

ORDINANCE NO. 2017-02
**AN ORDINANCE OF THE PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT
ESTABLISHING MANDATORY COMMERCIAL SOLID WASTE SERVICE, AND PROVIDING
RULES AND REGULATIONS GOVERNING THE COLLECTION,
HANDLING AND DISPOSAL OF COMMERCIAL SOLID WASTE**

WHEREAS, the Board of Directors for the Phelan Piñon Hills Community Services District (“District”) finds and declares:

A. That, Pursuant to the California Integrated Waste Management Act of 1989 (public Resources Code Sections 40000 et seq.), the state has mandated that local agencies make adequate provisions for Solid Waste handling within their jurisdictions; and

B. That, pursuant to the Local Agency Formation Commission County for San Bernardino County Resolution No. 3153, the District is authorized to collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code; and

C. That, pursuant to state law, the District is authorized to execute its powers for the purpose of the collection or disposal of solid waste or refuse matter and may contract for the collection and disposal of solid waste or refuse matter;

NOW THEREFORE BE IT ORDAINED by the Board of Directors of the Phelan Piñon Hills Community Services District, that the District’s Policy No. 9100 is established as follows:

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SECTION 9102 DEFINITIONS.

For the purpose of this Policy the following words and phrases shall have the meanings respectively ascribed to them by this section.

9102.01 **Contractor/Hauler** - means a person, persons, firm or corporation authorized by contract with the District to provide solid waste collection services within the District.

9102.02 **Detachable bin** - means a container provided by the hauler and designed for mechanical emptying and provided by the District or contractor where applicable for the accumulation and storage of solid waste.

9102.03 **Garbage** - means a form of solid waste which is putrescible animal, fish, fowl, food, fruit or vegetable matter resulting from the cultivation, preparation, storage, handling, decay or consumption of such substance.

9102.04 **Hazardous Waste** - means a waste, or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may do either of the following:

9102.04.01 Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.

9102.04.02 Pose a substantial present or potential hazard to human health or

environment when improperly treated, stored, transported or disposed of or otherwise managed.

9102.05 **Place or Premises** - means every dwelling house, dwelling unit; apartment house or multiple-dwelling building; trailer or mobile home park; store; restaurant; rooming house; hotel; motel; office building; department store; manufacturing, processing or assembling shop or plant; and every other place or premises where any person resides, or any business is carried on or conducted within the District.

9102.06 **Refuse** - means solid waste.

9102.07 **Recyclable** - means any paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or any item or material that has been separated from solid waste, and has an economic value, and is deposited in a recyclable material detachable bin provided by the District or in a privately-owned detachable bin and is designated to be recyclable material for either the District to collect, or customer to self-haul.

9102.08 **Rubbish** - means a form of solid waste which is non-putrescible, useless, unused, unwanted or discarded material or debris, either combustible or noncombustible, including but not limited to paper, card board, grass, tree or shrub trimmings, straw, clothing, wood or wood products, crockery, glass, rubber, metal, plastic, construction material, and similar material.

9102.09 **Solid Waste** - means all putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous waste. Solid waste does include recyclable material. Solid waste includes dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material.

9102.10 **Solid Waste Collector** - means personnel employed by the District or contractors for the collection and disposal of solid waste.

9102.11 **Standard Container** - means a metal, plastic or rubber container, twenty- to thirty-two- gallon capacity District, not to exceed a weight of fifteen pounds when empty, with side bail handles and a tight-fitting lid, designed and manufactured for the accumulation and storage of solid waste, or plastic and/or paper bags manufactured for the accumulation and storage of refuse. The top diameter of the container shall in no case be smaller than the diameter of the detachable bin at the bottom

SECTION 9103 DETACHABLE BIN REQUIREMENTS

9103.01 Every owner, tenant, lessee or occupant of any premises where solid waste is generated shall maintain upon the premises sufficient number of Detachable bin for receiving and holding all solid waste generated between the times of removal. All solid waste on the premises shall be kept in said Detachable bin.

9103.02 Every owner, operator, manager or person in charge of any hotel, restaurant, cafe, cafeteria, hospital, public dining room or other place where food is prepared for sale, sold or offered for sale for human consumption and every owner, operator, manager or person in charge of any store, market or other place where meat, fish, fowl, vegetables, fruit or any food is sold or offered for human consumption shall provide a separate standard container for receiving and holding all garbage created upon the premises between the times of collection; provided, however, the garbage may be placed in the same Detachable bin as rubbish if the garbage is drained and securely wrapped or sealed in plastic bags prior to placement in the container or bin. Any organic waste as described in Assembly Bill 1825 shall be subject to the District's organic waste recycling requirements as defined in District Policy No. 9200 established by Ordinance No. 2017-03.

9103.03 Detachable bins, and/or garbage containers, shall be maintained in a clean and sanitary condition. It is unlawful for any person, firm or corporation to use solid waste containers that do not conform to the provisions of this policy or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof. If, within five days after written notice of a violation of this section from the General Manager or designee, such container is not repaired or replaced as necessary, further service for the container may be suspended until the violation is corrected. The notice of violation shall be deemed served when securely attached to the container determined not in conformance with the provisions of this section.

SECTION 9104 LOCATION OF DETACHABLE BIN REQUIREMENTS

9104.01 At commercial properties serviced by the District, the detachable bin shall be placed as follows for collection:

9104.01.01 Customers adjoining an alley shall place their detachable bin adjacent to but not within the alley, unless otherwise approved by the Hauler.

9104.01.02 Customers may utilize one of established levels of collection service. Fees for different levels of service are set by resolution. In special circumstances, the General Manager or designee, may designate detachable bin location.

9104.01.02.01 Curbside: Detachable bin shall be placed at the curbside, or equivalent, or adjacent to the alley before five-thirty a.m. on collection days. Sidewalks shall not be blocked.

9104.01.02.02 Driveway: Detachable bin shall be placed adjacent to the driveway before five-thirty a.m. on collection days. Driveway clearance must be sufficient to accommodate collection equipment.

9104.01.03 Detachable bin located in a permanent enclosure shall be made accessible to the hauler at the designated collection time. This includes removing locks and clearing obstructions so collection vehicle can easily access Detachable bin.

SECTION 9105 PLACEMENT OF MATERIAL IN DETACHABLE BIN

9105.01 The following shall govern the placement of material in Detachable bin for collection:

9105.01.01 Wooden boxes, crates and other non-recyclable, bulky items shall be broken and flattened before being placed in a detachable bin or tied in a bundle no more than eighteen inches in diameter and four feet in length and placed beside the standard container.

9105.01.02 Vacuum dust, sweepings and ashes shall be securely wrapped or enclosed in a bag prior to placement in the standard container.

9105.01.03 Garbage shall be drained and wrapped in paper or secured in plastic bags prior to placement in the standard container.

9105.01.04 Animal waste shall be wrapped.

9105.01.05 Sharp-edged and pointed material such as glass and metal shall be packaged before placement in the detachable bin in such a way as to protect refuse handlers from being cut or wounded when handling the detachable bin and contents with ordinary care.

9105.01.06 Tree trimmings shall be tied in bundles not more than eighteen inches in diameter nor more than four feet in length and shall include branches and logs no more than three inches in diameter or shall be cut in short lengths and placed in the standard containers. In areas serviced by the District, bundled

tree trimmings shall be collected according to the contractor.

9105.01.07 When filled, the standard container shall not weigh more than the limits specified for the container.

9105.01.08 Placing recyclable material in solid waste bin is prohibited. Placement of material in detachable bin for collection shall be as follows:

9105.01.08.01 All refuse must be placed in standard containers or detachable bin.

9105.01.08.02 Garbage must be drained and securely wrapped or sealed in plastic bags prior to placement in containers or bins.

9105.01.09 All detachable bins must be located in a county approved bin enclosure, or in an area approved by the hauler.

SECTION 9106 REQUIRED SOLID WASTE REMOVAL

9106.01 No person, persons, firm or corporation other the District's authorized solid waste hauler acting pursuant to their contract with the District, solid waste collection crews or a person, or firm acting under the authority and within the limitation of a valid self-hauler permit issued pursuant to this policy, shall collect solid waste within the District.

9106.02 No person, persons, firm or corporation other than the District or one of the District- authorized solid waste contractors acting pursuant to their contract with the District shall provide temporary bin service for solid waste.

9106.03 Except as otherwise authorized by the General Manager or hauler, solid waste collection shall be provided from commercial property at a minimum of once a week.

9106.04 Solid waste collection shall be provided not less than once a week except that at each business engaged in the sale or production of food and at each multifamily commercial property which receives bin service, such collection shall be provided not less than twice weekly. Commercial property includes, but is not limited to, apartment house, boarding house, rooming house, town house and condominium.

9106.05 Every contractor authorized by the District Board to collect solid waste shall display his firm name and telephone number in legible letters not less than three inches in height on both sides of all trucks used to collect and transport refuse.

9106.06 Every owner, lessee, tenant or occupant of commercial or commercial property, or other person/entity as determined by the hauler to be conducting business-like activity, shall remove, or cause to be removed, all solid waste created, produced or brought upon the premises according to the schedule by subscribing to the solid waste collection service of the District or the contractor authorized by the District Board to provide such service to that property; provided, however, one may provide one's own service pursuant to a self-hauler permit as provided in this policy for the removal of solid waste created by one's own activity as a commercial or commercial occupant, but not as a landlord for one's tenant or lessee.

9106.07 Trucks used in the collection of rubbish shall have solid construction of the floor and body and shall be equipped with a close-fitting covering which shall be affixed in a manner that will prevent the dropping or blowing of any rubbish upon the highway during collection and transportation.

9106.08 All trucks used in the collection and transportation of solid waste and rubbish shall be maintained in a clean, sanitary and neatly painted condition, and shall carry a shovel, broom, first-aid kit and fire extinguisher.

SECTION 9107 REQUIREMENTS FOR SELF-HAULERS

9107.01 Only occupants of commercial property located outside the Hauler's collection boundaries shall be allowed to self-haul and must obtain and maintain in full force and effect a self-hauler permit and shall provide solid waste removal service in accordance with said self-hauler permit.

9107.02 Application for self-hauler permits shall be made to the General Manager, or designee, and shall be accompanied by a nonrefundable fee set by resolution.

9107.03 The General Manager, or designee, shall issue the permit upon determining that the applicant is able to transport all solid waste in a safe and sanitary manner in accordance with the provisions of this section.

9107.04 Such permit shall be effective for one year from the date of its issue.

9107.05 If the application is denied by the General Manager, or designee, the applicant shall be provided with a full statement of the reasons for the denial.

9107.06 A permit may be revoked by the General Manager, or designee, for any violation of law or for failure to comply with the provisions of this policy by providing the permittee with a written statement of the violations noted.

9107.07 A denial or revocation may be appealed to the District's Board of Directors whose decision shall be final. Such appeal shall be filed with the District Clerk within ten days after the receipt of the General Manager's written notice of denial or revocation.

9107.08 All solid waste removal pursuant to a valid self-hauler's permit shall be accomplished by the permit holder or the holder's own employees using the permittee's own equipment.

9107.09 All solid waste removed pursuant to a self-hauler permit shall be deposited only at authorized and licensed solid waste disposal sites.

9107.10 All equipment used by a self-hauler's permittee to remove solid waste shall comply with the requirements of Section 9108.

9107.11 Every holder of a self-hauler permit shall submit legible copies of landfill receipts to the General Manager, or designee, on or before the tenth of each month for solid waste deposits made during the previous month at authorized and licensed solid waste disposal sites.

9107.12 All self-haulers must dispose of their solid waste a minimum of one time per week.

SECTION 9108 VEHICLE REQUIREMENTS FOR CONVEYANCE OF SOLID WASTE

9108.01 Commercial motor vehicles shall not be used in the transportation of solid waste upon or along any public street or highway of the District; provided, however, commercial self-haulers as provided in Section 9107 may utilize such vehicles upon the condition that the solid waste is so contained as to prevent it from leaking, dripping, falling, blowing or scattering from the vehicle in which it is being conveyed or transported.

9108.02 Trucks used in the collection and transportation of solid waste shall have bodies of watertight metal construction which shall be leak proof and shall be equipped with a close-fitting cover, which shall be affixed in a manner that will prevent dropping, spilling or other loss of solid waste upon the highway during collection and transportation. In lieu of such watertight bodies and covers, separate metal containers with tight-fitting, clamp-on lids may be used.

SECTION 9109 COLLECTION PERIODS

9109.01 Solid waste collection from commercial properties shall be provided by all haulers a minimum of once a week.

9109.02 Contractors shall provide collection service to all commercial premises at least once a week; provided, however, collection must be made at least twice a week to those establishments generating garbage; and further provided that nothing in this subsection shall

prohibit the contractor from collecting solid waste at a more frequent rate.

9109.03 Solid waste will not be collected on Sundays except in emergencies and as approved by the General Manager or hauler.

SECTION 9110 PROHIBITION AGAINST SCAVENGING

9110.01 It shall be unlawful for any person other than the owner or agent or employee of the owner of a solid waste or recyclable material detachable bin, a solid waste hauler or the person or agent or employee of the person for whom a solid waste or recyclable material detachable bin is contracted or placed to collect refuse or recyclable material to rummage in, disturb, interfere, scavenge, or remove refuse or recyclable material from officially designated refuse and recyclable containers

SECTION 9111 DUMPING, PLACING, BURNING AND BURIAL RESTRICTIONS

9111.01 No person shall throw, drop, leave, dump, bury, burn, place, keep, accumulate or otherwise dispose of any waste matter, including but not limited to garbage, hazardous waste, refuse, recyclable materials, rubbish, or solid waste as defined in Section 9102 upon any lot, land, street, alley, water or waterway, either with or without intent to later remove same.

9111.02 Solid waste may not be buried on any lot in the District. This Section shall not be interpreted to prohibit composting of yard waste.

SECTION 9112 UNSIGHTLY SOLID WASTE DEEMED NUISANCE

9112.01 Solid waste, which by reason of its location and character is unsightly and interferes with the reasonable enjoyment of property by neighbors, is a public nuisance within the meaning and subject to the provisions of this policy.

SECTION 9113 PROPERTY OWNER ALLEY CLEARANCE DUTIES

9113.01 No person owning, leasing or occupying property adjoining any public alley in the District shall fail, refuse or neglect to keep that portion of such alley between the centerline thereof and the property line of such property free from solid waste.

SECTION 9114 ACCUMULATION OF WASTE MATTER RESTRICTED

9114.01 No person owning or occupying any building, lot or premises in the District shall suffer, allow or permit to collect and remain upon such lot or premises any solid waste; provided, however, that this provision shall not be construed as interfering with building under

a building permit, or wood neatly piled for kitchen or household use.

SECTION 9115 RESTRAINT OF ANIMALS TO PROTECT COLLECTORS

9115.01 Any occupant owning or possessing an animal on the premises which may bite or attempt to bite a solid waste hauler while engaged in collecting refuse shall be required to secure the animal(s) or place the Detachable bin in such manner that such animal shall not constitute a hazard or to endanger a solid waste hauler. In addition to any criminal penalties specified in this code, failure to adhere to the requirements of this section shall be cause for suspension of collection service during such time as there exists any such danger or hazard. Suspension of service pursuant to this section shall not relieve any person or firm of the duty to pay solid waste collection charges during such period of suspension.

SECTION 9116 REGULATION-MAKING POWERS

9116.01 The Board of Directors is authorized to make such rules and regulations not inconsistent with the provisions of this policy so as to effect efficient collection and removal of waste material by the District or its duly authorized contractors.

SECTION 9117. COLLECTION AREAS

9117.01 A mandatory collection area located within the boundaries of the District, as presently constituted at time of Ordinance passage, and as amended in the future by the County Local Agency Formation Commission, is established and shall consist of:

9117.01.01 All multi-family units of five (5) or more.

9117.01.02 All developed properties classified as industrial or commercial.

9117.01.03 All institutional entities, such as schools and government buildings.

9117.02 Other mandatory collection areas may be established by Ordinance by the District as found to be necessary for the public health and welfare or required to implement state laws.

SECTION 9118. COLLECTION CHARGES

9118.01 The District Board shall by separate resolution fix and, from time-to-time, amend the various charges related to solid waste collection.

SECTION 9119. LIABILITY FOR PAYMENT OF FEES MANDATORY COLLECTION

9119.01 Each owner, occupant or person in possession, charge or control of any collection premises located in a mandatory collection area is hereby made liable jointly and severally for the payment of the solid waste collection, processing and disposal fees levied against such premises for required solid waste collection, processing and disposal services, irrespective of the actual use of the service provided by the District or grantee. Services made available to those premises required to receive such service shall be considered as services utilized. It shall be the primary duty of the owner of such premises to provide for the payment of the services.

SECTION 9120. BILLING CYCLE AND PENALTY FOR DELINQUENT PAYMENTS

9120.01 Solid waste collection fees may be billed and paid in advance on a monthly basis. Payment shall be due upon, and shall become delinquent fifteen (15) days after the date of any billing. A finance charge and late payment penalty as permitted by law shall be added at the end of each month following the delinquency date.

SECTION 9121. DISCONTINUATION OF SERVICES

9121.01 The District or hauler may discontinue service for any customer whose account remains unpaid for sixty (60) days after the date of billing as long as the customer has received a notice on a form approved by the General Manager or designee stating that service will be discontinued fifteen (15) days from the date of the notice if payment is not made by that time. Upon payment of the delinquent fees, collection shall resume on the next regularly scheduled collection day. Fees shall be continued to be assessed and billed notwithstanding that service has been discontinued and notice of same shall be included in the form sent to the customer.

SECTION 9122. FEE A CIVIL DEBT

9122.01 The fees levied for service for solid waste collection shall constitute a civil debt and liability owing to Phelan Piñon Hills Community District and/or any grantee from the person using or chargeable for such services and shall be collectible in the same manner provided by law.

SECTION 9123. LIEN FOR NINETY (90) DAY DELINQUENCIES

9123.01 Mandatory collection fees authorized pursuant to this article which remain unpaid for a period of ninety (90) or more days after the date upon which they were billed may be collected thereafter by Phelan Piñon Hills Community District as provided herein.

9123.02 Once a year, the Board of Directors shall cause to be prepared a report of delinquent fees. The Board shall fix a time, date and place for hearing the report and any objections or protests thereto.

9123.03 The Board shall cause notice of the hearing to be mailed to the landowners listed on the report not less than ten (10) days prior to the date of the hearing.

9123.04 At the hearing, the Board shall hear any objections or protests of landowners liable to be assessed for delinquent fees. The Board may make such revisions or corrections to the report as it deems just, after which by resolution, the report shall be confirmed.

9123.05 The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the county auditor, on or before August 10, for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the county recorder of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of county ad valorem property taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bonafide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquency fees, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

SECTION 9124 INSPECTION OF PREMISES – POLICY ENFORCEMENT

9124.01 The duly authorized representative of the District shall visit all commercial premises within the District from time to time to examine the sanitary conditions of the premises to determine whether the provisions of this policy and state laws are being complied with. The General Manager, or designee, shall enforce the provisions of this policy and properly notify any owner or occupant of any violations of this policy. Such notice whenever possible shall be affixed to a detachable bin and/or delivered in person

SECTION 9125 ALTERNATE ENFORCEMENT

9125.01 Notwithstanding the provisions of this policy prescribing specified action in the event of a violation, any other appropriate criminal or civil action may be maintained against the violation and against any person maintaining or permitting the violation.

SECTION 9126. APPEALS

9126.01 A business who desires to appeal the notice set forth in this Ordinance may appeal to the Board of Directors within the twenty (20) calendar days of the post-mark of the Warning Notice by filing a timely written appeal with the General Manager. Timely appeal shall not stay any further solid waste collection or responsibility to pay therefore. The General Manager shall set the matter for hearing before the Board of Directors and shall notify the Appellant by mail of the date set for such hearing, at least fifteen (15) days prior to said date. If the Appellant resides outside the District, the above period of notice by mail before the hearing shall be at least twenty-five (25) days. The Appellant shall have the right to appear in person or by an agent, designated in writing, at the hearing, and present oral, and/or written, evidence. The Board of Directors shall decide the appeal and shall issue its decision, which shall be in writing and be legally binding.

9126.02 The Board of Directors shall have authority to make reasonable adjustments in the amount billed or to excuse payment altogether as well as authority to grant ancillary relief. The Board of Directors shall have authority to determine that the Hauler shall not be entitled to any payment from the business owner affected. The Board of Directors shall have no authority to award monetary damages, costs or attorney's fees.

SECTION 9127. PENALTIES

9127.01 It shall constitute an infraction for an owner as defined above to fail to sign up for or to timely pay for solid waste & recycling collection service or to otherwise violate any provision of this ordinance and upon conviction of such violation shall be subject to a fine of \$250.00 for the first offense; \$500.00 for a second violation within a one (1) year period and \$1,000.00 for a third or subsequent violation within a one (1) year period. The additional remedies, penalties and procedures for violations and for recovery of costs related to enforcement provided for in this Ordinance are incorporated herein by this reference. The owner shall also be subject to court action to pay for solid waste collection service furnished to the business located thereon.

SECTION 9128 SEVERABILITY

9128.01 If any section, subsection, sentence, clause or phrase of this policy is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this policy. The District

Board declares that it would have passed this policy and each section, subsection, clause or phrase hereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 9129. PUBLICATION AND POSTING

9129.01 The Secretary of the Board is hereby directed to cause a summary of this Ordinance to be published at least five (5) days prior to the date of adoption hereof in a newspaper of general circulation printed and a copy of the full text must be posted at the District office at least five (5) days prior to the meeting. The full text of this Ordinance must be published within ten (10) days after adoption with the names of the directors voting for and against the adoption, and must likewise be posted at the District office.

SECTION 9130. EFFECTIVE DATE

9130.01 This Ordinance No. 2017-02 adopted by the Board on _____, 2017, shall become effective thirty (30) days after its adoption.

APPROVED AND ADOPTED this __ day of _____, 2017.

President of the Phelan Piñon Hills
Community Services District and
of the Board of Directors thereof.

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO)

I, Kimberly Ward, Secretary of the Board of Directors of the Phelan Piñon Hills Community Services District, do hereby certify that the foregoing Ordinance, being Ordinance No. 2017-02, was duly adopted by the Board of Directors of said District at a regular meeting of said Board held on _____, 2017, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Secretary of the Phelan Piñon Hills
Community Services District and
of the Board of Directors thereof.