

EAST BATON ROUGE PARISH **C-731886**
 Filed May 10, 2023 11:28 AM **31**
 Deputy Clerk of Court
 FAX Received May 08, 2023

**19TH JUDICIAL DISTRICT COURT
 PARISH OF EAST BATON ROUGE
 STATE OF LOUISIANA**

**PLAQUEMINES PORT, HARBOR AND
 TERMINAL DISTRICT**

Petitioner

and

**STATE OF LOUISIANA, DEPARTMENT
 OF TRANSPORTATION AND
 DEVELOPMENT AND PLENARY
 INFRASTRUCTURE BELLE CHASSE,
 LLC**

Defendants

Case No. _____ Section _____

**PETITION FOR DECLARATORY
 JUDGMENT AND PERMANENT
 INJUNCTION**

NOW INTO COURT COMES, the Plaquemines Port, Harbor and Terminal District, a public corporation and political subdivision of the State of Louisiana, as provided in LRS 34:1351, and pursuant to Art. XIV § 31 of the Constitution of Louisiana of 1921 and Art. VI § 43 of the Constitution of Louisiana of 1974, doing business and domiciled in the Parish of Plaquemines, State of Louisiana, hereinafter "the Port", through undersigned, and respectfully submits this Petition for Declaratory Judgment and Permanent Injunction, and avers as follows:

1.

Made Defendants herein are:

State of Louisiana, Department of Transportation of Development, a department of the State of Louisiana, domiciled in the Parish of East Baton Rouge, hereinafter "DOTD"; and

Plenary Infrastructure Belle Chasse, LLC, a foreign limited liability company, authorized and doing business in the State of Louisiana, Parish of East Baton Rouge, whose single member is Plenary Infrastructure Belle Chasse HoldCo, LTD, and whose registered agent in the State of Louisiana is Registered Agent Solutions, Inc., 3867 Plaza Tower Dr., 1st Floor, Baton Rouge, Louisiana 70816, hereinafter "Plenary".

2.

In December of 2019, DOTD did enter into a Comprehensive Agreement with Plenary for the Belle Chasse Bridge & Tunnel Replacement Public-Private Partnership Project, Plaquemines Parish, State Project No. H.004791, hereinafter "the Project".

3.

The authority of the DOTD to enter into the Project derives from LRS 48:250.4.

4.

LRS 48:250.4, provides, in pertinent part:

...the Department of Transportation and Development, with approval of the House and Senate transportation, highways, and public works committees, may solicit proposals for and enter into contracts for public-private partnership projects for a transportation facility. The department shall comply with the provisions of R.S. 48:2084 through 2084.15 that are applicable to public-private partnership projects of the Louisiana Transportation Authority..."

5.

LRS 48:2084.15; provides, in pertinent part:

"If any property or facility of the authority or of any private entity authorized to act in accordance with the provisions of this Chapter is to be located within the jurisdiction of an existing port commission, port, harbor and terminal district, or the offshore terminal authority, the mutual written agreement of such entity shall be required before the authority approves the transportation facility."

6.

For purposes of the Project, the DOTD stands in the place of the Louisiana Transportation Authority when exercising the authority vested in the DOTD under LRS 48:250.4, and is thereby required to comply with all obligations, mandates and duties otherwise imposed on the Louisiana Transportation Authority by the provisions of LRS 48:2084 through 2084.15.

7.

The Project lies within the boundary of the Parish of Plaquemines, State of Louisiana.

8.

In accordance with LRS 34:1351, the jurisdiction of the of the Port is coextensive with the Parish of Plaquemines, State of Louisiana.

9.

The Project lies within jurisdiction of the Port.

10.

In accordance with LRS 48:2084.15, the written agreement of the Port is required before the approval of the Project.

11.

The DOTD failed to obtain the written approval of the Port as required by LRS 48:2084.15.

12.

As such, the Comprehensive Agreement entered into by and between DOTD and Plenary

was not entered into in compliance with the mandatory provisions of Louisiana law, specifically LRS 48:2084.15.

13.

The Port is entitled to a declaration by this Honorable Court that the agreement on the Project by and between the DOTD and Plenary is invalid, unenforceable, null and void, for the failure of DOTD to obtain the written agreement of the Port as mandated by LRS 48:2084.15.

14.

The Project contains the authority for the levy of tolls for the use of the bridge which is the primary subject thereof.

15.

As the Project failed to meet the affirmative statutory requirements of the law, then the authority to levy the tolls contained therein is likewise invalid, unenforceable, null and void.

16.

There should issue a Permanent Injunction, enjoining any further action by the parties in regard to the Project until and unless the written agreement of the Port is obtained, in accordance with LRS 48:2084.15.

WHEREFORE, the Plaquemines Port, Harbor and Terminal District prays that after service, due proceedings and consideration of evidence and argument, and the passage of all legal delays, a Judgement be issued declaring that the agreement by and between the State of Louisiana, Department of Transportation and Development and Plenary Infrastructure Belle Chasse, LLC, for the Belle Chasse Bridge & Tunnel Replacement Public-Private Partnership Project, Plaquemines Parish, State Project No. H.004791, is invalid, unenforceable, null and void;

FURTHER, the Plaquemines Port, Harbor and Terminal District prays that after service, due proceedings and consideration of evidence and argument, and the passage of all legal delays a Permanent Injunction issue enjoining the State of Louisiana, Department of Transportation and Development, and Plenary Infrastructure Belle Chasse, LLC from taking any further action toward completion of the Belle Chasse Bridge & Tunnel Replacement Public-Private Partnership Project, Plaquemines Parish, State Project No. H.004791, until and unless the Plaquemines Port, Harbor and Terminal District provides its written consent to the Belle Chasse Bridge & Tunnel Replacement Public-Private Partnership Project, Plaquemines Parish, State Project No.

H.004791;

FURTHER, the Plaquemines Port, Harbor and Terminal District prays that this matter be served on the Defendants named herein, as follows:

State of Louisiana, Department of Transportation of Development; a department of the State of Louisiana, through Secretary Eric Kalivoda, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802; and

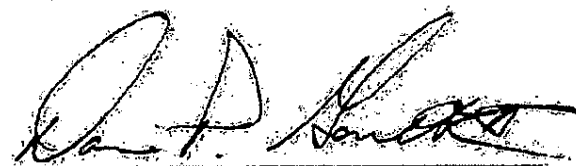
Plenary Infrastructure Belle Chasse, LLC, through its registered agent, Registered Agent Solutions, Inc., 3867 Plaza Tower Dr., 1st Floor, Baton Rouge, Louisiana 70816.

FURTHER, the Plaquemines Port, Harbor and Terminal District prays that this matter also be served on Attorney General "Jeff" Landry, 1885 North Third Street, Baton Rouge, Louisiana 70802, in accordance with LRS 13:5107(A)(2).

FURTHER, the Plaquemines Port, Harbor and Terminal District prays that it be provided a minimum of ten (10) days advanced written notice, through undersigned counsel of record, of any hearings, rulings or other proceedings in this matter.

FINALLY, the Plaquemines Port, Harbor and Terminal District prays that in addition to all relief explicitly requested herein, it also be afforded any remedy to which it may be entitled based upon the evidence adduced herein, and that all costs of court be taxed against Defendants herein.

Respectfully Submitted By:



Dannie P. Garrett, III **LSBA 22057**
Attorney at Law, LLC
635 Main Street, Unit #3
Baton Rouge, Louisiana 70801
225-382-0333
225-330-7297 (fax)
Dannie@dpg3law.com
Counsel for Petitioner,
Plaquemines Port, Harbor and Terminal
District