

**MINUTES OF PUBLIC HEARING AND REGULAR MEETING OF THE BOARD OF
NAVIGATION AND CANAL COMMISSIONERS OF THE BROWNSVILLE
NAVIGATION DISTRICT OF CAMERON COUNTY, TEXAS
HELD AUGUST 21, 2019 AT 5:30 P.M.**

The Board of Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas, held a public hearing and regular meeting on **Wednesday, August 21, 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

STAFF MEMBERS: Donna Eymard
Ariel Chavez
Steve Tyndal
Jose Herrera
Lorena Hernandez
Jaime Martinez
Chief Carlos Garcia
Lieutenant Mario Esquivel
Carlos Martinez
Tony Rodriguez
Manuel Martinez
Oscar Garcia
Debby Duke
Margie Recio
Memo Rico
Jorge Montero

OTHERS PRESENT: Fred Figueroa
Kevin Garcia
Scott Donnaho
Jorge De La Colina

PUBLIC HEARING 5:30 P.M.

1. Public hearing to receive public comment on a proposal to increase total tax revenues on tax roll in 2019 by 3.968277 percent.

Ms. Hernandez made a presentation to the Board. She announced that the Board would take a final vote on the tax rate on Wednesday, September 4, 2019 at 5:30 p.m. Discussion followed. On motion by Mr. Cowen, seconded by Mr. Guerra, and unanimously carried, the Board closed the public hearing at 5:35.

REGULAR MEETING

1. Meeting Called to Order

The Chairman then called the regular meeting to order. After a prayer, the Chairman led those present in the Pledge of Allegiance to the United States and Texas flags.

2. Public Audience

No person registered to address the Board.

3. Receive Director's Report

a. Receive Port Monthly Operations Summary Report

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

CONSENT AGENDA

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

a. Approval of the Minutes of the Special Board Meeting of August 5, 2019 and the Regular Board Meeting of August 7, 2019.

b. Approval to authorize payments over \$25,000.00:

i. EDG, Inc., the amount of \$26,876.00, for construction support services for BND Bulk Cargo Dock improvements project.

Commissioner Wood moved to approve all consent agenda items, Commissioner Cowen seconded, and the motion passed unanimously.

5. Presentation of the most recent economic impact study of the Port of Brownsville conducted by Martin Associates.

Mr. Tyndal spoke about the economic impact study of the Port of Brownsville. Discussion followed.

6. Consideration of and Action on amending Tariff Number 6, Item 451 – Mobile Food Vendor License to rename it Mobile Food Vendor Permit, adjust the fee, and make other administrative amendments.

Mrs. Duke addressed the Board regarding the amendment of Tariff Number 6, Item 451 – Mobile Food Vendor License to rename it Mobile Food Vendor Permit, adjust the fee, and make other administrative amendments. The staff has been approached by an applicant who wants to locate a mobile food vending unit (food truck) at the Port. This generated a staff discussion on the best way to handle this subject, for the District's interests as well as the vendor's interests. The subject was taken to the Policy Committee meeting on August 13, 2019, and at that meeting, a number of suggestions were made to amend the current item. One suggestion was to issue this on a monthly

basis, which would necessitate the change of the license to a permit. The suggested fee of \$1,000,00 per month, which equates to \$50.00 per day, was suggested, Other procedural and administrative matters were discussed by the Policy Committee. Commissioner Cowen moved to authorize the amendment of Tariff Item 451 as proposed, which will include renaming the item Mobile Food Vendor Permit as well as the recommended amendments, to be effective August 21, 2019, Commissioner Wood seconded, and the motion passed unanimously.

7. Consideration of and Action to approve the Resolution for Procedure for Signing of Checks and Authorization of Electronic Transfers of Funds for the Retirement Plan for Employees of Brownsville Navigation District and opening of a new account under the Plan's EIN.

Ms. Hernandez addressed the Board requesting approval on the Resolution for Procedure for Signing of Checks and Authorization of Electronic Transfers of Funds for the Retirement Plan for Employees of Brownsville Navigation District and opening of a new account under the Plan's EIN. The Trustees of the Retirement Plan for Employees of Brownsville Navigation District, in cooperation with Bill Fisher, attorney of Wilkins, Finston, Friedman Law Group, obtained an official EIN for the Plan that is separate and distinct from that of the District's. Lone Star National Bank requires the District's Board of Commissioners and the Plan Trustees to authorize the opening of a new account that will be titled in the name of the Plan and under its EIN. The bank also requires delegation of the Authorized Account Signers which will be limited to the Deputy Port Director and the new Plan Trustees appointed by Certificate of Resolution on the August 7, 2019 Board Meeting. Commissioner Guerra moved to approve the opening of the new account under the Plan's EIN and approval of the Resolution, Commissioner Wood seconded, and the motion passed unanimously.

8. Consideration of and Action on the Grantee/Operators agreement between the Brownsville Navigation District-Foreign Trade Zone No. 62 and ABC Gulf Coast Terminals, LLC.

Mr. Rodriguez addressed the Board requesting approval on the Grantee/Operators agreement between the Brownsville Navigation District-Foreign Trade Zone No. 62 and ABC Gulf Coast Terminals, LLC. ABC Gulf Coast Terminal LLC is requesting for FTZ activation for their terminal. The purpose of the foreign trade zone status will be for storing and transloading liquid bulk products. Commissioner Wood moved to authorize ABC Gulf Coast Terminals LLC (Port of Brownsville Magnet Site) to be an Operator of FTZ No. 62, Commissioner Guerra seconded, and the motion passed unanimously.

9. Consideration of and Action to authorize Port Director and CEO to issue \$16,800 payment of administrative fees to the U.S. Army Corps of Engineers to review request to expand the Brazos Island Harbor Project by incorporating a bend into the main channel.

Mr. Campirano addressed the Board requesting authorization for the Port Director and CEO to issue \$16,800 payment of administrative fees to the U.S. Army Corps of Engineers to review request to expand the Brazos Island Harbor Project by incorporating a bend into the main channel. BND Staff has been working with the U.S. Army Corps of Engineers (USACE) on permitting towards construction of the Brazos Island Harbor (BIH) Deepening project. LNGs have stated the need to ease the bend in the Ship Channel. On April 3, 2019 BND Commissioners accepted a proposal from BND consultant HDR, Inc. (HDR) to evaluate the required Bend Easing. The work included USACE Section 408 Coordination, Real Estate, and Section 10 and 404 Permits. The

Galveston District (SWG) of USACE will perform the required review of the permit applications. USACE SWG is requesting advance payment in the amount of \$16,800.00 for this review. Discussion followed. Commissioner Cowen moved to authorize payment to the U.S. Army Corps of Engineers to perform Permits Review on the proposed Brazos Island Harbor Channel Bend Easing and to issue payment in the amount of \$16,800.00 to USACE for this concept, Commissioner Wood seconded, and the motion passed unanimously.

10. Consideration of and Action to authorize payment of \$61,779.71 to the Brownsville Public Utilities Board to relocate service lines and street security lights on Ostos Road as required for the South Port Connector Road Project.

Mr. Chavez addressed the Board requesting authorization for payment of \$61,779.71 to the Brownsville Public Utilities Board to relocate service lines and street security lights on Ostos Road as required for the South Port Connector Road Project. The Port Director and BND Engineering Staff have been working for over three years with the Texas Department of Transportation (TxDOT), the Cameron County Regional Mobility Authority (CCRMA), and CCRMA's consultant S & B Infrastructure, Inc. (S&BI) on the South Port Connector Road project, which will connect the Port's R. L. Ostos Road to Texas State Highway No. 4 (SH 4, or Boca Chica Boulevard). One of the requirements by TxDOT is that all conflicting utilities be relocated. Brownsville Public Utilities Board (BPUB) facilities that need to be relocated at the intersection with Ostos Road include existing Security Lights as well as overhead power lines, both on the South side of Ostos Road. The conflicting Security Lights will be relocated to the North side of Ostos Road, and the conflicting overhead power lines will be placed underground and/or re-routed to eliminate the conflict. BPUB staff estimates the cost of this work to be \$61,779.71. Commissioner Cowen moved to authorize payment to the Brownsville Public Utilities Board in the amount of \$61,779.71 to resolve the utility lines conflict with the South Connector Road project, Commissioner Guerra seconded, and the motion passed unanimously.

11. Consideration of and Action on Change Order No. 2 to the contract with G&T Paving, L.L.C. on the BND Port Road Improvements-Phase II Project adjusting contract quantities to conform to actual, to accept work performed by the contractor, and to authorize Final Payment, including all completed work and retainage.

Mr. Chavez addressed the Board requesting approval on Change Order No. 2 to the contract with G&T Paving, L.L.C. on the BND Port Road Improvements-Phase II Project adjusting contract quantities to conform to actual quantities used, to accept work performed by the contractor, and to authorize Final Payment, including all completed work and retainage. On October 17, 2018 BND Commissioners awarded the BND Port Road Improvements - Phase II project to G&T Paving, LLC. (G&T) in the amount of \$1,896,154.51, On February 6, 2019, BND Commissioners approved Change Order No.1 in the amount of \$466,165.21 to \$2,362,319.72. G&T has completed the work and there were seven (7) bid items for which the actual final quantities were larger than the contract quantities, and nine (9) bid items for which the actual final quantities were less than the contract quantities. Change Order No. 2 adjusts the contract quantities to conform to actual final quantities, resulting in a deduction of \$1,245.39, for a final contract amount of \$2,361,074.33. A Final Inspection was performed with Texas Department of Transportation (TxDOT) staff participating, and the work was deemed complete. Commissioner Cowen moved to approve Change Order No. 2 to the contract with G&T Paving, LLC for the BND Port Road Improvements – Phase II, decreasing the current contract price of \$2,362,319.72 by \$1,245.39 to \$2,361,074.33, accept the work performed by the

contractor on this project, and authorize final payment of \$373,793.68, including all completed work and retained amounts, Commissioner Wood seconded, and the motion passed unanimously.

12. Consideration of and Action on Change Order No. 3 to the contract with L&G Construction on the Public Vessel Assembly and Erection Pad Project adjusting contract quantities to conform to actual, to accept work performed by the contractor, and to authorize final payment, including all completed work and retainage.

Mr. Chavez addressed the Board requesting approval on Change Order No. 3 to the contract with L&G Construction on the Public Vessel Assembly and Erection Pad Project adjusting contract quantities to conform to actual quantities used, to accept work performed by the contractor, and to authorize final payment, including all completed work and retainage. On December 5, 2018 BND Commissioners awarded the contract on the Keppel AmFELS (AmFELS) Public Vessel Assembly and Erection Pad project to L&G Construction (L&G) in the amount of \$4,486,850.00. On February 6, 2019 BND Commissioners approved Change Order No. 1 to this contract in the amount of \$486,000.00 and on April 17, 2019 BND Commissioners approved Change Order No. 2 in the amount of \$403,976.00, for a current contract amount of \$5,376,826.00. L&G has completed the work and there were some quantities provided that were unused. Change Order No. 3 reduces the contract quantities to provide for the unused items, resulting in a deduction of \$87,315.00, for a final contract amount of \$5,289,511.00. A Final Inspection was performed with one minor pending item, which the contractor has resolved. L&G requested an additional nine (9) calendar days to the contract time due to weather days lost, which will change the contract completion date from the current July 21, 2019 to July 30, 2019. Commissioner Guerra moved to approve Change Order No. 3 to the contract with L&G Construction for the Public Vessel Assembly and Erection Pad, decreasing the current contract price of \$5,376,826.00 by \$87,315.00 to \$5,289,511.00, to extend the contract time by nine (9) calendar days to July 30, 2019, accept the work performed by the contractor, and authorize final payment of \$542,527.60, including all completed work and retained amounts, Commissioner Cowen seconded, and the motion passed unanimously.

13. Consideration of and possible Action on Bids received for the Oil Dock #5 Bulkhead Repairs Project.

Mr. Chavez addressed the Board requesting to award contract on Bids received for the Oil Dock #5 Bulkhead Repairs Project. On February 6, 2019 BND Commissioners selected consultant CH2M HILL Engineers Inc. (CH2M) to perform Engineering Design Services for the Oil Dock #5 Bulkhead Repairs project, and on April 17, 2019 authorized the Port Director to enter into a Master Professional Services Agreement with CH2M and accepted CH2M's Proposal for engineering design services on this project. Further, on July 10, 2019 BND Commissioners authorized staff to invite bids and to open bids on this project. BND Engineering caused the Invitation to Bid to be published in the local newspaper on July 19 and 26, 2019, and held a Mandatory Pre-Bid Meeting for July 30, 2019. In addition to the published invitation, known contractors were notified by email and/or by phone, and the invitation to bid and the bid documents were posted on the Port of Brownsville website. Bid opening was originally scheduled for August 5, 2019 but was changed to August 13, 2019 at the request of potential bidders. The low bid was from R.M. Walsdorf, Inc. (Walsdorf) in the amount of \$353,150.00 for the Alternate Bid of Helical Anchors. Walsdorf included an additive bid of \$222,050.00 for the enhanced Revetment System. The total cost of the Helical Anchors with the Revetment System would be \$492,750.00. After

discussion, Commissioner Guerra moved to table, the Chairman seconded the motion to table, and the motion passed unanimously.

14. Consideration of and Action to authorize the Port Director to accept proposal form consultant CH2M HILL Engineers, Inc. to provide Construction Phase Engineering Services on the Oil Dock #5 Bulkhead Repairs Project.

Commissioner Guerra moved to table this item, Commissioner Cowen seconded, and the motion passed unanimously.

15. 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).

There was none.

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


There was none.

17. Adjournment.

The meeting was adjourned by unanimous consent at 6:10 p.m.

ATTEST


Secretary


John Reed
Chairman of the Board