

MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
April 21, 2005

A regular meeting of the Board of Light, Gas and Water Commissioners, City of Memphis, was held in the Board room of the Administration Building, 220 South Main Street, Thursday, April 21, 2005 at 1:30 p.m. The following were in attendance: L. R. Jalenak, Chairman; Rick Masson, Vice Chairman; V. Lynn Evans, Commissioner; Nick Clark, Commissioner; Joseph Lee, III, President and CEO; John McCullough, Vice President, CFO and Secretary-Treasurer; Max Williams, Vice President and General Counsel; Wade Stinson, Vice President, Construction and Maintenance; Alonzo Weaver, Vice President, Customer Operations; Chris Bieber, Vice President, Engineering; and Linda Peppers, Vice President and Chief Information Officer. Commissioner Russell was not in attendance.

Vice Chairman Masson moved that after personally reading and reviewing the typed minutes of the Memphis Light, Gas and Water Board meeting held April 7, 2005, that they be recorded as the official record, seconded by Commissioner Evans and unanimously carried.

The Secretary-Treasurer acknowledged receipt of certified copies of City Council Resolutions dated April 5, 2005, Item Nos. 9 through 24, approving items approved by the MLGW Board at meeting held March 17, 2005; and Item Nos. 29 and 30, approving items approved by the MLGW Board at meeting held March 3, 2005. (See Minute File No. 1267.)

Ms. Kimberly Lehew, MLGW employee, made a presentation to the Board regarding Supplier Diversity. (See Minute File No. 1268.)

1. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of Expedited Procurement Request for Contract No. 11036, Drilling Operations for Temporary Substation No. 9, to McKinney Drilling Company as the Sole-Source provider, to drill two foundations for transmission steel poles. McKinney Drilling is awarded this contract because of the specialized

equipment to be used, and the expedited request is necessary to meet the schedule to energize Temporary Substation No. 9 by May 15, 2005. The contract is funded in the amount of \$30,966.

This expedited request requires immediate action to meet the project schedule for the installation of steel poles for transmission lines to Temporary Substation No. 9. This station is vital to the integrity of the distribution system in the area of Hacks Cross and Nonconnah Parkway as defined by Planning Engineering criteria.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of Contract No. 11036 to McKinney Drilling Company in the funded amount of \$30,966 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the award.

2. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 2 to Contract No. 10602, Automated Utility Bill Payment System, with Travelers Express Company, Inc. to change the scope to reinstate Contract No. 10602 on an at-will basis in the funded amount of \$200,000.

The project scope has changed to allow Travelers Express to continue to receive and remit payments to MLGW on an at-will basis. Travelers Express currently has 51 agents receiving bill payments for MLGW. This change is to bridge the gap between the expiration of Contract No. 10602 on October 5, 2004 to approximately September 1, 2005 when American Payment System is expected to provide the service. The new contract value is \$1,560,947.89.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 2 to Contract No. 10602 with Travelers Express Company, Inc. in the funded amount of \$200,000 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

3. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 12 to Contract No. 10780, Electric Construction and Maintenance, with Allied Electrical Contractors, Inc. to change the scope to extend the contract not to exceed 60 days beginning June 4, 2005. The contract value is increased in an estimated funded amount of \$600,000.

This change is necessary to allow the Division time to finalize the forecasted work so the contractor can submit renewal proposal. The new contract amount is \$9,017,995.54.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 12 to Contract No. 10780 with Allied Electrical Contractors, Inc. in an estimated funded amount of \$600,000 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

4. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 4 to Contract No. 10966, Software License and Maintenance, with performancesoft, inc. (formerly Panorama Business Views, Inc.) in the funded amount of \$24,900.

The project scope has changed to allow an upgrade to the pbviews Standard Web Edition software which is utilized by MLGW as a performance measurement tool. The upgrade will allow MLGW to increase its users from 25 to 50 and provide additional and enhanced modules for performance measurements. It is further requested that staff be allowed to purchase yearly maintenance for the product provided it does not exceed 20% per annum of the cumulative value of license fees for purchase. The annual maintenance cost after February 9, 2006 is \$6,764. The new contract value is \$110,015.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Change No. 4 to Contract No. 10783 with performancesoft, inc. in the funded amount of \$24,900 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

5. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 1 to Contract No. 11024, HVAC Replacement, with Barnes & Brower, Inc. to change the scope to modify the existing controls for the newly installed HVAC system at Brunswick Service Center in the funded amount of \$3,789.

The project scope has changed to allow Barnes & Brower to install low ambient controls on the condensing units to allow for year-round usage depending on load, smoke detectors to meet code, return air thermostat to control the cooling cycle, pressure-differential switches to protect the electrical heaters and installation of freeze stats. The new contract value is \$109,125.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Change No. 1 to Contract No. 11024 with Barnes & Brower, Inc. in the amount of \$3,789 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

6. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for distribution transformers which replenishes inventory material for distribution and/or contract crews to install and/or maintain electric systems. Order quantities are based upon previous usage records and projected projects that will be scheduled during the next 60 months. During the length of these contracts, quantities will be driven based on actual need for distribution transformers.

Bids were opened on March 2, 2005, with the lowest and best complying bidders of six bidders being Howard Industries, Inc., Central Moloney, Inc. and Pauwels Transformers. The approximate total of all items is \$17,460,017.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, awards of contracts for furnishing the Division with distribution transformers are approved as follows:

60-month blanket contract is awarded to Howard Industries, Inc., released by MLGW as follows:

Approximately 70% of the MLGW requirements for single-phase pole-type transformers with the estimated expenditure to be approximately \$3,071,788

Approximately 70% of the MLGW requirements for single-phase pad-mounted transformers with the estimated expenditure to be approximately \$3,816,783

Approximately 70% of the MLGW requirements for three-phase pad-mounted transformers with the estimated expenditure to be approximately \$5,167,809

If a need for additional items of these groups of materials or design changes to existing items is identified during the period of this contract, the supplier will be requested to add the new items or make changes to the existing items on the contract at a price agreeable to both MLGW and the supplier. A copy of all unit prices to be placed on file in General Accounting

total award for 60 months amounts to approximately \$12,056,380; f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm for the first three months with the subsequent months' prices adjusted quarterly based on materials escalation/de-escalation as calculated by the percentage change in the Howard Industries, Inc. transformers surcharge index escalation policy EP-6; delivery as required; and further,

60-month blanket contract is awarded to Central Moloney, Inc., released by MLGW as follows:

Approximately 30% of the MLGW requirements for single-phase pole-type transformers with the estimated expenditure to be approximately \$1,433,195

Approximately 30% of the MLGW requirements for single-phase pad-mounted transformers with the estimated expenditure to be approximately \$1,725,518

If a need for additional items of these groups of materials or design changes to existing items is identified during the period of this contract, the supplier will be requested to add the new items or make changes to the existing items on the contract at a price agreeable to both MLGW and the

supplier. A copy of all unit prices to be placed on file in General Accounting

total award for 60 months amounts to approximately \$3,158,713; f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm for 12 months with the subsequent months' prices based on materials escalation/de-escalation as adjusted quarterly per Central Moloney, Inc.'s cost-price escalation/de-escalation policy; delivery as required; and further,

60-month blanket contract is awarded to Pauwels Transformers, released by MLGW as follows:

Approximately 30% of the MLGW requirements for three-phase pad-mounted transformers with the estimated expenditure to be approximately \$2,244,924

If a need for additional items of these groups of materials or design changes to existing items is identified during the period of this contract, the supplier will be requested to add the new items or make changes to the existing items on the contract at a price agreeable to both MLGW and the supplier. A copy of all unit prices to be placed on file in General Accounting

total award for 60 months amounts to approximately \$2,244,924; f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm through the second quarter of 2005 with the subsequent months' prices adjusted quarterly based on material escalation/de-escalation according to the Pauwels Transformer PMI escalation/de-escalation policy; delivery as required.

The total of all awards amounts to approximately \$17,460,017.

7. The Secretary-Treasurer advised the Board that in order to provide sufficient funding to Memphis Networx to preserve MLGW's ownership and profits interest, it is recommended that the maximum amount of the inter-divisional loan between the electric division and the telecommunications sub-division be increased \$6 million, from \$32 million to \$38 million.

None of the additional \$6 million will be used to make capital contributions to Memphis Networx without further approval by the Board of Commissioners and City Council, but will only be used to provide a credit enhancement to facilitate financing for Memphis Networx or, if more advantageous to MLGW, to provide funding to Memphis Networx entitled to a distribution having priority over distributions on account of membership interests in Memphis Networx and secured by such security interest or security interests in the assets of Memphis Networx as management deems appropriate.

It is the preference of the Board of Commissioners that the Memphis Networx Board seek to cause Memphis Networx to refinance such credit enhancements without the necessity of requiring further capital contributions from the owners of Memphis Networx.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the inter-divisional loan between the electric division and the telecommunications sub-division is increased by \$6 million, from \$32 million to \$38 million, in order to provide for or facilitate funding to Memphis Networx as outlined in the foregoing Resolution, is approved.

8. The Vice President, Construction and Maintenance presented for consideration of the Board authorization of payment for 2005 gas system research and development funds to the Operations Technology Development Company in the total amount of \$250,000. These funds were previously collected by the gas transmission companies through a FERC-mandated volumetric surcharge which amounted to approximately \$750,000 per year. However, this process has changed to a strictly voluntary funding basis. The Operations Technology Development Company was formed to maintain the gas industry's cooperative research and development program. Due to the substantial benefit MLGW has received from gas industry research and development, the staff recommends participating in the Operations Technology Development Company at an annual level of \$250,000.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, The Secretary-Treasurer is authorized to have checks issued upon receipt of invoices, not to exceed \$250,000, payable to the Operations Technology Development Company for gas system research and development for year ending December 31, 2005; and further,

THAT, The President is authorized to execute the Operations Technology Development Membership Agreement.

9. The Manager, Electric Engineering presented for consideration of the Board release of the following utility easements:

A 2-ft.-wide utility easement as recorded in Book No. 1741, Page 22 in the Register's Office of Shelby County, Tennessee across Lot 204, The

Village Subdivision as recorded in Plat Book 9, Page 146 in the Register's Office of Shelby County, Tennessee to Thomas M. Ezzell III and wife, Jennifer S. Ezzell, or their successors in title, for the sum of \$1.00. Property is located on the southeast corner of Poplar Avenue and Woodmere Drive.

A utility easement as recorded under Instrument Nos. DL-8276 and DT-1013 in the Register's Office of Shelby County, Tennessee across the unrecorded Plats of Sections A and B of Bellevue Meadows Subdivision as engineered by B.C. Harville to William H. Thomas, Jr., or his successors in title, for the sum of \$1.00. Property is located on the east side of Kate Bond Road and the northwesterly side of Interstate Highway No. 40.

PORTION of a 5-ft.-wide utility easement as recorded under Instrument No. 04025351 in the Register's Office of Shelby County, Tennessee across Lot 19, The Orchards at Kirby Parkway as recorded in Plat Book 193, Page 37, re-recorded in Plat Book 194, Page 22, re-recorded in Plat Book 198, Page 25, and re-recorded in Plat Book 200, Page 24 in the Register's Office of Shelby County, Tennessee to Byrnes/Ostner Investments, Inc., or their successors in title, for the sum of \$1.00. Property located on the south side of Espalier Circle, approximately 225 feet southwardly from the centerline of Heronswood Dr. and addressed as 6575 Espalier Circle.

PORTION of a 50-ft.-wide utility easement recorded under Instrument No. FP-5011 in the Register's Office of Shelby County, Tennessee across Lot 5, Parcel 'A', I-40/Germantown Parkway P.D. Regional Mall (Wolfchase Galleria) as recorded in Plat Book 153 Page 19 and re-recorded in Plat Book 154 Page 62 in the Register's Office of Shelby County, Tennessee to Rich's Department Stores, Inc., or its successors in title, for the sum of \$1.00. Property is located on the southeast corner of U.S. Highway No. 64 and Germantown Parkway.

PORTION of a 30-ft.-wide utility easement recorded under Instrument No. FP-0484 in the Register's Office of Shelby County, Tennessee across Lot 5, Parcel 'A', I-40/Germantown Parkway P.D. Regional Mall (Wolfchase Galleria) as recorded in Plat Book 160, Page 37 in the Register's Office of Shelby County, Tennessee to Rich's Department Stores, Inc., or its successors in title, for the sum of \$1.00. Property is located on the southeast corner of U.S. Highway No. 64 and Germantown Parkway.

PORTION of an 8-ft.-wide utility easement recorded under Instrument No. GR-0012 in the Register's Office of Shelby County, Tennessee across Lot 5, Parcel 'A', I-40/Germantown Parkway P.D. Regional Mall (Wolfchase Galleria) as recorded in Plat Book 149, Page 69 and re-recorded in Plat Book 160, Page 37 the Register's Office of Shelby County, Tennessee to Rich's Department Stores, Inc., or its successors in title, for the sum of \$1.00. Property is located on the southeast corner of U.S. Highway No. 64 and Germantown Parkway

A 4-ft.-wide electric distribution utility easement recorded in Book 2659, Page 145 and 2 anchor guy easements recorded in Book 2659, Page 157 in the Register's Office of Shelby County, Tennessee to Michael Alexander d/b/a Alexander Enterprises, or his successor in title, for the sum of \$1.00. Properties located on the northwest and northeast corners of Poplar Pike and Moore Road.

AN 8-ft.-wide utility easement as recorded under Instrument No. J7-2088 in the Register's Office of Shelby County, Tennessee across Lot 7, Broadway Industrial Park Subdivision as recorded in Plat Book 31 Page 21 in the Register's Office of Shelby County, Tennessee to Smith Nephew Richards Inc., or their successors in title, for the sum of \$1.00. Property located on the northeast corner of Springbrook Avenue and Sandbrook Street.

A 5-ft.-wide utility easement as recorded in Book 5876 Page 44 in the Register's Office of Shelby County, Tennessee across Lot 7, Broadway Industrial Park Subdivision as recorded in Plat Book 31 Page 21 in the Register's Office of Shelby County, Tennessee to Smith Nephew Richards Inc., or their successors in title, for the sum of \$1.00. Property located on the northeast corner of Springbrook Avenue and Sandbrook Street.

A utility easement as recorded under Instrument No. J7-2089 in the Register's Office of Shelby County, Tennessee across Lot 5, Coughlin's Brooks Road Subdivision as recorded in Plat Book 54, Page 15 in the Register's Office of Shelby County, Tennessee to Smith Nephew Richard's Inc., or their successors in title, for the sum of \$1.00. Property located on the west side of Coughlin Drive, approximately 510 feet north of the north line of Brooks Road.

AN 8-ft.-wide utility easement as recorded under Instrument No. F3-5455 in the Register's Office of Shelby County, Tennessee across Lot 7, Broadway Industrial Park Subdivision as recorded in Plat Book 31 Page 21 in the Register's Office of Shelby County, Tennessee to Smith Nephew Richards Inc., or their successors in title, for the sum of \$1.00. Property located on the northeast corner of Springbrook Avenue and Sandbrook Street.

AN 8-ft.-wide utility easement as recorded under Instrument No. J1-5864 in the Register's Office of Shelby County, Tennessee across Lot 7, Broadway Industrial Park Subdivision as recorded in Plat Book 31 Page 21 in the Register's Office of Shelby County, Tennessee to Smith Nephew Richards Inc., or their successors in title, for the sum of \$1.00. Property located on the northeast corner of Springbrook Avenue and Sandbrook Street.

PORTIONS of two 5-ft.-wide multi-purpose utility easements recorded under Instrument Nos. KU-0867 and 04081010 in the Register's Office of Shelby County, Tennessee across Lot 11A, Final Plat, Tuscany Place Subdivision, re-subdivision of Lot 11 as recorded in Plat Book 215, Page 56 in the Register's Office of Shelby County, Tennessee to Tammy Navarre d/b/a Tuscany Homes, or her successor in title, for the sum of \$1.00. Property addressed as 9236 Lazzini Cove.

AN 8-ft.-wide electric distribution utility easement recorded in Book 1532, Page 167 in the Register's Office of Shelby County, Tennessee across tracts of land described under Instrument Nos. 02106915 and LH-7070 in the Register's Office of Shelby County, Tennessee to Gary M. Webb, etal, or their successors in title, for the sum of \$1.00. Property addressed as 4542 Chambers Chapel Road and also that property located on the east side of Chambers Chapel Road, approximately 1 mile south of Memphis Arlington Road.

PORTION of a 5-ft.-wide utility easement as recorded by Instrument No. 02044395 in the Register's Office of Shelby County, Tennessee across Plat Book 214, Page 26 as recorded in the Register's Office of Shelby County, Tennessee to Yorkshire Sports, L.L.C., or their successors in title, for the sum of \$1.00. Property is on the south side of Winchester Road, approximately 552 feet east of the west line of Hacks Cross Road.

A 5-ft.-wide utility easement as recorded by Instrument No. W7-7214 in the Register's Office of Shelby County, Tennessee across Lot 3, Taylor's Hill Commercial Center as recorded in Plat Book 202, Page 11 in the Register's Office of Shelby County, Tennessee to Goodman Road Partners, or their successors in title, for the sum of \$1.00. Property is located on the north side of U.S. Highway No. 64, approximately 420 feet east of the east line of Christoval Street.

PORTION of a 4-ft.-wide utility easement as recorded in Book No. 1620, Page 37 in the Register's Office of Shelby County, Tennessee across Lot 390, Chickasaw Gardens Subdivision as recorded in Plat Book 9, Pages 18 and 19 in the Register's Office of Shelby County, Tennessee to Parnell S. Lewis and wife, Page P. Lewis, or their successors in title, for the sum of \$1.00. Property is addressed as 212 East Chickasaw Parkway.

A 3-ft.-wide gas line easement as recorded in Book 1531, Page 174 and conveyed in Book 1620, Page 37 both in the Register's Office of Shelby County, Tennessee to The Industrial Development Board of the City of Memphis, County of Shelby, Tennessee, or their successors in title, for the sum of \$1.00. Property is located on the east side of North Second Street and southeasterly of the Illinois Central Railroad Tract.

PORTION of a 19-ft.-wide utility easement as recorded by Instrument No. KW-5163 in the Register's Office of Shelby County, Tennessee across Lot 10 of Park Grove, P.D. as recorded in Plat Book 198, Page 1 in the Register's Office of Shelby County, Tennessee to Southland Capital Partners, or their successors in title, for the sum of \$1.00. Property is addressed as 5467 Irvin Park Cove.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Release of easements across the above described properties is approved; and further,

THAT, The Board of Light, Gas and Water Commissioners recommends to the Mayor of the City of Memphis that appropriate release deeds be executed releasing said easements to the current property owners for a consideration of \$1.00 each.

10. The Vice President, Engineering submitted for consideration of the Board invoice received from American Public Power Association covering membership dues for one year beginning May 1, 2005. The invoice is rendered in the amount of \$73,460.39 and is in accordance with rates established by the American Public Power Association's Board of Directors.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, The Secretary-Treasurer is authorized and directed to have check issued in the amount of \$73,460.39 payable to American Public Power Association covering membership dues for one year beginning May 1, 2005, chargeable to the MLGW fiscal year 2005.

11. The President recommended to the Board of Light, Gas and Water Commissioners that MLGW contribute up to \$250,000 per year for five years beginning in the 2006 Budget to implement a Regional Groundwater Study of the Sparta Sands and Memphis Sands Aquifer in Mississippi, Arkansas and Tennessee. This amount represents MLGW's match to secure approximately \$10.6 million Federal funding for the study. It is expected that other municipalities and governmental entities in the three state areas impacted by these Aquifers will also make matching commitments.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, The foregoing Resolution is approved; and further,

THAT, The President or his designated representative work with any other parties who have committed resources with this effort to develop a unified legislative strategy and that the President or his designated representative report back to the Commissioners for approval of such strategy; and further,

THAT, The President is authorized to execute documents and take further necessary actions to accomplish the purposes of this Resolution.

12. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing the Division with the EPA-required Consumer Confidence Report (Water Quality). The EPA requires community water systems to prepare and provide to their customers annual consumer confidence reports on the quality of the water delivered by the systems.

Bids were opened on April 6, 2005, with the lowest and best complying bidder of 12 bidders being DirectFX Solutions in the amount of \$39,385, approximately.

It was moved by Commissioner Clark, seconded by Commissioner Evans and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to DirectFX Solutions is approved for furnishing the Division with:

250,000 (approximately) – MLGW Water Quality Reports to be furnished in accordance with MLGW specifications, at \$21,185 all; and further

250,000 (approximately) – 6” x 9” envelopes, to be printed one color, one side, to be furnished in accordance with MLGW specifications, at \$5,950 all; and further

Insertion and mailing services to be furnished in accordance with MLGW specifications, at \$12,250 all

totaling \$39,385 (approximately); f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm; delivery as required.

There being no further business presented, the meeting was adjourned.

SEE MINUTE FILE NO. 1268.

Secretary-Treasurer