

CITY ORDINANCE NO. CO-054-2024

**AN ORDINANCE OF THE LAFAYETTE CITY COUNCIL AUTHORIZING THE
LAFAYETTE MAYOR-PRESIDENT TO ACQUIRE IMMOVABLE PROPERTY IN ST.
MARTIN PARISH, LOUISIANA**

BE IT ORDAINED by the Lafayette City Council, that:

WHEREAS, as part of the settlement of the litigation matter entitled, *Stephen Edward Francez and Cheryl Witte Francez v. Lafayette City-Parish Consolidated Government*, bearing Docket Number C-2023-0893, 15th Judicial District Court, Lafayette Parish, Louisiana, the Lafayette City-Parish Consolidated Government has agreed to acquire the following described property:

An undivided one-third (1/3) interest in and to the following described property, to-wit:

All undivided rights, title and interest in and to that certain tract of land, situated in St. Martin Parish, Louisiana containing forty-one (41) acres, more or less, and bounded as follows, to wit: Northeast by property of J. Hebert Comeaux, his successors or assigns, Southeast by property of Texas Company (formerly S. Bergeron), its successors or assigns, Southwest by property of Texas Company (formerly B. Faulk), its successors or assigns, and Northwest by Bayou Vermilion. Being Lot No. 1 (Paul Blanchet 41 acres) of the plat of survey made by F.S. Robert, C.E., which is filed of the record in the clerk of court's office for St. Martin Parish, Louisiana, and made a part hereof by reference thereto. Said property subject of the Transfers of Properties between Mary Alice Blanchet Prejean and Stephen Edward Francez and Cheryl Witte Francez, dated February 19, 2015 (herein the "Property"); and

WHEREAS, Section 2-11A(12) of the Home Rule Charter of Lafayette City-Parish Consolidated Government requires an adoption of an ordinance when the City of Lafayette or the Parish of Lafayette acquires immovable property.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council, that:

SECTION 1: All of the aforescribed "Whereas" clauses are adopted as part of this ordinance.

SECTION 2: For the reasons set forth in the Memorandum dated April 22, 2024, from the Lafayette City-Parish Attorney, the Lafayette Mayor-President is hereby authorized to acquire the Property described herein, and to execute and deliver an Act of Cash Sale in substantially the same form, and for the consideration and terms set forth in, the form of sale as attached to such Memorandum.

SECTION 3: The Lafayette Mayor-President is hereby further authorized and directed to take all other necessary action in connection therewith.

SECTION 4: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall become effective upon signature of the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon an override of a veto, whichever occurs first.

* * * * *

STATE OF LOUISIANA

PARISH OF LAFAYETTE

ACT OF CASH SALE

BEFORE ME, the undersigned authorities, Notaries Public in and for the State and Parish aforesaid, and in the presence of the undersigned competent witnesses, personally came and appeared:

STEPHEN EDWARD FRANCEZ and CHERYL WITTE FRANCEZ, both full age of majority, domiciled in ___ Parish, Louisiana, whose mailing address is _____ (collectively "Vendor"),

who declared that said Vendor does, by these presents, bargain, sell, convey, assign, grant, transfer, set over and deliver, with all legal warranties and with full substitution and subrogation in and to all rights and actions of warranty, which said Vendor has or may have against all former owners, unto:

CITY OF LAFAYETTE, a political subdivision under the laws of the State of Louisiana, represented herein by Monique B. Boulet, the Mayor-President, whose mailing address is P. O. Box 4017-C, Lafayette, Louisiana 70502, pursuant to City Ordinance No. CO-_____-2024, duly adopted, which is incorporated herein by reference thereto (herein referred to as "Vendee"),

and Vendee's successors and assigns, and acknowledging due delivery and possession thereof, all and singular, the following described tract of land (hereinafter referred to as the "Property"), to-wit:

An undivided one-third (1/3) interest in and to the following described property, to-wit:

All undivided rights, title and interest in and to that certain tract of land, situated in St. Martin Parish, Louisiana containing forty-one (41) acres, more or less, and bounded as follows, to wit: Northeast by property of J. Hebert Comeaux, his successors or assigns, Southeast by property of Texas Company (formerly S. Bergeron), its successors or assigns, Southwest by property of Texas Company (formerly B. Faulk), its successors or assigns, and Northwest by Bayou Vermilion. Being Lot No. 1 (Paul Blanchet 41 acres) of the plat of survey made by F.S. Robert, C.E., which is filed of the record in the clerk of court's office for St. Martin Parish, Louisiana, and made a part hereof by reference thereto. Said property subject of the Transfers of Properties between Mary Alice Blanchet Prejean and Stephen Edward Francez and Cheryl Witte Francez, dated February 19, 2015 (herein the "Property").

TO HAVE AND TO HOLD the above described Property and improvements thereon unto said Vendee, and Vendee's successors and assigns forever.

The consideration for this sale is the price and sum of FORTY-TWO THOUSAND AND NO/100 (\$42,000.00) DOLLARS, which said Vendee has paid cash in hand, in current money, to said Vendor, who hereby acknowledges the receipt and sufficiency thereof and grants full acquittance and discharge therefor.

This sale is made and accepted subject to the restrictive covenants, easements, servitudes, mineral royalties, oil, gas and mineral leases, obligations of ownership, etc. affecting the above-described property of record in the St. Martin Parish Clerk of Court's Office.

Vendor and Vendee hereby acknowledge and recognize that the Property being sold and purchased is to be transferred in "as is" condition, and Vendee does hereby relieve and release Vendor from any and all claims for any vices or defects and particularly for any claims or cause of action for redhibition pursuant to Louisiana Civil Code articles 2520, *et seq.*, or for diminution of purchase price pursuant to Louisiana Civil Code articles 2541, *et seq.* Additionally, Vendee agrees and acknowledges that this sale is made without warranty of fitness for any ordinary or particular use pursuant to Louisiana Civil Code article 2524.

All parish and city taxes for three (3) years preceding passage of this Act of Cash Sale up to and including the taxes due are paid, and the parties agree that the taxes for the current year are to be prorated.

THUS DONE AND PASSED at _____, _____ Parish, Louisiana, on the ____ day of _____, 2024, in the presence of the undersigned competent witnesses, who sign with appearers and me, Notary Public, after due reading of the whole.

WITNESSES:

(Name of Witness—Please Print)

(Name of Witness—Please Print)

VENDOR:

Stephen Edward Francez

Cheryl Witte Francez

NOTARY PUBLIC

Printed Name of Notary: _____

Notary Id. No. _____

STATE OF LOUISIANA

PARISH OF LAFAYETTE

THUS DONE AND PASSED at Lafayette, Lafayette Parish, Louisiana, on the _____ day of _____, 2024, in the presence of the undersigned competent witnesses, who sign with appearer and me, Notary Public, after due reading of the whole.

WITNESSES:

(Name of Witness—Please Print)

(Name of Witness—Please Print)

VENDEE:

CITY OF LAFAYETTE

By: _____

Monique B. Boulet
Lafayette Mayor-President

NOTARY PUBLIC

Printed Name of Notary: Patrick S. Ottinger
Notary Id. No. 08727



RECEIVED

APR 22 2024

Lafayette Consolidated Government
Chief Administrative Office

Memorandum

Legal Department
Patrick S. Ottinger, City-Parish Attorney

TO: Veronica Arceneaux – Clerk of the Council **DATE:** April 22, 2024

COPY: Rachel Godeaux, CAO
Karen Fontenot, CFO

FROM: Patrick S. Ottinger, City-Parish Attorney

SUBJECT: An Ordinance of the Lafayette City Council Authorizing the Lafayette Mayor-President to Acquire Immovable Property in St. Martin Parish, Louisiana

Veronica:

I enclose the following, to-wit:

- (a) Agenda Item Submittal Form;
- (b) An Ordinance of the Lafayette City Council Authorizing the Lafayette Mayor-President to Acquire Immovable Property in St. Martin Parish, Louisiana; and
- (c) Act of Cash Sale.

This ordinance authorizes the Lafayette Mayor-President to acquire an undivided one-third (1/3) interest in and to the property described therein situated in St. Martin Parish, Louisiana. The acquisition is one of the terms of the settlement reached in the litigation matter entitled *Stephen Edward Francez and Cheryl Witte Francez v. Lafayette City-Parish Consolidated Government*, Docket Number C-2023-0893, 15th Judicial District Court, Lafayette Parish, Louisiana.

The property here involved is the same property as to which the City of Lafayette previously acquired an undivided two-third (2/3) interest in connection with the St. Martin Parish spoil bank removal. For some reason, the other one-third (1/3) interest was not at that time acquired. This resulted in the referenced suit being filed. In that suit, Mr. and Mrs. Francez sought damages for the destruction of the spoil bank, removal of trees, etc. This suit was recently settled at a mediation for an agreed amount of compensation, and the transfer to the City of Lafayette of this one-third (1/3) interest in the property.

The settlement is being funded by risk management funds, including the cash consideration for this sale (which is in the same amount as previously paid for the other interests in the same land).

It is the recommendation of the Legal Department that the ordinance be adopted by the Lafayette City Council and the subject property be acquired.

Should you have any questions, please feel free to contact me.



Patrick S. Ottinger
City-Parish Attorney

LAFAYETTE CITY COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) JUSTIFICATION FOR REQUEST: An Ordinance of the Lafayette City Council
Authorizing the Lafayette Mayor-President to Acquire Immovable Property in St. Martin
Parish, Louisiana

2) ACTION REQUESTED: Adoption of ordinance

3) COUNCIL DISTRICT(S) (CIP PROGRAM/PROJECTS ONLY): N/A

4) REQUESTED ACTION OF LAFAYETTE CITY COUNCIL:

A) INTRODUCTION: MAY 7, 2024

B) FINAL ADOPTION: MAY 21, 2024

5) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Cover Memo (2 pages)

B) Submittal Form (1 page)

C) Ordinance (2 pages)

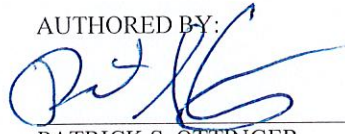
D) Act of Sale (3 pages)

6) FISCAL IMPACT:

Fiscal Impact (Explain)

No Fiscal Impact

AUTHORED BY:



PATRICK S. OTTINGER
LAFAYETTE CITY-PARISH ATTORNEY

APPROVED FOR AGENDA:



RACHEL GODEAUX
CHIEF ADMINISTRATIVE OFFICER