



**STATE OF MISSISSIPPI
SECRETARY OF STATE
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June 21, 2006

The Honorable Leo A. McDermott
Mayor Pro Tempore
City of Pass Christian
P. O. Box 368
Pass Christian, Mississippi 39571

Dear Mayor McDermott:

I am writing concerning your request for my approval to expand the municipal harbor in Pass Christian. After careful consideration of the issues, I have concluded that I agree that you should be allowed to expand the harbor as requested in the area between Market and Davis, even though it will affect existing public sand beach.

My predecessor in office and I have consistently enforced a policy that protects the sand beach from commercial development. This has been a "no exceptions" policy. However, the extreme devastation wrought by Hurricane Katrina, the need to rebuild the existing marina, and the desirability of integrating the marina area in the rebuilding of your downtown, have led me to this decision. In return for Secretary of State approval of this harbor expansion, Pass Christian must consent to the following conditions:

- (a) I remain strongly committed to the protection of the public sand beaches. This alteration will be allowed only under the current extreme circumstances brought about by Hurricane Katrina, and only for expansion of the harbor. As the devastation of Hurricane Katrina was unanticipated, I do not anticipate other circumstances that would open up the possibility of other exceptions to the policy. In return, I request that Pass Christian acknowledge the circumstances under which this is being done and take official action to agree that it will make no other requests for alteration of the sand beach and will agree to oppose any other efforts to alter the sand beach except for purposes of public access.
- (b) A no-rent-public-interest lease will be entered into between the Secretary of State and the municipality or harbor commission. Under this lease, the harbor will be owned and operated by a public entity.
- (c) Public access will be guaranteed.

(d) No gaming will be allowed in the area of the existing harbor or the expanded harbor.

(e) Subleases for limited commercial development within the harbor may be allowed with the prior approval of the Secretary of State. Such commercial leases must be limited to light retail, restaurants, tourist and recreation-related low-impact businesses such as would be appropriate for a working municipal harbor integrated into the city. The Tidelands Fund and municipality will share the rent under all subleases in the area of the expanded harbor on a 50/50 basis, except that the municipality shall receive 100% of the rental on all boat slips whether in the existing harbor or expanded harbor.

(f) If at any time in the future, any development of a different type or impact other than these limited commercial uses is allowed in the harbor, the municipality would not share in the rents for any such different use.

(g) The State prefers that there be a minimum amount of filling done to accomplish the desired harbor expansion, and to this end, the Secretary of State will reserve the right of final approval of design plans.

(h) The City and State will enter covenants in a form that will be recorded in the land records of Harrison County, which memorialize these conditions and limitations. These covenants will contain a provision that would allow any beneficiary of the Public Tidelands Trust to sue to protect and enforce the covenants. The municipality shall not be entitled to share in any rents while in violation of these covenants; however the municipality shall have 90 days to cure any violation prior to loss of right to receive its rent share.

I look forward to working with you and the people of Pass Christian as your city rebuilds itself in the renewed vision of its citizens. I believe that this framework for expanding the harbor and integrating it with the city offers the opportunity to enhance the quality of life of your community as a coastal town as well as to improve public access to the tidelands held in trust for the people of our state.

If you have any questions or need additional information regarding this matter, please call me at any time. Thank you.

Sincerely,



ERIC CLARK
Secretary of State

EC/gm