

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND  
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS HELD MAY 1, 2024 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, May 1, 2024 at 5:30 p.m.**

The following individuals were present and absent:

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

**ABSENT:** None

**ALSO PRESENT:** William Dietrich, Interim Port Director and CEO  
Daniel Rentfro, Jr. District Counsel  
William Irwin, District Counsel

**STAFF MEMBERS:** Miguel Barajas  
Ariel Chavez  
Michael Davis  
Arturo Gomez  
Jose Herrera  
Jorge Montero  
Margie Recio  
Memo Rico  
Tony Rodriguez  
Julio Romo  
Janie Velasquez  
Zeus Yanez

**OTHERS PRESENT:** Rev. Andreas Lewis  
John Cowen  
Susan Cowen  
Jorge de la Colina  
Eduardo Campirano  
Marisela Cortez  
Carlos Garcia  
Indira Soto  
Sean Strawbridge

**REGULAR MEETING**

**1. Meeting Called To Order**

The Chairman called the meeting to order at 5.35 p.m. Reverand 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.

## **3. Directors Report**

The Board received the reports.

## **CONSENT AGENDA**

### **4. Consideration and ACTION on the Following Consent Agenda Items:**

- a. Approval of the Minutes of the Regular Board Meeting of April 17, 2024.
- b. Approval to authorize payments over \$25,000.00:
  1. EarthCo, LLC, the amount of \$25,341.00, for 2023 Ostos Road Rehabilitation Project;
  2. HDR Engineering, Inc., the amount of \$54,026.25, for Placement Area 8 Study and Design, Cargo Dock 3 Phase 1 Design; and,
  3. RLB Contracting, Inc., the amount of \$1,158,677.10, for 2022 Placement Areas 5B, 7 & 8 Improvement Project.

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

## **PROCLAMATION**

### **5. Proclamation of the Board of Navigation and Canal Commissioners of the Brownsville Navigation District Honoring Commissioner Ralph Cowen.**

Chairman Guerra read a proclamation of the Board recognizing and honoring Commissioner Cowen for his years of service at the District and in the community. Commissioner Cowen then addressed the Board and those present regarding the accomplishments of the District and his service as a Commissioner.

## **ACTION ITEMS**

### **6. Consideration and ACTION to approve the Commercial Tenancy Termination Agreement with Brownsville Public Utilities Board.**

Mr. Dietrich addressed the Board regarding the Brownsville Public Utilities Board (“BPUB”) 150-acre lease agreement, contract #4030, for the purpose of sludge disposal, which expired on October 31, 2021 and continued on a month-to-month tenancy. The district initiated the request to terminate the agreement as it desired to use the premises as a dredge material placement area for the channel deepening project. The BPUB is amenable to surrendering its possession of the premises and terminating its tenancy as of September 30, 2023. Lessee prepared and submitted the closure plan to TCEQ and based on the review of the information provided, BPUB received confirmation from TCEQ that they met the closure requirements. This request is to approve the Commercial Tenancy Termination Agreement for BPUB and reimburse lease payments for October through December 2023 in the amount of \$27,520.14, plus the security deposit in the amount of \$25,261.50 for a total amount of \$52,781.64. Commissioner Reed moved to approve the agreement and reimbursement, Commissioner Lopez seconded, and the motion passed unanimously.

### **7. Consideration and ACTION on Leases, Assignments, Negotiations, Easements,**

## **Subleases, and Contracts in general.**

Mr. Dietrich addressed the Board regarding the following Items:

### **1. Bryant Industrial Services, LLC (Lease Amendment)**

Bryant Industrial Services, LLC is seeking an amendment to the lease for BND contract #4483 to amend the purpose clause. The purpose of the lease is for office space and the lessee wishes to amend the purpose to include sandblasting, painting, welding, fabricating, storing equipment, and a parking lot for the lessee's customers. For purposes of clarity, the lessee would not be authorized to allow third-party parking on the premises. The leased site is located at 2600 Callaway Drive. Commissioner Reed moved to approve the Lease Amendment, Commissioner Wood seconded, and the motion passed unanimously.

### **2. 905 / BMW, Inc. – Brownsville Gulfside Warehouse, Inc. (Consent to Assignment and Lease Amendment)**

905/BMW, Inc., under BND contract #4619, has entered into a contract for the sale and purchase of leasehold improvements. The lessee is requesting the Board's consent to assign their lease to Brownsville Gulfside Warehouse, Inc. This property is located at 8900 Old S.H. 48 and consists of 4-acres. Legal counsel has reviewed the agreement and concurs that it is ready for consideration by the BND Commission, subject to the closing of the sale/purchase of the building on the lease site. The amendment to the purpose of the Lease is for storage of bulk and break-bulk materials including bagged cement, ferrosilicon, steel and bauxite. Commissioner Lopez moved to approve the Consent and Amendment, subject to closing of the transaction within two weeks, Commissioner Reed seconded, and the motion passed unanimously.

### **3. Friends of RGV Reef (New Lease)**

This new lease to Friends of RGV Reef will replace BND contract #4435 for the site located at 501 Express Dock Road. The lessee seeks a new lease for a term of one year. The purpose of the lease is for storing bricks, concrete block, and rip rap for offshore development of an artificial reef. Commissioner Cowen moved to approve the New Lease, Commissioner Lopez seconded, and the motion passed unanimously.

### **4. Guadalupe Ochoa – 3200 Cajun Court (New Lease)**

Guadalupe Ochoa, a current lessee, seeks a New Lease for an additional site of 0.277-acres located in the Fishing Harbor at 3200 Cajun Court. The term for this new lease will be for one year with four renewal options of one year each. The purpose of this new lease is for shrimp operations, specifically the unloading and boat tie-up of shrimp and seafood vessels. Commissioner Lopez moved to approve the New Lease, Commissioner Wood seconded, and the motion passed unanimously.

**8. Consideration and ACTION on the Grantee/Operators agreement between the Brownsville Navigation District Foreign Trade Zone No. 62 and Forza Steel USA LLC.**

Mr. Rodriguez addressed the Board on Forza Steel USA LLC's request for FTZ activation for their steel pipe and tube fabrication facility. The purpose of the foreign trade zone status will be for storage, production of steel pipe, and tube fabrication. Commissioner Lopez moved to authorize the agreement, Commissioner Cowen seconded, and the motion passed unanimously.

**9. Consideration and ACTION to authorize Trustees of the Retirement Plan for the Employees of Brownsville Navigation District to enter into an Institutional Service Agreement with Morgan Stanley Smith Barney.**

Mr. Yanez addressed the Board that the District sponsors the Retirement Plan for the Employees of Brownsville Navigation District (the "Plan"). Over the past five years, through proper oversight and sound administration, the Plan's assets have grown and now exceed ten-million dollars. The assets are under management at Morgan Stanley. Hunter Stanco, our Morgan Stanley Advisor, has recommended that the plan transition from a retail contract to an institutional service agreement. In general, institutional service agreements are only offered by Morgan Stanley to clients that meet certain asset size thresholds. Through the institutional agreement, our advisor can offer lower fees than with a retail account. In addition, the contractual terms are less skewed in favor of Morgan Stanley and subject to negotiation. The Plan trustees worked with the District's general counsel and with William Fisher of Finston, Friedman, Fisher Law Group (legal counsel specialized in government sponsored benefit plans) to review the proposed institutional service agreement. Certain contractual terms were clarified and modified in favor of the District based on the review by legal counsel. Both legal counsels have revised the agreement and concur that it is ready for consideration. Commissioner Cowen moved to approve the Agreement, Commissioner Reed seconded, and the motion passed unanimously.

**10. Consideration and ACTION to purchase materials (limestone and geogrid) for Patio 22T – 19.94-acre laydown area development.**

Mr. Gomez addressed the Board that the District, Gulf Stream Marine, Inc., and Ternium Procurement S.A. "Ternium" are finalizing the lease development agreement for 19.94 acres of patio laydown area. The parties have agreed that it is in the best interest of all involved to continue the development of the laydown area. Commissioner Cowen moved to grant Staff authority to purchase the materials on the terms presented, subject to the reimbursement of District's attorneys' fees by Cal-Ixa Aggregates, LLC, Commissioner Wood seconded, and the motion passed unanimously.

**11. Consideration and ACTION on Proposal by Raba Kistner, Inc. for construction material engineering testing services for the Port of Brownsville Business Park – Concrete Pavement project.**

Mr. Chavez addressed the Board that on March 20, 2024, BND Commissioners authorized BND Staff to issue a Notice to Award to the lowest bidder on the Port of Brownsville Business Park – Concrete Pavement project which consists of 40,000 SY of concrete pavement. Material testing is required to assure the quality of the concrete being poured on this pavement. The testing includes cylinders to determine resistance to compression strength, slump tests to determine proper ratio of water on concrete and earthwork densities to verify proper compaction. Raba Kistner, Inc. has submitted a proposal for Construction Materials Engineering Testing on the amount of \$169,030.90. Discussion followed regarding the procurement of these services and the reasonableness of the proposed fee. Commissioner Cowen moved to approve the proposal, Commissioner Reed seconded, and the motion passed unanimously.

**12. Consideration and ACTION to authorize BND Staff to solicit bids for Harbor Master Power Generator Installation project and to open bids thereof.**

Mr. Chavez addressed the Board on BND Staff's request for authorization to advertise to solicit and open bids for the Harbor Master Office Generator Installation project. This project will consist of the installation of the generator ordered on December 2023. The authorization to open bids will allow us to have a contract in place once the equipment is delivered. Commissioner Lopez moved to authorize BND Staff to solicit bids, Commissioner Wood seconded, and the motion passed unanimously.

**13. Consideration and ACTION to authorize BND Staff to solicit bids for BND Cargo Dock No. 3 Construction project, including Phase I: Demolition, Phase II: Pile Procurement, and Phase III: Construction, and to open bids thereof.**

Mr. Chavez addressed the Board on BND Staff's request for authorization to advertise to solicit and open bids for the BND Cargo Dock No. 3 Construction project. This will consist of Phase I: Demolition, Phase II: Pile Procurement, and Phase III: Construction. These improvements will be performed in coordination with TxDOT, who is partially funding this project. Commissioner Lopez moved to authorize BND Staff to solicit bids in the manner presented and open the bids once received, Commissioner Cowen seconded, and the motion passed unanimously.

**14. Consideration and ACTION to authorize BND Staff to solicit bids for the installation of railroad concrete approaches and related appurtenances for Foust Road, Bill Reed Road, and Windhaus Road project and to open bids thereof.**

Mr. Chavez addressed the Board that BND Staff is requesting authorization from BND Commissioners to advertise to solicit and open bids for the railroad concrete approaches for Foust Road, Bill Reed Road, and Windhaus Road project. This project will consist of concrete pavement approaches on five railroad crossings, including one at Foust Road, two at Windhaus Road, and two at Bill Reed Road. The authorization to open bids will allow the District to have a contact in place once the materials that have been ordered are delivered. Some of these approaches are in dire condition and urgently need to be replaced. BND Engineering staff is working on finalizing the

drawings and specifications. Commissioner Lopez moved to authorize BND Staff to advertise to solicit and open bids, Commissioner Cowen seconded, and the motion passed unanimously.

Commissioner Lopez moved to table Items 15 and 16 for discussion in executive session, Commissioner Reed seconded, and the motion passed unanimously.

**15. Consideration and ACTION to authorize Interim Port Director and CEO and Port Legal Counsel to execute Right of Entry Agreement with Space Exploration Technologies to move heavy loads through the South Port Connector Road.**

**16. Consideration and ACTION to authorize Interim Port Director and CEO to accept proposal from R.R.P. Consulting Engineers, LLC to review Space Exploration Technologies' inspections and related documents on heavy loads through South Port Connector Road.**

**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 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).**

At 6:20 p.m. the Chairman announced the Board would adjourn into executive session. Commissioner Reed moved to adjourn into executive session, Commissioner Lopez seconded, and the motion passed unanimously.

At 7:29 p.m., the Board reconvened in open session.


**18. Possible ACTION on matters or items discussed in Executive Session.**


There was none.

**19. Adjournment.**

Commissioner Reed moved to adjourn the meeting, Commissioner Wood seconded, and the meeting was adjourned by unanimous consent at 7:29 p.m.

ATTEST

  
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John Wood, Secretary

  
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Esteban Guerra  
Chairman of the Board