

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD JANUARY 16, 2019 AT 5:30 P.M.**

The Board of Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas, held a regular meeting on **Wednesday, January 16, 2019 at 5:30 p.m.** The following individuals were present and absent:

PRESENT: John Reed, Chairman
Sergio Tito Lopez
Ralph Cowen
John Wood
Esteban Guerra

ABSENT: None

ALSO PRESENT: Eduardo A. Campirano, Port Director and CEO
Daniel Rentfro Jr., District Counsel
William J. Irwin, Associate District Counsel

STAFF MEMBERS: Donna Eymard
Bea Rosenbaum
Steve Tyndal
Jorge Montero
Lieutenant Mario Esquivel
Lorena Hernandez
Ariel Chavez
Manuel Martinez
Jose Herrera
Jaime Martinez
Chief Carlos Garcia
Michael Davis
Tony Rodriguez
Debby Duke
Margie Recio
Officer Melissa Rosas

OTHERS PRESENT: Rev. Andreas Lewis
Jorge de la Colina
Fabian de la Garza
Family of Melissa Rosas
Scott Donnoho
Mike Krieber
Robbie Walsdorf
Kevin Garcia
Ramiro Robledo

Leadership Brownsville
Ben Atkins
Aaron Rios
Jeanette Smith
Carr, Riggs, & Ingram

1. Meeting Called To Order

The Chairman called the meeting to order at 5:30 p.m. Reverend Lewis offered a prayer. The Chairman then led those present in the Pledge of Allegiance to the United States and Texas flags.

2. Public Audience

Ben Atkins addressed the Board regarding the proposed lease with Rio Grande LNG.

Mr. Campirano introduced Chief Garcia who addressed the Board regarding the hiring of Officer Melissa Rosas, the first female police officer at the Port. Chief Garcia then administered the oath to Officer Rosas. Officer Rosas then addressed the Board and thanked the Port for the opportunity.

3. Receive Director's Report

a. Receive Port Monthly Operations Summary Report

Ms. Hernandez made the report to the Board. Discussion followed.

Commissioner Lopez asked Mr. Herrera for an update on his report on crane expenses. Mr. Herrera briefly addressed the Board.

Chairman Reed asked Chief Garcia for a report on the fire that occurred recently at Bluewing One's lease site. Chief Garcia addressed the Board regarding the fire department's response and use of evacuation routes. Discussion followed.

CONSENT AGENDA

4. Consideration and Action on the Following Consent Agenda Items:

- a. Approval of the Minutes of the Regular Board Meeting of January 06, 2019.
- b. Approval to authorize payments over \$25,000.00:
 1. G&T Paving, the amount of \$109,408.01, for BND road spot repairs and asphalt surfacing;
 2. HDR, Inc., the amount of \$13,399.34, for Dike 5B relocation project;
 3. Triton Marine Construction, the amount of \$221,672.22, for Oil Dock 6, Oil Dock 3 fender system replacement, Oil Dock 3 facility enhancements and maintenance dredging project;
 4. Rio Grande Hauling, the amount of \$29,874.88, for hauling services; and
 5. Cameron County Mobility Authority, the amount of \$42,000.00, for Development of design/engineering plans for the South Port Connector Road Project.
- c. Approval of the following leases:
 1. Cumberworth Investments, Inc. (Release of lease)
 2. ATS Operations, LLC (New lease)

Commissioner Cowen moved to approve Items 4a and 4b, Commissioner Guerra seconded, and the motion passed unanimously.

Commissioner Wood moved to approve Item 4c1, Commissioner Lopez seconded, and the motion passed unanimously.

Commissioner Guerra moved to approve Item 4c2, Commissioner Lopez seconded, and the motion passed unanimously.

5. Presentation of District Funds Investment Report for the period October 1, 2018 through December 31, 2018.

Mr. Campirano introduced Ms. Hernandez who spoke about the District Funds Investment Report for the period October 1, 2018 through December 31, 2018. Discussion followed.

6. Presentation of Marketing Division Update.

Mr. Campirano introduced Mr. Tyndal who provided an update on the marketing division's recent work. Discussion followed.

7. Consideration and Action on Assignments, Negotiations, Easements, Subleases, and Contracts in General.

Mrs. Rosenbaum addressed the Board regarding the following items:

1. TransMontaigne Operating Co., L.P. (Authority to negotiate)

TransMontaigne Operating Co., L.P., under BND Contract 3307, has requested authority to install pipe supports on Oil Dock #3 for a new pipeline from their site at Chemical Road and Old SH 48 to Oil Dock #3. Commissioner Lopez moved to authorize the Staff negotiate a License Agreement with TransMontaigne Operating Co., L.P. for the new pipeline they want to construct from their site under BND Contract 3307 to Oil Dock #3, Commissioner Cowen seconded, and the motion passed unanimously.

2. Linwood Trawlers, Inc / Bay Island Trawlers, Inc. (Authority to negotiate)

Linwood Trawlers, Inc., under BND Contract 4162, is selling its improvements to Bay Island Trawlers, Inc. and has requested to be released of their lease subject to the Board approving of a new lease to Bay Island Trawlers, Inc. The purpose of the new lease will be for maintaining and operating of fishing vessels. Commissioner Guerra moved to authorize the Staff to negotiate a new lease with Bay Island Trawlers, Inc. and to authorize to prepare a Release of Lease to Linwood Trawlers, Inc., Commissioner Lopez seconded, and the motion passed unanimously.

8. Consideration and Action to award Carr, Riggs & Ingram LLC the Pension Audit Services for the Retirement Plan for the Brownsville Navigation District for its Fiscal Years 2017 through 2021.

Ms. Hernandez addressed the Board requesting authorization to award Carr, Riggs & Ingram, LLC the Pension Audit Services for the Retirement Plan for the Brownsville Navigation District for its Fiscal Years 2017 through 2021. At the October 17, 2018 Board Meeting, staff was authorized to request proposals for pension audit services for the Retirement Plan for the Brownsville Navigation District. Staff contacted over 40 local, regional and national Certified Public Accountant firms and the Request for Proposals was also posted in the District's website and local newspaper. The District received two proposals from Carr, Riggs & Ingram and Doeren Mayhew. After reviewing

all submitted qualifications, District staff concluded that Carr, Riggs & Ingram's qualifications best fit the needs of the District. Commissioner Cowen moved to award the Pension Audit Service for the Retirement Plan of the Brownsville Navigation District for its Fiscal Years 2017 through 2021 to Carr, Riggs & Ingram LLC, Commissioner Wood seconded, and the motion passed unanimously.

9. Consideration and Action to award a purchase agreement to the lowest responsible bidder for the purchase of hauling services.

Mr. Garcia addressed the Board requesting authorization to award a purchase agreement to the lowest responsible bidder for the purchase of hauling services. The District requested bids for hauling services with a bid opening date of January 15, 2019. Additional trucking services are needed for numerous projects throughout the Port, primarily for hauling limestone which will allow Staff to keep up with projects effectively. Hauling services are also used to clear large quantities of trash and dunnage when needed. Commissioner Guerra made a motion to table the Item until after Executive Session and asked Mr. Rentfro if this was a matter that could be discussed in Executive Session. Mr. Rentfro noted that if there was a legal question regarding the matter that it could be discussed in Executive Session. Commissioner Lopez noted that the rates included were very reasonable. After discussion, Commissioner Guerra withdrew his motion to table. Commissioner Lopez moved to award the Purchase Agreement for hauling services to B&L Trucking, a company that is local and is located within the Port, Commissioner Cowen seconded, and the motion passed unanimously.

10. Consideration and Action to award a purchase agreement to the lowest responsible bidder for the purchase of crushed limestone.

Mr. Garcia addressed the Board requesting authorization to award a purchase agreement to the lowest responsible bidder for the purchase of crushed limestone. The District requested bids for crushed limestone with a bid opening date of January 15, 2019. Commissioner Lopez moved to award the purchase agreement to Vulcan Construction Materials for the purchase of crushed limestone for the contract period of January 1, 2019 through December 31, 2019, Commissioner Wood seconded, and the motion passed unanimously.

11. Consideration and Action to award a purchase agreement to the lowest responsible bidder for the purchase of treated lumber.

Mr. Garcia addressed the Board requesting the authorization to award a purchase agreement to the lowest responsible bidder for the purchase of treated lumber. The District requested bids for treated lumber with a bid opening date of January 15, 2019. Commissioner Lopez moved to award the purchase agreement to Conroe Lumber Products for the purchase of treated lumber for the contract period of January 1, 2019 through December 31, 2019, Commissioner Wood seconded, and the motion passed unanimously.

12. Consideration and Action to award a purchase agreement to the lowest responsible bidder for the purchase of Geogrid.

Mr. Garcia addressed the Board requesting authorization to award a purchase agreement to the lowest responsible bidder for the purchase of Geogrid. The District requested bids for Geogrid with a bid opening date of January 15, 2019. Commissioner Cowen moved to award the Purchase Agreement to GeoSolutions, Inc. for the purchase of Geogrid for the contract period of January 1, 2019 through December 31, 2019, Commissioner Lopez seconded, and the motion passed

unanimously.

13. Consideration and Action to authorize Port Staff to solicit Statements of Qualifications for Professional Engineering Design Services pursuant to replacement of the Fishing Harbor Wastewater Treatment Plant and related work.

Mr. Chavez addressed the Board requesting authorization for Port Staff to solicit Statements of Qualifications for Professional Engineering Design Services pursuant to replacement of the Fishing Harbor Wastewater Treatment Plant and related work. The BND Wastewater System includes three wastewater treatment plants, one of which is located at the Northeast corner of the Shrimp Basin or Fishing Harbor. The initial components of the Fishing Harbor Wastewater Treatment Plant were originally constructed in 1977, and the rectangular aerator and clarifiers on the South were added in 1987. For some time now, the plant has been experiencing problems due primarily to its age. BND Staff has made every effort to maintain the plant operationally, and the Texas Commission on Environmental Quality (TCEQ) has required some needed repairs. However, with the advent of several potentially large customers on Texas State Highway No. 48 (SH 48) possibly including two Liquified Natural Gas terminals, BND Staff feels it is imperative that the District replace the plant with a state-of-the-art facility with the capacity to serve these additional potential customers. To that end, BND Staff would like to solicit Statements of Qualifications (SOQs) from interested professional engineering consultants. BND Staff is in the process of developing the Scope of Work which would be used to request the SOQs. Commissioner Cowen moved to authorize the Port Director and Port Staff to solicit Statements of Qualifications for Professional Engineering Design Services for the replacement of the Fishing Harbor Wastewater Treatment Plant, to evaluate them, and to present them in the near future to BND Commissioners with a selection recommendation, Commissioner Lopez seconded, and the motion passed unanimously.

14. Consideration and Action to accept proposal from Millennium Engineers Group, Inc. for Construction Materials Testing Services on the BND Port Road Improvements – Phase II project in the Port of Brownsville.

Mr. Chavez addressed the Board requesting the acceptance of the proposal from Millennium Engineers Group Inc. for Construction Materials Testing Services on the BND Port Road Improvements – Phase II project in the Port of Brownsville. On November 17, 2018 BND Commissioners awarded the contract on the BND Port Road Improvements - Phase II project to G&T Paving, LLC (G&T) in the amount of \$1,896,154.51. After concurrence of the award from the Texas Department of Transportation (TxDOT) and after BND Staff issued the Notice to Award, the Agreement between G&T and BND was executed. BND Staff has scheduled the Pre-Construction Conference for January 11, 2019 and will issue the Notice to Proceed at that time. BND Staff has requested and received a proposal from Millennium Engineers Group, Inc. (MEG) for Construction Materials Testing Services for this project. MEG proposes to provide soil and base density testing, concrete sampling and testing and related services for the not-to-exceed amount of \$39,443.80. Commissioner Cowen moved to accept the proposal from Millennium Engineers Group, Inc. for Construction Materials Testing Services on the BND Port Road

Improvements – Phase II project for the amount of \$39,443.80, Commissioner Guerra seconded, and the motion passed unanimously.

15. Consideration and Action to accept proposal from Raba-Kistner Consultants, Inc. for Construction Materials Observation and Testing Services on the Public Vessel Assembly and Erection Pad project in the Port of Brownsville.

Mr. Chavez addressed the Board requesting the acceptance of the proposal from Raba-Kistner Consultants, Inc for Construction Materials Observation and Testing Services on the Public Vessel Assembly and Erection Pad project in the Port of Brownsville. On December 5, 2018 BND Commissioners awarded the contract on the Public Vessel Assembly and Erection Pad project to L&G Construction (L&G) in the amount of \$4,486,850.00. After due coordination with the Lower Rio Grande Valley Development Council (LRGVDC) and the U.S. Economic Development Administration (EDA), and after execution of the Agreement between L&G and BND, BND Staff issued the Notice to Proceed. BND Staff has requested and received a proposal from Raba-Kistner Consultants, Inc. (Raba) for Construction Materials Observation and Testing Services for this project. Raba proposes to have a technician on site for the duration of construction to monitor soil and base densities and concrete sampling and testing for the not-to-exceed amount of \$64,900.00. Commissioner Guerra moved to accept the proposal from Raba-Kistner Consultants, Inc. (Raba) for Construction Materials Observation and Testing Services on the Public Vessel Assembly and Erection Pad project for the not-to-exceed amount of \$64,900.00, Commissioner Wood seconded, and the motion passed unanimously.

16. Consideration and Action on Change Order No. 9 to the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, & Maintenance Dredging project, for the purpose of cutting and coring concrete piles, adding a storm sewer junction box, and extending the contract time by ten days.

Mr. Chavez addressed the Board requesting the acceptance or rejection of Change Order No. 9 to the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, & Maintenance Dredging project, for the purpose of cutting and coring concrete piles, adding a storm sewer junction box, and extending the contract time by ten days. On December 21, 2016, BND Commissioners awarded the Oil Dock No.6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, and Maintenance Dredging contract to Triton Marine Construction Corp. (Triton) for \$23,649,529.40. As of this date, BND Commissioners have approved Change Orders No. 1 through No. 8 in the amount of \$4,174,317.40, for a current contract price of \$27,823,846.80, with 27 days added to the overall contract time. During installation of the storm drainage pipes on the East side, an existing pipe was encountered perpendicular to and in vertical conflict with the proposed pipe. After checking for chlorine, it was determined to be a storm drain from the North side of the railroad tracks, and the decision was made to connect it to the proposed pipe with a junction box. Also, while driving waterside concrete piles on Oil Dock #6, eight piles achieved refusal, i.e., the pile was no longer advancing and was at risk of damage due to too many hammer blows. The excess length had to be cut off, and three of the piles required drilling of holes for dowels to connect to the structure above. Triton provided pricing of \$12,840.14 for the junction box and appurtenances, and of \$69,149.56 for cutting and coring the concrete piles, for a net increase of \$81,989.70. This Change Order No. 9 would increase the contract price accordingly, for a new contract amount of \$27,905,836.50. Triton is also requesting an extension of ten (10) days to the contract completion date. Discussion followed regarding the proposed change order, and after discussion,

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Commissioner Cowen moved to approve this Change Order No. 9 to the contract with Triton Marine Construction Corp. on the Oil Dock No. 6 Construction, Oil Dock No. 3 Fender System Replacement & Facility Enhancements, and Maintenance Dredging project, increasing the current contract price by \$81,989.70, for a new contract price of \$27,905,836.50, and increasing the contract completion date by ten (10) day to January 16, 2019, Commissioner Wood seconded, and the motion passed 4-1. Commissioner Lopez voted nay.

17. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to discuss with attorneys pending or contemplated litigation and matters in which the duty of the attorneys under the Rules of Professional Conduct clearly conflict with Chapter 551; to conduct deliberations regarding real property (§551.072); to deliberate the deployment of security personnel or devices (§551.076); to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee (§551.074); and to conduct deliberations regarding economic development negotiations (§551.087).

Commissioner Guerra moved to adjourn into executive session, Commissioner Lopez seconded, and the motion passed unanimously. The Chairman then announced that the time was 7:20 p.m. and that the Board would adjourn into executive session.

The Chairman then announced that the time was 8:10 p.m. and that the Board had reconvened in open session.

18. Possible action on matters or items discussed in Executive Session.


Commissioner Guerra moved to approve the attorney-client agreement with Hamilton Lucio, P.C. to act as litigation counsel in 2019-DCL-37, as discussed in executive session, Commissioner Wood seconded, and the motion passed unanimously.

Chairman Reed recalled Item 9. Mr. Rentfro noted that the Board should make the following specific findings if considering the location of a bidder's principal place of business in making a contract award: that the bidder offers the Port the best combination of contract price and additional economic development opportunities for the Port created by the contract award, including the employment of local residents and increased tax revenues to the Port. Commissioner Lopez amended his motion under Item 9 to include the specific findings noted by Mr. Rentfro, Commissioner Cowen, seconded, and the motion passed unanimously.

19. Adjournment.

The meeting was adjourned by unanimous consent at 8:13 p.m.

ATTEST



Secretary



John Reed
Chairman of the Board