



# St. Bernard Parish Council

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

#19

**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

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, SEPTEMBER 5, 2017 AT SEVEN O'CLOCK P.M.

On motion of Mr. Luna, seconded by Mr. Gorbaty, it was moved to adopt the following resolution:

## RESOLUTION SBPC #1751-09-17

A RESOLUTION AUTHORIZING THE PARISH PRESIDENT TO SIGN A COOPERATIVE ENDEAVOR AGREEMENT WITH COMMUNITY VISIONS UNLIMITED "CVU NOLA" TO PROMOTE PUBLIC ART IN THE PARISH.

**WHEREAS**, Article VII, Section 14(C) of the Louisiana Constitution of 1974 provides that for a public purpose, the state and its political subdivisions may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual; and,

**WHEREAS**, the Parish is a constitutionally and statutorily-created local political body of the State of Louisiana with the constitutional and statutory authority to contract, including entering into cooperative endeavor agreements; and

**WHEREAS**, the Parish is authorized by Art. I. Sec. 1 of the Louisiana Constitution to enter into this Agreement to promote the happiness and general welfare of the people; and

**WHEREAS**, the Parish is authorized by the St. Bernard Parish Charter to enter into this Agreement for the development and administration of recreational and cultural facilities and programs; and

**WHEREAS**, Parish and CVU desire to enter into an Agreement to provide artistic services for the beautification and enhancement of utility boxes in the Parish; and,

**WHEREAS**, the public purpose of this Agreement is to promote public art in the Parish and its neighborhoods; and,

**WHEREAS**, the transfer or expenditure of public funds or property is not a gratuitous donation; and

**WHEREAS**, the Parish anticipates that it will receive a value from the services outlined in the Agreement which value is at least equivalent to or greater than the consideration described in this Agreement.



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Extract #19 continued  
September 5, 2017

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

**Gillis McCloskey**  
Councilmember  
District A

**Nathan Gorbaty**  
Councilmember  
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Councilmember  
District E

**Roxanne Adams**  
Clerk of Council

**WHEREAS**, PARISH desires to cooperate with CVU in the implementation of the project as hereinafter provided.

**NOW, THEREFORE**, PARISH and CVU hereby agree to the following Cooperative Endeavor Agreement attached in Exhibit "A"

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

**YEAS:** Gorbaty, Luna, Alcon, Montelongo, Callais

**NAYS:** None

**ABSENT:** McCloskey

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

And the motion was declared **adopted** on the 5<sup>th</sup> day of September, 2017.

## 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, September 5, 2017.

Witness my hand and the seal  
of the Parish of St. Bernard on  
this 5<sup>th</sup> day of September, 2017.

  
ROXANNE ADAMS  
CLERK OF COUNCIL

COOPERATIVE ENDEAVOR AGREEMENT  
BETWEEN  
THE PARISH OF ST BERNARD PARISH  
AND  
COMMUNITY VISIONS UNLIMITED

This Agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the Parish of St. Bernard, State of Louisiana, (hereinafter, referred to as "PARISH") represented herein by Guy McInnis, President of St. Bernard Parish, and is duly authorized to act pursuant to Resolution No. \_\_\_\_\_ adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and Community Visions Unlimited ("CVU"), herein represented by Jeannie Tidy, Vice-President.

WHEREAS, Article VII, Section 14(C) of the Louisiana Constitution of 1974 provides that for a public purpose, the state and its political subdivisions may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual; and,

WHEREAS, the Parish is a constitutionally and statutorily-created local political body of the State of Louisiana with the constitutional and statutory authority to contract, including entering into cooperative endeavor agreements; and

WHEREAS, the Parish is authorized by Art. I, Sec. 1 of the Louisiana Constitution to enter into this Agreement to promote the happiness and general welfare of the people; and

WHEREAS, the Parish is authorized by the St. Bernard Parish Charter to enter into this Agreement for the development and administration of recreational and cultural facilities and programs; and

WHEREAS, Parish and CVU desire to enter into an Agreement to provide artistic services for the beautification and enhancement of utility boxes in the Parish; and,

WHEREAS, the public purpose of this Agreement is to promote public art in the Parish and its neighborhoods; and, WHEREAS, the transfer or expenditure of public funds or property is not a gratuitous donation; and

WHEREAS, the Parish anticipates that it will receive a value from the services outlined in the Agreement which value is at least equivalent to or greater than the consideration described in this Agreement.

WHEREAS, PARISH desires to cooperate with CVU in the implementation of the project as hereinafter provided.

NOW, THEREFORE, PARISH and CVU hereby agree as follows:

**I. SCOPE OF WORK**

To assist the Parish with promotion of the arts, CVU will provide Parish with artistic services for the beautification and enhancement of utility boxes throughout the Parish. CVU will provide a review of all proposed artwork by a professional panel to maintain an appropriate design and representation of the neighborhood at each agreed upon utility box enhancement location. Parish will identify eligible Parish owned utility boxes available to enhance, while actively seeking neighborhood partners to assist in expanding this endeavor throughout the Parish. PARISH retains the right to exercise discretionary authority over the subject matter of the red light box artwork for the purpose of ensuring that it meets acceptable community standards. Parish will maintain control over the utility boxes and any enhancements made, and CVU recognizes the following regarding the enhancements:

- A. The enhancements made to Parish property are the property of the Parish, however; the Parish does not make a claim on the rights to the images painted on Parish property, including but not limited to the right to reproduce the images.
- B. The enhancements are on functional equipment that will need repair or replacement overtime, which may result in the damage or removal of the enhancements.
- C. The enhancements may be removed or changed for any reason by the Parish, especially if they make the utility box the target of vandalism or create a nuisance.
- D. CVU will make all artists aware of these conditions regarding the enhancements.
- E. CVU shall ensure that the top of the red light box is not painted as it would damage the circuitry inside the box.
- F. CVU shall ensure that only light colored paint is used to paint the red light box.

## **II. OBLIGATIONS OF THE PARTIES**

### **A. CVU's Responsibilities:**

- 1. Coordinate with the artists, neighborhoods, and the Parish to identify, plan and paint the identified utility boxes.
- 2. Provide funding for all costs associated with the project.
- 3. CVU will select what images will be used to enhance the utility boxes in the following manner:
  - a. CVU will contact community representatives in the area the utility box is located to receive input on the images and content of the utility box enhancements. These representatives may include community groups, civic associations, individual, and elected officials who represent the area.
  - b. CVU will create a request for proposals based on community input.
  - c. CVU will send the request out to artists who may be interested in submitting a proposal
  - d. CVU will empanel a four (4)-person committee who will review the proposals and make a selection. CVU will appoint Three (3) members with a background in the visual arts. The other member will be selected from among the community representatives.
- 4. Require that any third parties or independent contractors working with CVU execute a hold harmless agreement in favor of the Parish before starting work on the utility boxes.
- 5. Ensure that CVU employees, volunteers, or any third parties working under this Agreement maintain a safe working environment while working in and around the utility boxes, including keeping all vehicles, personnel, and equipment away from traffic.

### **B. Parish's Responsibilities:**

- 1. Provide list of the utility boxes available for enhancement.
- 2. Seek neighborhood partners to provide input for each project.
- 3. Review all requests to enhance utility boxes.
- 4. Provide approval of all artwork and utility box locations.
- 5. Parish will not seek other artists or arts organizations to perform similar artistic enhancements of utility boxes while this agreement remains in effect.

## **III. PAYMENT TERMS**

The Parish is not responsible for any of the costs associated with this Agreement. However, the Parish anticipates that it will receive the values of the enhancement this agreement will provide in exchange for access to the Parish's utility boxes.

#### **IV. TERM**

This Agreement will be effective from the date of execution ("Effective Date") and terminate two (2) years from the Effective Date.

#### **V. TERMINATION**

- A. Termination for Convenience:** Parish may terminate the Agreement at any time by giving thirty (30) days written notice to CVU of such termination.
- B. Termination for Cause:** Parish may terminate this Agreement for cause based upon the failure of CVU to comply with the terms and/or conditions of the Agreement, or the failure of CVU to fulfill its performance obligations pursuant to this Agreement, provided that Parish shall give CVU written notice specifying CVU's failure. If within thirty (30) days after receipt of such notice, CVU shall not have corrected such failure, or in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then Parish may, at its option, place CVU in default and the Agreement shall terminate on the date specified in such notice. CVU may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of Parish to comply with the terms and conditions of this Agreement, provided reasonable opportunity for Parish to cure the defect.

#### **VI. INDEMNITY**

CVU shall indemnify and hold harmless PARISH against any and all claims, demands, suits, costs, liabilities or judgments for sums of money, and fines or penalties asserted by any person, firm or organization for loss of life or injury or damages to person or property in connection with the services required to be performed by CVU under this Agreement.

#### **VII. NON-DISCRIMINATION**

CVU agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972; Federal Executive Order 11246; Federal Rehabilitation Act of 1973, as amended; Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; Age Discrimination Act of 1975. CVU agrees to abide by the requirements of the Americans with Disabilities Act of 1990. CVU agrees to provide a work environment free of potential harassment and to not discriminate in its employment practices, and that it will render services under this Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by CVU, or failure to comply with these statutory obligations, when applicable, shall be grounds for termination of this Agreement.

#### **VIII. ASSIGNMENT**

CVU will not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of Parish; however, claims for money due or to become due to CVU from the Parish may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer will be furnished promptly to Parish. Additionally, CVU shall not subcontract any work to any party without the prior written consent of the Parish.

## **IX. NOTICES**

Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

PARISH: Guy McInnis  
St. Bernard Parish President  
8201 West Judge Perez Drive  
Chalmette, LA 70043

CVU: Jeannie Tidy, Director/President  
Community Visions Unlimited  
4994 Baccich Street  
New Orleans, LA 70122

Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery. Each party is responsible for notifying the other in writing of any changes in its address(es) set forth above.

## **XI. MISCELLANEOUS PROVISIONS**

- A. Ownership of Documents:** All records, reports, documents, or other material related to this Agreement and/or obtained or prepared by CVU in connection with the performance of the services contracted for herein shall become the property of Parish, and shall, upon request, be returned by CVU to Parish, at CVU's expense, at the termination or the expiration of this Agreement.
- B. Prohibition Against Financial Interest in Agreement:** No elected official or employee of the Parish shall have a financial interest, direct or indirect, in this Agreement, including through any financial interest held by the spouse, child, or parent. Any willful violation of this provision, with the expressed or implied knowledge of CVU, will render this Agreement voidable by the Parish and shall entitle the Parish to recover, in addition to any other rights and remedies available to the Parish, all monies paid by the Parish to CVU pursuant to this Agreement without regard to CVU's satisfactory performance.
- C. Fiscal Funding (Non-Appropriation) Clause:** In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the Parish as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of CVU, its successors or assigns for any further payments.
- D. Auditor's Clauses:** Parish or its designee shall have the option of auditing all accounts of CVU which relate to this Agreement.
- E. Acknowledgment of Exclusion of Unemployment Compensation Coverage:** While in the performance of providing services or carrying out obligations under this Agreement, CVU and/or its employees shall be acting in the capacity of independent contractor(s) and not as employee(s) of Parish. Parish shall not be obligated to any person, firm, corporation, or other entity for any obligation of CVU arising from performance of services under this Agreement. CVU herein expressly acknowledges and agrees that nothing contained in this Agreement shall be construed in any manner

as creating or establishing the relationship of employer/employee between CVU and Parish. It is further expressly declared and acknowledged by all parties to this Agreement that CVU and/or its employees are independent contractor(s) and as such shall not receive nor be entitled to any benefits from Parish, including but not limited to benefits relating to life and/or medical insurance, worker's compensation coverage, accrued sick or annual leave, retirement, Federal Insurance Contributions Act (FICA), or unemployment compensation coverage. Sole compensation consists of fees earned in connection with the scope of work described above and, which shall be rendered in accordance with the terms of payment specified herein.

The PARTIES hereto acknowledge and agree that PARISH shall not:

- a. withhold federal or state income taxes;
- b. withhold federal social security tax (FICA);
- c. pay federal or state unemployment taxes for the account of CVU; or
- d. pay worker's compensation insurance premiums for coverage of CVU.

CVU agrees to be responsible for and to pay all applicable federal income taxes, federal social security tax (or self-employment tax in lieu thereof) and any other applicable federal or state unemployment taxes.

**F. Waiver of Benefits:** The Parish and CVU agree and understand that CVU, acting as an independent agent, shall not receive any sick and annual leave, health or life insurance, pension, or other benefits from the Parish.

**G. Applicable Law and Venue:** This Agreement shall be governed and/or construed in accordance with the laws of the State of Louisiana. Venue shall be the Thirty Fourth Judicial District Court for the Parish of St. Bernard , State of Louisiana. By entering this Agreement, CVU expressly waives any objections to jurisdiction and venue, regardless of CVU's residence or domicile.

**H. Rules of Construction:** This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. The singular number includes the plural, where appropriate. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved in favor of or against either party on the basis of which party drafted the language.

**I. Severability:** The parties to this Agreement understand and agree that the provisions herein, shall, between them, have the effect of law, but in reference to matters not provided herein, the Agreement shall be governed by the laws and regulations of the United States of America, the State of Louisiana, and the Parish. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision is fully severable, and this Agreement must be construed and enforced as if such illegal, invalid, or unenforceable provisions never comprised a part of this Agreement; and the remaining provisions of this Agreement remain in full force and effect and may not be affected by the illegal, invalid, or unenforceable provision or its severance from this Agreement

**J. No Third-Party Beneficiaries:** This Agreement is entered into for the exclusive benefit of the Parish and CVU, and the parties expressly disclaim any intent to benefit any person that is not a party to this Agreement.

**K. Non-Waiver:** The failure of either party to insist upon strict compliance with any provision of this

Agreement, to enforce any right, or to seek any remedy upon discovery of any default or breach of the other party shall not affect or be deemed a waiver of any party's right to insist upon compliance with the terms and conditions of the Agreement, to exercise any rights, or to seek any available remedy with respect to any default, breach, or defective performance.

- L. Modifications:** This Agreement shall not be modified except by written amendment executed by authorized representatives of the parties.
- M. Complete Agreement:** This Agreement supersedes and replaces all prior agreements, negotiations, and discussions between the parties with regard to the terms, obligations, and conditions of this Agreement.
- N. Taxes:** CVU hereby agrees that the responsibility for payment of taxes from the funds thus received under this Agreement and/or council appropriation shall be said CVU's obligation. Pursuant to LSA R.S. 47:301 *et seq.*, the Parish is excluded from the payment of the state sales and use tax and the sales and use tax levied by any political subdivision.
- O. Federal Clauses:** CVU agrees to the following miscellaneous terms and provisions for all federally funded and reimbursable contracts:
  - 1. CVU shall comply with Executive Order 11246 of September 24, 1965, entitled, "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
  - 2. CVU shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by Department of Labor Regulations (29 CFR Part 3).
  - 3. CVU shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5).
  - 4. CVU shall comply with all notices of awarding agency requirements and regulations pertaining to reporting.
  - 5. CVU shall comply with all notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
  - 6. CVU shall comply with all awarding agency requirements and regulations pertaining to copyrights and rights in data.
  - 7. CVU shall provide access by the State of Louisiana, Parish, United States of America, Federal Emergency Management Agency, Controller General of the United States, or any of their duly authorized representatives, to any books, documents, papers and records of CVU which are directly pertinent to this specific Agreement for the purpose of making audit, examination or excepts, and transcriptions.
  - 8. CVU shall retain all required records for a period of at least three (3) years after the State of Louisiana or Parish has made final payments and all other pending matters are closed.
  - 9. CVU shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR Part 15).
  - 10. CVU shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (public Law 94-163, 89 STAT 871).
  - 11. CVU certifies that it will not and has not used any Federal funds to influence an employee or member of Congress in obtaining any federal award (Byrd Anti Lobbying Amendment).
  - 12. CVU declares that CVU, its principles or affiliates (subcontractors), are not currently disqualified as a result of debarment or suspension.

**IN WITNESSES WHEREOF**, the parties hereto have executed this Agreement in five (5) counterparts, each of which shall be deemed an original, on the day and year written below.

**WITNESSES:**

Printed  
Name: \_\_\_\_\_

**ST. BERNARD PARISH GOVERNMENT**

By: \_\_\_\_\_  
Guy McInnis, Parish President

Printed  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

**WITNESSES:**

Printed  
Name: \_\_\_\_\_

**COMMUNITY VISIONS UNLIMITED**

By: \_\_\_\_\_  
Jeannie Tidy, Director and President

Printed  
Name: \_\_\_\_\_

Date: \_\_\_\_\_