



**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS
SPECIAL BOARD MEETING**

MINUTES

**FRIDAY, SEPTEMBER 2, 2022
9:00 A.M.**

**FALLBROOK PUBLIC UTILITY DISTRICT
990 E. MISSION RD., FALLBROOK, CA 92028
PHONE: (760) 728-1125**

I. PRELIMINARY FUNCTIONS

CALL TO ORDER / ROLL CALL / ESTABLISH A QUORUM

President Baxter called the September 2, 2022 Special Meeting of the Board of Directors of the Fallbrook Public Utility District to order at 9:01 a.m.

President Baxter announced, for the record that, this meeting will be held pursuant to government code section 54953(e)(1)(a), which waives certain Brown Act teleconferencing requirements during a proclaimed state of emergency when State or Local officials have imposed or recommended measures to promote social distancing, and allows some or all of the members of the Fallbrook Public Utility District Board of Directors to attend this meeting telephonically or via video conference.

President Baxter also announced there was no physical location from which members of the public were able to participate for this meeting. Instead, members of the public were encouraged to participate in the meeting via web conference using the call-in and weblink information provided on the agenda.

A quorum was established, and attendance was as follows:

Board of Directors

Present: Dave Baxter, Member/President
Charley Wolk, Member/Vice President
Jennifer DeMeo, Member
Don McDougal, Member

Absent: Ken Endter, Member

General Counsel/District Staff

Present: Dave Shank, Assistant General Manager/CFO
Rebecca Chaparro, Acting General Counsel
Aaron Cook, Engineering Manager
Lauren Eckert, Executive Assistant/Board Secretary

Also present were others, including, but not limited to: Joe Naiman

PLEDGE OF ALLEGIANCE

President Baxter led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION: Director McDougal moved to approve the agenda, as presented; Director DeMeo seconded. Motion carried; VOTE:

AYES: Directors Baxter, DeMeo, McDougal, and Wolk

NOES: None

ABSTAIN: None

ABSENT: Director Endter

PUBLIC COMMENT

Members of the public are invited to address the Board of Directors on any item that is within the subject matter jurisdiction of the legislative body. The Board President may limit comments to three (3) minutes.

There were no public comments for non-agenda items.

II. ACTION / DISCUSSION CALENDAR ----- (ITEM A)

A. CONSIDER AWARD OF WATERLINE REPLACEMENT FY23 PROJECT (JOB 3186)

Recommendation: That the Board reject the bid protest and award the Waterline Replacement FY23 Project to Palm Engineering Construction Company Inc. in the amount of \$3,574,950.

There were no public comments for agenda item A.

Engineering Manager Cook explained we packaged a much larger pipeline replacement project for this year, replacing 9,200 linear feet of water main replacement. He presented a map which showed the locations of the proposed replacements. Bids were opened on August 16, 2022, and it was intended to award this project at the August regular Board meeting. However, there was a bid protest received from the second lowest bidder, primarily focused on the fact that the low bidder did not list subcontractors in their bid. The bid protest was reviewed, and based on the response of the low bidder and the technicalities of the definition of a subcontractor, the bid protest was deemed meritless. The recommendation was now to reject the bid protest from PK Mechanical and award the project to Palm Engineering Construction company, Inc.

Vice President Wolk asked about the low bidder not being technically qualified and questioned the criteria for determining if the bidder is technically qualified. Engineering Manager Cook explained the criteria included listing relevant experience in the past five years. The second bidder's perspective was that Palm Engineering did not have as much experience with pipeline replacement. The District has followed up with their reference to ensure they met the experience requirements. The protesting

contractor has a certain timeframe to respond to our decision, and that cutoff was yesterday. They did not wish to content their protest. Vice President Wolk announced he thought it was unusual for the bid protest to include concern with the low bidder's qualifications.

President Baxter asked if Palm Engineering did not adequately list their experience or references initially. Engineering Manager Cook responded that they did properly list their experience on their bid. The strongest case the protesting bidder made was the lack subcontractors, focusing on the fact that Palm Engineering listed no subcontractors being more than 0.5% of the total cost of the contract. The items they are subcontracting are for surveying and soils inspections. However, those services do not meet the legal definition of subcontracted work, but are instead a professional services type of work. Therefore, they are not required to list those types of services as a subcontractor. Acting General Counsel Chaparro reiterated that technically a contractor was not required to list a subcontractor providing inspections or testing services.

Director McDougal asked what would happen if the contractor needed a subcontractor once the project has begun. Acting General Counsel Chaparro explained the District could assess a penalty or even terminate the contract.

Director McDougal confirmed Engineering Manager Cook performed a check of Palm Engineering's references on jobs performed with other agencies.

MOTION: Director McDougal moved to reject the bid protest and award the Waterline Replacement FY23 Project to Palm Engineering Construction Company Inc. in the amount of \$3,574,950; Director DeMeo seconded. Motion carried; VOTE:

AYES: Directors Baxter, DeMeo, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: Director Endter

III. ADJOURNMENT OF MEETING

There being no further business to discuss, President Baxter adjourned the September 2, 2022 special meeting of the Board of Directors of the Fallbrook Public Utility District at 9:17 a.m.



President, Board of Directors

ATTEST:


Secretary, Board of Directors