

COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE CITY OF NEW ORLEANS
AND
FRENCH QUARTER MANAGEMENT DISTRICT

THIS COOPERATIVE ENDEAVOR AGREEMENT (the “**Agreement**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”) and the French Quarter Management District, a political subdivision of the State of Louisiana, represented by its Chair, Christian Pendleton (the “**FQMD**”). The City and the FQMD may sometimes each be referred to as a “**Party**” or collectively as the “**Parties**.” The Agreement is effective as of January 1, 2021 (the “**Effective Date**”).

RECITALS

WHEREAS, the City is a political subdivision of the State of Louisiana;

WHEREAS, the FQMD is a political subdivision of the State of Louisiana created in accordance with La. R.S. 25:799, to exist until June 30, 2028, unless such date is extended by law;

WHEREAS, FQMD has and will continue to maintain a separate fund, apart from other funds and accounts of the City or other entities, and shall be used for the purposes set forth in this Agreement;

WHEREAS, the FQMD and the City agree and acknowledge that the funds shall be utilized to support supplemental security in the following boundaries of the French Quarter: the Mississippi River, the center line of Canal Street, the rear property line of the properties fronting on the lake side of North Rampart Street, the rear property line of the properties fronting on the downriver side of Esplanade Avenue to the Mississippi River (the “**French Quarter**”);

WHEREAS, pursuant to Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, and Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with the State of Louisiana, its political subdivisions and corporations, the United States and its agencies, and any public or private corporation, association, or individual with regard to cooperative financing and other economic development activities, the procurement and development of immovable property, joint planning and implementation of public works, the joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes;

WHEREAS, the City and FQMD desire to accomplish a valuable public purpose of addressing and enhancing public safety, security, quality of life, social equity, public health, wellness, and economic development;

WHEREAS, the City and FQMD desire to achieve the important societal objectives of providing additional patrols in the French Quarter supplemental to and over and above that of the on-duty police presence, deterring the commission of criminal activity in the French Quarter and

enhancing security for residents, service workers, businesses, and visitors within the French Quarter;

WHEREAS, the FQMD will enhance public safety by providing funds for the City's supplemental patrols (i.e., post-certified officers) within the French Quarter, licensing, including without limitation, the French Quarter Task Force App, decals, and vehicles; and

WHEREAS, the City will be responsible for administering this Agreement through careful coordination of the following: New Orleans Police Department ("**NOPD**") in order to do any and all things necessary and incidental to carry out the provisions of this Agreement.

NOW THEREFORE, the City and FQMD, each having the authority to do so, agree as follows:

ARTICLE I - THE FQMD'S OBLIGATIONS

A. *Obligations of the FQMD.* In return for the City fulfilling its obligations under this Agreement, the FQMD hereby agrees to the following:

1. Use reasonable best-efforts to maintain the supplement police presence in the French Quarter by maintaining a separate fund, apart from other funds and accounts of the City or other entities, for the purposes set forth in this Agreement.
2. Ensure that all vehicles to be utilized by the Supplemental Police Patrol Program through the 8th District have properly executed acts of donation and title transfers to the City of New Orleans.
3. Enhance public safety by providing funds for the Supplemental Police Patrol Program within the French Quarter, including without limitation, funds for licensing (i.e., the French Quarter Task Force App), decals, and vehicles.
4. Disburse payment to OPSE within thirty (30) days of the FQMD's receipt and approval of an OPSE invoice. For an invoice to be approved, the invoice shall charge FQMD in accordance with the current tier-2 or tier-3 level rate of pay set forth on <http://www.nola.gov/opse/>, unless another rate of pay has been approved in writing by the FQMD for a specific date and/or Patrol Shift(s) on a specific date, and applying any applicable rebates.
5. Deliver a complete Patrol Plan for the Area to the Director of OPSE on or before the Effective Date of this Agreement. The Patrol Plan shall cover the Supplemental Police Patrol Program term set forth in this Agreement and include the number of off-duty officer hours that are to be worked each week, a schedule for the length, time and day of each patrol shift, and specify assigned patrol zones and assignments. The Patrol Plan shall include at least one Detail Officer assigned per day and at least two (2) Detail Officers assigned evening shift to perform proactive patrol duties in Smart Car and/or other vehicles during the term of this Agreement. The Parties to this Agreement acknowledge and agree that, without revising the Patrol Plan, during (a) a major event such as Mardi Gras, New Year's Eve, etc., Detail Officers may be reassigned to patrol the less policed streets in the Area; and (b) an emergency situation such as a mandatory hurricane evacuation, Detail Officers may be reassigned by the Commander of the NOPD 8th District as needed and timely advise the FQMD Executive Director.
6. If FQMD decides to revise the Patrol Plan, deliver a revised Patrol Plan to the Director of OPSE and the City at least fourteen (14) days prior to the beginning of the patrol week in which the revised Patrol Plan will be implemented.

7. Deliver Post Instructions to the Director of OPSE.
8. Provide the supplies needed for the Supplemental Police Patrol Program such as gasoline, tires, iPads, Post Instructions, NOPD-approved magnetic decals, etc., and repair and maintain the Supplemental Police Patrol Program vehicles as needed.
9. Permit the Commander of the NOPD 8th District, or his designee, to use Detail Officers to respond to priority 911 call situations within the Area without requiring a credit from OPSE.
10. Collect and review all trip sheets and time sheets.
11. The FQMD Administrator or designee, shall give written approval or disapproval of each time sheet by the end of the workday every Tuesday.
12. Notify OPSE of scheduled hours/shifts not actually worked by a Detail Officer by timely submitting approved time sheets and by making any and all corrections to the timesheets within one (1) pay period.
13. FQMD representatives, including the FQMD's Administrator and the Officers of the Security and Enforcement Committee, shall not have any supervision or authority over the manner in which the Detail Officers perform their police or Detail Officer duties. The FQMD's Administrator shall monitor the Detail Officers' adherence to Post Instructions, the location of the Detail Officers and/or that of the vehicle used by the Detail Officers, and all App calls received; coordinate the Detail Officers' clocking in and out, assignment of Post Instructions, assignment of a vehicle and other equipment for their shift; and monitor Detail Officer response time to App calls. The FQMD Executive Director and FQMD Administrator are to work with the 8th District Commander regarding deployment decisions.
14. Have a FQMD representative attend weekly 8th District MAX meetings, to provide statistics and other information to the 8th District Commander and/or the Commander 's designee, and receive feedback from the Commander of the NOPD 8th District and NOPD 8th District Shift Supervisors on the performance of the Detail Officers and their suggestions for revising the Patrol Plan.
15. Review the status of the Supplemental Police Patrol Program and/or the Patrol Plan during meetings of the FQMD Board of Commissioners and the Security and Enforcement Committee.
16. Gather information from businesses, service workers, and residents as to their perception of the performance, effectiveness, and attendance of the Detail Officers and the impact the Supplemental Police Patrol Program is having on public safety, and provide feedback to the Parties and the NOPD 8th District Commander on the public's perception of the performance, effectiveness, and attendance of the Detail Officers.
17. Maintain and provide fuel for Supplemental Police Patrol Program vehicles.
18. Through OPSE, retain the services of off-duty NOPD shift supervisors, or their equivalent to perform duties that include, but are not limited to:
 - a. Check the status and review of all incident reports, arrest reports and/or Use of

Force reports filed by a Detail Officer.

- b. Weekly review Detail Officer trip sheets and provide constructive feedback to the Detail Officers and the FQMD Administrator.

19. Report any complaints or concerns to the City relative to the any acts or omission related to the obligations of the Parties, as set forth herein.

20. Agree and acknowledge that the duties of the shift supervisors and/or their equivalent shall not be expected to exceed a total of 30 hours per week.

ARTICLE II -THE CITY'S OBLIGATIONS

A. Administration. The City will:

1. Administer this Agreement through the Mayor's Office, unless otherwise set forth herein (the "**Department**");

2. Provide the FQMD with any documents deemed reasonably necessary for the FQMD's performance of any work required under this Agreement;

3. Provide access to personnel to discuss the required services during normal working hours, as reasonably requested by the FQMD; and

B. Obligations of the City, through OPSE. In return for FQMD fulfilling the obligations set forth herein, including FQMD providing funds to OPSE, the City, through the Director of OPSE, hereby agrees to the following:

1. Use its best efforts to schedule off-duty NOPD officers (the "**Detail Officers**") as needed to fill all of the hours and/or patrol shifts listed in FQMD's Patrol Plan for the Area (the "**Patrol Plan**"), which may be modified by FQMD, as set forth herein, by FQMD delivering a revised Patrol Plan to the Director of OPSE at least fourteen (14) days prior to the beginning of the patrol week in which the revised Patrol Plan for the Area will be implemented.

2. Require OPSE Detail Coordinators to inform all Detail Officers that supervisory authority over the manner in which they perform as a police officer during their detail work/Patrol Shift rests with the Commander of the NOPD 8th District, or the Commander's designee, though Detail Officers are expected to abide by general directions from OPSE.

3. Require OPSE Detail Coordinators to inform all Detail Officers of the following:

- a. To report for duty to the FQMD Office at the NOPD 8th District police station to receive a handout that lists their work assignment and/or directives for the shift, including their assigned Patrol Zone within the Area ("**Patrol Zone**"), the standard crimes and/or violations they should focus upon, and the standard instructions for their patrol duties ("**Post Instructions**").
- b. To receive vehicle keys and equipment needed for the shift from the FQMD's Administrator.
- c. To receive additional directions and instructions from the NOPD 8th Shift Supervisor.
- d. To perform the assignments and obey the directions and instructions for performing their detail work in the Area given by the NOPD 8th District Shift Supervisor, or his designee.

- e. To report for duty on or before the time scheduled for their patrol shift, but if the Detail Officer is working a patrol shift in the Area for the first time, to report for duty fifteen (15) minutes early to receive equipment and training from the NOPD 8th District Shift Supervisor on the New Orleans City Code ordinances pertinent to patrolling in the Area as well as on handling public safety situations that are specific to a tourist-dense French Quarter.
- f. If the Detail Officer is assigned to patrol in a vehicle, to place NOPD- approved FQMD magnetic decals on the vehicle.

4. Provide the following management duties for the Detail Officers and/or the Patrol Plan/revised Patrol Plan:

- a. Seven (7) days in advance of a patrol week, supplemented as necessary, provide the Commander of the NOPD 8th District and the FQMD a Deployment Schedule (the "**Deployment Schedule**") that conforms to the Patrol Plan for the Area which includes the name, contact information, employee identification number, work schedule and work assignment (area of patrol) of each Detail Officer assigned to work in the Area.
- b. Seven (7) days in advance of a patrol week, supplemented as necessary, provide the Commander of the NOPD 8th District a list of the officer pool for each Patrol Shift on the Deployment Schedule which includes the name, contact information and employee identification number of standby Detail Officers.
- c. Provide each Detail Officer a copy of the FQMD-supplied Post Instructions specific to the patrol identification number for the detail work duty the Officer signed up to work.
- d. If a Detail Officer scheduled to work on a specific date and time cancels in advance, use best efforts to replace that off-duty officer with another Detail Officer to fill the personnel vacancy in the Deployment Schedule.
- e. Be available on call by telephone twenty-four (24) hours a day, seven (7) days a week, to respond to a Detail Officer cancellation and use best efforts to fill the personnel vacancy created in the Deployment Schedule so that the Deployment Schedule is fully staffed.
- f. Periodically perform random inspections of the Detail Officers performing their detail work duty in the Area in order to ensure quality control.

5. Use the *NOPD Police Manual* and the *OPSE Policies and Procedures for Customers and Officers* to guide the relationships, conduct, and actions of the Detail Officers and state the policies of OPSE.

6. Require OPSE Detail Coordinators to remind all Details Officers that they are restricted from entering an alcoholic beverage outlet ("**ABO**") venue in accordance with NOPD policy.

7. Require OPSE Detail Coordinators to inform all Detail Officers that they are prohibited from providing escort services while performing detail work in the Area.

8. Invoice FQMD for the detail hours that each Detail Officer worked during the invoicing period in accordance with the current tier-2 and tier-3 rates of pay set forth on <http://www.nola.gov/opse/>, unless another rate of pay has been approved in writing by the FQMD for a specific date and/or patrol shift on a specific date, and applying any applicable rebates.

9. Invoice FQMD for the performance of the duties set forth under Article I Section 18 of this Agreement.

10. Provide FQMD with a monthly detail report that provides the name, rank and employee identification number of each Detail Officer who worked during the month, along with the date(s), hours/shift(s), and patrol identification number(s) that the Detail Officer worked.

11. Provide FQMD with a monthly detail report that provides the name of Shift Supervisor, along with the date(s) and hours/shift(s) that the Shift Supervisor worked.

12. Pay Detail Officers and the Shift Supervisor timely for all timesheets approved by FQMD.

C. Obligations of the City, through the Superintendent of the NOPD. In return for FQMD fulfilling the obligations set forth in Article I of this Agreement, including FQMD providing funds to the City, through OPSE, the City, through the Superintendent of the NOPD, hereby agrees to the following:

1. The off-duty Detail Officers deployed in the Area pursuant to this Agreement shall not be a replacement for the number of on-duty NOPD officers deployed to and/or used in the Area during the Supplemental Police Patrol Program term set forth in this Agreement.
2. Require, at all times during this Agreement, on-duty, uniformed NOPD officers in marked NOPD vehicles to continue to patrol in the Area, above and beyond any off-duty officers serving as Detail Officers as contemplated herein.
3. Require on-duty NOPD officers, and not Detail Officers, to transport persons arrested during the Supplemental Police Patrol Program term set forth in this Agreement, including any arrested by an off duty Detail Officer assigned to patrol in the Area, with the exception that, while on-duty NOPD officers will assist in transporting a subject injured during an arrest made by a Detail Officer, direct support with medical treatment and booking shall remain the primary responsibility of the arresting officer.
4. Allow all Detail Officers to wear their official NOPD baseball cap while patrolling to identify the officer as a Detail Officer.
5. If a Detail Officer is assigned to vehicle patrol in a NOPD vehicle, allow the Detail Officer to place NOPD-approved FQMD decals on the vehicle to identify the vehicle as one being operated by a Detail Officer.
6. Require on-duty NOPD officers, and not Detail Officers, to respond to all non-priority calls for service in the Area.
7. Allow a Detail Officer to provisionally respond to an emergency call for service in their assigned Patrol Zone with the understanding and agreement that the 8th

District Shift Supervisor shall promptly assign an on-duty police officer to relieve the Detail Officer so the Detail Officer may promptly return to proactively patrolling in their assigned Patrol Zone.

D. Obligations of the City, through the Commander of the NOPD 8th District. In return for FQMD fulfilling its obligations under this Agreement, including FQMD providing funds to the City, through OPSE, the City, through the Commander of the NOPD 8th District, hereby agrees to the following:

1. Provide a rent-free office in the 8th District Station for the FQMD to administer the Supplemental Police Patrol Program (the "Office") and for the FQMD Administrator to monitor App calls and vehicle and/or Detail Officer movement.
2. Require all Detail Officers who report for duty to report to the assigned office in the NOPD 8th District station to clock in and obtain Post Instructions, a vehicle assignment and key, and equipment needed for their shift.
3. Provide weekly to the FQMD's Administrator and Executive Director a 24 hour a day-7 day a week schedule of the on-duty NOPD 8th District Shift Supervisors or their designees, who, in addition to their 8th District duties, shall be assigned to perform the following duties for the Supplemental Police Patrol Program to the FQMD:
 - a. Provide Detail Officers instruction regarding emerging situations, wanted suspects, Vieux Carré-specific ordinances, and handling public safety situations that are specific to a tourist-dense French Quarter.
 - b. Handle all vehicle accidents that involve a Detail Officer, including ensuring that NOPD Accident Procedures are followed and all paperwork is properly completed.
 - c. Go to the scene of any major incident involving a Detail Officer.
 - d. Provide information and address the situation as necessary when a complaint is made against a Detail Officer.
 - e. Provide Detail Officers with citation books.
 - f. Ensure that each summons related to an arrest made by a Detail Officer is processed in a timely manner.
 - g. Dispatch an on-duty officer if available to respond to a Supplemental Police Patrol Program App call when there is no Detail Officer available to respond to the App call.
 - h. Provide coordination as is necessary between the Commander of the 8th District and the FQMD's Administrator and Detail Officers.
4. Provide supervision for all Detail Officers who are scheduled and deployed by OPSE to perform detail work in the Area consistent with *OPSE Policies and Procedures for Customers and Officers*.

5. Assign on-duty, uniformed NOPD officers in marked vehicles to continue to patrol in the Area, above and beyond any off-duty officers serving as a Detail Officer as contemplated herein, at all times during this Agreement.

6. Assign all Detail Officers to duties in the Area. Assign at least one Detail Officer per day, and at least two (2) Detail Officers per evening shift to perform proactive patrol duties in Smart Car and/or other vehicles during this Agreement.

7. Require Detail Officers to perform the duties as directed on the weekly Deployment Schedule and Post Instructions with the exception that a Shift Supervisor may re-assign a Detail Officer to vehicle patrol in an NOPD patrol car due to inclement weather, or if a Supplemental Police Patrol Program vehicle is unavailable.

8. Unless the Patrol Plan is modified in writing, or due to inclement weather, assign all Detail Officers working in the Area to vehicle patrol, with specialized Smart Car vehicles being the primary vehicle for this patrol.

9. Authorize a Detail Officer to leave their assigned patrol area to respond to an emerging situation in the Area, such as a crime in progress or a pursuit of a person by another NOPD officer.

10. Allow a Detail Officer to wear an official NOPD baseball cap while patrolling in the Area to identify the officer as a Detail Officer.

11. Require on-duty NOPD officers, and not Detail Officers, to respond to non-priority calls for service.

12. Require on-duty NOPD officers to transport persons arrested during the Supplemental Police Patrol Program term set forth in this Agreement, including any arrested by an off-duty Detail Officer assigned to patrol in the Area, with the exception that, while on-duty NOPD officers shall assist in transporting a subject injured during an arrest made by a Detail Officer, direct support with medical treatment and booking shall remain the primary responsibility of the arresting officer.

13. Inform all Detail Officers that supervisory authority over detail work/Patrol Shift rests with the Commander of the NOPD 8th District and the NOPD 8th District Shift Supervisor, though Detail Officers are expected to abide by general directions from OPSE and follow their Post Instructions.

14. Restrict Detail Officers from entering an ABO venue in accordance with NOPD policy.

15. Require each Detail Officer assigned to vehicle patrol to place NOPD approved FQMD magnetic decals on the NOPD vehicle to identify the vehicle as one being operated by Detail Officer.

16. Ensure that Detail Officers are trained to handle public safety situations that are specific to a tourist-dense French Quarter and educated on the City Code ordinances that are pertinent to patrolling in the Area.

17. Unless expressly or impliedly pre-empted by a provision in this Agreement, use the *NOPD Police Manual* and the *OPSE Policies and Procedures for Customers and Officers* to guide the relationships, conduct, and actions of the Detail Officers and their on-duty officer supervisors.

18. Prohibit Detail Officers from providing escort services.

19. The off-duty Detail Officers deployed in the Area pursuant to this Agreement shall not be a replacement for the number of on-duty NOPD officers deployed to and/or used in the Area during the Supplemental Police Patrol Program term set forth in this Agreement.

20. Allow a Detail Officer to provisionally respond to an emergency call for service in their assigned Patrol Zone with the understanding and agreement that the 8th District Shift Supervisor shall promptly assign an on-duty police officer to relieve the Detail Officer so the Detail Officer may promptly return to proactively patrolling in their assigned Patrol Zone.

ARTICLE III – FUNDING OR COMPENSATION

A. **Maximum Amount.** The maximum amount funded or payable by the City under this Agreement is \$0.

ARTICLE IV- DURATION AND TERMINATION

A. **Term.** The term of this agreement shall be for 6 months from the Effective Date through June 30, 2021.

B. **Extension.** The City can opt to extend the term of this Agreement for another 6-months provided that the Parties mutually agree in writing. In order to extend the Agreement beyond 1-year, the Parties agree and acknowledge that the City Council must approve it as a multi-term cooperative endeavor agreement and that additional funding, if required, is allocated by the City Council.

C. **Termination for Cause.** Any Party may terminate this Agreement immediately for cause by sending written notice to the other Parties. “Cause” includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City’s Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

D. **Termination for Non-Appropriation.** This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

ARTICLE V - INSURANCE

A. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, FQMD will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with FQMD’s scope of work under the Agreement.

If FQMD maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits

maintained by the FQMD. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:

1. **Minimum Requirements:**

- a. Workers' Compensation & Employers Liability Insurance in compliance with the applicable Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$500,000.
- b. Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, abuse and molestation and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.
- c. Automobile Liability Insurance with limits of liability of not less than \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.
- d. Crime Insurance (Fidelity Bond) to include but not limited to employee dishonesty, computer crime, misappropriation of funds, forgery or alteration with limits of not less than \$120,000.
- e. Important: The obligations for the FQMD to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the FQMD from any liability incurred as a result of their activities/operations in conjunction with the Contractors obligations and/or Scope of Work.

2. **Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

- a. **Additional Insured Status:** The FQMD and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this Agreement; General liability insurance coverage can be provided in the form of an endorsement to the Contractors insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

The FQMD shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans as Certificate Holder and be delivered via U.S. Mail to 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

The Additional Insured box shall be marked "Y" or Commercial General Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.

- b. Primary Coverage: For any claims related to this agreement, the Contractors insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractors coverage.
- c. Claims Made Policies: If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, FQMD must purchase "extended reporting" coverage for minimum of 3 years after the termination of this Agreement.
- d. Waiver of Subrogation: The FQMD and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this Agreement.
- e. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, expire or altered except without prior notice to the City of no less than 30 days.
- f. Acceptability of Insurers: Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

A. The FQMD will provide the City's Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112 – Ref.: FQMD – Supplemental French Quarter Security) within 14 calendar days of the Effective Date and at any other time at the City's request the following documents:

- 1. Proof of coverage for each policy of insurance required by this Agreement; and
- 2. Copies of all policies of insurance, including all policies, forms, and endorsements.

B. Without notice from the City, the FQMD will:

- 1. Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;
- 2. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement;
- 3. Notify the City's Risk Manager in writing within 48-hours of its receipt of any notice of non-renewal, cancellation, or reduction in coverage or limits affecting any policy of insurance maintained under this Agreement; and

C. Special Risks or Circumstances: The City shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

ARTICLE VI - NON-DISCRIMINATION

A. The Parties agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act

of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

ARTICLE VII - INDEPENDENT CONTRACTOR

A. Independent Contractor Status. The FQMD is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.

B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the FQMD, as an independent contractor as defined in La. R.S. 23:1021(7), for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the FQMD will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

C. Exclusion of Unemployment Compensation Coverage. The FQMD, as an independent contractor, is being hired by the City under this Agreement for hire and defined in La. R.S. 23:1472(12)(E) and neither the FQMD nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) the FQMD has been and will be free from any control or direction by the City over the performance of the services covered by this contract; (b) the services to be performed by the FQMD are outside the normal course and scope of the City's usual business; and (c) the FQMD has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. Waiver of Benefits. The FQMD, as an independent contractor, will not receive from the City any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

ARTICLE VIII - NOTICE

A. In General. Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. To the City:

Mayor's Office
Attn.: Josh Cox
City of New Orleans
1300 Perdido Street, 2nd Floor
New Orleans, LA 70112

&

Sunni J. LeBeouf, City Attorney
City of New Orleans
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To FQMD:

Christian Pendleton, Chair
400 North Peters Street, Suite 206
New Orleans, LA 70130

&

Karley D. Frankic, Executive Director
400 North Peters Street, Suite 206
New Orleans, Louisiana 70130

B. **Effectiveness**. Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

C. **Notification of Change**. Each Party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

ARTICLE IX - ADDITIONAL PROVISIONS

A. **Amendment**. No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both Parties to this Agreement.

B. **Assignment**. This Agreement and any part of the Parties' interest in it are not assignable or transferable without the City's prior written consent.

C. **Audit and Other Oversight**. The FQMD will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the Party to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests is a material breach of the Agreement. In signing this Agreement, FQMD agrees that they are subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena. The Legislative Auditor of the state of Louisiana shall have the option of auditing all records and accounts which relate to this Agreement. The Parties shall retain all documents and records pertaining to this Agreement for three (3) years.

D. **Choice of Law**. This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.

E. **Construction of Agreement**. This Agreement has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against the City or the FQMD on the basis of which Party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

F. **Convicted Felon Statement**. The FQMD complies with City Code § 2-8(c). No principal, member, or officer has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

G. Entire Agreement. This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

H. Jurisdiction. The Parties consent and yield to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of the residence of the Contractor.

I. Limitations of the City's Obligations. The City has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

J. No Third-Party Beneficiaries. This Agreement is entered into for the exclusive benefit of the Parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

K. Non-Solicitation Statement. The FQMD has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The FQMD have not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Agreement.

L. Non-Waiver. The failure of any Party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

M. Prohibition on Political Activity. None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

N. Remedies Cumulative. No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

O. Severability. Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

P. Survival of Certain Provisions. All representations and warranties and all obligations concerning record retention, inspections, audits, remedies, jurisdiction, and choice of law, shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

Q. Terms Binding. The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

ARTICLE X - ELECTRONIC SIGNATURE AND DELIVERY

The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

[SIGNATURES CONTAINED ON NEXT PAGES]

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the City and FQMD through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

BY: _____

LATOYA CANTRELL, MAYOR

Executed on this 8TH of January, 2021.

FORM AND LEGALITY APPROVED:

Law Department

By: _____

Printed Name: _____

FRENCH QUARTER MANAGEMENT DISTRICT

BY: _____

CHRISTIAN PENDLETON, CHAIR

[END OF AGREEMENT]