



# St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043  
(504) 278-4228 Fax (504) 278-4209  
www.sbpbg.net

**Kerri Callais**  
Councilmember  
at Large

**Richard "Richie" Lewis**  
Councilmember  
at Large

**Gillis McCloskey**  
Councilmember  
District A

**Nathan Gorbaty**  
Councilmember  
District B

**Howard Luna**  
Councilmember  
District C

**Wanda Alcon**  
Councilmember  
District D

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

**Roxanne Adams**  
Clerk of Council

**#31**

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 THURSDAY, FEBRUARY 18, 2016 AT THREE O'CLOCK P.M.

On motion of Mr. Lewis, seconded by Mr. Gorbaty, it was moved to **adopt** the following ordinance:

## **ORDINANCE SBPC #1732-02-16**

### **Summary No. 3328**

Introduced by: Administration on 12/1/15

Public hearing held on 12/15/15

Tabled on 12/15/15

AN ORDINANCE TO RETAIN PRIVATE OUTSIDE LEGAL COUNSEL TO REPRESENT ST. BERNARD PARISH GOVERNMENT HEREINAFTER "SBPG"), IN MAKING ITS LEGAL CLAIM FOR PAYMENTS AGAINST ENTERGY, LOUISIANA, LLC AND ANY RELATED COMPANIES, PREDECESSORS, SUCCESSORS AND ASSIGNS, AND IN ANY NEGOTIATIONS, LITIGATION OR OTHER MATTERS RELATED THERETO.

**WHEREAS**, St. Bernard Parish Government's has a legal claim for payments against Entergy, Louisiana, LLC, and any related companies, predecessors, successors and assigns;

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

**SECTION 1.** The St. Bernard Parish Council, the Governing Authority, does hereby approve and authorize the employment of private outside legal counsel to represent St Bernard Parish Government (hereinafter "SBPG") in making its legal claim for payments against Entergy, Louisiana, LLC and any related companies, predecessors, successors and assigns and in any negotiations, litigation or other matters related thereto.

**SECTION 2.** Compensation. The compensation shall be pursuant to the contract attached as Exhibit "A".

**SECTION 3.** The Parish President is hereby authorized to enter into a contract for legal services as provided in the attached contract and in accordance with section 4-02 (b) of the Home Rule Charter. Said contract is attached hereto as attachment "A".



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February 18, 2016

**Richard "Richie" Lewis**  
Councilmember  
at Large

**SECTION 4. Effective Date.** This ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto this ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

**Gillis McCloskey**  
Councilmember  
District A

**SECTION 5. Severability.** If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion of this Ordinance with the invalid portions omitted.

**Nathan Gorbaty**  
Councilmember  
District B

**Howard Luna**  
Councilmember  
District C

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

**Wanda Alcon**  
Councilmember  
District D

**YEAS:** McCloskey, Gorbaty, Luna, Alcon, Montelongo, Lewis

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

**NAYS:** None

**ABSENT:** None

**Roxanne Adams**  
Clerk of Council

The Chairman, Ms. Callais, cast her vote as **YEA**.

And the motion was declared **adopted** on the 18<sup>th</sup> day of February, 2016.

ROXANNE ADAMS  
CLERK OF COUNCIL

KERRI CALLAIS  
COUNCIL CHAIR

Delivered to the Parish President

2/22/2016 10:15am  
Date and Time

Approved ✓

Vetoed \_\_\_\_\_



# St. Bernard Parish Council

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**Kerri Callais**  
Councilmember  
at Large

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February 18, 2016

**Richard "Richie" Lewis**  
Councilmember  
at Large

Parish President

  
\_\_\_\_\_  
Guy McInnis

**Gillis McCloskey**  
Councilmember  
District A

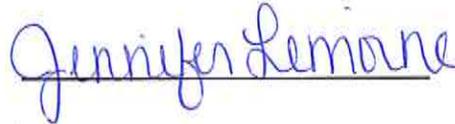
Returned to Clerk of the Council

2/22/2016 11:05am  
Date and Time

**Nathan Gorbaty**  
Councilmember  
District B

**Howard Luna**  
Councilmember  
District C

Received by

  
\_\_\_\_\_  
Jennifer Lemorne

**Wanda Alcon**  
Councilmember  
District D

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

**Roxanne Adams**  
Clerk of Council

LAW OFFICES OF  
**SHER GARNER CAHILL RICHTER  
KLEIN & HILBERT, L.L.C.**

TWENTY-EIGHTH FLOOR  
909 POYDRAS STREET  
NEW ORLEANS, LOUISIANA 70112-4046  
<http://www.shergarner.com>

LEOPOLD Z. SHER<sup>1</sup>  
JAMES M. GARNER<sup>2</sup>  
ELWOOD F. CAHILL, JR.  
RICHARD P. RICHTER  
STEVEN I. KLEIN<sup>1,7</sup>  
PETER L. HILBERT, JR.  
MARIE A. MOORE<sup>3</sup>  
DEBRA J. FISCHMAN  
ROBERT P. THIBEAUX  
DARNELL BLUDWORTH<sup>2</sup>  
MARTHA Y. CURTIS<sup>2</sup>  
NEAL J. KLING  
JOSHUA S. FORCE<sup>2,4</sup>  
DEBORAH J. MOENCH  
DOROTHY S. WATKINS LAWRENCE<sup>2</sup>  
JOHN T. BALHOFF, II  
ALVIN C. MIESTER, III  
CHRISTOPHER T. CHOCHÉLES

RYAN D. ADAMS  
THOMAS J. MADIGAN, II<sup>2</sup>  
CHAD P. MORROW  
KEVIN M. MCGLONE  
JEFFREY D. KESSLER<sup>6</sup>  
RYAN O. LUMINAIS<sup>5</sup>  
KAREN T. HOLZENTHAL  
JONATHAN B. CERISE  
ASHLEY G. COKER  
AMANDA RUSSO SCHENCK  
MELISSA ROME HARRIS  
MARY BETH AKIN  
JENNIFER H. MABRY  
CHRISTINA PECK SAMUELS  
JACOB A. AIREY  
ERIC J. BLEVINS  
JOSHUA P. CLAYTON  
MEGAN TAYLOR JAYNES

EMILY E. ROSS  
PETER J. SEGRIST  
TRAVIS A. BEATON  
REBEKKA C. VEITH  
DAVID A. FREEDMAN  
STEPHANIE E. HOLDEN  
BRANDON W. KEAY  
ELIZABETH B. McINTOSH

<sup>1</sup> LAW CORPORATION  
<sup>2</sup> MEMBER OF LOUISIANA AND TEXAS BARS  
<sup>3</sup> MEMBER OF LOUISIANA AND ALABAMA BARS  
<sup>4</sup> MEMBER OF LOUISIANA AND CALIFORNIA BARS  
<sup>5</sup> MEMBER OF LOUISIANA AND MISSISSIPPI BARS  
<sup>6</sup> MEMBER OF LOUISIANA AND NEW YORK BARS  
<sup>7</sup> BOARD CERTIFIED TAX ATTORNEY LOUISIANA  
BOARD OF LEGAL SPECIALIZATION

ALL OTHERS LOUISIANA BAR

SPECIAL COUNSEL:  
MATTHEW M. COMAN

OF COUNSEL:  
TIMOTHY B. FRANCIS  
DAVID A. MARCELLO

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February 19, 2016

St. Bernard Parish Government  
8201 West Judge Perez Drive  
Chalmette, LA 70043  
Attention: Mr. Michael A. Gorbaty

Re: **Contingency Fee Engagement Agreement**  
St. Bernard Parish Government – Franchise Agreement with Entergy  
Our file: 22241.0001

Dear Mike:

We are pleased that you have requested Sher Garner Cahill Richter Klein & Hilbert, L.L.C. (“Sher Garner”) and Ginart & Associates (“Ginart”; collectively, Sher Garner and Ginart are “Counsel”) provide counsel and legal representation for St. Bernard Parish Government (the “Parish”) in connection with various disputes the franchise rights granted by the Parish, through its predecessor-in-interest, the Police Jury for the Parish of St. Bernard, State of Louisiana, by ordinance to Entergy Louisiana, LLC and any of their affiliates, subsidiaries, successors and assigns (collectively, “Entergy”), through its predecessor-in-interest, Frank A. Reid, his successors and assigns, authorizing the manufacture, vending and/or distributing of electrical energy throughout the Parish of St. Bernard (the “Franchise Rights”), and that certain Acceptance of Electric Franchise before Louis M. Vinsanau, Clerk of Court and ex-officio Notary Public, on March 24, 1926, recorded on March 25, 1926, in COB 34, folio 59 and in MOB 24, folio 101 of the records of St. Bernard Parish, Louisiana (the “Agreement”; collectively, the Franchise Rights and the Agreement, together with all related rights and obligations, are the “Franchise”; collectively, the disputes related to the Franchise are the “Disputes”). We want the Parish to have a clear understanding of our policies regarding legal services and fees from the inception of our relationship; this Engagement Agreement sets forth the terms of our relationship.

The terms of our relationship to be as follows:

LAW OFFICES OF  
**SHER GARNER CAHILL RICHTER  
KLEIN & HILBERT, L.L.C.**

St. Bernard Parish Government

February 19, 2016

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1. As compensation for legal services related to the Disputes the Client agrees to pay Counsel 10% of the Gross Recovery from \$.01 to \$89,714.93, no matter when the amount is recovered. If there is a Gross Recovery above \$89,714.93 (\$89,714.93 is referred to herein as "the Threshold") prior to a lawsuit being filed, the contingency fee for the amount above the Threshold will be 15%. If there is a Gross Recovery above the Threshold after a lawsuit is filed the contingency fee for the amount above the Threshold will be 20%. If there is a Gross Recovery above the Threshold after commencement of a Pre-Trial Conference the contingency fee for the amount above the Threshold will be 25%. If there is a Gross Recovery above the Threshold after the trial is commenced either by being called by a judge for a judge trial or commencement of void dire for a jury trial, the contingency fee for the amount above the Threshold will be 33%. "Gross Recovery" means, collectively, any and all of the foregoing, whether by suit, settlement, judgment, contract or otherwise and whether arising before or after the resolution of the Disputes:

- (i) principal, interest, penalties, litigation costs and expenses, statutory attorneys' fees (if any) and any and all other amounts recovered or to be recovered, including the value of any structured settlement, future payments, future franchise fees, in-kind payments, or type of non-pecuniary benefits; and/or
- (ii) any payment, other financial benefit of any type, or anything of value received by the Parish relating to the Franchise, including any amounts paid pursuant to any renewal of the Agreement or any replacement agreement.

All amounts paid to Counsel as compensation for legal services related to the Disputes under this Engagement Agreement shall be paid seventy percent (70%) to Sher Garner and thirty percent (30%) to Ginart.

2. The Parish will be solely responsible for the following "out-of-pocket costs": deposition transcripts, copy fees for documents production and exhibits, expert fees, filing and recordation fees, and other expenses approved by client in writing. Counsel is not required to advance or pay any costs, but generally may do so when the expenditure is a small amount. Consequently, clients may be called upon on occasion to pay for such costs directly.
3. At monthly intervals, we will provide you with a statement of our costs incurred on your behalf during the billing period described in each statement. Our invoices are payable in full not later than 30 days from the date of the statement. You will be required to remit full payment within that period.
4. You have the right at any time to terminate our services hereunder upon notice to us to that effect. Concomitantly, we shall have the right, consistent with our professional and ethical duties, to terminate our services hereunder upon notice to you to that effect. Termination by you or by us will not affect your obligation to pay for any legal services rendered and for any costs incurred prior to the effective date of termination. Upon termination, we will handle disposition of clients file materials in accordance with the record retention policy of the firm in effect at that time.

LAW OFFICES OF  
**SHER GARNER CAHILL RICHTER  
KLEIN & HILBERT, L.L.C.**

St. Bernard Parish Government  
February 19, 2016  
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As you know, we are a medium size law firm and currently represent clients in a wide area of commerce and industry. It, therefore, is possible that a conflict could arise if the Parish's interest becomes adverse, commercially or in a litigation context, with another client of the firm. We screen each piece of legal work to determine whether an actual or potential conflict of interest exists. If any possible conflict of interest is detected, we will bring it to the Parish's attention and attempt to resolve it in an open and ethical matter. We occasionally have to refuse acceptance or continuation of a particular undertaking for a client due to conflict.

To avoid any errors in communication and our incurring any unauthorized expenses on your behalf, we will accept instructions concerning this engagement or any additional work in connection with other matters only from you and from other persons identified by you in writing.

It is important that the client and attorney understand the scope of the representation and the method of billing and payment obligations. If this Engagement Agreement correctly sets forth your understanding of the scope of the services to be rendered to the Parish by Counsel and if all of the terms set forth in this Engagement Agreement are satisfactory, please sign and date a copy of this Engagement Agreement where indicated below and return it to me as soon as possible. If you have any questions or concerns, please do not hesitate to call.

It is our pleasure to represent you in this matter and we look forward to working with you.

Cordially,

James M. Garner

**ACKNOWLEDGED AND AGREED AS OF  
THE \_\_\_\_ DAY OF \_\_\_\_\_, 2015:**

**GINART & ASSOCIATES**

By: \_\_\_\_\_  
Michael C. Ginart, Jr.  
Title:

**ACKNOWLEDGED AND AGREED AS OF  
THE \_\_\_\_ DAY OF \_\_\_\_\_, 2015:**

**ST. BERNARD PARISH GOVERNMENT**

By: \_\_\_\_\_  
Name:  
Title: