

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD MARCH 01, 2023 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, March 01, 2023 at 5:30 p.m.** The following individuals were present and absent:

PRESENT: Esteban Guerra, Chairman
Ralph Cowen
Sergio Tito Lopez
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: Ariel Chavez
Michael Davis
Chief William Dietrich
Arturo Gomez
Jose Herrera
Jaime Martinez
Jorge Montero
Margie Recio
Tony Rodriguez
Melinda Rodriguez
Janie Velasquez
Zeus Yanez

OTHERS PRESENT: Rev. Andreas Lewis
Jorge De La Colina
David Keane
Ernesto Gutierrez
Fabian De La Garza
Hugo Sanchez
Brent Moore
Stacy Brunn
Isidro Cantu
Christopher Basaldú
Gloria Thomas
Emma Guevara

1. Meeting Called To Order

The Chairman called the meeting to order at 5:35 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

Emma Guevara addressed the Board regarding Item 8(1).

Christopher Basaldú addressed the Board regarding Item 8(1).

Gloria Thomas addressed the Board regarding Item 8(1).

Chairman Guerra announced that executive session would be taken out of order.

18. 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 Wood moved to adjourn into executive session, Commissioner Cowen seconded, and the motion passed unanimously. The Chairman then announced that the time was 5:45 p.m., and that the Board would adjourn into executive session.

Commissioner Reed moved to reconvene in open session, Commissioner Wood seconded, and the motion passed unanimously. The Chairman then announced that the time was 6:32 p.m., and that the Board had reconvened in open session.

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

There was none.

3. Receive Director's Report

a. Receive Directors Reports

The Board received the reports. Commissioner Reed asked for an update on the status of the Chemical Road project. Mr. Chavez addressed the Board and 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 February 15, 2023.
- b. Approval to authorize payments over \$25,000.00:
 1. HDR Engineering, Inc., the amount of \$101,727.38, for BND Cargo Dock 3 Phase 1 Design.

Mr. Irwin noted that a correction in the minutes was needed to correctly state the acreage in the Steelcoast items.

Commissioner Reed moved to approve all consent agenda items with the correction to the minutes as noted by counsel, Commissioner Lopez seconded, and the motion passed unanimously.

5. Presentation and update from Industrial Asset Leasing LLC dba Forza Steel on the construction of their steel manufacturing facility.

Stacy Brunn, Isidro Cantu and Hugo Sanchez made a presentation to the Board on the construction of their facility.

6. Consideration of and Action on Resolution certifying review and adoption of the District's Investment Policy C501 (Local), Investment Strategy C501 (Exhibit A) and List of Approved Brokers/Dealers and Investment Pools C501 (Exhibit B).

Mr. Yanez addressed the Board requesting approval on the Resolution certifying review and adoption of the District's Investment Policy C501 (Local), Investment Strategy C501 (Exhibit A) and List of Approved Brokers/Dealers and Investment Pools C501 (Exhibit B). Chapter 2256 of the Texas Government Code (the "Public Funds Investment Act") requires the Board to review the District's Investment Policy, Investment Strategy, and list of Qualified Brokers annually, and to adopt a Resolution certifying this review and adopted changes, if any. Port Staff reviewed the Investment Policy, Investment Strategy and List of Approved Brokers/Dealers and Investment Pools and noted no revisions were necessary. Commissioner Reed moved to approve the Resolution certifying review and adoption of the District's Investment Policy C501(Local), Investment Strategy C501(Exhibit A), and list of Approved Brokers/Dealers and Investment Pools (Exhibit B) as presented, Commissioner Cowen seconded, and the motion passed unanimously.

7. Consideration of and Action to authorize the Port Director and CEO to execute an Extension of the Current Depository Services Contract between the Brownsville Navigation District and the Lone Star National Bank.

Mr. Yanez addressed the Board requesting authorization the Port Director and CEO to execute an Extension of the Current Depository Services Contract between the Brownsville Navigation District and the Lone Star National Bank. The current Depository Agreement contract ends on March 5, 2023. On February 10, 2023, staff acknowledged the receipt of seven proposals. Staff is currently in the process of evaluation the submitted proposals. Once the evaluation process is completed, staff will provide a recommendation on the provider of depository services for consideration and action. It is anticipated that the recommendation will be brought to the Board at the first meeting of April. Discussion followed regarding the time necessary to review the proposals and the reason for the extension. Commissioner Lopez moved to authorize the Port Director and CEO to execute an extension to the current depository services contract between the BND and Lone Star National Bank, under the current terms and conditions, until April 30, 2023, or such earlier time as a new depository agreement is executed and the District's funds are transferred, if applicable, Commissioner Wood seconded, and the motion passed unanimously.

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

Mr. Rentfro addressed the Board regarding the following item:

1. **Rio Grande LNG, LLC. (Third Amendment to Lease Agreement and First Amendment to Memorandum of Lease Agreement, Consent and Estoppel Certificate and Agreement, Lease Assignment, Facility Easement Agreement, TF sublease, CF Sublease)**

Rio Grande LNG, LLC is seeking approval for Third Amendment to Lease Agreement and First Amendment to Memorandum of Lease Agreement, Consent and Estoppel Certificate and Agreement, Lease Assignment, Facility Easement Agreement, TF Sublease and CF Sublease. Under the Rio Grande LNG lease, Rio Grande LNG reserved the right to sublease portions of the facility to affiliated companies, in order to operate one or more trains on the facility or to lease and operate facilities common to all the operations on the site. This document approves two such subleases, and also consents to easements across the entire site allowing the various sublessees to cross other subleased property on the site. In addition, there are certain agreements required by Rio Grande LNG's lender in order to move forward with the project loan, such as assurance that the Lease is in full force and effect. The Estoppel Certificate makes those representations. Finally, the most recent title examination for the lease, as well as a new survey, indicates that the leased acreage will go down by approximately 8.25 acres, from 984.01 acres to 975.78 acres. This, apparently, is due to a double counting of one or more "save and except" parcels in the original legal description. This change would be made by the Third Amendment to Lease Agreement. None of the documents release Rio Grande LNG from its primary responsibility for the obligations under the lease. Commissioner Reed moved to approve the Third Amendment to Lease Agreement and First Amendment to Memorandum of Lease Agreement, Consent and Estoppel Certificate and Agreement, Lease Assignment, Facility Easement Agreement, TF Sublease and CF Sublease, Commissioner Wood seconded, and the motion passed unanimously.

9. **Consideration and Action on the Grantee/Operator's Agreement between the Brownsville Navigation District Foreign Trade Zone No. 62 and Brownsville Gulfside Warehouse Inc.**

Mr. Rodriguez addressed the Board requesting approval on the Grantee/Operator's Agreement between the Brownsville Navigation District Foreign Trade Zone No. 62 and Brownsville Gulfside Warehouse Inc.. Brownsville Gulfside Warehouse Inc. is requesting to activate approximately 12,000 square feet to warehouse and the adjacent acres in the Port of Brownsville Turning Basin (Mineral Loop). The scope of the FTZ activation will be for general warehousing and storing of general cargos. Commissioner Lopez moved for Brownsville Gulfside Warehouse Inc. to be an Operator of FTZ No. 62, Commissioner Cowen seconded, and the motion passed unanimously.

10. **Consideration and Action on Bids received under the Request for Bids for purchase of Sand.**

Mr. Herrera addressed the Board requesting the award of contract on bids received for purchase of Sand. On February 1, 2023, the Board of Commissioners authorized BND Staff to advertise for Bids for Sand. Staff received and opened bids on February 23, 2023, with only one vendor submitting a bid. Commissioner Wood noted that the measurement should be in cubic yards, not square yards. Commissioner Lopez moved to award the Bid to Olmito Sand Pit at the price of \$17.30 per cubic yard, Commissioner Reed seconded, and the motion passed unanimously.

11. Consideration and Action on proposals received under the Request for Proposals for Hauling Services.

Mr. Herrera addressed the Board requesting the award on proposals received under the Request for Proposals for Hauling Services. On January 11, 2023, the Board of Commissioners authorized BND Staff to advertise for proposals for Hauling Services. Staff received and opened proposals on February 10, 2023. A total of three proposals were received. Vendors were evaluated and scored based on a pre-established criterion. Commissioner Lopez moved to award the purchase agreement to the two vendors with the highest scores designated as Primary Provider: J Molina Trucking, LLC and Secondary Provider: Rio Grande Hauling. The secondary provider would only be used if the primary provider cannot provide the District with the necessary services and/or if the services cannot be provided within the necessary timeframe, Commissioner Cowen seconded, and the motion passed unanimously.

12. Consideration and Action on proposals received under the Request for Proposals for Crushed Limestone.

Mr. Herrera addressed the Board requesting the award on proposals received under the Request for Proposals for Crushed Limestone. On January 11, 2023, the Board of Commissioners authorized BND Staff to advertise for proposals for Crushed Limestone. Staff received and opened proposals on February 10, 2023. A total of five proposals were received. Vendors were evaluated and scored based on pre-established criterion. Commissioner Lopez moved to award purchase agreements to the three vendors with highest scores designated as Primary Supplier: TD America Limestone Products, Secondary Supplier: Cal-ixa Aggregates, LLC., and Tertiary Supplier: Vulcan Materials Company. The secondary and tertiary supplier would only be used if the primary supplier cannot supply the District with the necessary quantities and/or if the product cannot be delivered within the necessary timeframe, Commissioner Wood seconded, and the motion passed unanimously.

13. Consideration and Action on License Agreement between Brownsville Navigation District and US Customs and Border Protection.

Mr. Campirano addressed the Board requesting approval on License Agreement between Brownsville Navigation District and US Customs and Border Protection. CBP is requesting access to BND property to deploy, operate, maintain, repair and remove two (2) temporary surveillance systems. BND can revoke the License Agreement at any time and for any reason. BND would provide written notice of revocation to CBP at least sixty (60) days of revocation. License Agreement was reviewed by legal counsel. Commissioner Lopez moved to approve License Agreement between Brownsville Navigation District and US Customs and Border Protection, Commissioner Cowen seconded, and the motion passed unanimously.

14. Consideration and Action on First Amendment to License Agreement between US Customs and Border Protection (CBP) and the Brownsville Navigation District to provide road access to existing boat ramp.

Mr. Campirano addressed the Board requesting approval on First Amendment to License Agreement between US Customs and Border Protection (CBP) and the Brownsville Navigation District to provide road access to existing boat ramp. The Brownsville Navigation District (BND) provided access to the CBP to access a boat ramp that was located on land adjacent to the port owned land. BND recently acquired the land where the boat ramp is located. CBP is requesting to amend the Agreement to include the newly acquired land to permit CBP to enter the property to maintain, repair and/or improve the existing boat ramp. Commissioner Lopez moved to approve the amendment to the License Agreement to allow CBP access to existing boat ramp, Commissioner Cowen seconded, and the motion passed unanimously.

15. Consideration and Action on proposal by HDR Engineering, Inc. for Construction Phase Professional Engineering Services for the DMPAs 5B, 7 & 8 Improvements needed for the BIH Deepening – Phase 2 project as required by the USACE, and to authorize the Port Director & CEO to execute Task Order #6.

Mr. Chavez addressed the Board requesting acceptance on proposal by HDR Engineering, Inc. for Construction Phase Professional Engineering Services for the DMPAs 5B, 7 & 8 Improvements needed for the BIH Deepening – Phase 2 project as required by the USACE, and to authorize the Port Director & CEO to execute Task Order #6. On July 6, 2022 BND Commissioners accepted a proposal from consultant HDR Engineering, Inc. (HDR) to repackage the Pre-construction Engineering and Design (PED) documents for Phase 2 of the Brazos Island Harbor Channel Improvement Project to USACE format. The repackaging included three tasks, one of which was Repackaging construction drawings and specifications of Placement Areas 5B, 7 & 8, which were completed and for which BND Commissioners awarded the contract on February 1, 2023. BND Staff requested and HDR provided a proposal for Construction Phase Professional Engineering Services for an estimated fee of \$747,901.00. The proposed fee is not to be exceeded without authorization by BND Commissioners. Commissioner Reed moved to accept the proposal from HDR Engineering, Inc. for Construction Phase Professional Engineering Services for the DMPAs 5B, 7 & 8 Improvements needed for the BIH Deepening – Phase 2 project as required by the U.S. Army Corps of Engineers for a Time-and-Materials fee amount of \$747,901.00 which will not be exceeded without authorization by BND Commissioners, and to authorize the Port Director & CEO to execute Task Order #6, Commissioner Cowen seconded, and the motion passed unanimously.

16. Consideration and Action to authorize Port Staff to Re-advertise for Bids on Installation of Casings by Bore & Jack as required for the Water Distribution Lines Replacement projects, and to open bids received.

Mr. Chavez addressed the Board requesting authorization for Port Staff to Re-advertise for Bids on Installation of Casings by Bore & Jack as required for the Water Distribution Lines Replacement projects, and to open bids received. After authorization from BND Commissioners to advertise for bids on December 21, 2022, for the Waterline Replacement Borings project, BND Staff is requesting authorization to re-advertise an Invitation to Bid on the Installation of the Casings by Jack and Bore. The first Invitation to Bid was published on the local newspaper on January 30, 2023, and February 6, 2023. However, no bids were received on the scheduled bid

opening date of February 21, 2023. This re-advertisement would be in conformance with our purchasing procedures. Bids would then be tabulated, reviewed by Staff, and then a Staff recommendation will be prepared and presented for consideration and award of the contract by BND Commissioners. Discussion followed regarding alternatives to re-advertising a request for bids, including BuyBoard. Commissioner Reed moved to authorize re-publishing of the Invitation to Bid on the jack and bore work for the BND Water Distribution Lines Replacement projects as required by BND Purchasing procedures, and to open bids once they are received, but also to seek contractors who could provide this service on BuyBoard, Commissioner Wood seconded, and the motion passed unanimously.

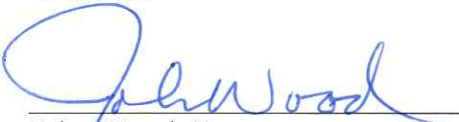
17. Consideration and Action on Change Order No. 1 to the 2023 Ostos Road Pavement Rehabilitation project, reducing the milling thickness, increasing the asphalt thickness, and adjusting the contract time to provide for the additional work.

Mr. Chavez addressed the Board requesting approval on Change Order No. 1 to the 2023 Ostos Road Pavement Rehabilitation project, reducing the milling thickness, increasing the asphalt thickness, and adjusting the contract time to provide for the additional work. On December 21, 2022 BND Commissioners awarded the contract on the 2023 Ostos Road Pavement Rehabilitation project to Foremost Paving Inc. (FPI) in the amount of \$6,189,807.20. At the request of BND Commissioners, pricing was obtained from FPI for an additional 2 inches of asphalt thickness beyond the 4 inches called for in the current contract, for a total of 6 inches of asphalt. FPI submitted a Change Order Proposal in the amount of \$754,200.69 for this change, for a new contract amount of \$6,944,007.89. In addition, FPI is requesting that the contract time be extended 7 calendar days to provide for the additional work required. Discussion followed regarding the manner in which the project was designed. Commissioner Reed asked Mr. Chavez to provide multiple options to the Board for consideration in future projects. Commissioner Reed moved to approve Change Order No. 1 to the 2023 Ostos Road Pavement Rehabilitation contract with Foremost Paving Inc., increasing the current \$6,189,807.20 contract amount by \$754,200.69, for a new contract amount of \$6,944,007.89 and extend the current contract time of 180 calendar days by 7 calendar days for a new contract time of 187 calendar days. BND Commissioners' motion should also include amending the Capital Budget to include this change, Commissioner Lopez seconded, and the motion passed unanimously.


20. Adjournment.

Commissioner Wood moved to adjourn the meeting, Commissioner Cowen seconded, and the meeting was adjourned by unanimous consent at 7:35 p.m.

ATTEST



John Wood, Secretary



Esteban Guerra
Chairman of the Board