

Ord.

2002-0159

INTRODUCED BY: LANCE MARINO, COUNCILMAN, DISTRICT VI
ORDINANCE NO. 02-5-2

An ordinance to approve and authorize the execution of a Supplemental Agreement No. 3 to Lease No. DACW29-1-81-44 to extend the Lease for the Bonnet Carre' Spillway Recreation Site.

WHEREAS, Ordinance No. 91-9-19 adopted on September 23, 1991, extended the lease for the twenty-six acre Bonnet Carre' Spillway Recreation Site through August 31, 2001; and,

WHEREAS, Ordinance No. 01-10-8 adopted on April 11, 2002, approved Supplemental Agreement No. 2 to Lease No. DACW29-1-81-44 to extend said lease to March 1, 2002, in order for the Corps to process a new lease for the park; and,

WHEREAS, the Corps of Engineers has prepared Supplemental Agreement No. 3 to the Lease to extend it to August 31, 2002 while the Corps secures the necessary environmental documentation to address the leased area; and,

WHEREAS, it is the desire of the Parish Council to approve said Agreement.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That Supplemental Agreement No. 3 to Lease No. DACW29-1-81-44 is hereby approved.

SECTION II. That the Parish President is hereby authorized to execute said Agreement on behalf of the St. Charles Parish Department of Parks and Recreation.

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

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

And the ordinance was declared adopted this 6th day of May, 2002, to become effective five (5) days after publication in the Official Journal.

Lease - Bonnet Carre Spillway Site No 3

CHAIRMAN: *Clyde Fuchs*
SECRETARY: *Barbara J. Smith*
DLVD/PARISH PRESIDENT: May 7, 2002
APPROVED: *[Signature]* DISAPPROVED: _____

PARISH PRESIDENT: *Albert O. Laguerre*
RETD/SECRETARY: May 7, 2002
AT: 3:30 pm RECD BY: *[Signature]*

SUPPLEMENTAL AGREEMENT NO. 3
TO
LEASE NO. DACW29-1-81-44

WHEREAS, on September 1, 1981, Lease No. DACW29-1-81-44 was entered into between the Government, as Grantee, and executed by the St. Charles Parish Department of Recreation, as Grantee for a public park and recreational purposes located in the Bonnet Carre Spillway, St. Charles Parish, Louisiana.

WHEREAS, by Amendment No. 1 effective 28 October 1986 was modified to reduce the original area from 68 acres to 28 acres and add Conditions 18 and 19, requiring St. Charles Parish to maintain the primitive recreation, mow and maintain all grass in a safe and acceptable manner, collect and appropriately remove trash from the site and mark the boundary of the leased area with signs stating that the area is leased by St. Charles Parish; and

WHEREAS, the lease expired on 31 August 2001, and St. Charles Parish wishes to continue the use of the area for a public park and recreational purposes as described in Lease No. DACW29-1-81-44 and Amendment No. 1; and

WHEREAS, it will be necessary for St. Charles Parish to execute a new lease to continue to provide for the park and recreational purposes as required by ER 405-1-12, paragraphs 8-87.c and 8-98; and

WHEREAS, there was insufficient time to process a new lease, prior to expiration of the current lease; and

WHEREAS, Supplemental Agreement No. 2 extended Lease No. DACW29-1-81-44, from 1 September 2001 to 1 March 2002, in order to allow time to process a new lease.

WHEREAS, St. Charles Parish is agreeable to execution of a new lease to replace Lease No. DACW29-1-81-44, which has not yet been completed; and

WHEREAS, a supplemental agreement may extend the term of a lease, but not in lieu of or to avoid a renewal action pursuant to ER 405-1-12, paragraph 8-87.c and

WHEREAS, it is agreeable to the Secretary of the Army to extend the lease.

THEREFORE, Lease No. DACW29-1-81-44, is extended for an additional six-month period effective 1 March 2002, through 31 August 2002, under the same terms and conditions described therein, and Amendment No. 1, to allow for the preparation of a new lease. If the new lease, replacing Lease No. DACW29-1-81-44, is executed prior to execution of this temporary extension, this supplemental agreement becomes null and void.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army this _____ day of _____ 2002.

WILLIAM C. LEWIS, JR.
Chief, Real Estate Division
U. S Army Engineer District
New Orleans

APPROVED AS TO LEGAL SUFFICIENCY:

Marco Rosamano

MARCO ROSAMANO
ATTORNEY ADVISOR
U. S. Army Engineer District
New Orleans

The above amendment is hereby accepted this 7th day of May 2002.

Witnesses:

Barbara Jacob

Uelarie Berthelet

St Charles Parish Department
of Recreation

By: Albert D. Lopez

Title: Parish President

CERTIFICATE OF AUTHORITY

STATE OF LOUISIANA
ST. CHARLES PARISH

I Timothy J. Vial certify that I am the C.A.O. of
St. Charles Parish, that Albert D. Laque
_____ who signed the foregoing instrument on behalf of the grantee was
then ~~Parish President~~ of St. Charles Parish. I further certify that the
said officer was acting within the scope of powers delegated to this officer by the
governing body of the grantee in executing said instrument.

WITNESSES:

Valerie Berthelet
Sandra Miguez

Timothy J. Vial

Sandra M. Leke
NOTARY

ACKNOWLEDGMENT

BEFORE ME, the undersigned, this day personally came and appeared HERBERT L. COAKLEY to me personally known to be the identical person whose name is subscribed to the foregoing instrument as an attesting witness who, being first duly sworn, says that he subscribed his name to the foregoing instrument as a witness and that he knows WILLIAM C. LEWIS, JR., to be the identical person who executed for the Chief of Real Estate Division the same and saw WILLIAM C. LEWIS, JR., sign his name in his capacity as Chief, Real Estate Division, on behalf of the United States, as the voluntary act and deed of the United States, and for the purposes and considerations therein expressed, in his presence and in the presence of the other subscribing witness.

(Appearer)

SWORN TO AND SUBSCRIBED BEFORE ME

this _____ day of _____ 2002.

(Notary)

My Commission Expires:

THIS INSTRUMENT PREPARED BY:

HERBERT L. COAKLEY, Realty Specialist
U.S. Army Corps of Engineers
CEMVN-RE-M
P.O. Box 60267, New Orleans, Louisiana 70160-0267
(504) 862-1176