Minutes of the Special Meeting of the Calcasieu Ship Channel Funding Management Board held at 10:00 A.M., November 19, 2020 in the Board Room of the Port of Lake Charles located at 1611 W. Sallier St., Lake Charles, Louisiana.

In attendance and constituting a quorum, were:

Charles Harper, President

Richert Self, Vice President

Renee Lapeyrolerie, Secretary/Treasurer (by phone)

Absent:

None

Also present:

Jon Ringo, General Counsel

Channing Hayden, Director of Navigation

Regan Brown, Assistant Director of Navigation

Cameron Landry, Director of Administration and Finance

Brett Palmer, Lake Charles Pilots Association

Nelson Robles (by phone)

Mr. Harper called the meeting to order at 10:02 A.M.

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1. Submission 2020 – 001 approving the Election of Officers of the Calcasieu Ship Channel Funding Management Board.

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Mr. Self offered a motion to nominate the following as officers:

President Mr. Charles Harper

Vice President Mr. Richert Self

Secretary/Treasurer Ms. Renee Lapeyrolerie

Mr. Self offered a motion to adopt Resolution 2020 – 001 to approve the election of officers of the Calcasieu Ship Channel Funding Management Board. Ms. Lapeyrolerie seconded the motion and it carried unanimously.

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2. Receive a report from Channing Hayden, Port of Lake Charles’ Director of Navigation, on upcoming funding obligations of the Non-federal Sponsor for the Calcasieu River and Pass Project in accordance with the Dredged Materials Management Plan.

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Mr. Hayden stated he put a map of the channel with the disposal areas on the screen for everyone to view.

He said he would be talking about disposal area 2, which is northwest of Coon Island. He will also mention disposal area 7, which is a little bit to the south and west of the 210 bridge. He will then talk about disposal area D. On the map, there is a line near disposal D, which is where the Corps is placing the rock barrier. The Corps plans to expand disposal area D out to the rock wall. In Calcasieu Lake, which is to the east of D, there is also a rock wall on the west side of the disposal site toward the channel and to expand the disposal site out to the east rock wall as well. Under the Corps proposal, they will be increasing the capacity of disposal area D quite a bit.

The second document is a table showing FY 20. All FY’s are based on the Corps of Engineers’ Fiscal Year. which starts on October 1 through September 30. Fiscal Year 20 started on October 1, 2019 and expires September 30, 2020. On October 1, 2020, Fiscal Year 21 began.

In Fiscal Year 20, there was a total of $18 million available in federal funds for construction, with $9 million requiring a match of $3 million, which the Port provided in July so that the Corps could begin working on DAs 2 and 7. The dikes are being knocked down, leveled and then rebuilt to hold 20 years’ capacity plus additional capacity for anyone who bought capacity in those sites. The Port bought about 300,000 yards of capacity in DA 2 and 1.8 million yards in DA 7. The Port paid for that. That is not part of the $3 million. That is in addition to the $3 million.

The Port bought capacity for the disposal of material dredged from its berths at City Docks and BT-1.

Corps of Engineers has another $9 million from FY 20 that they would like to spend on DA D.

In addition, we are now in FY 21. Because the President’s budget contains $9 million in construction funds for the Calcasieu River, the Corps now has access to that $9 million. They have asked if the Port can put up the $3 million local match to match that $9 million. The plan would be to take that total of $24 million and let a much larger contract The original plan was in one year to knock levees down on D and extend the platform out to the rocks on either side. With this additional money, they would combine those with the original concept. They would knock the site down and would build whatever levees they could build for the $24 million they have available. If the bids come in low enough, they could build 20-year capacity and do everything in one fell swoop. If the bids are not favorable, they will build whatever dikes in disposal area D they can.

These FY 20 and FY 21 funds would require a total non-federal sponsor match of $6 million. Later on, the resolution asks the Board to approve up to $6 million in spending that can be spent as the money becomes available. Right now there is only $4,573,000 in the special account. When the rest of the funds are collected, there will be over $6 million.

Mr. Ringo stated they received the state’s funding. They have received the bulk of industries share but are waiting on the remaining amount to be collected from industries. It is just a matter time before they get that in. Mr. Self stated the Port paid $3 million dollars earlier in the year. That is the non-Federal match DA 2 and 7. The only portions that remain outstanding are a few of the industry partners. Mr. Ringo stated that was correct, but they would like to get authorize spending up to $6 million so that they can meet the obligations that Mr. Hayden outlined contingent on those funds from industry coming in timely.

Mr. Hayden stated the final line on the chart is FY 22. The Corps of Engineers called up last week that Washington would like to give them $22 million in construction funds for FY 22. They asked if the Port would match that. He responded that he did not know. They will have to see how the money flows. The Corps said if he could not tell them that day that he will match those funds, the channel will not get the money. In FY 22 the channel the channel will probably just get $9 million. He is showing that as the last line on the chart. This is not a request to authorize $7.3 million in non-federal match. This is for information and for the Board to get a sense of how the Corps of Engineers operates. The Corps of Engineers wants you to respond to their questions immediately. The same Corps of Engineers that has promised the Port they would have something done by the end of August and the Port is still waiting for it to get done. So, while the Corps requires a fast turnaround to answer their questions, the Port does not get a fast turnaround from the Corps.

Mr. Ringo stated that what would be federal Fiscal Year 22… He spoke about the different years they have. There is the federal year, which is from October 1 to September 30. The state fiscal year, which is July 1 and June 30. Then, there is the calendar year which is January 1 to December 31 in which most of Port and industry use for their budgets. There are three different time periods, but regardless, FY 22 beyond anyone’s first under this P3 program. The plan is for the next calendar year, the Port will put up its $2.5 million, industry will put up to $2.5 million and the state’s contribution goes up to $5 million. The state will not contribute their money until after the legislative session and will be subject to the appropriations process in the legislature. They will not get that money until next summer – 2021. They should have a good indication at the next funding board meeting of whether or not we can make that match. The Port’s money should be in and industries’ money should be in and they will have a good indication of where the appropriation process for the state is and know what kind of funding we will get from them.

Mr. Ringo said that while they cannot say yes to the Corps right now, he thinks they will be able to meet that $7 million match with funds for next year. Mr. Hayden stated that may be, but until we see the cash flow and get a better projection, the best we can tell the Corps is maybe. He does not think that $22 million will be available. It may be something more than $9 million, but he is thinking that the Corps could not get an answer from the Port, so they will go spend the money somewhere else. Mr. Self stated that whatever it is, it will be down the road and they will deal with it when it comes.

Mr. Hayden stated the reason why he has done everything on the federal fiscal year, is because if the Corps does not have any money, then there is no required non-Federal match. The federal funding drives this whole process. In any year the Corps does not have construction funds, the Port does not have to make a funding match. Mr. Self stated that this will require a motion of the board to approve $6 million in funding as those funds become available, because they only have about $3.5 million right now available. Mr. Hayden agreed. He stated it was $4.5 million.

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3. Submission 2020 – 002 authorizing the Executive Director of the Port of Lake Charles to disburse up to Six Million Dollars ($6,000,000) to the Corps as the non-federal sponsor’s cost share, contingent upon that amount being available in the fund.

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Mr. Self offered a motion to adopt Resolution 2020 – 002 to authorize the Executive Director of the Port of Lake Charles to disburse up to Six Million Dollars ($6,000,000) to the Corps as the non-federal sponsor’s cost share, contingent upon that amount being available in the fund. Mr. Harper seconded the motion and it carried unanimously.

Mr. Harper asked in terms of the money that they have received, what is the number of the outstanding industries who have yet to respond. Mr. Self stated it was about $1.4 million.

Ms. Lapeyrolerie asked if there was a deadline. Mr. Self replied that he did not believe there was any legislation that included a deadline. It just references fiscal year 2020 versus fiscal year 2021, etc. In his mind it should be prior to December 31, 2020. Mr. Harper stated in discussions with industries, they were trying to make payment by October 15. LMOGA handled the invoicing. The invoices came in on a net 30, which was later than October 15. He received an email late last night from Tyler. He also received a call from Rain CII asking him some questions. They have not yet paid, but they have not put it in the budget for this year. The question that Tyler was raising dealt with a true up. He asked if they could, because they will have a firm count on vessel traffic for this year, is actually do a true up and issue an invoice reflecting the actual number of ships. Mr. Harper went through this earlier on the industry side where some people were saying they do not want to do that. They want to use an estimate to come up with what everyone’s individual contribution would be. They knew that estimate was not going to be exactly right. Some of the industries wished to go back and get the right count. The problem with that was is that they needed to get the money in and at that time they were operating on wanting to get it in by October 15. Industry agreed that they would use the estimate that was put in the legislation and then after that they would true up. One of the questions will be coming from some of the industries is when will they do that and how are you going to do it.

Mr. Ringo stated that the legislation provides that November 1 of each year, industry sends an estimated vessel count for the next year. Then the Port invoices industry based off the calculation according to that estimate. At the end of the year, the legislation provides that the board will establish some sort of true up mechanism. That is what the legislation says. The Calcasieu Ship Channel Fund Managing Board needs to come up with how they are going to do that. What they could do is get the actual vessel count for the year and for the next year credits where credits are owed or get some kind of debit where they increase the amount to cover. Some people are going to be high some people going to be low. The board will have to figure that out. He stated they will defer to industry. They can make that happen. They just need to go about getting the actual vessel count for each entity.

Mr. Harper stated the next step will be for industry to respond that this is what they had through November 1, 2020. Ringo agreed. Mr. Self asked if the actual vessel counts will be due November 1, 2021 or are they due November 1, 2020. Mr. Hayden replied that they cannot be due any time in 2020. Mr. Ringo stated that was correct. The November 1 estimate is for 2021. Mr. Self stated they will give them an estimate now and they will true it up in 2021. Mr. Ringo stated that was correct. However, Mr. Harper is asking what about this year that is already been paid. Mr. Self stated they needed to pay based on their estimate vessel count relative to the total. He thought the calculation had been done based on those invoices.

Mr. Hayden said that the true up will not be done in November 2021. The true up 2020 will be done sometime in a January through March timeframe of 2021. As soon as the pilots have an accurate vessel count or the facilities have an exact vessel count, they need to come in and tell the Port what the difference between the vessels they paid on and how many that actually showed up. Then in November, they need to give their estimate for 2022. In November 2020, they should be giving their estimate for next year. Mr. Ringo stated that was correct so they can go ahead and invoice for next year. He stated they will work on that and get the estimate for next year and the Port will invoice industry 2021. Mr. Self stated to recap as he understands it, there will be a true up in January or February 2021, based on actual vessel counts be followed by November 2021. They will be supplied the projected vessel count for the following year from which they will invoice for 2022. Mr. Ringo stated he did not think the invoices would go out for year 2021 until after they get the actual vessel count for 2020. Mr. Harper stated because that was the only way you true up. Mr. Ringo agreed because they will apply whatever credits are owed or increases are owed to that invoice. That would be the easiest way to do it. Mr. Harper stated he would speak to Tyler about that and let him deal with that. He stated they actually dealt with this earlier and Citgo and the majority of the industries decided they would just go with what they had given the Port and would worry about getting trued up after the fact. Mr. Harper stated after he spoke to Tyler, he will get back with the Port to see what seems to be the sense of some of these people on how to do it.

Mr. Brown asked how far in advance is the Board going to be able to act on the fiscal years. In FY 22, the Corps said they may be able to get $22 million in construction funds. Mr. Hayden could not say yay or nay. How far out in advance is the board going to approve expenditures from the fund once there are significant dollars in the fund? Say they spend what they are supposed to spend in FY 20, FY 21 and at some point because of the amount of money the Port is putting in and the state is putting in, they will have $15-$18 million in this fund that will just be sitting there. So, when the Corps calls and says FY 23, they have $20 million. Can the Port match it? Is the board going to have to have any type of emergency meeting to approve that expenditure or go out in advance and say that since we have this $15-$18 million sitting in there, they will go ahead and approve expenditures out to FY 25 as long as it does not exceed the amount in the fund? Mr. Hayden replied that if he had to bring that $22 million to the Board today and asked them to approve the $7,000,000 non-federal sponsor cost share, he would have done so contingent upon the fact that the Board saw what the plans were from the Corps of Engineers and everyone was all in agreement with those plans. The Corps did not have plans to show. The best they could do under a situation like that, is talk to Mr. Landry and figure out how much money they had in the bank and tell the Corps that yes, they have the funds to match the local cost share if the plans are acceptable to everyone.

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4. Other matters which may properly come before the Board

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There being no further business to come before the Board, on a motion made by Mr. Self seconded by Mr. Harper and approved unanimously among those present, the meeting adjourned at 10:36 a.m.

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CHARLIE HARPER

President

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RENEE LAPEYROLERIE

Secretary/Treasurer