

RESOLUTION NO. 23-

The following Resolution was offered by Council Member LaFrance who moved its adoption.

1 A Resolution concerning approval of partial settlement of the following litigation as to
2 specific and limited defendants and authorizing the Parish President to do all things
3 necessary and proper to carry out said partial settlements recommended by legal counsel;
4 and otherwise to provide with respect thereto.

5 WHEREAS, a resolution concerning approval of partial settlement of the following litigation as
6 to specific and limited defendants and authorizing the Parish President to do all things necessary
7 and proper to carry out said partial settlement:

The Parish of Plaquemines vs. ConocoPhillips Company. et al	25 TH JDC No. 60-982
The Parish of Plaquemines vs. HHE Energy Company, et al	25 TH JDC No. 60-983
The Parish of Plaquemines vs. Exchange Oil & Gas Corp., et al	25 TH JDC No. 60-984
The Parish of Plaquemines vs. LLOG Exploration & Production Co., LLC. et al	25 TH JDC No. 60-985
The Parish of Plaquemines vs. Equitable Petroleum Corporation, et al	25 TH JDC No. 60-986
The Parish of Plaquemines vs. June Energy Inc., et al	25 TH JDC No. 60-987
The Parish of Plaquemines vs. Linder Oil Company, et al	25 TH JDC No. 60-988
The Parish of Plaquemines vs. Riverwood Production Company, et al	25 TH JDC No. 60-989
The Parish of Plaquemines vs. Helis Oil & Gas Company, LLC. et al	25 TH JDC No. 60-990
The Parish of Plaquemines vs. BEPCO, L.P., et al	25 TH JDC No. 60-991
The Parish of Plaquemines vs. Northcoast Oil Company, et al	25 TH JDC No. 60-992
The Parish of Plaquemines vs. Caskids Operating, Co., et al	25 TH JDC No. 60-993
The Parish of Plaquemines vs. Goodrich Petroleum Company, LLC, et al	25 TH JDC No. 60-984
The Parish of Plaquemines vs. Devon Energy Production Company, LP, et al	25 TH JDC No. 60-995
The Parish of Plaquemines vs. Rozel Operating Co., et al	25 TH JDC No. 60-996
The Parish of Plaquemines vs. Palm Energy Offshore, LLC, et al	25 TH JDC No. 60-997
The Parish of Plaquemines vs. Great Southern Oil & Gas Co., Inc., et al	25 TH JDC No. 60-998
The Parish of Plaquemines vs. Hilcorp Energy Company, et al	25 TH JDC No. 60-999
The Parish of Plaquemines vs. Apache Oil Corporation, et al	25 TH JDC No. 60-000
The Parish of Plaquemines vs. Campbell Energy Corporation, et al	25 TH JDC No. 60-001
The Parish of Plaquemines vs. Total Petrochemicals & Refining U.S.A. Inc., et al	25 TH JDC No. 60-002

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9 NOW THEREFORE:

10 BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL THAT the Council accepts the
11 recommendation of legal counsel provided in the Executive Session held this date and approves the partial
12 settlement of any and all claims Plaquemines Parish has or may have against specific and limited
13 defendants under La. R.S. 49:214 et seq, referred to as the Coastal Zone litigation, **while specifically**
14 **reserving all claims against all other non-settling defendants and parties:**

15

The Parish of Plaquemines vs. ConocoPhillips Company. et al	25 TH JDC No. 60-982
The Parish of Plaquemines vs. HHE Energy Company, et al	25 TH JDC No. 60-983
The Parish of Plaquemines vs. Exchange Oil & Gas Corp., et al	25 TH JDC No. 60-984
The Parish of Plaquemines vs. LLOG Exploration & Production Co., LLC. et al	25 TH JDC No. 60-985
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The Parish of Plaquemines vs. Campbell Energy Corporation, et al	25 TH JDC No. 60-001
The Parish of Plaquemines vs. Total Petrochemicals & Refining U.S.A. Inc., et al	25 TH JDC No. 60-002

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17 BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUCIL THAT the
18 Attorneys hired to pursue these matters on behalf of the Parish and the Parish President are hereby
19 authorized to agree to the proposed partial settlement with specific and limited defendants (**while**
20 **specifically reserving all claims against all other non-settling defendants and parties**), which
21 are named defendants in a certain number of the foregoing lawsuits, referred to as the Coastal Zone
22 Litigation, with respect to any and all claims that Plaquemines Parish has or may have against said
23 specific and limited defendants, and to have signed and filed with the Court any and all pleadings
24 and other papers consistent with the terms of that partial settlement, and take any other actions
25 necessary or advisable to effectuate that partial settlement.

26 BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL THAT the
27 Secretary of this Council is hereby authorized and directed to immediately certify and release this
28 Resolution and that Parish employees and officials are authorized to carry out the purposes of this
29 Resolution, both without further reading and approval by the Plaquemines Parish Council.

ORDINANCE NO. 23-

The following Ordinance was offered by Council Member Jurisich who moved its adoption:

1 An Ordinance to repeal Ordinance Nos. 14-52, 23-17, and 23-139; and otherwise
2 to provide with respect thereto.
3

4 DIGEST: Considering on November 9, 2023, Plaquemines Parish Government initiated litigation
5 in the 25th Judicial District against CPRA to enforce its flood plain management regulations and
6 Plaquemines Parish Government now believes that a court of law will determine whether its flood
7 plain management regulations are applicable to the Mid Barataria Sediment Diversion project, and
8 despite CPRA’s intransigence, the Plaquemines Parish Council seeks to repeal Ordinance Nos. 14-
9 52, 23-17, and 23-139. *The digest is for informational purposes only and is superseded by the*
10 *language of the actual ordinance or resolution.*
11

12 WHEREAS, Plaquemines Parish Government has at least since 2012 by adopting Resolution No.
13 12-17 expressed good faith major concerns regarding the impact that large scale freshwater
14 diversions will have on Plaquemines Parish, including “the potential of reducing the natural flood
15 protection of the Parish,” and that Plaquemines Parish Government’s own plan which does not
16 include large scale freshwater diversion projects, “was developed to be consistent with... FEMA
17 National Flood Insurance Program” (See Resolution No. 12-17; Attached hereto as Exhibit A);
18 and
19

20 WHEREAS, Plaquemines Parish Government has repeatedly requested in a multitude of forums
21 including by adopting Resolution No 12-17 that Plaquemines Parish “have direct involvement with
22 the remaining stages of the State Master Plan update and the selection of recommend projects for
23 the Parish” to ensure the projects would not run afoul of the National Flood Insurance Program for
24 Plaquemines Parish and other laws; and
25

26 WHEREAS, the Coastal Protection and Restoration Authority (CPRA) has not complied with the
27 Parish’s local flood plain ordinances, despite the Louisiana Legislature’s mandate requiring it to
28 do so in La. R.S. 38:84.1, and including as recently as December 11, 2023 at a preliminary
29 injunction hearing in “Coastal Restoration and Protection Authority v. Plaquemines Parish
30 Government, The Plaquemines Parish Council, and W. Keith Hinkley, in his capacity as
31 Plaquemines Parish President,” Docket No. 741068, Div. M-27, 19th Judicial District Court, when
32 CPRA’s former Executive Director Bren Hass testified under oath that a “decision was made” that
33 CPRA did not have to comply with Plaquemines Parish Government’s flood plain regulations; and
34

35 WHEREAS, to date CPRA has yet to even apply for a “development permit” despite breaking
36 ground on the Mid Barataria Sediment Diversion (MBSD) project, as required by Sec. 9-22 of the
37 Parish Code of Ordinances, a flood plain management regulation, in direct violation of La. R.S.
38 38:84.1; and
39

40 WHEREAS, as a result of CPRA’s failure to abide by National Flood Insurance Program regulations
41 and flood plain management ordinances adopted by Plaquemines Parish Government pursuant to
42 and in conformity with La. R.S. 38:84 and 38:84.1 and other laws; and Plaquemines Parish
43 Government’s request for more information from the Mississippi River Hydrodynamic and Delta
44 Management Study and other studies “designed to answer many of the questions regarding
45 experimental sediment diversions” (See Ordinance No. 14-52; Attached hereto as Exhibit B), the
46 Plaquemines Parish Council prohibited the “granting of any permits in Plaquemines Parish
47 regarding the construction, development, or implementation of additional Fresh/Water Sediment
48 Diversion projects...; and
49

50 WHEREAS, in Ordinance No. 23-17, amended by Ordinance No. 23-139, Plaquemines Parish
51 Government reaffirmed its position adopted by Ordinance No. 14-52 because, for among other
52 reasons: “...[t]he FEIS [Final Environmental Impact Statement] also clearly delineates that

53 operation of the MBSD will cause overtopping of levees in communities south of the diversion
54 structure which wouldn't otherwise be overtopped due to bathymetry changes from the release of
55 massive amounts of Mississippi River water into Barataria Basin;" "...the aforementioned FEIS
56 also clearly delineates that operation of the MBSD will produce minimal amount of land over the
57 50 year period that will not reduce storm surge events or provide any additional protection to
58 coastal Louisiana;" and, citing condition #20 of the permit issued by the United States Army Corps.
59 of Engineers (USACE), dated December 19, 2022 which states "Many local governing bodies have
60 instituted laws and/or ordinances in order to regulate dredge and/or fill activities in floodplains to
61 assure maintenance of flood water storage capacity and avoid disruption of drainage patterns that
62 may affect surrounding properties. The authorized project involves dredging and/or placement of
63 fill, therefore, **the permittee must contact the local municipal and/or parish governing body
64 regarding potential impacts on floodplains and compliance of your proposed activities with
65 local floodplain ordinances, regulations or permits**"; and
66

67 WHEREAS, Plaquemines Parish Government notified the USACE that CPRA is out of
68 compliance with condition #20, but to date the USACE has failed to take any enforcement action
69 despite having the authority to do so; and
70

71 WHEREAS, Plaquemines Parish Government had no legal recourse until the MBSD project broke
72 ground on August 10, 2023, without having the necessary "development permit" in violation of
73 Section 9-22 (a) and (b) of the Parish Code of Ordinances despite CPRA having the ability,
74 capacity, and obligation to apply for a "development" permit; and
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76 WHEREAS, Ordinance No. 23-17, amended by Ordinance No. 23-139, is superfluous, and
77 somewhat redundant, considering the protections afforded the people of Plaquemines Parish and
78 the Parish Government's obligations under the National Flood Insurance Program; and
79

80 WHEREAS, on November 9, 2023, Plaquemines Parish Government initiated litigation in the 25th
81 Judicial District against CPRA to enforce its flood plain management regulations to protect the
82 citizens of Plaquemines Parish, and now a court of law will determine whether the Plaquemines
83 Parish flood plain management regulations are applicable to the MBSD project, despite CPRA's
84 intransigence; and
85

86 WHEREAS, Plaquemines Parish Government's Chief Building Official/Flood Plain Manager is
87 empowered by flood plain regulation Section 9-61 of the Parish Code of Ordinances to administer
88 and enforce compliance with the Parish's flood plain regulations including but limited to the
89 enforcement of stop work orders and issuance of a "development permit" for compliant projects
90 without further authority, approval or legislation by the Plaquemines Parish Council;
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92 NOW, THEREFORE:

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94 BE IT ORDAINED BY THE PLAQUEMINES PARISH COUNCIL THAT:

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96 SECTION 1

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98 Ordinance Nos. 14-52, 23-17 and 23-139 are hereby repealed.
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100 SECTION 2

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102 This Ordinance shall be effective upon signature by the Parish President.
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SECTION 3

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The Secretary of this Council is hereby authorized and directed to immediately certify and release this Ordinance and that Parish employees and officials are authorized to carry out the purposes of this Ordinance both without further reading and approval by the Plaquemines Parish Council.