

**MINUTES OF A REGULAR MEETING OF THE BOARD OF NAVIGATION AND  
CANAL COMMISSIONERS OF THE BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS HELD DECEMBER 06, 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, December 06, 2023 at 5:30 p.m.** The following individuals were present and absent:

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

**ABSENT:** None

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

**STAFF MEMBERS:** Miguel Barajas  
Ariel Chavez  
Michael Davis  
Karina Franco  
Chief William Dietrich  
Arturo Gomez  
Jose Herrera  
Jorge Montero  
Margie Recio  
Memo Rico  
Tony Rodriguez  
Melinda Rodriguez  
Julio Romo  
Janie Velasquez  
Zeus Yanez

**OTHERS PRESENT:** Rev. Andreas Lewis  
Kris Wood  
Vladimir Groysman  
Jeff Ray  
Shannon Caraway  
Peter Bryn  
Kevin Garcia  
Nancy Gaytan

Chris Hamby  
Chris Lofton  
Jose Garcia  
Steve Taylor  
Humberto Torres

**1. Meeting Called To Order**

The Chairman called the meeting to order at 5:32 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 Directors Reports**

Mr. Yanez 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 Special Board Meetings and Regular Board Meeting of November 9, 2023 and November 15, 2023.
- b. Approval to authorize payments over \$25,000.00:
  1. Foremost Paving, Inc., the amount of \$575,957.89, for 2023 Ostos Road Pavement Rehabilitation Project;
  2. HDR Engineering, Inc., the amount of \$74,290.70, for Channel Improvement Project – Phase 2 Design Repackaging;
  3. RLB Contracting, Inc., the amount of \$977,230.80, for 2022 Placement Areas 5B, 7 & 8 Improvements;
  4. R.M. Walsdorf, Inc., the amount of \$600,425.63, for Dock 11 – Concrete Pad Project;
  5. Texas Economic Development Corporation, the amount of \$25,000.00, for Texas EDC Annual Investors Subscription;
  6. Tyler Technologies, Inc., the amount of \$44,847.34. for 2024 Annual Fees.

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

**5. Consideration and ACTION to approve payment to the Department of the Army related to the Brazos Island Harbor Project cost sharing requirements.**

Mr. Yanez addressed the Board to approve payment to the Department of the Army related to the Brazos Island Harbor Project cost sharing requirements. On July 06, 2022, the District entered into a Project Partnership Agreement (“PPA”) with The Department of the Army for the development of the Brazos Island Harbor Project. The PPA with the Department of the Army for the development of the Brazos Island Harbor Project outlines the Navigation

District's (non-federal sponsor) obligations for cost sharing constructions costs and providing in-kind contributions as part of its cost share for the development of the Brazos Island Harbor Project. On November 20, 2023, the District received notification from the Department of the Army that a total of \$68,000,000 in Federal funds has been appropriated in support of the Brazos Island Harbor, Segment B construction contract through the Bipartisan Infrastructure Law and that based on the PPA cost share requirements, a contribution of \$17,545,000 is required from the non-federal sponsor in support of the Brazos Island Harbor Project. Commissioner Reed asked Mr. Yanez to send the commission information on how the payment would be made and when. Commissioner Reed moved to approve payment in the amount of \$17,545,000 to the Department of the Army for the required cost share contribution for the development of the Brazos Island Harbor Project, Commissioner Lopez seconded, and the motion passed unanimously.

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

Mr. Campirano and Mr. Gomez addressed the Board regarding the following items:

Mr. Campirano asked that items 6(1)-(2) be tabled.

1. Texas KLM, LLC DBA KLM Terminal (**Consent to Assignment**)
2. Valley Midstream, LLC (**Lease Amendment**)

Commissioner Lopez moved to table items 6(1)-(2), Commissioner Cowen seconded, and the motion passed by a vote of 4-0. Commissioner Wood abstained.

**3. ARX Energy, LLC (Acknowledge – Effective Date Notice)**

ARX Energy, LLC has notified and confirmed to the District that they have made FID for the project and seeks the board's acknowledgement of the Effective Date Notice. Legal Counsel has reviewed the Effective Date Notice and concurred that it is ready for acknowledgement by the BND Commission. Commissioner Cowen moved to acknowledge the Effective Date Notice for ARX Energy, LLC, Commissioner Wood seconded, and the motion passed unanimously.

**4. EGA Javelina LLC, (Option to Lease)**

EGA Javelina LLC (Eolic Green Ammonia LLC) is seeking an Option to Lease a total of 195 acres (all of which are located East and Northeast of Chemical Road). Commissioner Cowen moved to table this item, Commissioner Lopez seconded, and the motion passed unanimously.

**5. CHCL Enterprises, LLC (New Lease)**

CHCL Enterprises, LLC seeks a new lease for 27.62 acres located off FM511 for a term of thirty years with two renewal options of five years each. The purpose of this site will be warehousing. Commissioner Reed moved to approve the new lease for CHCL Enterprises, LLC, Commissioner Lopez seconded, and the motion passed unanimously.

**7. Consideration and ACTION to approve purchase of annual subscription from Fifth Asset, Inc., DBA DebtBook for a lease and subscription-based information technology arrangement accounting software, pursuant to BuyBoard cooperative purchasing contract number 692-23.**

Mr. Yanez addressed the Board to authorize purchase of annual subscription from Fifth Asset, Inc., DBA DebtBook for a lease and subscription-based information technology arrangement

accounting software, pursuant to BuyBoard cooperative purchasing contract number 692-23. The Government Accounting Standards Board (“GASB”), the entity responsible for establishing accounting and financial reporting standards for U.S. state and local governments that follow Generally Accepted Accounting Principles (“GAAP”), recently issued two new accounting standards, GASB 87, *Lease* and GASB 96, *Subscription-Based Information Technology Arrangements*. GASB 87 fundamentally changes the way that governmental lessors and lessees recognize, account for, and disclose leases. Similarly, GASB 96 fundamentally changes the way that governments account for and disclose subscription-based information technology arrangements (“SBITA”). BND is current subscription for lease accounting and reporting software is set to expire on December 31, 2023. The DebtBook cloud-based software for lease and SBITA accounting and reporting will ensure compliance with the GASB 87 and GASB 96 accounting and disclosure requirements. Commissioner Lopez moved to authorize BND Staff to purchase the DebtBook software in the amount of \$33,500 and to authorize payment once the invoice is received, Commissioner Cowen seconded, and the motion passed unanimously.

**8. Ratify Emergency Purchase of Services for remediation and clean-up/waste disposition in response to a fire incident on Port property, pursuant to TIPS contract number 22100201.**

Mr. Campirano addressed the Board to ratify emergency purchase of services for remediation and clean-up/waste disposition in response to a fire incident on Port property, pursuant to TIPS contract number 22100201. A ratification is necessary for the purchase of services that were urgently needed in response to a fire incident on Port property that occurred on November 14, 2023. The recommended vendor that was engaged to provide these services is Chemical Response & Remediation Contractors of Harlingen, Texas. This purchase provides the required fire remediation and clean-up/waste disposition services to restore the Port property. This purchase is in accordance with Local Government Code Section 271.102 regarding purchases made through cooperative purchasing programs. Pricing was obtained through TIPS Contract No. 22100201. Discussion followed regarding insurance coverage and recovery of the Port’s deductible. Commissioner Cowen moved to ratify the emergency purchase of services for remediation and clean-up/water disposition, Commissioner Wood seconded, and the motion passed unanimously.

**9. Consideration and ACTION on request to authorize BND Staff to purchase (1) set of maintenance parts package for the Zollern multi-disk hoist brake for GHMK 6507 Model 6 Crane from Kone Crane.**

Mr. Davis addressed the Board to request authorization for BND Staff to purchase (1) set of maintenance parts package for the Zollern multi-disk hoist brake for GHMK 6507 Model 6 Crane from Kone Crane. BND Staff is seeking authorization for purchasing and payment of one (1) set of maintenance parts package for the Zollern multi-disk hoist brake from Kone Crane. These parts are needed to replace/repair the brake system on the Mobile Harbor Crane. This item qualifies as a Sole Source under section 60.412: it is for captive replacement parts or components for equipment. Commissioner Lopez moved to authorize BND Staff to purchase (1) set of maintenance parts package for the Zollern multi-disk hoist brake from Kone Crane for GHMK 6507 Mobile Harbor Crane in total amount of \$25,978.00, plus freight and shipping charges

determined at the time of shipping and to authorize payment once the invoice is received, Commissioner Wood seconded, and the motion passed unanimously.

**10. Consideration and ACTION to award Extensions of Contracts for the Purchase and Delivery of Limestone for BND Projects.**

Mr. Herrera addressed the Board to award extensions of contracts for the purchase and delivery of limestone for BND Projects. On March 01, 2023, the Board of Commissioners authorized purchase agreements for the purchase and delivery of limestone to three vendors. Purchase Agreements are due to expire December 31, 2023. All vendors have agreed to extend the agreement with the Brownsville Navigation District for one year upon the same terms with no increase in unit price. Commissioner Reed moved to award the purchase agreement extensions to Supplier TD America Limestone Products at a cost of \$35.64/ton, Supplier Cal-ixa Aggregates, LLC., at a cost of \$35.00/ton, and Supplier Vulcan Materials Company at a cost of \$38.00/ton for the purchase and delivery of Crushed Limestone and payment of invoices once received, Commissioner Lopez seconded, and the motion passed unanimously.

**11. Consideration and ACTION to award extensions of contracts for the purchase and delivery of Hauling Services as needed.**

Mr. Herrera addressed the Board to award extensions of contracts for the purchase and delivery of Hauling Services as needed. On March 01, 2023, the Board of Commissioners awarded purchase agreements for the purchase of Hauling Services to two vendors. Purchasing Agreements are due to expire on December 31, 2023. All vendors have agreed to extend the agreement with the Brownsville Navigation District for one year upon the same terms with no increase in unit price. Commissioner Lopez moved to award the purchase agreement extensions to provider J. Molina Trucking, LLC at a cost of \$74.75/hr. and provider Rio Grande Hauling at a cost of \$88.07/hr. for hauling services as needed and pay invoices once received, Commissioner Wood seconded, and the motion passed unanimously.

**12. Consideration and ACTION to award extension of contract for the purchase and delivery of Testing and Lab Services for BND Wastewater Treatment Plants.**

Mr. Herrera addressed the Board to award extension of contract for the purchase and delivery of Testing and Lab Services for BND Wastewater Treatment Plants. On April 05, 2023, the Board of Commissioners awarded the purchase agreement for the purchase of Testing and Lab Services. Purchasing Agreement is due to expire on December 31, 2023. Vendor has agreed to extend the agreement with the Brownsville Navigation District for one year upon the same terms and with no increase in unit price. Commissioner Lopez moved to table this item, Commissioner Cowen seconded, and the motion passed unanimously.

**13. Consideration and ACTION to authorize Chairman of the Board Esteban Guerra, Port Director and CEO Eduardo A. Campirano and Secretary of the Board John Wood to execute the U.S. Army Corps of Engineers' Project Management Plan (PMP) for the Brazos Island Harbor Channel Deepening project, on behalf of the Port.**

Mr. Campirano addressed the Board to authorize Chairman of the Board Esteban Guerra, Port Director and CEO Eduardo A. Campirano and Secretary of the Board John Wood to execute the U.S. Army Corps of Engineers' Project Management Plan (PMP) for the Brazos Island Harbor Channel Deepening project, on behalf of the Port. BND Staff have been working on the Brazos Island Harbor Channel Deepening project with the U.S. Army Corps of Engineers' (USACE)

Galveston District (SWG). Mr. Orlando Ramos-Gines, Project Manager (PM) for this endeavor, has sent us the most current version of the Project Management Plan (PMP), which provides direction for the implementation of the BIH Channel Deepening project. The PMP also specifies that the Port of Brownsville will contract design repackaging requirements for PAs and, if necessary, Channel Deepening contracts as part of In-Kind Work. Therefore, the Port's portion of the expenses for this project will be credited as Work-in-Kind, including the design repackaging discussed and the upcoming construction phase engineering costs. Commissioner Reed moved to authorize Chairman of the Board Esteban Guerra, Port Director and CEO Eduardo Campirano and Secretary of the Board John Wood to execute the Project Management Plan document from the USACE on the implementation and acquisition strategy for the Brazos Island Harbor Channel Deepening project, Commissioner Lopez seconded, and the motion passed unanimously.

**14. Consideration and ACTION to authorize Staff to issue payment to the U.S. Army Corps of Engineers of administrative fees of \$53,500.00 for the Land exchange of Tracts 125E and 126E in the Port of Brownsville and authorize Chairman of the Board Esteban Guerra to execute the corresponding Memorandum of Agreement.**

Mr. Chavez addressed the Board to authorize BND Staff to issue payment to the U.S. Army Corps of Engineers (USACE) of administrative fees of \$53,500.00 for the Land exchange of Tracts 125E and 126E in the Port of Brownsville and authorize Chairman of the Board Esteban Guerra to execute the corresponding Memorandum of Agreement. BND Staff has been working with the Real Estate (RE) department of the Galveston District (SWG) of the USACE to modify the boundaries of the District's Dredged Material Placement Area No. 8 (DMPA 8) to increase patio space on the North side of said DMPA 8. On August 2<sup>nd</sup>, 2023 BND Commissioners authorized payment of \$20,900.00 to review of the District's application for this action. USACE has prepared the Memorandum of Agreement (MOA) that outlines the roles and responsibilities of both parties and includes a cost estimate for the work to be performed by the Corps of Engineers, in the amount cited above. Commissioner Lopez moved to authorize payment of \$53,500 to the USACE to process the land exchange to Modify the Boundary of DMPA 8 and to authorize Chairman of the Board Esteban Guerra to execute the MOA for this action, Commissioner Wood seconded, and the motion passed unanimously.

**15. Consideration and ACTION on request by the United States Army Corps of Engineers (USACE) for additional fees for disposal of a portion of USACE Easement Tract No. 9, authorizing payment for the requested additional \$10,000.00 review fees to USACE.**

Mr. Chavez addressed the Board on request by the USACE for additional fees for disposal of a portion of USACE Easement Tract No. 9, authorizing payment for the requested additional \$10,000.00 review fees to USACE. On March 06, 2019, BND Commissioners approved a Memorandum of Agreement (MOA) between BND and the Galveston District (SWG) of the USACE on the requirements for the Disposal (release) of USACE Easement Tract No. 9 in the Brownsville Ship Channel and its periphery, and approved payment of \$29,000.00 for the USACE to process the release. On November 13, 2023 BND received a letter from USACE stating that they have determined that an additional \$10,000.00 is required to complete the disposal process. The reason is that supplemental reviews and mapping on the property, including the waterline to the Rio Grande LNG site and the issuance of the Consent to Easement Structures were not included in the original cost estimate. Commissioner Cowen moved to authorize payment of the requested

additional \$10,000.00 as requested in order to complete the disposal (release) process, Commissioner Lopez seconded, and the motion passed unanimously.

**16. Consideration and ACTION on request to authorize Staff to Advertise for Bids on the Cargo Docks 15 & 16 Roads Concrete Pavement project, and to open bids thereof.**

Mr. Chavez addressed the Board to request authorization for BND Staff to Advertise for Bids on the Cargo Docks 15 & 16 Roads Concrete Pavement project, and to open bids thereof. BND Staff has been developing in house the design of the project known as the Cargo Docks 15 & 16 Roads Concrete Pavement, which will consist of approximately 10,700 SY of concrete pavement. BND Staff are asking for authorization to advertise to solicit bids, and to open bids on this project once received. Upon approval of this request, BND Staff will publish an Invitation to Bid in the local newspaper and Bid Net, as well as invite known contractors by email and/or by phone. Commissioner Lopez moved to authorize BND Staff to prepare an Invitation to Bid on the Cargo Docks 15 & 16 Roads Concrete Pavement project, to publish same in the local newspaper as required by BND purchasing procedures, and to open bids once they are received, Commissioner Cowen seconded, and the motion passed unanimously.

**17. Consideration and ACTION on Change Order No. 2 to the 2023 Ostos Road Pavement Rehabilitation project, adjusting the contract volumes and time to provide for the additional work.**

Mr. Chavez addressed the Board to Change Order No. 2 to the 2023 Ostos Road Pavement Rehabilitation project, adjusting the contract volumes and time to provide for the additional work. Foremost Paving Inc., working under contract 4622 on the 2023 Ostos Road Pavement Rehabilitation project in the amount of \$6,944,007.89 has submitted Change Order Proposal number 2 in the amount of \$89,608.00 for additional work. The additional work performed includes an increase on patching areas, removal of existing pipe found while installing new drainage concrete boxes and the installation of reinforced concrete pipes under patio 20 driveway. In addition, FPI is requesting that the contract time be extended by 15 calendar days to provide for the additional work required. The new contract amount will be \$7,033,615.89. Discussion followed regarding the cost for the work. Commissioner Cowen moved to approve Change Order No. 2 to the 2023 Ostos Road Pavement Rehabilitation contract with Foremost Paving Inc., increasing the current \$6,944,007.89 contract amount by \$89,608.00, for a new contract amount of \$7,033,615.89 and extend the current contract time of 187 calendar days by 15 calendar days for a new contract time of 202 calendar days, but the motion died for lack of a second.

**18. Consideration and ACTION on request by the County of Cameron for additional funding participation on engineering design with the Texas General Land Office and of the Children's Beach Restoration project.**

Mr. Chavez addressed the Board on request by the County of Cameron for additional funding participation on engineering design with the Texas General Land Office and the Children's Beach Restoration project. On June 14, 2023, BND Commissioners approved partial funding for the engineering design 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. The project is funded by the Texas General Land Office (GLO) Coastal Erosion Planning & Response Act (CERPA), in collaboration with Cameron County and BND. Additional fees of \$105,000.00 are required to address (a) Aquatic resources survey, (b) Essential fish habitat assessment, (c) Informal consultation with USFWS and NMFS, (d) GLO Land Lease coordination

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(e) USACE Section 408 coordination, and (f) Additional permitting support and coordination to support above items. Commissioner Wood moved to authorize payment of 50% of the 40% local match for additional fees for the Children's Beach Restoration project's engineering design of \$21,000 and authorize the BND Staff to issue payment as appropriate, Commissioner Reed seconded, and the motion passed unanimously.

**19. Consideration and ACTION to authorize staff to purchase the Harbormaster's Office Building Generator pursuant to BuyBoard National Purchasing Cooperative Proposal 657-21.**

Mr. Chavez addressed the Board to authorize BND Staff to purchase the Harbormaster's Office Building Generator pursuant to BuyBoard National Purchasing Cooperative Proposal 657-21. BND Staff has been working with consultant, Trinity MEP Engineering, on the needs and demands for electric power of the Harbormaster's Office Building. The objective is to replace the current emergency power generator at this office with a new gas-powered generator that can provide electric power to the entire building when necessary. The quoted purchase cost of this equipment is \$140,030.00 and has a lead time of approximately 35 weeks. The plan is to purchase the equipment and ask for authorization to solicit bids for the installation of the generator at a later time. BND Staff will coordinate the procurement of the installation services to coincide with the delivery of the generator. Commissioner Reed moved to authorize BND Staff to purchase the Harbormaster's Office Building Generator in the amount of \$140,030.00 through the BuyBoard National Purchasing Cooperative, to issue a Purchase Order to Loftin Equipment Co., and to issue payment once it is delivered, inspected, and invoiced, Commissioner Wood 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 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).**

Commissioner Wood moved to adjourn into executive session, Commissioner Lopez, seconded, and the motion passed unanimously. The Chairman then announced that the time was 6:14 p.m., and that the Board would adjourn into executive session.

The Chairman then announced that the time was 7:48 p.m., and that the Board had reconvened in open session.

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

Chairman Guerra addressed Mr. Campirano recognizing him for his many years of excellent service to the Port of Brownsville.

Chairman Guerra then moved to appoint William Dietrich as interim Port Director and CEO, effective as of January 1, 2024, Commissioner Cowen seconded, and the motion passed unanimously.



**22. Adjournment.**

Commissioner Lopez moved to adjourn the meeting, Commissioner Reed seconded, and the meeting was adjourned by unanimous consent at 7:49 p.m.

**ATTEST**

  
\_\_\_\_\_  
John Wood, Secretary

  
\_\_\_\_\_  
Esteban Guerra  
Chairman of the Board