

2001-0022

INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT  
(DEPARTMENT OF LEGAL SERVICES)

ORDINANCE NO. 01-2-1

An ordinance to authorize full and final compromise with J. Caldarera & Company, Inc. in the amount of \$6,000.00 in connection with the construction of the Lakewood Drive Drainage Improvements.

WHEREAS, St. Charles Parish entered into an engineering contract with Burk-Kleinpeter, Inc. for the Project known as the Lakewood Drainage; and,

WHEREAS, St. Charles Parish entered into a construction contract with J. Caldarera & Company, Inc.; and,

WHEREAS, a dispute has arisen as to the plans and specifications and the obligations of the parties to each other; and,

WHEREAS, the parties submitted to mediation for possible resolution of the dispute among them and reached a partial compromise on September 27, 1999; and,

WHEREAS, several issues remained unresolved among the parties; and,

WHEREAS, the parties continued with the mediation process on October 19, 2000 and have reached a tentative agreement which provides in part that St. Charles Parish pay to J. Caldarera & Company, Inc. the sum of \$6,000.00 as a compromise, and to comply with all other provisions in the Settlement Agreement dated October 19, 2000 attached hereto and made a part hereof.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the Parish President is hereby authorized to issue payment to J. Caldarera & Company, Inc. in the amount of \$6,000.00 and comply with all other provisions as set forth in the Settlement Agreement attached hereto, as a full and final compromise of all claims between and among the parties.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: FAUCHEUX, HILAIRE, FABRE, ABADIE, AUTHEMENT, BLACK,  
MARINO, MINNICH  
NAYS: RAMCHANDRAN  
ABSENT: NONE

And the ordinance was declared adopted this 5th day of February, 2001, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: Barry Minnich  
SECRETARY: Nicole Bresuto  
DLVD/PARISH PRESIDENT: 2-6-01  
APPROVED: i DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: Albert D. Laque  
Acting  
RETD/SECRETARY: 2-6-01  
AT: 2:45 PM RECD BY: NB

Acting

## SETTLEMENT AGREEMENT

J. Calderera & Company, Inc. ("Calderera"), Parish of St. Charles (the "Parish") and Burk-Kleinpeter, Inc. ("BKI") appear herein as follows.

1. The Parish and Calderera entered into a contract dated December 23, 1998 to construct certain Lakewood Drive drainage improvements (hereafter "Lakewood Drainage Contract").
2. A number of disputes have arisen between the parties arising out of the Lakewood Drainage Contract, which have led to Calderera's assertion of claims against the Parish and BKI and its subconsultant CH2M Hill (collectively, the "Engineers").
3. Prior to filing suits, a mediation was held among the parties on October 19, 2000, at which the parties agreed to the following settlement, subject to certain conditions set out below.
4. For and in consideration of the payment to Calderera of the total sum of \$267,649.00, Calderera is to (a) release, acquit and forever discharge the Parish of St. Charles and Burk-Kleinpeter, Inc. and its insurer, Continental Casualty Company, of and from any and all claims Calderera has or may have, of any kind or sort, whether in tort, contract or otherwise, including all costs and attorneys' fees, arising out of the Lakewood Drainage Contract, and (b) subrogate and assign to BKI any and all claims Calderera has or may have against CH2M Hill arising out of the Lakewood Drainage Contract. Of the \$267,649.00, \$157,500.00 will be paid by or on behalf of Burk-Kleinpeter, Inc., and \$110,149.00 will be paid by or on behalf of St. Charles Parish as itemized below and subject to the following:
  - A. \$60,049.00, retainage withheld, subject to Calderera's signing the necessary change order;
  - B. \$39,100.00 payment for catch basins ordered by Calderera, but this payment is on condition that (1) the catch basins are inspected by Parish representatives and found to be constructed in accordance with the approved shop drawings for the Lakewood Drainage Contract; (2) the catch basins exist in the number represented, and are in good

condition so as to be serviceable for use by the Parish; (3) that the catch basins are delivered to a place in the Parish of St. Charles designated by the Parish; and (4) all parties execute an appropriate change order. Caldarera and the Parish agree that if Caldarera cannot deliver the full number of catch basins represented, the Parish will accept those Caldarera can deliver, and the payment will be reduced by the invoice price of the missing catch basins.

- C. The \$5,000.00 payment for the check valve is conditioned upon submittal of an appropriate change order signed by all necessary parties, and approved by the Parish Council.
- D. \$6,000.00 as a compromise payment to be recommended by the Parish Attorney, subject to approval by the Parish Council.

In the event the Parish Council does not approve the settlement by November 20, 2000, this agreement shall be null and void. The settlement funds shall be due and payable before December 1, 2000.

J. CALDARERA & COMPANY, INC.

BURK-KLEINPETER, INC.

By: *John Caldarera*  
Date: 10/19/2000

By: *Michael Jackson*  
Date: oct 19, 2000

PARISH OF ST. CHARLES

CONTINENTAL CASUALTY COMPANY

By: *Albert D. Lopez*  
Date: 10/19/2000

By: *John A. Ragan*  
Date: 10/19/2000

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MEDIATOR