

MINUTES
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 40

February 26, 2019

The Board of Directors (the "Board") of Brazoria County Municipal Utility District No. 40 (the "District") met in regular session, open to the public, on the 26th day of February, 2019, at the offices of Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2400, Houston, Texas, 77027, outside the boundaries of the District, and the roll was called of the members of the Board:

Alicia Skinner	President
Brandon Guillory	Vice President
Charles M. Eastland	Secretary
Alice Collins	Assistant Secretary
David Kubala	Assistant Vice President

and all of the above were present, except Directors Guillory and Skinner, thus constituting a quorum.

Also present at the meeting were Larry Collins, a member of the public; Cory Burton of Municipal Accounts & Consulting, L.P. ("MAC"); Mike Orlando of Acclaim Energy Advisors ("Acclaim"); David L. Wood Jr. of Robert W. Baird & Co. Incorporated; Donna Bryant of Assessments of the Southwest, Inc. ("ASW"); Rick Marriott of Si Environmental, LLC ("Si"); Katie Summers of TBG Partners ("TBG"); Scott Wright of MHI Partnership, Ltd.; Russell Bynum of Hillwood Communities; Brandon Copeland and Brian Edwards of LJA Engineering, Inc.; Jorge Diaz of McLennan & Associates, L.P. ("McLennan"); and Tim Austin, Holly Huston, and Diana Soriano of Allen Boone Humphries Robinson LLP.

MINUTES

The Board considered approval of the minutes from the January 22, 2019, meeting. After discussion, Director Collins moved to approve the January 22, 2019, minutes. Director Eastland seconded the motion, which carried by unanimous vote.

REPORT FROM ACCLAIM ENERGY AND APPROVE CONTRACT WITH ELECTRICITY PROVIDER

Mr. Orlando reviewed a summary of the energy market and a pricing report prepared by Acclaim, a copy of which is attached. The Board reviewed energy pricing from different vendors and contract terms. After review and discussion, Director Eastland moved to select Reliant Energy as the District's electricity provider for a sixty-month term to begin March 2019 not to exceed a rate of 5% over today's price of \$0.5079

per kilowatt hour. Director Kubala seconded the motion, which passed by unanimous vote.

BOOKKEEPER'S REPORT

Mr. Diaz then presented the bookkeeper's report and submitted the bills for the Board's review. A copy of the bookkeeper's report is attached. After discussion, Director Eastland moved to approve the bookkeeper's report and the payment of bills. Director Kubala seconded the motion, which passed unanimously.

BUDGET FOR FISCAL YEAR ENDING MARCH 31, 2020

Mr. Diaz reviewed a proposed budget for the District's fiscal year ending March 31, 2020, a copy of which is included in the bookkeeper's report. He stated that the budget will be presented to the Board for adoption at the next meeting.

TERMINATE CONTRACT FOR BOOKKEEPING SERVICES

The Board discussed terminating the Contract for Bookkeeping Services with McLennan effective as of April 1, 2019. Upon a motion made by Director Kubala and seconded by Director Eastland the Board voted unanimously to terminate the contract with McLennan as the District's bookkeeper.

REVIEW CONTRACT FOR BOOKKEEPING SERVICES

Mr. Burton discussed bookkeeping services provided by MAC and reviewed a proposed Contract for Bookkeeping Services between the District and MAC for the Board's consideration. After review and discussion, Director Kubala moved to (1) engage MAC as the District's bookkeeper effective as of April 1, 2019; and (2) authorize execution of the Contract for Bookkeeping Services. Director Eastland seconded the motion, which passed unanimously.

TAX ASSESSOR/COLLECTOR REPORT

Ms. Bryant distributed and reviewed the tax assessor/collector's report for the month of January, including a check presented for approval, a copy of which is attached. She stated that the report reflects the District's 2018 taxes were 65.44% collected as of January 31, 2019. Following review and discussion, Director Eastland moved to approve the tax assessor/collector's report. Director Kubala seconded the motion, which carried by unanimous vote.

RESOLUTION CONCERNING EXEMPTIONS FROM TAXATION

Mr. Austin reviewed a Resolution Concerning Exemptions from Taxation. After review and discussion, Director Kubala moved to adopt the Resolution Concerning

Exemptions from Taxation, reflecting that the Board of Directors rejects any exemptions of residential homesteads, and direct that the Resolution be filed appropriately and retained in the District's official records. Director Eastland seconded the motion, which passed by unanimous vote.

DISCUSS CHANNEL AND DETENTION POND MAINTENANCE

There was no report on this agenda item.

OPERATOR'S REPORT

Mr. Marriott reviewed the operator's report. He reported on maintenance and repairs within the District.

Mr. Austin reviewed with the Board the Critical Load Spreadsheet for the District's facilities. He noted that the District's bookkeeper, engineer, and operator have reviewed and approved the Critical Load Spreadsheet.

After discussion, Director Eastland moved to (1) approve the operator's report; and (2) authorize the filing of the Critical Load Spreadsheet, and direct that the Critical Load Spreadsheet be filed appropriately and retained in the District's official records. Director Kubala seconded the motion, which carried by unanimous vote.

CONTRACT WITH TEXAS PRIDE FOR GARBAGE COLLECTION SERVICES

The Board reviewed a contract with Texas Pride for garbage collection and recycling services. After discussion, Director Kubala moved to approve the contract with Texas Pride, and direct that the contract be filed appropriately and retained in the District's official records. Director Collins seconded the motion, which carried by unanimous vote.

ENGINEER'S REPORT

Mr. Edwards presented and reviewed an engineer's report with the Board, a copy of which is attached.

CONSTRUCTION OF WATER, SEWER, AND DRAINAGE FACILITIES AND PAVING TO SERVE POMONA, SECTION 11

Mr. Edwards reported on the construction of water, sewer, and drainage facilities and paving to serve Pomona, Section 11. He stated no pay estimates were submitted by Clearwater Utilities, Inc. ("Clearwater") for Board approval.

CLEARING AND GRUBBING TO SERVE POMONA PHASE 4 IMPROVEMENTS

Mr. Edwards reported on the clearing and grubbing to serve Pomona Phase 4 Improvements. He stated no pay estimates were submitted by K&K Earth Works, LLC for Board approval.

LAKE F PHASE 2 TO SERVE POMONA

Mr. Edwards reported on the construction of Lake F Phase 2 to serve Pomona. He stated no pay estimates were submitted by Bilberry Construction, LLC for Board approval.

WATER SUPPLY PLANT NO. 1, PHASE 2

Mr. Edwards reported on the construction of the Water Supply Plant No. 1, Phase 2 expansion project, stating construction is underway. He stated no pay estimates were submitted by Gemini Contracting Services, Inc. for Board approval.

CONSTRUCTION OF WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE POMONA PARKWAY, PHASE 3 AND POMONA, SECTIONS 13 AND 15, AND CONSTRUCTION OF PAVING TO SERVE POMONA PARKWAY, PHASE 3, PUBLIC PORTION OF POMONA, SECTION 13 AND POMONA, SECTION 15

Mr. Edwards reported on the plans for the construction of water, sewer, and drainage facilities to serve Pomona Parkway, Phase 3, and Pomona, Sections 13 and 15 and construction of paving to serve Pomona Parkway, Phase 3, public portion of Pomona, Section 13, and Pomona, Section 15. He stated the two canal crossing agreements required for the utility crossings under the canal and for the utility crossings over the canal approved at the previous meeting are pending approval from the Gulf Coast Water Authority. Mr. Austin next presented a Cost Sharing Agreement for water, sanitary sewer, drainage, paving and appurtenances to serve Pomona Parkway, Phase 3 ("CSA") between the District, Brazoria Municipal Utility District No. 39 ("MUD 39") and Pomona Phase 4, LLC for approval. Following review and discussion and based on the engineers recommendation, Director Eastland moved to approve the CSA, and direct that the agreement be filed appropriately and retained in the District's official records. Director Kubala seconded the motion, which passed by unanimous vote.

CONSTRUCTION OF WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE POMONA, SECTIONS 12 AND 14 AND CONSTRUCTION OF PAVING TO SERVE POMONA, SECTIONS 12 AND 14

Mr. Edwards stated that on February 19, 2019, five bids were received for the construction of water, sewer, and drainage facilities to serve Pomona, Sections 12 and 14, and construction of paving and appurtenances to serve Pomona, Sections 12 and 14. Mr. Edwards recommended that the Board award the contract to the low bidder, Clearwater, in the amount of \$2,628,542.90. The Board concurred that, in its judgment, Clearwater was a responsible bidder who would be most advantageous to the District and would result in the best and most economical completion of the project. Following review and discussion, Director Kubala moved to award the contract the construction of water, sewer, and drainage facilities to serve Pomona, Sections 12 and 14, and construction of paving and appurtenances to serve Pomona, Sections 12 and 14, project to Clearwater in the amount of \$2,628,542.90, based upon the engineer's recommendation and subject to approval of the payment and performance bonds and review of the certificate(s) of insurance and endorsements, if any, provided by the contractor. Director Eastland seconded the motion, which passed by unanimous vote.

CONSTRUCTION OF WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE POMONA, SECTION 16

Mr. Edwards reported on the plans for the construction of water, sewer, and drainage facilities to serve Pomona, Section 16, stating design is ongoing.

PAVING TO SERVE POMONA, SECTION 16

Mr. Edwards reported on the plans for paving to serve Pomona, Section 16, stating design is ongoing.

CONSTRUCTION OF WATER, SEWER, AND DRAINAGE FACILITIES TO SERVE POMONA PARKWAY, PHASE 4

Mr. Edwards reported on the plans for the construction of water, sewer, and drainage facilities to serve Pomona Parkway, Phase 4, stating design is ongoing.

PAVING TO SERVE POMONA PARKWAY, PHASE 4

Mr. Edwards reported on the plans for paving to serve Pomona Parkway, Phase 4, stating design is ongoing.

GEOGRAPHIC INFORMATION SERVICES ("GIS") PROPOSAL

Mr. Copeland gave a presentation regarding the benefits of the GIS for tracking engineering and maintenance projects for the District's facilities. Mr. Edwards presented a proposal for data collection, input fees, and annual maintenance for a GIS database, for a one time startup fee of \$10,000 and a monthly service fee of \$500.00. The Board and Mr. Copeland discussed customization capabilities of the GIS database for the District. Following review and discussion, Director Eastland moved to approve the proposal for the GIS database from LJA, and direct that the proposal be filed appropriately and retained in the District's official records. Director Kubala seconded the motion, which passed by unanimous vote.

LANDSCAPE ARCHITECT'S REPORT

Ms. Summers reported on landscape architect matters.

PHASE 3 LANDSCAPE TO SERVE POMONA

Ms. Summers updated the Board regarding the construction of Phase 3 landscape to serve Pomona. She stated no pay estimates were submitted by Earthfirst Landscape, LLC for Board approval.

PHASE 4 POMONA PARKWAY INCLUDING COST SHARING AGREEMENT WITH BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 39

Ms. Summers reported on the plans for landscaping improvements to serve Phase 4, Pomona Parkway. She stated TBG requests Board authorization to prepare construction plans and specifications for landscaping improvements to serve Phase 4, Pomona Parkway. Mr. Austin stated approval of the Cost Sharing Agreement between the District and MUD 39 will be deferred until the next Board meeting. Following review and discussion, Director Eastland moved to authorize TBG to prepare construction plans and specifications for landscaping improvements to serve Phase 4, Pomona Parkway. Director Collins seconded the motion, which carried by unanimous vote.

DEEDS AND EASEMENTS

Mr. Austin stated that Pomona Phase 4, LLC will grant a 0.023-acre, 0.121-acre, and 0.294-acre Temporary Storm Sewer Easement, and a 0.019-acre, 0.020-acre, and 0.100-acre Temporary Water Line Easement to the District. After review and discussion, Director Kubala moved to authorize acceptance of the Temporary Storm Sewer Easement and a Temporary Water Line Easement from Pomona Phase 4, LLC,

and direct that the Easements be filed appropriately and retained in the District's official records. Director Eastland seconded the motion, which passed unanimously.

REPORT ON DEVELOPMENT

Mr. Bynum reported on development in the District.

PARTIAL ASSIGNMENTS OF REIMBURSEMENTS TO POMONA, PHASE 4

Mr. Austin stated that MC 288, LLC, has partially assigned its right to receive reimbursement from the District related to a 188.282-acre tract to be developed as Pomona Phase 4, LLC ("Pomona Phase 4") pursuant to the Financing and Reimbursement Agreement for Road Facilities, Financing and Reimbursement Agreement for Water, Sewer, and Drainage Facilities, Development Agreement and Subsequent Amendments, Financing and Reimbursement Agreement for Recreational Facilities and Financing and Reimbursement Agreement for Financing Operations Expenses.

Mr. Austin presented a Partial Assignment of Financing and Reimbursement Agreement for Financing Operations Expenses, Partial Assignment of Financing and Reimbursement Agreement for Road Facilities, Partial Assignment of Financing and Reimbursement Agreement for Water, Sewer, and Drainage Facilities, Partial Assignment of Development Agreement, and Partial Assignment of Development Financing Agreement for Recreational Facilities (the "Partial Assignments") from MC 288 LLC as assignor to Pomona Phase 4, as assignee. He stated that the District has been requested to consent to the Partial Assignments. Mr. Austin stated that by consenting to the Partial Assignments, the District acknowledges the assignment of MC 288, LLC's right to receive reimbursement from the District to Pomona Phase 4 for certain projects related to the 188.282-acre tract. After review and discussion, Director Eastland moved to consent to the Partial Assignments, authorize the President and the Secretary of the Board to execute the consent clause of the Partial Assignments and direct that the Partial Assignments be filed appropriately and retained in the District's official records. Director Kubala seconded the motion, which passed unanimously.

Mr. Austin stated that Pomona Phase 4, has assigned its right to receive reimbursement from the District, pursuant to the Partial Assignments, to Texas Capital Bank National Association, in connection with the 188.282-acre tract. He presented an Acknowledgement and Consent to Assignment (the "Acknowledgement") and stated that the District has been requested to acknowledge and consent to the assignment. Mr. Austin stated that by consenting to the assignment, the District acknowledges the assignment of Pomona Phase 4's right to receive reimbursement from the District to Texas Capital Bank National Association for certain projects related to the 188.282-acre tract. After review and discussion, Director Eastland moved to acknowledge and consent to the assignment, authorize the President of the Board to execute the Acknowledgement and direct that the Acknowledgement be filed appropriately and

retained in the District's official records. Director Kubala seconded the motion, which passed by unanimous vote.

ANNEXATION OF APPROXIMATE FIVE ACRES OF LAND INTO THE DISTRICT,
INCLUDING APPROVE FEASIBILITY STUDY; ADOPT ORDER ADDING LAND
AND AUTHORIZE EXECUTION OF AMENDMENT TO INFORMATION FORM;
AND ACCEPT WAIVER OF SPECIAL APPRAISAL

Discussion of this item was deferred to the next meeting

ATTORNEY'S REPORT

There was no report on this agenda item.

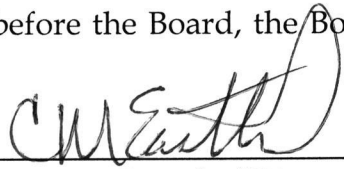
MEETING SCHEDULE

The Board concurred to conduct the next regular meeting on March 26, 2019, at 10:00 a.m. at ABHR.

There being no further business to come before the Board, the Board concurred to adjourn the meeting.

(SEAL)




Secretary, Board of Directors

LIST OF ATTACHMENTS TO MINUTES

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CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

LJA Engineering, Inc.
Houston, TX United States

Certificate Number:
2019-443808

Date Filed:
01/22/2019

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

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3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

01222019
GIS Services for BCMUD No. 40

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Ladner, Calvin	Houston, TX United States	X	
	Collins, Jeff	Houston, TX United States	X	
	Moehlman, James	Houston, TX United States	X	

5 Check only if there is NO Interested Party.

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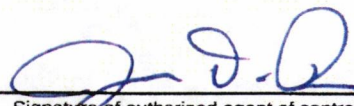
6 UNSWORN DECLARATION

My name is James D. Ross, PE, and my date of birth is 09/10/1974

My address is 2929 Briarpark Drive Ste 600, Houston, TX, 77042, US
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of TEXAS, on the 22 day of January, 20 19
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)