

**MINUTES OF THE  
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY–EAST  
BOARD MEETING  
THURSDAY, FEBRUARY 22, 2024**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority-East (Authority or FPA) was held on February 22, 2024, in the Franklin Avenue Administrative Complex, Meeting Room 201, 6920 Franklin Avenue, New Orleans, Louisiana, after due legal notice of the meeting was sent to each Board member and the news media and posted.

Mr. Cosse called the meeting to order at 10:15 a.m. and led the pledge of allegiance. Mr. Fierke called the roll and a quorum was present:

**PRESENT:**

Clay A. Cosse, President  
Roy M. Arrigo, Vice President  
Thomas G. Fierke, Secretary  
William A. Settoon, Jr., Treasurer  
Richard G. Duplantier, Jr.  
Herbert I. Miller  
K. Randall Noel  
Derek N. Rabb  
Deborah M. Settoon

**ABSENT:** None

**ADOPTION OF AGENDA:**

A motion was offered by Mr. Fierke, seconded by Mr. Noel and unanimously adopted, to adopt the agenda.

**RESOLUTION NO. 02-22-24-01 - APPROVAL OF THE MINUTES OF THE BOARD MEETING HELD ON JANUARY 18, 2024**

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On the motion of Mr. Settoon,  
Seconded by Mr. Arrigo, the following resolution was offered:

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East approves the Minutes of the Board Meeting held on January 18, 2024.

The foregoing was submitted to a vote; the vote thereon was as follows:  
YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb,  
Ms. Settoon and Mr. Settoon

NAYS: None  
ABSENT: None

## **SAFETY MINUTE:**

Roger Colwell, GIS Manager, provided safety tips on operating drones. The following steps should be taken prior to flying a drone: 1) check FAA guidelines for height ceilings and restrictions; 2) inspect the equipment prior to flight; and 3) be aware of structures or conditions in the area. Pilots should always have an observer and never allow the drone to be out of the line of sight or in an emergency response area. Drones should never be flown by persons under the influence of alcohol or drugs.

## **OPENING COMMENTS BY PRESIDENT AND COMMISSIONERS:**

Mr. Cosse noted the low water pressure at the Franklin Facility. Kelli Chandler, Regional Director, advised that the Franklin Facility is located at the end of the Sewerage and Water Board of New Orleans (SWBNO) water line and low water pressure had recently occurred several times. The FPA is working with SWBNO on this issue. A loss in water pressure during a storm event would create an extreme hardship; therefore, FPA internal communications were taking place on back up plans and potential solutions. Ms. Settoon pointed out the danger of insufficient pressure in the event there is a need to operate firefighting equipment.

Mr. Fierke advised that the Legal Committee requested the Regional Director to provide a list of the problems associated with not being a regional entity in all aspects and the impacts. The Committee also requested the Director of Governmental Affairs to advise potential solutions. He pointed out that some of the solutions are administrative with Louisiana Civil Service and others are statutory or constitutional. After this information is developed, the Board can decide how to proceed in a more formal nature. Mr. Settoon pointed out that one of the issues is electoral; i.e., any readjustment of millage rates must go before the citizenry of the three parishes.

Ms. Settoon thanked Chris Humphreys, Director of Engineering, for the tour of Reaches 1 and 2 of the East Jefferson Levee Foreshore Protection. She hoped that the U.S. Army Corps of Engineers (USACE) would have a plan in place for reconstructing the foreshore protection prior to hurricane season. If not, she stressed that greater urgency needs to be given to the project. Mr. Fierke commented that he also enjoyed the tour.

**PUBLIC COMMENTS:** None

**PRESENTATIONS:** None

## **REPORT BY REGIONAL DIRECTOR:**

Kelli Chandler, Regional Director, provided the following report:

- **Mississippi River:** The river reached 11.2 feet on February 12<sup>th</sup> and was expected to recede to 9 feet by the end of February.

- **Annual Inspections:** Annual inspections have been scheduled, subject to change due to weather, as follows:
  - February 22<sup>nd</sup> – East Jefferson
  - March 21<sup>st</sup> – Lake Borgne
  - March 26<sup>th</sup> – New Orleans East Bank St. Bernard Polder
  - March 28<sup>th</sup> – New Orleans East Bank Orleans Polder
  - April 9<sup>th</sup> & 10<sup>th</sup> – New Orleans East Bank Metro Polder
  - April 15<sup>th</sup> – Surge Barrier Sector Gate and Barge Gate
  - April 25<sup>th</sup> – Bayou Dupre and Caernarvon
  - April 29<sup>th</sup> – Old Bayou Bienvenue Structure, Surge Barrier Wall and Vertical Lift Gate
  - April 30<sup>th</sup> – Seabrook
  - May 8<sup>th</sup> – PCCP (Orleans Avenue pump station only due to ongoing construction and repairs at the London Avenue and 17<sup>th</sup> Street pump stations).
  
- **Storm Season Preparation:** The following activities are taking place:
  - Annual Review of the Comprehensive Emergency Management Plan (CEMP)
  - Inventory of supplies on hand
  - Reviewing food supplies and replenishing as needed
  - Planning for the Public Service Announcement (PSA)
  - Training with a focus on new employees. Pre-storm refreshers are conducted each year and include FEMA paperwork, payroll and timecards. A tabletop exercise will be conducted and the Board will receive notification of the date.
  
- **Permanent Canal Closures and Pumps (PCCP) Update:**
  - Pumps 1 and 4 at the 17<sup>th</sup> Street PCCP were being disassembled. Stop logs were in place at Pumps 2 and 5 at the London Avenue PCCP in order to begin dewatering the pumps. The wedge, elbow and diffuser for the pumps were being sent offsite for repairs, blasting and coating. Martin Eilers, Director of Risk and Project Management, conducted an inspection at the facility where the coating was taking place (PSI).
  - On February 26<sup>th</sup> divers will examine the identified sink holes so that a decision can be made on this issue.
  - Crack repairs in the basement flooring was ongoing. The crack repairs started at the 17<sup>th</sup> Street PCCP and will move to the London Avenue PCCP.
  - Discussions were on-going on the climber screen issues. A decision on a final solution had not been made.

- The design for the Cathodic protection system was not yet finalized and submitted to the USACE. The FPA was waiting for the USACE to provide the Cathodic protection system design for review.

Mr. Cosse asked for additional information regarding the sink holes. Chris Humphreys, Director of Engineering, explained that the sink holes are relatively shallow; however, they are evidence that somewhere materials are being lost. The sink holes are at the interface of the sheetpile wall and the concrete wall of the structure. There is an effort to determine where materials are being lost. Both the USACE and the Joint Venture (JV) Contractor have theories regarding the loss of materials. Basically, the solution is jet grouting beneath the areas. The sink holes are only a few feet deep; however, the problem (i.e., where materials are being lost) is believed to be about 30-feet deep.

Mr. Arrigo asked were the 17<sup>th</sup> Street and London Avenue PCCP pumps that were being coated also being reworked, as needed, with stainless steel parts. Ms. Chandler replied, yes; the housings and bearings were being sent to Patterson Pumps to be placed in stainless steel housings. The wedge, diffuser and elbow will be coated.

Ms. Settoon asked about inspections of the repairs. Ms. Chandler explained that in addition to the inspection conducted by Mr. Eilers, inspections were being conducted by the Coastal Protection and Restoration Authority (CPRA) and NACE (National Association of Corrosion Engineers) Level 2 Inspectors.

Mr. Cosse asked about the bolts that had corroded. Ms. Chandler advised that the bolts will be replaced with stainless steel bolts.

### **COMMITTEE REPORTS:**

**FINANCE COMMITTEE:** Mr. Settoon reported that the Finance Committee met prior to the Board meeting. Denise Williams, Regional Finance Director, provided a thorough review of the proposed Fiscal Year (FY) 2025 Budget to the Committee. A number of questions were asked about the budget. The proposed budget was well received by the Finance Committee. The Engineering Department will provide a list ranking the capital improvement projects for the next meeting. The Committee also received an update on investments from Richard Kernion with Edward Jones, the FPA's Investment Advisor.

**OPERATIONS COMMITTEE:** Due to the lack of a quorum of the Operations Committee, an Informational Meeting was held on February 8, 2024. Mr. Fierke advised that the Human Resource (HR) Handbook was reviewed at the meeting. The goal is to finish the review of the Handbook next month so that a recommendation can be made for Board approval. The Board last approved the Handbook in 2018.

In addition, the following items were reviewed at the February 8<sup>th</sup> meeting:

- The proposed Cooperative Endeavor Agreement with Jefferson Parish for widening the levee crown, installing a new concrete multi-use path on the levee crown, and installing slope paving on the Lake Pontchartrain East Return Levee (Orpheum Levee) between Old Hammond Highway and Lilac Street

- The proposed award of a contract for the Mitigation of Outfall Canal Erosion – 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side), as well as the proposed task order for the construction administration and inspection for the project.

**LEGAL COMMITTEE:** Mr. Rabb reported that the Legal Committee met on February 20, 2024. The Committee discussed and recommended for Board approval two proposed policies regarding participation in the meetings of the Board by a Commissioner with an ADA disability and by members of the public with ADA disabilities or their caregivers via electronic means.

Mr. Rabb advised that the Committee also discussed Marquette Transportation Company Gulf-Island v. USDC (Louisiana Eastern District-2:23-CV-02439). The Committee recommended, in the event the Attorney General’s Office decides not to represent the FPA, that the Board retain the Degan, Blanchard and Nash Law Offices for representation. Three law firms had been considered.

**COASTAL AND TECHNICAL COMMITTEE:** The Coastal and Technical Committee did not meet during the month of February; therefore, there was no report.

**NEW BUSINESS:**

**RESOLUTION NO. 02-22-24-02 - POLICY FOR PARTICIPATION VIA ELECTRONIC MEANS IN THE MEETINGS OF THE BOARD BY COMMISSIONERS WITH AN ADA DISABILITY**

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Glenda Boudreaux, Administrative Program Director, advised that Act 393 of the 2023 Regular Session of the Legislature amended the public meeting law and required the adoption of two policies relative to ADA disabilities. The first policy pertained to a Commissioner with an ADA disability who is unable to attend the meetings of the Board in person. The second policy pertained to public participation in the meetings of the Board by persons with ADA disabilities or their caregivers. A Commissioner with an ADA disability who participates in the meetings via electronic means would not receive a per diem payment.

On the motion of Mr. Settoon,  
Seconded by Mr. Arrigo, the following resolution was offered:

**WHEREAS**, Act 393 of the 2023 Regular Session of the Louisiana Legislature requires public bodies subject to the Open Meetings Law to adopt a policy to accommodate members of the entity’s board with a disability recognized by the ADA to participate in the meetings of the Board electronically; and

**WHEREAS**, Act 393 provides that such a member’s participation via electronic means shall count towards the making of a quorum, and that said member shall have the right to vote and any and all other rights of a board member in said meetings; and

**WHEREAS**, said member shall not receive a per diem for participation in a meeting of the Board via electronic means.

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East adopts the Policy for Participation via Electronic Means in the Meetings of the Board by Commissioners with an ADA Disability, dated February 22, 2024.

The foregoing was submitted to a vote; the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb, Ms. Settoon and Mr. Settoon

NAYS: None

ABSENT: None

**RESOLUTION NO. 02-22-24 -03 - POLICY FOR PUBLIC PARTICIPATION IN THE MEETINGS OF THE BOARD BY PERSONS WITH AN ADA DISABILITY OR THEIR CAREGIVER**

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Ms. Boudreaux explained that, basically, the only participation by the public in the meetings of the Board is through public comment. The policy provides for a person with an ADA disability or his/her caregiver to provide public comment via email. The policy includes procedures to receive the emails and for the emails to be read during the meeting. These procedures were used during the COVID pandemic when the meetings of the Board were held remotely via electronic means. Requests will be submitted to the FPA's designated ADA Coordinator, Celeste Wertz (HR Human Resource Specialist). The Policy will be placed on the FPA website.

On the motion of Mr. Fierke,

Seconded by Mr. Arrigo, the following resolution was offered:

**WHEREAS**, Act 393 of the 2023 Regular Session of the Louisiana Legislature requires public bodies subject to the Open Meetings Law to adopt a policy to allow persons with a disability recognized by the ADA or their caregiver to participate remotely in the meetings of their boards; and

**WHEREAS**, Southeast Louisiana Flood Protection Authority-East Board of Commissioners is committed to ensuring that its meetings are open to all members of the public, including persons with an ADA disability and/or his/her designated caregiver; and

**WHEREAS**, the Policy for Public Participation in the Meetings of the Board by Persons with an ADA Disability or Their Caregiver provides rules, regulations and procedures for remote participation in said meetings; and

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East adopts the Policy for Public Participation in the Meetings of the Board by Persons with an ADA Disability or Their Caregiver, dated February 22, 2024.

The foregoing was submitted to a vote; the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb,

Ms. Settoon and Mr. Settoon  
NAYS: None  
ABSENT: None

**RESOLUTION NO. 02-22-24-04 - MITIGATION OF OUTFALL CANAL EROSION –  
17<sup>TH</sup> STREET CANAL VETERANS BOULEVARD TO OLD HAMMOND HIGHWAY  
(EAST SIDE) PROJECT**

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Mr. Fierke explained that the proposed award of the contract for 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side) Erosion Mitigation Project was discussed in detail at the Operations Committee Information Meeting. The Engineer's estimate was \$11,397,405.50. The single bid by Cycle Construction, LLC (Cycle), was significantly higher than the Engineer's estimate primarily due to mobilization costs. The FPA requires that the contractor perform all work from the water. The bidder and bid were vetted by the engineering consultant. Engineering staff concurred with the consultant's recommendation to award the contract to Cycle. Mr. Fierke also recommended that the Board approve the award of the contract to Cycle.

On the motion of Mr. Fierke,  
Seconded by Mr. Settoon, the following resolution was offered:

**WHEREAS**, the 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side) Erosion Mitigation Project (Project No. O243036) was advertised and bids were opened on February 6, 2024; and

**WHEREAS**, only one bid was received for the aforementioned project from Cycle Construction Company, LLC, in the amount of \$14,483,042.00, which was determined to be a responsive and responsible bid; and

**WHEREAS**, the Engineer's Estimate for the base bid project is \$11,397,405.50; and

**WHEREAS**, Engineering staff recommended that the Board approve the award of the contract to Cycle Construction Company, LLC, due to the complexities resulting from the restriction that all work be accomplished from inside the 17<sup>th</sup> Street Canal; and

**WHEREAS**, funding for the project is included in Budget Item FY 24 Line 24.

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority–East (FPA) authorizes the award of a contract in the amount of \$14,483,042.00 to Cycle Construction Company, LLC, for the Mitigation of Outfall Canal Erosion - 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side) Project.

**BE IT FURTHER RESOLVED**, that the FPA Regional Director, or in his/her absence the Director of Engineering, is hereby authorized to execute the above mentioned contract with Cycle Construction Company, LLC, and any and all other documents necessary to accomplish the above.

The foregoing was submitted to a vote; the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb,  
Ms. Settoon and Mr. Settoon

NAYS: None  
ABSENT: None

**RESOLUTION NO. 02-22-24-05 - MITIGATION OF OUTFALL CANAL EROSION – 17<sup>TH</sup> STREET CANAL VETERANS BOULEVARD TO OLD HAMMOND HIGHWAY (EAST SIDE) PROJECT**

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Mr. Fierke advised that the Construction Administration and Inspection included in the proposed Task Order was for the contract that was awarded to Cycle Construction, LLC, under the previous item.

On the motion of Mr. Settoon,  
Seconded by Mr. Fierke, the following resolution was offered:

**WHEREAS**, the 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side) Erosion Mitigation Project is a continuation of the recently completed 17<sup>th</sup> Street Outfall Canal Erosion Mitigation work; and

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East (FPA) entered into an Indefinite Delivery-Indefinite Quantity (ID-IQ) Contract with Evans-Graves Engineers, Inc., to provide Civil Engineering Services on an as needed basis; and

**WHEREAS**, by Resolution No. 05-20-21-10, the FPA issued a Task Order to Evans-Graves for Permitting, Preparation of Plans and Specifications, and Bid Support for the Mitigation of Outfall Canal Erosion – 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side) Project; and

**WHEREAS**, Evans-Graves Engineers, Inc., submitted a proposal dated January 30, 2024, in the total amount of \$291,560.00, to provide Construction Administrative Services (\$102,560.00) and Resident Inspection Services (\$189,000.00) for the aforementioned project; and

**WHEREAS**, funding for said services is in Budget Line item BIDIQ01.

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East approves the issuance of a Task Order to Evans-Graves Engineers, Inc. in the amount of \$291,560.00 for providing Construction Administrative Services (\$102,560.00) and Resident Inspection Services (\$189,000.00) for the Mitigation of Outfall Canal Erosion – 17<sup>th</sup> Street Canal Veterans Boulevard to Old Hammond Highway (East Side) Project.

**BE IT FUTHER RESOLVED**, that the FPA Regional Director, and in her/his absence the Director of Engineering, is hereby authorized to sign the aforementioned Task Order and any and all documents necessary to carry out the above.

The foregoing was submitted to a vote; the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb,  
Ms. Settoon and Mr. Settoon

NAYS: None  
ABSENT: None



**RESOLUTION NO. 02-22-24-06 - CEA WITH JEFFERSON PARISH FOR WIDENING THE LEVEE CROWN, INSTALLING A NEW CONCRETE MULTI-USE PATH ON THE LEVEE CROWN, AND INSTALLING SLOPE PAVING ON THE LAKE PONTCHARTRAIN EAST RETURN LEVEE (ORPHEUM LEVEE) BETWEEN OLD HAMMOND HIGHWAY AND LILAC STREET**

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Mr. Humphreys explained that the proposed project addresses the deterioration of the levee toe due to vehicles turning from side streets onto Orpheum Avenue. The FPA determined that the solution to this on-going problem was slope paving. In discussions with Jefferson Parish, a decision was made that the levee crown needed to be widened in order for the FPA to install slope paving. An agreement was made for the FPA and Jefferson Parish to cost share the project.

On the motion of Mr. Fierke,  
Seconded by Mr. Arrigo, the following resolution was offered:

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East (FPA) wishes to enter into a Cooperative Endeavor Agreement (CEA) with Jefferson Parish (PARISH) for widening the levee crown, installing a new concrete multi-use path on the levee crown, and installing slope paving on the Lake Pontchartrain East Return Levee (Orpheum Levee) between Old Hammond Highway and Lilac Street (Project); and

**WHEREAS**, Art. VII, Sec. 14(C) of the Louisiana Constitution of 1974 provides that for a public purpose, the State and its political subdivisions may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private organization, corporation or individuals; and

**WHEREAS**, the PARISH and FPA are authorized to enter into Cooperative Endeavor Agreements pursuant to LA. R.S. 33:1324 which permits any parish, municipality or political subdivision of the state, or any combination thereof, to make agreements between or among themselves to engage jointly in providing and improving recreational and educational facilities, such as playgrounds, recreation centers, parks and libraries, and flood control, drainage and reclamation projects; and

**WHEREAS**, the Project includes widening the levee crown, installing a new concrete multi-use (bike) path on the levee crown and installing slope paving on the levee slopes of the Lake Pontchartrain East Return Levee (Orpheum Levee) between Metairie Old Hammond Highway and Lilac Street; and

**WHEREAS**, the Project will benefit both the FPA and the PARISH; and

**WHEREAS**, the FPA will provide design and supplemental services for the Project and request bids for the Project in accordance with the Louisiana Public Bid Law (LA RS 38:2211 et seq.); and

**WHEREAS**, the PARISH agrees to fund thirty-six percent (36%) of the Project cost or a maximum of \$1,327,336.05; and

**WHEREAS**, the FPA agrees to fund sixty-four percent (64%) of the Project cost, currently estimated at \$2,490,303.14; and

**WHEREAS**, upon completion of the Project, the PARISH shall assume maintenance of the multi-use (bike) path in the Project area; and

**WHEREAS**, funding for the FPA's cost share for the project is provided in EJLD Projects line 10 (FY 24) and line 7 (FY 25).

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East approves the Cooperative Endeavor Agreement with Jefferson Parish for widening the levee crown, installing a new concrete multi-use path on the levee crown, and installing slope paving on the Lake Pontchartrain East Return Levee (Orpheum Levee) between Old Hammond Highway and Lilac Street.

**BE IT FURTHER RESOLVED**, that the FPA President is authorized to execute said Cooperative Endeavor Agreement with Jefferson Parish, and any and all documents necessary to accomplish the above.

The foregoing was submitted to a vote; the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb, Ms. Settoon and Mr. Settoon

NAYS: None

ABSENT: None

**RESOLUTION NO. 02-22-24-07 - LETTER OF INTENT RELATIVE TO COST SHARE FOR THE FEASIBILITY STUDY TO UPGRADE THE LAKE PONTCHARTRAIN & VICINITY PORTION OF THE HURRICANE AND STORM DAMAGE RISK REDUCTION SYSTEM TO 200-YEAR PROTECTION**

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Ms. Chandler explained that Congress authorized the study of 200-protection; however, the study was not funded. The USACE advised that it needed a letter of intent from the FPA agreeing to pay 50 percent of the cost of the study in order to seek funding for the Federal cost share. The Water Resources Development Act (WRDA) of 1986 specifies a 50 percent Federal and 50 percent local cost share requirement for Feasibility Studies. The CPRA advised that it would not pay the local cost share because the study only includes the Lake Pontchartrain and Vicinity portion of the Hurricane and Storm Damage Risk Reduction System (HSDRRS). The total cost of the study is \$3 million. The FPA would not pay the \$1.5 million cost share until Federal funding is authorized and the study takes place.

On the motion of Mr. Fierke,

Seconded by Mr. Noel, the following resolution was offered:

**WHEREAS**, after Hurricane Katrina, the U.S. Army Corps of Engineers (USACE) was authorized by Congress to design and construct the Hurricane and Storm Damage Risk Reduction System (HSDRRS), a \$14.6 billion project crossing five parishes (Orleans, Jefferson, St. Bernard, St. Charles and Plaquemines), to provide defense against a 100-year storm event (a storm that has a one percent chance of occurring in any given year); and

**WHEREAS**, the greater New Orleans region faces increasing environmental and geological threats, such as sea level rise, subsidence, and increasing sea surface temperatures, in addition to natural cycles such as El Nino and La Nina, which result in stronger, rapidly intensifying hurricanes; and

**WHEREAS**, recognizing the urgency and vital importance of upgrading the HSDRRS to provide defense against a 200-year storm event, Congress included language in Public Law 117-263, the James M. Inhofe National Defense Authorization Act (NADD) for Fiscal Year 2023, under Section 8203, Expedited Modifications of Existing Feasibility Studies, as follows:

“The Secretary shall expedite the completion of the following feasibility studies, as modified by this section, and if the Secretary determines that a project that is the subject of the feasibility study is justified in the completed report, may proceed directly to preconstruction planning, engineering, and design of the project:

“(2) LAKE PONTCHARTRAIN AND VICINITY, LOUISIANA.—The study for flood risk management and hurricane and storm damage risk reduction, Lake Pontchartrain and Vicinity, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to authorize the Secretary to investigate increasing the scope of the project to provide protection against a 200-year storm event.”

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East (FPA) adopted Resolution No. 10-19-23-03, in part, to urge the USACE to include the congressional authorized study to upgrade the system to 200-year protection in its next work plan and to complete said study as expeditiously as possible; and

**WHEREAS**, the aforementioned study will include an evaluation to determine the economic justification, environmental impact and feasibility of providing the 0.5 percent annual exceedance probability (200 year) storm surge and wave event level of risk reduction for the Lake Pontchartrain and Vicinity portion of the HSDRRS along with a benefit to cost analysis; and

**WHEREAS**, the estimated cost for said study is \$3 million; and

**WHEREAS**, Section 105(a) of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2215(a)), specifies a 50 percent Federal and 50 percent local cost share requirement for Feasibility Studies; and

**WHEREAS**, the feasibility study will cover only the Lake Pontchartrain and Vicinity (LPV) portion, and not the entire HSDRRS; therefore, the Coastal Protection and Restoration Authority will not provide funding for the study; and

**WHEREAS**, a letter of intent to fund 50 percent of the cost of the aforementioned study for the LPV portion of the HSDRRS is needed from the FPA in order for the USACE to seek funding; and

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East approves the issuance of a letter of intent to fund 50 percent of the cost of the Lake Pontchartrain and Vicinity (LPV) 200-Year Level of Risk Reduction Study to the U.S. Army Corps of Engineers.

**BE IT FURTHER RESOLVED**, that the FPA Regional Director, or in his/her absence the Director of Engineering, is hereby authorized to execute the aforementioned letter of intent and any and all other documents necessary to accomplish the above.

The foregoing was submitted to a vote; the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb,  
Ms. Settoon and Mr. Settoon

NAYS: None

ABSENT: None

### **EXECUTIVE SESSION:**

1. Discussion of "Marquette Transportation Company Gulf-Island v. USDC (Louisiana Eastern District-2:23-CV-02439)".

A motion was offered by Mr. Duplantier, seconded by Mr. Fierke and unanimously adopted by a roll call vote for the Board to convene in Executive Session to discuss the item listed on the agenda. The Board convened in Executive Session at 10:47 a.m.

A motion was offered by Mr. Fierke, seconded by Mr. Rabb and unanimously adopted, for the Board to reconvene in regular session. The Board reconvened in regular session at 11:04 a.m.

Mr. Cosse noted that no action was taken in the Executive Session.

### **NEW BUSINESS: (continued)**

#### **RESOLUTION NO. 02-22-24-08 - A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST ("FPA") AUTHORIZING THE RETENTION OF DEGAN, BLANCHARD & NASH LAW OFFICE TO PROVIDE REPRESENTATION AND LEGAL COUNSEL FOR LITIGATION**

Mr. Fierke offered a substitute motion to retain outside counsel to represent the FPA in the litigation entitled, "Marquette Transportation Company Gulf-Island v. USDC (Louisiana Eastern District-2:23-CV-02439)" by retaining the law offices of Degan, Blanchard and Nash to represent the FPA on the federal claim, including tort litigation, subject to and contingent upon the denial by the Attorney General's Office to represent the FPA in such matters, and to authorize the FPA Secretary to modify the draft resolution retaining said firm to comply with any and all modifications required by the Attorney General's Office. The substitute motion was seconded by Mr. Settoon and unanimously adopted.

On the motion of Mr. Fierke

Seconded by Mr. Settoon, the following resolution was offered:

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East has been named a third-party defendant in the litigation entitled, “Marquette Transportation Company Gulf-Inland, LLC v. The United States of America,” United States District Court for the Eastern District of Louisiana, No. 2:23-CV-02439-WBV-JVM; and

**WHEREAS**, in accordance with La. R.S. 42:263, the Flood Protection Authority declares that a real necessity exists to engage professional legal services to provide representation and counsel in regards to litigation; and

**WHEREAS**, Degan, Blanchard and Nash Law Offices shall be compensated at the rate of \$290.00 per hour for attorneys Sidney W. Degan, III and Philip C. Brickman; and \$265.00 per hour for attorney Richard W. Schwerdtfeger which is pursuant to the Louisiana Attorney General’s Maximum Hourly Fee Schedule of February 16, 2024,

<b>Rate</b>	<b>Description</b>
\$350.00 per hour	For attorneys having experience of 10 or more in the practice of law
\$275.00 per hour	For attorneys having experience of 5-10 years in the practice of law
\$225.00 per hour	For attorneys having experience of 3-5 years in the practice of law
\$175.00 per hour	For attorneys having experience of less than 3 years in the practice of law
\$80.00 per hour	For Paralegal Services

**WHEREAS**, Degan, Blanchard and Nash Law Offices shall be compensated at the rate of \$90.00 per hour for paralegal, Kristen Shaheen which is slightly above the Louisiana Attorney General’s Maximum Hourly Fee Schedule of February 16, 2024, but justified due to her paralegal experience needed for the level of complex litigation in this case; and

**WHEREAS**, the date and term of the contract commences March 5, 2024 and ending on March 4, 2025. The total of all sums payable under this contract, including fees and reimbursement of expenses, shall not exceed \$100,000.00; and

**WHEREAS**, the scope of this legal representation involves federal claims, including tort claims; and

**WHEREAS**, in the event of claims brought in federal court seeking equitable relief, these claims may implicate the interests of the State of Louisiana, and so the Board agrees to provide advance written notice to the Louisiana Attorney General ten (10) business days before the next meeting and an opportunity for the Attorney General to express concerns directly to the Board in writing or in executive session before the Board:

(1) proposes a settlement, accepts a proposed settlement, agrees to a consent decree, or enters any other agreement with any party in any federal action for declaratory or injunctive relief that is going to be or has been filed; or

(2) files any document in any federal case in which (a) declaratory or injunctive relief has been granted against the Board, (b) final judgement dismissing the case

has not been entered, and (c) at least 3 years have passed since any party seeking relief, including the USDOJ in an amicus capacity, filed any document in the case.

Accordingly, the Board authorizes and directs the law firm to provide the required notice to the Attorney General, release such information and documentation as the Attorney General may request in response to the notice, and generally cooperate with the Attorney General in regard to the notice.

**WHEREAS**, this resolution shall take effect immediately; and

**BE IT FURTHER RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East, pursuant to R.S. 42:262, does hereby authorize the retention of Degan, Blanchard & Nash Law Office, LLC as counsel to represent the FPA in litigation as needed.

**BE IT FURTHER RESOLVED**, that the Board of Commissioners authorizes Executive Counsel to retain the firm of Degan, Blanchard, & Nash Law Firm to represent the FPA on said federal claims, including tort litigation, and that the Regional Director is authorized to execute said contract with Degan, Blanchard & Nash Law Firm.

**BE IT FURTHER RESOLVED**, that this Resolution and the proposed contract described herein be submitted to the Attorney General for the State of Louisiana for approval.

This resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Arrigo, Mr. Duplantier, Mr. Fierke, Mr. Miller, Mr. Noel, Mr. Rabb,  
Ms. Settoon and Mr. Settoon

NAYS: None

ABSENT: None

The next regular monthly meeting of the Board will be held on March 21, 2024.

There was no further business; therefore, meeting was adjourned at 11:10 a.m.