

MINUTES  
BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 40

March 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 March, 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 Collins and Kubala, thus constituting a quorum.

Also present at the meeting were Cory Burton of Municipal Accounts & Consulting, L.P.; Jan Bartholomew of Robert W. Baird & Co. Incorporated; Brittney Bogard of Assessments of the Southwest, Inc.; Rick Marriott of Si Environmental, LLC ("Si"); Katie Summers of TBG Partners ("TBG"); Scott Wright of MHI Partnership, Ltd.; Brian Edwards of LJA Engineering, Inc. ("LJA"); Jorge Diaz of McLennan & Associates, L.P. ("McLennan"); and Angie Lutz and Holly Huston of Allen Boone Humphries Robinson LLP.

MINUTES

The Board considered approval of the minutes from the February 26, 2019, meeting. After discussion, Director Eastland moved to approve the February 26, 2019, minutes. Director Skinner seconded the motion, which carried 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 Guillory moved to approve the bookkeeper's report and the payment of bills. Director Eastland seconded the motion, which passed unanimously.

## BUDGET FOR FISCAL YEAR ENDING MARCH 31, 2020

Mr. Burton reviewed a proposed budget for the District's fiscal year ending March 31, 2020, a copy of which is attached. Following review and discussion, Director Guillory moved to adopt the budget for fiscal year ending March 31, 2020. Director Eastland seconded the motion, which carried by unanimous vote.

## TAX ASSESSOR/COLLECTOR REPORT

Ms. Bogard distributed and reviewed the tax assessor/collector's report for the month of February, including a check presented for approval, a copy of which is attached. She stated that the report reflects the District's 2018 taxes were 100% collected as of February 28, 2019. Following review and discussion, Director Eastland moved to approve the tax assessor/collector's report. Director Guillory seconded the motion, which carried by unanimous vote.

## DISCUSS CHANNEL AND DETENTION POND MAINTENANCE

There was no report on this agenda item.

## OPERATOR'S REPORT

Mr. Marriott reported on maintenance and repairs within the District.

Ms. Lutz discussed the Texas Commission on Environmental Quality's requirements for adopting a Drought Contingency Plan. After review and discussion, Director Skinner moved to adopt an Order Adopting Drought Contingency Plan ("DCP"); Providing for Implementation and Enforcement Thereof; Providing Penalties for Violations; and Containing Other Provisions Related to the Subject and direct that the DCP be filed appropriately and retained in the District's official records. Director Guillory seconded the motion, which passed by unanimous vote.

The Board considered adopting an Order Adopting Identity Theft Prevention Program and Providing for Implementation and Enforcement Thereof ("Order"). Ms. Lutz reviewed requirements for the Order and its provisions. Upon a motion made by Director Skinner and seconded by Director Guillory, the Board voted unanimously to adopt the Order as presented and direct that the Order be filed appropriately and retained in the District's official records.

## 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 reviewed and recommended approval of Pay Estimate Nos. 2 and 3 in the respective amounts of \$44,392.79 and \$141,503.92, payable to Clearwater Utilities, Inc. ("Clearwater") for the construction of water, sewer, and drainage facilities and paving to serve Pomona, Section 11. Following review and discussion, and based on the engineer's recommendation, Director Eastland moved to approve Pay Estimate Nos. 2 and 3 in the respective amounts of \$44,392.79 and \$141,503.92, payable to Clearwater. Director Guillory seconded the motion, which passed by unanimous vote.

CLEARING AND GRUBBING TO SERVE POMONA PHASE 4  
IMPROVEMENTS

Mr. Edwards reported on the clearing and grubbing to serve Pomona Phase 4 Improvements. He reviewed and recommended approval of Pay Estimate No. 6 in the amount of \$32,175.00, payable to K&K Earth Works, LLC ("K&K") for the clearing and grubbing to serve Pomona Phase 4 Improvements. Following review and discussion, and based on the engineer's recommendation, Director Eastland moved to approve Pay Estimate No. 6 in the amount of \$32,175.00 to K&K. Director Guillory seconded the motion, which carried by unanimous vote.

LAKE F PHASE 2 TO SERVE POMONA

Mr. Edwards reported on the construction of Lake F Phase 2 to serve Pomona. He reviewed and recommended approval of Pay Estimate No. 1 in the amount of \$81,495.00, payable to Bilberry Construction, LLC ("Bilberry") for the construction of Lake F Phase 2 to serve Pomona. Following review and discussion, and based on the engineer's recommendation, Director Eastland moved to approve Pay Estimate No. 1 in the amount of \$81,495.00 to Bilberry. Director Guillory seconded the motion, which carried by unanimous vote.

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 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 January meeting are pending approval from the Gulf Coast Water Authority.

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 updated the Board on the status of 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.

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

Mr. Edwards reported on the plans for the construction of water, sewer, and drainage facilities and paving to serve Pomona, Section 16. He stated LJA requests Board authorization to approve plans and specifications for the construction of water, sewer, and drainage facilities and paving to serve Pomona, Section 16, and to authorize LJA to advertise the project for bids. Following review and discussion, and based on the engineer's recommendation, Director Eastland moved to (1) approve plans and specifications; and (2) authorize LJA to advertise the project for bids. Director Guillory seconded the motion, which carried by unanimous vote.

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

Mr. Edwards reported on the plans for the construction of water, sewer, and drainage facilities and paving to serve Pomona Parkway, Phase 4. He stated LJA requests Board authorization to approve plans and specifications for the construction of water, sewer, and drainage facilities and paving to serve Pomona Parkway, Phase 4, and to authorize LJA to advertise the project for bids. Following review and discussion, and based on the engineer's recommendation,

Director Eastland moved to (1) approve plans and specifications; and (2) authorize LJA to advertise the project for bids. Director Guillory seconded the motion, which carried by unanimous vote.

#### LANDSCAPE ARCHITECT'S REPORT

Ms. Summers presented and reviewed a report on landscape matters, a copy of which is attached.

#### PHASE 3 LANDSCAPE TO SERVE POMONA

Ms. Summers reported on landscaping improvements for Phase 3 to serve Pomona. She reviewed and recommended approval of Pay Estimate No. 1 in the amount of \$74,971.67, payable to Earthfirst Landscape, LLC ("Earthfirst"), for the landscaping improvements for Phase 3 to serve Pomona. Following review and discussion, and based on the landscape architects recommendation, Director Guillory moved to approve Pay Estimate No. 1 in the amount of \$74,971.67 to Earthfirst. Director Eastland seconded the motion, which carried by unanimous vote.

#### 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 approve plans and specifications for the construction for landscaping improvements to serve Phase 4, Pomona Parkway, and to authorize TBG to advertise the project for bids. Ms. Lutz stated approval of the Cost Sharing Agreement between the District and Brazoria County Municipal Utility District 39 will be deferred. Following review and discussion, Director Guillory moved to (1) approve construction plans and specifications for landscaping improvements to serve Phase 4, Pomona Parkway; and (2) authorize LJA to advertise the project for bids. Director Eastland seconded the motion, which carried by unanimous vote.

#### DEEDS AND EASEMENTS

There was no discussion on this agenda item.

#### REPORT ON DEVELOPMENT

Mr. Wright reported on development in the District.

## ANNEXATION MATTERS

There was no discussion on this agenda item.

## ATTORNEY'S REPORT

Ms. Lutz stated that, when the District issues bonds, the District enters into a continuing disclosure undertaking for the benefit of the bondholders. She added that the provisions of that undertaking require that the District comply with certain continuing disclosure requirements for its bonds. Ms. Lutz explained that the Board is ultimately responsible for continuing disclosure compliance for its bonds, with assistance by its consultants. She added that, in order to ensure that the District's procedures for continuing disclosure compliance are well documented, the Board has previously adopted such procedures in writing. Ms. Lutz stated that, because the United States Securities and Exchange Commission has amended its Rule 15c2-12, ABHR recommends that the District's written procedures be amended by the Board. She then reviewed an Order Adopting Amended and Restated Procedures for Continuing Disclosure Compliance with the Board. Following review and discussion, Director Skinner moved to adopt the Order Adopting Amended and Restated Procedures for Continuing Disclosure Compliance and direct that the Order be filed appropriately and retained in the District's official records. Director Guillory seconded the motion, which passed by unanimous vote.

## MEETING SCHEDULE

The Board concurred to conduct the next regular meeting on April 23, 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.



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Secretary, Board of Directors

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