

COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE CITY OF NEW ORLEANS
AND
DOWNTOWN DEVELOPMENT DISTRICT OF THE CITY OF NEW ORLEANS
FOR
CODE ENFORCEMENT INSPECTIONS AND TITLE RESEARCH

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 Downtown Development District for the City of New Orleans, represented by Davon Barbour, its President & Chief Executive Officer (the “**DDD**”). The City and the DDD may sometimes each be referred to as a “**Party**,” and collectively, as the “**Parties**.” The Agreement is effective as of the date of execution by the City (the “**Effective Date**”).

RECITALS

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

WHEREAS, the DDD is a special taxing district located in the City, created by an act of the State Legislature in 1974 under the provisions of La. R.S. 33:2740.3, as amended, and has the power and authority to enter into this Agreement and any other documents contemplated herein and to carry out the terms hereof under applicable law, which principal address is located at 201 St. Charles Ave. Suite 3912, New Orleans, LA 70170;

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 desires to partner with the DDD to provide certain City inspection and title research functions relating to properties located within the prescribed boundaries set forth in La. R.S. 33:2740.3(A) for the DDD; and

NOW THEREFORE, the City and the DDD, each having the authority to do so, agree as

follows:

ARTICLE I - THE DDD'S OBLIGATIONS

A. The DDD will:

1. Provide the City with the amount of funds detailed below in Article III to hire two staff persons who will provide City-based and -authorized services to the properties within the geographic boundaries of the DDD.
2. Cooperate with the City and any contractors providing services to the City as needed in relation to the Services.

ARTICLE II - THE CITY'S OBLIGATIONS

A. The City will:

1. Provide administration of the Agreement through the Department of Code Enforcement.
2. Hire, assign work to, and supervise two staff members whose services will be focused on the properties within the geographic boundaries of the DDD. One staff member shall be an inspector and the other shall be a title researcher.
3. In the event that all work within the geographic boundaries of the DDD is temporarily complete, the two designated staff persons may be assigned work in other areas as needed.
4. Provide training to DDD employees and contractors on Sections 26 and 66 of the Code of Ordinances. The initial training will take place within 90 calendar days of the execution of this Agreement. Follow-up training will be provided at DDD's request, but no more frequently than twice a year.
5. Make representatives of the Department of Code Enforcement available to (i) meet with DDD staff as reasonably requested from time to time during the Term of this Agreement, and (ii) attend one meeting of the DDD Board of Commissioners per quarter, to report on and discuss Code enforcement efforts within the geographic boundaries of the DDD. The DDD will provide the City and the Department of Code Enforcement at least 30 days' notice of the Board meeting at which it desires Department of Code Enforcement attendance.
6. Prior to each Board meeting designated for Department of Code Enforcement attendance (see paragraph 5), prepare and submit, no fewer than seven calendar days before that Board meeting, a written report to the DDD Board of Commissioners regarding Code enforcement efforts within the geographic boundaries of the DDD.

7. At the end of the Term (as detailed in Article IV below), upon the DDD's request, provide to the DDD an accounting of how the funds attributable to this Agreement were spent.

ARTICLE III – COMPENSATION

A. **Amount.** The DDD will transfer to the City funds in the amount of One Hundred Forty-One Thousand Dollars Even (\$141,000.00) (the “**DDD Funds**”), upon execution of this Agreement.

B. **Use of DDD Funds During Term of the Agreement.** The City will use the DDD Funds to pay the salaries (including fringe benefits and other related expenses) of the two staff members described in Article II. During the Term of the Agreement (as detailed in Article IV below), any unused DDD Funds will be retained by the City, within a Department of Code Enforcement budget.

C. **Use of DDD Funds After Expiration or Termination of the Agreement.** At the end of the Term, or if the Agreement is terminated earlier pursuant to Article IV(C) or Article IV(D), the DDD shall have the option of (1) allowing the City to roll over any unused DDD Funds for future use in a mutually agreeable endeavor between the parties, to be memorialized in a new cooperative endeavor agreement or an amendment to this Agreement, or (2) requiring the City to return such unused DDD Funds to the DDD. If an agreement has not been reached, in accordance with the preceding sentence, to roll over the unused DDD Funds, then the City shall return such unused DDD Funds to the DDD within 30 days of the expiration or earlier termination of this Agreement.

ARTICLE IV - DURATION AND TERMINATION

A. **Term.** The term of this Agreement shall be for one (1) year from the Effective Date (the “**Term**”).

B. **Extension.** The City and the DDD can jointly agree to extend the Term of this Agreement provided that the City Council approves the Agreement as a multi-term cooperative endeavor agreement and that additional funding, if required, is allocated by the City Council.

C. **Termination for Convenience.** The City may terminate this Agreement at any time during the Term of the Agreement by giving the DDD written notice of the termination at least thirty (30) calendar days before the intended date of termination.

D. **Termination for Cause.** The City may terminate this Agreement for cause by sending written notice to the DDD. “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 thirty (30) days from the date on which the original written notice of termination for cause was sent to the challenging party, and no further notice will be required.

ARTICLE V - INDEMNITY

A. In General. To the fullest extent permitted by law, the DDD will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the DDD and its agents or employees while engaged in or in connection with the discharge or performance of any Services under this Agreement, and for any and all claims and/or liens for labor, services, or materials furnished to the DDD in connection with the performance of work under this Agreement.

B. Limitations. The DDD's indemnity does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither the DDD nor any of its agents or employees contributed to such gross negligence or willful misconduct. Furthermore, it is understood and agreed that the two employees described in Article III shall be employees of the City and that the DDD shall have no responsibility or liability arising from, with respect to or in any manner related to, any acts or omissions of those City employees.

C. Independent Duty. The DDD has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the DDD is ultimately absolved from liability.

D. Expenses. Notwithstanding any provision to the contrary, the DDD shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

ARTICLE VI - NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the DDD (1) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the DDD's employees are treated during employment

without regard to their race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Agreement, the DDD will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the DDD in any of the DDD's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the DDD. The DDD 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.

C. Incorporation into Subcontracts. The DDD will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

D. Termination for Breach. The City may terminate this Agreement for cause if the DDD fails to comply with any obligation in this Article IX, which failure is a material breach of this Agreement.

ARTICLE VII- FORCE MAJEURE

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by the City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, including threats or incidents involving same; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of the City, provided such event was not caused by the negligence or misconduct of the City, by the failure of the City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article XI, the City must provide notice in writing to the DDD stating: (1) a Force Majeure event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended.

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
 - a. Suspend this Agreement for a duration to be set by the City, not to exceed ninety (90) days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the DDD must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or
 - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective upon notice to the DDD and without any further compensation due.
2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for Services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

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:

City of New Orleans
Code Enforcement and Hearings Bureau
1340 Poydras Street, Suite 1100
New Orleans, LA 70112
Attn: Thomas Mulligan

&

City of New Orleans
Law Department
1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To the DDD:

Davon Barbour
President & CEO
Downtown Development District
201 St. Charles Avenue, Suite 3912
New Orleans, LA 70170

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 DDD's interest in it are not assignable or transferable without the City's prior written consent.

C. Audit and Other Oversight. The DDD will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the DDD 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, the DDD agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

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. Neither Party will be deemed to have drafted this 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 DDD 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 DDD complies with City Code § 2-8(c) and no principal, member, or officer of the DDD has, within the preceding five (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 DDD consents and yields 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 DDD.

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-Exclusivity.** This Agreement is non-exclusive and the DDD may provide services to other clients, subject to the City's approval of any potential conflicts with the performance of this Agreement, and the City may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

L. **Non-Solicitation Statement.** The DDD 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 DDD has 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.

M. **Non-Waiver.** The failure of either 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.

N. **Ownership of Records.** Upon final payment, all data collected and all products of work prepared, created, or modified by the DDD in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings or other such material, regardless of form and whether finished or unfinished, but excluding the DDD's personnel and administrative records and

any tools, systems, and information used by the DDD to perform the Services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (collectively, “**Work Product**”) will be the exclusive property of the City and the City will have all right, title, and interest in any Work Product, including without limitation the right to secure and maintain any copyright, trademark, or patent of Work Product in the City’s name. No Work Product may be reproduced in any form without the City’s express written consent. The City may use and distribute any Work Product for any purpose the City deems appropriate without the DDD’s consent and for no additional consideration to the DDD.

O. Prohibition of Financial Interest in Agreement. No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of the DDD, shall render this Agreement voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to the DDD pursuant to this Agreement without regard to the DDD’s otherwise satisfactory performance of the Agreement.

P. 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.

Q. 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.

R. 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 shall remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

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

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

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 PAGE.]

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

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

CITY OF NEW ORLEANS

By: [Signature] for
LATOYA CANTRELL, MAYOR

Executed on this 15th of September, 2022

FORM AND LEGALITY APPROVED:

Law Department

By: [Signature]
Printed Name: Tracy Lyle

DOWNTOWN DEVELOPMENT DISTRICT

OF THE CITY OF NEW ORLEANS

By: [Signature]
DAVON BARBOUR, PRESIDENT & CHIEF EXECUTIVE OFFICER

FEDERAL TAX I.D. [Redacted]