



St. Bernard Parish Council

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

#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, AUGUST 4, 2020 AT SEVEN O'CLOCK P.M.

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

ORDINANCE SBPC #2254-08-20

Summary No. 3818

Introduced by: Councilmember Luna on 7/21/20
Public Hearing held on 8/4/20

AN ORDINANCE AUTHORIZING THE PARISH PRESIDENT TO EXECUTE ANY ACTS NECESSARY TO GRANT RIGHT OF USE/SERVITUDES OVER A PORTION OF THE PARISH'S EXISTING RIGHT OF WAY/SERVITUDE LOCATED AT THE REAR OF THE PROPERTIES ALONG PALMISANO BLVD. TO THE PALMISANO BLVD. PROPERTY OWNERS.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

SECTION 1. St. Bernard Parish Council, the governing authority for St. Bernard Parish, does hereby authorize the parish president to execute the Grant of Right of Servitude By St. Bernard Parish, which is attached as Exhibit A, or a document substantially similar thereto, in favor of the appropriate property owners, and any and all acts necessary to grant right of use/servitudes over a portion of the parish's existing right of way/servitude located at the rear of the properties along Palmisano Blvd. to the property owners of 2801, 2809, 2813, 2817, 2905, 2909, 3005, 3009 and 3013 Palmisano Blvd.

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 of this Ordinance with the invalid portions omitted.

Kerri Callais
Councilmember
at Large

Richard "Richie" Lewis
Councilmember
at Large

Gillis McCloskey
Councilmember
District A

Joshua "Josh" Moran
Councilmember
District B

Howard Luna
Councilmember
District C

Wanda Alcon
Councilmember
District D

Fred Everhardt, Jr.
Councilmember
District E

Roxanne Adams
Clerk of Council



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Clerk of Council

Extract #21 continued
August 4, 2020

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

YEAS: McCloskey, Moran, Luna, Alcon, Everhardt, Lewis

NAYS: None

ABSENT: None

The Council Chair, Ms. Callais, cast her vote as **YEA**.

And the motion was declared adopted on the 4th day of August, 2020.



ROXANNE ADAMS
CLERK OF COUNCIL



KERRI CALLAIS
COUNCIL CHAIR

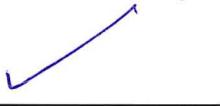
Delivered to the Parish President

8/7/2020 1:45 pm
Date and Time

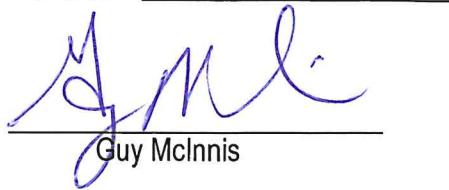
Received by



Approved



Vetoed



Parish President

Returned to Clerk of the Council

8/10/2020 10:27 am
Date and Time

Received by



**GRANT OF RIGHT OF
USE/SERVITUDE
BY
ST. BERNARD PARISH**
TO

UNITED STATES OF AMERICA
STATE OF LOUISIANA
PARISH OF ST. BERNARD

BEFORE ME, a duly commissioned and qualified Notary Public, in and for the parish and state below referenced, and in the presence of the undersigned competent witnesses,

PERSONALLY CAME AND APPEARED:

- (1) **ST. BERNARD PARISH GOVERNMENT**, herein represented by Guy McInnis, Parish President, acting under and by virtue of authorization contained in the Home Rule Charter (hereinafter sometimes referred to as "the Parish") and Parish Ordinance; and
- (2) _____, person(s) of majority domiciled in the state of Louisiana (hereinafter sometimes referred to as "Grantee");

WHO DECLARED THAT:

The Parish hereby grants a right of use to Grantee as described herein.

I. DESCRIPTION OF RIGHT OF USE/SERVITUDE

Grantee shall have the right to use the property on/over that section of the Parish's existing right-of-way/servitude that is between the rear property line of Grantee's present property bearing the municipal address of _____ Palmisano Boulevard (hereinafter referred to as the "SERVITUDE ADDRESS") and the rear property line of the rear adjacent property owners on Pecan Drive and is bordered by Grantee's north property line and Grantee's south property line, which shall be referred to herein as the "RIGHT OF USE AREA. Grantee shall have the right to use the service area of the RIGHT OF USE AREA and to construct a fence around the RIGHT OF USE AREA, so long as any fence built on the Grantee's north property line and south property line has a gate at least ten feet wide (so as to allow Parish maintenance vehicles to pass through). The right of use/servitude shall run with the land and shall inure to the benefit of the owner and all future owners of the SERVITUDE ADDRESS. All rights and obligations of Grantee shall apply to Grantee's successors in title.

The property description of Grantee's present property is as follows:

_____ *Insert property description* _____

II. LIMITATIONS IN GENERAL

The grant of the right of use/servitude to Grantee shall be subject and subordinate to the public use of the right-of-way, governmental laws and regulations, compliance with all of the rights reserved herein by Parish, and the terms of this agreement.

(a) Limitations on Right of Use: Exercise of the right of use/servitude granted in Section I shall be subject to the following limitations:

- (1) Grantee's right of use shall be subject to the public's use of the right-of-way.
- (2) Grantee shall perform all work in constructing any fence desired by Grantee on the RIGHT OF USE AREA in a safe manner at its expense. Any such fence on the north or south boundary of the RIGHT OF USE AREA must have a gate at least ten feet wide (so as to allow Parish maintenance vehicles to pass through).
- (3) Grantee shall not construct any permanent structures of any kind on the RIGHT OF USE AREA, including but not limited to buildings, sheds, pools, slabs, or garages.
- (4) If the right of use/servitude granted herein may not be exercised and/or must be terminated either permanently or temporarily due to Parish's use or need of the right-of-way for a public purpose, Grantee must provide access to the Parish and allow the Parish to remove any improvements made upon the RIGHT OF USE AREA.
- (5) Grantee recognizes and agrees that the Parish and/or the Lake Borgne Basin Levee District shall have the right to go upon the RIGHT OF USE AREA to maintain, repair, and/or improve the drainage culverts, and sub-surface infrastructure located on or beneath the RIGHT OF USE AREA at any time.
- (6) Grantee recognizes and agrees that the Parish and/or the Lake Borgne Basin Levee District shall have the right to convert the sub-surface drainage located in the RIGHT OF USE AREA back to an open drainage canal, at which time the right of use/servitude granted herein will terminate by the Parish and/or Lake Borgne Basin Levee District by providing a written notice to the then owner of the property **and** recording a termination of this GRANT OF RIGHT OF SERVITUDE in the Conveyance records of St. Bernard Parish and all of Grantee's rights under the servitude granted herein will terminate, including but not limited to the right to use the RIGHT OF USE AREA and the right to

have a fence on any part of the RIGHT OF USE AREA.

III. CONSIDERATION

In consideration of the right of use/servitude granted herein, Grantee shall maintain the RIGHT OF USE AREA and cut the grass/weeds in the RIGHT OF USE AREA in compliance with the St. Bernard Parish Code of Ordinances. Grantee shall maintain the RIGHT OF USE AREA such that no dangerous conditions are allowed on the RIGHT OF USE AREA and that the RIGHT OF USE AREA is in a safe condition.

IV. TERM

Except as set forth herein, the right of use/servitude shall be perpetual and run with the land.

(a) Termination: Notwithstanding the foregoing, the right of use granted herein shall terminate if:

(1) The Parish and/or the Lake Borgne Basin Levee District needs the RIGHT OF USE AREA for a public purpose, including but not limited to for utility, sewer, drainage and/or water services. Any such termination shall be effectuated by providing a written notice to the then owner of the property **and** by recording a termination of this GRANT OF RIGHT OF USE/SERVITUDE in the Conveyance records of St. Bernard Parish.

(b) Results of termination: Upon termination of the right of use, there shall be no right or obligation to reconstruct any fence or to pay any compensation to Grantee.

V. ASSIGNMENT OR TRANSFER

In the event that Grantee sells the property located at _____, this right of use/servitude shall be assigned or transferred without the prior consent of the Parish to the purchaser of said property, as long as the assignment/transfer obligates the assignee/transferee to all of the obligations of the Grantee. Any instrument assigning or transferring the right of use shall be recorded in the conveyance records of the St. Bernard Parish Clerk of Court and delivered to the Parish as required in Section VI within thirty (30) days of the recordation of said assignment or transfer.

VI. NOTICE

All notices, demands, payments and requests by Grantee to Parish shall be deemed to have been properly given or made when received by the Parish if served personally on, or if sent by United States Postal Service, certified mail, return receipt requested, postage prepared addressed to the Parish as follows:

Parish President
St. Bernard Parish Government
8201 W. Judge Perez Drive
Chalmette, LA, 70043

All notices, demands, and requests by the Parish to Grantee shall be deemed to have been properly given or made when received by the Grantee if served personally on, or if sent by United States Postal Service, certified mail, return receipt requested, postage prepared addressed to the Grantee as follows:

Chalmette, LA 70043

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the _____ day of _____, 2020.

WITNESSES:

ST. BERNARD PARISH

BY: _____

GUY McINNIS, President
St. Bernard Parish

NOTARY PUBLIC

IN WITNESS WHEREOF, on this _____ day of _____, 2020, in _____, Louisiana.

WITNESSES:

BY: _____

GRANTEE: _____ (type name)
Permanent Mailing Address of Grantee:

NOTARY PUBLIC