

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD SEPTEMBER 9, 2020 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 via videoconference due to the COVID-19 health emergency on **Wednesday, September 9, 2020 at 5:30 p.m.** The following individuals were present and absent:

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

ABSENT: None

ALSO PRESENT: Eduardo A. Campirano, Port Director and CEO
Daniel Rentfro Jr., District Counsel
William J. Irwin, Associate District Counsel

STAFF MEMBERS: Donna Eymard
Ariel Chavez
Steve Tyndal
Oscar Garcia
Lorena Hernandez
Karina Franco
Blanca Melguizo
Jaime Martinez
Chief Carlos Garcia
Tony Rodriguez
Margie Recio
Janie Velasquez
Memo Rico
Jose Herrera
Michael Davis

OTHERS PRESENT: Rev. Andreas Lewis
Jorge de la Colina
Roberto Ruiz
Norma Torres
David Garcia

1. Meeting Called To Order

The Chairman called the meeting to order at 5:33 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

No person registered to address the Board.

3. Receive Director's Report

a. Receive Directors Report

b. Port Monthly Operations Summary Report

The Board received the reports. Discussion followed.

Chairman Reed asked Mr. Tyndal for an update on the status of the study regarding the BND's rental rates. Mr. Tyndal addressed the Board.

Chairman Reed asked Mr. Chavez to provide in the future a spreadsheet showing the status of pending projects. Mr. Chavez addressed the Board and noted that he would prepare such a spreadsheet.

Ms. Hernandez addressed the Board and provided the monthly operations summary report.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Regular Board Meeting of August 12, 2020.
- b. Approval to authorize payments over \$25,000.00:
 1. Foremost Paving Inc., the amount of \$1,532,238.40, for BND South Port Connector Project;
 2. G&T Paving, LLC, the amount of \$393,239.70, for BND Road Improvements;
 3. Hanson Professional Services Inc., the amount of \$31,890.00, for Fishing Harbor Wastewater Treatment Plant;
 4. HDR Engineering Inc., the amount of \$268,844.70, for BIH Project Task Order #3;
 5. HiRail Crossings, Inc., the amount of \$76,647.00, for 2020 BND Railroad Crossing Materials;
 6. Menard Industries, LLC, the amount of \$119,011.40, for 2020 BND Railroad Crossing Materials; and
 7. Reno Works, LLC, the amount of \$77,509.80, for Turning Basin Wastewater Treatment Plant Clarifier Rehabilitation.

5. **Consideration and Action on Leases, Assignments, Negotiations, Easements, Subleases, and Contracts in General:**
 1. Gus Martin (Authority to Negotiate)
 2. Bryant Industrial Services, LLC (Authority to Negotiate)
 3. Magic Valley Concrete, LLC (Authority to Negotiate)
 4. Texlube Trading, LLC (Authority to Negotiate)
6. **Consideration and Action to authorize the District's Depository, Lone Star National Bank, to modify the Pledge Agreement for pledged collateral of the District's deposits.**
7. **Consideration and Action to request proposals for medical, dental, vision, short term and long-term disability insurance benefits for all BND employees.**
8. **Consideration and Action on the Grantee/Operators agreement, under the new ASF "Usage Driven Site Agreement" between the Brownsville Navigation District Foreign Trade Zone No. 62 and Port Isabel Logistical Offshore Terminal, Inc.**
9. **Consideration and Action to authorize Port Staff to Advertise for Bids on the Administration Building Emergency Generator Installation project, and to open bids thereof.**

Commissioner Guerra asked whether the invoice included in Item 4b6 was a final invoice or whether additional materials would be required. Mr. Campirano addressed the Board and noted that there would be additional materials required and provided a brief update on the status of the project.

Commissioner Cowen then moved to pull Item 8 from the Consent Agenda and to table the same Item, Commissioner Guerra seconded, and the motion passed unanimously.

Commissioner Guerra moved to approve all other Consent Agenda Items, Commissioner Cowen seconded, and the motion passed unanimously.

PRESENTATION

10. Presentation by Roberto Ruiz, Architect on the design for the Anchor Park Project.

Mrs. Eymard introduced Roberto Ruiz who spoke about the design for the Anchor Park Project. Discussion followed regarding Mr. Ruiz's presentation.

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

Mr. Tyndal and Mrs. Eymard addressed the Board regarding the following items:

1. Brownsville Acquisitions, Inc. c/o Callidus Capital Corporation (**Authority to negotiate**)

Brownsville Acquisition, Inc, c/o Callidus Capital Corporation has a lease with the Port under BND Contract #4138, which currently consists of 85,367 acres. The Port and ESCO originally started discussion about a property exchange before ESCO went into bankruptcy, that discussion has continued with Brownsville Acquisition, Inc, c/o Callidus Capital Corporation and Staff have both agreed on the new property boundaries, Brownsville Acquisition, Inc, c/o Callidus Capital Corporation will be giving back 17.97 acres that they currently do not have access to in exchange for the Port leasing them 7.35 acres of additional property, including a rail line that was replaced

by the new North Yard that BRG built. Following discussion, Commissioner Wood moved to approve the Authority to Negotiate with Brownsville Acquisitions, Inc c/o Callidus Capital Corporation for a lease amendment, Commissioner Cowen seconded, and the motion passed unanimously.

2. Lighthouse Docks, Inc. (**New Lease**)

The lease to Lighthouse Docks, Inc. expired on June 30, 2020, with no additional renewal options, and the lessee is requesting a new lease. The purpose of this lease is for a dock unloading facility for shrimping boats. Commissioner Wood moved to approve and sign the new lease to Lighthouse Docks, Inc., Commissioner Guerra seconded, and the motion passed unanimously.

3. Special Crane Services, LLC (**New Lease**)

Special Crane Services, LLC has been established since 2006. They are hydraulic and conventional crane rental servicing the construction industry, rigging, pile driving, installation of air conditioners, loading and unloading of industrial size heavy machinery as well as storage. The company is interested in leasing ex lessee lease site MTZ Group, LLC dba Allied Trading BND Contract #3871 located at 2601 N. Indiana Rd. This site has delinquent property taxes with the Cameron County Appraisal District in the amount of \$19,532.97. Part of the negotiations, Special Crane Services, LLC will be responsible for liquidating all pending taxes upon approval of the new lease. Commissioner Wood asked if staff had reviewed any agreement between the lessee and the County. Mr. Tyndal noted that the lessee had not provided a copy of any agreement, but that the title to the improvements would not pass to the lessee until all taxes had been paid. Commissioner Wood moved to approve and sign the new lease to Special Crane Services, LLC, Commissioner Guerra seconded, and the motion passed unanimously.

4. OLG Petroleum, LLC (**Bill of Sale**)

The Bill of Sale to OLG Petroleum, LLC. under BND Contract #4111 is to transfer a building and assets to them under the BND Leasing Policies entitled District-Owned Facilities Building, Page 8 of 59, that after Lessee has paid the market value of the leased improvement that the District will transfer title. OLG Petroleum, LLC. is situated at the Fishing Harbor and the purpose of the lease is for a land-borne terminal for diesel, bio-diesel, lube oil and to recycle oil. Commissioner Lopez moved to approve and sign the Bill of Sale for OLG Petroleum, LLC, Commissioner Guerra seconded, and the motion passed unanimously.

5. Border Financial Services d/b/a A-MEX/Jesus Alanis d/b/a ARJ Project Solutions, LLC (**Consent to Sublease**)

Border Financial Services d/b/a A-Mex is requesting the authorization to sublease to Jesus Alanis d/b/a ARJ Project Solutions, LLC. who will be using the site as office space. Commissioner Lopez moved to approve the sublease agreement between Border Financial Services d/b/a A-Mex and Jesus Alanis d/b/a ARJ Project Solutions, LLC., Commissioner Guerra seconded, and the motion passed unanimously.

6. Mesquite Farm, LLC (**Lease Amendment**)

Mesquite Farm, LLC has a lease with the Port under BND Contract #4103 which consists of 826 acres. The Port needs to amend and reduce the lease acreage to 759 acres. This is a reduction of 67 acres for the new Port Connector road at the old bridge corridor. The amendment is to take effect August 1, 2020. Commissioner Wood moved to approve and sign the amendment to

Mesquite Farm, LLC, Commissioner Guerra seconded, and the motion passed unanimously.

7. Andalusian Energy, LLC (2nd Amendment to Option to Lease)

Andalusian Energy, LLC is currently a lessee with the Port; BND # 4382A. The Option to Lease will expire on September 19, 2020 with no renewals left to extend. Andalusian Energy, LLC. is requesting an extension to October 19, 2020 which will be for one month to the Option to Lease. The Amendment to Option Agreement is to take effect September 20, 2020. Commissioner Lopez noted that he would be abstaining from this item. Commissioner Guerra moved to approve the Amendment to Option to Lease for the term of one month with no renewal options, Commissioner Wood seconded, and the motion passed by a vote of 4-0, with Commissioner Lopez abstaining.

8. Lone Star National Bancshares Texas, Inc. (Authority to Negotiate)

Lone Star National Bank has been in business since 1983 with branches throughout the Rio Grande Valley. The bank is interested in a 2.4-acre site off FM 511 in proximity to the intersection of Foust Road for the purpose of building and operating a banking center featuring a lobby bank, ATM and customer drive through . Commissioner Lopez moved to approve the Authority to Negotiate, Commissioner Guerra seconded, and the motion passed unanimously.

12. Consideration and Action on Third Amended Order for an election to be held on November 3, 2020 for the purpose of electing three Navigation and Canal Commissioners to add two additional Early Voting Locations. (*Consideración y acción sobre tercera Enmienda de Orden de elección que se llevará acabo el 3 de noviembre de 2020 con el propósito de elegir tres Comisionados de Navegación y Canal para añadir dos ubicaciones de Casillas para votación previa*)

Mrs. Recio addressed the Board requesting review of the Third Amended Order for an election to be held on November 3, 2020 for the purpose of electing three Navigation and Canal Commissioners to add two additional Early Voting Locations. The District's original Order of Election was presented to the Commission on February 5, 2020 and it was approved subject to adding Rancho Viejo and Cameron Park as additional Early Voting locations. On March 18, 2020 the Commission approved an amended Order of Election, adding Olmito Elementary School, Rancho Verde Elementary School and Resaca Middle School. These additional three Early Voting locations were requested by Los Fresnos CISD who at the time was hosting a Bond Election and was one of the entities that the District was doing a joint election with. Los Fresnos CISD was going to incur the full cost for these additional Early Voting locations. Due to the postponement of the May 2 Election to November 3, the District is required to post an Amended Order of Election no later than August 17. During a November election all entities contracting with the Cameron County Elections Office are required to use the Cameron County polling location. On August 12, the Commission approved the seconded amended Order of Election to add 10 locations, Harlingen County Annex Bldg., San Benito Community Bldg., La Feria City Hall City Council Meeting Room, New Horizon Medical Center, Harlingen Cultural Arts Center, Rio Hondo ISD, Santa Rosa Maria Luisa Ruiz Guerra County Annex Bldg., UTRGV Interdisciplinary Academic Building, Los Indios Community Center and Bob Clark Social Services Center and to remove the following four locations, Texas Southmost Community College, Olmito Elementary School, Rancho Verde Elementary School and Resaca Middle School. The third amended Order of Election presented to the board is to add two locations, Texas Southmost College Jacob Brown Auditorium, Laguna Vista City Hall Board Room and South Padre Island City Hall, and to remove UTRGV Interdisciplinary Academic Building. Therefore, the total Early Voting Locations for the

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November Election will be 20 locations. Commissioner Lopez moved to adopt the Third Amended Order for an Election to be held on November 3, 2020 for the purpose of electing three Navigation and Canal Commissioners, Commissioner Wood seconded, and the motion passed unanimously.

13. Consideration and Action to approve the purchase order to Texas Municipal League Intergovernmental Risk Pool for the 2020/2021 renewal policies for Workers Compensation Coverage, Business Automobile Liability, and Automobile Physical Damage and to authorize payment of the premium when invoiced in the amount of \$132,117.00.

Mrs. Recio addressed the Board requesting approval on purchase order to Texas Municipal League Intergovernmental Risk Pool for the 2020/2021 renewal policies for Workers Compensation Coverage, Business Automobile Liability, and Automobile Physical Damage, and authorization for payment of the premium when invoiced in the amount of \$132,117.00. Port Staff received the renewal premium from TML for the October 1st renewal date for those coverages that are carried through the membership. The renewal is for the Workers Compensation Insurance, the Business Auto Liability Coverage, and the Automobile Physical Damage Coverage. The Workers Compensation premium decreased this year by 32%, from \$141,960 last year to \$96,498. The District's experience modifier, which had been at 1.09 last year has come down to .67. The auto liability renewal policy premium increased by 13% from \$16,312 to \$18,436. The automobile physical damage policy premium increased only 5%, from \$16,384 to \$17,183. Commissioner Wood moved to approve the purchase order to Texas Municipal League in the amount of \$132,117 for the District's contribution for the Workers Compensation Insurance Coverage, Business Auto Liability Coverage and Automobile Physical Damage Coverage, and to authorize the payment of the invoice for these policies when received, Commissioner Guerra seconded, and the motion passed unanimously.

14. Consideration and Action to approve an adjustment to the BND Wage & Salary Chart for all salary positions.

Mr. Martinez addressed the Board requesting approval on an adjustment to the BND Wages & Salary Chart for all salary positions. The BND Wage & Salary Chart is utilized to achieve consistent pay practices, comply with BND Policy, mirror the organization's commitment to Equal Employment Opportunity and offer competitive salaries within the labor market. The adjustment to the Wage & Salary Chart is targeted to ensure equitable wages for salary employees and reflects the requirements and responsibilities of their positions. Chart number 1 included the current Wage & Salary Chart and had the highlighted positions that have had issues with recruitment and retention due to the gap in salary compared with the current market. Chart number 2 included the Wage & Salary Chart that contains the proposed changes, which were highlighted in red. The proposed changes will allow for the organization to be competitive and will reduce turnover costs and the hidden costs of having positions vacant for an extended amount of time. The last time the Wage & Salary Chart was adjusted was in 2015. Commissioners Wood and Reed both thanked staff for their hard work on this item and noted that these adjustments are necessary to retain staff and to attract good employees in the future. Commissioner Lopez moved to approve the Wage & Salary Chart adjustment and make it effective for the payroll week of 9/25/2020, Commissioner Wood seconded, and the motion passed unanimously.

15. Consideration and Action to vote on a Resolution to adopt a 2020 property tax rate for the Brownsville Navigation District at \$.029778 per \$100 valuation. This rate is comprised of a debt rate of \$.004864 per \$100 valuation and a maintenance and operations rate of \$.024914 per \$100 valuation.

Ms. Hernandez and Mr. Campirano addressed the Board requesting the vote on a Resolution to adopt a 2020 property tax rate for the Brownsville Navigation District at \$.029778 per \$100 valuation. This rate is comprised of a debt rate of \$.004864 per \$100 valuation and a maintenance and operations rate of \$.024914 per \$100 valuation. Texas Tax Code Chapter 26 requires taxing units to adopt a tax rate no later than September 30th and 60 days after the Certified Appraisal roll is received (7/26/2020) by recorded vote and Resolution. The Cameron County Assessor & Collector of Texas assigns its own deadline of September 14th to include the District's adopted tax rate in the 2020 October property tax bills. The District's \$.034588 no-new-revenue (formerly effective) and \$.029778 voter-approval (formerly rollback) tax rates and certified calculations have been posted on the District's web site. On August 12, 2020, the Board voted to publish a Proposed Tax Rate of \$.029778 which equals the lower of the no-new-revenue (.034588) and voter-approval (\$.029778) tax rates. This rate does not exceed the \$.034588 no-new-revenue (effective) rate therefore the District is not required to have specific language on its motion to adopt its tax rate, nor is there a public hearing requirement apart from posting a "Notice of Meeting to Vote on Tax Rate" to be published in the Brownsville Herald on September 4, 2020 and on the District's website. In addition, the proposed rate equals the \$.029778 voter-approval rate which is the tax rate the District may adopt without holding a November election to seek voter approval of the rate. Mr. Rentfro noted that a roll call vote should be taken on both the debt rate and the maintenance and operations rate. Commissioner Lopez moved to vote on the Resolution to adopt a 2020 Tax Rate of \$.029778 per \$100 of valuation, which is a debt rate of \$.004864 per \$100 valuation and a maintenance and operations rate of \$.024914 per \$100 valuation, Commissioner Wood seconded, and the motion passed unanimously. Commissioner Wood moved to approve the aforementioned debt rate, Commissioner Lopez seconded, and a roll call vote was taken with each Commissioner voting to approve the debt rate. Commissioner Wood moved to approve the aforementioned maintenance and operations rate, Commissioner Lopez seconded, and a roll call vote was taken with each Commissioner voting to approve the maintenance and operations rate.

16. Consideration and Action to approve amendments to the District's Fiscal 2020 Operating and Capital Budgets by increasing operating revenues by \$2,253,067 to \$32,600,351 and increasing operating expenditures by \$387,147 to \$15,784,600 and increasing Capital Expenditures by \$4,338,846.

Mr. Campirano and Ms. Hernandez addressed the Board requesting approval of amendments to the District's Fiscal 2020 Operating and Capital Budgets by increasing operating revenues by \$2,253,067 to \$32,600,351 and increasing operating expenditures by \$387,147 to \$15,784,600 and increasing Capital Expenditures by \$4,338,846. Staff is recommending the necessary amendments to the District's Fiscal Year 2020 Operating & Capital Budgets based on actual revenues and expenditures to date and projected operational needs for the remainder of the fiscal year. Proposed operating revenues increased by a net \$2,253,067, with about \$1,642,500 driven by maritime operations increases in deep-sea vessels and waterborne cargo and about \$400,000 of projected increases in Patio 22 storage fees for windmill components. Proposed expenditures increased by a net \$387,147 mainly due to budgeting for the additional \$50,000 per month for the defined benefit retirement plan unfunded contributions, adding \$51,500 in COVID-19 related funds as well as

\$84,000 in Hurricane Prep & Recovery. Travel and Professional Development budgets were reduced by \$154,337 due to the COVID-19 pandemic restricting staff and commissioner travel for business development and trainings. Budgeted payroll funds also include the proposed \$2 increase per hour for all employees and the adjusted pay matrix. The 2020 Capital Budget amendments are necessary to allocate funds for ongoing and new capital projects including the Oil Docks 2, 3 & 5 crane purchase & construction of support and pilings, the Children's Beach Shoreline Restoration Project and other necessary increases including the Bulkhead Rehab OD 2-5 and Bulk Cargo Dock Gangway landings. Commissioner Lopez moved to authorize the proposed FY 2020 Operating and Capital Budget Amendments by increasing operating revenues by \$2,253,067, increasing operating expenditures by \$387,147, and increasing Capital expenditures by \$4,338,846. Commissioner Wood seconded, and the motion passed unanimously.

17. Consideration and Action approving a Letter of intent between the Brownsville Navigation District and The Plank Companies, Inc. in association with Texas Economic and Infrastructure Development Group, LLC for preparation of technical and feasibility assessment of potential development of District's Lands.

Mr. Campirano addressed the Board regarding a Letter of Intent between the Brownsville Navigation District and The Plank Companies, Inc. in association with Texas Economic and Infrastructure Development Group, LLC for preparation of technical and feasibility assessment of potential development of District's Lands. The Plank Companies, Inc. in association with Texas Economic and Infrastructure Development Group, LLC approached the Port with interest to conduct a technical and feasibility evaluation of Port property and opportunities for industrial development. They propose to undertake this effort at no cost or obligation to the District. Port Staff will work with The Plank Companies and its associates to assist in this effort. Once the evaluation effort is completed, the District will have the option to enter into a development agreement with The Plank Companies to develop a project(s) on District land. The Letter of Intent establishes the terms for the evaluation analysis and due diligence efforts by The Plank Companies. Mr. Campirano asked that this Item be tabled until after Executive Session. Commissioner Lopez moved to table this Item, Commissioner Guerra seconded, and the motion passed unanimously.

18. Consideration and Action approving a License Agreement between U.S. Customs and Border Protection and the Brownsville Navigation District to enter District Property for access to boat ramp.

Mr. Campirano addressed the Board requesting approval on a License Agreement between U.S. Customs and Border Protection and the Brownsville Navigation District to enter District Property for access to boat ramp. In March 2017, the District entered into an agreement with USACE on behalf of U.S. Customs and Border Protection to grant CBP Right-of-Entry to access their boat ramp on an adjacent property. The agreement was for two (2) years and it has expired. The new license agreement grants the entry to Port property to access the boat ramp. This agreement does not have an ending date, but it does contain a revocability clause that allows the District the right to revoke the license agreement at any time and for any reason with 60 days written notice. Commissioner Lopez moved to approve the License Agreement between U.S. Customs and Border

Protection and Brownsville Navigation District to enter district properly for access to boat ramp, Commissioner Wood seconded, and the motion passed unanimously.

19. Consideration and Action on bids received for pickup trucks.

Mrs. Recio addressed the Board requesting review on bids received for pickup trucks. The District advertised for bids for five pickups. The Request for Bids asked for bids for three different vehicle configurations over the model years, 2020 and 2019. A preference was stated for a delivery date in October and the District was offering four vehicles as trade-ins. The reason for the District seeking these model years was because staff was hoping for a short delivery time since the year models requested are available on the lots. The local dealers were provided with a copy of the Request for Bids and the Bid packet along with specifications. Two bids were received, from Tipton Motors, Inc. and from Boggus Tipton Motors, LLC. Tipton Motors bid on five 2021 models, with 120-150 days of delivery and made offers on the four trade-ins. Boggus Tipton Motors, LLC bid four 2021 models with 120 days of delivery and one 2020 model with 30 days delivery and made offers on the four trade-ins. The Staff is recommending that the bid be awarded to Boggus Tipton Motors, LLC, for the purchase of one 2020 vehicle and to accept the offer for one Unit 696 as trade-in. Since the bids for the other four requested vehicles did not meet the required specifications, Staff recommends that the Board reject the bids received for the four 2021-year model vehicles and to re-advertise for request for bids for four pickup trucks. Commissioner Lopez moved to award the bid to Boggus Tipton for the purchase of one ½ ton crew cab, 4WD pickup at a bid price of \$28,000 and to accept the trade-in offer amount of \$10,000 for Unit 696 a 2013 Ford F-150 crew cab, 4WD pickup, and to reject the bids received for the four 2021-year model vehicles, Commissioner Wood seconded, and the motion passed unanimously.

20. Consideration and Action on Change Order No. 3 to the Oil Dock #5 Bulkhead Repairs project, for the purpose of adjusting the contract time; accepting work performed by RM Walsdorf, Inc., and authorizing release of the \$37,780.00 retainage.

Mr. Chavez addressed the Board requesting approval on Change Order No. 3 to the Oil Dock #5 Bulkhead Repairs project, for the purpose of adjusting the contract time; accepting work performed by RM Walsdorf, Inc., and authorizing release of the \$37,780.00 retainage. On September 4, 2019 BND Commissioners awarded the contract on the Oil Dock #5 Bulkhead Repairs project to lowest responsive bidder R.M. Walsdorf, Inc. (Walsdorf) in the amount of \$353,150.00 for the Alternate Bid of Helical Anchors to stabilize the leaning bulkhead between Oil Dock #2 and #5. On February 19, 2020 BND Commissioners approved Change Order No. 1 for \$3,500.00 to perform Ultrasonic measurements of the Sheet Piles, and on April 22, 2020 BND Commissioners approved Change Order No. 2 for \$21,150.00 to pressure wash the Sheet piles and coat them with coal-tar epoxy, for a new contract price of \$377,800.00. Walsdorf has submitted a request for an additional 75 calendar days due to COVID-19 related precautions, weather delays and time used to study pricing for a concrete cap on the bulkhead. Change Order #3 would adjust the contract time to July 17, 2020. Further, contractor achieved substantial completion on July 16, and after a final inspection, a punch list was issued and properly addressed, thus completing the project satisfactorily. Consultant CH2M and BND Staff concur that the project is complete and ready for acceptance. Commissioner Lopez moved to approve Change Order No. 3 to the contract with R.M. Walsdorf, Inc. for the Oil Dock #5 Bulkhead Repairs project extending the contract time by seventy five (75) calendar days to July 17, 2020, accept the project as completed, and authorize final payment in the

release of the \$37,780.00 retained amount, Commissioner Wood seconded, and the motion passed unanimously.

21. Consideration and Action to enter into an Earthen Material Sale Agreement with contractor Foremost Paving, Inc. for Fill Dirt from Dredged Material Placement Areas #7 and #8 to be used as embankment in the South Port Connector Road project.

Mr. Chavez addressed the Board requesting authorization to enter into an Earthen Material Sale Agreement with contractor Foremost Paving, Inc. for Fill Dirt from Dredged Material Placement Areas #7 and #8 to be used as embankment in the South Port Connector Road project. On September 1, 2020, BND South Port Connector Road contractor Foremost Paving, Inc. (Foremost), submitted a request to the BND to purchase up to 75,982 cubic yards (CY) of Fill Dirt (or Earthen Material) to be used as embankment material for the said South Port Connector Road project. Foremost had previously visited Dredged Material Placement Areas #7 and #8 (DMPA #7 and DMPA #8). Foremost hired a testing lab to sample the materials and seven of the eight tests indicated that the material was adequate for their purposes. The BND's Disposition of Earthen Material Committee (DEMC) met to discuss the matter and developed an Agreement to be used for the sale of Earthen Material to Foremost. The DEMC recommends that fill material be sold to Foremost at between \$2.50 and \$3.25 per cubic yard (CY) from either of the designated source areas. Foremost would be responsible for all equipment, labor and associated costs to access, excavate, quantify and haul the material. Chairman Reed asked that this item be tabled until the next meeting and asked Mr. Chavez to provide the Commissioner with additional information regarding the proposed pricing for the fill dirt. Commissioner Guerra moved to table this Item, Commissioner Wood seconded, and the motion passed unanimously.

22. Adjourn into Executive Session, as authorized by Subchapter D of Chapter 551 of the Government Code to discuss with attorneys pending or contemplated litigation, including The City of Port Isabel, Texas, JJ Zamora, and Martin Cantu vs. Brownsville Navigation District of Cameron County, Texas, 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 Guerra moved to adjourn into executive session, Commissioner Lopez seconded, and the motion passed unanimously. The Chairman then announced that the time was 7:03 p.m., and that the Board would adjourn into executive session.

The Chairman then announced that the time was 7:35 p.m., and that the Board had reconvened in open session.

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

The Chairman recalled Item 17.

Commissioner Guerra moved to enter into Letter of Intent with The Plank Companies, Inc. in association with Texas Economic and Infrastructure Development Group, LLC, subject to the

revisions to the Letter of Intent as discussed in executive session, Commissioner Wood seconded, and the motion passed unanimously.

24. Adjournment.

Commissioner Lopez moved to adjourn the meeting, Commissioner Cowen seconded, and the meeting was adjourned by unanimous consent at 7:36 p.m.

ATTEST



Secretary



John Reed
Chairman of the Board