



St. Bernard Parish Council

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

#31

Fred Everhardt, Jr.
*Councilmember
at Large*

Gillis McCloskey
*Councilmember
at Large*

Patrice Cusimano
*Councilmember
District A*

Joshua "Josh" Moran
*Councilmember
District B*

Cindi Meyer
*Councilmember
District C*

Ryan Randall
*Councilmember
District D*

Amanda Mones
*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 3, 2024 AT SEVEN O'CLOCK P.M.

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

ORDINANCE SBPC #2604-09-24

Summary No. 4209

Introduced by: Councilmember McCloskey on 8/20/24
Public Hearing held on 9/3/24

AN ORDINANCE TO AUTHORIZE THE RETENTION OF CLAY GARSIDE OF WALTZER, WIYGUL, & GARSIDE TO PROVIDE LEGAL REPRESENTATION AND LEGAL SERVICES TO ST. BERNARD PARISH GOVERNMENT FOR LITIGATION AS IT PERTAINS TO THE LOUISIANA INTERNATIONAL TERMINAL (LIT) PROJECT AND ANY RELATED MATTERS.

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 Clay Garside of Waltzer, Wiygul & Garside to provide legal representation and legal services as environmental counsel to St. Bernard Parish Government for litigation as it pertains to the Louisiana International Terminal (LIT) Project and any related matters, all pursuant to the contract attached as "Exhibit A".

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 "Exhibit A".

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.



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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 this Ordinance with the invalid portions omitted.

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

YEAS: Cusimano, Moran, Meyer, Randall, Mones, McCloskey

NAYS: None

ABSENT: None

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

And the motion was declared **adopted** on the 3rd day of September, 2024.


ROXANNE ADAMS
CLERK OF COUNCIL


FRED EVERHARDT JR.
COUNCIL CHAIR

Delivered to the Parish President 9/5/24 9:30am
Date and Time

Received by Margen Kelley

Approved ✓

Vetoed _____



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Parish President


Louis Pomes

Returned to Clerk of the Council

9/5/24 3:20pm
Date and Time

Received by



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LEGAL RETAINER AGREEMENT

St. Bernard Parish Government and Waltzer, Wiygul, and Garside, LLC agree as follows:

1. Scope of Representation. Waltzer, Wiygul and Garside (hereafter “Counsel”) is hereby retained by and agrees to provide legal services to St. Bernard Parish Government (hereafter “Client”) in accordance with the following scope of work: legal work, including but not limited to monitoring of agency dockets, legal and factual research, petitions, comments, pleadings, and any other work associated with or related to the proposed Louisiana International Terminal in Violet Louisiana. Counsel is expected to provide legal services for the matters identified for the duration of the effective dates of this retainer. Counsel will work alongside and coordinate with Client’s consultants as well. The agreement covers work to be performed by Counsel from the date of this Agreement to August 9, 2024.

2. Authorized Activities. Counsel and Client agree and understand that the basic objective of the legal actions authorized hereunder is to require rigorous compliance with all environmental requirements by the New Orleans Port Authority in its efforts to bring about the Louisiana International Terminal. Although the exact legal and advocacy actions that Counsel will undertake on behalf of Client may change as additional opportunities arise and the scope of intended deliverables is fully understood, the litigation and advocacy actions that Counsel is expected to work on under this agreement include commenting on and litigating government approvals of permits necessary to bring about the Louisiana International Terminal, with select actions potentially to be identified in further communications between Client and Counsel. Counsel will provide services, including but not limited to, conducting legal and factual research on issues within the scope, advising client on what actions could advance the objective, the possible downsides of such actions, and undertaking legal action to advance the objective in with the assistance of Client and consultants. Counsel will consult with Client about significant legal advocacy decisions and provide copies of all significant papers and pleadings to Client if requested.

3. Payment of Costs and Attorneys’ Fees. Clients and Counsel agree that the costs and attorney time required for this matter shall be paid as follows:

Out-of-pocket costs: Client shall be responsible for and hereby agrees to pay all costs and disbursements advanced or incurred by Counsel for the necessary out-of-pocket expenses of legal services, including but not limited to: filing fees, record preparation costs, travel expenses, deposition costs, expert witnesses and consultants, exhibit preparation, and other reasonable costs arising out of Counsel’s representation of Client in this matter. In the event Counsel recovers out-of-pocket costs through a court award or settlement, Counsel will first defray any outstanding costs incurred by Counsel in this matter, and then reimburse Client for costs paid by Client in connection with this matter.

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Attorneys' Fees: Counsel agrees that they will charge Client at the maximum rate of Hourly Fee Schedule of the Louisiana Office of the Attorney general in effect at the time of services rendered (currently \$350 per hour for attorneys and \$80 per hour for paralegals) for legal services under this agreement. Client agrees to send Counsel an initial retainer of \$5,000 ("retainer fund") to secure payment of Counsel's billings. The retainer fund is to be placed in a trust account maintained by Counsel from which funds may be withdrawn in payment of billing statements. Billing statements detailing the costs, fees and charges credited against the retainer fund will be sent monthly to Client. Withdrawal from the retainer fund will be made on the date of this billing statement.

Since it is difficult to predict in advance the number of hours required to complete the matter, Client agrees to maintain a minimum balance of \$1,000 in the retainer fund. Whenever the balance becomes equal to or less than \$1,000, Counsel agrees to notify Client and Client agrees to forward \$4,000 or other amount to be agreed upon to replenish the retainer fund. At the conclusion of Counsel's engagement, and after payment of all outstanding fees and costs, any remaining retainer funds will be returned to Client. It is anticipated that the retainer will increase as Counsel's role becomes more pronounced in the matter.

Counsel will seek to recover attorneys' fees and costs for Counsel (and Client's other counsel and experts) in accordance with applicable laws, and in negotiated settlements. Client agrees to assist Counsel in obtaining full recovery of all costs and attorney fees, if appropriate. To facilitate recovery of attorneys' fees, Counsel will keep contemporaneous, detailed records of the time that their attorneys and paralegals spend working on each case, the work performed during that time, and the costs incurred.

4. Allocation of Costs and Attorneys' Fees Recovered. Clients and Counsel will allocate any costs and fees that are recovered through court award or settlement as follows:

- (a) to the extent that the amounts recovered for costs and fees are specifically allocated in the recovery to Client and/or Counsel (either by the court or pursuant to settlement negotiations), then each Client and/or Counsel will receive the amounts allocated. Counsel shall keep Client informed of any such allocation in advance of its approval.
- (b) to the extent that the amount recovered for costs and fees is a lump sum, then costs and fees will be allocated as a first priority to pay Counsel for any unpaid fees or out-of-pocket costs; as a second priority to reimburse the Clients for its paid fees and out-of-pocket costs; and as a third priority to reimburse Counsel and Client's in-house counsel, on a pro rata basis, at their allowed rates based on the number of hours worked.

5. Client Representatives. Client hereby designates the following person to be its representative in this matter:

St. Bernard Parish Government

6. Settlement. Counsel will promptly transmit all settlement offers to Client, and Client will respond to all settlement offers in a timely manner. Counsel will not settle this matter without Client's specific authorization. In any settlement, Client agrees to assist Counsel in

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ATTORNEY - CLIENT AGREEMENT

obtaining full recovery of all costs and attorney fees.

7. Non-Disclosure Agreements and Protective Orders. If Counsel signs a non-disclosure agreement (NDA) or protective order (PO) with any third party that relates to this representation agreement, Counsel must sign in its own capacity, and cannot sign on behalf of Client unless given express permission from the appropriate attorney or representative. Counsel may not share any information subject to the NDA or PO with anyone without express permission from the appropriate attorney or representative of Client. Counsel must clearly identify any information covered by such an NDA or PO in materials provided to Client, in order to facilitate appropriate precautions to avoid an unintentional disclosure of protected materials. In addition, Counsel must ensure that it complies with any applicable requirements imposed under the NDA or PO and have in place reasonable precautions and procedures to maintain the confidentiality of any protected materials. This provision shall survive any expiration or termination of this Agreement.

8. Insurance. Notice is hereby given that Counsel maintains an errors and omissions policy, has not been subjected to any disciplinary action by the State Bar nor sanctioned by any court for any reason relating to their professional duties.

9. Amendments. This agreement may only be amended or modified by a writing signed by all parties.

10. Termination by Client. Client shall have the right to terminate this agreement for any reason upon ten days' written notice to Counsel. In the event of termination, Counsel shall render a full accounting of any pending matters to Client and Client shall assign their rights to Counsel to pursue the recovery of their fees and costs, as detailed above, for all services performed until the date of termination.

11. Counsel's Right to Terminate. Counsel may unilaterally terminate this contract prior to final judgment in any legal action they may commence only if: (a) the Clients fail to reimburse expenses or earned fees as promised under this Agreement; (b) any judicial forum authorizes or requires Counsel to withdraw as the Clients' legal representative; or (c) Counsel is unable to diligently and zealously represent Client's interest. In addition, Counsel shall have the right to terminate its obligation to provide legal services on new matters or accept new assignments under this agreement for any reason upon thirty days' written notice to Client; this right shall not affect Counsel's obligation to continue representation in legal actions they have already commenced. In the event of termination, Counsel shall render a full accounting of any pending matters to Client.

12. Waiver. Failure to enforce any provision of this agreement shall not be deemed a waiver of that obligation.

13. Governing Law. This agreement shall be construed, interpreted, and governed by the laws of the state of Louisiana.

14. Authorization. The individuals signing their names below represent that they are authorized to enter into this Agreement on behalf of themselves and/or their respective organizations.

Executed this _____ day of August, 2024.

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<hr/> St. Bernard Parish Government	<hr/> Waltzer Wiygul & Garside
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