

County of Nueces

MIKE PUSLEY
Commissioner
Precinct 1

**BETTY JEAN
LONGORIA**
Commissioner
Precinct 2



SAMUEL L. NEAL, JR.
County Judge
Nueces County Courthouse, Room 303
901 Leopard Street
Corpus Christi, Texas 78401-3697

OSCAR ORTIZ
Commissioner
Precinct 3

**H.C. "CHUCK"
CAZALAS**
Commissioner
Precinct 4

ORDER OF COMMISSIONERS COURT

WHEREAS, the Nueces County Park Board ("Board") was created in 1949 by order of the Commissioners Court pursuant to the statutory predecessor to Chapter 321 of the Local Government Code for the purpose of improving, equipping, maintaining, financing, and operating one or more island parks;

WHEREAS, the Board controls two piers, Bob Hall Pier and Horace Caldwell Pier, as well as a marina on the shores of Aransas Channel (collectively "Facilities");

WHEREAS, the Board has determined that it is in the best interest of the County to enter into operating agreements ("Agreements") with outside concessionaires to run these Facilities;

WHEREAS, the Board may without advertisement enter into contracts with any person as the Board considers necessary or convenient to carry out the purposes and powers granted by Chapter 321, including a contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, or operation of a facility located or to be located in or pertaining to a park under its control;

WHEREAS, the Agreements do not qualify as purchases under Section 262.022 of the Local Government Code and do not qualify as leases for purposes of Section 263.001 of the Local Government Code, further removing them from the requirements of competitive bidding;

WHEREAS, the Board desires to use competitive bidding procedures to promulgate a fair and confidential manner of procuring the operational services and choose to utilize the County Purchasing Agent to issue the Requests for Proposals ("RFP's") on behalf of the Board; See attached Board Order exhibit A.

WHEREAS, the Court has determined that the best method to procure operational services to accomplish the Board's goals is through the sealed-proposal procedure authorized by Chapter 262 of the Texas Local Government Code with award of the Agreement based on the best evaluated offer; and

WHEREAS, the Court wishes to adopt a sealed proposal procedure for procurement of operational services as set forth herein ("Proposal Procedure"), authorize and direct the County Purchasing Agent to carry out the Proposal Procedure, and to take such other action as may, in her opinion, be necessary or useful for effectuating and carrying out the terms and provisions of the Proposal Procedure for the awarding of the Agreements,

NOW, THEREFORE, THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:

1. The Court finds and **ORDERS** that the recitals set forth above are true and correct, that the County hereby finds that the method of procuring operational services will be by request for sealed proposals in accordance with the Proposal Procedure hereby adopted by the Court pursuant to Chapter 262 of the Texas Local Government Code with award of the Agreement based on the best evaluated offer.
2. The Court finds and **ORDERS** that the County's Purchasing Agent undertakes and administers the Proposal Procedure, and that she takes such other action or actions as may, in her opinion, be necessary or useful for effectuating and carrying out the terms and provisions of the Proposal Procedure for the awarding of the Agreements. In carrying out her duties, the Purchasing Agent may delegate such tasks and activities as she deems appropriate.
3. The Proposal Procedure for the services Agreements, in whole or in part, shall be as follows:
 - (1) The County's Purchasing Agent, or her designee, shall publish a notice of the proposed concessionaire service Agreement through a request for sealed proposals in a newspaper of general circulation in Nueces County, Texas, as follows:
 - i. The notice must be published on two dates, with the date of the second publication occurring before the 14th day before the date of the bid opening;
 - ii. The notice must include specifications describing the services to be provided and other terms of the Agreement or a statement of where the specifications may be obtained;
 - iii. The notice must include the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent; and
 - iv. The notice must include the type of bond required by the bidder.
 - (2) The Purchasing Agent, at her discretion, may publish, in addition to the required notice set forth above, notice in any additional newspaper or publication, or on the internet, including the County's website, and such additional notices may be published on only one date or on more than one date, as the Purchasing Agent shall deem advisable, in her discretion. In addition, beginning on the date that the first required notice is published, the Purchasing Agent may provide the notice and a copy of the Request for Proposals to any person who may be interested in receiving the information, or who makes a request to receive it.
 - (3) The Purchasing Agent shall prepare a written "Request for Proposals" which shall be made available to prospective proposers, and which (i) describes the property and its location, (ii) states the Board's goals for the operation of the facilities, (iii) sets out the instructions for preparing and submitting proposals, (iv) identifies the place and deadline for submitting proposals, (v) describes the County's evaluation criteria, and the procedure for evaluating proposals and awarding the contract, (vi) states that the County has the right to reject any and all proposals submitted, and (vii) provides the form of the service agreement which will be used, which may be modified to set out the complete agreement of the County and the proposer. The Request for Proposals may contain any additional information that the Purchasing Agent wishes to include. The Request for Proposals shall be made available to prospective proposers beginning on the first date on which the notice of sale is published in the newspaper. The Purchasing Agent shall establish the time frame and deadlines for the Proposal Procedure, including, but not limited to, the submission deadline.

- (4) The Purchasing Agent is authorized to issue any amendments or addenda to the Request for Proposals that she may deem appropriate and in the best interest of the County, including amendments or addenda to (i) correct or clarify terms of the Request for Proposals, (ii) add information, or (iii) extend the time periods provided in the Request for Proposals, including the deadline for submission of proposals.
- (5) An Evaluation Committee is hereby established to evaluate the proposals and make recommendations to the Board regarding the proposals. The Evaluation Committee shall consist of the following members: (i) the Purchasing Agent, (ii) the Director of Coastal Parks, and (iii) two Board members. In the event that any of these persons is unable to serve for any reason, the remaining members shall constitute the Evaluation Committee. The Evaluation Committee is hereby delegated the authority to (i) read the proposals, (ii) request a proposer to provide additional information to assist in evaluating the proposal, or the financial position, reputation, credentials, expertise or experience of the proposer; (iii) obtain information and/or advice from any other County employee or consultant, (iv) discuss, clarify and negotiate the terms of a proposal with the proposer; (v) disregard proposals submitted after the requisite deadline for submission, (vi) evaluate the proposals based on the selection criteria set out in the Request for Proposals, (vii) rank the proposals based on the results of the evaluations and determine the best evaluated offer, (viii) recommend the rejection of any or all of the proposals; (ix) recommend the waiver of any requirements of the Request for Proposal that may be waived under applicable law, if the committee believes such waiver to be in the County's best interest, and (x) take such other action as may be necessary or incidental to the carrying out of any of the foregoing. The Purchasing Agent will preside over the meetings and establish the meeting schedule based on the availability of the committee members. Meetings will be held in person.
- (6) The award of the contract will be authorized by the Board at a properly noticed park board meeting. The Board is not bound by the recommendations of the Evaluation Committee and may reorder the ranking of the proposals. If the Board does not reject all proposals, the Board may authorize acceptance of a proposal and execution of a mutually-acceptable agreement, or if a final agreement has not been fully negotiated, authorize a representative of the County to begin negotiations of the complete terms of the agreement with the first-ranked proposer. If an agreement is not reached by the deadline established by the Purchasing Agent, then negotiations with the first-ranked proposer will be terminated, and the County representative will begin negotiations with the second-ranked proposer. This method will be followed until an agreement is reached and approved by the Board or all proposals are rejected. An award by the Board will not be deemed complete until (i) the Board has approved the award, (ii) the proposer and the Board have duly signed the agreement, and (iii) the proposer has provided the insurance and bond required by the agreement.
- (7) The Court reserves the right to modify the terms of this Proposal Procedure. The County reserves the right to discontinue the Proposal Procedure prior to execution by Board and the successful proposer of an agreement. In such event, County will notify the proposers of such discontinuation. County reserves the right to waive any irregularity or informality in the proposal or the Proposal Procedure or in the submission of a proposal.

**DULY ADOPTED BY VOTE OF THE COMMISSIONERS COURT OF NUECES COUNTY, TEXAS
ON THIS 27 DAY OF NOVEMBER, 2012.**

SAMUEL L. NEAL, JR.
NUECES COUNTY JUDGE

MIKE PUSLEY
Commissioner, Precinct 1

JOE A. GONZALEZ
Commissioner, Precinct 2

OSCAR ORTIZ
Commissioner, Precinct 3

JOE McCOMB
Commissioner, Precinct 4

ATTEST:

DIANA T. BARRERA
County Clerk