

RESOLUTION AND ORDER NO. 11-20-983

OF THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS
REVIEWING, AMENDING, AND REAPPROVING ARTICLE IX OF THE
BYLAWS OF THE EDWARDS AQUIFER AUTHORITY PERTAINING TO
THE EAA INVESTMENT POLICY AND INVESTMENT STRATEGY
STATEMENT

WHEREAS, the Edwards Aquifer Authority ("EAA") was created by the Edwards Aquifer Authority Act, Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended ("Act"); and

WHEREAS, under Section 1.02 of the Act, the EAA is a conservation and reclamation district created by virtue of Article XVI, Section 59 of the Texas Constitution, and is a governmental agency and body politic and corporate vested with the full authority to exercise the powers and to perform the functions specified in the Act; and

WHEREAS, under Section 1.08(a) of the Act, the EAA has all the powers, rights and privileges necessary to manage, conserve, preserve, and protect the Edwards Aquifer ("Aquifer") and to increase the recharge of, and prevent the waste or pollution of water in, the Aquifer; and

WHEREAS, the EAA has all of the rights, powers, privileges, authority, functions, and duties provided by applicable general law of this state, including applicable portions of Chapter 49, Texas Water Code, and

WHEREAS, Section 49.199(a)(3), Texas Water Code, requires that the EAA adopt written policies relating to EAA investments that ensure that purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved, and that periodic review is made of EAA investments to evaluate investment performance and security; and

WHEREAS, Section 49.157(a), Texas Water Code, authorizes funds of the of the EAA to be invested and reinvested in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Texas Government Code; and

WHEREAS, Section 49.157(b), Texas Water Code, authorizes the Board of Directors ("Board") of the EAA, by resolution, to provide that an authorized representative of the EAA may invest and reinvest the funds of the EAA and provide for money to be withdrawn from the appropriate accounts of the EAA for investments on such terms as the Board considers advisable; and

WHEREAS, Section 49.156(b), Texas Water Code, requires that to the extent that funds in the depository banks or savings associations of the EAA are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by the Public Funds Collateral Act, Chapter 2257, Texas Government Code; and

WHEREAS, under Section 2256.003(a)(1), Texas Government Code "Public Funds Investment Act" ("PFIA"), the governing body of "local governments" may purchase, sell, and invest its funds and funds under its control in investments authorized under Subchapter A of the PFIA in compliance with investment policies approved by the governing body and in accordance with the standard of care prescribed by Section 2256.006 of the PFIA; and

WHEREAS, under Section 2256.002(7) of the PFIA, the EAA is a "local government" because it is a district or authority created under Section 59, Article XVI, Texas Constitution, and any political subdivision, and therefore, is authorized to invest its funds as provided in Subchapter A of the PFIA; and

WHEREAS, under Section 2256.002(5) of the PFIA, the EAA is an "investing entity" or "entity" because it is subject to the PFIA and described in Section 2256.003 of the PFIA; and

WHEREAS, Section 2256.005(a) of the PFIA, requires the EAA, to "adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control;" and

WHEREAS, Section 2256.005(b)-(d) of the PFIA, provide the contents for which the policies must provide; and

WHEREAS, Section 2256.005(e) of the PFIA, requires that the Board review its investment policy and investment strategies not less than annually, and to "adopt a written instrument by rule, order, ordinance or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies;" and

WHEREAS, on October 27, 2020 the EAA's Finance/Administrative Committee voted to recommend the EAA Board review, amend, and reapprove Article IX (Investment Policy and Investment Strategy Statement) of the EAA's Bylaws; and

WHEREAS, the EAA's investment policies at Article IX of the EAA Bylaws, and the amendments made thereto to the portions of such policies, are attached hereto, and have been reviewed by the EAA's legal counsel prior to review and reapproval by the Board; and

WHEREAS, a regular meeting of the Board of the EAA was held November 10, 2020 at 3:00 p.m., notice of public meeting having been duly and properly posted in accordance with Chapter 551, Texas Government Code and the Governor's orders temporarily suspending certain provisions of Chapter 551 due to the Covid-19 pandemic; and

WHEREAS, an agenda item was duly listed in the notice of public meeting that is the subject of this Resolution and Order; and

WHEREAS, a majority of the Directors of the Board was present and constituted a quorum; and

WHEREAS, the Board duly considered and took action on the agenda item that is the subject of this Resolution and Order; and

WHEREAS, a vote of the majority of the quorum of the Board present passed on, voted in favor of, and adopted the following Resolution and Order; and

WHEREAS, pursuant to Section 14.02 of the EAA Bylaws, a copy of the proposed amendments to the EAA Bylaws which are the subject of this Resolution and Order was submitted to each of the Directors of the Board at least ten (10) days prior to the meeting date of the November 10, 2020, Board meeting; and

WHEREAS, it is in the public interest that the EAA review the investment policies of the EAA in Article IX of the EAA Bylaws, adopt the amendments to such policies as provided herein, and reapprove the investment policies as amended.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS THAT:

- Section 1. The recitals set out above are found to be true and correct, and they are hereby adopted by the Board of Directors and are made a part of this Resolution and Order for all purposes.
- Section 2. The Board of Directors has conducted its annual review of Article IX of the EAA Bylaws (Investment Policy and Investment Strategy Statement) as required by Section 2256.005(e) of the PFIA, and that it has recorded the changes to the policy in the amendments to Article IX of the EAA Bylaws as attached hereto.
- Section 3. The Board of Directors hereby adopts the amendments to portions of Article IX of the EAA Bylaws as attached hereto, and hereby reapproves the EAA's investment policies in Article IX as amended.
- Section 4. This Resolution and Order shall become effective from and after its adoption.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS AQUIFER AUTHORITY THIS 10th DAY OF NOVEMBER 2020.

Luana Buckner
Chairman, Board of Directors

ATTEST:

Enrique P. Valdivia
Secretary, Board of Directors

APPROVED AS TO FORM:

Darcy Alan Frownfelter
General Counsel