared that since no applications had been received, other than those of the current Commissioners, the election should be cancelled as the election would be moot. After review, Mr. **CONE** made a Motion, seconded by Mr. **BOLLUM**, to cancel the District’s upcoming election. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 4 to 0.

The Board then received a report related to Station 29 construction matters from Mr. Martinez who advised that efforts were ongoing with the new general contractor, MACO Construction, to contact the subcontractors and to determine the Guaranteed Maximum Price for the project. He noted a special meeting might be necessary to complete financial analysis prior to on-site activities. Regarding subcontractors, Mr. Martinez advised that some subcontractors were resistant to continue the project until matters of retainage under their original contracts were settled.

Mr. Cee Freeman from MACO Construction introduced himself to the Board, and stated his of the subcontractors related to which party would ultimately hold the subcontractor’s warranties - the District or MACO. He noted one (1) subcontractor had requested that half the retainage be provided “in good faith” to establish a continued relationship on the project. All subcontractors were asked to provide information regarding what they were still owed on the project, and what they held in stored materials.

Most subcontractors claimed they had not received retainage related to their work on the project under CBG, though they were also willing to complete the project under MACO, provided some clarifications and explanations were provided by the District. Mr. Coveler inquired about pricing for those subcontractors, and was told all aspects of the project were being re-priced, as ongoing work would also include reworking items which were previously incomplete, or not completed properly.

Mr. Coveler then advised the Board that further communication with CBG would be necessary to move forward, especially regarding subcontractor contracts and assignments, and stated given the time lapse and increase in price for materials, labor costs should be sought from CBG under their original contracts. He then requested clarification on the best way to move forward, and was told by Mr. Martinez that all areas including retainage, scope of work, and new costs should be broken out for each subcontractor in order to address funds owed, and the true scope of work remaining on the project. Mr. Coveler next advised that, "if there is money that was owed under the contract, the retainage amount under the contract should be paid, but CBG should show those payments. We will pay the correct amounts and retainage, and CBG would have to agree to give us credit for those payments". Mr. Coveler stated we would need to obtain copies of each subcontractor's original contract with CBG.

Mr. **CONE** questioned the total cost amount expected to complete the project, and was told the number was yet unknown due to outstanding work, the unknown status of some materials, and an unknown scope of "rework" to be done on previously completed work. Mr. Freeman stated the \$1,400,000 total which was previously stated did not include retainage for subs, or accurate pricing for work which would require additional bidding. President **TRUVER** then questioned the current timeline and process from the date MACO was engaged. Mr. Freeman advised that they were engaged on February 19th, after which time a list of potential subcontractors was provided, and MACO began reaching out to those subcontractors regarding the ongoing project.

Mr. Freeman continued and stated that unfortunately, some of those subcontractors were no longer in business, and other project managers were no longer with their respective companies, making successful contact across the project difficult. When asked, he assured the Board that the subcontractors being contacted were likely best suited to complete the project as they had the best knowledge of the project, and would provide the best value for its completion. "If I brought in new subs, you'd be paying for a lot that you shouldn't have to. The value is in getting the originals to finish the job. The ones that aren't responding, we're using *our* subs, and the ones we don't want to continue with haven't been called."

No action was taken by the Board at this time, though President **TRUVER** offered a desire to move forward with the project without delay. Mr. Martinez again stated that a special meeting would most likely be called to finalize financial matters prior to moving forward with onsite activities.

The Board then discussed matters related to the District's maintenance facility. Mr. Martinez advised the Board that detention for the District's facility had been confirmed by Humble ISD and that action to approve S&G Engineering was needed in order to move forward with the project, including the completion of permits related to necessary easements and utility lines. President **TRUVER** questioned the budgetary figures for this project, and was told that \$1,000,000 had been budgeted for the project, and the current proposal totaled \$45,000 which

would leave the remainder to cover system installations and other needs. After review, Mr. **BOLLOM** made a Motion, seconded by Mr. **CONE**, to approve engaging S&G Engineering to provide engineering services to the project in the amount of \$45,000. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 4 to 0.

The Board next reviewed matters related to a contract with MACO Construction for the Station 29 project. Mr. Coveler advised that the final contract from MACO had been received by the District and would be executed quickly. No further action was taken at this time.

The Board then received a sales tax report from ESD Tax Management Services. Allocations for the month of March totaled \$389,590.02, a decrease of approximately \$50,000 compared to the same period in 2023. Significant allocations from the top ten (10) taxpayers in February, however, marked a \$10,000 increase compared to the previous year. After review, Mr. **BOLLOM** made a Motion, seconded by Mr. **CONE**, to approve the report as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 4 to 0.

Next, the Board received a financial report from Mary Anne Sokol who stated available cash balances for the District totaled \$17,856,044.48. A large sum would soon be moved to the District's Texas Class investment account. Ms. Sokol advised that figures for the budget were in line with expectations, and requested an alteration to the budget format to avoid confusion regarding income and expense percentages. After review, Mr. **CLARKE** made a Motion, seconded by Mr. **CONE**, to approve the report as presented and the changes requested to the format of the report. Thereafter, President **TRUVER** called for a vote, and the Motion passed by a vote of 4 to 0.

The Board then reviewed District bills and Commissioner submittals for payment. Ms. Sokol first requested authorization for a wire transfer in the amount of \$147,324.24 related to the Department's ambulance loan which was due on April 5th. That loan would be paid off in 2025. Lastly, Ms. Sokol stated a request from Mr. **BOLLOM** related to meeting attendance and expense reimbursement in the amount of \$1,705.10. After review, Mr. **CLARKE** made a Motion, seconded by Mr. **CONE**, to approve payment of the bills and requests as submitted. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 4 to 0.

At this time, the Board returned to Agenda Item No. 3 related to the Station 29 project. Mr. Wassell requested the Board approve the creation of an agenda line item related to the Station 29 project which would allow the District to purchase items directly rather than reimbursing MACO after the fact. The amount for purchases totaled \$64,900 and had previously been approved under contract with Christensen Building Group ("CBG") under last year's budget. The funds would come from reserves which were supported by loan proceeds which were already intended for the Station project. Those funds, pending approval, would be removed from MACO's scope, and considered "general scope" to provide control directly to the District.

Mr. Coveler clarified that in the past, CBG would have purchased assets or materials with the funds, and been reimbursed by the District through pay applications. In this case, the same funds were allotted to the District rather than the contractor (MACO) to simplify the process. Mr. **CLARKE** requested clarification regarding movement of the funds, and was told the funds were not "new money" but had been approved under last year's budget and would be taken from reserves and from existing loan proceeds. After review, Mr. **BOLLOM** made a Motion, seconded

by Mr. **CONE**, to approve the changes presented by Mr. Wassell allowing certain projects to be removed from the scope of the MACO contract and self-performed and funded by the District from reserve funds and existing loan proceeds. Thereafter, President **TRUVER** called for a vote, and the Motion passed by a vote of 4 to 0.

The Board next reviewed minutes from prior District meetings. Mr. Coveler presented three (3) sets of minutes from the January regular and special meetings, as well as the February regular meeting, for Board approval. After review, Mr. **CONE** made a Motion, seconded by Mr. **CLARKE**, to approve all three (3) sets of minutes as presented. Thereafter, President **TRUVER** called for a vote, and the Motion passed by a vote of 4 to 0.

The Board then discussed the Department reports from Chief Mulligan. Chief Mulligan stated the reports had been provided for review prior to the meeting, and noted an additional report was given regarding the quarterly assessment of aid provided to the City of Houston. In light of that report, and comments received from Commissioners related to the disparity in aid given and received by the District, he informed the Board of changes made with Dispatch which would decrease those inequities. He further advised steps were being taken to amend the agreement to reduce the scope of response from ESD 46 to areas within the Atascocita peninsula. He reminded the Board that this would not negate any response demanded by the State mutual aid agreement and HCFFA mutual aid agreement with the City of Houston.

Mr. **BOLLOM** then inquired about the figures listed for COVID-19 impacts and test results in the report, and was told the figure represented a cumulative total from the pandemic, including test results from hospitals after patients were transported. After review, Mr. **CLARKE** made a Motion, seconded by Mr. **BOLLOM**, to approve the report as presented. Thereafter, President **TRUVER** called for a vote and the Motion passed by a vote of 4 to 0.

The Board then discussed matters related to the District's 2024 Capital Spending Plan. Chief Mulligan advised the Board of requested changes made to the District's Capital Spending Plan, including participation with the Northeast Regional UHF Radio Simulcast System. He further explained this system would serve to link multiple Districts together through new UHF radios, and allow the District's tower to join the system in order to provide better coverage to every participant in the area. Using the common system would further alleviate the need to switch radios or create patches to communicate with other Districts, and instead merely allow connection by switching frequencies on the same equipment, thus saving time and effort, and potentially lowering safety concerns for District personnel and their mutual aid partners. After review, Mr. **CONE** made a Motion, seconded by Mr. **BOLLOM**, to approve the change to the District's Capital Spending Plan and to allow the Department to participate in the Northeast Regional UHF Radio Simulcast System. Thereafter, President **TRUVER** called for a vote, and the Motion passed by a vote of 4 to 0.

The Board then discussed thirty (30) day submittals by the Department, though none were forthcoming, and no action was taken.

The Board next reviewed an agreement with Northeast Hospital Authority ("NHA") regarding funding for the remount of an ambulance and related EMS equipment. Chief Mulligan informed the Board that the Northeast Hospital Authority had been contacted regarding funding for the recent ambulance remount project, which was currently being mounted on a new chassis.

Though originally funded by the District, funds received from NHA would reimburse the Department for that expense. The partnership would be mutually beneficial regarding public relations for both entities. After review, Mr. **CONE** made a Motion, seconded by Mr. **BOLLOM**, to approve the agreement. Thereafter, President **TRUVER** called for a vote, and the Motion passed by a vote of 4 to 0.

No action was taken regarding the sale or disposal of surplus District property.

No action was taken regarding necessary repairs of equipment, apparatus and facilities in service to the District.

The Board then met in Closed Session at 7:45 p.m. to consult with legal counsel. The Board did not meet in Closed Session to discuss personnel or real estate matters. The Board returned to Open Session at 8:07 p.m.

No action was taken regarding District real estate or personnel matters.

Next the Board reviewed items to be included on the agenda for the regular District meeting currently set for April 15, 2024, though no additional items were forthcoming.

No further announcements from the Board of commissioners or the Department staff were forthcoming at this time, and no further action was taken.

There being no further business brought before the Board, Mr. **CONE** made a Motion, seconded by Mr. **BOLLOM**, to adjourn the meeting at 8:08 p.m. Thereafter, President **TRUVER** called for a vote, and the Motion passed by a vote of 4 to 0.

The foregoing minutes were passed and approved by the Board of Commissioners on April 15, 2024.



RON CLARKE
District Secretary of the Board