

**MINUTES OF
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST
OPERATIONS COMMITTEE MEETING
HELD ON JULY 20, 2017**

PRESENT: Herbert I. Miller, Chair
Mark L. Morgan, Committee Member
Clay Cosse', Committee Member

The Operations Committee of the Southeast Louisiana Flood Protection Authority-East (SLFPA-E or Authority) met on July 20, 2017, in the Franklin Avenue Administrative Complex, Meeting Room 201, 6920 Franklin Avenue, New Orleans, Louisiana. Mr. Miller called the meeting to order at 10:10 a.m.

Opening Comments: None.

Adoption of Agenda: The agenda was adopted by the Committee as presented.

Approval of Minutes: The minutes of the June 15, 2017 Operations Committee meeting were approved.

Public Comments:

Scott Hedlund, attorney representing TKTMJ, stated that originally TKTMJ was tangentially on the agenda as a discussion of the award and execution of the contract for the next erosion control project (Reach 1C, 2A and 5B) and 48 hours ago the item was removed from the agenda. He stated that he understood that a suggestion would be presented to the Board that an opinion be requested from the Attorney General (AG) relating to a potential challenge. He pointed out that the challenge has not been formally submitted. He explained that a two part process is allowed under R.S. 38:2215 in which a contract can be awarded with a 60-day window for its execution. Should the Board approve the award, but not the execution, of the contract, it would place the onus on the potential challenger to have a stake in the process. If the challenger wishes to challenge the award and state that he deserves the contract at an extra \$500,000 in cost, he would have to go to court, file an injunction and provide security due to the potential for damages. If the Board does not take action on the award and seeks the AG's opinion, it is giving a potential challenger who has not raised an issue a free pass to just wait and see what happens. Mr. Hedlund stated that he did not see a downside to his suggestion, and that in light of what the Supreme Court said last year, there is no chance that TKTMJ would not be ultimately awarded the contract. He added that he understood that Nyka Scott, SLFPA-E Executive Counsel, believes that there may be an exposure for attorneys' fees should the Authority be incorrect. He noted that TKTMJ saved the Authority over \$2 million off of the next low bidders and almost \$4 million off the engineer's estimates on the previous projects. He added that he delivered a written agreement to Ms. Scott that stated TKTMJ agreed to a 30-day extension under R.S. 32:2215.

Ms. Scott stated that, based upon discussions with outside counsel, she stood by her recommendation that the Board move forward with the request for the AG's opinion. She added that the opinion would be received prior to the next Board meeting.

Mr. Miller commented that the Board would be able to award the contract at its next meeting, and the Authority could potentially be able to issue a notice to proceed earlier than having to wait 60 days.

New Business:

A. Discussion of issuance and execution of a task order to Tetra Tech, Inc. in the not-to-exceed amount of \$142,850.00 for Bidding, Construction Administration and Resident Inspection Services for the construction of the Violet Canal North Levee Realignment Phase II Project.

Robert Turner, SLFPA-E Director of Engineering and Operations, explained that the Authority was required to certify approximately 35 miles of non-federal levees. One non-federal levee system has been certified. During the certification process for the second non-federal levee system that extends from the Lower Ninth Ward to St. Bernard Parish, an issue was discovered in the area where two factories were built along the Violet Canal and a levee offset is required. Plans and specifications were developed by Tetra Tech for the levee realignment and the required property was purchased for its construction. The Authority was waiting for a Hazard Mitigation Grant through the City of New Orleans to fund the realignment. The grant is ready for the Authority to start drawing down funds. The proposed task order would put in place services for bidding assistance, resident inspection and construction administration so that bids can be requested for the construction of the phase of the work to offset the levee around the Shrimp Factory. Another phase of the work (vicinity of the Soap Factory) will be performed by Lake Borgne Basin Levee District (LBBLD) and St. Bernard Parish Government forces, which will require a Cooperative Endeavor Agreement. As part of the construction administration, Tetra Tech will review all bids and provide a recommendation to the Authority and keep track of the paperwork that is associated with the project to make sure the Authority is in compliance with the grant so that the Authority does not have to repay the money.

Mr. Morgan asked the anticipated construction value. Ryan Foster, SLFPA-E Engineer, responded, approximately \$1.9 million. The task order is for a not to exceed amount of \$142,850 with \$40,000 to \$50,000 for resident inspection and \$90,000 to \$100,000 for construction administration. The task order will include the Board's approved rates.

A motion was offered by Mr. Morgan, seconded by Mr. Cosse and adopted, to recommend that the Board approve the issuance of the proposed task order to Tetra Tech.

- B. Discussion of proposed Change Order No. 1 to the contract with Durr Heavy Construction to increase the contract amount to \$1,523,278 (an increase of \$148,572) and to increase the contract period for the construction of the LPV 00.2 Levee Lift Project.**
 - C. Discussion of proposed Change Order No. 1 to the contract with Phylway Construction, LLC to increase the contract amount to \$2,934,573.10 (an increase of \$657,178.10) and to increase the contract period for the construction of the LPV 01.1 and LPV 02.2 Levee Lift Project.**
 - D. Discussion of Change Order No. 1 to the contract with Beverly Construction Co., LLC to increase the contract amount to \$1,868,583.00 (an increase of \$168,798.00) and to increase the contract time for the construction of the LPV 19.2 and LPV 20.1 Levee Lift Project.**
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Mr. Miller requested that Items B, C and D be discussed together. Mr. Turner explained that the contracts for the levee lift projects along the East Jefferson lakefront are unit based and included estimated quantities. The estimates provided for embankment materials were based on surveys performed 1-1/2 to 2 years prior to the actual work with cross sections every 400-ft. on center as required by U.S. Army Corps of Engineers (USACE) criteria. The contractors performed surveys with cross sections every 100-ft. on center and collected topo information relative to ramps. The contractors' data was submitted to the Authority and its construction administration consultants for review. Embankment overruns were experienced on all three levee lift projects. Therefore, a change to the contracts is required for the additional embankment material. In addition, Phylway Construction (Agenda Item C) was required to remove almost 4-feet of aggregate material, in lieu of the estimated 6 to 8-inches, and replace the aggregate with embankment materials (approximately \$500,000) at several ramps. Beverly Construction (Agenda Item D) was required to construct a concrete ramp (in lieu of asphalt at an increase of approximately \$100,000) at the direction of the Authority in the vicinity of the U.S. Coast Guard (USCG) Station and the boat launch. The Authority's original intention was to construct an asphalt ramp in anticipation of the USACE's armoring project. The USACE suggested that the surfacing be changed from asphalt to concrete so that the ramp would only have to be surfaced once and the traffic to the USCG station and the boat ramp would not be disturbed a second time.

Mr. Miller requested that Mr. Turner review the Authority's practice of taking cross sections every 400-ft. and instead take cross sections every 100-ft. He suggested that better estimates would minimize the value of future change orders and the Authority could potentially receive better unit prices with higher, more accurate estimates.

A motion was offered by Mr. Morgan, seconded by Mr. Cosse and adopted, to recommend that the Board approve the proposed change orders.

E. Discussion of proposed amendment of the Contract with Louisiana Property Acquisition Co., LLC for assistance with obtaining rights-of-entry in connection with the work being performed on the Mississippi River Levee at the Dumaine Street Floodwall to increase the total not-to-exceed contract fee from \$49,500 to \$59,500 and to extend the engagement period of the contract to October 6, 2017.

Ms. Scott advised that several different entities, including the City of New Orleans and Sewerage and Water Board of New Orleans, are involved in the right-of-way acquisition for the project, which is located in the area of the French Market. An increase is needed in the not-to-exceed contract amount due to the issues involved.

A motion was offered by Mr. Morgan, seconded by Mr. Cosse and adopted, to recommend that the Board approve the increase to the not-to-exceed amount of the contract with Louisiana Property Acquisition Co., LLC.

F. Discussion of the proposed Cooperative Endeavor Agreement between the Orleans Levee District and the Lake Borgne Basin Levee District to transfer two tractors for use in grass cutting operations for levees/areas associated with the flood protection system surrounding the Greater New Orleans Area.

Gerry Gillen, SLFPA-E Operations Director, explained that the LBBLD is in need of grass cutting equipment. The Orleans Levee District (O.L.D.) has two older tractors (rotary cutters) that can be transferred to the LBBLD through a Cooperative Endeavor Agreement (CEA). Funding for a new tractor and cutter is included in the LBBLD FY 2018 budget.

A motion was offered by Mr. Morgan, seconded by Mr. Cosse and adopted, to recommend that the Board approve the proposed CEA.

G. Discussion of award of a contract to the lowest responsive bidder for the IHNC East Near OHV-17 Drainage Improvements Project.)

Felton Suthon, SFLPA-E Engineer, advised that the project area includes a steep hole that holds water and makes grass cutting difficult. The hole will be filled and the drain raised. Bids were requested from eight firms. The bids were opened on July 18th and only two firms responded (Holliday Contractors, LLC - \$60,361 and Cycle Construction Company, LLC - \$68,692). The engineer's estimate for the project was approximately \$55,000. Holliday Contractors has worked on several past projects for the Authority.

A motion was offered by Mr. Morgan, seconded by Mr. Miller and adopted, to recommend that the Board award the contract to Holliday Contractors, LLC.

H. Discussion of increase in the contract amount from \$59,981.00 to \$75,925.55 for the contract with Cycle Construction Company, LLC for the project to Lower the Tops of Valve Pits OHV-38 and OHV-39 on the Michoud Levee.

Mr. Suthon explained that the two valve pits protruding from the levee interfered with grass maintenance; therefore, the project provided for lowering the valve pit tops four to five feet. The original plan included bricking off the outfalls from the pipe, which was to be accomplished prior to the contractor replacing the tops and filling and sodding the area. Due to high tides over several days and the approach of Tropical Storm Cindy, a decision was made to abandon the bricking and instead ensure a better seal on the top to prevent an influx of water. Mr. Morgan added that the project was also required for safety reasons.

A motion was offered by Mr. Morgan, seconded by Mr. Miller and adopted, to recommend that the Board approve the increase to the contract amount for the contract with Cycle Construction Company.

I. Discussion of the proposed amendment to the contract with Rotolo Consultants, Inc. (RCI) on behalf of the Lake Borgne Basin Levee District (LBBLD) to provide mowing, string trimming and spraying of approximately (+/-) 355 acres of the LBBLD levee denoted as LPV 145 at a cost of \$19.82 per acre per cut (\$7,036.01 per month), with a total contract price of a not-to-exceed value of \$225,710.16.

Mr. Miller asked the current amount of the contract with Rotolo Consultants, Inc.(RCI). Mr. Turner responded that the original contract was with the O.L.D. and has been in place for several years at the original cost of \$19.82 per acre. The LBBLD (LPV 146 and LPV 148) was previously added to this contract, but not LPV 145. The amendment would add the additional section of levee between Bayou Bienvenue and Bayou Dupre (LPV 145) to the contract.

Mr. Miller asked Ms. Scott whether there was any problem with the value of the amended contract. Ms. Scott responded that the contract is now with two separate entities and that she discussed this matter with the Attorney General's Office, which advised that there is no problem.

A motion was offered by Mr. Cosse, seconded by Mr. Morgan and adopted, to recommend that the Board approve the amendment to the RCI contract.

J. Discussion of the proposed Cooperative Endeavor Agreement between the Lake Borgne Basin Levee District and St. Bernard Parish for work performed on the Violet Canal levee.

Mr. Turner explained that the CEA allows the LBBLD and St. Bernard Parish Government to combine forces to build the 500 to 600-ft. section of levee at the Soap

Factory. The LBBLD will reimburse the cost of manpower and equipment that is utilized to the St. Bernard Parish Government.

A motion was offered by Mr. Morgan, seconded by Mr. Cosse and adopted, to recommend that the Board approve the CEA with St. Bernard Parish Government.

K. Discussion of proposed task order in the amount of \$238,640 to ECM to provide resident inspection services during construction of the East Jefferson Levee District Safehouse and Consolidated Maintenance Facility.

Derek Boese, SLFPA-E Chief Administrative Officer, explained that the Authority has an Indefinite Delivery-Indefinite Quantity (ID-IQ) contract with ECM for inspection services. The task order would place a full time inspector (owner's representative) on site throughout the construction of the project. The not-to-exceed amount of the task order can be adjusted as required. The architectural firm under contract provides inspection services; however, the inspection services are not full time. The proposed task order is two percent of the construction contract value.

A motion was offered by Mr. Morgan, seconded by Mr. Miller and adopted, to recommend that the Board approve the issuance of the proposed task order to ECM.

L. Discussion of the proposed amendment to the contract between the Orleans Levee District and Design Engineering, Inc. to extend the contract to December 31, 2018 and to adjust Phase 3 - Construction Administration and Resident Inspection Services to reflect a not to exceed fee limit of \$826,892.57, and to adjust Phase 4 - Design and Bidding Services to reflect a not to exceed fee limit of \$690,322.93.

Mr. Turner explained that Design Engineering, Inc. (DEI) provided the design, construction administration and resident inspection for the erosion control work along Lakeshore Drive. The contract was due to expire on June 30, 2017. After negotiations DEI agreed to utilize the Authority's approved rates and to a reduction in the anticipated number of hours. Mr. Gillen advised that the overall cost of the services for Phase 4 was reduced; however, some design changes were added to the scope of work (i.e., addressing for safety reasons an existing roadway used as a passive park, improving parking and access to the parkway, relocation of several trees, and improving access to the Bayou St. John Bridge) thereby increasing the cost.

A motion was offered by Mr. Morgan, seconded by Mr. Cosse and adopted, to recommend that the Board approve the proposed amendment to the contract with DEI.

There was no further business; therefore, the meeting was adjourned at 10:33 a.m.