

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD FEBRUARY 16, 2022 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, February 16, 2022 at 5:30 p.m.** The following individuals were present and absent:

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

ABSENT: None

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

STAFF MEMBERS: Melinda Rodriguez
Arturo Gomez
Jaime Martinez
Ariel Chavez
Zeus Yanez
Chief Carlos Garcia
Michael Davis
Margie Recio
Janie Velasquez
Memo Rico
Karina Franco
Jose Herrera

OTHERS PRESENT: Rev. Andreas Lewis
Carlos Gonzalez
Monica Gonzalez
Remi Garza
Kevin Garcia
Members from Leadership Brownsville Class 37
Jorge de la Colina

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

No person registered to address the Board.

The Chairman then announced that the Board would take up item 6.

6. Proclamation of the Board of Navigation and Canal Commissioners of the Brownsville Navigation District honoring the life and legacy of Antonio “Tony” Gonzalez, Jr.

Commissioner Cowen read a proclamation of the Board honoring Antonio “Tony” Gonzalez, Jr. and presented the proclamation to the family.

3. Receive Director’s Report

a. Receive Port Monthly Operations Summary Report

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

b. Presentation on South Port Connector

Mr. Chavez addressed the Board and presented on South Port Connector.

CONSENT AGENDA

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

a. Approval of the Minutes of the Regular Board Meeting of February 02, 2022.

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

1. Foremost Paving, the amount of \$284,012.43, for BND South Port Connector.

5. Consideration and Action on Solid Waste Collection and Disposal License Renewal Application for:

- Republic Services
- Brownsville GMS, LTD

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

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

Ms. Rodriguez addressed the Board regarding the following items:

1. Logar Enterprises Inc. dba Labor One Staffing – Careers of America (**Landlords Consent and Waiver**)

Logar Enterprises, Inc. dba Labor One Staffing - Careers of America lessee (BND Contract #4519) has secured a loan through Zions Bancorporation, N.A. dba Amegy Bank for its operations at the Port of Brownsville. This Landlords Consent and Waiver is being required by the bank so that lessee may secure the loan. Legal Counsel has reviewed the agreement and concurs that it is ready for consideration by the BND Commission. Commissioner Reed moved to approve and sign the Landlords Consent and Waiver with Logar Enterprises Inc. dba Labor One Staffing – Careers of America, Commissioner Wood seconded, and the motion passed unanimously.

2. Gulf Stream Marine, Inc (**Authority to Negotiate**)

The lease with Gulf Stream Marine, Inc. under BND contract #3989 expired on February 1, 2022, with no renewal options. The lessee seeks Authority to Negotiate a new lease for a term of five years with one renewal option of 5 years. The site is located at 901 S. Windhaus Rd. Purpose clause: Maintenance department to support stevedore and terminal handling. Commissioner Guerra moved to approve the Authority to Negotiate for Gulf Stream Marine, Inc., Commissioner Wood seconded, and the motion passed unanimously.

3. Mark and Patti Barnard (**Amendment to Lease**)

Mark Barnard & Patti Barnard are a current lessee under Fish Camp Agreement #3113 for the property located on Hwy 4 known as Fish Camp #11. Lessee seeks an amendment to renew the lease for 7 years to expire on November 24, 2028. Lease is to be paid annually. In addition, the terms of the agreement are that BND reserves the right to terminate the Fish Camp Lease at any time for any reason upon 30 day written notice and the lessee shall have 6 months from the date of termination to remove any existing improvements, during which time lessee is still required to pay rent at the BND current standard rate. Commissioner Reed moved to approve the Amendment for the Fish Camp for Mark Barnard & Patti Barnard, Commissioner Wood seconded, and the motion passed unanimously.

4. TransMontaigne Operating Company, L.P. (**Amendment to Lease**)

TransMontaigne Operating Company, L.P. is a current lessee under BND Contract # 3307, Amendment M was done to reduce the lease premises from 164.42 acres to 158.995 acres (-5.425 acres) to be used in connection with Oil Dock # 6 project effective 01/01/2017. It provided that, upon the Port's completion of the Oil Dock # 6 project, the Port will designate such portions of the 5.425-acre tract that it deems, in its commercially reasonable discretion necessary for placement of utilities, pipeline easements, and a road to provide access to the liquid cargo docks. TransMontaigne Operating Company, L.P. is requesting to lease the remaining 3.168 acre for the purpose of liquid bulk storage. Commissioner Reed moved to approve the Amendment to Lease for TransMontaigne Operating Company, L.P., Commissioner Cowen seconded, and the motion passed unanimously.

5. Motus Energy, LLC (**Option to Lease**)

Motus Energy LLC a current lessee under BND contract #3964 & #4026 seeks an Option to Lease an additional location of 15.67 acres for a period of one year to be identified as Motus T3. Purpose clause: Terminal Operations for liquid bulk commodities, Cryogenic storage for gas commodities, Micro LNG production, Petroleum refined products and component storage, storage refined motor fuels, multi lane truck racks and a railcar loading rack. Commissioner Guerra moved to approve the Option to Lease for Motus Energy, LLC, Commissioner Wood seconded, and the motion passed unanimously.

6. Motus Energy, LLC (**New Lease**)

Motus Energy LLC (Motus T1 & T2) a current lessee under BND contract #3964 & #4026 seeks a new lease for an additional location for a one-year term. Property of interest is located on the corner south of Ostos Road and east of the South Port Connector Road (across from the Motus T2 Terminal). Purpose clause: short term lease site to park connector vehicles and stage materials for

active construction at Motus T1 & Motus T2. Commissioner Wood moved to approve a new lease for Motus Energy LLC, Commissioner Reed seconded, and the motion passed unanimously.

8. Consideration and Action to approve payment of the audit adjustment for the Worker's Compensation premium for the 2020/2021 policy year to the Texas Municipal League Intergovernmental Risk Pool in the additional amount of \$14,316.00.

Ms. Recio addressed the Board requesting approval of payment of the audit adjustment for the Worker's Compensation premium for the 2020-2021 policy year to the Texas Municipal League Intergovernmental Risk Pool in the additional amount of \$14,316.00. TML performs an annual audit of the Worker's Compensation payrolls at the end of each policy year. This generally occurs in November or December. The audit showed that the District's actual payroll was higher than the estimated payroll amount. This has generated an additional Worker's Compensation premium of \$14,316.00. The original premium for 2020/2021 was \$141,388.00. The adjusted premium is \$155,704.00. Commissioner Reed moved to approve payment to Texas Municipal League in the amount of \$14,316.00 for the audit adjustment for the Worker's Compensation Insurance premium for the 2020/2021 policy year, Commissioner Cowen seconded, and the motion passed unanimously.

9. Consideration and Action on an Order and Notice of an election to be held on May 7, 2022 for the purpose of electing two Navigation and Canal Commissioners. (*Consideracion y accion a una Orden y Aviso de eleccion que se celebrara el 7 de mayo de 2022 con el proposito de elegir dos comisionados de navegacion y del canal.*)

Ms. Recio addressed the Board requesting approval on an Order and Notice of an election to be held on May 7, 2022 for the purpose of electing two Navigation and Canal Commissioners. The Order of Election is the official document that authorizes a political subdivision to hold an election. The order sets out the date of the election, the purpose of the election, information about filing for a place on the ballot and information about the early voting sites. The Notice of Election has some of the information that is included in the Order of Election but also includes the Election Day polling places. Under the Water Code, the District is required to advertise in the Newspaper four times. The first publication date must be between the 46th and 32nd day before the election. This is between March 22 and April 5. The scheduled dates for the Notice of Election to be published is April 4 (33rd day before the election), April 11, April 18 and April 25. The last publication date will run on the first day of early voting. Staff will also have the Notice of Election posted on the District's website and in the common area where the District's Agendas are posted. Commissioner Guerra asked for clarification on the status of the Rancho Viejo and Cameron Park voting sites. Remi Garza addressed the Board noting that voting sites could be added at the request of individual government entities, but the costs associated with such additions would be the responsibility of the requesting entity. Commissioner Reed moved to adopt the Order of Election and Notice of General Election for an election to be held on May 7, 2022 for the purpose of electing two Navigation and Canal Commissioners, Commissioner Cowen seconded, and the motion passed unanimously.

10. Consideration and Action on a Contract for a Joint Election and Election Services with the Cameron County Election Administrator for the May 7, 2022 General Election. (Consideracion y accion para un contrato conjunto y servicios para la eleccion con el administrador de elecciones de Condado de Cameron para el dia 07 de mayo de 2022 elecciones generals.)

Ms. Recio addressed the Board requesting approval on a Contract for a Joint Election and Election Services with the Cameron County Election Administrator for the May 7, 2022 General Election. Staff has received the Contract for Election Services from Remi Garza, Cameron County Elections Administrator, for the District's May 7, 2022, election. Attachment A to the contract lists the Election Day Polling Places. Attachment B is a listing of the election judges to be used in the election and other poll workers who have already been identified, the listing is subject to change. Attachment C is the schedule of dates and times for Early Voting. Attachment D is the Election Cost Estimate. The District's pro-rata share for this election is projected to be \$123,698,88, assuming that TSC does hold an election. This is an estimated cost, based on estimates of voter activity derived from previous elections. Circumstances may cause the actual costs to increase. The contract has been reviewed by Staff and the District's Legal Counsel. Commissioner Reed moved to approve the Contract for Election Services with the Cameron County Elections Administrator in the estimated amount of \$123,698.88, Commissioner Guerra seconded, and the motion passed unanimously.

11. Consideration and Action to extend the agreement for Security Services at the Fishing Harbor Between the District and American Surveillance Company, Inc. for one year.

Mr. Yanez addressed the Board requesting authorization to extend the agreement for Security Services at the Fishing Harbor between the District and American Surveillance Company, Inc. for one year. The District contracts for Security Services at the Fishing Harbor with American Surveillance Co., Inc. Their original contract executed on March 1, 2017, for a period of three years, included an option for three additional one-year terms provided no increase in rates. American Surveillance has submitted a letter to confirm the same rates will apply for another year. This will be the 3rd of three one-year extensions allowed. Commissioner Guerra moved to authorize the extension of this agreement for one year, March 1, 2022 through February 28, 2023, Commissioner Wood seconded, and the motion passed unanimously.

12. Consideration and Action to authorize Port Staff to Advertise for bids on the Date Frequency Radio Access Project.

Mr. Martinez addressed the Board requesting authorization for Port Staff to advertise for bids on the Date Frequency Radio Access Project. The shrimp basin camera system is currently no longer connected to the camera network due to it being obsolete and incapable of tolerating extreme weather conditions. In order to meet the network system and security needs, point-to-point high-end dual band access points and Ruckus-SFP Transceiver Modules are necessary to be compatible with the rest of the network. They will provide proper frequency levels to create a strong air data

environment and are appropriate for the extreme weather conditions. This will allow for necessary video and constant data communication access from the shrimp basin to the Harbor Master Office and Port Police and Security. Commissioner Reed moved to authorize the preparation of an invitation to bid on the Date Frequency Radio Access Project as per specifications to be published in the local newspaper and the port's website as required by BND Purchasing Procedures and to open bids once they are received, Commissioner Cowen seconded, and the motion passed unanimously.

13. Consideration and Action to authorize Port Staff to Advertise for Bids on pipe and materials for the planned BND Water Distribution Lines Replacement projects, and open bids received.

Mr. Chavez addressed the Board requesting authorization for Port Staff to advertise for bids on pipe and materials for the planned BND Water Distribution Lines Replacement project, and open bids received. On December 1, 2021 BND Staff presented the BND Master Plan for Water & Wastewater System improvements to BND Commissioners including multiple projects for the current and following Fiscal Years and beyond. Several of those projects are scheduled to be performed in Fiscal Years 2022 and 2023. In recognition of the continuing rise in cost of and the increasing lead time for materials, BND Staff is requesting authorization to Advertise for Bids on a local newspaper for the pipe and materials for the projects scheduled for Fiscal Years 2022 and 2023. BND Staff will also notify known suppliers by email and/or phone to invite them to bid. The Plan is to publish an Invitation to Bid on pipe for the projects planned for Fiscal Years 2022 and 2023 on February 21 and 28, 2022 and open bids on or after March 8, 2022 for consideration and action by BND Commissioners on the March 16 or April 6, 2022 Board Meeting. Additional Invitations to Bid would also be published for fittings and appurtenances as required. Bids would then be tabulated, reviewed by Staff, and then recommendations will be prepared as required for consideration and possible award of the purchase by BND Commissioners. Commissioner Reed asked staff to contact suppliers to check prices as well. Commissioner Reed moved to authorize publishing of the Invitations to Bid on the materials for the BND Water Distribution Lines Replacement projects as required by BND Purchasing procedures, and to open bids once they are received, Commissioner Guerra seconded, and the motion passed unanimously.

14. Consideration and Action to award the Oil Dock No. 6 East Side Pipe Bridge project based on bids received, and to authorize BND Staff to issue the Notice of Award to the successful bidder.

Mr. Chavez addressed the Board requesting authorization to award the Oil Dock No. 6 East Side Pipe Bridge project based on bids received, and to authorize BND Staff to issue the Notice of Award to the successful bidder. As authorized by BND Commissioners on January 19, 2022, BND Staff published the Invitation to Bid on the Oil Dock #6 East Side Pipe Bridge project on January 24 and 31, 2022 in the local newspaper and also contacted known paving contractors by email and phone. A Mandatory Pre-Bid Meeting was held on February 1st, 2022 with several potential bidders and suppliers attending. The Bid Opening was originally scheduled for February 8, 2022 and was changed to February 9, 2022. On that date, five bids were received, with the lowest bid coming from R.M. Walsdorf in the amount of \$376,591.30. After review, all bids were deemed to be responsive, with the highest bidder having a mathematical error. Commissioner Reed moved to award the contract for the Oil Dock #6 East Side Pipe Bridge project to lowest responsive bidder R.M. Walsdorf in the amount of \$376,591.30 and to authorize BND Staff to issue the Notice of

Award, Commissioner Wood seconded, and the motion passed unanimously.

15. Consideration and Action award the South Yard Track Expansion – Ostos Road Pavement project based on bids received, and to authorize Staff to issue the Notice of Award to the successful bidder.

Mr. Campirano asked that the item be tabled. Commissioner Guerra moved to table this item, Commissioner Wood seconded, and the motion passed by a vote of 4-1 with Commissioner Reed voting Nay.

16. Consideration and Action on Change Order No. 1 to the South Port Connector Road project contract, for the purpose of adjusting contract quantities of Sealed Expansion Joint; Barricades, Signs and Traffic Handling; Lime for Subgrade Treatment; and Mow Strip Riprap from bid to actual.

Mr. Chavez addressed the Board requesting approval on Change Order No. 1 to the South Port Connector Road project contract, for the purpose of adjusting contract quantities of Sealed Expansion Joint; Barricades; Signs and Traffic Handling; Lime for Subgrade Treatment; and Mow Strip Riprap from bid to actual. BND Staff has been working for the last three years with the Texas Department of Transportation (TxDOT), the County of Cameron, 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 R. L. Ostos Road in the Port to Texas State Highway No.4 (SH 4, or Boca Chica Boulevard). On March 4, 2020 BND Commissioners awarded the contract to Foremost Paving, Inc. in the amount of \$25,615,348.60. During construction, field quantities for several contract bid items were changed, namely, the Sealed Expansion Joint; the Barricades, Signs and Traffic Handling; the Lime for Subgrade Treatment; and the Mow Strip Riprap. This Change Order No.1 adjusts the quantities on these items to conform to actual quantities used in the field. Commissioner Guerra moved to approve Change Order No. 1 to the contract with Foremost Paving, Inc. for the South Port Connector Road project, reducing the contract price by \$61,804.10 from \$25,615,345.60 to \$25,553,544.50, Commissioner Cowen seconded, and the motion passed unanimously.

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, including the annual evaluation of the Port Director / Chief Executive Officer (§551.074); and to conduct deliberations regarding economic development negotiations (§551.087).

Commissioner Guerra moved to adjourn into executive session, Commissioner Cowen seconded, and the motion carried unanimously. The Chairman then announced that the time was 6:35 p.m., and that the Board would adjourn into executive session.

The Chairman then announced that the time was 7:48 p.m. and that the Board had reconvened in open session.

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

There was none.

19. Adjournment.

Commissioner Guerra moved to adjourn the meeting, Commissioner Wood seconded, and the meeting was adjourned by unanimous consent at 7:48 p.m.

ATTEST



Esteban Guerra, Secretary



Sergio Tito Lopez
Chairman of the Board