

Ord.

2015-0386

**INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT
(DEPARTMENT OF PLANNING & ZONING)**

ORDINANCE NO. 15-11-10

An ordinance to approve and authorize the execution of an Easement, Servitude, and Right-of-Way Agreement with George Burgess, Jr., Trust #2 for construction of the LaBranche Salinity Control Structure.

WHEREAS, St. Charles Parish entered into a Cooperative Endeavor Agreement with the Coalition to Restore Coastal Louisiana to construct the LaBranche Salinity Control Structure in Ordinance 15-8-10; and,

WHEREAS, the construction of the project requires an Easement, Servitude, and Right-of-Way Agreements from the land owners of the area.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That St. Charles Parish does hereby approve ordinance to authorize the execution of an Easement, Servitude, and Right-of-Way Agreement with George Burgess, Jr., Trust #2 for construction of the LaBranche Salinity Control Structure.

SECTION II. That the Parish President is hereby authorized to execute said Easement, Servitude and Right-of-Way Agreement on behalf of St. Charles Parish.

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

YEAS: SCHEXNAYDRE, WILSON, TASTET, BENEDETTO, HOGAN, COCHRAN, FLETCHER, FISHER-PERRIER
NAYS: NONE
ABSENT: LEWIS

And the ordinance was declared adopted this 2nd day of November, 2015 to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: _____
SECRETARY: _____
DLVD/PARISH PRESIDENT: 11-3-15
APPROVED: DISAPPROVED: _____
PARISH PRESIDENT: Mell
RETD/SECRETARY: 11-3-15
AT: 5:44pm RECD BY: [Signature]

REFERENCE
Ord. 15-8-10

RECORDED IN THE ST. CHARLES PARISH
CLERK OF COURT OFFICE
ON December 4, 2015
AS ENTRY NO. 411109
IN MORTGAGE/CONVEYANCE BOOK
NO. 825 FOLIO 520

EASEMENT, SERVITUDE AND RIGHT-OF-WAY AGREEMENT

LABRANCHE WETLANDS SALINITY CONTROL STRUCTURE

ST. CHARLES PARISH, LOUISIANA

PARISH OF ST. CHARLES §

THIS AGREEMENT, made and entered into this 18th day of NOV, 20 15, by and between: **George Burgess, Jr., Trust #2**, herein represented by Michael W. Burgess, its Trustee, whose address is 788 Corduroy Lane, Atlanta, GA 30312 hereinafter called the "**GRANTOR**", as owner of the below described property; and

The Parish of Saint Charles herein represented by and appearing as follows through:

The **St Charles Parish Government ("SCPG")**, as authorized and directed by the policy of the St Charles Parish Government ("SCPG"), herein represented by and appearing through the Parish President of the SCPG, , domiciled in St Charles Parish, Louisiana, with offices located at 15045 River Road, Hahnville, Louisiana, 70057, and whose mailing address is P.O. Box 302, Hahnville, Louisiana, 70057-0302;

The above mentioned hereinafter collectively referred to as "**Parish**".

WITNESSETH: For and in consideration of the promises and undertakings by PARISH to GRANTOR herein, and further for other good and valuable consideration, including the potential benefits to GRANTOR'S lands resulting from the hereinafter described Project, the receipt and adequacy of which are hereby acknowledged, GRANTOR hereby grants unto PARISH, its successors, assigns or transferees, the temporary rights-of-way, servitudes, and easements (hereinafter called "the Agreement"), together with the right to enter in, on, and over GRANTOR'S property interest, for integrated coastal protection purposes as defined in La. R.S. 49.214.2(10) as part of the **LaBranche Wetlands Salinity Control Structure** (hereinafter called "the Project"), located in, on, and over GRANTOR'S undivided property interest. The Project will be publicly funded and shall be located on the following described property interest, including expressly, but not limited to, any interest in lands or water-covered lands which might be owned by GRANTOR (hereinafter called "said Lands"), to-wit:

The Lands subject to this Servitude is that portion of the land belonging to owner(s) as shown on Exhibit A, attached hereto and made a part hereof.

GRANTOR hereby warrants that GRANTOR understands the Project and accepts any and all impacts to said Lands resulting from construction and implementation of the Project.

I. This Agreement grants the rights to enter said Lands, (further identified on Exhibits A and A-1, attached hereto), to perform construction, operation, modification, monitoring, maintenance, and such other activities described on Exhibit B, (attached hereto), necessary to complete the Project.

II. PARISH agrees to give reasonable notice to GRANTOR prior to initiation of access to the said Lands for the purpose of implementing, constructing, operating, modifying, monitoring and maintaining the Project. Access to the project area will be made via water and the contractor will not be allowed to work on or from the land. All work will be performed from the water.

III. To the extent permitted by Louisiana law, PARISH shall, indemnify, and hold harmless GRANTOR against and from all costs, expenses, claims, demands, penalties, suits, fines, and actions of any kind and nature arising from the Project and caused by the actions and fault of

PARISH or its agents, employees, contractors, successors, assigns and transferees, including any court costs and reasonable and actual litigation expenses and attorneys' fees. However, nothing herein shall be construed as indemnifying or holding GRANTOR or any third person not a party hereto harmless against its own fault or negligence or that of its agents, employees, contractors, successors, assigns and transferees. Should work on said Lands be performed via contract, PARISH shall ensure that the contractor lists GRANTOR as additional insured on any policies carried by the contractor, including completed operations coverage. The PARISH acknowledges, declares and stipulates that GRANTOR has provided this Agreement at no cost to the PARISH under the provisions of La. R.S. 49:214.6.10 C, as amended by 2010 Acts No. 734. This clause shall survive the term of this agreement.

IV. PARISH shall be responsible for repair in like manner of any fences, bridges, roads, and other similar facilities and appurtenances located on said Lands which may be damaged or destroyed by PARISH, or its designees while on said Lands, but such repair shall be to that condition which existed immediately prior to PARISH's activities. PARISH shall remove or dispose of all debris associated with construction, operation and maintenance of the Project.

V. PARISH acknowledges that La. R.S. 49:214.5.5 provides that no rights whatsoever shall be created in the public, whether such rights be in the nature of ownership, servitude or use, with respect to any private lands or waters utilized, enhanced, created, or otherwise affected by activities of any governmental agency, local, state, or federal, or any person contracting with same for the performance of any activities, funded in whole or in part, by expenditures from the Coastal Protection and Restoration Fund or expenditures of parish funds. The PARISH further agrees that in the event legal proceedings are instituted by any person seeking recognition of a right of ownership, servitude, or use in, on, and over private property solely on the basis of the expenditure of funds from the Coastal Protection and Restoration Fund or expenditure of federal funds, that the Parish shall indemnify and hold harmless the owner of such property for any costs, expense, or loss related to such proceeding, including court costs and attorney's fees. To the extent permitted by La. R.S. 49:214.5.5, the servitude and right-of-way rights granted herein shall be considered real rights and covenants running with the land.

VI. It is understood GRANTOR shall retain the limits of its title and all property rights (subject to the rights of PARISH herein) in and to said Lands, and all minerals in, on and under said Lands are not affected in any way hereby. However, no structures and/or appurtenances constructed hereunder pursuant to the Project on said Lands shall be adjusted, removed and/or interfered with by GRANTOR, or anyone holding rights by, through or under GRANTOR.

VII. Subject to the above, in its exercise of the rights herein granted, PARISH agrees not to unreasonably interfere with (a) oil and gas operations, (b) agricultural operations, and (c) hunting, trapping and alligator egg operations, (d) fishing, crabbing, or shrimping, now occurring, or authorized to occur, on said Lands. PARISH specifically acknowledges the continuing right of GRANTOR, its heirs, successors, assigns, transferees or lessees, to use, occupy and enjoy all of said Lands, for all purposes, in such manner at such times as they, or any of them, shall desire to use same, including, but without limitation, for the purpose of conducting oil, gas or other mineral operations on any of said Lands, for the exploration, discovery, production, storage, transportation and disposition of oil, gas, sulphur or other minerals, under oil, gas and mineral leases or otherwise, and for the purpose of farming, grazing, hunting and trapping fur-bearing animals, alligator egg operations, fishing, crabbing, or shrimping thereon, provided, however, that such use, occupation, and enjoyment shall not unreasonably interfere with the lawful activities of PARISH pursuant to this Agreement.

VIII. GRANTOR does not warrant title. GRANTOR specifically does not warrant or represent the correctness of any survey, or any of the plats attached hereto which purport to show the location of said Lands. If at any time any questions or litigation should arise as to the ownership of any part of the property covered hereby, or as to any boundary or limit of any part of the separate and various Lands covered by this Agreement, this Agreement shall not be construed to be, or permitted to serve as, evidence or as a basis of waiver of any legal rights against any party hereto, or prevent any party hereto from establishing its ownership, or having the boundaries or limits of its property determined, in any lawful manner, anything herein contained to the contrary notwithstanding.

George Burgess, Jr., Trust #2 - Servitude
LaBranche Wetlands Salinity Control Structure

IX. PARISH may assign or transfer, in whole or in part, any or all of its rights hereunder, but only to the extent necessary to implement the purposes of the Project on the said Lands.

X. This Agreement shall become effective upon the date of the signature of PARISH, and shall remain in effect for a term of seven (7) years unless sooner released by PARISH.

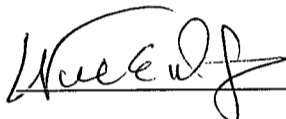
XI. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, successors in interest, transferees and assigns.

XII. This Agreement may be executed in any number of counterparts, each of which shall constitute an original document which shall be binding upon any of the parties executing same. To facilitate recordation of this agreement, the parties hereto agree that individual signature and acknowledgment pages from the various counterparts may be merged and combined with signature and acknowledgment pages from other counterparts.

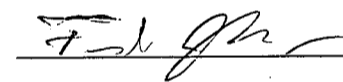
XIII. This Agreement does not confer or waive any rights except as provided herein.

IN WITNESS WHEREOF, GRANTOR has executed this Agreement in the presence of the undersigned witnesses on the date below:

WITNESSES:



Print: William E. Dix Jr



Print: Fred J. Duncan

GRANTOR:

George Burgess, Jr., Trust #2

By: 


Michael W. Burgess

Title: Trustee

Date: November 18, 2015

IN WITNESS WHEREOF, PARISH has executed this Agreement in the presence of the undersigned witnesses on the date below:

WITNESSES:

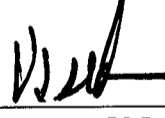


Print: Aneadra Coleman



Print: Tiffany McLean

St Charles Parish Government

By: 

V.J. St. Pierre Jr.

Title: Parish President

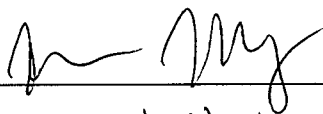
Date: November 3, 2015

George Burgess, Jr., Trust #2 - Servitude
LaBranche Wetlands Salinity Control Structure

ACKNOWLEDGMENT

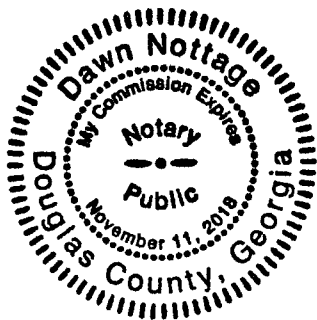
STATE OF GEORGIA
~~LOUISIANA~~
COUNTY
PARISH OF DOUGLAS

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for said Parish and State aforesaid, on this 18 day of November, 2015, personally came and appeared Michael W. Burgess, to me known, who, being by me duly sworn, declared and acknowledged to me, Notary, that he is the Trustee, of **George Burgess, Jr., Trust #2**, that as such duly authorized managing member, by and with authority of the Articles of Organization of said limited liability company, he signed, and executed the foregoing instrument, as the free and voluntary act and deed of said limited liability company, for and on behalf of said limited liability company, and for the object and purposes therein set forth.



Print: DAWN Nottage
NOTARY PUBLIC

Notary or Bar # n/a
My commission expires: November 11, 2018
(SEAL)




George Burgess, Jr., Trust #2 - Servitude
LaBranche Wetlands Salinity Control Structure

ACKNOWLEDGMENT

STATE OF LOUISIANA

PARISH OF ST CHARLES

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for said Parish and State aforesaid, on this 4th day of November, 2015, personally came and appeared V.J. St. Pierre Jr., me known, who declared that he is the Parish President, of Saint Charles Parish, that he executed the foregoing instrument on behalf of Parish and that the instrument was signed pursuant to the authority granted to him by said Parish and that he acknowledged the instrument to be the free act and deed of said Parish Governmental Entity.



Print Name: Leon C. Vial, III
NOTARY PUBLIC

Notary or Bar # 58825
My commission expires: at death
(SEAL)

SURVEY NOTES:

1. SURVEY PERFORMED IN JUNE 2014 BY:

LIN FIELD, HUNTER AND JUNIUS, INC.
 3608 18TH STREET, SUITE 200
 METAIRIE, LA 70002
 (504)833-5300

2. SURVEY VERTICAL DATUM = NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).

3. SURVEY HORIZONTAL DATUM = STATE PLANE - NORTH AMERICAN DATUM OF 1983 (NAD 83), LOUISIANA SOUTH ZONE, US SURVEY FEET.

4. CONTOUR INTERVAL SHOWN IS 0.5 FEET.

5. SURVEY CONTROL USED 2 COE IRON RODS THAT ARE THE 2 MAIN CONTROL POINTS FOR THE LAKE PONCHARTRAIN REACH 2 BERM PROJECT. THE HORIZONTAL COORDINATES ARE NAD 83 LOUISIANA STATE PLANE SOUTH (1702), AND THE VERTICAL IS NAVD 88 (2004.65 EPOCH). THE POINTS ARE STILL EXISTING AND IN GOOD CONDITION:

IR NAME	NORTHING	EASTING	ELEV
07-050C-3	558,504.625	3,633,632.769	-5.640
07-050C-4	560,958.700	3,624,963.652	-4.980

CONSTRUCTION NOTES:

- STRUCTURE LIMITS SHOWN ARE APPROXIMATE AND MAY BE ADJUSTED TO MEET CURRENT FIELD CONDITION AND CONSTRUCTION REQUIREMENTS.
- ESTIMATED AREA COVERED BY SILL IS 0.16 ACRE.
- ALL CONSTRUCTION ACTIVITIES SHALL BE PERFORMED FROM THE WATER.
- QUANTITIES AND AREAS SHOWN ON THE PLANS ARE BASED ON CONDITION SURVEYED.
- LOCATION OF SILL SHALL BE STAKED BY THE CONTRACTOR AND APPROVED BY THE RESIDENT PROJECT REPRESENTATIVE.


INDEX TO DRAWINGS

SHEET No.	DESCRIPTION
1.	TITLE SHEET
2.	NOTES AND INDEX OF DRAWINGS
3.	EXISTING CONDITION
4.	SALT BARRIER PLAN
5.	SILL PROFILE
6.	TYPICAL SECTIONS
7.	DETAILS

GEOTECHNICAL CORES:

TWO GEOTECHNICAL CORES WERE COLLECTED. COORDINATES OF THE CORES ARE PROVIDED IN THE TABLE BELOW. THE LOCATIONS ARE SHOWN ON SHEET 3.

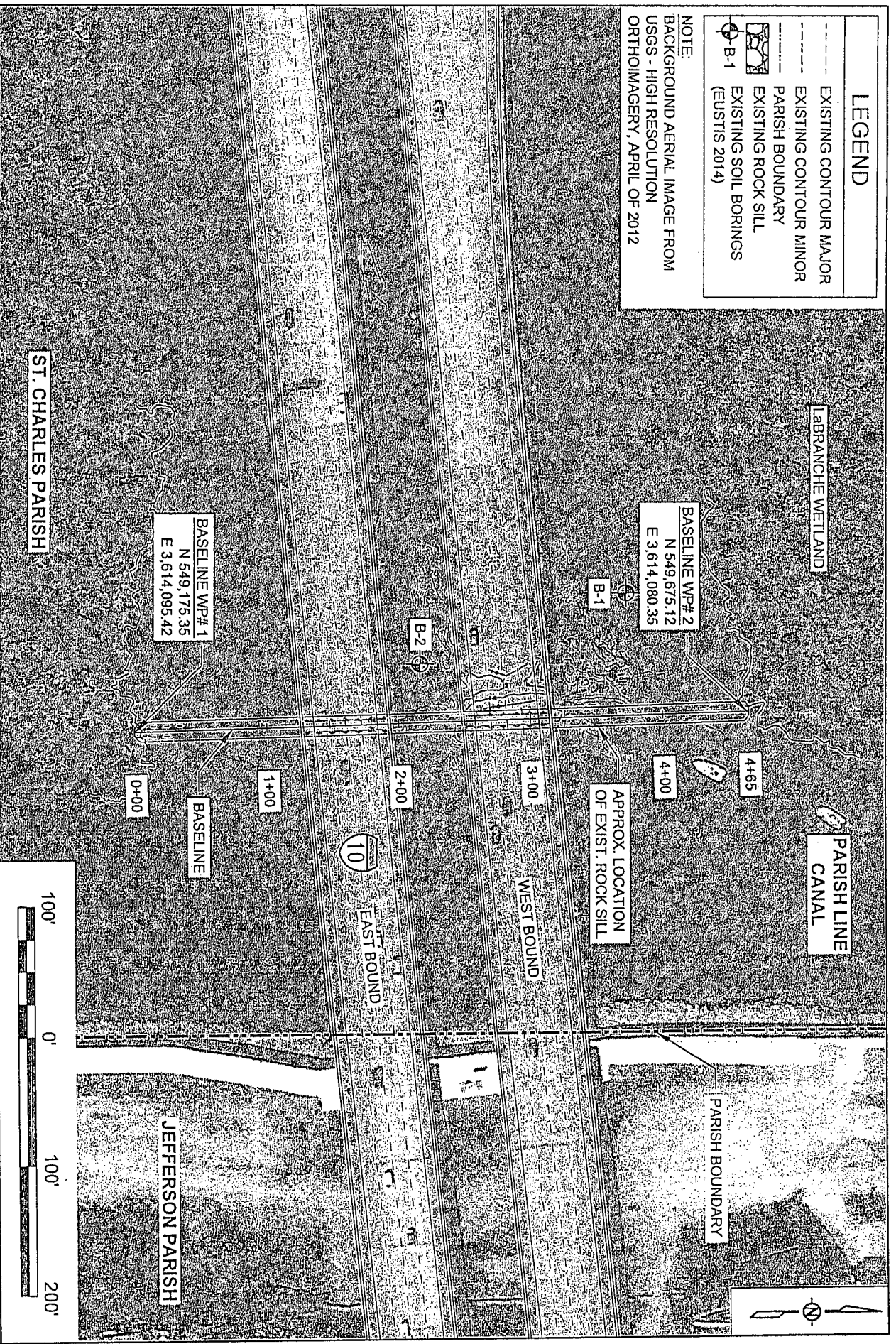
ID	NORTHING	EASTING
B-1	549,564.05	3,614,017.09
B-2	549,408.02	3,614,071.11

BY	DESCRIPTION	DATE		
			 <p>ONE AMERICAN PLACE 301 MAIN STREET, SUITE 900 BATON ROUGE, LA 70825 225-927-7793</p>	<p>PREPARED FOR:</p> <p>ST CHARLES PARISH COALITION TO RESTORE COASTAL LOUISIANA AND PONCHARTRAIN LEVEE DISTRICT</p>
			<p>DESIGNED BY: SA</p>	<p>APPROVED BY: LCW</p>
			<p>DRAWN BY: YC</p>	<p>LABRANCHE SALINITY BARRIER</p>
			<p>NOTES AND INDEX OF DRAWINGS</p> <p>DATE: JANUARY, 2015</p> <p>SHEET 2 OF 8</p>	

LEGEND

- EXISTING CONTOUR MAJOR
- EXISTING CONTOUR MINOR
- - - PARISH BOUNDARY
- ▭ EXISTING ROCK SILL
- ⊕ B-1 EXISTING SOIL BORINGS (EUSTIS 2014)

NOTE:
 BACKGROUND AERIAL IMAGE FROM
 USGS - HIGH RESOLUTION
 ORTHOIMAGERY, APRIL OF 2012



ST. CHARLES PARISH

LABRANCHE WETLAND

PARISH LINE CANAL

PARISH BOUNDARY

BASELINE WP# 1
 N 549,175.35
 E 3,614,095.42

BASELINE WP# 2
 N 549,675.12
 E 3,614,080.35

APPROX. LOCATION
 OF EXIST. ROCK SILL



JEFFERSON PARISH

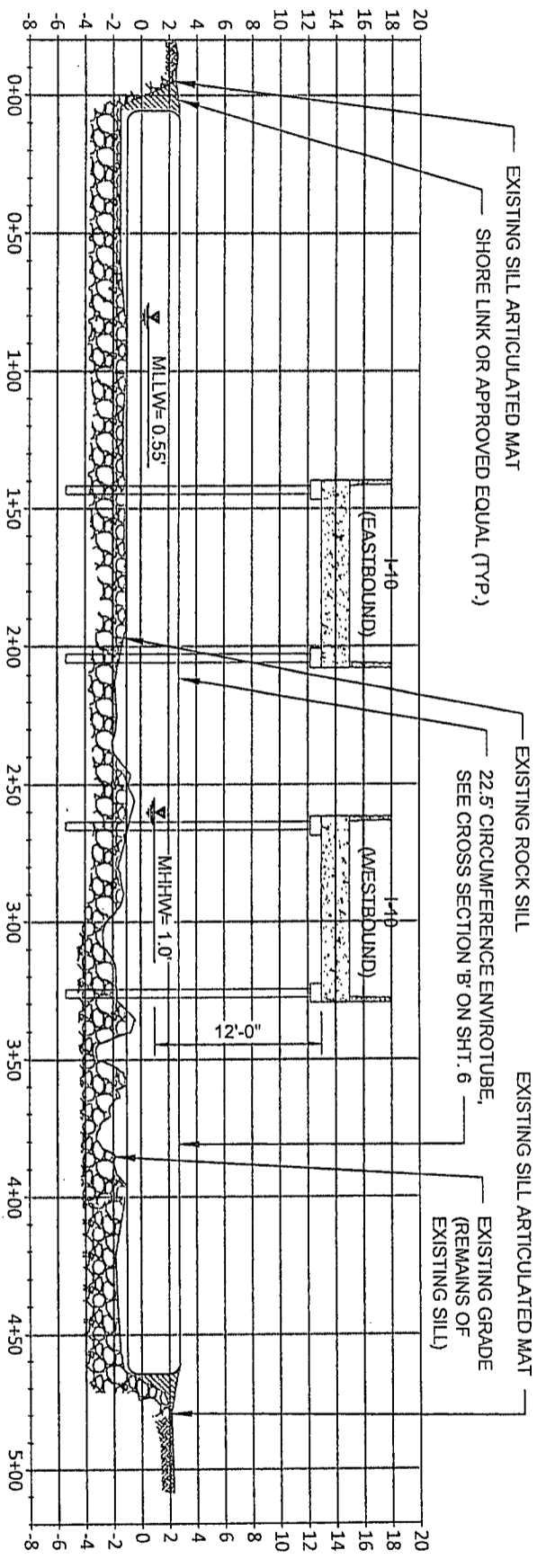
BY	DESCRIPTION	DATE

DRAWN BY: YC	DESIGNED BY: SA	APPROVED BY: LCW	DATE: JANUARY, 2015
PREPARED FOR: ST CHARLES PARISH COALITION TO RESTORE COASTAL LOUISIANA AND PONTCHARTRAIN LEVEE DISTRICT			EXISTING CONDITON SHEET 3 OF 8

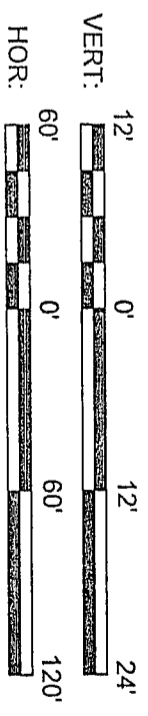
ONE AMERICAN PLACE
 301 MAIN STREET, SUITE 800
 BATON ROUGE, LA 70825
 225-977-7793
MORRITT & NICHOLS

LABRANCHE
 SALINITY BARRIER

LEGEND	
	EXISTING GRADE
	FINISHED GRADE
	REMAINS OF EXISTING SILL
	SHORE LINK

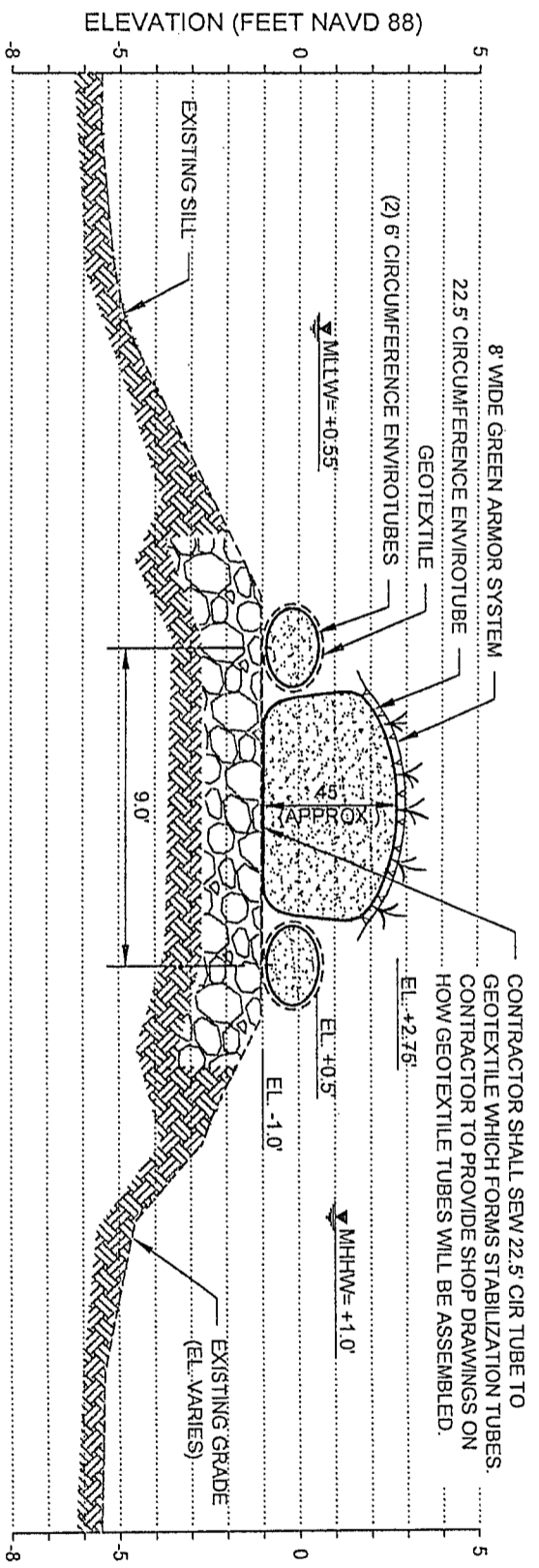


A
4
SILL PROFILE

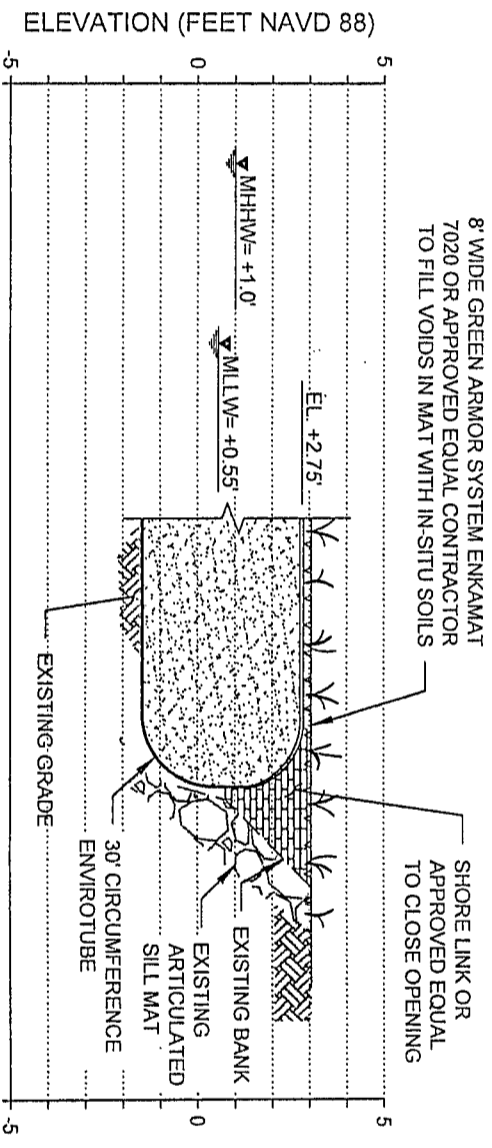


BY	DESCRIPTION	DATE

<p>ONE AMERICAN PLACE 301 MAIN STREET, SUITE 800 BATON ROUGE, LA 70825 225-927-7793</p>	DESIGNED BY: SA
PREPARED FOR: ST CHARLES PARISH COALITION TO RESTORE COASTAL LOUISIANA AND PONTCHARTRAIN LEVEE DISTRICT	APPROVED BY: LCW
LABRANCHE SALINITY BARRIER	SILL PROFILE
DATE: JANUARY, 2015	SHEET 5 OF 8




B
4
TYPICAL SECTION

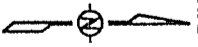
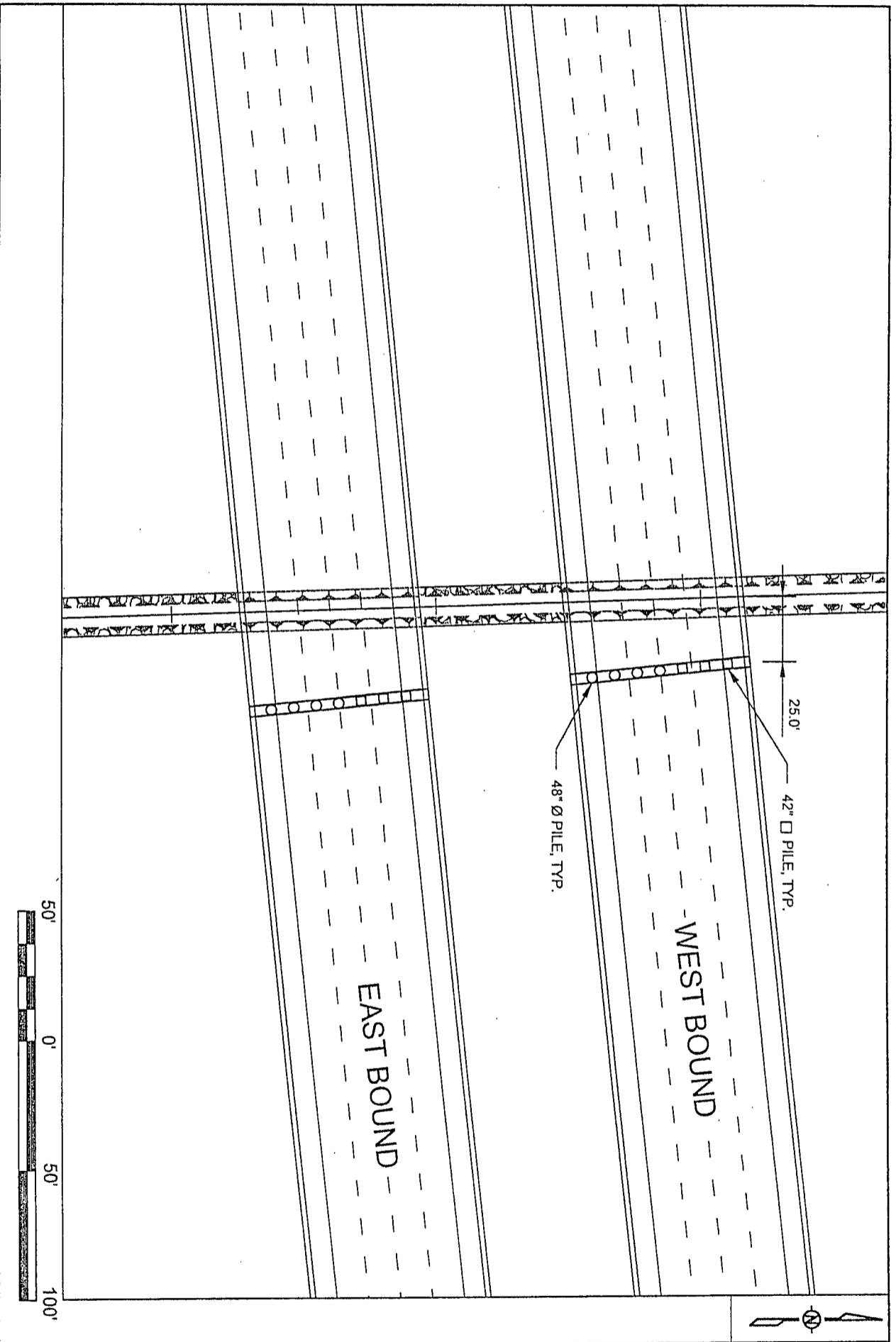


C
5
END DETAIL



BY	DESCRIPTION	DATE

 ONE AMERICAN PLACE 301 MAIN STREET, SUITE 800 BATON ROUGE, LA 70825 225-927-7193	DESIGNED BY: SA	APPROVED BY: LCW
	ST CHARLES PARISH COALITION TO RESTORE COASTAL LOUISIANA AND PONTCHARTRAIN LEVEE DISTRICT	LABRANCHE SALINITY BARRIER



BY	DESCRIPTION	DATE


 <p>ONE AMERICAN PLACE 301 MAIN STREET, SUITE 600 BATON ROUGE, LA 70825 225-527-7793</p>	<p>DESIGNED BY: SA</p>
<p>PREPARED FOR:</p> <p>ST CHARLES PARISH COALITION TO RESTORE COASTAL LOUISIANA AND PONTCHARTRAIN LEVEE DISTRICT</p>	<p>APPROVED BY: LCW</p>
<p>LABRANCHE SALINITY BARRIER</p>	<p>SILL PLAN</p>
<p>DATE: JANUARY, 2015</p>	<p>SHEET 8 OF 8</p>
<p>DRAWN BY: YC</p>	<p> </p>

Exhibit B

Attached to and made a part of that certain Temporary Easement, Servitude and Right-of-Way Agreement by and between St. Charles Land Company, II, LLC and Saint Charles Parish dated 18, day of November, 2015 for the LaBranche Wetlands Salinity Control Structure:

- a) The right to install geotextile tube over and across said Lands as shown on Exhibits A and A-1;
- b) The right to plant or cause the growth of vegetation on top of the geotextile tube including the right to nourish, replenish and maintain said vegetation at locations shown on Exhibits A and A-1;
- c) The right to post warning signs or notices on or near appropriate Project features on said Lands, as may be deemed necessary by PARISH;
- d) The right to alter or remove structures and/or appurtenances constructed on said Lands by PARISH pursuant to the Project;
- e) The right to enter said Lands for the purpose(s) of conducting surveys, inspections and investigations required by PARISH to evaluate the effectiveness of the Project and Project features, including maintaining/improving wetland and/or restored land quantity and quality;
- f) The right to make modifications to the above, but only insofar as changes pertain to materials for Project features and minor changes to project feature locations, as may be deemed necessary by PARISH to fully and properly implement and maintain the Project; and
- g) It is understood by the parties that the term "debris" in Paragraph IV of above referenced agreement shall include hydrocarbon-based and hazardous wastes as defined by State or Federal Laws.