

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF CAMERON COUNTY, TEXAS HELD DECEMBER 01, 2021 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, December 01, 2021 at 5:30 p.m.** The following individuals were present and absent:

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

**ABSENT:** Ralph Cowen

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

**STAFF MEMBERS:** Melinda Rodriguez  
Arturo Gomez  
Jaime Martinez  
Chief Carlos Garcia  
Michael Davis  
Tony Rodriguez  
Janie Velasquez  
Memo Rico  
Jorge Montero  
Karina Franco  
Jose Herrera  
Blanca Melguizo

**OTHERS PRESENT:** Rev. Andreas Lewis  
Stephanie Rogers  
Brian Carlson  
Chris Brown  
Joe Vega  
Captain Jonathan Willett  
Captain Chris Urbanovsky  
Brent Moore

**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.

**2. Public Audience**

No person registered to address the Board.

**3. Receive Director's Reports**

The reports were in the agenda packets.

**CONSENT AGENDA**

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

- a. Approval of the Minutes of the Regular Board Meeting of November 17, 2021.
- b. Approval to authorize payments over \$25,000.00:
  - 1. R.M. Walsdorf, Inc., the amount of \$69,524.32, for Oil Dock #6 Bulkhead.

**5. Consideration and Action on an application for a renewal of the Line Handling Permit to:**

- M&M Mooring Company d/b/a M&M Mooring & Marine Services

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

The Chairman then stated that he wished to take Item 23 out of order.

**23. Consideration and Action to authorize the Port Director and CEO to execute Agreement with lessee West Plains, LLC to share costs of engineering services for a Structural Analysis on Bulk Cargo Dock of Surface Loads and Ramp Structures.**

Mr. Campirano addressed the Board requesting authorization to execute an Agreement with lessee West Plains, LLC to share costs of engineering services for a Structural Analysis and Bulk Cargo Dock of Surface Loads and Ramp Structures. BND and West Plains have been engaged in discussions on improvements to the West Plains lease site and to the Bulk Cargo Dock. These discussions have been centered on the award of the Port Infrastructure Development Program Grant associated with improvements to the grain elevator facility, lease infrastructure improvements and equipment for loading and unloading ships. The use of the Bulk Cargo Dock figures prominently in the future operations of the grain elevator facility. West Plains is planning to engage consultant HDR Engineering to perform a Structural Analysis of the dock. The work to be performed by HDR will include (1) Project Management, (2) Preliminary Modeling and Analysis of Surface Loads on Dock and Ramp Structures, Above and Underwater Inspection and (4) Condition Assessment and Structural Analysis Deliverables will include the Preliminary Structural Analysis Report based on existing condition and recommended repairs. HDR is proposing to perform the dock analysis for a not-to-exceed fee of \$137,614.00. West Plains is requesting that BND enter into an agreement to share the cost on a 50%/50% basis. The amount that would be paid by BND would not exceed \$68,807.00. Commissioner Guerra moved to authorize the Port Director and CEO to execute the Agreement with BND lessee West Plains, LLC to share costs of engineering services on a 50%/50% basis for a Structural Analysis on Bulk Cargo

Dock of Surface Loads and Ramp Structures to be performed by consultant HDR Engineering, Inc., Commissioner Wood seconded, and the motion passed unanimously.

**6. Discussion of proposed Fiscal Year 2022 Operating and Capital Budgets.**

The Chairman then stated that he wished to move item 6 to the end of the agenda.

**7. Presentation and possible Action on the preferred alternative for the Children's Beach Shoreline and Restoration Project Phase I.**

Mr. Campirano addressed the item, briefing the Board on the status of the study. He then introduced Stephanie Rogers, who discussed the project in more detail. Discussion followed. Commissioner Reed moved to concur in the preferred alternative (Option 3), Commissioner Guerra seconded, and the motion carried unanimously.

**8. Presentation and discussion by BND Staff on Preliminary Report and Master Plan prepared by HDR Engineering, Inc. for the Cargo Dock #3 Rehabilitation, to report on progress and alternatives, and to seek Board direction on path forward.**

Mr. Chavez addressed the Board regarding the HDR report, which was in the agenda packet. He also introduced Brent Moore from HDR, who further addressed the project. No action was taken.

**9. Presentation on past, current, and future BND Water Distribution Lines Replacement projects.**

Mr. Gomez delivered a report to the Board, addressing the status of current projects and providing details on future ones. Discussion followed. No action was taken.

**10. Consideration and Action on Assignments, Negotiations, Easements, Subleases, and Contracts in General.**

1. Quality Weighing Services, Inc.

Quality Weighing Services, Inc. (contract #3851) is a current lessee with no renewal options. The company seeks Authority to Negotiate a New Lease for a term of 5 years with one renewal option for 5 years. The site is located at 875 N. Milo Road. Purpose Clause: Public Scale. Commissioner Guerra moved to grant staff authority to negotiate a new lease with Quality Weighing Services, Inc., Commissioner Wood seconded, and the motion passed unanimously.

**11. Consideration and Action on amending Police Department Policy and Procedures for Proper Access, Use and Dissemination of Criminal History Record Information.**

Chief Garcia addressed the Board requesting the amendment to Police Department Policy and Procedures Access, Use and Dissemination of Criminal History Record Information. The revisions to the policy reflect the current practices that have been established at the Police Department. The policy has been reviewed by the Policy Committee and Legal Counsel at the meeting of November 10, 2021. Commissioner Guerra moved to adopt the proposed amendments to Police Department Policy and Procedures for Proper Access, Use and Dissemination of Criminal History Record Information (CHRI), with an effective date of January 1, 2022, Commissioner Wood seconded, and the motion passed unanimously.

**12. Consideration and Action on amending Leasing Policy Section 306(Local) – Collection Policy - Leases.**

**13. Consideration and Action on amending Tariff Number 6, Item 115 Collection Policy.**

Ms. Rodriguez addressed the Board requesting an amendment to Leasing Policy Section 306(Local) – Collection Policy – Leases. The Leasing Policy Section 306(Local) - Collection Policy- Leases also charges delinquent accounts a 15% per annum interest charge and a one-time late fee of \$25.00 per delinquent invoice applied to the first interest charge invoice. This requires that the interest charges be prepared manually. Therefore, the Policy Committee is recommending that the interest rate be standardized at the maximum interest rate allowable by law and to omit the one-time late fee of \$25.00. This amendment has been reviewed by the Policy Committee and Legal Counsel. If the item is approved, notices will be sent out to tenants advising them of the changes to this section of the Leasing Policy .

Ms. Rodriguez also addressed the Board requesting an amendment of Tariff Number 6, Item 115 Collection Policy. The Port of Brownsville Tariff No. 6 contained a Collection Policy in Item 115 this policy specifically applies to all invoices with the exception of ground leases and negotiated agreements. In discussions with the Finance Department staff, one of the challenges that they encounter in the collection process is the fact that there are two charges for delinquent accounts. Invoices are subject to a 15% per annum interest charge and a one-time late fee of \$25.00 per delinquent invoice applied to the first interest charge invoice. This requires that the interest charges be prepared manually. The Policy Committee is recommending that this interest rate be standardized at the maximum interest rate (18%) allowable by law and to omit the one-time late fee of \$25.00. This item has been reviewed by the Policy Committee and Legal Counsel. Also, as discussed during the Staffs presentation of the proposed Tariff Amendments at the Board Meeting of September 1<sup>st</sup>, the Staff held various meetings with the Stakeholders to discuss the proposed amendments.

Commissioner Reed moved to adopt the amendment of the Port of Brownsville Leasing Policy Section 306 (Local) – Collection Policy-Leases, which increases the interest rate to the maximum interest rate allowable by law and to omit the one-time late fee of \$25.00, effective January 1, 2022, and the amendment of the Port of Brownsville Tariff No. 6 – Item 115 Collection Policy, which increases the interest rate to the maximum rate allowable by law and to omit the one-time late fee of \$25.00, effective January 1, 2022, Commissioner Guerra seconded, and the motion passed unanimously.

**14. Consideration and Action on amending Tariff Number 6, by adding new Item 256 – Open Storage.**

Ms. Rodriguez addressed the Board requesting amendment of Tariff Number 6, by adding new Item 256-Open Storage. The current Tariff does not reflect the issuance of short-term agreements also known as Term Sheets for open storage. With the adoption of this item the Port of Brownsville may enter into short-term agreements upon written requests and available space of \$3,000 per acre (or fraction thereof) per month. The Port Director and CEO may be approving these short-term agreements up to one year. This item has been reviewed by the Policy Committee and Legal Counsel. Also, as discussed during the Staff's presentation of the proposed Tariff Amendments at the Board Meeting of September 1<sup>st</sup>, the Staff held various meetings with the Stakeholders to discuss the proposed amendments. Commissioner Guerra moved to authorize the amendment of

the Port of Brownsville Tariff to adopt Tariff Item 256 as proposed and to be effective January 1, 2022, with the understanding that the Board would be informed of all agreements, Commissioner Reed seconded, and the motion passed unanimously.

**15. Consideration and Action on adopting the Port of Brownsville IT Policy Manual.**

Mr. Martinez addressed the Board requesting the adoption of the Port of Brownsville IT Policy Manual. The IT Policy Manual has been completed and has been approved by the Policy Committee. This manual includes policies regarding acceptable use of the internet, port data and technology assets, password, mobile devices, and third-party applications. This policy will not only give the team acceptable guidelines but will also help abide by auditing standards. Commissioner Reed moved to adopt the proposed IT Policy Manual, with an effective date of December 2, 2021, Commissioner Wood seconded, and the motion passed unanimously.

**16. Consideration and Action to authorize Port Staff to submit a permit application to the USACE for the Brownsville Navigation Water and Sewer Utility Expansion Project.**

Mr. Campirano addressed the Board requesting authorization for Port Staff to submit a permit application to the USACE for the Brownsville Navigation Water and Sewer Utility Expansion Project. NextDecade is proposing to develop the Rio Grande LNG project at the Port of Brownsville. Included in the project is the extension of Water and Sewer Improvement from the Port to the project site. NextDecade will incur all of the costs of expansion of the utilities and once completed, will convey the improvements over to the Port. The improvements will also allow other users to tap into the improvements as the Port expands its development footprint east of the Shrimp Basin. Commissioner Reed moved to authorize Staff to work with NextDecade to submit a permit application to the USACE for the Brownsville Navigation District Water and Sewer Utility Expansion Project, Commissioner Wood seconded, and the motion passed unanimously.

**17. Consideration and Action to award bid and authorize payment of the Cisco Firepower Firewall and Service for Security Data Access for BND Domain Access Data Project.**

Mr. Martinez addressed the Board requesting the award of bid and authorization of payment of the Cisco Firepower Firewall and Service for Security Data Access for BND Domain Access Data Project. The Cisco Firepower Firewall will increase security and protect the network and data from inbound and outbound hacking and malware threats. The service provided with the Cisco Firepower Firewall will also provide 24/7 defense service that will help monitor any possible threats to the network or data at all hours of the day or night. The Port currently has a Cisco Meraki Firewall MX80 which has been in place for over six years but is designated for a smaller organization and with the growth, the Port needs more protection. On November 3<sup>rd</sup>, 2021, Staff received approval by the Commission to request bids. Staff posted the request for bids in the newspaper, the Port's website, and contacted different vendors. Commissioner Guerra moved to award bid and authorize payment to C&A Industrial Supply in the amount of \$224,000.00, Commissioner Wood seconded, and the motion passed unanimously.

**18. Consideration and Action to award bid and authorize payment of the 30 Cisco Catalyst Switched Upgrade Project.**

Mr. Martinez addressed the Board requesting the award of bid and authorization of payment of the 30 Cisco Catalyst Switched Upgrade Project. The port currently has 30 switches in the south side and shrimp basin that connect the security system cameras throughout the port. These switches have been in place for over ten years, and they are at end of life because there are no available updates and are no longer supported, which makes them a security risk. On November 3, 2021, Staff received approval by the Commission to request bids to replace this equipment. Staff posted the request for bids in the newspaper, Port website, and contacted different vendors. Commissioner Reed moved to award bid and authorize payment in the amount of \$126,000.00 to C&A Industrial Supply for the 30 Cisco Catalyst Switches in order to complete the Cisco Catalyst Switches Upgrade Project, which will take between four and five months, Commissioner Guerra seconded, and the motion passed unanimously.

**19. Consideration and Action on request to authorize Staff to advertise and solicit for bids on the purchase of an acoustic wave and current profiler, and to open bids, thereof.**

Mr. Davis addressed the Board requesting authorization for Staff to advertise and solicit for bids on the purchase of an acoustic wave and current profiler, and to open bids, thereof. The purpose for this request to purchase and install an acoustic wave and current profiler (NORTEK AWAC 400 KHZ) on a sentinel buoy located inside the Brownsville Ship Channel. This will allow the pilots to make real-time decisions to manage the deep draft vessel traffic and open a longer transit window. This equipment will provide the following information: studies of tidal current, online measurements of currents and waves, measurement campaigns where the full wave spectrum is needed and monitoring of transient waves for channel wall protection. Commissioner Guerra moved to authorize BND Staff to advertise for bids for an acoustic wave and current profiler and to open bids once received, Commissioner Reed seconded, and the motion passed unanimously.

**20. Consideration and Action to authorize BND Staff to issue purchase order for the South Port Connector Portable Guard House to the lowest responsive bidder.**

Mr. Chavez addressed the Board requesting authorization for BND Staff to issue purchase order for the South Port Connector Portable Guard House to the lowest responsive bidder. BND Staff has been working with the Texas Department of Transportation (TxDOT), with the Cameron County Regional Mobility Authority (CCRMA), and with consultant S&B Infrastructure, Inc. (S&B) on the construction phase of the South Port Connector Road project, which is nearing completion. One of the features needed for this entrance is a Guard House, and it was deemed too that it needed to be portable and movable in the event materials larger than the road width required it to be moved. BND Staff developed specifications for the Guard House and on September 15, 2021 BND Commissioners authorized BND Staff to Advertise for Bids on the South Port Connector Portable Guardhouse. The Invitation to Bid was published on November 1<sup>st</sup> and November 8, 2021 with a target Bid Opening date of November 19, 2021. On that date, only one bid was received from Porta-King Building Systems, in the amount of \$104,068.56 including freight. Should the purchase be approved and awarded, the plan would be for BND Staff to install it. Commissioner Guerra moved to award bid and authorize issuance of a Purchase Order for the

South Port Connector Portable Guard House in the amount of \$104,068.56, and to place the order for said Guard House, Commissioner Wood seconded, and the motion passed unanimously.

**21. Consideration and Action to authorize BND Staff to issue purchase order for pipe and materials for the South Port Connector Guard House Water & Sewer Extensions Materials project to the lowest responsive bidder.**

Mr. Chavez addressed the Board requesting authorization for BND Staff to issue purchase order for pipe and materials for the South Port Connector Guard House Water & Sewer Extensions Materials project to the lowest responsive bidder. BND Staff has been working with the Texas Department of Transportation (TxDOT), with the Cameron County Regional Mobility Authority (CCRMA), and with consultant S&B Infrastructure, Inc. (S&B) on the construction phase of the South Port Connector Road project, which is nearing completion. One of the features needed for this entrance is a Guard House, which will require potable water distribution and wastewater collection services. BND Staff has planned for the work to be performed by the Maintenance staff, but materials need to be purchased. Since the cost of the materials required was estimated to be below \$50,000.00, in conformance with BND Procurement Policy and Procedures and in coordination with BND Finance Staff, sealed quotes were invited from several local vendors and BND Staff set the Bid Opening date for Friday, November 19, 2021. Two bids were received with the lowest bid being from AguaWorks Pipe & Supply in the amount of \$36,073.09. Commissioner Guerra moved to authorize BND Staff to issue a Purchase Order for the South Port Connector Water & Sewer Extensions Materials as required for the Guard House to be installed there, and to place the order for said materials, Commissioner Wood seconded, and the motion passed unanimously.

**22. Consideration and Action on Change Order #2 to the contract with R.M. Walsdorf, Inc. on the Oil Dock #6 Bulkhead Repairs project, increasing the area of repairs and extending the contract time.**

Mr. Chavez addressed the Board requesting the approval or rejection on Change Order #2 to the contract with R.M. Walsdorf, Inc. on the Oil Dock #6 Bulkhead Repairs project, increasing the area of repairs and extending the contract time. On August 4, 2021 BND Commissioners awarded the contract on the Oil Dock #6 Bulkhead Repairs project to R.M. Walsdorf, Inc. in the amount of \$1,490,228.00. On September 15, 2021 BND Commissioners approved Change Order #1 increasing the original price by \$408,769.00 for a new contract price of \$1,898,997.00 and added 60 days to the original contract time of 120 calendar days for a new total of 180 calendar days. Change Order #1 increased the excavation and proposed demolition limits, replaced use of existing sub-base material for backfill with a lighter gravel fill, installed Drain Holes through the Bulkhead Cap for drainage, and increased the number of waler beams and anchor rods. Change Order #2 proposes to increase the length and depth of both the landside bedding stone and the waterside armor graded rock riprap, and to increase the area of pavement to be removed and replaced. The contractor is requesting 60 additional calendar days to perform the extra work. This Change Order #2, if approved, will adjust the contract price and time to include these modifications. Discussion followed regarding HDR's obligation to pay the change order. Mr. Moore confirmed that it is the obligation of HDR. At Commissioner Reed's request, Mr. Rentfro suggested that a letter from HDR confirming its intent to pay the change order would be appropriate. Commissioner Reed moved to approve Change Order #2 to the contract with R.M. Walsdorf, Inc. on the Oil Dock #6

Bulkhead Repairs project, increasing the current contract price of \$1,898,997.00 by \$706,682.00 to \$2,605,679.00 and extending the current 180 calendar days contract time by 60 calendar days to 240 calendar days, once confirmation of HDR's intent to pay the change order is received, Commissioner Wood seconded, and the motion passed unanimously.

The Chairman then recalled Item 6.

**6. Discussion of proposed Fiscal Year 2022 Operating and Capital Budgets. (KF)**

Ms. Franco led a general discussion regarding the draft budgets, which were in the agenda packet.

**24. 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 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, including the annual evaluation of the Port Director / Chief Executive Officer (§551.074); and to conduct deliberations regarding economic development negotiations (§551.087).**

The Chairman then announced that the time was 7:15 p.m., and that the Board would adjourn into executive session.

The Chairman then announced that the time was 7:55 p.m., and that the Board had reconvened in open session.

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

There was none.

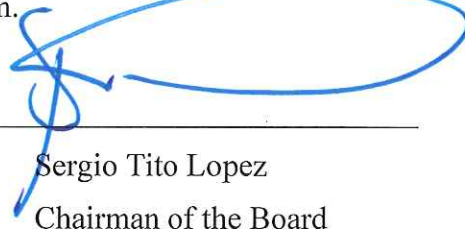
**24. Adjournment.**

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

ATTEST



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Esteban Guerra, Secretary

  
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Sergio Tito Lopez  
Chairman of the Board