



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpq.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 16, 2016 AT THREE O'CLOCK P.M.

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

ORDINANCE SBPC #1809-08-16

Summary No. 3406

Introduced by: Councilmember Alcon on 8/2/16
Executive Finance Committee made **NO RECOMMENDATION** on 8/15/16
Public hearing held on 8/16/16

AN ORDINANCE TO **AMEND ORDINANCE SBPC #1802-07-16**, AN ORDINANCE AUTHORIZING THE CREATION OF THE "FILM ST. BERNARD", AN INCENTIVE PROGRAM THROUGH WHICH A REBATE MAY BE OFFERED FOR LODGING, PAYROLL, AND OTHER PRODUCTION EXPENDITURES MADE IN ST. BERNARD PARISH FOR PRE-APPROVED PRODUCTIONS.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

SECTION 1. That the St. Bernard Parish Council does hereby amend Ordinance SBPC #1802-07-16 as described in the attached Exhibit "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.

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



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Kerri Callais
Councilmember
at Large

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August 16, 2016

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

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

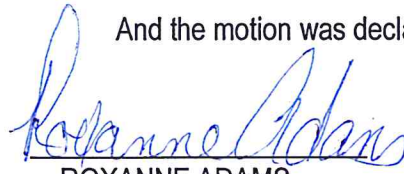
YEAS: McCloskey, Gorbaty, Luna, Alcon, Montelongo, Lewis

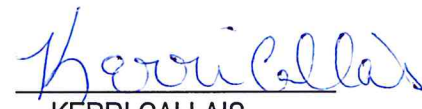
NAYS: None

ABSENT: None

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

And the motion was declared **adopted** on the 16th day of August, 2016.


ROXANNE ADAMS
CLERK OF COUNCIL


KERRI CALLAIS
COUNCIL CHAIR

Delivered to the Parish President 8/19/2016 3:00pm
Date and Time

Approved 

Vetoed _____

Parish President


Guy McInnis

Returned to Clerk of the Council

8/22/2016 9:00am
Date and Time

Received by



SUMMARY NO. 3406
EXHIBIT "A"
ORDINANCE SBPC #1809-08-16

"Film St. Bernard' Incentives Program"
Original Ordinance SBPC #1802-07-16

1. Purpose and Description of St. Bernard Parish Film Industry Incentive Rebate Program

A. The purpose of this program is to encourage growth and investment in St. Bernard Parish by developing a strong base for motion-picture film, videotape, digital, and television program productions.

B. The St. Bernard Parish film industry incentive offers a rebate for lodging, payroll expenses, and other production expenditures made in St. Bernard Parish, including but not limited to sound stage or location leases and post-production costs.

2. Definitions. The following terms should have the meanings provided, unless the context clearly indicates otherwise.

Completion of production – means that post-production of a film has been finished and a cut negative, video master or other final locked form of the film is ready for striking of prints or electronic copies, and/or ready for broadcast or delivery to a distributor.

Expended by a pre-approved production in St. Bernard Parish –

- a. In the case of tangible property, means property which is acquired from a source within St. Bernard Parish and provided by an individual or entity doing business in St. Bernard Parish which pays St. Bernard Parish sales tax.
- b. In the case of services, means procured from within St. Bernard Parish, performed in St. Bernard Parish and provided by an individual or entity doing business in St. Bernard Parish which has an occupational license in St. Bernard Parish.

Film Incentive Review Panel (FIRP) – a five (5) person panel consisting of the following:

- a. Two (2) CPA's within the community
 1. Parish President will recommend two (2) CPA's to the Council for adoption via resolution.
- b. Economic Development Director
- c. Council Chair or their appointee
- d. Film Director

St. Bernard Parish-approved production – a production approved by the Film Incentive Review Panel (FIRP). The production must have a viable multimarket commercial distribution plan, and either have its production office located in St. Bernard Parish or use a soundstage facility located within St. Bernard Parish.

Louisiana State-certified production – a production approved by the Louisiana Office of Entertainment Industry Development and the Louisiana Department of Economic

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Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

Non-Allowable Production Expenditures – the following expenses are NOT eligible to qualify as St. Bernard Parish production expenditures:

- a. Overhead and similar expenses do not qualify as production expenditures unless the expenditures were incurred in St. Bernard Parish and directly used in a pre-approved production;
- b. Post-production expenditures for marketing and distribution;
- c. Any amounts that are later reimbursed;
- d. Any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production;
- e. Construction of film or post-production facilities;
- f. Flow-through costs for services not performed in St. Bernard Parish or for goods not procured from within St. Bernard Parish.

Payroll – includes all salary and wages, including related benefits, sourced or apportioned to a St. Bernard Parish resident paid for an approved St. Bernard Parish production.

Payroll expended on St. Bernard Parish residents – means the gross amount of wages and salaries as reflected on Form W-2 (the amount listed on Item 1 of Form W-2 – wages, tips, and other compensation) and the amount listed in Form 1099 that is actually paid to a St. Bernard Parish resident.

Qualified Production – means a nationally distributed feature-length film, video, television movie, television series, television pilot, or commercial made in St. Bernard Parish, in whole or in part, for theatrical or television viewing or as a television pilot. The term does not include the production of a: news or current affairs program, interview or talk program, magazine program, variety or skit program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, award ceremony, film or program intended primarily for industrial, corporate or industrial end-users, fundraising film or program, or daytime drama (i.e., daytime "soap opera"). The term also does not include a production for which records are required under section 2257 of Title 18, United States Code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit content).

Production expenditures – means reasonable and customary preproduction, production, and post-production expenditures directly incurred in St. Bernard Parish in or from an establishment located within St. Bernard Parish which pays occupational license or sales tax in St. Bernard Parish that are used directly in an approved production, including without limitation the following:

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- a. Set construction and operation;
- b. Wardrobes, make-up, accessories, and related services;
- c. Costs associated with photography and sound synchronization, lighting, and related services and materials;
- d. Editing and related services;
- e. Rental of facilities and equipment;
- f. Leasing of vehicles;
- g. Costs of food and lodging;
- h. Digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects (if services are performed in St. Bernard Parish);
- i. Qualified payroll expenses;
- j. Music, if performed, composed, or recorded by a St. Bernard Parish resident, or released or published by a St. Bernard Parish-domiciled and headquartered company;
- k. Insurance costs or bonding, if purchased through a St. Bernard Parish based agency;
- l. Travel expenses, provided that the trip must have a beginning or ending location in St. Bernard Parish, and any travel agency used must be in St. Bernard Parish.

Production Facility – a physical facility functioning as a soundstage that provides the goods and services necessary for completing the major activities of motion picture production.

Production Office- an office from which the routine business activities (such as record storage, secretarial services, telephone and other communication modes), associated with film making are conducted. Cannot be a hotel or residential residence.

Qualified St. Bernard Parish payroll expenses – payroll expenses paid to a natural person who is at the time of production, and for a period of at least six months prior to commencing work on the production or project, was a resident of St. Bernard Parish. Residency will be determined using the residency form required by FIRP, and submission of documentation as required by the form, including picture I.D. and one of the following issued in the employee's name: lease or act of sale or two other forms of identification, such as utility bill, or voter registration.

Qualified Lodging – St. Bernard Parish establishments which pay sales, hotel/motel, occupational license, or ad valorem taxes in St. Bernard Parish.

Qualified lease or rental expenses – lease or rental expenses for sound stage, location or production offices paid for a site in St. Bernard Parish and which pays occupational license or ad valorem tax in St. Bernard Parish, or holds an exemption from payment of such taxes.

3. Requirements for Film Incentive Rebate

A. Production must either:

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1. Have its principal Louisiana production office located within St. Bernard Parish, or
 2. Use a soundstage facility located within St. Bernard Parish, and;
- B. Each individual production must have acceptable expenditures of the types listed in section 4, paid within St. Bernard Parish, amounting to at least \$150,000.00.
- C. The production company must agree to include the "Filmed in St. Bernard Parish, Louisiana" logo in its credits, and further to provide St. Bernard Parish with at least 2 still shots to be used in St. Bernard Parish promotional activities, and to reasonably assist St. Bernard in its promotional activities.
- D. In order to receive incentives based on a St. Bernard Parish-located production office, all production office operations must be performed at that location and not at alternative locations within Louisiana.

4. Qualifying Acceptable Expenditures

- A. Lodging Rebate – 3.5% rebate on all lodging expenses for cast and crew incurred in St. Bernard Parish establishments which pay sales, hotel/motel, occupational license, or ad valorem taxes in St. Bernard Parish.
- B. Payroll Rebates – 3.5% rebate on payroll expenses of cast and crew who are, and for a period of at least six months prior to commencing work on the production or project, were residents of St. Bernard Parish.
- C. Lease or Rental Expenses – 3.5% rebate on all lease or rental expenses for sound stage, location or production offices paid for a site in St. Bernard Parish which pays occupational license or ad valorem tax in St. Bernard Parish, or holds an exemption from payment of such taxes.
- D. Other Production Expenses – 3.5% rebate on any other production expense incurred at an establishment located in St. Bernard Parish which pays occupational license or sales tax in St. Bernard Parish.

5. Application for the Film Incentive Rebate

- A. An applicant for the St. Bernard Parish film incentive rebate should submit an initial application for pre-approval to the St. Bernard Parish Government, attn: TBD, 8201 W. Judge Perez Drive, Chalmette, LA 70043, that includes a detailed preliminary budget, multi-market detailed distribution plan, applicable lease or rental agreement and a script synopsis (including principal creative elements).

6. Approval of Film Incentives Rebate

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A. Preliminary Approval: FIRP will issue approval of productions as follows:

1. St. Bernard Parish-Approved Production: to obtain the approval from the FIRP for a "parish-approved production," the applicant must complete the St. Bernard Parish Film Incentive Request Preliminary Questionnaire and submit it to the St. Bernard Parish Film Office, requesting approval of the production as a "parish-approved production" and setting forth the following information (as may be applicable):
 - a. Working title of the production for which approval is requested. Should the title change, the parish-approved production needs to inform the parish as soon as that change is made;
 - b. Name of the requesting production company;
 - c. Name, telephone number, e-mail address and attesting signature of the requesting production company's contact person;
 - d. Approximate beginning and ending date of production in St. Bernard Parish
 - e. St. Bernard Parish office address, if applicable;
 - f. Telephone number of requesting company's St. Bernard Parish office address, if applicable;
 - g. Address of sound stage facility located within St. Bernard Parish, if applicable;
 - h. A preliminary budget including the estimated total production-related costs, estimated total of production-related costs to be expended in St. Bernard Parish, and estimated St. Bernard Parish payroll;
 - i. List of principal creative elements such as principle cast, producer, director, and music supervisor;
 - j. Facts sufficient for FIRP to determine each of the following:
 - i) That the requesting production is a qualified production as defined in these rules, and
 - ii) That the requesting production company has either a viable multi-market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network, or cable television programmer for distribution of the production for which approval is requested.

B. Interim Payments and Time Limits

1. Upon reaching the \$150,000.00 threshold of acceptable payments, applicant may apply for an interim payment. The interim payment must be requested no later than six months from the start of occupancy as per the lease or rental agreement.
2. When the production efforts in St. Bernard Parish are completed, applicant may apply for a final payment. Final payment is subject to completion of production and to the final approval and audit requirements listed in subsection C of this section and must be requested no later than twenty four months from the start of occupancy as per the lease or rental agreement. Should production in St. Bernard Parish extend past twenty four months, the production company may petition FIRP for an extension of this time limit.

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C. Approval of Expenditures and Audit Requirements

1. Prior to any final approval of the expenditures of a parish-approved production and the issuance of any film incentive rebate, the motion picture production company should submit to the parish a cost report of production expenditures audited and certified by an independent certified public accountant. St. Bernard Parish may audit the cost report submitted by the motion picture production company. The following procedures set forth minimum standards for acceptability of the audit to be performed by a certified public accountant. The certified public accountant's report should, at a minimum, meet the following requirements:
 - a. The auditor auditing the report should be a Certified Public Accountant licensed in the State of Louisiana and should be an independent third party, not related to the production company;
 - b. The auditor's opinion must be addressed to the party who has engaged the auditor (e.g. Directors of the production company);
 - c. The auditor's name, address, and telephone number must be evident on the report;
 - d. The auditor's opinion must be dated as of the completion of the audit fieldwork;
 - e. The audit should be performed in accordance with auditing standards generally accepted in the United States of America, and;
 - f. The auditor should have demonstrated sufficient knowledge of accounting principles and practices generally recognized in the motion picture industry.

7. Incentive Funding Caps St. Bernard Parish film industry incentives are provided for and capped as follows:

- A. Basic Cap – \$100,000.00 total to any individual qualified project or production.
- B. Payment of incentives is subject to available funding. When all available funding is expended, no new incentives will be paid until additional funds are appropriated and available.