

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD APRIL 6, 2022 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, April 6, 2022 at 5:30 p.m.** The following individuals were present and absent:

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

ABSENT: None

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
Ariel Chavez
Michael Davis
Tony Rodriguez
Margie Recio
Janie Velasquez
Jorge Montero
Jose Herrera
Zeus Yanez
Lt. Julio Romo

OTHERS PRESENT: Rev. Andreas Lewis
Kevin Garcia
Juan Velez
J.C. Echeverria
Brent Moore
Jorge De La Colina
Rene Olivarez
Family of Lieutenant Romo

1. Meeting Called To Order

The Chairman called the meeting to order at 5:35 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 Port Monthly Operations Summary Report

The Board received the reports.

b. Promotion of Sergeant Julio Romo to the rank of Police Lieutenant

Mr. Campirano announced the promotion of Sergeant Julio Romo to the rank of Police Lieutenant. Lieutenant Romo addressed the Board and thanked the Port for the opportunity to serve.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Regular Board Meeting of March 16, 2022.
- b. Approval to authorize payments over \$25,000.00:
 1. R.M. Walsdorf, Inc., the amount of \$1,265,525.32, for Oil Dock #6 Bulkhead.

Mr. Campirano noted that the above sum was reimbursable to the Port from HDR and gave a brief update on the status of the project.

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

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

Ms. Rodriguez addressed the Board regarding the following items:

1. Construction Delivery Group, LLC (Authority to Negotiate)

Staff requested authority to negotiate a new lease with Construction Delivery Group, LLC for a one-acre tract of land. Construction Delivery Group, LLC has purchased the assets from Border Financial Services Inc. d/b/a A-MEX. The property is located at 17755 SH 48. The purpose clause for this site is: General Contractors (office space, tool storage and parking). Commissioner Wood moved to approve the Authority to Negotiate a new lease with Construction Delivery Group, LLC, Commissioner Cowen seconded, and the motion passed unanimously.

2. American Oxygen Company (Lease Amendment)

American Oxygen Company, LLC a current lessee under BND Contract #4445 is requesting an amendment to their Lease Agreement. The current Lease Agreement incorrectly names American Oxygen Company, LLC. as the Lessee. The correct name of the Lessee is American Oxygen Company. This amendment would change the name of the Lessee in the Lease Agreement from American Oxygen Company, LLC, a Texas Limited Liability Company, to American Oxygen Company, a Texas Corporation. Commissioner Guerra moved to approve the Amendment to Lease for American Oxygen Company, Commissioner Cowen seconded, and the motion passed unanimously.

3. **TransMontaigne Operating Co., L.P. (License Agreement)**

This License Agreement with TransMontaigne Operating Co., L.P. is for the purpose of installing product pipelines from their lease sites in and around Anchor Road to Oil Dock #6. The pipelines will be one 10", one 12" and one 16" steel pipes. It is to be effective as of April 6, 2022, for a term of ten years. Commissioner Reed moved to approve the License Agreement with TransMontaigne Operating Company, L.P., Commissioner Wood seconded, and the motion passed unanimously.

6. **Consideration and Action to adopt a Resolution granting certain tax exemptions to eligible sites historic listed in the 2022 Historic Preservation Plan.**

Ms. Recio addressed the Board requesting the adoption of a resolution granting certain tax exemptions to eligible historic sites listed in the 2022 Historic Preservation Plan. Annually, the City of Brownsville prepares the Historic Preservation Plan (Plan). This Plan identifies historically significant buildings in the Brownsville area, which are included in the Plan for the year. This Plan is then submitted to the local taxing entities for their consideration in granting the properties listed in the Plan a tax exemption. Some properties are proposed for full exemptions, some for 50% exemptions. The owners of the properties must submit an annual application for inclusion in the Plan for the year. The valuation of the properties included in the Plan is reduced from the appraised valuation for the entities who grant the tax relief. The tax rate calculations are performed after the properties values are reduced from the total valuation, so the District does not give up tax dollars in granting these tax exemptions. The total revenues that the District intends to collect through property taxes are spread over the remaining, non-exempt properties. As reflected on the report, the tax that is shifted is \$4,235. Mr. Juan Velez, the Historic Preservation Manager attended the Board meeting to present this item. Commissioner Reed moved to adopt the resolution granting the ad valorem property tax relief to those certain properties as listed in the 2022 Historic Preservation Plan of the City of Brownsville, Commissioner Wood seconded, and the motion passed unanimously.

7. **Consideration and Action to declare 8'x10'x2' Barge, Unit 603, as surplus to the District's needs and to authorize the Salvage Auction Team to dispose of it.**

Ms. Recio addressed the Board requesting authorization to declare 8'x10'x2' Barge, Unit 603, as surplus to the District's needs and to authorize the Salvage Auction Team to dispose of it. This barge was assigned to the Maintenance department and is no longer of service to the District. The barge poses a liability if it's in use. This item was referred to the Salvage Auction Team for determination of disposal. The Salvage Auction Team met on March 25th and determined that this item can be sold as scrap. The Salvage form and photo of the equipment were presented. The Policy for Disposition of Surplus and Salvage permits the Salvage Auction Team to dispose of this type of equipment as scrap by soliciting bids from local recyclers and awarding the sale to the highest bidder. However, the barge is listed as an asset on the books of the District, therefore, the Board of Commissioners shall declare the item as surplus to the District's needs and authorize the sale as scrap. Subject to the approval of this item the Salvage Auction Team will solicit three quotes to sale the barge as scrap. Commissioner Cowen moved to declare Unit 603 as surplus to the District's needs and to authorize the Salvage Auction Team to dispose of it, Commissioner Guerra seconded, and the motion passed unanimously.

8. Consideration and Action to authorize Staff to advertise and solicit proposals for the District's Property and Liability Insurance Program.

Ms. Recio addressed the Board requesting authorization for Staff to advertise and solicit proposals for the District's Property and Liability Insurance Program. Staff has been working with the District's Insurance consultant, Susan Gola of McGriff, Seibels & Williams, Inc. in putting together the Request for Proposals packet for the District's Property and Liability insurance program. These proposals are usually solicited by direct contact from the District's consultant to the market, however, the District is required to advertise in the local newspaper as well. The District's current coverages are due to expire on June 1st. Commissioner Reed moved to authorize the staff to advertise and solicit for proposals for the District's property and liability insurance program, Commissioner Cowen seconded, and the motion passed unanimously.

9. Consideration and Action to authorize Port Staff to award bid for the Belly Dump Trucks hauling services for the expansion of Patio 22.

Mr. Herrera addressed the Board requesting authorization for Port Staff to award bid for the Belly Dump Trucks hauling services for the expansion of Patio 22. On March 2, 2022, Facilities Maintenance Staff received approval by the BND Commission to request bids for hauling services of six Belly Dump Trucks. On March 14, 2022, staff posted our request for bids in the newspaper, the Port's website, and staff forwarded bid packages to different suppliers, with a bid opening date of March 29, 2022. Staff received five bids from local belly dump truck companies. These hauling services will be requested on an as needed basis and pricing is to be maintained for the duration of the project. There were two companies with very close proposals. RML hauling from Brownsville, TX in the amount of \$84.75 per hour and J Molina Trucking from Brownsville, TX in the amount of \$85.00 per hour. The difference being three tenths of one percent (0.003%). Discussion followed regarding the bids and Board counsel commented on the bids. After discussion, Commissioner Reed moved to award the bid to the lowest bidder for the belly dump trucks hauling services and to authorize payment of the invoices when received, Commissioner Cowen seconded, and the motion passed 4-1 with Commissioner Guerra voting "nay."

10. Consideration and Action to authorize Port Staff to award bid for rental equipment for Patio 22 expansion.

Mr. Herrera addressed the Board requesting authorization for Port Staff to award bid for rental equipment for Patio 22 expansion. On March 2, 2022, Facilities Maintenance Staff received approval by the BND Commission to request bids for rentals of a sheep foot vibratory soil roller, a water truck, a bulldozer and two excavators. On March 14, 2022, staff posted the request for bids in the newspaper, the Port's website, and staff forwarded bid packages to different local suppliers, with a bid opening date of March 29, 2022. Staff received three bids from local equipment rental companies. This equipment is to be rented on an as needed basis and pricing is to be maintained for the duration of the project. After evaluating the bids, the company with the best bid was BC Equipment Sales, Inc., for two excavators at \$15,453.38 per month, one 84" sheep foot vibratory soil roller at \$3,858.02 per month, and a two-thousand-gallon water truck at \$2,884.63 per month. Herc Rentals had the best bid for the D6 bulldozer at \$6,733.47 per month. This equipment will be operated by BND staff. Commissioner Reed moved to award the bid to BC Equipment Sales, Inc., for the three pieces of equipment they can provide (two excavators, one sheep foot vibratory soil roller, one two-thousand-gallon water truck), to Herc Rentals for the piece of equipment they can provide (a D6 bulldozer), and to authorize payment once invoices are received, Commissioner

Cowen seconded, and the motion passed unanimously.

11. Consideration and Action to authorize Port Staff to award bid for the purchase of a new five thousand square foot structural metal building for the Maintenance Department Tool Room expansion.

Mr. Herrera addressed the Board requesting authorization for Port Staff to award bid for the purchase of a new five thousand square foot structural metal building for the Maintenance Department Tool Room expansion. On March 2, 2022, Staff received approval from the Board to solicit sealed bids for a five thousand square foot structural metal building for Maintenance Department Tool Room expansion. On March 15, 2022, Staff posted the request for sealed bids in the newspaper, the Port's website and staff also contacted three different local vendors with a bid opening date of March 30, 2022. Staff received bids from five suppliers. After evaluating all the bids, the company with the lowest bid is Mueller, Inc., in the amount of \$60,991.66. Mueller is only guaranteeing the price for 14 days from date of quote which was March 23, 2022. Second lowest bidder is Royal Metals, in the amount of \$67,822.00. Royal Metals is guaranteeing price for thirty days from day of quote. Staff will be performing all installation and labor related to this project. Mr. Herrera announced that prior to the meeting Mueller had withdrawn its bid. Commissioner Guerra moved to award the bid for the purchase of the five thousand square foot structural metal building to Royal Metals, the lowest bidder, and to authorize payment of invoice once received, Commissioner Cowen seconded, and the motion passed unanimously.

12. Consideration and Action to authorize Port Staff to issue Purchase Order for Pipe and Fittings for the planned Water Distribution Lines Replacement projects to the lowest bidder.

Mr. Chavez addressed the Board requesting authorization for Port Staff to issue Purchase Order for Pipe for the planned Water Distribution Lines Replacement projects to the lowest bidder. On December 1, 2021, BND Staff presented the BND Master Plan for Water & Wastewater System Improvements to BND Commissioners including multiple projects for the current and following Fiscal Years and beyond. Several of those projects are scheduled to be performed in Fiscal Years 2022 and 2023. In recognition of the continuing rise in cost of and the increasing lead time for materials, on February 16, 2021 BND Commissioners authorized BND Staff to publish in the local newspaper an Invitation to Bid for the pipe and materials for the projects scheduled for Fiscal Years 2022 and 2023. The Invitation to Bid was published on March 1st and March 8, 2022 and BND Staff also notified known suppliers by email and/or phone. Bids were opened on March 15, 2022, with three (3) bidders submitting. The low bid was from AguaWorks Pipe & Supply of Brownsville, Texas, with a bid of \$1,295,320.80 for the pipes and of \$144,197.94 for the fittings, for a total bid of \$1,439,518.74. After review of the mathematics, the bids were actually \$1,294,347.10 for the pipes and \$144,197.73 for the fittings, for a total bid of \$1,438,544.83. Mr. Chavez noted that he and his staff recommend that the bid for the fittings be rejected because staff believes a smaller size of fittings would be appropriate for this project. Commissioner Reed moved to authorize BND Staff to issue a Purchase Order for the Pipes needed for the 2022-2023 BND Water Distribution Lines Replacement projects to the lowest responsive bidder AguaWorks Pipe & Supply in the amount of \$1,294,347.10 for the pipes only, to place the order and issue payment for those pipes, to reject the bid for the fittings, and to authorize BND Staff to re-advertise a request for bids for the smaller fittings, Commissioner Cowen seconded, and the motion passed

unanimously.

13. Consideration and Action to accept Structural Analysis Report of the Bulk Cargo Dock by consultant HDR Engineering, Inc. and authorize reimbursement to BND lessee West Plains, LLC in the amount of \$68,803.25, or 50% of the actual total fee of \$137,606.50.

Mr. Chavez addressed the Board requesting acceptance of the Structural Analysis Report of the Bulk Cargo Dock by consultant HDR Engineering, Inc. and authorization of reimbursement to BND lessee West Plains, LLC in the amount of \$68,803.25, or 50% of the actual total fee of \$137,606.50. On December 1st, 2021, BND Commissioners authorized the Port Director and CEO to enter into an Agreement with BND lessee West Plains, LLC to a 50%/50% sharing of engineering services costs for the Structural Analysis of Surface Loads and Ramp Structures at the Bulk Cargo Dock by consultant HDR Engineering, Inc. The Scope of Work included (1) Project Management, (2) Preliminary Modeling and Analysis of Surface Loads on Dock and Ramp Structures, (3) Above and Underwater Inspection and (4) Condition Assessment and Structural Analysis. HDR proposed to perform this Analysis for \$137,614.00. HDR has completed the Analysis and West Plains has submitted the Report to BND Staff. The Report indicates that there are only minor concerns in a small portion of the dock deck and in very few of the H-Piles under the dock. The required repairs are considered to be simple to perform and implement. The final cost for the Analysis was \$137,606.50, of which 50% is \$68,803.25. Commissioner Reed moved to accept the Structural Analysis Report and authorize reimbursement to BND lessee West Plains, LLC in the amount of \$68,803.25, which represents 50% of the total fee of \$137,606.50 by consultant HDR Engineering, Inc., Commissioner Wood seconded, and the motion passed unanimously.

14. Consideration and Action on Change Order No. 1 to the contract with Orion Construction, LP for Oil Dock #3 and Liquid Cargo Dock Maintenance Dredging, to cover additional dredging time due to material type and debris found in channel.

Mr. Chavez addressed the Board requesting approval on Change Order No. 1 to the contract with Orion Construction, LP for Oil Dock #3 and Liquid Cargo Dock Maintenance Dredging, to cover additional dredging time due to material type and debris found in channel. On March 16, 2022, BND Commissioners authorized the Port Director and CEO to enter into a contract with Orion Construction, LP for Oil Dock #3 and Liquid Cargo Dock Maintenance Dredging in the amount of \$828,300.00. The contract schedule was based on hydraulic dredging operations performed on a twenty-four (24) hour per day, seven (7) days per week basis. While dredging, two issues arose: (1) there was a considerable amount of debris found on both docks that resulted in repeated stoppage of work to remove the debris from the dredging hose to be able to continue the dredging operation, and (2) a good amount of the material encountered was hard clay which took longer to remove and pump into the Dredged Material Placement Area. The attached Change Order tabulation shows the original estimated hours and the additional hours spent on each dock. The additional time resulted in a total increase in cost of \$114,562.50, or 13.83% of the original contract price of \$828,300.00, for a new total contract price of \$942,862.50. This Change Order #1 will adjust the contract price to the actual total time spent on both docks. The work was monitored by both the Harbormaster's Office and the BND Department of Engineering Services, which both concur that the work performed is adequate and acceptable. Commissioner Cowen moved to approve Change Order No. 1 to the contract with Orion Construction, LP for the Oil Dock #3 and Liquid Cargo Dock Maintenance Dredging project, increasing the contract amount of \$114,562.50

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from \$828,300.00 to \$942,862.50 due to additional work necessary to clear the docks of hard material and debris, Commissioner Guerra seconded, and the motion passed unanimously.

15. Consideration and Action on Change Order No. 1 to the contract with Reno Works, LLC on the Oil Dock No. 6 West Pipe Bridge project to cover additional shims, providing for standby time and extending the contract time due to weather and delays.

Mr. Guerra addressed the Board requesting approval on Change Order No. 1 to the contract with Reno Works, LLC on the Oil Dock No. 6 West Pipe Bridge project to cover additional shims, providing for standby time and extending the contract time due to weather and delays. BND Staff worked with BND lessee Energy Transfers on pipeline connection to Oil Dock #6. An additional Pipe Bridge was required to also accommodate future lessees of a Tank Farm in the BND secure perimeter. Energy Transfers engaged consultant JTam Engineering to design the pipe bridge and prepare drawings and specifications for bids. On January 6, 2021, BND Commissioners authorized publishing of the Invitation to Bid on the Oil Dock #6 West Pipe Bridge, and after BND Staff finalized the Bid Document package, bids were received and opened, and on February 17, 2021, BND Commissioners awarded the contract to RenoWorks, LLC in the amount of \$322,636.00. During construction, it was discovered that 28 shim plates were required and were installed. Moreover, the contractor has experienced delays due to weather and dock usage. The contractor submitted pricing for these delays and after review, re-submitted a revised pricing request for an additional \$32,960.00 to cover the extra time and materials. If approved, this Change Order #1 will increase the contract price by 10.22%, resulting in a new total contract price of \$355,596.00. Rene Olivarez, of Reno Works, addressed the Board. Discussion followed regarding the design of the pipe bridge and the Port's recourse against the engineers who designed the bridge. Commissioner Reed moved to approve Change Order No. 1 to the contract with RenoWorks, LLC for Oil Dock #6 West Pipe Bridge project, increasing the contract price by \$32,960.00 to a new total contract price of \$355,596.00, Commissioner Wood seconded, and the motion passed unanimously.

16. Consideration and Action on Proposal by HDR Engineering, Inc. on professional engineering services for design phases of the Cargo Dock #3 Reconstruction project, and to authorize the Port Director & CEO to execute Task Orders in conformance with the selected proposal.

Mr. Campirano addressed the Board requesting approval of proposal by HDR Engineering, Inc. on professional engineering services for design phases of the Cargo Dock #3 Reconstruction project and to authorize the Port Director & CEO to execute Task Orders in conformance with the selected proposal. On June 16, 2021, BND tenant American Cement Advisors' (ACA) consultant HDR Engineering, Inc. (HDR) and BND Staff presented to BND Commissioners an HDR study on repairs vs. reconstruction of BND's Cargo Dock #3 (CD3). On July 21, 2021, BND Staff presented HDR's Report to BND Commissioners recommending demolition of the deteriorated CD3 and reconstruction with steel piles, pre-cast concrete beams and deck. On August 18, 2021, BND Commissioners authorized the Port Director and CEO to accept the proposal from HDR on Tasks 001-Project Management and Controls - Data Collection, 002-Geotechnical and Site Investigation and 003-Master Plan of the Cargo Dock #3 area development. HDR and BND Staff presented the Master Plan to BND Commissioners on December 1st, 2021. On December 7, 2021, HDR submitted a revised proposal for the remaining final design tasks, i.e., 004-Permitting and Regulatory, 005-Demolition Package, 006-Pile Procurement Package and 007-Dock Package, adding Task 008-Project Management and Controls (design phases). After BND Staff analysis and

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review, HDR revised and resubmitted the proposal to perform the remaining tasks for a fee not to exceed \$1,028,255.00 for an accelerated project schedule with multiple procurement packages. This work does not include final design of any future Phases of the Master Plan. Mr. Campirano noted that Texan Cement would be reimbursing the Port for this project in the amount of \$81,000.00. Commissioner Reed moved to accept the proposal from HDR Engineering, Inc. for engineering services on the final design phases for Phase 1 of the Cargo Dock #3 Reconstruction project for a fee amount not to exceed \$1,028,255.00 for the accelerated project schedule, Commissioner Wood seconded, and the motion passed 4-1 with the Chairman voting “nay.”

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 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).

The Chairman then announced that the time was 6:43 p.m. Commissioner Guerra moved to adjourn into executive session, Commissioner Reed seconded, and the motion passed unanimously.

The Chairman then announced that the time was 6:56 p.m., and that the Board had reconvened in open session.

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

There was none.

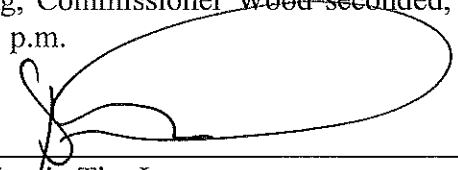
19. Adjournment.

Commissioner Guerra moved to adjourn the meeting, Commissioner Wood seconded, and the meeting was adjourned by unanimous consent at 6:58 p.m.

ATTEST



Esteban Guerra, Secretary



Sergio Tito Lopez
Chairman of the Board