

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD OCTOBER 7, 2020 AT 5:30 P.M.**

The Board of Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas, held a regular videoconference meeting due to the COVID-19 health emergency, on **Wednesday, October 7, 2020 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
Blanca Melguizo
Ariel Chavez
Steve Tyndal
Lorena Hernandez
Jaime Martinez
Tony Rodriguez
Oscar Garcia
Margie Recio
Janie Velasquez
Memo Rico
Jorge Montero
Tony Rodriguez
Jose Herrera

OTHERS PRESENT: Jorge de la Colina
Ken Schaefer

1. Meeting Called To Order

The Chairman called the meeting to order at 5:34 p.m.

2. Public Audience

No person registered to address the Board.

3. Receive Director's Report

a. Receive Port Monthly Operations Summary Report

Chairman Reed thanked Mr. Chavez for the project status table provided in his report. Chairman Reed asked Mr. Chavez to add the date the project was approved and the date the project started to his reports in the future.

Chairman Reed also asked Mr. Chavez regarding the status of Hanson Engineering's report. Mr. Chavez provided an update to the Board and noted that the report had been completed and was under review by staff.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Regular Board Meeting of September 23, 2020.
- b. Approval to authorize payments over \$25,000.00:
 1. Foremost Paving, Inc., the amount of \$158,736.00, for BND South Port Connector Project;
 2. HDR Engineering, Inc., the amount of \$11,899.00, for BIH Task Order #3; and
 3. Russell Marine LLC., the amount of \$80,100.00, for Oil Dock 3 Crane Supports.

Mr. Campirano noted that Item 4b2 was reimbursable to the Port.

Commissioner Wood asked Mr. Chavez for additional information about the status of the Port Connector project. Mr. Chavez provided a report on the status of the project.

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

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

Mr. Tyndal addressed the Board regarding the following items:

1. Interlube Corp., Inc. (License Agreement)

Interlube Corp., Inc. is requesting a license agreement with the District. The purpose of the easement is for pipelines that will run from the lease terminal under BND Contract 4150 to the Liquid Cargo Dock #6. It will be effective as of October 7, 2020, for 10 years. Also, after the 10 years the Agreement will continue for as long as Interlube Corp, Inc. has an active lease or until the lines are abandoned. Commissioner Lopez moved to approve the License Agreement with Interlube Corp., Inc., Commissioner Guerra seconded, and the motion passed unanimously.

2. Brownsville Public Utilities Board (Authority to negotiate)

Brownsville Public Utilities Board is requesting to purchase a 10 ft. wide sanitary sewer and utility easement located at S.H. 48 with west ROW line of Chicago Gardens drain ditch. Their current BND Contract # 3817 expired September 30, 2020 and they would like to purchase instead of leasing. The lease is to take effect October 1, 2020. Chairman Reed asked that BPUB pay for the

appraisal required. Commissioner Guerra moved to authorize staff to negotiate with Brownsville Public Utilities Board for a new lease or the purchase of an easement, Commissioner Lopez seconded, and the motion passed unanimously.

3. Online Transport International, Inc. (**Authority to negotiate**)

Online Transport International, Inc. is the owner of the Port's old Gottwald mobile harbor crane. The crane is essential to Work Cat, the container on barge service operating on Dock 10. OTI is requesting Authority to Negotiate to store a container crane when not in use in proximity to Dock 10. Commissioner Wood moved to authorize staff to negotiate with Online Transport International, Inc. for a new lease, Commissioner Cowen seconded, and the motion passed unanimously.

4. Brownsville Acquisition, Inc. c/o Callidus Capital Corporation (**Authority to negotiate**)

Brownsville Acquisition, Inc. c/o Callidus Capital Corporation is requesting a new lease for the purpose of metals & plastics recycling. This is for one of the properties that Brownville Acquisition, Inc. c/o Callidus Capital Corporation requested to keep after the Bankruptcy settlement under Texas Best Recycling BND Contract #3979. Commissioner Wood asked would hold the option to renew the lease term - the lessee or the Port. Mr. Tyndal noted that it would be the lessee's option. Mr. Campirano also noted that the term of the lease would be only what is left on the old Texas Best Recycling lease. Commissioner Lopez moved to authorize staff to negotiate with Brownsville Acquisition, Inc. c/o Callidus Capital Corporation for a new lease, Commissioner Cowen seconded, and the motion passed unanimously.

5. Andalusian Energy, LLC. (**New Lease**)

Andalusian Energy, LLC. currently has an Option to Lease with the Port; BND #4382A. The Option to Lease expires on October 19, 2020 with no renewals. Andalusian Energy, LLC is requesting a lease for 4.25 acres (subject to change with any adjustments resulting from survey). This will be for a primary location for a compressor station to compress natural gas and load proprietary specialized shipping containers. The new lease is to take effect October 20, 2020. Commissioner Lopez noted that he would be abstaining. Commissioner Guerra moved to approve and sign the new lease to Andalusian Energy, LLC, Commissioner Cowen seconded, and the motion passed by a vote of 4-0, with Commissioner Lopez abstaining.

6. Magic Valley Concrete, LLC (**New Lease**)

Magic Valley Concrete, LLC is requesting a new lease for the purpose of concrete batch plant. The lease is to take effect October 6, 2020 and replaces expired BND Contract #3730. Commissioner Lopez moved to approve and sign the new lease to Magic Valley Concrete, LLC., Commissioner Wood seconded, and the motion passed unanimously.

7. Bryant Industrial Services, LLC (**New Lease**)

Bryant Industrial Services, LLC. is requesting a new lease for the purpose of an office building. The lease is to take effect September 16, 2020 and replaces expired BND Contract #3804. Commissioner Wood asked if any utilities needed to be extended to the site. Mr. Campirano noted that no new utilities needed to be extended. Commissioner Cowen moved to approve and sign the new lease to Bryant Industrial Services, LLC, Commissioner Lopez seconded, and the motion passed unanimously.

6. Consideration and Action on Fourth Amended Order and Third Amended Notice for an election to be held on November 3, 2020 for the purpose of electing three Navigation and Canal Commissioners. *(Consideración y acción sobre cuarto Enmienda Orden y tercer Enmienda de Aviso de elección que se celebrará el 3 de noviembre de 2020 con el propósito de elegir tres Comisionados de Navegación y Canal*

Mrs. Recio addressed the Board requesting review on the Fourth Amended Order and Third Amended Notice for an election to be held on November 3, 2020 for the purpose of electing three Navigation and Canal Commissioners. On September 29, 2020 the Cameron County Commissioners Court held a meeting where they accepted a grant award from the Center for Tech and Civic Life for funds to be used to set up Early Voting Super Center Sites for the upcoming November 3rd Election. The locations designated are the Brownsville Events Center and Harlingen Convention Center. The Early Voting site for Port Isabel has moved from the City Hall to the Convention Center. Also, the Brownsville Independent School District has also been added as an additional Early Voting Location. Therefore, this Order and Notice of General Election must be amended to reflect these changes. Commissioner Wood moved to adopt the Fourth Amended Order of Election and Third Amended Notice of General Election for an election to be held on November 3, 2020 for the purpose of electing three Navigation and Canal Commissioners, Commissioner Guerra seconded, and the motion passed unanimously.

7. Consideration and Action on a Resolution in the Matter of Holding a General Election for the Purpose of Electing Three Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas. *(Consideración y acción a una Resolución para celebrar una Elección General con el Propósito de Elegir tres Comisionados de Navegación y del Canal del Distrito de Navegación de Brownsville del Condado de Cameron, Texas.*

Mrs. Recio addressed the Board requesting review on a Resolution in the Matter of Holding a General Election for the Purpose of Electing Three Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas. This is the more detailed document that lays out the specific parameters of the election. The Election Day precincts are named and defined, particularly where there are combined precincts, and the early voting dates, times and locations are specified. This document officially appoints the Presiding Judges for each of the polling places, the Early Voting Clerk, and the Early Voting Ballot Board Presiding Judge. It also adopts the voting systems to be used in the election. Other necessary actions for the election process are also authorized in this Resolution. Commissioner Guerra moved to adopt the Resolution in the Matter of Holding a General Election for the Purpose of Electing Three Navigation and Canal Commissioners of the Brownsville Navigation District of Cameron County, Texas, Commissioner Wood seconded, and the motion passed unanimously.

8. Consideration and Action on the Grantee/Operator's Agreement between the Brownsville Navigation District – Foreign Trade Zone No. 62 and Texas KLM LLC, dba KLM Terminal.

Mr. Rodriguez addressed the Board requesting authorization on the Grantee/Operator's Agreement between the Brownsville Navigation District – Foreign Trade Zone No. 62 and Texas KLM, LLC, dba KLM Terminal. Texas KLM LLC, dba KLM Terminal is requesting to activate approximately 5 acres of their liquid bulk terminal in the Port of Brownsville Turning Basin. The purpose of their operation is to store and transfer base oil lubricants and related products. Commissioner Lopez

moved to authorize that Texas KLM LLC, dba KLM Terminal be an Operator of FTZ No. 62, Commissioner Cowen seconded, and the motion passed unanimously.

9. Consideration and Action on request to authorize staff to advertise for bids on Disposal of Oily Water from Fishing Harbor Sewer Treatment Plant and to open bids thereof.

Mr. Garcia addressed the Board requesting the authorization for Staff to advertise for bids on Disposal of Oily Water from Fishing Harbor Sewer Treatment Plant and to open bids thereof. BND Staff is seeking authorization to advertise for bids for the disposal of oily water from the Fishing Harbor Sewer Treatment Plant, and to open bids once received. Bids will then be tabulated and presented to the Board for consideration to award an annual contract for their service. Commissioner Lopez moved to authorize BND Staff to advertise, and open bids on the annual contract for Disposal of Oily Water from the Fishing Harbor Sewer Treatment Plant, Commissioner Guerra seconded, and the motion passed unanimously.

10. Consideration and Action on Bids received for the Bulk Cargo Dock Platforms project, and to authorize BND Staff to issue the Notice of Award to the successful bidder.

Mr. Chavez addressed the Board requesting review on Bids received for the Bulk Cargo Dock Platforms project, and authorization for BND Staff to issue the Notice of Award to the successful bidder. BND Engineering Staff worked with consultant EDG, Inc., Consulting Engineers (EDG) on the construction phase of the Bulk Cargo Dock Improvements project, completed last year. After completion of the new Dock Fendering structure, the Harbor Master requested installation of platforms to facilitate safe access from vessels to the dock and BND Staff engaged EDG to design the platforms. EDG completed bid drawings and specifications for the platforms and HMO and BND Engineering staff reviewed and concurred with the design. On August 12, 2020, BND Commissioners authorized BND Engineering Staff to publish the Invitation to Bid in the local newspaper. The invitation was published on August 31 and September 7, 2020 and bids were opened on September 17, 2020. As shown in the Bid Opening Tabulation, staff received seven bids, the lowest of which was deemed unresponsive due to not submitting the bid security as indicated in the bid document. As shown in the Itemized tabulation of the six responsive bids, the lowest responsive bidder was A&I Custom Manufacturing, LLC at \$384,518.00. Commissioner Lopez moved to award the contract for the Bulk Cargo Dock Platforms project to lowest responsive bidder A & I Custom Manufacturing, LLC in the amount of \$384,518.00 and authorized BND Staff to issue the Notice of Award, Commissioner Cowen seconded, and the motion passed unanimously.

11. Consideration and Action on Change Order #1 to the contract with RenoWorks on the 2020 Turning Basin WWTP Clarifier Rehabilitation project, to add structural repairs to the drive cage, sandblasting, coating and painting metal surfaces, replace concrete re-grading with concrete repairs including MP3 caulking at perimeter weir, and adjust the contract time as required.

Mr. Chavez addressed the Board requesting the acceptance or rejection of Change Order #1 to the contract with RenoWorks on the 2020 Turning Basin WWTP Clarifier Rehabilitation project, to add structural repairs to the drive cage, sandblasting, coating and painting metal surfaces, replace concrete re-grading with concrete repairs including MP3 caulking at perimeter weir, and adjust the contract time as required. On March 4, 2020 BND Commissioners authorized BND Staff to publish

an invitation to bid on the 2020 Turning Basin Wastewater Treatment Plant (WWTP) Clarifier Rehabilitation project, and to open bids once received. On May 28, 2020 bids were opened with RenoWorks being the responsive low bidder with a total bid of \$146,325.50, and on June 3, 2020 BND Commissioners awarded the contract to RenoWorks. After the clarifier was drained and dried, other issues became visible, including structural deficiencies in the drive cage, and the need for sandblasting, painting and coating of metallic surfaces. Also, while the base did not require regrading, the corners showed seepage leaks in need of repair and the perimeter weir sealant was worn out. BND Staff believes all these issues should be addressed while the clarifier is dry. Contractor has submitted a proposal to perform the above extra work for \$35,475.00, and to replace the concrete work at the base with the concrete repairs in the corners and include the perimeter weir sealant. Contractor also requests 14 additional calendar days to complete the extra work. Commissioner Cowen moved to approve Change Order #1 to the contract with RenoWorks on the 2020 Turning Basin Wastewater Treatment Plant (WWTP) Clarifier Rehabilitation project and increase the contract price by \$35,475.00 to \$181,800.50, and extend the contract time by 14 calendar days for the extra work, Commissioner Lopez seconded, and the motion passed unanimously.

12. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to discuss with attorneys pending or contemplated litigation, including The City of Port Isabel, Texas, JJ Zamora, and Martin Cantu vs. Brownsville Navigation District of Cameron County, Texas, 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 Cowen moved to adjourn into executive session, Commissioner Lopez seconded, and the motion passed unanimously. The Chairman then announced that the time was 6:12 p.m., and that the Board would adjourn into executive session.

The Chairman then announced that the time was 6:35 p.m. and that the Board had reconvened in open session.

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

There was none.

14. Adjournment.

Commissioner Lopez moved to adjourn the meeting, Commissioner Guerra seconded, and the meeting was adjourned by unanimous consent at 6:35 p.m.

ATTEST

Secretary



John Reed
Chairman of the Board