

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF
CAMERON COUNTY, TEXAS HELD JUNE 14, 2023 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, June 14, 2023 at 5:30 p.m.** The following individuals were present and absent:

PRESENT: Esteban Guerra, Chairman
Ralph Cowen
John Wood

ABSENT: John Reed
Sergio Tito Lopez

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

STAFF MEMBERS: Miguel Barajas
Ariel Chavez
Michael Davis
Chief William Dietrich
Arturo Gomez
Jose Herrera
Jorge Montero
Margie Recio
Tony Rodriguez
Melinda Rodriguez
Janie Velasquez
Zeus Yanez

OTHERS PRESENT: Rev. Andreas Lewis
Jorge De La Colina
Brent Moore
William Nance
Sergio Martinez
Barbara Martinez

1. Meeting Called To Order

The Chairman called the meeting to order at 5:31 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. Directors Report**
 - b. Port Monthly Operations Summary Report and Investment Update**

Mr. Yanez made the report to the Board.

CONSENT AGENDA

- 4. Consideration and Action on the Following Consent Agenda Items:**
 - a. Approval of the Minutes of the Regular Board Meeting of May 24, 2023.
 - b. Approval to authorize payments over \$25,000.00:
 1. Konecranes, the amount of \$97,331.00, for Purchase of the clamshell grab bucket;
 2. Progress Rail Service Corporation, the amount of \$83,087.44, for Rail, Ties, and other Railroad Crossing Material;
 3. TD Limestone, LLC, the amount of \$53,867.87, for Crushed Limestone – Patio 22 expansion project; and
 4. Carr, Riggs & Ingram, the amount of \$25,000.00, for District's financial statements audit for the year ended December 31, 2022.

Chairman Guerra asked if the payment for item 4b1 is a partial payment or payment in full. Mr. Davis addressed the Board and noted it is a partial payment.

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

- 5. Consideration and ACTION to declare five structures located in the Fishing Harbor as surplus to the District's needs and to authorize their disposition:**
 - 1230 Anglers Place Rd (1 building)
 - 1380 Anglers Place Rd (1 shed)
 - 2675 Anglers Place Rd (3 buildings)

Mr. Campirano addressed the Board requesting authorization to declare five structures located in the Fishing Harbor as surplus to the District's needs and to authorize their disposition. The Salvage Auction Team (SAT) has identified five structures located at three different sites within the Fishing Harbor that are in poor condition and may cause liability during hurricane season. Therefore, the SAT is requesting for these buildings to be declared as surplus to the District needs and to authorize their disposal according to the Policy for Disposition of Surplus, Salvage or Unclaimed Property. As it is the SAT's usual procedure, all metal that can be salvaged will be sold to one of the local metal recyclers, and the remaining waste will be hauled to the landfill. Commissioner Cowen

moved to declare the five structures on these three sites as surplus to the District's needs and to authorize their disposal, Commissioner Wood seconded, and the motion passed unanimously.

6. Consideration and ACTION to declare the former District's Warehouse BND ID# 755E as surplus to the District's needs and to authorize its disposition.

- District's Maintenance Yard Complex – 5100 R.L. Ostos Road

Mr. Campirano addressed the Board requesting authorization to declare the former District's Warehouse BND ID # 755E as surplus to the District's needs and to authorize its disposition. Warehouse BND ID # 755E was previously acquired from a former tenant and throughout the years it has served the District to store the accumulation of scrap and miscellaneous items considered for disposition. However, the warehouse has deteriorated and become an unsafe area. Therefore, the SAT is requesting BND ID # 755E to be declared as surplus to the District needs and to authorize its disposal according to the Policy for Disposition of Surplus, Salvage or Unclaimed Property. As it is the SAT's usual procedure, all metal that can be salvaged will be sold to one of the local metal recyclers, and the remaining waste will be hauled to the landfill. A new warehouse will not be constructed to replace BND ID# 755E as the District had previously gained ownership of the former U-Pull it warehouses, BND ID# 504M (8,000 sq. ft.) & BND ID# 504N (2,400 sq. ft.) in 2019. These warehouses are currently being leased to Forza Steel, however, they have indicated to District that they will soon no longer have the need to continue leasing them. Therefore, the District will dismantle and re-assemble these warehouses at the Maintenance Yard Complex. These structures will serve the District's Maintenance Department as the Fabrication and Welding Shop. Commissioner Cowen moved to declare Warehouse Building ID# 755E as surplus to the District's needs and to authorize its disposal, Commissioner Wood seconded, and the motion passed unanimously.

7. Consideration and ACTION to ratify authorizing the Port Director & CEO to submit an application, for a Charging and Fueling Infrastructure Program (CFI) Grant to the U.S. Department of Transportation.

Mr. Gomez addressed the Board requesting ratification to authorize the Port Director & CEO to apply, for a Charging and Fueling Infrastructure Program Grant to the U.S. Department of Transportation. The Charging and Fueling Infrastructure Discretionary Grant Program (CFI Program) is a new competitive grant program created by President Biden's Bipartisan Infrastructure Law to strategically deploy publicly accessible electric vehicle charging and alternative fueling infrastructure in the places people live and work – urban and rural areas alike – in addition to designated Alternative Fuel Corridors (AFCs). CFI Program investments will make modern and sustainable infrastructure accessible to all drivers of electric, hydrogen, propane, and natural gas vehicles. This program provides two funding categories of grants: (1) Community Charging and Fueling Grants (Community Program); and (2) Alternative Fuel Corridor Grants (Corridor Program). The Bipartisan Infrastructure Law provides \$2.5 billion over five years for this program. This NOFO offers up to \$700 million from Fiscal Years 2022 and 2023 to strategically deploy electric vehicle (EV) charging infrastructure and other alternative fueling infrastructure projects in urban and rural communities in publicly accessible locations, including downtown areas and local neighborhoods, particularly in underserved and disadvantaged communities. Global Hydrogen Energy and Pan American Enterprises are proposing to build a hydrogen degeneration and fueling facility and are seeking a grant to assist with the cost of the

project. The project has an estimated cost of \$18 million of which \$15 million will be solicited through the CFI program and the 20 percent match equaling \$3 million to be encumbered by Global Hydrogen Energy and Pan American Enterprises. In the event the grant is secured, Global Hydrogen Energy and Pan American Enterprises would assume responsibility for further financial obligations. William Nance, of Global Hydrogen Energy, and Sergio and Barbara Martinez, of Pan American Enterprises, addressed the Board. Commissioner Wood moved to ratify authorizing the Port Director & CEO to submit application for an infrastructure development grant to the U.S. Department of Transportation under the CFI Discretionary Grant Program, Commissioner Cowen seconded, and the motion passed unanimously.

8. Consideration and ACTION on Leases, Assignments, Negotiations, Easements Subleases, and Contracts in General:

Mrs. Rodriguez addressed the Board regarding the following items:

1. Jole Enterprise, LLC (New Lease)

Jole Enterprise LLC seeks a new lease for 3.488 acres located at 1780 Everglades Road for a term of one year with four renewal options of one year each. The purpose of the lease would be for a machine shop and welding fabrication. Commissioner Wood moved to approve the New Lease with Jole Enterprise LLC, Commissioner Cowen seconded, and the motion passed unanimously.

2. Port Isabel San Benito Navigation District (Easement)

Mr. Campirano addressed the Board. This new Easement Agreement with Port Isabel San Benito Navigation District replaces BND Contract # 4010. This Easement is for the purpose of depositing dredge material on placement area No. 3 that is used and maintained by the USACE. Commissioner Wood moved to approve the Easement Agreement for Port Isabel San Benito Navigation District, Commissioner Cowen seconded, and the motion passed unanimously.

9. Consideration and possible ACTION on request from Rio Grande LNG, LLC to authorize re-execution of an updated Consent and Estoppel Agreement, previously approved by the Board on May 3, 2023, to approve technical, non-substantive revisions to the Consent and Estoppel Agreement and related Exhibits, and to extend the deadline date for those documents from July 2 to July 20, 2023.

Mr. Campirano addressed the Board requesting authorization for re-execution of an updated Consent and Estoppel Agreement and related Exhibits, previously approved by the Board on May 3, 2023, to approve technical, non-substantive revisions to the Consent and Estoppel Agreement and related Exhibits, and to extend the deadline date for those documents from July 2 to July 20, 2023. At the May 3, 2023, board meeting, the BND Commission approved to authorize re-execution of the Consent and Estoppel with the revised legal description, the Third Amendment to Lease Agreement and First Amendment to Memorandum of Lease Agreement, Non-Disturbance and Attorney Agreements (CF Sublease), Non-Disturbance and Attorney Agreements (TF Sublease) and approval to remain in effect for sixty days from the date May 3, 2023. The agenda item was to reaffirm and authorize re-execution of an updated Consent and Estoppel Agreement and related Exhibits and to extend the deadline date for those documents from July 2 to July 20, 2023. Commissioner Cowen moved to approve re-execution of an updated Consent and Estoppel Agreement and related Exhibits and to extend the effective date for those documents to July 20, 2023, Commissioner Wood seconded, and the motion passed unanimously.

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10. Consideration and ACTION to authorize Staff to purchase office mobile trailer for division #55 (12'X44'-Item # 1312W) and issue payment once invoice is received.

Mr. Davis addressed the Board requesting authorization for Staff to purchase office mobile trailer for division #55 (12'X44' Item# 1312W) and to issue payment once invoice is received. This was procured through Buyboard. BND Staff is seeking authorization for the purchase and payment of a 12'x44' mobile office trailer from Mobile Modular Management Corporation. Item #1312W. This mobile office trailer will be used by the Crane Department. Currently there are 8 crane operators in that department and the office that is being used has exceeded capacity. The District has 10 operators budgeted, and those two (2) positions will be filled in the next few months. Furthermore, one of the rooms that will come with the new office trailer will be utilized as storage for the electronic parts that are used on the cranes and need to be kept in a cool/dry area. Commissioner Cowen moved to authorize BND Staff to purchase the mobile office trailer from Mobile Modular Management for a total of \$69,441 and to issue payment once invoices are received in accordance with the purchase agreement, Commissioner Wood seconded, and the motion passed unanimously.

11. Consideration and ACTION to authorize Staff to rent a Liebherr PR736 Dozer via the Buy Board Program, issue a Purchase Order to Nueces Power Equipment, and pay the invoice when received.

Mr. Herrera addressed the Board requesting authorization for Staff to rent a Liebherr PR736 Dozer via the Buy Board Program, issue a Purchase Order to Nueces Power Equipment, and pay the invoice when received. On April 19, 2023, the Board of Commissioners authorized the BND Staff to solicit quotes for rental equipment to be utilized for the development of a 118-acre tract of land. Staff received a Buy Board quote that was submitted by Nueces Power Equipment for a monthly rate of \$12,000. The total for a three-month rental including discount, delivery, and pickup is \$34,200.00. Buy Board Contract # 685-22. Commissioner Wood moved to authorize staff to rent a Liebherr PR736 Dozer via the Buy Board Program, to generate a Purchase Order for Nueces Power Equipment, and to issue payment of the invoice once received, Commissioner Cowen seconded, and the motion passed unanimously.

12. Consideration and ACTION to award the Bid received for the purchase of Rebar.

Mr. Herrera addressed the Board requesting to award the Bid received for the purchase of Rebar. On April 19, 2023, the Board of Commissioners authorized the BND Staff to solicit bids for materials to be utilized for the development of a 118-acre tract of land. Staff received and opened two bids for the purchase of Rebar on May 18, 2023. One bid was submitted by J&R Services from Wilmington, N.C. with local warehouses in Donna, TX in the amount of \$1,342,500.00 for 75,000 twenty-foot bars and the second bid was submitted by Technology International, Inc. from Lake Mary, Florida in the amount of \$1,432,500.00 for 75,000 twenty-foot bars. Commissioner Wood moved to award the bid to J&R Services in the amount of \$1,342,500.00 for the purchase of the 75,000 twenty-foot bars of Rebar and to pay the invoices once received, Commissioner Cowen seconded, and the motion passed unanimously.

13. Consideration and ACTION to award the Bid received for the purchase of PVC Pipes, PVC Accessories, and Fire Hydrants.

Mr. Herrera addressed the Board requesting to award the Bid received for the purchase of PVC Pipes, PVC Accessories, and Fire Hydrants. On April 19, 2023, the Board of Commissioners

authorized BND Staff to solicit bids for materials to be utilized for the development of a 118-acre tract of land. Staff received and opened one bid on May 18, 2023, for the purchase of Conduit PVC Pipes, Sanitary Sewer Line PVC Pipes, Water Line PVC Pipes, all necessary Tees, Plugs, and Elbows, as well as all the Fire Hydrants with Value Boxes needed for this project. The bid was submitted by Aguaworks from Brownsville, TX in the amount of \$452,324.91. Commissioner Wood moved to award the bid to Aguaworks in the amount of \$452,324.91, for the purchase of PVC Pipes, PVC Accessories, and Fire Hydrants and to pay the invoices once received, Commissioner Cowen seconded, and the motion passed unanimously.

14. Consideration and ACTION to authorize Port staff to advertise to solicit bids for 350 Cubic Yards of Concrete.

Mr. Herrera addressed the Board requesting authorization for Port Staff to advertise and to solicit bids for 350 Cubic Yards of Concrete. BND Staff is seeking authorization to advertise for bids for the purchase of 350 cubic yards of 4000 PSI Concrete. The material is to be utilized in the construction of a total of 10,400 square-yards slab to accommodate the two metal buildings that are being relocated from the Forza site to the BND Maintenance yard. One building will be utilized as a fabrication and welding shop and the other building will suit as possible hangers for the heavy equipment. Commissioner Wood moved to authorize Port Staff to advertise for bids for the purchase of 350 cubic yards of 4000 PSI Concrete, and to open bids thereof, Commissioner Cowen seconded, and the motion passed unanimously.

15. Consideration and ACTION to authorize Port staff to advertise for proposals for the removal and replacement of flooring at the US Coast Guard Offices leased site.

Mr. Herrera addressed the Board requesting authorization for Port Staff to advertise for proposals for the removal and replacement of flooring at the US Coast Guard Offices leased site. BND Staff seeks authorization to advertise for proposals for the removal and replacement (3,500 S.F.) of the flooring located at the facility currently leased by the US Coast Guard. Commissioner Cowen moved to authorize staff to advertise for proposals for the removal and replacement of 3,500 S.F. of flooring for the US Coast Guard Offices leased site, and to open the received proposals thereof, Commissioner Wood seconded, and the motion passed unanimously.

16. Consideration and ACTION to authorize the Port Director to terminate engagement with consultant Hanson Professional Services, Inc. on Professional Engineering Services for Design of the New Fishing Harbor Wastewater Treatment Plant Replacement project and to solicit a proposal from second-ranked firm S&B Infrastructure, Inc.

Mr. Chavez addressed the Board requesting authorization to terminate engagement with consultant Hanson Professional Services, Inc. on Professional Engineering Services for Design of the New Fishing Harbor Wastewater Treatment Plant Replacement project and to solicit a proposal from second-ranked firm S&B Infrastructure, Inc. On August 7, 2019, BND Commissioners authorized the Port Director to enter into a Master Professional Services Agreement with Hanson Professional Services, Inc., and approved Task Order No. 1000 to prepare the Engineering Design Report (EDR) for the New Fishing Harbor Wastewater Treatment Plant project to (1) Document Existing Plant Facilities, (2) Develop Future Flows and Loads, (3) Identify Treatment Alternatives, and (4) Identify Selected Alternatives. Upon completion of the EDR, Hanson submitted a proposal for Task Order 2000 for engineering design and preparation of construction drawings and specifications to go out for bids on the New Wastewater Treatment Plant. After negotiations, BND

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Staff and the consultant were unable to reach a consensus. Thus, BND Staff proposes to terminate the process with the consultant and seek a proposal from the second-ranked consultant, S&B Infrastructure, Inc. Commissioner Cowen moved to authorize the Port Director to terminate the engagement with Hanson Professional Services, Inc. on Professional Engineering Services for Design of the New Fishing Harbor Wastewater Treatment Plant project and to solicit a proposal from next-ranked firm S&B Infrastructure, Inc., Commissioner Wood seconded, and the motion passed unanimously.

17. Consideration and ACTION to ratify commitment on partial funding participation with the Texas General Land Office and the County of Cameron towards the Phase 2 engineering design of the Children’s Beach Restoration project.

Mr. Campirano addressed the Board requesting ratification commitment on partial funding participation with the Texas General Land Office and the County of Cameron towards the Phase 2 engineering design of the Children’s Beach Restoration project. BND Staff has been working with the County of Cameron (County) on the Children’s Beach Restoration project located in Cameron County and BND property at Isla Blanca Park in South Padre Island, Texas. Significant erosion at the Children’s Beach site caused by daily wave action, storm events and vessel movements in the Brazos Santiago Pass poses a threat to County Park facilities and adjacent areas. This project’s objective is to restore and protect the shoreline. This erosion has degraded natural habitats, destabilized adjacent uplands, and made the shoreline inaccessible and unsafe for public use. Phase 2 will protect and fortify the shoreline by nourishing the beach, reducing onshore wave energy, increasing sediment stabilization, and improving aquatic habitat conditions for marine life and seagrass establishment. Phase 1, already underway, involves coastal engineering, alternatives analysis, preliminary design, and permitting. The project is funded by the Texas General Land Office Coastal Erosion Planning & Response Act (CEPRA), in collaboration with Cameron County and BND. Phase 2 consists of additional data collection and final engineering design based on the Phase 1 alternative analysis. Funding for Phase 2 will keep the project moving and ensure that Phase 3, construction, proceeds smoothly without delays. Commissioner Wood moved to ratify the BND’s commitment to provide 50% of the 40% local match for Phase 2 of the Children’s Beach Restoration project’s additional data collection and final engineering design cost of \$167,000 and authorize the BND Staff to issue payment as appropriate, Commissioner Cowen seconded, and the motion passed unanimously.

18. Consideration and ACTION to authorize the Port Director and CEO to enter into a Master Agreement for Professional Services with consultant HDR Engineering, Inc. for professional engineering and related services, to be in force until December 31, 2025.

Mr. Campirano addressed the Board requesting authorization for the Port Director and CEO to enter into a Master Agreement for Professional Services with consultant HDR Engineering, Inc. for professional engineering and related services, to be in force until December 31, 2025. On May 6, 2009, BND Commissioners authorized staff to enter into a Master Agreement for Professional Services, or Master Services Agreement (MSA), with consultant HDR Engineering, Inc. (HDR) covering various task orders, and has been extended several times to govern multiple projects. At this time staff is requesting authorization to authorize the Port Director and CEO to enter into a new the MSA to cover currently pending work on the USACE Easement Releases, several components of the BIH Deepening project, design of Cargo Dock #3 and Bulk Cargo Dock Structural Repairs, design and construction phase engineering related to the West Plains MARAD

Grant and any other projects for which the District may require their services within this time period. The provisions of the now expired 2009 MSA would be replaced with more current and updated language. The new revised MSA has been reviewed by legal counsel and there is concurrence to proceed. Commissioner Wood moved to authorize the Port Director and CEO to enter into the new Master Agreement for Professional Services (MSA) with consultant HDR Engineering, Inc., Commissioner Cowen seconded, and the motion passed unanimously.

19. Consideration and ACTION on Proposal by Professional Services Industries, Inc. for Construction Material Engineering Testing services for the BND Dock 11 Concrete Pad project.

Mr. Campirano addressed the Board requesting approval to accept the Proposal by Professional Services Industries, Inc. for Construction Material Engineering Testing services for the BND Dock 11 Concrete Pad project. On May 24th, 2023, BND Commissioners awarded the BND Dock 11 Concrete Pad project to lowest bidder R.M. Walsdorf, Inc., and authorized BND Staff to issue the Notice of Award to the successful bidder. BND Engineering Staff then solicited a proposal from Professional Service Industries, Inc. (PSI) to perform Construction Materials Engineering Testing services, and PSI proposes to perform such services for a not-to-exceed fee of \$50,881.00. The material testing services include verification of the Base and Subgrade densities, concrete cylinders testing to determine compression strength and slump testing of every truck to confirm that the material is being furnished with the required water-cement ratio. Commissioner Wood moved to accept the proposal by Professional Service Industries, Inc. for Construction Materials Engineering Testing for the BND Dock 11 Concrete Pad project in the amount of \$50,881.00 and authorize Staff to issue the Purchase Order for this work, Commissioner Cowen seconded, and the motion passed unanimously.

20. Consideration and ACTION on proposal by HDR Engineering, Inc. for professional engineering design services for the modifications to Dredged Material Placement Area No. 8, and to authorize the Port Director & CEO to execute the Task Order for this work.

Mr. Campirano addressed the Board requesting approval to accept proposal by HDR Engineering, Inc. for professional engineering design services for the modifications to Dredged Material Placement Area No. 8, and to authorize the Port Director & CEO to execute the Task Order for this work. BND Staff has been working with the Real Estate (RE) department of the Galveston District (SWG) of the United States Army Corps of Engineers (USACE) on adjusting the boundaries and relocating some levees of the Dredged Material Placement Area No. 8 (DMPA 8) to increase patio space on the North side of said DMPA 8. The relocation of the North levee and the modification of the boundary will allow BND to significantly expand open area storage space. USACE SWG RE has provided the Application form and BND Staff has completed it. BND Staff also solicited a proposal from engineer-of-record HDR Engineering, Inc. (HDR) for the design of the modifications to the levees in this DMPA 8. HDR proposes to perform the design for a time-and-materials fee of \$636,811.00, with the geotechnical sampling and analysis being performed by a local firm. The services performed by HDR will be governed by the new Master Agreement for Professional Services. Commissioner Cowen moved to accept the proposal from BIH Deepening project's engineer-of-record HDR Engineering, Inc. in the amount of \$636,811.00 to perform design engineering services on the boundary modifications and levee relocations to Dredged Material Placement Area No. 8 and authorize the Port Director and CEO Mr. Eduardo A. Campirano to sign the pertinent Task Order and proposal, Commissioner Wood seconded, and the

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motion passed unanimously.

- 21. 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 deliberate the purchase, exchange, lease, or value of real property; 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).**

There was none.


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

There was none.


- 23. Adjournment.**

Commissioner Cowen moved to adjourn the meeting, Commissioner Wood seconded, and the meeting was adjourned by unanimous consent at 7:02 p.m.

ATTEST



John Wood, Secretary



Esteban Guerra
Chairman of the Board