

AGENDA

Port Freeport
Port Commission
Regular Meeting
Thursday, December 8, 2022, 1:00 pm - 5:00 pm
In Person & Videoconference - Administration Building - 1100 Cherry Street - Freeport

This meeting agenda with the agenda packet is posted online at www.portfreeport.com

The meeting will be conducted pursuant to Section 551.127 of the Texas Government Code titled "Videoconference Call." A quorum of the Port Commission, including the presiding officer, will be present at the Commissioner Meeting Room located at 1100 Cherry Street, Freeport, Texas. The public will be permitted to attend the meeting in person or by videoconference.

The videoconference is available online as follows:

Join Zoom Meeting

<https://us02web.zoom.us/j/89816810878?pwd=Yk9YUWNtNm9sRVZMMkpyNWZoTnB4QT09>

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1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:
2. Invocation.
3. Pledge of Allegiance: U.S. Flag & Texas Flag
4. Roll Call.
5. Safety Briefing.
6. Call to identify and discuss any conflicts of interest that may lead to a Commissioner abstaining from voting on any posted agenda item.
7. Public Comment. (Public comment on any matter not on this Agenda will be limited to 5 minutes per participant and can be completed in person or by videoconference)
8. Public Testimony. (Public testimony on any item on this Agenda will be limited to 3 minutes per agenda item to be addressed per participant and can be completed in person or by videoconference. The participant shall identify in advance the specific agenda item or items to be addressed.
9. Receive update from federal consultants Van Scoyoc Associates.
10. Approval of minutes from the Regular Meeting held November 17, 2022.
11. Receive report from Executive Director/CEO and/or Port staff on activities and matters related to COVID-19 health safety matters, administrative affairs, financial results, facility engineering matters, operations and vessel activity, port safety matters, port security matters, Port tenant updates, USCOE, and other related port affairs.
12. Receive report from Commissioners on matters related to Port Commission related meetings or conferences, Port presentations and other Port related matters.
13. Approval of a Permanent Road Access Agreement and Right-of-Way with The Dow Chemical Company.
14. Approval of a Transfer of Title and Ownership Agreement with Freeport LNG to transfer title of atmospheric and oceanographic sensing assets to Port Freeport.

15. Approval of Government Liaison Services Agreement with Carriage House Partners, LLC for legislative consulting services.
16. Discuss and consider Texas Ports Association legislative agenda and resolution in support thereof.
17. Discuss and consider setting the 2023 Port Commission meeting dates.
18. Discuss and consider rules and procedures for conducting Port Commission meetings.
19. EXECUTIVE SESSION in accordance with Subchapter D of the Open Meetings Act, Texas Government Code Section 551.001, et. seq., to review and consider the following:
 - A. Under authority of Section 551.071 (Consultation with Attorney):
 1. Consultation with attorney under Government Code Section 551.071(1) (to seek or receive attorney's advice on pending or contemplated litigation).
 2. Consultation with attorney under Government Code Section 551.071(2) (to seek or receive attorney's advice on legal matters that are not related to litigation).
 - B. Under authority of Section 551.087 (Economic Development Negotiations or Incentives):
 1. To discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.
 2. To deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
 - C. Under authority of Section 551.072 (Deliberation of Real Property Matters) for discussion regarding:
 1. The potential exchange, lease, or value of real property located in Freeport, Texas, including but not limited to the area known as the East End of Freeport and bordered by or adjacent to the following streets: FM 1495; East 2nd Street; Terminal Street and East 8th Street in Freeport, Texas.
 2. The potential purchase, exchange, lease or value of real property located at Port Freeport, including but not limited to the real property located at and contiguous to Berths 1, 2, 5, 7 and 8.
 3. The potential exchange, lease, or value of real property located at Port Freeport, including but not limited to Parcels 14, 19, 27, 34 and property on Quintana Island.
 - D. Under authority of Section 551.074 (Deliberation of Personnel Matters) for discussion regarding:
 1. Deliberation regarding the appointment, employment, evaluation, reassignment, duties of a public officer or employee, including but not limited to: Executive Director/CEO.
20. RECONVENE OPEN SESSION to review and consider the following:
21. Discuss and consider action resulting from Executive Session for Executive Director/CEO.
22. Adjourn.

The Port Commission does not anticipate going into a closed session under Chapter 551 of the Texas Government Code at this meeting for any other items on the agenda, however, if necessary, the Port Commission may go into a closed session as permitted by law regarding any item on the agenda.

With this posted notice, Port Commissioners have been provided certain background information on the above listed agenda items. Copies of this information can be obtained by the public at the Port Administrative offices at 1100 Cherry Street, Freeport, TX.



Phyllis Saathoff, Executive Director/CEO
PORT FREEPORT

Minutes of Port Commission Regular Meeting
November 17, 2022
In Person & Videoconference

A Regular Meeting of the Port Commission of Port Freeport was held November 17, 2022, beginning at 1:03 PM at the Administration Building, 1100 Cherry Street, Freeport, Texas.

This meeting agenda with the agenda packet is posted online at www.portfreeport.com

The meeting will be conducted pursuant to Section 551.127 of the Texas Government Code titled "Videoconference Call." A quorum of the Port Commission, including the presiding officer, will be present at the Commissioner Meeting Room located at 1100 Cherry Street, Freeport, Texas. The public will be permitted to attend the meeting in person or by videoconference.

Join Zoom Meeting

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Meeting ID: 871 9399 9523

Find your local number: <https://us02web.zoom.us/u/k7mmCo7Wl>

Commissioners present in person:

Mr. John Hoss, Chairman
Mr. Rudy Santos, Vice Chairman
Mr. Dan Croft, Secretary
Mr. Rob Giesecke, Asst. Secretary
Mr. Ravi Singhania, Commissioner
Mr. Shane Pirtle, Commissioner

Staff Members Present:

Mr. Grady Randle, Legal Counsel
Ms. Phyllis Saathoff, Executive Director/CEO
Mr. Rob Lowe, Director of Administration/CFO
Mr. Mike Wilson, Director of Economic Development & Freight Mobility
Mr. Jason Hull, Director of Engineering
Mr. Chris Hogan, Director of Protective Services
Mr. Brandon Robertson, Network Systems Manager
Ms. Missy Bevers, Executive Assistant
Ms. Mary Campus, Controller
Mr. Jesse Hibbetts, Operations Manager
Ms. Holly Soria, Operations Coordinator
Mr. Cecil Booth, Project Engineer
Mr. Nick Malambri, Engineering Specialist
Ms. Tricia Vela, Public Affairs Assistant
Ms. Christine Lewis, Safety Coordinator
Mr. Rico Arbolante, Help Desk Technician

Also, present:

Mr. Chris Moore, Texas Port Ministry
Mr. Jodie Moore, Texas Port Ministry
Ms. Dara Grogue, Texas Port Ministry
Mr. Chuck Beem, Texas Port Ministry
Mr. Chuck Kovar, Texas Port Ministry
Mr. Mike Hayes, Texas Port Ministry
Mr. Mike Potts, Texas Port Ministry
Ms. Patty Loewe, Texas Port Ministry
Ms. Brandei Goolsby, Gulf Coast Employee Benefit Services
Mr. Gavin Massingill, Carriage House Partners
Ms. Megan Mikutis, Randle Law Office
Mr. Sammy Chambless
Ms. Barbara Fratila

1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:
2. Invocation – Mr. Chris Moore, Texas Port Ministry
3. Pledge of Allegiance – U.S. Flag and Texas Flag
4. Roll Call – Commissioner Hoss noted that Santos was participating by videoconference and all other Commissioners were present in the Board Room.
5. Safety Briefing – Ms. Christine Lewis provided a safety moment regarding cold weather safety.
6. Call to identify and discuss any conflicts of interest that may lead to a Commissioner abstaining from voting on any posted agenda item.

There were no conflicts noted from Commissioners.

7. Public Comment – There were no public comments.
8. Public Testimony – There was no public testimony.
9. Recognition of Veterans.

At this time, in honor of Veteran’s Day Friday, November 11, Commissioner Hoss recognized the following veterans employed at Port Freeport....

Port Freeport recognized the following employees for their service:

Cecil Booth – U.S. Army
Enrico Arbolante – U.S. Navy
Kevin Hartney - U.S. Marines

Veterans employed under Sunstates Security (Port’s Protective Services vendor):

Stephan Chapa – U.S. Air Force

Jonathan Lamothe – U.S. Marines
Willie Holmes – U.S. Navy
Joshua Thomas – U.S. Marines
Raymond Singleton – U.S. Air Force
Rosendo Pena- U.S. Army

Guests in the audience recognized...

Chuck Beem – U.S. Air Force
Sammy Chambliss – U.S. Army & National Guard
Mark Vaughn – U.S. Army

At this time Commissioner Hoss noted that Commissioner Santos was stepping away from the meeting via Zoom at 1:13 p.m.

10. Presentation of check to Texas Port Ministry from proceeds of Port Freeport Golf Tournament.

Ms. Saathoff stated that on October 17, Port Freeport hosted the 11th annual golf tournament benefiting Texas Port Ministry at The Wilderness in Lake Jackson. A total of 36 teams participated, 71 sponsors and more than 15 volunteers helped make the tournament a success. Ms. Saathoff thanked the Port Commission for allowing staff to continue to host the event as well as Port Freeport staff, especially the Public Affairs team who organizes the event and the sponsorships. Ms. Saathoff also recognized the student volunteers from Texas A&M Galveston Maritime Organization who volunteer every year. The net total for the 2022 Port Freeport Golf Tournament was an all-time high of \$83,200. Ms. Saathoff noted that this brings the total presented and sponsored over the last 11 years to \$522,220. A check was presented to Mr. Chris Moore and staff of Texas Port Ministry. Mr. Moore addressed members of the Board, Port employees and sponsors to thank them for their efforts and success of this tournament.

11. Approval of minutes from the Regular Meetings held October 27, 2022.

A motion was made by Commissioner Singhania to approve the minutes. The motion was seconded by Commissioner Giesecke with all Commissioners present voting in favor of the motion.

12. Receive reports from Executive Staff on activities and matters related to COVID-19 health safety matters, administrative affairs, financial results, facility engineering matters, operations and vessel activity, port safety matters, port security matters, Port tenant updates, USCOE, and other related port affairs.

A. Executive Director/CEO

Ms. Saathoff reminded the Port Commission that proposed board meeting dates for 2023 have been uploaded to BoardPaq for the Commission to review. These dates will be on the agenda for approval at the next meeting. She also noted that two Commissioners will not be able to attend (in person) next month's board meeting currently scheduled for December 15 and asked the Commissioner to consider moving the meeting to December 8. The Commission agreed to move the meeting. Ms. Saathoff noted that with that

earlier date, financials may not be ready for the meeting but will be published as soon as they are available. Ms. Saathoff reported the Port Commission will receive an update from Gavin Massingill (Carriage House Partners) with regard to the outcome of the State elections and with the state legislative session nearing in January, pre-bill filing has already begun. Staff will review the Texas Ports Association legislative agenda to determine support of that agenda. On a federal level, Geoff Bowman (Van Scoyoc) will give an update at the December meeting which will fall after staff's advocacy trip to WDC. Ms. Saathoff noted that the republicans did take control and now have majority in the House and expect key committees will have new chairs and appointees. Staff is still hopeful that an appropriations package will be passed by Congress in December. The bid package is still on schedule with the USACE to be released mid-December

B. Chief Financial Officer

Mr. Lowe gave a presentation regarding the financial results for the month of September. He noted staff will be presenting a different format moving forward that will acknowledge the GASB entry and will discuss with the Finance Advisory Committee to ensure alignment. Commissioner Giesecke inquired if staff could take a look at presenting cash flow from operations that doesn't account for non-cash entries the depreciation on expense side and lease recognition on the income side. Mr. Lowe stated that staff will take a look at it and also present to the Finance Advisory Committee.

C. Director of Engineering

Mr. Hull shared a photo of the current progress on the Berth 8 construction. He also noted that contracts have been signed for the rail project and notice to proceed has been issued to the contractor who will begin work January 2.

D. Director of Operations

Mr. Durel reported that October was a good month noting that cargo-wise the Port is ahead by 14% compared to prior year. The RoRo activity is a big contributor with 10 vessels handled and 12,636 vehicles in October. Of that, 6,751 was short sea movement. Steel this month included 1 vessel, 6 barges and 94 railcars for a total of 52,500 tons. Regarding security, Mr. Hogan hosted a BMAT meeting and recently, TSA conducted a spot check with no issues found. Mr. Hogan also gave an update on security to the OSS Advisory Committee. Regarding safety, Ms. Lewis hosted a tenant safety meeting that was well attended and also gave a safety update to the OSS Advisory Committee. Mr. Durel noted that staff continues to work with stevedores on license renewals which will be presented later in the meeting. Staff recently participated in the Texas A&M Career Fair and will soon begin the search process for an intern for Summer 2023. Staff also participated in preparations for Rear Admiral Timme's visit. Commissioner Hoss inquired about the low water in the Mississippi and potential increased barge traffic from Tenaris. Mr. Durel stated that it is already noticeable with significant rail increase.

At this time, Ms. Saathoff reported on Rear Admiral Timme's visit to Port Freeport noting that she, Commissioner Hoss and Chris Hogan met Admiral Timme at the Surfside USCG station where they boarded a vessel for a waterside channel tour and briefing in route to Port Freeport. In route, they passed Phillips 66's 1000th LPG vessel in berth since they opened the facility in 2016. Staff also provided an aerial tour from one of the Port's cranes. Admiral Timme left with an understanding of the significant increase in vessel activity in the Freeport Harbor Channel. Commissioner Hoss added that Admiral

Timme was very impressed with the impact of Port Freeport acknowledging that when discussions in DC begin regarding defense measures, Freeport will be added to his list as he was impressed with the products being moved and the economic impact of the Port's size. Ms. Saathoff noted that Commissioner Croft also joined the visit with Admiral Timme.

E. Director of Business & Economic Development

Mr. Miura reported that representatives from Union Pacific and Volkswagen will meet with staff November 18 to discuss the rail project, rail service and expectations of all parties. Additionally, the Port will host another delegation on December 6 to view the project. New business opportunities are detailed in Mr. Miura's written report as well as visitors to the Port. Commissioner Hoss inquired about an M10 route. Mr. Miura stated that it is in relation to a marine highway project designation submitted to MARAD which would use the M10 route and cover the movements of barges out of Pennsylvania to Port Freeport for Tenaris. Mr. Wilson added that in this particular case, M10 means the East-West route from Interstate 10 Louisiana down to Brownsville, TX. He noted that Port Freeport is also part of M69 paralleling Interstate 69. Additionally, on the Midwest applications, there are multiple interstates for the Tenaris barge traffic for which staff wrote an application. Mr. Miura also noted that the Port has two outstanding project applications with MARAD, one for container/barge for the hub and spoke network and the second is for barge movements.

13. Receive report from Commissioners on matters related to Port Commission related meetings or conferences, Port presentations and other Port related matters.

A. November 16, 2022 Personnel Advisory Committee – Commissioner Singhanian reported the committee discussed the contribution to the retirement plan as well as the renewal for health insurance, both of which are on the agenda for consideration. The review of Port policies for Open Meetings, Open Records, Executive Director/CEO and Press Releases were also on the agenda, but the committee deferred review until meeting procedures are approved and also felt the full Commission should discuss.

B. November 16, 2022 OSS Advisory Committee – Commissioner Pirtle reported the committee received a safety update which included implementation of new signage, safety equipment and safety sheet. A security update was also provided to the committee and included a review of grants sought by staff. Staff is also seeking to replace the A/C system at the Emergency Operations Center. The renewal of stevedore licenses were also discussed which are on the agenda for consideration as well as other security sensitive topics discussed under executive session.

C. November 17, 2022 Finance Advisory Committee – Commissioner Croft reported the committee was updated on the new financial reporting changes and received review of the quarterly investment portfolio, strategies and allocations. Also discussed was the contribution to capital reserves fund and workers compensation policy, both of which are on the agenda for consideration. Staff also provided an update regarding the City of Freeport's water meter and delayed billing issues.

- D. Port Commission related meetings or conferences, Port presentations and other Port related matters.

Commissioner Croft reported attending the Rear Admiral Timme Port visit, meetings with the Brazoria County Economic Alliance and Sweeny Rotary.

Commissioner Pirtle reported attending the Brazoria County Transportation Quarterly meeting, Brazoria National Wildlife Refuge, Brazoria County Emergency Operations Open House, One Nation Under God Luncheon, 36A Coalition meetings and the Brazoria County Cities Association Event.

Commissioner Hoss reported attending several of the same events mentioned as well as the luncheon where Speaker of the House Dade Phelan spoke.

14. Approval of financial reports presented for the period ending September 30, 2022.

Mr. Lowe shared new line items added to the financials, specifically the balance sheet and income statement with regard to GASB 87 changes. On the Balance Sheet, a Lease Receivable line item has been added to the Asset reporting while Deferred Flow of Income has been added to the Liabilities reporting. These entries reflect the GASB 87 required reporting capturing the NPV of future lease payments due to the port. The difference in the two accounts flows through to the Income Statement as GASB 87 Lease Recognition. The Income Statement entry does not impact actual cash flow.

A motion was made by Commissioner Giesecke to approve the reports as presented. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

15. Approval of Change Order No. 1 with AAR, Inc. for the East End Properties 2022 project, for an amount not to exceed \$88,750.00.

Mr. Nick Malambri explained that this item is a change order to the existing contract with AAR, Inc. adding that AAR is still on site from the original scope which included 21 properties. In the interest of time and savings on mobilization costs, staff is requesting a change order to add 6 additional properties, 3 of which require abatement. Staff recommends approval. Commissioner Singhania inquired about the savings amount by adding to the original scope. Mr. Malambri stated that previously, staff was looking at \$18,000 per property, now its \$14,000 per property. With approval from the Commission today, the additional houses will be demolished in approximately 30 days. Once complete, there will be 5 structures remaining.

A motion was made by Commissioner Pirtle to approve the change order as recommended by staff. The motion was seconded by Commissioner Singhania with all Commissioners present voting in favor of the motion.

16. Approval of Stevedore License renewals submitted by the following:

Associated Terminals Pangaea
Ceres Gulf, Inc.

Cooper/Ports America LLC
Gulf Stevedoring Services, LLC
Gulf Stream Marine, Inc.
James J. Flanagan Shipping
Ports America Texas, Inc.
QSL-Texas Terminals
Red Hook ConRo Terminals LLC
Richardson Stevedoring & Logistics Services, Inc.
Suderman Contracting Stevedores, Inc.

Mr. Durel presented 11 applications for stevedore license renewals and shared the spreadsheet and checklist used to ensure the stevedores have submitted all necessary information to meet requirements, noting that staff presented same to the OSS Advisory Committee. Commissioner Pirtle noted the committee reviewed the applications with staff and received presentation from Cooper/Ports America regarding their high TIRR rating which is attributed to new employees in Houston who have less than one year of service with the company however the number is coming down and efforts are being made to improve. The committee recommends approving the applications. Commissioner Singhania inquired about not seeing the actual TIRR number on the spreadsheet and if they are satisfactory. Mr. Durel stated that staff was hesitant to publish the TIRR numbers but were discussed in more detail in committee with all being satisfactory. Ms. Saathoff commented that Cooper/Ports America had the highest number of incidents and why they were brought in to address the number noting that none of the incidents were in Freeport. Mr. Durel noted that most of these stevedores do not work at the Port but like to have a license in the event of vessel calls at Port Freeport.

A motion was made by Commissioner Pirtle to approve all the renewals. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

17. Approval of a renewal with Texas Association of Counties for Port Freeport Workers Compensation Policy.

Ms. Campus stated this is the annual renewal of workers compensation policy for 2023. This year's policy is \$37,283 and continues to remain a good value to the Port as a member of the Texas Association of Counties pool for workers compensation. The renewal policy is a slight increase over prior year due to change in classification for job positions. Commissioner Croft noted there is an approximate 20% savings with the Port being part of the pool vs. going out for an independent policy. Commissioner Hoss asked for clarification/explanation regarding the categories of employees (i.e., jurors, election workers, volunteer firefighters, etc.) included in the backup documentation provided. Ms. Campus explained that as a private entity, we don't see the designations.

A motion was made by Commissioner Croft to approve the renewal. The motion was seconded by Commissioner Singhania with all Commissioners present voting in favor of the motion.

18. Approval of a renewal for Port Freeport Health, Dental and Vision Insurance.

Ms. Campus presented the renewal for the Port's health, dental and vision insurance for 2023 stating that Blue Cross Blue Shield (BCBS) has offered a renewal plan with an increase of 5.7% in premium. Ms. Campus noted that the budget was calculated using a 10% increase, therefore, the medical portion is within the budget. Staff recommendation is to renew the BCBS plan as proposed and maintain the existing cost share. Alternatives were discussed in committee and staff will begin earlier next year to develop a survey for employees to evaluate their needs before going out for proposals. Ms. Campus stated the current dental/vision plan is through Principal, who offered a renewal premium of 4% which is under budget calculation of 5%. Two plans will continue to be offered with the main plan offering an annual maximum of \$1500 and second plan offering a \$2000 annual maximum. The Port's cost will remain the same and the employee will absorb the additional cost. Staff recommends approval of this plan. Commissioner Singhania inquired if employees would be allowed to choose plans as is the case with dental/vision or would everyone get the same offering. Ms. Brandei Goolsby explained that several years ago, a high deductible HSA Plan was offered with no takers but is something they can incorporate in the employee survey as it is becoming more popular for businesses to offer choices to employees in order to keep their budget in line.

Commissioner Giesecke noted his continuing opposition to extending the employee health-based benefits to Commissioners stating that he knows of no other governing body of any court in the State of Texas that extends these types of benefits to their commissioners or trustees. He does not want to revisit this since it was voted on last year but wants to voice his opposition. He will vote for it for the employees but not for the Commissioners.

A motion was made by Commissioner Singhania to approve the renewal of the BCBS Plan and the dental/vision plan with Principal as recommended. The motion was seconded by Commissioner Pirtle with all Commissioners present voting in favor of the motion.

19. Adoption of a Resolution authorizing a contribution to fund Port reserves for capital improvements.

Commissioner Hoss noted the capital reserve began in 2015 where the Port Commission approves a resolution to contribute to the reserve for capital improvements. Mr. Lowe shared a breakdown of contributions made to the reserve with total contributions of \$26,880,312.00 contributed in since 2015. The Commission authorized Berth 8 Dredging to be paid for through the reserves for a total of \$13,517,898.43 spent to date. Investment earnings total \$837,370.78 leaving a remaining balance of \$14,199,784.35, prior to FY2023 contribution. Mr. Lowe noted that an additional \$1,052,288.98 retainage will be paid for the Berth 8 dredging upon completion of the project. Staff recommends approval of a \$3,351,718.00 contribution to the reserve. Commissioner Singhania noted that while they have been contributing since 2015, it has been for the channel project, rather than the general capital reserve. Ms. Saathoff stated the resolution is consistent with what has been previously drafted with no change. The intent is to use funds for the channel project and authorization of funds must come before the Commission for approval. Commissioner Giesecke commented that this shows as a restrictive reserve on the balance sheet. Mr. Lowe responded saying that it's not a technical covenant restriction from a law, rather from the resolution that staff would bring it back to the Commission for approval but from an external standpoint, it's not controlled by any other means other than Port Commission. Commissioner Giesecke stated that on a household level, this is no more than taking an envelope and saying this is the

Christmas fund and putting cash in it, so we can take it out and spend it for whatever at any time. It's not really restrictive but we're saying its restrictive, we're saying this is taxpayer money, it's put aside in this particular account, and its only going to be used for these virtuous projects and not be used for things like Commissioner health insurance premiums. Mr. Lowe responded saying that's a fair summarization, the Port Commission will make any decision. Commissioner Giesecke went on to say that these dollars aren't really special in this account, just in a separate account, adding that it's a shell game as far as he's concerned. He referenced an argument made before that the port doesn't use taxpayer money on certain projects or expenses, but taxpayer money is only used on certain things but at the end of the day, it's all taxpayer money, everything here is owned by taxpayer money. Doing these kinds of tricks and funds is not something he will go along with. Commissioner Singhanian responded stating that he and Commissioner Hoss were initiators of this fund because there was a lot of discussion at that time to become M&O tax independent. This was one way the Commission looked at because they did not know what the channel project would cost, nor did they know if the Port would get federal funding for the project. Since there were a lot of unknowns, the Commission decided to start setting money aside, at least equivalent to the M&O, for the channel project. Commissioner Hoss added that it was also intended to keep the tax rate from porpoising over the years while completing the channel improvement projects, and while the port has made a consistent effort and have a track record of bringing tax rates down, Commission knew there was uncharted territory in the channel development. This project and this fund is what it's there for - to improve the channel that benefits the entire community which is part of our job to see how things are spent. You can say it's a shell game, a rainy-day fund or a Christmas fund, but the fact is the commissioner's here job to decide how the money gets spent and where it goes. Tried to keep the taxpayers informed, here's what we're doing, here's where the money is at and consistent in our role as to what we do.

Staff clarified Commission's intent for the funds, noting that Commissioner Singhanian's motion indicates funds would be restricted for channel improvement whereas the current drafted resolution has a broader description to include Freeport harbor improvements, capital and maintenance dredging, dredge disposal are improvements, land purchased and other approved Port capital improvements or capital maintenance items. If the Commission wants to change the resolution, it can be done but staff is requesting clarification as the resolution/wording presented is what has been in place since the fund's inception in 2015. After discussing further, Commissioner Singhanian stated he did not want to change his motion.

A motion was made by Commissioner Singhanian to adopt the resolution to deposit funds into the reserves as recommended by staff to be restricted for the channel improvement. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion and Commissioner Giesecke voting no.

20. Adoption of a Resolution authorizing a contribution to the Port Freeport Retirement Plan.

Mr. Lowe stated that staff reviewed this item with the Personnel Advisory Committee with staff's recommendation to continue with the standard 6% contribution to the Port Freeport Retirement Plan. Commissioners Giesecke and Singhanian clarified for the record that this contribution does not apply to Commissioners and overtime is not included in this contribution.

A motion was made by Commissioner Singhania to adopt the resolution as recommended by staff. The motion was seconded by Commissioner Pirtle with all Commissioners present voting in favor of the motion.

21. Approval of Executive Director/CEO travel for the months of November and December 2022.

Ms. Saathoff noted that the first trip listed has not been rescheduled at this time but included it in the event it is before the end of the year. The Washington, DC Advocacy trip will be November 28-29 and the Port Authority Advisory Committee meeting will be held in Brownsville December 12. Ms. Saathoff indicated that she will attend virtually unless she is needed in person.

A motion was made by Commissioner Singhania to approve the travel as requested. The motion was seconded by Commissioner Pirtle with all Commissioners present voting in favor of the motion.

22. Receive update from Carriage House Partners, LLC regarding legislative affairs.

Mr. Gavin Massingill with Carriage House Partners gave an update on the results of the election and what to anticipate as the state legislative session approaches stating there were few surprises and very little turnover with 25 new House members expected in next session and no significant changes along the Gulf Coast region or committees of jurisdiction that will affect any issues. The House republicans and Senate republicans each gained one seat. Statewide level, the republicans swept statewide races for the 13th consecutive election cycle. Comptroller has stated the last certified estimate going into session would have an ending balance in this biennium of \$27 billion. Bill filing began on the 14th with approximately 1,000 bills filed. CHP has picked up four or five bills that may be of interest to Port and will review further. Mr. Massingill also spoke about the success with the Speaker's office and Representative Canales with regard to potential funding toward the port capital program and the ship channel improvement revolving fund adding that the Speaker has indicated one of his top priorities this upcoming session will be infrastructure related issues. Chairman Canales, Chairman of Transportation Committee in the House has echoed the same desire for this to be an infrastructure and transportation session.

23. Discuss and consider Texas Ports Association legislative agenda and resolution in support thereof.

Ms. Saathoff stated that Texas Port's Association (TPA) got started much earlier this year in putting together the legislative agenda in order to file bills more timely. Port Freeport did not bring forth any of the items to be covered however, every year the Ports will jointly discuss with legal counsel various issues and technical corrections in the law or opportunities to add clarity in the way things are administered or supported to help facilitate better government. Currently, there are five proposed bills. 1) The Omnibus, which covers technical corrections or clarifications related to Chapters 60 and 62 of the Water Code; 2) Real Estate; 3) Open Meetings Act; 4) Chapter 55 of Transportation Code; and 5) Chapter 66 of Transportation Code. The last two bills are both related to the capital program referred to in the ship channel improvement revolving loan fund. Ms. Saathoff then went over the summaries for

each of the proposed bills noting that the Commission does not have to support the full legislative agenda but wanted to review each of the proposed bills in detail. Additionally, all proposed bills are currently under state legislative counsel review and could be altered from what is being presented. Ms. Saathoff wanted to present the proposed bills to the Commission to allow time for review and discussion adding that the Commission can vote on what they are comfortable with or table to give time for further review. After discussing concerns with some of the items and requesting additional information, the Commission agreed to postpone allowing further review.

A motion was made by Commissioner Singhania to postpone consideration until the next meeting. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

24. Discuss and consider rules and procedures for conducting Port Commission meetings.

A motion was made by Commissioner Pirtle to postpone discussion and consideration of the procedures until the next meeting. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

At this time, Commissioner Hoss noted that Commissioner Santos would not rejoin the meeting.

25. EXECUTIVE SESSION in accordance with Subchapter D of the Open Meetings Act, Texas Government Code Section 551.001, et. seq., to review and consider the following:

- A. Under authority of Section 551.071 (Consultation with Attorney) for discussion regarding:
 - 1. Consultation with attorney under Government Code Section 551.071(1) (to seek or receive attorney's advice on pending or contemplated litigation).
 - 2. Consultation with attorney under Government Code Section 551.071(2) (to seek or receive attorney's advice on legal matters that are not related to litigation).
- B. Under authority of Section 551.087 (Economic Development Negotiations or Incentives):
 - 1. To discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.
 - 2. To deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
- C. Under authority of Section 551.072 (Deliberation Concerning Real Property Matters) for discussion regarding:
 - 1. Discussion regarding the potential exchange, lease, or value of real property located in Freeport, Texas, including but not limited to the are known as the East End of Freeport and bordered by or adjacent to the following streets: FM1495; East 2nd Street; Terminal Street and East 8th Street in Freeport, Texas.

2. The potential purchase, exchange, lease, or value of real property located at Port Freeport, including but not limited to the real property located at and contiguous to Berths 1, 2, 5, 7 and 8.
3. The potential exchange, lease, or value of real property located at Port Freeport, including but not limited to Parcels 12, 13, 14, 19, 27, 34 and property on Quintana Island.

D. Under authority of Section 551.074 (Deliberation of Personnel Matters) for discussion regarding:

1. Deliberation regarding the appointment, employment, evaluation, reassignment, duties of a public officer or employee, including but not limited to: Executive Port Director/CEO.

26. RECONVENE OPEN SESSION to review and consider the following:

27. Discuss and consider approving Phase II and Phase III proposals from Paul Bridges & Associates.

Mr. Durel stated that staff has been researching the potential purchase of two cranes. Don Mullett, Port crane manager along with representatives from Paul Bridges & Associates (PBA) and ABB Computer Control Systems inspected the cranes, noting the cranes are very similar to the Port's current ZPMC cranes, however they are a much larger scale and newer versions. Staff reviewed the reports from Paul Bridges and ABB regarding the cranes with the OSS Advisory Committee, confirming the cranes are in good condition however there are a few things to consider in order to bring the cranes up to speed. One item discussed were the transformers on the new cranes, as they do not match the power or voltage of the Port's current cranes. ABB confirmed the transformers would have to be replaced in order to accommodate the supply voltage the Port requires. Additionally, all the cables (boom, trolley, hoist, etc.) need to be changed out. They have not been changed since the cranes were originally purchased. Lastly, the cranes are as is, where is with no spare parts. Additional considerations will include transportation costs which Mr. Durel briefly went over. With all considerations, PBA provided a purchase range for the cranes as well as a price to purchase a new crane that is similar to the cranes in Mexico. Mr. Durel then went over the cost breakdown for used cranes vs. new cranes noting that until staff gets further into negotiations, will not know exactly what the price will be for the used cranes when considering all factors. The proposal submitted by PBA includes pricing for different task levels. If all of the task levels are completed (negotiation, refurbishment oversight, shipping process, commissioning work oversight) the total amount due is \$132,075 with travel expenses. If negotiations end without a transaction, the fee is \$29,575. The commission agreed to authorize staff to begin negotiations.

A motion was made by Commissioner Singhania to authorize a contract with Paul Bridges & Associates to perform Task 1 of the proposal in the amount of \$53,225.00. The motion was seconded by Commissioner Pirtle with all Commissioners present voting in favor of the motion.

28. Discuss and consider action resulting from Executive Session for Executive Director/CEO.

A motion was made by Commissioner Pirtle to postpone consideration to the next meeting. The motion was seconded by Commissioner Croft with all Commissioners present voting in favor of the motion.

29. Adjourn.

With no further business before the Commission, Commissioner Croft made a motion to adjourn the meeting. Commissioner Giesecke seconded the motion with all Commissioners present voting in favor of the motion.

The meeting adjourned at 5:38 PM

John Hoss, Chairman

Rudy Santos, Vice Chairman

Dan Croft, Secretary

Rob Giesecke, Asst. Secretary

Ravi K. Singhania, Commissioner


Shane Pirtle, Commissioner



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MEMORANDUM

TO: Commissioners
Directors
Legal Counsel

FROM: Jason Hull, P.E. 
Director of Engineering

DATE: December 1, 2022

SUBJECT: Permanent road easement agreement

As previously discussed, the Port has requested a permanent road access agreement and right-of-way from Dow in order to cross their pipeline right-of-way with two future roadways that will ultimately connect Terminal Street to Port Road. Legal Counsel is reviewing the easement at this time.

I recommend approval of the permanent road access agreement and right-of-way after the legal review is completed.

PORT COMMISSION


JOHN HOSS, CHAIRMAN; RUDY SANTOS, VICE CHAIRMAN; DAN CROFT, SECRETARY; ROB GIESECKE, ASST. SECRETARY;
RAVI K. SINGHANIA, COMMISSIONER; SHANE PIRTLE, COMMISSIONER; PHYLLIS SAATHOFF, EXECUTIVE DIRECTOR/CEO



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MEMORANDUM

TO: Commissioners
Directors
Legal Counsel

FROM: Jason Hull, P.E. 
Director of Engineering

DATE: November 30, 2022

SUBJECT: Transfer of Title and Ownership Agreement of PORTS equipment

As previously discussed, Freeport LNG purchased atmospheric and oceanographic sensing equipment for the purpose of providing the public with real-time water current and weather conditions in the Freeport Harbor. Port Freeport has previously entered into an agreement with Texas A&M University – Corpus Christi to maintain the equipment.

The PORTS System is operational, and a demonstration presentation was presented to the Port Commission on October 13, 2022.

I recommend approval of the attached Transfer of Title and Ownership Agreement to take ownership of the equipment.

PORT COMMISSION

JOHN HOSS, CHAIRMAN; RUDY SANTOS, VICE CHAIRMAN; DAN CROFT, SECRETARY; ROB GIESECKE, ASST. SECRETARY;
RAVI K. SINGHANIA, COMMISSIONER; SHANE PIRTLE, COMMISSIONER; PHYLLIS SAATHOFF, EXECUTIVE DIRECTOR/CEO

TRANSFER OF TITLE AND OWNERSHIP AGREEMENT

This Transfer of Title and Ownership Agreement (this "Agreement") is from Freeport LNG Development, L.P., with an office address of 333 Clay Street, Suite 5050, Houston, Texas 77002 ("Transferor"), to Port Freeport, with an office address of 1100 Cherry St., Freeport, Texas 77541 ("Transferee").

Transferor, in accordance with that certain Letter Agreement between it and Transferee dated January 13, 2022 and for good and fair consideration received from Transferee, hereby transfers unto Transferee all of Transferor's rights, title, and ownership interest in and to the Current Metering System described in the Letter Agreement in accordance with the terms and conditions of this Agreement. Transferor further assigns, transfers and conveys to Transferee all warranties related to the Current Metering System given by Conrad Blucher Institute for Surveying and Science ("CBI") in connection with the procurement, construction and installation of the Current Metering System by CBI.

To have and to hold unto Transferee, its successors and assigns, forever; and Transferor does hereby represent and warrant to Transferee that Transferor is the sole owner of the Current Metering System conveyed hereby and that all necessary approvals from Transferor for the conveyance thereof have been obtained.

1. Representations and Warranties of Transferor. Transferor represents and warrants to Transferee that the following statements are true and correct as of the date hereof:

1.1. Authority. Transferor's representative executing this Agreement has full power and authority to execute and deliver this Agreement in the name and on behalf of the Transferor, and to perform all the duties and obligations of the Transferor under this Agreement.

1.2. Title. Transferor has good and marketable title to the Current Metering System free and clear of all liens.

2. Warranty. Transferee acknowledges and agrees that it has been given a reasonable ability to inspect the Current Metering System. Except for the representations and warranties set forth above, Transferor is not making any representations or warranties, written or oral, statutory, express or implied, concerning the Current Metering System and it is understood that Transferee takes the Current Metering System "AS IS", "WHERE IS" and "WITH ALL FAULTS"; specifically, Transferor makes no representation as to the condition, value or quality of the Current Metering System and Transferor disclaims any representation or warranty of merchantability, usage, suitability or fitness for any particular purpose with respect to the Current Metering System or as to the workmanship thereof or the absence of any defects therein. Transferee agrees to seek any redress regarding faults with the Current Metering System against the original manufacturer of the Current Metering System. Transferor agrees to reasonably cooperate with any such redress efforts between Transferee and the original manufacturer of the Current Metering System to the extent reasonably necessary and legally permissible.

3. Title and Risk of Loss. Title to the Current Metering System and all ownership interests thereof shall pass to Transferee upon the execution of this Agreement by both parties. Transferor shall bear all the risks of loss or damage to the Current Metering System prior to the transfer of title and ownership, and Transferee shall bear all the risks of loss or damage to the Current Metering System after the transfer of title and ownership.

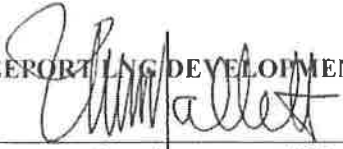
4. Payment. Transferee and Transferor acknowledge that adequate consideration has been received from Transferee to Transferor for the transactions contemplated in this Agreement. No further payments shall be due under this Agreement with respect to the transfer of ownership of the Current Metering System. The provisions of this section will not be construed to waive or release Transferor of its obligation to pay the estimated cost for the operation, maintenance and management of the Current Metering System as expressly provided in Section 4 and Section 5 of the Letter Agreement.


5. Choice of Law. This Agreement, the rights and obligations of the parties hereunder, and any claim or controversy directly or indirectly based upon or arising out of this Agreement (whether based on contract, tort, or any other theory), including all matters of construction, validity and performance, shall be governed by the laws of the State of Texas (without regard to any conflict of law provisions that would require the application of the

law of any other jurisdiction). Transferor and Transferee irrevocably submit to the jurisdiction of the State of Texas in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such State.

6. Miscellaneous. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument. In construing this Agreement, no consideration may be given or presumption made on the basis of which party drafted this Agreement or drafted any particular provision of this Agreement or which party supplied the form of contract. No course of dealing between the parties hereto shall constitute a waiver of such term or condition, nor shall such course of dealing affect such term or condition in any way or the right of Transferee or Transferor at any time to avail themselves of such remedies they may have for breach of such term or condition.

This Agreement is signed by a duly authorized representative of Transferee and Transferor and shall be deemed effective on this _____ day of October, 2022.

FREERPORT LNG DEVELOPMENT, L.P.
By: 
Name: Mark W. Mallett
Title: COO
Date: 11/29/22

PORT FREEPORT
By: _____
Name: _____
Title: _____
Date: _____ 

**RESOLUTION IN SUPPORT OF
THE TEXAS PORTS ASSOCIATION
2023 PROPOSED LEGISLATION FOR
THE 88th TEXAS LEGISLATIVE SESSION**

WHEREAS, the Port Freeport Port Commission of has been asked to approve the 2023 legislative package of the Texas Ports Association (“TPA”) in its capacity as a member of the organization; and

WHEREAS, the TPA’s legislative package for the 88th Legislature currently consists of five (5) navigation related bills individually referred to as follows:

- Omnibus Bill (Chapters 60 & 62, Water Code)
- Real Estate Bill (Section 60.038, Water Code)
- Open Meetings Act Bill (Section 551.092, Government Code)
- Chapter 55, Transportation Code
- Chapter 56, Transportation Code

WHEREAS, the Port Commissioners have reviewed these bills (collectively, the “TPA’s 2023 Proposed Legislation”), along with a Summary of the TPA’s 2023 Proposed Legislation; and

WHEREAS, the TPA’s approved 2023 Proposed Legislation has been delivered to and will be put in final form by Legislative Council before the bills are filed in the 88th Texas Legislative Session;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT FREEPORT COMMISSION that the TPA’s 2023 Proposed Legislation is hereby approved in the form presented to the Port Commission with such changes thereto as may be required by Legislative Council.

This Resolution was adopted by the Port Freeport Port Commission at a public meeting of the Port Commission held on December 8, 2022.

SUMMARY OF
TEXAS PORTS ASSOCIATION
2023 PROPOSED LEGISLATION
Approved November 10, 2022

I. The TPA Omnibus Bill. This bill makes the following changes to the Water Code:

Section 1 amends Section 60.003 of the Water Code to say that adopting Chapter 2267 (Public Private Partnerships), Government Code, will not prohibit a navigation district from entering into a public-private partnership pursuant to other statutory authority.

Section 2 adds Section 60.0321 to Subchapter C of the Water Code. This section authorizes a navigation district to contract with any other party for the joint construction, financing, ownership, and operation of wharves, docks, warehouses, grain elevators, other storage facilities, bunkering facilities, port-related railroads and bridges, floating plants and facilities, lightering, cargo-handling, and towing facilities, and all other facilities incidental to or useful in the operation or development of the district's ports and waterways or in aid of navigation and navigation-related commerce in the district's ports and on the waterways. Section 60.0321 is in effect a simplified approach to public-private partnerships that gives the Commission more discretion in the form of the transaction.

Section 3 amends Section 60.403(a) of the Water Code to say that the Port Commission may authorized the CEO or other designated officer to make routine purchases or contracts up to \$100,000 without bidding. The current maximum is \$50,000.

Section 4 amends Section 60.4035 of the Water Code to say that the CEO or other designated officer may also make emergency purchases or contracts in excess of the customary authorized amount without bidding if such an expenditure is necessary to respond to an emergency without competitive procurement delays. The Commissioners must be notified of any such expenditure within 48 hours after the purchase is made.

Section 5 amends Section 60.412 of the Water Code to say that the CEO or other designated officer may also make emergency purchases or contracts in excess of the customary authorized amount without bidding if such an expenditure is necessary to respond to an emergency without competitive procurement delays. This is essentially the same as the amendment described in Section 4.

Section 6 amends Section 60.455 of the Water Code to say that navigation districts have the right to reject all bids or proposals. This is a technical correction.

Section 7 adds Section 60.503 to the Water Code. This section authorizes the Port Commission to develop and administer a program for (1) local economic development, (2) for small or disadvantaged business development, (3) to stimulate, encourage, and develop business location and commercial activity in the district, (4) to promote or advertise the district, or (5) to improve the extent to which local, small, veteran, women, minority, and other historically underutilized businesses are awarded district contracts. A program established under this section may be designed to reasonably increase participation by local, small, veteran, minority, women-

owned, and historically underutilized businesses in public contract awards by the district by establishing contract percentage goals for those businesses.

Section 8 amends Section 62.106(e) of the Water Code to say that a navigation district may utilize the condemnation procedure in Chapter 21, Property Code. This is a technical correction.

Section 9 amends Section 62.120 of the Water Code to say that a navigation district may enter into operating contracts and leases with cities and other governmental subdivisions for the operation of the portions of the district's water system which are designated by the commission. This is just a technical correction.

Section 10 amends Section 62.122 of the Water Code to say that the commission may authorize the sale of dredge material from a dredge material placement area on such terms and conditions as the commission considers appropriate or advantageous to the district.

II. The TPA Real Estate Bill. This bill makes the following changes to Section 60.038 of the Water Code:

(a) Authorizes a navigation district to impose restrictions on the development, use, and transfer of any real property or interest in real property in connection with its sale or exchange under this section.

(b) Authorizes a navigation district to donate, exchange, convey, sell, or lease land, improvements, easements, or any other interests in real property to an electric or telecommunications utility to promote a public purpose related to the development of the district. A district may donate, exchange, convey, sell, or lease a real property interest under this authority for less than its fair market value and without complying with any notice or bidding requirements

(c) Authorizes a navigation district to abandon, release, exchange, or transfer the following real property interests to abutting real property owners: (1) narrow strips of real property resulting from boundary or surveying conflicts, (2) narrow strips of real property resulting from insubstantial encroachments by abutting real property owners, and (3) real property of larger configuration that has been subject to encroachments by abutting real property owners for more than 25 years. A district may convey real property under this authority for less than its fair market value and without complying with any notice or bidding requirements.

III. The TPA Open Meetings Act Bill. This bill adds Section 551.092 to the Texas Open Meetings Act. Section 551.092 authorizes the Commission of a navigation district to deliberate the following information in closed session:

(a) information relating to a bid, proposal, or contract for goods or services under negotiation, if disclosure of the information would have a detrimental effect on the position of the navigation district in negotiations with a third person; or

(b) information relating to proposed changes to the district's facilities or services.

(Note: Counties and other local government entities have similar authority.)

IV. Amendments to Chapter 55, Transportation Code. Chapter 55 of the Transportation Code establishes the port access account fund. Currently, money in this fund can be used for security, transportation, and facility projects. The TPA supports amendments to Chapter 55 that would (1) add infrastructure projects to the list of projects eligible for funding from the port access account fund, and (2) limit the amount that may be granted to any one navigation district to 10% of the appropriated funding per biennium.

V. Amendments to Chapter 56, Transportation Code. Chapter 56 of the Transportation Code establishes the ship channel improvement revolving fund. Money in this fund can only be used to enhance the financing capabilities of entities responsible for the local share of qualified project costs. Currently, a qualified project must deepen or widen a ship channel and be authorized by the United States Congress. The TPA supports an amendment to Chapter 56 that would eliminate the requirement that the project be authorized by Congress. Two versions are presented. One provides for the Texas Department of Transportation Maritime Division to administer the loan program and the other the Texas Water Development Board. Will wait for the determination by Legislative Counsel as to the appropriate administrative body.

All bill language has been submitted to Legislative Counsel for review .

2023 Proposed Board Meeting Dates

January 12
January 26

February 9
February 23

March 9
March 23

April 13
April 27

May 11
May 25

June 8
June 22

July 20

August 10
August 24

September 14
September 28

October 19

November 16

December 14

Board meetings will begin at 1:00 p.m.

Dates and times are subject to change.