

ALTERNATE DISPUTE RESOLUTION/
PARTNERING AGREEMENT
CONCERNING THE
BYRAM'S FORD LEVEE ALIGNMENT
LOCATED WITHIN THE
BLUE RIVER CHANNEL MODIFICATION PROJECT
KANSAS CITY, MISSOURI

THIS AGREEMENT, is entered into by and between the **DEPARTMENT OF THE ARMY** (hereinafter referred to as the "Government"), acting by and through the Kansas City District, Corps of Engineers, the **City of Kansas City, Missouri** (hereinafter the "City"), the **Byram's Ford Industrial Park Association**, an unincorporated association, and the **Monnett Battle of Westport Fund, Inc.**, (hereinafter referred to as the Monnett Fund) a not-for-profit organization incorporated in the State of Missouri.

WITNESSETH, THAT:

WHEREAS, the Government has (under authority of Public Law 91-611, 91st Congress, 2d Session, approved 31 December 1970) undertaken the development of a flood protection project known as the Blue River Channel Modification Project located in Kansas City, Missouri (hereinafter called the Project); and

WHEREAS, in 1983, the existence and location of an American Civil War battlefield site known as "Byram's Ford" was confirmed within the limits of the Project; and

WHEREAS, the 17 acre Byram's Ford Historical District is listed on the National Register of Historic Places (NRHP); and

WHEREAS, in order to accommodate and protect the battlefield site, and to insure that it was not adversely affected by the construction of the Project, the upstream limits of the Project were relocated from upstream of 63rd Street downstream to between 58th and 59th Streets; and

WHEREAS, the May 1990, floods on the Blue River demonstrated that the Byram's Ford Industrial Park, located in the vicinity of 59th Street and Manchester Trafficway, did not have 30 years flood protection; and

WHEREAS, because the Project was authorized to upstream of 63rd Street, and because the Project as it is being constructed, provided 30 year protection the Government and the City propose to provide equivalent 30 year flood protection to Byram's Ford Industrial Park by constructing a four to six feet high levee; and

WHEREAS, the levee and grade control structure proposed to protect the Byram's Ford Industrial Park will not encroach on the NRHP site, but will be located in the adjacent historically significant Big Blue Battlefield; and

WHEREAS, the parties to this MOA could not agree on how best to accommodate the interests of historic preservation and flood protection in the area of Byram's Ford; and

WHEREAS, the parties met in July and August 1992, for the purpose of learning how to settle their differences of opinion through the use of Alternative Dispute Resolution, and reached an agreement in principle, and propose to memorialize their agreement in writing.

NOW, THEREFORE, the parties agree as follows:

1. As a part of the authorized Project, and subject to the availability of funds, the Government will cause a four to six foot levee to be constructed to provide flood protection to portions of the Byram's Ford Industrial Park. The levee alignment will follow the alignment straight South as shown on the attached map (Enclosure 1, attached hereto and made a part hereof). The levee side slopes, south of 60th Street to the southeast corner of the Dupont Building (within Byram's Ford Industrial Park) will have side slopes that are one vertical to four horizontal.

2. Subject to the availability of funds, the Government agrees to arrange for the construction of a grade control structure at the upstream end of the project between 58th and 59th Streets. The Government also agrees to arrange for the construction of a levee eastward from the grade control structures to Hardesty Avenue, and the filling (to elevation 862 mean sea level) of the right bank area downstream of the levee. The Government further agrees to minimize the right-of-way required south of the grade control structure in order that existing trees may provide a visual barrier between the grade control structure and the Byram's Ford NRHP site.

3. The Government agrees to take the lead in developing a separate Memorandum of Agreement (MOA) for historic properties within Project boundaries pursuant to § 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. §§ 470 et seq. The MOA shall consider the effects of the Project on the Byram's Ford NRHP District as well as related historic areas such as the Big Blue Battlefield. The parties to such MOA shall be the Government, the Missouri State Historic Preservation Officer and the Advisory Council on Historic Preservation. The Monnett Battle of Westport Fund, Inc., the Byram's Ford Industrial Park Association, and the City shall be invited to consult in the terms and conditions of the MOA.

4. The City shall acquire all right-of-way necessary for the levee alignment and will comply with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601 et seq. If the property on which Stratco is located is acquired, relocations will be provided in accordance with the above. If the Stratco building is purchased by the City, it also would be demolished, debris removed, the site leveled, and any area not required for the levee deeded to the Monnett Fund. The City requests that the Corps align the levee to avoid interfering with Stratco, if possible.

5. If in the future, the Dupont Building is vacated and subsequently acquired by the Monnett Fund, the City agrees to realign that portion of the levee south of 60th Street to provide an open battlefield area.

6. The City agrees to arrange for the construction of two parking turnoffs along Hardesty Avenue of an adequate size to accommodate a bus: one at the intersection of Byram's Ford Road and Hardesty (West side) and the other at the Ravine through through which Captain Dee's Advance followed (East side). The City also agrees to install historical markers, of the same design currently in use by the Monnett Fund, at both locations. The narrative on the markers is the prerogative of the Monnett Fund.

7. The City or the Government agrees to flood proof (to an elevation equal to the top of the adjacent levee) the American Cyanamide facility located within Byram's Ford Industrial Park.

8. The City agrees to acquire the Bisbee property, clear the structures, and transfer the lands not required for the levee to the Monnett Fund. *--- site leveled*

9. The City will acquire the right of way necessary to construct the levee from the Commerce Bank of Kansas City, Missouri (Lot #6). It is the Commerce Bank of Kansas City's intention to transfer its remaining interest in Lot #6 to the Monnett Fund. (See attached Letter of Intent dated-----.)

10. Because of the historical significance of the area and in the interest of the businesses located in Byram's Ford Industrial Park, the City agrees to maintain the levee area to the City's Department of Parks, Recreation, and Boulevards' standards.

11. This Agreement shall be effective upon execution by all the parties, and shall remain in effect until all parties consent to terminate by written agreement. This Agreement may be revised by issuance of a written amendment, signed and dated by all the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the last date signed by the Parties.

WJH
for WILBUR H. BOUTIN, JR.
Colonel, U.S. Army
District Engineer

GS
GEORGE SATTERLEE
Director of Public Works
City of Kansas City, Missouri

9-24-92
DATE

9-24-92
DATE

OF
ORVIS FITTS
Chairman
Monnett Battle of Westport
Fund, Inc.

RH
RAY HINES
President
Byram's Ford Industrial Park
Association

24 Sept. 1992
DATE

9-24-92
DATE



**Commerce Bank
of Kansas City**

P.O. Box 419248
Kansas City, MO 64141-6248
816-234-2000

November 9, 1992

Mr. Ken Kaul
City of Kansas City, Missouri
Public Works Department
19th Floor, City Hall
414 E. 12th Street
Kansas City, Missouri 64106-2785

RE: Byrams Ford Industrial Park

Dear Mr. Kaul:

It is our understanding that the City of Kansas City, Missouri will acquire the right-of-way necessary to construct a levee in the Byrams Ford Industrial Park to be located in the vicinity of 59th Street and Manchester Trafficway. This is to provide the equivalent of 30 year flood protection to the Industrial Park with the construction of a 4 to 6 feet high levee.

Commerce Bank of Kansas City, N.A. has been informed that the City will have the property, that is to be acquired for the right-of-way, appraised and will use the appraisal as the bases for arriving at a dollar amount to purchase the property for the right-of-way.

If Commerce Bank is satisfied with the settlement that the City proposes, it is their intent to transfer its remaining interest in Lot #6 to the Monet Battle of Westport Fund, Inc. as a donation.

Very truly yours,

COMMERCE BANK OF KANSAS CITY, N.A.

Gene F. Hahn
Vice President

GFH:kab

INTER-OFFICE COMMUNICATION

No 04072

TO: Joe Lilley
FROM: Ken Kaul

OFFICE Corps of Engineers
OFFICE KC, Mo. Pub. Wks

SUBJECT Blue River Project - Byram's Ford

DATE 11-12-92

MESSAGE: Attached is the letter from Commerce Bank regarding the Byram's Ford agreement. Please attach this to the original agreement so it will be there when all parties sign.

George Satterlee will be able to sign for the City early ~~that~~ week of Nov 30. Let me know how you want to handle that.

SIGNED The City will need ~~three~~ three original signed copies for its records. (Public Works, City Clerk and Law).

Ken Kaul

DATE

SIGNED

ORDINANCE NO. 921244

Authorizing a four party cooperative agreement with the Corps of Engineers, Byram's Ford Industrial Park Association and the Monnett Battle of Westport Fund, Inc. relating to Blue River channel work adjacent to Byram's Ford Industrial and Historic Area.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Director of Public Works is hereby authorized to enter into and execute on behalf of Kansas City, a four party cooperative agreement between and among the United States of America, through its Corps of Engineers; the City of Kansas City, a Missouri municipality; the Byram's Ford Industrial Park Association, an unincorporated association; and the Monnett Battle of Westport Fund, Inc., a not-for-profit corporation of the State of Missouri relating to the Byram's Ford Levee Alignment as part of the Blue River Channel Modification Project. The agreement shall be essentially in the form which is attached hereto and incorporated herein by reference.

Approved as to form and legality:



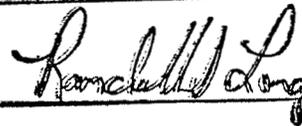
Assistant City Attorney

Authenticated as Passed

EMANUEL CLEAVER II, Mayor



City Clerk

By 

Deputy City Clerk

NOV 12 1992