



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
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#20

Guy McInnis
*Councilman
at Large*

George Cavignac
*Councilman
at Large*

Ray Lauga, Jr.
*Councilman
District A*

Nathan Gorbaty
*Councilman
District B*

Richard "Richie" Lewis
*Councilman
District C*

Casey W. Hunnicutt
*Councilman
District D*

**Manuel "Monty"
Montelongo III**
*Councilman
District E*

Roxanne Adams
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, DECEMBER 16, 2014 AT THREE O'CLOCK P.M.

On motion of Mr. Hunnicutt, seconded by Mr. Lauga, it was moved to **adopt** the following resolution:

RESOLUTION SBPC #1265-12-14

A RESOLUTION AUTHORIZING THE ADMINISTRATION TO ENTER INTO A COOPERATIVE ENDEAVOR AGREEMENT WITH THE LAKE BORGNE BASIN LEVEE DISTRICT (LBBLD) REGARDING THE MISSISSIPPI RIVER TRAIL, PHASE I AND II.

WHEREAS, the St. Bernard Parish Government is the governing authority of St. Bernard Parish, with the authority of a local political subdivision to enter into agreements with governmental bodies, such as the LBBLD, for the public welfare, health, safety and good order of St. Bernard Parish by virtue of the specific authority granted in its Home Rule Charter; and,

WHEREAS, St. Bernard Parish has been allocated \$1,254,531.00 of Transportation Enhancement Grant Funds from the U.S. Department of Transportation, Federal Highway Administration, as administered by the Louisiana Department of Transportation and Development and the Regional Planning Commission for Orleans, Jefferson, St. Bernard, St. Tammany and Washington Parishes for the construction of a three-mile-long multi-purpose trail atop the Mississippi River levee from approximately the Valero Refinery in Meraux to the Violet Canal in Violet, Louisiana; and,

WHEREAS, construction requires both periodic access and permanent construction within the LBBLD existing right of way impacting property under the maintenance responsibility of LBBLD; and,

WHEREAS, construction plans and specifications for this project as revised and dated September, 2014 have been reviewed and approved by LBBLD; and,

WHEREAS, LBBLD requires a Cooperative Endeavor Agreement (CEA) between LBBLD and St. Bernard Parish Government to allow access and permanent construction within its right of way and the terms and conditions of this CEA have been reviewed by the administration and found acceptable; and,

NOW THEREFORE BE IT RESOLVED, the St. Bernard Parish administration is authorized to enter into a CEA with LBBLD to allow for construction of the Mississippi River Levee Trail Phase I and II within LBBLD right of way.



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Extract #20 continued
December 16, 2014

The above and foregoing having been submitted to a vote, the vote there upon resulted as follows:

YEAS: Lauga, Lewis, Hunnicutt, Montelongo, Cavnac

NAYS: None

ABSENT: Gorbaty

The Council Chair, Mr. McInnis, cast his vote as **YEA**.

And the motion was declared **adopted** on the 16th day of December, 2014.

CERTIFICATE

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of a motion adopted at a Regular Meeting of the Council of the Parish of St. Bernard, held at Chalmette, Louisiana, on Tuesday, December 16, 2014.

Witness my hand and the seal
of the Parish of St. Bernard on
this 16th day of December, 2014.

ROXANNE ADAMS
CLERK OF COUNCIL

**COOPERATIVE ENDEAVOR AGREEMENT
BETWEEN
ST. BERNARD PARISH GOVERNMENT,
ST. BERNARD PARISH SHERIFF JAMES POHLMANN
AND THE LAKE BORGNE BASIN LEVEE DISTRICT**

This Cooperative Endeavor Agreement is entered into between the St. Bernard Parish Government ("Parish"), the Lake Borgne Basin Levee District ("District") and St. Bernard Sheriff James Pohlmann ("Sheriff") on this _____ day of _____, 2013.

RECITALS

WHEREAS, District, Parish and Sheriff are each political subdivisions of the State of Louisiana; and

WHEREAS, Article VII, Section 14 of the Louisiana Constitution provides, in part, that "for a public purpose the State and its political subdivisions or political corporations may engage in cooperative endeavors with each other . . . or with any public or private association, corporation or individual";

WHEREAS, the District has a legal servitude and general jurisdiction of the Mississippi River Levee on the East Bank of St. Bernard Parish ("Levee") and;

WHEREAS, Parish wants to construct a bicycle path on the levee; and

WHEREAS, the Parish council by Resolution No. 2452-04-05 authorized the Parish President to sign a Cooperative Endeavor Agreement between Parish and District relative to the Mississippi River bike path; and

WHEREAS, the Southeast Louisiana Flood Protection Authority - East, ("SLFPAE") acting as governing authority of the District, by Resolution adopted on _____, authorized the Executive Director of the District to enter into this Cooperative Endeavor Agreement; and

WHEREAS, James Pohlmann as Sheriff of St. Bernard Parish has authority to enter into this Cooperative Endeavor Agreement; and

WHEREAS, the residents of St. Bernard Parish will benefit from the proposed bicycle path;

NOW, THEREFORE, the parties agree as follows:

This Agreement will constitute a non-assignable letter of no objection to the Parish for its proposed use of the Mississippi River Levee in St. Bernard Parish ("Project Area") to construct a bike path ("Project") subject to the following conditions;

OBLIGATIONS OF THE PARTIES

- A. District retains all rights of ingress and egress to the Project Area, the levee and batture and the right to grant such ingress and egress to others without notice to the Parish. Access by the public will only be allowed from a parking area immediately adjacent to the District Office, 6136 E. St. Bernard Highway, Violet, Louisiana 70092.
- B. Prior to beginning construction of the Project, Parish must obtain authority, permission or permits from all necessary persons and agencies, including but not limited to, the U.S. Army Corps of Engineers ("USACE") and the Coastal Protection and Restoration Authority ("CPRA").
- C. District shall process all permits and access for the Project to Parish and its

designated contractors and sub-contractors for the purpose of design, surveying and construction of the Project after receipt of letters of no objection from the U.S. Army Corps of Engineers and the Coastal Protection Authority.

- D. Parish will construct and maintain the Project and Project Area at its expense. District shall not be liable to Parish because of any damage to the Project or Project Area caused by District.
- E. Parish has inspected the Project Area and finds it suitable for its purposes and accepts it in its present condition.
- F. Parish will be project sponsor, assuming responsibility for coordinating all efforts to design, engineer and construct the bike path and is authorized to and will accept legal liability for same.
- G. Parish will maintain during the existence of the project, at Parishes expense, the following insurance with solvent companies, acceptable to the District, authorized to do business in the State of Louisiana, naming District and the Southeast Louisiana Flood Protection Authority-East as additional assureds:
 - (I) Comprehensive General Liability Insurance covering the project and Project Area with limits of not less than of \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate as more fully set forth in the "Lake Borgne Levee District General Contracts Insurance Requirements."
 - (II) Automobile Liability Insurance including coverage for owned, hired and non-owned automobiles with limits of not less that \$1,000,000.00 for each occurrence and \$1,000,000.00 in the aggregate.
 - (III) Workers' Compensation and Employers Liability Insurance to cover any

contractors' employees and Parishes employees with limits of not less than \$1,000,000.00 bodily injury by accident, \$1,000,000.00 by diseases - policy limit and \$1,000,000.00 by disease - each employee.

- (IV) Comprehensive general liability insurance with limits of not less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate, such insurance to include:
 - (a) Contractual Liability Coverage for contractor's obligation assumed hereunder.
 - (b) Products-completed operations coverage.
 - (c) Coverage for occurrences resulting from blasting, explosion, or collapse, damage to underground property and injury or destruction fo any property resulting therefrom.
 - (d) Independent Contractors Coverage.
 - (e) Broad Form Property Damage.
 - (f) per project aggregate.
- (V) Automobile Liability Insurance including coverage for owned, hired and non-owned automobiles with limits of not less than \$1,000,000 for each occurrence and \$1,000,000 in the Aggregate
- (VI) With respect to the above-named policies of insurance, Parish shall furnish evidence that such insurers waive all rights of subrogation against District and its underwriters and Parish shall also furnish evidence that District and Southeast Louisiana Flood Protection Authority-East are named as additional insureds on the above named policies of insurance with the exception of

Workers' Compensation Coverage.

- (VII) Such policies shall be endorsed to provide at least thirty (30) days notice to District and Parish prior to any cancellation, reduction of coverage or material amendment thereof. Parish shall furnish District with a certificate showing such insurance to be in effect.
 - (VIII) Parish is responsible for acquiring and verifying that all contractors and/or sub-contractors working on the project maintain these types and levels of insurance coverage.
 - (IX) The above policies shall be primary coverage and any policies carried by the District shall apply as excess of such coverage.
- H. Parish will submit all plans and specifications to the District for approval prior to construction.
 - I. Parish will not place any object or improvement of any nature in the Project Area without the prior written approval of the District.
 - J. Parish will provide all necessary signs for the Project Area with structure and location to be approved by the District.
 - K. Project shall be used only for pedestrian and non-motorized bicycle traffic.
 - L. Parish will adopt all necessary ordinances regarding the use of the Project Area subject to the approval of the District.
 - M. Parish acknowledges the District's obligation to ensure the structural integrity of the levee, to maintain the levee and to exercise its law enforcement jurisdiction on or adjacent to the levee. Consequently, if an emergency occurs and the District determines the performance of the above obligations is materially and detrimentally

affected by the completed or uncompleted project, the District may immediately, without notice, remove any objects or improvements placed in the project area at the expense of Parish or terminate this Agreement or both. If no emergency exists, but the performance of the above obligations by the District is materially and detrimentally affected by the project, or if so ordered by the U.S. Army Corps of Engineers or the Coastal Protection and Restoration Authority, the District may remove any object or improvements placed in the Project Area at the expense of Parish or terminate this Agreement or both, after thirty (30) days prior written notice.

- N. Parish acknowledges that if it is necessary to raise, move or maintain the levee, that the project may be removed by District at Parish expense, and District will have no obligation to reconstruct the project nor pay the value or costs of the project.
- O. Sheriff will police and regulate the project and Project Area. District will not regulate and police the Project Area, but District retains jurisdiction to police and regulate the Project Area, levee batture and other adjacent areas thereto.
- P. This letter agreement shall continue as long as the Parish maintains the project and Project Area in a safe condition, unless earlier terminated as provided herein.
- Q. On termination of this Agreement, Parish agrees that it will remove the project and any other improvements placed in the Project Area, and leave the Project Area in its original condition or better as determined by the District.

HOLD HARMLESS AND INDEMNITY

Parish agrees and obligates itself, its successors and assigns to defend, indemnity and hold harmless District, Southeast Louisiana Flood Protection Authority-East and their respective officials, officers and employees against any and all liabilities, claims, demands,

suits, legal actions, under any theory of law, asserted by or in favor of any person, including but not limited to, claims for loss of life or injury or damage to persons or property or any of the above, including damages to the levee, which might arise from construction and/or use of the Project Area by Parish, its employees, contractors, licensees, invitees, visitors and all other third parties.

Sheriff agrees and obligates himself, his successors and assigns to defend, indemnify and hold harmless the District, Southeast Louisiana Flood Projection Authority-East and their respective officials, officers and employees against any and all liabilities, claims, demands, suits, legal actions, under any theory of law, asserted by or in favor of any person including but not limited to, claims for loss of life or injury or damage to persons or property or any of the above growing out of, resulting from and/or related to its policing and regulating the project and Project Area, including damages to the levee by Sheriff and its employees.

CHOICE OF LAW, VENUE AND ATTORNEY FEES

This Agreement shall be governed by Louisiana law and the provisions of this Agreement shall be enforced and any legal action may be instituted in any court of competent jurisdiction. If it is necessary for District to file a lawsuit to enforce the conditions of this agreement, Parish agrees to pay the Districts attorneys' fees and court costs. If District shall without fault on its part be made a party for any claim or litigation commenced by or against Parish regarding or arising out of the project, Parish shall pay all costs and attorneys' fees incurred by District in connection therewith.

NOTICES

Any notice, which under the terms of this Agreement must be given, shall be given in writing to the respective addresses as hereinafter provided:

If to the Lake Borgne Basin Levee District:

If to the St. Bernard Parish Government:

If to the Sheriff of St. Bernard Parish, James Pohlmann:

Any such notice shall be given by means in which written confirmation of delivery can be demonstrated. Notice shall be considered effective only upon receipt of said notice by the recipient thereof.

ENTIRE AGREEMENT, INTERPRETATION AND AMENDMENT

This Agreement shall constitute the entire Agreement between the parties. All prior oral representations not included in the provisions of this Cooperative Endeavor Agreement are null and void. The parties agree that any amendment to this Agreement must be in writing and executed by duly authorized representatives of all parties.

RECITALS

The parties agree that the Recitals are hereby incorporated and that all of the obligations and covenants of the parties contained in the Recitals shall be binding upon the

parties.

THUS DONE AND SIGNED, in duplicate originals, this _____ day of _____, 2013, before the undersigned competent witnesses.

Witnesses:

(printed name)

(printed name)

Witnesses:

(printed name)

(printed name)

St. Bernard Parish Government

By: _____

(printed name and title)

Lake Borgne Levee District

By: _____

(printed name and title)

Witnesses:

(printed name)

(printed name)

St. Bernard Sheriff James Pohlmann

By: _____

(printed name and title)