

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD APRIL 20, 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 20, 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
Ariel Chavez
Arturo Gomez
Zeus Yañez
Jaime Martinez

Chief Carlos Garcia
Michael Davis
Tony Rodriguez
Margie Recio

Jorge Montero
Karina Franco
Jose Herrera
Lt. Julio Romo
Martin Medrano
Carlos Martinez

OTHERS PRESENT: Rev. Andreas Lewis
Dennis Adams
Ricardo Quiroga

1. Meeting Called To Order

The Chairman called the meeting to order at 5:40 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

Mr. Yañez made the report to the Board. Discussion followed.

CONSENT AGENDA

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

- a. Approval of the Minutes of the Regular Board Meeting of April 06, 2022.
- b. Approval to authorize payments over \$25,000.00:
 1. Orion Construction, LP, the amount of \$942,862.49, for dredging Liquid Cargo Dock and Oil Dock #3; and
 2. Pederson Construction Company, Inc., the amount of \$69,950.70, for 2020 BND Water Lines Replacement Project.

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

5. Consideration and Action on name change for Steamship Agent Agunsa USA, Inc.

Mr. Campirano addressed the Board regarding the item. He noted that the item was ready for presentation, with all requirements in order. However, the agenda item inadvertently referred to a "name change" for the applicant, rather than the issuance of a new license. In order to avoid any concerns over the posting, and to be completely transparent, Mr. Campirano recommended that the Board approve the item, and then ratify that approval under an accurate posting, at the first May meeting. Commissioner Cowen so moved, Commissioner Wood seconded, and the motion passed unanimously.

6. Presentation of District's Investment Report for the quarter ended March 31, 2022.

Mr. Yañez addressed the Board to present the District's Investment Report for the quarter ended March 31, 2022. Discussion followed.

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

Ms. Rodriguez addressed the Board regarding the following items:

1. AEP Texas Inc. (Authority to Negotiate)

AEP Texas Inc. is a current lessee under BND contract #2515. Lessee is seeking Authority to Negotiate a new lease on 6.329 acres of land space along State Hwy 48. Operations and purpose of the lease will be for the AEP Pompano Electrical Substation to be located at the Rio Grande LNG site. Commissioner Guerra moved to approve the Authority to Negotiate for AEP Texas Inc., Commissioner Cowen seconded, and the motion passed unanimously.

2. Starcrete LLC (Authority to Negotiate)

Starcrete LLC is interested in leasing 6.27 acres located at 500 Yard Road and seeks Authority to Negotiate a New Lease for a term of five years. Operations and purpose of the lease will be for a

Ready-Mix Concrete Batching Plant. Commissioner Reed moved to approve the Authority to Negotiate for Starcrete LLC, Commissioner Guerra seconded, and the motion passed unanimously.

3. Gulf Facilities Inc. (New Lease)

Gulf Facilities, Inc. is seeking a new lease for the property located at 4201 Foust Road for a term of five years with two renewal options of 5 years. Purpose clause; Aluminum; bagged sand; steel products; storage of bulk & breakbulk cargo; handling of trucks and railcars. Commissioner Guerra moved to approve the new lease for Gulf Facilities, Inc., Commissioner Wood seconded, and the motion passed unanimously.

8. Consideration and Possible Action on Second Amendment to Lease Agreement dated March 6, 2019 (BND Contract Number 4375) between the Brownsville Navigation District and Rio Grande LNG, LLC.

Mr. Campirano addressed the Board regarding a proposed Second Amendment to Lease Agreement dated March 6, 2019 (BND Contract Number 4375) between the Brownsville Navigation District and Rio Grande LNG, LLC. The Brownsville Navigation District entered into a Lease Agreement with Rio Grande LNG, LLC for the development of a Liquid Natural Gas Liquefaction Facility. The purpose of this Amendment is to extend the Effective Date Notice to align with the proposed Project Schedule. There are no other changes or modifications to the Terms and Conditions of the Lease Agreement. Mr. Campirano asked that the item be tabled for discussion in Executive Session. Commissioner Guerra so moved, Commissioner Cowen seconded, and the motion passed unanimously.

9. Consideration and Possible Action on Second Amendment to the BIH Project Agreement to Permit, Undertake and Finance Dredging Projects (BND Contract Number 4397).

Mr. Campirano addressed the Board regarding a proposed Second Amendment to the BIH Project Agreement to Permit, Undertake and Finance Dredging Projects. The Brownsville Navigation District (BND) entered into an agreement with Rio Grande LNG, LLC to collaborate on the improvements to the Brazos Island Harbor (BIH) Channel Improvements. The BIH Project would provide for the deepening of the Ship Channel from 42' to 52'. The agreement states that Rio Grande LNG, LLC wishes to accelerate the timely completion of the BIH Project and the Bend Easing Project by providing technical commercial and financial support to BND. This action would extend the term of the agreement to December 31, 2023. Mr. Campirano asked that the item be tabled for discussion in Executive Session. Commissioner Guerra so moved, Commissioner Cowen seconded, and the motion passed unanimously.

10. Consideration and Action on amending Tariff Number 6, Item 110 Payment of Charges and Responsibility Therefore: Extensions of Credit and Liens (Section 10).

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, Item 110 Payment of Charges and Responsibility Therefore: Extension of Credit and Liens. The District provides a rebate opportunity at the rate of 2½% of the total dockage, wharfage, and penalty storage charges that are incurred and billed to the Agents and Stevedores. The rebate is issued to those agents and stevedores that pay their invoices within 30 days of the invoice date. Staff is proposing to add a clause within this item that the rebate will not be issued to users not complying with the submittal period of documentation as specified in Tariff Item 200. Staff is also proposing that in the event that the users fail to bring their account current for all other billings owed to the

District within the 14 days of delinquent notification will result in them forfeiting that month's calculated rebate. A red-lined version of this item was provided to the Board. 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 1st, the Staff held various meetings with the Stakeholders to discuss this proposed amendment. Commissioner Wood moved to authorize the amendment of the Port of Brownsville Tariff No. 6 Item 110 as proposed to be effective July 1, 2022, Commissioner Guerra seconded, and the motion passed unanimously.

11. Consideration and Action on amending Tariff Number 6, Item 200 – Cargo Documentation.

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, Item 200 – Cargo Documentation. In the current Tariff, the Cargo Manifest/Inward Cargo Declaration is submitted into the Klein system within five days following a vessel's sailing. Staff has been made aware that these documents are available to the agents prior to submitting a Berth Application. Staff is proposing to change the uploading time of 5 days following a vessel's sailing to upload at the time the Berth application is submitted. By doing so, it would increase efficiencies within invoicing. Staff is also proposing for the Bill of Lading/Certificate of Quantity to be submitted in pdf format in the Klein system by the agent or responsible parties within five business days following a vessel's sailing. Another proposed amendment for this item is to include language that refers back to Tariff Item 110 pertaining to the rebate. Basically, advising that failure to file all the required documentation within the specified time will disqualify them from recovering that month's rebate on dockage, wharfage, and penalty storage charges. A red-lined version of this item was provided to the Board. 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 1st, the Staff held various meetings with the Stakeholders to discuss this proposed amendment. Commissioner Guerra moved to authorize the amendment of the Port of Brownsville Tariff No. 6 Item 200 as proposed and to be effective July 1, 2022, Commissioner Wood seconded, and the motion passed unanimously.

12. Consideration and Action on amending Tariff Number 6, Item 240 – Unauthorized Use of Public Space.

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, Item 240 – Unauthorized Use of Public Space. The current item has a provision for users to submit an application for permission to use floor space to leave their equipment on. However, there have been several issues with the current situation of stevedoring equipment being left on the public facilities. The recommended revision of this item is to state that the Harbormaster will designate the area where equipment may be left, with prior authorization. This will be for staging of equipment only, no storage of equipment will be allowed. Also, no maintenance of equipment will be allowed on any public facility during any time. If equipment is left in an unauthorized area the owner will have 4 hours' notice to move the equipment or a fee of \$500 per day will be assessed. In the event that equipment is left in an unauthorized area that obstructs cargo operations, the owner will have 2 hours' notice to move the equipment or a fee of \$1,000 per day will be assessed, and the equipment is subject to being moved by the District, with no recourse back to the District for damages. Currently, when attempting to notify owners to move equipment, the Harbormaster gets a lot of unanswered phone calls, so we are writing in that email notification is acceptable if phone contact does not work. A red-lined version of this item was provided to the Board. 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 1st, the Staff held various meetings with the Stakeholders to discuss this proposed amendment. Commissioner Wood moved to table the amendment, Commissioner Guerra seconded, and the motion passed unanimously.

13. Consideration and Action on amending Tariff Number 6, by adding new Item 281 – Oil/Liquid Dock Equipment Use Fee.

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, by adding new Item 281 Oil/Liquid Dock Equipment Use Fee. The District currently allows terminal operators to operate the cranes stationed at the liquid and oil docks, at no additional cost. Staff identified continual damage to the District's cranes by terminal operators, due to the nature of the activity at these docks. The terminal operators are not dependent on stevedores to handle their cargo, therefore, the loading/unloading is managed by terminal employees. They use the cranes on the docks to move the heavy hoses into and out of position. Staff considered providing District personnel to operate the cranes, but this entails increased liability on the District, as well as staffing problems with the increasing terminal activities. Therefore, Staff is proposing that the use of these cranes be restricted to "trained dock equipment operators who have been authorized by the Brownsville Navigation District to do so". The District's Crane Operators will train the terminal employees on the use of the cranes, and only those that have been trained and authorized would be allowed to operate them. An Oil/Liquid Dock Crane fee of \$500 per use, will be assessed to the terminal operators for vessels and barge tows continuously loading or unloading cargo. If a request is made from the terminal operators for maintenance use only, they will be assessed an Oil/Liquid Dock Crane fee of \$250 per use. A copy of the item was provided to the Board along with a draft copy of the Oil/Liquid Crane Checklist & Agreement. 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 1st, the Staff held a meeting with the terminal operators to discuss this proposed amendment. Commissioner Guerra moved to authorize the amendment of the Port of Brownsville Tariff No. 6 to adopt Tariff Item 281 as proposed and to be effective July 1, 2022, or at the discretion of the Harbormaster, Commissioner Cowen seconded, and the motion passed unanimously.

14. Consideration and Action on amending Tariff Number 6, Item 340 – Harbor Fee.

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, Item 340 – Harbor Fee. The Harbor fee has not been increased since 2007. The Staff is recommending moving to a fee based on GRT for vessels and ocean-going barges. For all self-propelled ocean-going vessels, there will be a charge of \$.02 per GRT. The Staff is recommending an increase in the Harbor Fee for river barges from \$100 to \$150. Previously, river tugs and ocean-going tugs that did not come into the Port for services (water/ship stores/crew changes) were not charged a Harbor Fee. The Staff is recommending that all tugs (except the Harbor tugs) be charged a Harbor Fee of \$150.00. There had been rates for LASH (Lighter Aboard Ship) barges and SeaBee barges, these were specialty barges that no longer call at the Port. These rates have been removed. The rate for Mexican Fishing Vessels has been left at \$65.00, and American Flag Fishing Vessels are not charged a Harbor Fee. A red-lined version of this item was provided to the Board. 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 1st, the Staff held various meetings with the Stakeholders to discuss this proposed amendment. Commissioner

Wood moved to authorize the amendment of the Port of Brownsville Tariff No. 6 Item 340 as proposed and to be effective July 1, 2022, Commissioner Reed seconded, and the motion passed unanimously.

15. Consideration and Action on amending Tariff Number 6, by adding new Item 341 – Channel Closing Fee.

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, by adding new Item 341 – Channel Closing Fee. When a vessel/barge movement requires the Channel to be closed, there is a good amount of administrative work that is required to manage the closure. This preparation includes meetings with affected parties and disruption of traffic on the Channel for a considerable amount of time in some instances. This includes movement bound from and to Port Isabel. Staff is proposing a fee of \$1,000 per hour of channel closure for a non-cargo vessel and/or dead ship tow except for cargo carrying barges, to the responsible party. This fee will also apply for any other reason, including Space X activities and vessels bound for or departing Port Isabel. A copy of the proposed item was provided to the Board. 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 1st, the Staff held various meetings with the Stakeholders to discuss this proposed amendment. Commissioner Guerra moved to authorize the amendment of the Port of Brownsville Tariff No. 6 to adopt Tariff Item 341 as proposed and to be effective July 1, 2022, Commissioner Reed seconded, and the motion passed, Commissioner Wood abstaining.

16. Consideration and Action on amending Tariff Number 6, Item 345 - Dockage.

Ms. Recio addressed the Board requesting authorization to amend Tariff Number 6, Item 345 – Dockage. The Port of Brownsville Tariff Number 6, Item 345, sets out the charges to be assessed for dockage. These rates were last increased in 2016 in increments of a 3-year period. This item has a multitude of rates, and Staff is proposing eliminating many of them to get to a simpler chart. There would be one rate for vessels on berth - currently at 18¢, with a rate of 25¢ at the BC Dock. There would be a double rate for vessels under seizure by the U. S. Marshall. There would be a rate of \$125.00 per day for river barges. There would be a new dockage charge of \$100 per day for tugs on one of the docks that are not attached to a barge or vessel. The other charges, many of which are very rarely used, if ever, will be removed. This puts the rate for Drilling Rigs at the same rate as vessels. A red-lined version of this item was provided to the Board. 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 1st, the Staff held various meetings with the Stakeholders to discuss this proposed amendment. Commissioner Cowen moved to authorize the amendment of the Port of Brownsville Tariff No. 6 Item 345 as proposed and to be effective July 1, 2022, Commissioner Guerra seconded, and the motion passed unanimously.

17. Consideration and Action on amending Tariff No. 6 to amend Table of Contents Section Two and Section Three to reflect the adoption of Items 256, 281 and 341.

Ms. Recio addressed the Board requesting authorization to amend Tariff No. 6 to amend Table of Contents Section Two and Section Three to reflect the adoption of Items 256, 281 and 341. This Item is contingent to the adoption of the following new tariff items: - Item 256 Open Storage (adopted 12/5/2021); - Item 281 Oil/Liquid Dock Equipment Use Fee; - Item 341 Channel Closing

Fee. Commissioner Reed moved to adopt the amended Tariff No. 6 Table of Contents Section Two and Three as presented, Commissioner Wood seconded, and the motion passed unanimously.

18. Consideration and Action on a Proposal with SAAB Technologies, Ltd. for Tariff Configuration Modifications and Web Changes.

Mr. Yañez addressed the Board requesting approval on a Proposal with SAAB Technologies, Ltd. for Tariff Configuration Modifications and Web Changes. BND staff developed proposed amendments to the Port's Tariff that require modifications to the tariff configuration in the existing KleinPort system installed at the Port of Brownsville. BND staff submitted the proposed tariff amendments to Saab Technologies, Ltd. and received a proposal with the estimated costs to make the necessary modifications to the tariff configuration in the KleinPort system. Total contract amount for the tariff configuration modifications and web changes is \$44,375.00. Commissioner Reed moved to approve the Proposal for Tariff Configuration Modifications and Web Changes with Saab Technologies Ltd. in the amount of \$44,375.00 and authorize payment upon delivery of the system modifications & presentation of invoices, Commissioner Guerra seconded, and the motion passed unanimously.

19. Consideration and Action to authorize BND Staff to issue purchase order and payment for the Patio #22 East Side Entrance Drainage Materials – Phase II project to lowest bidder Core & Main LP.

Mr. Chavez addressed the Board requesting authorization for BND Staff to issue purchase order and payment for the Patio #22 East Side Entrance Drainage Materials – Phase II project to lowest bidder Core & Main LP. BND Staff has been working with BND Lessee Gulf Stream Marine (GSM), with OmniTRAX/BRG (OmniTRAX) and with their consultant AECOM Technical Services, Inc. (AECOM) on various components of the Pesqueria/Patio 22 and South Rail Yard Expansion project. A major component has been the driveway on the East side of the South Yard crossing by the Dock 16 Road entrance. AECOM designed the entrance and BND Maintenance staff has been working on installing the improvements that will facilitate movement of windmill blades between Cargo Dock 16 and Patio #22. The driveway requires Reinforced Concrete Pipe (RCP) and other materials for proper and positive storm water run-off. BND Staff has determined that adding drainage pipes to the original design will enhance the driveway and improve safety. To that end, a Bid Proposal package was prepared to invite suppliers to bid on additional 24", 36" and 42" pipes to close some of the open ditches in the original design. The Bid Proposal package was uploaded to our website and local suppliers were invited by phone and email. Since it was anticipated that the bids would not exceed \$50,000.00, no newspaper notice was published. Bids for the Patio #22 East Side Entrance Drainage Materials - Phase II project were opened on April 5, 2022, with only one bid received from Core & Main, LP in the amount of \$33,258.08. Commissioner Reed moved to authorize BND Staff to issue a Purchase Order for the Patio #22 East Side Entrance Drainage Materials, Phase II in the amount of \$33,258.08, to place the order for said materials, and to issue payment once the pipe materials are received, Commissioner Cowen seconded, and the motion passed unanimously.

20. 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 6:30 p.m. Commissioner Guerra moved to adjourn into executive session, Commissioner Reed seconded, and the motion carried unanimously.

The Chairman then announced that the time was 7:40 p.m., and that the Board had reconvened in open session.

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

The Chairman first asked if there were any motions to be made with regard to Agenda Item 8. Commissioner Wood moved to approve the Second Amendment to Lease Agreement dated March 6, 2019 (BND Contract Number 4375) between the Brownsville Navigation District and Rio Grande LNG, LLC. Commissioner Reed seconded, and the motion passed unanimously.

The Chairman then asked if there were any motions to be made with regard to Agenda Item 9. Commissioner Wood moved to approve the Second Amendment to the BIH Project Agreement to Permit, Undertake and Finance Dredging Projects (BND Contract Number 4397). Commissioner Reed seconded, and the motion carried unanimously.

The Chairman then asked if there were any other action to be taken with regard to items discussed in executive session. Commissioner Guerra stated that he wished to make a motion with regard to real estate acquisitions discussed in executive session. Commissioner Guerra moved to approve the assignment of two real estate contracts for the purchase of approximately 344 acres of unimproved real property in Cameron County Texas at a rate of \$5,250 per acre from William Irwin, Trustee to the District and to authorize the Port Director to execute any closing documents, pay the purchase price and closing costs and to exercise any right of the District under the contracts. Commissioner Reed seconded the motion, and the motion carried unanimously.

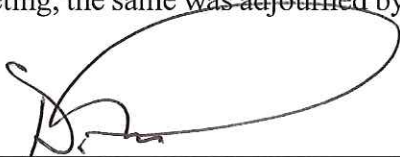
22. Adjournment.

There being no further business to come before the meeting, the same was adjourned by unanimous consent at 7:43 p.m.

ATTEST



Esteban Guerra, Secretary



Sergio Tito Lopez
Chairman of the Board