



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
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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

#21

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, MAY 7, 2019 AT SEVEN O'CLOCK P.M.

On motion of Ms. Callais, seconded by Mr. McCloskey, it was moved to adopt the following ordinance:

ORDINANCE SBPC #2158-05-19

Summary No. 3704

Introduced by: Administration on 4/16/19
Public Hearing held on 5/7/19

AN ORDINANCE GRANTING LAKE BORGNE BASIN LEVEE DISTRICT A TEMPORARY WORK AREA SERVITUDE, AS DESCRIBED IN EXHIBIT "A", FOR FLOOD PROTECTION IMPROVEMENTS.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

WHEREAS, The Parish Council believes it to be in the best interest of the citizens of St. Bernard Parish and St. Bernard Parish Government to grant a temporary work area servitude to Lake Borgne Basin Levee District for flood protection improvements.

SECTION 1. The St. Bernard Parish Council hereby grants Lake Borgne Basin Levee District a temporary work area servitude as described in attachment "A."

SECTION 2. 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.

SECTION 3. 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 this Ordinance with the invalid portions omitted.

Received by

TEMPORARY WORK AREA SERVITUDE

STATE OF LOUISIANA

PARISH OF ST. BERNARD

Mississippi River Levees and Tributaries,
Mississippi River Levees,
East Bank Levee,
Lake Borgne Basin Levee District,
Lake Borgne Seepage Control,
B/L Station 437+00 to B/L Station 448+00
Parcel 8 – St. Bernard Parish Government

BE IT KNOWN that on the dates hereinafter shown, but effective as of the date of execution hereof by Grantor, before the undersigned Notaries Public and the undersigned competent witnesses, personally came and appeared:

ST. BERNARD PARISH GOVERNMENT, a political subdivision of the State of Louisiana, represented herein by and appearing through Guy S. McInnis, its duly authorized Parish President, pursuant to the St. Bernard Parish Council Ordinance attached hereto as Exhibit B, and with a mailing address of 8201 W. Judge Perez Dr., Chalmette, LA 70043 (hereinafter referred to as “Grantor”);

who declared and acknowledged that, for and in consideration of the flood protection improvements to be constructed by Grantee pursuant to the Mississippi River Levees and Tributaries, Mississippi River Levees, East Bank Levee, Lake Borgne Basin Levee District, Lake Borgne Seepage Control, B/L Station 437+00 to B/L Station 448+00, St. Bernard Parish, Louisiana project (the “Project”), and the resultant benefits accruing to Grantor and the public at large, the full receipt and adequacy of which are hereby acknowledged by Grantor, who hereby grants full acquittance and discharge therefor, Grantor does hereby grant, transfer, assign, set over, and deliver unto:

LAKE BORGNE BASIN LEVEE DISTRICT, a political subdivision of the State of Louisiana, represented herein by and appearing through Derek Boese, its duly authorized Chief Administrative Officer of the Southeast Louisiana Flood Protection Authority – East, with offices located at New Orleans Lakefront Airport, Terminal Building, Suite 225, 6001 Stars & Stripes Blvd., New Orleans, LA 70126 (hereinafter referred to as “Grantee”);

here present, accepting, and acquiring for Grantee and Grantee’s heirs, successors, and assigns and acknowledging due delivery and possession thereof, all and singular, the below-described servitude over the following described property, to the extent of Grantor’s right, title, and interest therein:

Parcel 8: The land depicted on the map attached hereto as Exhibit “A” and made a part hereof as “Parcel 8,” being a parcel of land on the

flood side of the Mississippi River Levee, to the extent of Grantor's ownership thereof.

The servitude granted hereby as to Parcel 8 is a Temporary Work Area Servitude, which is a temporary and assignable servitude, easement, and right of way in, on, over, and across Parcel 8 for two years beginning on May 1, 2019, for use by Grantee and its representatives, agents, contractors, and assignees as a work area, including the right to deposit fill, spoil, and waste material thereon, to move, store, and remove equipment and supplies, to erect and remove temporary structures on the land, and to perform any other work necessary and incident to the construction of the Project, together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right of way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines except as otherwise provided herein.

At completion of construction of the Project, Grantee shall return Parcel 8, based on its use thereof, to its condition immediately prior to initiation of the Project, free of any waste, spoil, or hazardous material or any other condition inconsistent with its original and continued use.

If any action of Grantee's employees or agents in the exercise of this servitude results in damage to the real property, Grantee will, at its option, either repair such damage or make an appropriate settlement with the Grantor. In no event shall such repair or settlement exceed the fair market value of the fee interest of the real property at the time immediately preceding such damage. The provisions of this paragraph are without prejudice to any rights Grantor may have to make a claim under applicable laws for any other damages than provided herein.

To the extent permitted by Louisiana law, Grantee shall indemnify and hold harmless Grantor and its members, officers, directors, employees, and agents against and from all costs, expenses, claims, demands, penalties, suits, fines, and actions of any kind and nature arising from use of this servitude by Grantee or its agents, employees, contractors, successors, assigns, or transferees and caused by the actions and fault of Grantee or its agents, employees, contractors, successors, assigns, or transferees, including any court costs and reasonable and actual litigation expenses and attorneys' fees. However, nothing herein shall be construed as indemnifying or holding Grantor or any third person not a party hereto harmless against the fault or negligence of any of them or their agents, employees, contractors, successors, assigns, and transferees. Grantee's indemnification obligations in this regard, including its obligations regarding attorney's fees, shall survive the expiration or termination of this servitude. In the event that Grantee assigns this servitude to the United States Army Corps of Engineers ("USACE"), the provisions of this paragraph shall not apply to USACE or its agents, employees, and contractors. However, Grantee shall remain liable for all terms, requirements, conditions, and representations herein, including but not limited to this paragraph.

This Temporary Work Area Servitude is subject to any right, title, interest, or claim of the State of Louisiana in relation to any of the real property affected hereby, including but not

limited to any water bottoms within the boundaries of such real property. Nothing herein affects or is intended to affect any such right, title, interest, or claim of the State of Louisiana.

This Temporary Work Area Servitude may be executed in one or more counterparts, and by different parties in separate counterparts, with the same effect as if all parties hereto had signed the same documents. All counterparts so executed and delivered shall be deemed to be a single original, shall be construed together, and shall constitute one agreement.

THUS DONE, READ, AND SIGNED by Grantor, before me, the undersigned Notary Public, duly commissioned and qualified in and for the Parish of St. Bernard, State of Louisiana, for the uses, benefits, purposes, and considerations expressed herein, in the presence of the undersigned competent witnesses, who have hereunto signed their names with the parties and me, Notary, on this ____ day of _____, 20__, after a due reading of the whole document.

WITNESSES:

(sign)
(print)

GRANTOR:
ST. BERNARD PARISH
GOVERNMENT

(sign)
(print)

By: _____

(print name)
(title)

NOTARY PUBLIC
Print Name: _____
Notary ID/Bar Roll No.: _____

THUS DONE, READ, AND SIGNED by Grantee, before me, the undersigned Notary Public, duly commissioned and qualified in and for the Parish of Orleans, State of Louisiana, for the uses, benefits, purposes, and considerations expressed herein, in the presence of the undersigned competent witnesses, who have hereunto signed their names with the parties and me, Notary, on this ____ day of _____, 20__, after a due reading of the whole document.

WITNESSES:

(sign)
(print)

(sign)
(print)

GRANTEE:

**LAKE BORGNE BASIN
LEVEE DISTRICT,
By its Board of Commissioners of the
Southeast Louisiana Flood Protection
Authority – East**

**Derek Boese
Chief Administrative Officer**

NOTARY PUBLIC
Print Name: _____
Notary ID/Bar Roll No.: _____