

The names and addresses of the Defendants are as follows:

- (a) RAY LAHOOD, in his capacity as Secretary of the United States Department of Transportation (“LaHood”), an agency created by Congress who is, among other things, responsible for planning, constructing and maintaining the national highway transportation system and administering the Federal Highway Administration and the federal-aid highway program in accordance with the laws made and provided by Congress, who may be served through the United States Attorney General, 430 Fannin Street, Shreveport, Louisiana, 71101. Plaintiffs are informed and believe, and allege upon information and belief, that Defendant LaHood participated in the unlawful actions and decisions hereinafter complained of by and through one or more of his representatives in the Louisiana Division of the Federal Highway Administration located in Baton Rouge, Louisiana;
- (b) SHERRI H. LEBAS, in her capacity as Secretary of the Louisiana Department of Transportation and Development (“LeBas”), an agency of the State of Louisiana and a body politic and corporation with the power to sue and be sued pursuant to La. R.S. 36:501, with its principal office and place of business located in the City of Baton Rouge, East Baton Rouge Parish, Louisiana;
- (c) THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT (“LDOTD”), an agency of the State of Louisiana and a body politic and corporation with the power to sue and be sued pursuant to La. R.S. 36:501, with its principal office located in the City of Baton Rouge, East Baton Rouge Parish, Louisiana; and
- (d) NORTHWEST LOUISIANA COUNCIL OF GOVERNMENTS (“NLCOG”), an unincorporated association and political subdivision and agency of the City of Shreveport, Caddo Parish, Bossier City and Bossier Parish, Louisiana, with its principal office and place of business located at 401 Market Street, Shreveport, Louisiana, 71101, which may be served with process through its Executive Director, J. Kent Rogers

(hereinafter collectively referred to as “Defendants”).

2.

Nature of Action

This suit for a declaratory judgment and injunctive relief arises out of the conduct and actions of the Defendants with respect to the proposed extension of La. 3132 from a point at or near its existing intersection with the Flournoy-Lucas Road (La. 523) to a terminus at Louisiana Highway 1 or the proposed I-69 in the vicinity of the Port of Caddo-Bossier (the “Port”), a federal-aid highway project funded in part by the Federal Highway Administration (“FHWA”). As will more fully appear from the facts hereinafter set forth there exists between the parties an actual and justiciable controversy with respect to which Plaintiffs are entitled to a declaration of rights by the Court and appropriate injunctive relief.

3.

Jurisdiction and Venue

Plaintiffs bring this action under 5 U.S.C. §702; 23 U.S.C. §§101, et seq.; 28 U.S.C. §§1331 & 2201; and the provisions of Title 23 of the Code of Federal Regulations, including, particularly, 23 Code of Federal Regulations §771.111, and the regulations issued by the Council on Environmental Quality (40 Code of Federal Regulations §1506.1). This Court has “federal question” jurisdiction over Plaintiffs’ claims and causes of action under 28 U.S.C.A. §1331. Venue is proper in this Court under 28 U.S.C.A. §1391 since a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in the Western District of Louisiana, Shreveport Division, and the property involved in the proposed extension of La. 3132 is situated in the Western District of Louisiana, Shreveport Division.

4.

The Parties And Their Relationship

(a) The Plaintiffs.

(1) Plaintiff Willis-Knighton Medical Center (“Willis-Knighton”) is a non-profit corporation organized and existing under Louisiana law. It is qualified and operates as a 501(3)(C) organization. It owns and operates, among other businesses, a retirement community known as The Oaks which is located on Flournoy-Lucas Road (La. 523) just east of its intersection with La. 3132. Willis-Knighton acquired the property on which The Oaks is located in Shreveport, Louisiana, and has invested more than \$100,000,000 in developing The Oaks into a first-class community to serve elderly citizens. It currently has approximately 400 residents. Willis-Knighton chose the location for The Oaks in part based upon its expectation that La. 3132 would be completed as originally planned. Willis-Knighton has a vital interest in the extension of La. 3132 to divert the heavy truck traffic which currently uses the portion of Flournoy-Lucas Road which is located between the intersection of La. 3132 and Flournoy-Lucas Road and La. 1 to reach the Port via La. 1. The Oaks, The Glen Retirement Center and Azalea Estates Assisted Living, are all located on or along that small segment of the Flournoy-Lucas Road creating Louisiana's most densely populated area of residences for senior citizens. The average age of that population is 86.

(2) Plaintiff Finish 3132 Coalition, L.L.C., was formed specifically for the purposes of promoting the completion of La. 3132 to the Port as originally planned, participating, and fostering and encouraging public participation in the planning process, monitoring the actions of NLCOG, LDOTD, Metropolitan Planning Commission (“MPC”), the Shreveport City Council and public officials in matters affecting the extension of La. 3132, and

informing the public about what their public officials and agencies are doing in connection with their public duties and responsibilities. It sponsored a public meeting in opposition to the planned termination of the La. 3132 extension at LSU Shreveport on May 19, 2011, and maintains a web site at www.finish3132.com for the purpose of informing the public of developments and actions taken by FHWA, LDOTD, NLCOG, MPC, the Shreveport City Council and public officials in matters affecting the extension of La. 3132. Elliott Stonecipher is a member of Finish 3132 Coalition, L.L.C., and lives at 9537 Rochel Drive, Shreveport, Louisiana, 71115, in Twelve Oaks Subdivision, which lies next to and adjoining the alternative routes "A," "B" and "B-1" considered by Bucharth-Horn, Inc., for the proposed extension of La. 3132 in its Stage "O" Report, all of which directly impact Twelve Oaks Subdivision.

(b) The Defendants.

(1) Plaintiffs are informed and believe, and allege upon information and belief, that Defendant Ray Lahood is the duly appointed Secretary of Transportation of the United States and in his official capacity is responsible for the implementation of and compliance with all federal laws relating to the construction and maintenance of the national highway transportation system, including the urban transportation system in and for Caddo and Bossier Parishes, Louisiana, and administering the federal-aid highway program through the FHWA in accordance with the laws made and provided by Congress, including, but without being limited to, the allocation and disbursement of federal funds to state or local agencies to pay for the planning and construction of highways under Title 23 U.S.C. and Title 23 of the Code of Federal Regulations and for the authorization and distribution of such funds to states pursuant to the aforesaid laws.

(2) Plaintiffs are informed and believe, and allege upon information and belief, that Defendant Sherri H. LeBas is, and was at all times relevant and material to this action, the duly

appointed and acting Secretary of the Louisiana Department of Transportation and Development and in her official capacity is responsible jointly with the FHWA for the authorization and planning and construction of federal aid highway projects in the State of Louisiana, including the City of Shreveport and Caddo Parish, Louisiana, and complying with all of the applicable federal and state laws and regulations applicable to federal aid highways and coordinating all of the planning for the State's transportation system. See La. R.S. 48:13; La. R.S. 36:501.

(3) (i) Plaintiffs are informed and believe, and allege upon information and belief, that NLCOG is, and was at all times relevant and material to this action, a planning agency for its local government participants, and that its purposes and functions are and were limited to planning, making recommendations and providing advisory services to its local government participants and other public bodies, as shown by the resolutions adopted by its participating local governments.

(ii) Plaintiffs are informed and believe, and allege upon information and belief, that NLCOG is now and was at all times relevant and material to this action designated as the planning agency responsible for carrying out the urban transportation planning process mandated by federal law, sometimes referred to as the "Metropolitan Planning Organization" ("MPO") for Caddo and Bossier Parishes. As such, NLCOG and LDOTD have received funds from FHWA for the planning and construction of La. 3132 and funds for the planning of the proposed extension of La. 3132.

(iii) As currently structured, NLCOG's de facto membership consists of locally elected and appointed officials from Caddo and Bossier Parishes and from Shreveport and Bossier City as well as representatives of LDOTD and FHWA. The Transportation Policy Committee of NLCOG approves and adopts all of the transportation planning activities. The

Transportation Policy Committee is responsible for developing and implementing transportation improvement plans (“TIPS”) and a Long Range Transportation Plan (“LRTP”) for a twenty (20) year planning horizon which, under the applicable federal law, must be up-dated at least every five (5) years in areas that meet federal air quality standards. NLCOG also maintains a Technical Advisory Committee (“TAC”) which, along with staff from the FHWA, Federal Transit Administration (“FTA”) and LDOTD, provides technical support and guidance to NLCOG and its Transportation Policy Committee in performing their statutory duties and responsibilities. By virtue of their representative members on NLCOG, the MPO for Caddo and Bossier Parishes, LeBas, LDOTD, LaHood, USDOT and FHWA knew or should have known of all the developments taking place in the La. 3132 extension corridor.

The Relevant Facts

5.

The proposed extension of the Inner Loop via La. 3132 to the Port is a federal aid highway project with a long history. The plan and vision for combining the Inner Loop (a federal aid highway project) and La. Highway 3132 into a traffic loop for south Shreveport originated with the “Inner Loop Report” issued in September of 1969. The plans were revisited and reiterated in the “Inner Loop Extension Corridor Study” done by LDOTD, the Caddo-Bossier Council of Local Governments (the predecessor to NLCOG) and their consultants, Howard Needles Tammen & Bergendoff (“HNTB”). It was originally envisioned as the southern part of a complete circumferential route around and through the City of Shreveport and as to which I-220 constituted the northern route. The extension of the Inner Loop was the subject of another, more detailed study conducted in 1991-1992 by the City of Shreveport, through its Department of Public Works, NLCOG and their consultant, HNTB. This study, entitled “Inner

Loop Extension Corridor Study,” considered and analyzed eleven (11) route options and designated a “Preferred Route” to the Port. Plaintiffs are informed and believe, and allege upon information and belief, that these studies were paid for by public funds contributed by the City, LDOTD and FHWA. La. 3132 and the proposed Inner Loop extension via La. 3132 goes through the City of Shreveport.

6.

The City and the Defendants have invested large sums of public funds to construct the Inner Loop and to plan and implement the extension of the Inner Loop via La. 3132 to the Port, including, but without being limited to, the following:

- (a) In 1996, the City sponsored a bond issue in the amount of \$3,500,000.00 to finance its share of the costs of constructing the extension of the Inner loop from its intersection with Bert Kouns Industrial Freeway to the Port (the “bond issue”). The route for the proposed extension of La. 3132 to the Port was presented to the voters in connection with the 1996 bond issue. The voters of the City of Shreveport overwhelmingly approved the 1996 bond issue for the extension of the Inner Loop via La. 3132 to the Port. A segment of the route presented to the voters in connection with the 1996 bond issue of the planned extension of the Inner Loop/La. 3132 to the Port from Bert Kouns was completed in 2007, at a cost of approximately \$24M in federal, state and local funds.
- (b) By three (3) separate cash sale deeds executed under date of May 27, 1999, and June 1, 1999, the City of Shreveport purchased the interests owned by the Vendors in a tract of land said to contain 21.936 acres located directly across the Flournoy-Lucas Road from its intersection with La. 3132 for a purchase price of \$96,566.66, which was paid out of the proceeds of the 1996 bond issue (the “21 acre tract”).
- (c) On or about July 25, 2005, the City filed a suit against Mattie Lou Loe Brown, Suit No. 495,985-B on the docket of the First Judicial District Court in and for Caddo Parish, Louisiana, to expropriate her undivided interest in the land referred to hereinabove for the Inner Loop Extension Project. The City Council authorized the expropriation proceeding for the purpose of the Inner Loop Extension Project by Resolution No. 42 of 2005 and both Ron Norwood, City Engineer, and H.M. Strong, Director of Operational Services of the City of Shreveport, executed certificates stating that the property was needed for the Inner Loop Extension. By Order of Expropriation dated October 17, 2005, a copy of

which is attached hereto as Exhibit “1,” the First Judicial District Court adjudicated the Defendant’s interest in the property to the City of Shreveport for the Inner Loop Extension Project for a price of \$33,333, which Plaintiffs are informed and believe, and allege upon information and belief, was paid out of the proceeds of the bond issue.

7.

NLCOG endorsed and supported the completion of the proposed Extension of La. 3132 in its “Long Range Transportation Plan Update (2009-2030)” entitled “Mapping The Way – 2030” which it submitted under date of September, 2009, to LDOTD, FHWA and the FTA pursuant to the provisions of 23 U.S.C. 134 and the applicable federal regulations, which NLCOG characterized as a “high priority” project and which it estimated would cost \$40M Dollars.

8.

Notwithstanding the prior investment in and planning for the proposed extension of the Inner Loop via La. 3132 and the commitment of the City of Shreveport, NLCOG and LDOTD to the proposed extension, on April 7, 2011, Cedric L. Glover, Mayor of the City of Shreveport and its representative on NLCOG, offered a motion at a meeting of NLCOG’s Transportation Policy Committee to “rescind the approved corridor alignment for the southerly extension of the Inner Loop from Flournoy-Lucas Road to La. 1 (near the Port of Caddo-Bossier),” (the “Motion to Rescind”) which was adopted by a majority vote, as will more fully appear from a copy of the motion attached hereto and made a part hereof as Exhibit “2.”

9.

Plaintiffs are informed and believe, and allege upon information and belief, that on or about April 11, 2011, Kent Rogers, Executive Director of NLCOG, notified Charles Kirkland, Executive Director of the MPC, to “remove the current alignment of the Inner Loop Extension

from Flor. Luc. south from our plans and maps,” as will more fully appear by reference to a copy of the email attached hereto and made a part hereof as Exhibit “3.” In addition, Rogers asked Kirkland and Roy Jambor to provide him with “all long term plans or master plans of development that WK and the Live Oak may have submitted. ...” to the MPC.

10.

Plaintiffs are informed and believe, and allege upon information and belief, that by letter dated April 15, 2011, a copy of which is attached hereto as Exhibit “4,” Sherri H. LeBas, Secretary of the Department of Transportation and Development, advised Mayor Glover, among other things, that:

§ In order to accommodate real estate development in the area, on the motion of Mayor Glover, and with his full support, NLCOG voted to request that the state abandon the control-of-access along the south side of Flournoy Lucas Road (LA 523) and grant access for a residential street to align and connect with the southbound Inner Loop Expressway (LA 3132) exit ramp.

§ In light of the proposed Inner Loop Expressway corridor realignment, and rather than compromise Departmental principles and standards, DOTD Secretary LeBas proposed, and Mayor Glover agreed, to seek Council approval for the City of Shreveport to accept ownership of: (a) Ellerbe Road (LA 523) from Bert Kouns Industrial Loop southward to Flournoy Lucas Road; (b) Flournoy Lucas Road (LA 523) from Ellerbe Road eastward to LA 1; and (c) Inner Loop Expressway (LA 3132) from Bert Kouns Industrial Loop southward to Flournoy Lucas Road.

11.

Plaintiffs are informed and believe, and allege upon information and belief, that the Shreveport City Council never agreed to accept ownership of any of the aforesaid roads as proposed by LDOTD. By Resolution 108 of 2011 approved on June 14, 2011, and effective June 28, 2011, the Shreveport City Council resolved that the twenty-one (21) acre tract of land owned by the City south of the intersection of La. 3132 at the Flournoy-Lucas Road “shall not be used for any purpose, to include the construction of a street or road through said property,

without the express consent of the Shreveport City Council by resolution,” as will more fully appear from a copy of Resolution 108 of 2011 attached hereto and made a part hereof as Exhibit “5.” By Resolution No. 123 of 2011, the Shreveport City Council recited that “the extension of the Inner Loop south of the urbanized area to the Port of Shreveport-Bossier and beyond has been the goal of citizens and elected officials of the City of Shreveport for some 20 years, and it continues to be a priority” and resolved that “the extension of the Inner Loop (LA 3132) south of the urbanized area to the Port of Shreveport-Bossier and beyond, is a priority of the City of Shreveport,” all as will more fully appear from a copy of Resolution No. 123 attached hereto and made a part hereof as Exhibit “6.”

12.

Plaintiffs are informed and believe, and allege upon information and belief, that in the fall of 2011, LDOTD and NLCOG, with the approval of FHWA, engaged Buchart-Horn, Inc., a consulting firm, to conduct a so-called Stage “0” Study to consider and recommend the feasible and alternative routes for the extension of La. 3132 to be studied and evaluated environmentally (a so-called Stage “1” Study). Burk-Kleinpeter, Inc., a consulting firm with an office located in Baton Rouge, Louisiana, was selected to perform the Stage 1 Study. NLCOG and LDOTD have estimated the cost of the Stage “0” Study at \$200,000.00 and the cost of the Stage “1” Study at \$800,000.00, to be paid in part out of federal funds.

13.

Plaintiffs are informed and believe, and allege upon information and belief, that Defendants LDOTD and NLCOG assumed and agreed to comply with the federal standards mandated by FHWA for conducting public hearings on federal-aid highway projects, including, but without being limited to, the standards contained in 23 C.F.R. §771.111.

14.

Plaintiffs are informed and believe, and allege upon information and belief, that Defendants and their consultant, Buchart-Horn, Inc., staged an initial public meeting at LSU-S on or about January 24, 2012, ostensibly for the purpose of soliciting comments from the public on the feasible alternatives for the extension of La. 3132 to the Port. This meeting was directed by Kent Rogers of NLCOG and Jacob Loeske of Buchart-Horn, Inc., and was attended by approximately 200 people. Attendees were seated at tables of eight and the group at each table was provided with maps of the area and asked to develop a proposed route and draw it in on a map. A spokesman or “leader” selected by each table was then allowed to report on the route recommended by his/her table to the entire audience. No information or data was provided by Defendants or by their consultant, Buchart-Horn, Inc., to the attendees about the proposed extension before they were asked to recommend a proposed route. The participants were not allowed to ask questions and Kent Rogers and Buchart-Horn, Inc., would not allow anyone to speak until the audience spontaneously objected to their refusal to let Elliott Stonecipher address the attendees and then they grudgingly allowed Stonecipher and four (4) or five (5) others to speak for no more than three (3) minutes each. Plaintiffs are informed and believe, and allege upon information and belief, that NLCOG and/or Buchart-Horn, Inc., “lost” all of the “comments” they received from the public as a result of that meeting.

15.

Defendants and their consultant, Buchart-Horn, Inc., staged another public meeting on August 2, 2012, at LSU-S at 6:00 o'clock p.m., ostensibly again for the purpose of obtaining public input and comments with respect to the alternative routes selected or recommended for a Stage 1 evaluation. The public meeting conducted by NLCOG, LDOTD and Buchart-Horn, Inc., with approval of FHWA, was legally inadequate and insufficient for that purpose. Buchart-Horn, Inc.,'s written Feasibility Study was not made available to the public until some time after July 25, 2012, and Plaintiffs objected to holding a public meeting on August 2, 2012, because it did not give the public adequate time to review and analyze the Report, as will more fully appear from the letter attached hereto as Exhibit "7." The "open house" format selected by NLCOG and Buchart-Horn, Inc., was carefully designed and controlled to improperly limit and control public participation. Defendants had no representative present to provide information to the public. Instead, Defendants and their consultant, Buchart-Horn, Inc., provided maps at the meeting showing four (4) alternative routes, designated respectively as "A," "B-1," "B-2" and "C," together with some exhibits purporting to show traffic data, with the estimated cost of construction for the alternate routes ranging from a low of \$112,690,340.00 to a high of \$282,678,648.00. They also provided microphones so that attendees could record their comments and forms for the attendees to write out and submit their comments. Although NLCOG and Buchart-Horn, Inc., did have representatives present to answer individual questions, Defendants did not allow any opportunity for a public exchange of information and they did not publicly offer any explanation of the basis on which the alternative routes were selected,.

16.

Plaintiffs are informed and believe, and allege upon information and belief, that contrary to their duties and responsibilities, Defendants designed the format for the so-called public

meetings to stifle, discourage and limit public participation in the planning process for the extension of La. 3132, all as will more fully appear from the email attached hereto and made a part hereof as Exhibit "8." NLCOG, with the full knowledge, acquiescence and approval of its co-Defendants, made it clear that it did not want to hear any public opposition to its actions and decisions with respect to the extension of La. 3132.

17.

Plaintiffs are informed and believe, and allege upon information and belief, that Defendants and their consultant, Buchart-Horn, Inc., acted arbitrarily and capriciously in selecting the alternative routes in their final Stage "O" Report to be considered in a Stage "1" evaluation of alternative routes for the extension of La. 3132 for the following non-exclusive reasons:

- A. Plaintiffs are informed and believe, and allege upon information and belief, that NLCOG and LDOTD, with the approval of FHWA, selected Alternate Route C, which starts at the Bert Kouns Industrial Drive and swings east of the intersection of La. 3132 with the Flourney-Lucas Road, so as to require a taking of a portion of The Oaks for the sole purpose of threatening, intimidating and retaliating against Plaintiff Willis-Knighton Medical Center for its efforts in support of the extension of La. 3132 to the Port. Plaintiffs show in this connection that on April 15, 2011, Sherri H. LeBas, Secretary of LDOTD, identified as the new or an alternative route for the extension of La. 3132 a route beginning at Bert Kouns Industrial Drive (La. 526) which necessarily proceeded through Willis-Knighton's property (i.e., The Oaks). Plaintiffs further show that Bill Altimus, a member of NLCOG's Transportation Planning Committee, sent Mayor Glover an email dated June 6, 2011, stating that he "just want(s) to make sure Elrod's property [i.e., The Oaks] is one option to be considered and the Times has plenty of opportunities to comment since they can't seem to let go of this;"
- B. As will more fully appear from the Stage "O" consulting contract attached hereto and made a part hereof as Exhibit "9," the alternative routes to be developed by Buchart-Horn, Inc., in its study and analysis were limited to "a study of the feasibility of extending LA 3132 from its current terminus as LA 523 (E. Flourney Lucas Road) to the future I-69 near LA 1 in Caddo Parish" and did not include any study or analysis of the feasibility of an alternative with a terminus at Bert Kouns Industrial Drive (La. 526). Buchart-Horn, Inc., at Defendants'

direction, nevertheless proceeded to study and analyze Alternate Route "A" (designated Alternate "C" in its Report) and was paid for its services in doing so, notwithstanding the fact that it was outside the scope of the services it was to provide under the consulting contract. Plaintiffs further show in this connection, upon information and belief, that Defendant Burk-Kleinpeter, Inc., intends to include Alternate Route "A" (or Alternate "C" as designated in Buchart Horn's Stage "O" Report);

- C. Defendants suppressed, concealed and failed to disclose to the public alternate routes developed by Buchart-Horn, Inc., and endorsed by LDOTD's Project Scoping Engineer which would have taken portions of the Esplanade Subdivision, including the proposed Railsback Ridge Road and the Esplanade Bridge over Bayou Pierre and minimized the damage to the residents of Twelve Oaks and avoided the "compound curves" of Alternate Route "A," "B-1" and "B-2," as will more fully appear from the Exhibits 10A, 10B and 10C, attached hereto and made a part hereof. Defendants, acting through Dr. Eric Kalivoda, Deputy Secretary of LDOTD, rejected that recommendation and directed the Project Scoping Engineer and Buchart-Horn, Inc., to move the alignments being considered farther to the east and away from the proposed Esplanade Subdivision solely in order to favor and accommodate the Esplanade development, all as will more fully appear from the emails attached hereto and made a part hereof as Exhibit "11;"
- D. Defendants have suppressed and concealed and failed to disclose to the public at the public hearing held on August 2, 2012, or in the final Stage "O" Report the fact that three (3) of the alternative routes ("A," "B-1" and "B-2") recommended by Buchart-Horn, Inc., will require a design that includes "compound curves" which do not meet the FHWA's minimum design criteria and which renders the design relatively dangerous and unsafe for the traveling public; and
- E. The actions taken by Defendants in the final Stage "O" Report tend to determine subsequent development and limits the choice of reasonable alternatives, contrary to and in violation of the provisions of 40 C.F.R. 1506.1,

all to the irreparable injury of Plaintiffs and the public. Plaintiffs further show that FHWA approved all of the exhibits showing the alternative routes considered for the proposed extension of La. 3132 presented to the public at the aforesaid public meeting held by Defendants on August 2, 2012.

Plaintiffs show, on information and belief, that the Stage "1" Feasibility Study will be limited to a consideration of the alternative routes identified and selected in the final Stage "O" Report, as will more fully appear by reference to the agreement dated May 2, 2012, by and between LDOTD and NLCOG for the Stage "1" Feasibility Study, a copy of which is attached hereto and made a part hereof as Exhibit "12." The alternative routes recommended by Buchart-Horn, Inc., and LDOTD's Project Scoping Engineer shown on Exhibits 10A, 10B and 10C were not identified, described or otherwise disclosed in the final Stage "O" Report and, consequently, these routes have been finally excluded from consideration in the proposed Stage "1" Study.

19.

The failure of Defendants and their consultant, Buchart-Horn, Inc., to disclose to the public prior to or at the public hearing held on August 2, 2012, the alternative routes recommended by Buchart-Horn, Inc., and LDOTD's Project Scoping Engineer and shown on Exhibits 10A, 10B and 10C attached hereto, considered for the proposed extension of La. 3132, deprived Plaintiffs and the public of the right to express their views and comment upon the route concealed and suppressed and rendered the purported public hearing held on August 2, 2012, invalid.

20.

Plaintiffs' Federal Claims
And Causes Of Action

Based upon the facts alleged hereinabove, Plaintiffs claim and seek a declaratory judgment declaring that:

- (A) The public hearings conducted by Defendants and their consultant, Burchart-Horn, Inc., were procedurally and substantively inadequate and insufficient under the provisions of 23 U.S.C.A. §128, 134 and 135 and the regulations promulgated by the Federal Highway Administration, including 23 C.F.R. §771.111, in that:

- (1) The format of the hearings or meetings did not permit or allow any meaningful public exchange of information or views; and
- (2) Defendants and their consultant, Buchart-Horn, Inc., did not provide Plaintiffs or the public with relevant information in connection with the identification and selection of the alternative routes to be considered in connection with the Stage “O” Study, including the alternative routes shown on the attached Exhibits 10A, 10B and 10C.
- (3) Defendants and their consultant, Buchart-Horn, Inc., failed to disclose to the public prior to or at the public hearing held on August 2, 2012, that each of the three (3) alternate routes proposed by them with a terminus beginning at the intersection of La. 3132 at Flournoy-Lucas Road contained one or more “compound curves.”

As a result, Plaintiffs and the public have been deprived of their rights under 23 U.S.C.A. §§128, 134 and 135 and 23 C.F.R. §771.111 to meaningfully participate in the identification and selection of the alternative routes recommended in the Stage “O” Study.

- (B) The actions and decisions of Defendants in identifying and selecting the alternate routes in the final Stage “O” Report to be further considered for the proposed extension of La. 3132 and evaluated in the Stage “1” Study to be conducted by Burk-Kleinpeter, is in excess of their statutory legal authority, contrary to their legal duties and responsibilities, arbitrary and capricious, and otherwise not according to law in that:
- (1) The alternative routes for the proposed extension of La. 3132 recommended by Buchart-Horn, Inc., and endorsed by LDOTD’s Project Scoping Engineer, as shown on Exhibits 10A, 10B and 10C are not identified, disclosed or discussed in the final Stage “O” Report. As a result, these undisclosed alternative routes have been tacitly rejected by Defendants without any reasoned analysis and will not be considered in its Stage “1” Study of the alternatives.
 - (2) There was no reasonable basis for including Alternate Route “A” (identified as Alternate “C” in the final Stage “O” Report) in the Stage “O” Study or carrying it forward for consideration in the Stage “1” Study which has a terminus at Bert Kouns Industrial Drive (La. 526) and which, if adopted, would require a taking of a portion of The Oaks, which is owned and operated by Plaintiff Willis-Knighton Medical Center. Alternate Route “A” was included in the Stage “O” Study for the purpose of threatening, intimidating and punishing Plaintiff Willis-Knighton Medical Center for opposing the termination of the proposed La. 3132

extension, as it had the right to do under 23 U.S.C.A. §§128, 134 and 135, and which is irrelevant and immaterial to any reasoned selection of the alternate routes to be considered and evaluated in the Stage “O” Study or the Stage “1” Study.

- (3) The final Stage “O” Report tends to determine subsequent development of the proposed Inner Loop Extension and limits the choice of reasonable alternatives, contrary to and in violation of the Council on Environmental Quality’s regulations at 40 C.F.R. §1506.1.
- (C) Vacating and setting aside the final Stage “O” Report and ordering Defendants to disclose to the public the alternative routes shown on Exhibits 10A, 10B and 10C, the “compound curves” incorporated into alternative routes A and B and all associated relevant facts and to conduct new public hearings and issue a new Stage “O” Report.

21.

Plaintiffs and the public interest will suffer and sustain irreparable harm and injury if Defendants are allowed to proceed with the Stage “1” Study before they have disclosed to the public the alternative routes recommended by Buchart-Horn, Inc., and LDOTD’s Project Scoping Engineer and shown on Exhibits 10A, 10B and 10C, together with the “compound curves” incorporated in the alternative routes recommended by Defendants in their final Stage “O” Report and before Defendants have held a public hearing allowing the public to comment upon the previously undisclosed and concealed alternative routes and the “compound curves” in the alternate routes considered. Plaintiffs are informed and believe, and allege upon information and belief, that Defendants have not yet entered into any contract with Burk-Kleinpeter, Inc., to perform the Stage “1” Study.

WHEREFORE, Plaintiffs pray that each of the Defendants be duly served with a copy of this Plaintiffs’ Complaint and that after due proceedings had, that judgment be rendered in favor

of Plaintiffs and against Defendants for all the relief requested hereinabove and to which Plaintiffs are entitled.

Plaintiffs further pray that after due proceedings had, Defendants be enjoined and prohibited from proceeding with a Stage “1” Study and evaluation of the alternate routes recommended for the proposed Inner Loop Extension via La. 3132 until Defendants have properly identified and disclosed to the public all of the proposed alternative routes for the extension of La. 3132, including, but without being limited to, the alternative routes recommended by Buchart-Horn, Inc., and LDOTD’s Project Scoping Engineer and shown on the attached Exhibits 10A, 10B and 10C, and the basis for the selection or rejection of any route considered and the public is allowed to participate in the planning process by considering all such alternative routes at a new public meeting to be scheduled by Defendants before proceeding with the Stage “1” Study.

Plaintiffs further pray for all orders, decrees and relief to which they may be entitled or which may be necessary or proper in the premises and for full general and equitable relief and all costs.

Respectfully submitted,

THE PESNELL LAW FIRM
(A Professional Law Corporation)

s/Billy R. Pesnell

By: _____

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- 3) Louisiana Department of Transportation
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- 4) Northwest Louisiana Council of Government,
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