

THE HEFFERNAN MEMORIAL HEALTHCARE DISTRICT MET IN SPECIAL SESSION ON THE 24TH OF OCTOBER 2018 AT 608 HEBER AVE. CALEXICO, CA. CITY OF CALEXICO ON THE DATE, HOUR AND PLACE DULY ESTABLISHED OR THE HOLDING OF SAID MEETING.

TO CALL ORDER:

The meeting was called to order at 5:30p.m. by Gloria Romo and led those present in the pledge of allegiance.

ROLL CALL-DETERMINATION OF QUARUM:

Vice Chairperson	Gloria G. Romo
Secretary	Sylvia Bernal
Chief Financial	Norma M. Apodaca
Trustee	Rodolfo Valdez

GUESTS:

Tomas Virgen-Executive District Manager
Eduardo Rivera- Attorney
Brenda Ryan-Board Clerk
Tony Pimentel-Public Relations

ABSENT:

Hector Martinez-Chairperson

APPROVAL OF AGENDA:

Motion was made by Board Member Bernal and second by Board Member Valdez to approve the agenda for October 24, 2018. Motion passed by the following vote wit:

AYES: Romo, Bernal, Valdez

NOES: None

PUBLIC COMMENT TIME:

Richard Ortega from the Neighborhood House informed the board that we have helped the Neighborhood House for years on storing gifts and donating money to purchase gift for Christmas. The average amount for a gift is \$20.00 per child. He will be submitting a formal request for the next meeting.

Mr. Olmeda wanted to thank everybody who participated at the Summit this year and really appreciate those who attended.

Mr. Horton is here to ask about the Proactive program. He knows there was some kind of accounting problem. Any kind of budget or anything can be amended to work with the program. People enjoyed the program. He hopes we can look at this and maybe salvage something from it.

Sonia Silva represents Access to Independent and they are the independent living center for Imperial County and their main office is in San Diego and they are the independent living center for San Diego County. They submitted a letter of intent back on July 30th then she later on spoke with Brenda about maybe 2-3 weeks later and she asked to resubmit everything via email again and that was back in September and she is here to get a status on their letter of intent for a grant award for \$10 thousand dollars. She is hoping to get some information on that. Mr. Virgen will be reaching out to them to discuss this item.

Norma Apodaca stepped into the meeting late.

DISCUSSION/ACTION ITEMS:

1. Discussion and/or action on ratification of contract with Tomas Virgen.

Board Member Romo asked what the name of the company was and Mr. Rivera responded Mexus Healthcare Solutions.

Mr. Rivera reported that the board approved in mid-August hiring Mr. Virgen. We had 3 applicants the board selected Mr. Virgen from the applicants. The board voted to employ Mr. Virgen as an independent contractor subject to preparation of the contract. We prepared that and Mr. Virgen suggested that we do the contract under his firm same which is California Corporation which is fully valid and registered with the secretary of state. He believes it is a good recommendation because things happen so coincidentally he was just ready a district court of appeal opinion concerning a Callexico employer and it went all the way to the four circuits up in San Diego specifically on the independent contractor and employee designation. One of the factors that the court very specifically addressed is whether or not the independent contractor was a corporation or not and he thinks that even though they did not advertise it as such he believes that entering the contract with Mexus Healthcare Solutions Inc. is a good bet for the district. The contract specifically says that the agreement specifically says that it's a personal services contract and Mr. Virgen will be the employee of the corporation that is going to perform the services. You have the contract with you and with sample you have this is just a ratification of what you did back in August. He recommends that the board go ahead and enter the contract for the District Manager with Mexus Healthcare Solutions Inc. which is Mr. Virgen,

Board Member Valdez thinks that during a conversation we had a lengthy discussion about contracting you as an individual not as a corporation or company. He does not know if the board recalls that but they had discussed that to try and hire him as an individual. He believes that they did that. They all came into an agreement that we were going to hire him as an individual. Does that have any bearing on what we are doing now? Mr. Rivera replied with he does not believe so.

Board Member Bernal remembers discussing it but does not remember ever coming into agreement.

Board Member Romo informed the board that her motion was to except the agreement with Tomas Virgen only. She remembers her question to Mr., Virgen was if there was a problem and that Mr. Virgen replied with no problem.

Mr. Virgen remembers that they did not make a motion and just that it was said that the contract will be coming to the board. Board Member Romo remembers her motion and she is not going to change her motion.

Board Member Bernal does not think there is anything wrong with it if our attorney is telling us it's to our benefit that he is under his company she does not see what the problem will be to go ahead and do it like that.

Board Member Valdez informed that just like we have discussed it for some time and we spent a lot of time doing that and know it's changed and he just what's to find out why and if there is a reason.

Mr. Rivera informed the board that it was requested by Mr. Virgen for the board's consideration. He was not present during your interviews or the selection process and to him it seemed like a reasonable request. He prepared it for the board's consideration. He believes that it helps the district solidify the fact that Mr. Virgen is an independent contractor. There is only one individual in the corporate and that is Mr. Virgen. The contract if you read it, it is with his corporation but we put his name as the person who is going to do the work period and that cannot change. It really is just a technically detail and really does not believe you are violating the spirit of your motion or the letter of you motion. Mr. Virgen has been working with us now pretty close to two and half months and believes and your better judges of this but the services he is providing this district is tremendous. It has streamlined and reduced some of the hiccups that the district might have had because of a lack of manager. He really does not think it is a big problem and thinks it does not make any difference.

Board Member Romo understands but her motion was her motion.

Mr. Rivera informed her that this is a ratification of her motion but that doesn't mean that the motion she made back then was not valid. It means that now we are going to ratify the contract. That is the intent of the motion is what in the contract.

Board Member Valdez asked if we have to make another motion and Mr. Rivera responded no, the ratification motion here will take care of that. If we were to move today to enter the contract with Mexus Healthcare Solution Inc. - Mr. Virgen it would be the same impact. It's the same thing. You do not contradict what you did back in August.

Board Member Romo informed the board that several times it was discussed this problem for the company or individual she remembers for the President Hector Martinez had several questions for this opinion but she repeats that her motion was only for Tomas Virgen not for the company. Mr. Rivera informed her that, that is what the contract says. Only Mr. Virgen is going to do the work. Mr. Virgen is just request that we do it under the contract under the company and he is going to do the work and Mr. Rivera does not see a problem with that.

Board Member Apodaca asked Mr. Virgen if there was a problem if we just have the contract under his name only and Mr. Virgen replied no but it's just was easier that way because the company has a bond and its insured and it protects him and you if anything because he has that already and it's a structure and it separates me from not being an employee but an independent contractor with the company. Board Member Apodaca informed the board that she was against the motion when Mr. Virgen was hired but she has seen his work and likes the work he has been doing. It's okay with her if it is under his name or the company.

Board Member Bernal informed the board that it is to his benefit to be under this company because if he gets sued he is protected by that company and it won't fall on us.

Motion was made by Board Member Bernal and second by Board Member Apodaca to approve Mr. Virgen's contract with Mexus Healthcare Solutions Inc. Motion passed by the following wit:

AYES: Bernal, Apodaca, Valdez

NOES: Romo

ADJOURNMENT:

With no future business to discuss Board Member Bernal made motion to adjourn the meeting at 5:28 p.m. Second by Board Member Valdez. All in favor.