

Car MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF CAMERON COUNTY, TEXAS HELD OCTOBER 04, 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, October 04, 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
Carlos Martinez
Chief William Dietrich
Arturo Gomez
Jose Herrera
Jorge Montero
Margie Recio
Tony Rodriguez
Melinda Rodriguez
Janie Velasquez
Zeus Yanez

OTHERS PRESENT: Rev. Andreas Lewis
Rolando Rubiano
Shannon Caraway
Jorge de la Colina
Leadership Brownsville
Nancy Gaytan
Carlton Reyes

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. Commissioner Lopez was not present at the start of the meeting.

2. Public Audience

No person registered to address the Board.

3. Receive Directors Report

The Board received the reports. Discussion followed.

Commissioner Reed asked Mrs. Rodriguez to inform the Board regarding any special staff events or activities. Commissioner Reed also asked Mrs. Rodriguez for an update on the status of review and revisions to the Port's procurement policy. Mrs. Rodriguez addressed the Board.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Regular Board Meeting of September 20, 2023.
- b. Approval to authorize payments over \$25,000.00:
 1. Foremost Paving, Inc., the amount of \$833,598.43, for 2023 Ostos Road Pavement Rehabilitation Project;
 2. Korn Ferry, the amount of \$42,477.10, for Talen Acquisition – Executive Search;
 3. HDR Engineering Inc., the amount of \$44,004.25, for Channel Improvement Project – Phase 2 Design Repackaging;
 4. RLB Contracting, Inc., the amount of \$531,727.20, for Placement Areas 5B, 7&8 Improvement Project.

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

Commissioner Lopez arrived at the meeting.

5. Presentation by Green, Rubiano & Associates' Rolando R. Rubiano, P.E. on alternatives for the roof repairs to sheds 12, 13 and 14 projects.

Rolando Rubiano made a presentation on alternatives for the roof repairs to sheds 12, 13 and 14 projects. Discussion followed.

6. Consideration and ACTION of a Resolution in support of the Shrimping Industry in South Texas.

Carlton Reyes addressed the Board of a Resolution in support of the Shrimping Industry in South Texas. Commissioner Cowen read the Resolution for the record. Commissioner Wood moved to approve the Resolution in support of the Shrimping Industry in South Texas, Commissioner Cowen seconded, and the motion passed unanimously.

7. Consideration and ACTION on Leases, Assignments, Negotiations, Easements, Subleases, and Contracts in General:

Mr. Gomez addressed the Board regarding the following items:

1. United Rentals Realty, LLC (**Authority to Negotiate**)

United Rentals Realty, LLC is interested in leasing approximately 10 acres located at 9185 Old S.H. 48 for the purpose of offices, outdoor storage, sales & rental equipment. Commissioner Lopez moved to table this item, Commissioner Reed seconded, and the motion passed unanimously. It was noted to staff that another location should be considered for this lease applicant.

2. Triple E Coating & Services, LLC dba Industrial Performance (**Authority to Negotiate**)

Triple E Coating & Services, LLC dba Industrial Performance is interested in leasing 2.715 acres located at 2980 Angler's Place Road currently being leased by Keppel AmFELS. Keppel AmFELS has notified the Port of Brownsville staff that they wish not to renew their lease which expires on November 17, 2023 and request a Release of Lease. Staff requested Authority to Negotiate a new lease for a term of one year with four renewal options of one year each. Commissioner Lopez moved to approve the Authority to Negotiate a lease with Triple E Coating & Services, LLC dba Industrial Performance, Commissioner Cowen seconded, and the motion passed unanimously.

3. CVC Construction dba Welding Works International (**Authority to Negotiate**)

CVC Construction dba Welding Works International, a current lessee seeks a new lease for 4.138 acres located at 3210 Dry Dock Court currently being leased by Keppel AmFELS. Keppel AmFELS has notified the Port of Brownsville staff that they wish not to renew their lease which expires on November 17, 2023 and request a Release of Lease. A term of one year with four renewal options of one year each has been requested. Commissioner Lopez moved to approve the Authority to Negotiate a lease with CVC Construction dba Welding Works International, Commissioner Reed seconded, and the motion passed unanimously.

8. Consideration and ACTION to award bid received for the Purchase and Delivery of 350 Cubic Yards (4000 PSI) of concrete.

Mr. Herrera addressed the Board to award bid received for the Purchase and Delivery of 350 Cubic Yards (4000 PSI) of concrete. On June 14, 2023, the Board of Commissioners authorized BND staff to solicit bids for 350 Cubic Yards of Concrete. This material will be utilized for the construction of 10,400 SF of slab to accommodate the two metal buildings that are being relocated from the Forza site to the BND Maintenance yard. The RFB was posted on Port website and on Bidnet. Local vendors were contacted through Bidnet, vendor websites, email, and direct phone calls. A total of six Bids were received and opened on September 28, 2023. The vendor with lowest Bid is J&R Services/JNR Lumber in the amount of \$64,575.00. Commissioner Reed moved to award the bid to J&R Services/JNR Lumber in the amount of \$64,575.00 for the purchase and delivery of 350 cubic yards of 4000 PSI Concrete, and to pay the invoice(s) once received, Commissioner Lopez seconded, and the motion passed unanimously.

9. Consideration and ACTION to authorize Port Director and CEO to enter into a Master Agreement for Professional Services with consultant R.R.P. Consulting Engineers, L.L.C. and approve Work Authorization 1 for the new Fishing Harbor Sewer Plant engineering design services.

Mr. Chavez addressed the Board requesting authorization for Port Director and CEO to enter into a Master Agreement for Professional Services with consultant R.R.P. Consulting Engineers, LLC and approve Work Authorization 1 for the new Fishing Harbor Sewer Plant engineering design

services. On June 7, 2023, BND Commissioners terminated the engagement with Hanson Engineering for the design of the New Fishing Harbor Wastewater Treatment Plant and authorized BND Staff to request a proposal for that work from consultant R.R.P. Consulting Engineers, LLC. (RRP, formerly S&B Infrastructure, Ltd.). RRP's proposal was submitted and reviewed but BND staff and consensus was reached on provisions and content of said proposal, identified as Work Authorization 1 (WA1). RRP also submitted a Master Agreement for Professional Services (Master Services Agreement, or MSA). Both the MSA and WA1 were routed to BND Legal Counsel and BND staff revisions. The final versions of the documents, after review and concurrence, are attached. In the WA1, RRP proposes to perform the design work and prepare plans and specifications for bidding and construction on a time-and-materials basis for a total estimated fee of \$485,009.00, which will not be exceeded without authorization from BND Commissioners. WA1 also includes construction phase support for the project. Commissioner Lopez moved authorize the Port Director and CEO to enter into a Master Agreement for Professional Services (MSA) with consultant R.R.P. Consulting Engineers, L.L.P. with the new provisions and execute any required documents for this action and approved Work Authorization 1 for design and construction phase engineering services on the New Fishing Harbor Wastewater Treatment Plant for a not-to-exceed time-and-materials fee of \$485,009.00, Commissioner Wood seconded, and the motion passed unanimously.

10. Consideration and ACTION on Resolution adopting an Advance Funding Agreement with the Texas Department of Transportation for the Reconstruction of Cargo Dock #3 project in the Port of Brownsville and designating a Project Manager.

Mr. Campirano and Mr. Chavez addressed the Board on a Resolution adopting an Advance Funding Agreement with the Texas Department of Transportation for the Reconstruction of Cargo Dock #3 project in the Port of Brownsville and designating a Project Manager. BND staff has been working with the Texas Department of Transportation (TxDOT) Maritime Division on a grant and on an Advanced Funding Agreement (AFA) for the Reconstruction of Cargo Dock #3 project in the Port of Brownsville off Windhaus Road approximately 0.81 miles South of Texas State Highway No. 48. The Advance Funding Agreement (AFA) must be executed between BND and the State for this work to take place. BND must adopt a Resolution or Ordinance approving the proposed AFA, which resolution will become part of the AFAs. In order to initiate the construction phase of the project, the State requires execution of the Resolution. The estimated cost of the Cargo Dock #3 Reconstruction is approximately \$35,000,000.00. Moreover, the Texas Transportation Commission just approved a grant in the amount of \$11,565,621.00 on their September 28, 2023 Meeting for the said Dock's reconstruction. Commissioner Reed moved adopt the resolution approving the Advance Funding Agreement with the State of Texas for the Reconstruction of BND Cargo Dock #3 project, and designate the BND Director of Engineering, Mr. Ariel Chavez II, P.E./R.P.L.S. as the Local Government (LG) Responsible Person in Charge (RPIC) and Project Manager (PM) for this endeavor, Commissioner Lopez seconded, and the motion passed unanimously.

11. Consideration and ACTION on Scope Change by HDR Engineering, Inc. on engineering services for newly required permitting for Cargo Dock #3 Reconstruction project, and to authorize the Port Director & CEO to execute the Scope Change proposal.

Mr. Chavez addressed the Board on Scope Change by HDR Engineering, Inc. on engineering

services for newly required permitting for Cargo Dock #3 Reconstruction project, and to authorize the Port Director & CEO to execute the Scope Change proposal. On April 6, 2022, BND Commissioners accepted a proposal from HDR Engineering, Inc. (HDR) to perform the final design tasks for the bidding and reconstruction of BND's Cargo Dock #3. HDR's proposal considered use of the Nationwide Permit for this reconstruction action. Due to regulatory changes to Nationwide Non-Notifying Permits and Pre-Construction Notifications (PCN) enacted shortly after the initiation of the project, additional Regulatory work needs to be performed to verify the applicability of NWP3 for this work and to complete the PCN. The previously authorized fee for this expense category did not reflect the additional effort required by this new regulatory guidance and has since been expanded by pursuing the required permits from the Texas Historical Commission. As a result, the scope now requires the addition of Task 009-Intensive Cultural Resources Survey. HDR proposed to perform the required work for an additional fee of \$33,086.00. Commissioner Reed moved to accept the Scope Change as proposed by HDR Engineering, Inc. for engineering services on the additional Task 009 of the Cargo Dock #3 Reconstruction project for an additional fee amount of \$33,086.00 which, with the previously authorized fee of \$1,028,255.00, results in a total fee of \$1,061,341.00, Commissioner Cowen 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, and matters in which the duty of the attorneys under the Rules of Professional Conduct clearly conflict with Chapter 551; to deliberate the purchase, exchange, lease, or value of real property; 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 Lopez moved to adjourn into executive session, Commissioner Cowen seconded, and the motion passed unanimously. The Chairman then announced that the time was 6:39 p.m., and that the Board would adjourn into executive session.

The Chairman then announced that the Board had reconvened in open session at 7:55 p.m.

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

There was none.

14. Adjournment.

Commissioner Cowen moved to adjourn the meeting, Commissioner Reed seconded, and the meeting was adjourned by unanimous consent at 7:55 p.m.

ATTEST



John Wood, Secretary



Esteban Guerra
Chairman of the Board