

COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE NEW ORLEANS REGIONAL TRANSIT AUTHORITY
AND
AUDUBON NATURE INSTITUTE, INC.
FRENCH MARKET STREETCAR STATION IMPROVEMENTS

THIS COOPERATIVE ENDEAVOR AGREEMENT (the “**Agreement**”) is entered into by and between the New Orleans Regional Transit authority, represented by Lona Edwards Hankins, CEO (the “**RTA**”), and Audubon Nature Institute, Inc., represented by Michael J. Sawaya, President and Chief Executive Officer, (Audubon). The RTA and Audubon 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 RTA (the “**Effective Date**”).

RECITALS

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

WHEREAS, Audubon is a Louisiana non-profit corporation, the principal address of which is located at 6500 Magazine Street, New Orleans, LA 70118;

WHEREAS, pursuant to Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, the RTA 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, RTA owns and operates the Riverfront Streetcar line and associated stops, including the French Market Station (the “**Station**”);

WHEREAS, the RTA has the authority to enter into this Agreement as evidenced by its governmental purpose to plan, design, lease as lessee, purchase, acquire, hold, own, construct, improve, have an equity stake in, finance, maintain, and administer a transit system within the metropolitan area to operate same;

WHEREAS, For the benefit of the Governor Nicholls Wharf Redevelopment Project, Audubon desires to undertake certain station-area improvements at the Station, at Audubon’s sole cost, to enhance passenger access and appearance in coordination with RTA service and safety requirements;

WHEREAS, the Parties agree that these improvements will advance a valid public purpose by improving passenger safety, accessibility, and the customer experience without cost to RTA;

and;

WHEREAS, the Parties desire to set forth their respective obligations regarding the design, coordination, implementation, and acceptance of the improvements.

NOW THEREFORE, the RTA and Audubon, each having the authority to do so, agree as follows:

ARTICLE I – AUDUBON’S OBLIGATIONS

A. Audubon will be responsible for and will provide the following:

- a. **Project Scope.** Audubon and/or Audubon’s contractor shall provide all labor, materials, equipment, tools, supervision, and incidentals necessary to design, permit, construct, clean, prepare, and recoat the specified Station elements at its sole cost and expense (the “Improvements”), in strict accordance with the Society for Protective Coatings (SSPC) standards, manufacturer specifications, and RTA standards. Details of the Improvements are provided in Exhibit A - Scope of Work, Specifications, and Safety.
- b. **Design Submittals and Approvals.** Audubon shall submit draft and final design documents, including plans, specifications, and traffic control plans, to RTA for written approval. RTA's review shall focus on safety, operations, accessibility, and branding. Audubon shall endeavor to incorporate all RTA comments in the design of the Improvements. Audubon shall obtain RTA’s written approval, which shall not be unreasonably withheld, of the final design documents before proceeding to construction.
- c. **Permits; Compliance.** Audubon shall obtain all required governmental permits and approvals and comply with all applicable laws, including the Americans with Disabilities Act (ADA).
- d. **Construction Coordination; Access; Closures.**
 - i. *Work Windows & Notice.* Audubon shall coordinate all work with RTA and provide advance written notice as specified in Exhibit A and shall complete an RTA Right of Way permit prior to the start of construction.
 - ii. *Continuity of Streetcar Operations.* RTA shall endeavor to maintain streetcar service to the French Market Station to the greatest degree possible. Audubon shall coordinate with RTA in the schedule and phasing of the Improvements to minimize disruptions to streetcar service.
 - iii. *Safety & Protection.* Audubon shall implement all safety measures, fencing, and flagging as required by RTA’s rail safety protocols.

- iv. **Site Access.** Access is granted only during RTA-approved windows, as will be spelled out in a RTA Right of Way permit to be completed by Audubon, and is subject to RTA safety briefings.
 - e. **Standards; Branding.** All materials and colors shall conform to RTA's current design/branding standards as detailed in Exhibit A and subject to RTA approval.
 - f. **Contracting.** Audubon shall contract only with qualified, licensed contractors to complete the Improvements.
 - g. **Record Drawings & Closeout.** Upon completion of the Improvements, Audubon shall deliver as-built drawings as appropriate, warranties, and a request for RTA's written acceptance of the Improvements. Any defects or deficiencies in the Improvements shall be immediately remedied by Audubon prior to written acceptance.
 - h. **Warranty.** Audubon shall ensure that its contractor provides a one-year warranty to RTA from the date of RTA's written acceptance against defects in materials and workmanship. Any deficiency or failure to provide the warranty to RTA shall be the responsibility of Audubon. Any defects shall be promptly corrected at no cost to RTA.
- A. **Insurance.** Audubon shall require its contractors to maintain, at a minimum:
- i. Commercial General Liability: \$2,000,000 per occurrence / \$2,000,000 aggregate.
 - ii. Automobile Liability: \$1,000,000 Combined Single Limit.
 - iii. Workers' Compensation: As required by Louisiana statute.
- a. Policies shall name RTA as an additional insured. Certificates must be delivered to RTA prior to any work commencing.

ARTICLE II - RTA OBLIGATIONS

A. The RTA will:

- 1. Administration; Reviews.** RTA will review design documents, specifications, and Right of Way permit applications in a timely manner and provide written comments focused on safety, durability, operations, accessibility, and branding.
- 2. Coordination.** RTA will coordinate with Audubon on reasonable access and will provide necessary safety briefings.
- 3. Authorization to Engage in Improvements.** Provided all necessary approvals and permits are obtained, RTA authorizes Audubon to undertake the Improvements on and to the RTA Station.

ARTICLE III – NO COMPENSATION

A. **No Compensation.** RTA shall have no financial obligation to design or construct the improvements that are the subject of this Agreement. Audubon and/or any other entity affiliated with Audubon to complete the improvements are responsible for any costs, fees, or other monetary amounts due to design or construct the improvements to the Station associated with this Agreement.

ARTICLE IV – OWNERSHIP; MAINTENANCE

A. **Ownership.**

1. RTA owns the Riverfront Streetcar line and Station and will continue to own them throughout the term of this Agreement.

2. Any and all portions of the Improvements, including without limitation, any improvements within the streetcar trackway and the boundaries of the Station platform will become the property of RTA upon RTA's written acceptance of the Improvements. Audubon agrees to take any reasonable steps necessary to ensure compliance with this provision.

B. **Maintenance.** After acceptance, RTA shall have the sole and exclusive obligation to maintain the Improvements within the streetcar trackway and within the boundaries of the Station platform. Notwithstanding the above, Audubon's contractor shall remain responsible for warranty corrections during the warranty period. Neither Audubon nor its contractor shall have any maintenance or upkeep obligations with respect to the Improvements after the warranty period is complete.

ARTICLE V - DURATION AND TERMINATION

A. **Term.** This Agreement is effective until the Project is accepted and the warranty period expires

B. **Termination for Cause.** RTA may terminate this Agreement for cause by sending written notice to Audubon. "Cause" includes without limitation any failure, after reasonable notice and opportunity to cure, to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement.

ARTICLE VI - INDEMNITY

A. **In General.** To the fullest extent permitted by law, Audubon will indemnify, defend, and hold harmless RTA, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "RTA Indemnified Parties") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the RTA Indemnified Parties for loss of life or injury or damage to persons or property to the extent caused by the legal fault of Audubon, its agents or employees while engaged in or in connection with the discharge or performance of its obligations under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to any respective party in connection with the performance of work under this Agreement. Nothing herein shall be construed as requiring Audubon to indemnify the RTA indemnified parties against their own legal fault.

To the fullest extent permitted by law, RTA will indemnify, defend, and hold harmless Audubon Nature Institute, Inc., Audubon Commission, and their agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the “**Audubon Indemnified Parties**”) from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Audubon Indemnified Parties for loss of life or injury or damage to persons or property to the extent caused by the legal fault of RTA, its agents or employees while engaged in or in connection with the discharge or performance of any of its obligations under this Agreement. Nothing herein shall be construed as requiring RTA to indemnify the Audubon indemnified parties against their own legal fault.

ARTICLE VII - INDEPENDENT CONTRACTOR

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

B. Exclusion of Worker’s Compensation Coverage. The RTA will not be liable to Audubon, as an independent contractor as defined in La. R.S. 23:1021(6), 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 Audubon will not be considered an employee of the RTA for the purpose of Worker’s Compensation coverage.

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

D. Waiver of Benefits. Audubon, as an independent contractor, will not receive from the RTA 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 RTA 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 RTA:

Chief Executive Officer
2817 Canal Street
New Orleans, Louisiana 70119

&
Chief Legal Officer
2817 Canal Street
New Orleans, Louisiana 70119

2. To Audubon:

NAME AND ADDRESS OF POINT OF CONTACT FOR PARTY
REFERENCE TO RECEIVE NOTICES

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 is not assignable or transferable without the consent of both parties.

C. 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.

D. 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 RTA or Audubon 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.

E. Employee Verification. Audubon swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to Audubon a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in Audubon being ineligible for any public contract for a period of 3 years from the date the violation is discovered. Audubon further acknowledges and agrees that it shall be liable for any additional costs incurred

by the RTA occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. Audubon will provide to the RTA a sworn affidavit attesting to the above provisions if requested by the RTA. The RTA may terminate this Agreement for cause if Audubon fails to provide such the requested affidavit or violates any provision of this paragraph.

F. 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.

G. Exhibits. The following exhibits will be and are incorporated into this Agreement:

Exhibit A – Scope of Work

H. Jurisdiction. Audubon 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 Audubon.

I. Limitations. The parties hereto shall have no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

J. No Expectation of Benefit or Special Treatment. Audubon swears that, as a result of the providing of the services or improvements that are the subject of this Agreement or otherwise, it has no expectation of benefit or special treatment with regard to other contracts or potential contracts with RTA.

K. 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..

L. Non-Solicitation Statement. Audubon 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. Audubon 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. All work product, including records, reports, documents, and other material delivered or transmitted to RTA by the Audubon, shall remain the property of the Audubon, and shall be returned by RTA to Audubon at termination or expiration of this Agreement upon request by Audubon. All work product, including records, reports, documents, or other material related to this Agreement and/or obtained or prepared by RTA in connection with performance of the services contracted for herein, shall remain the property of the RTA, and copies, upon request, shall be provided by RTA to Audubon at Audubon's expense at

termination or expiration of this Agreement. Audubon further agrees that any documents provided to RTA as part of the acceptance or close-out of the project, including as-built drawings and warranties, shall be owned by RTA, and such may be used or reproduced without any further notice or compensation to Audubon.

O. 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.

P. 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.

Q. 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.

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

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

ARTICLE X – COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement, but all of which, when taken together, shall constitute one and the same agreement.

ARTICLE XI - 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 RTA and Audubon, through their duly authorized representatives, execute this Agreement.

REGIONAL TRANSIT AUTHORITY

BY: _____
LONA EDWARDS HANKINS, CHIEF EXECUTIVE OFFICER

Executed on this _____ of _____, 202__

AUDUBON NATURE INSTITUTE, INC.

BY: _____
MICHAEL J. SAWAYA, PRESIDENT AND CHIEF EXECUTIVE OFFICER

FEDERAL TAX I.D.

Executed on this _____ of _____, 202__

[EXHIBIT A CONTAINED ON NEXT PAGES]

EXHIBIT A

SCOPE OF WORK OF IMPROVEMENTS, SPECIFICATIONS, AND SAFETY

1. **Sidewalk and Pedestrian Connection Improvements:** Providing ADA-compliant, slip-resistant connections from the passenger platform to the adjacent pedestrian path, maintaining RTA clearance envelopes for streetcars; stormwater management to avoid ponding or discharge toward streetcar tracks; including detectable warnings/edge delineation where required.
2. **Repainting Improvements:** Cleaning, preparing, and recoating Station shelter/components in RTA-approved colors and standards, meeting the following minimum requirements:
 - a. Setup, Safety, & Containment. Establish work-zone safety, containment, and environmental protections to prevent overspray, runoff, or damage to adjacent property; comply with all applicable safety regulations and RTA right-of-way rules. Coordinate access windows and any required Temporary Condition Operating Procedures (TCOP)/flagging .
 - b. Signage Removal & Protection. Carefully remove, protect, and catalog all signage and removable accessories prior to work; clean and reinstall after coatings cure.
 - c. Cleaning & Surface Preparation.
 - Pressure wash entire shelter to SSPC-SP-1 (Solvent Cleaning).
 - Hand-tool / power-tool clean failed coating areas to SSPC-SP-2 / SP-3; feather edges and remove rust/loose scale to achieve a sound substrate.
 - d. Coating System (or RTA-approved equal):
 - 1st Coat (Sealer/Prime): PPG Sealer, 2–3 mils DFT.
 - 2nd Coat (Intermediate): PPG Amerlock 400, 4–6 mils DFT.
 - 3rd Coat (Topcoat): PPG Urethane, 2–3 mils DFT RAL 6009 for exterior faces unless otherwise approved.
 - Roof Panels: Pressure wash and prep; apply sealer + topcoat; include A-frame roof supports.
 - e. Application Conditions & Quality. Apply per manufacturer instructions (temperature, humidity, dew point, recoat/curing intervals). Use containment as needed. Verify DFT each coat with calibrated gauges; correct nonconforming areas.

f. Submittals & Approvals. Provide product data sheets and SDS, application procedures, color/finish samples (physical chips), and any proposed “or-equal” substitutions for RTA written approval prior to ordering. Color/finish must receive written approval before application.

g. Cleanup & Site Restoration. Upon completion, remove all containment, debris, and temporary protections; legally dispose of wastes (no discharge to drains/river); restore the site to a clean, undamaged condition; clean and reinstall all signage; turn over DFT logs, batch numbers, care/maintenance instructions, and record documentation.

3. Deliverables: Draft and final design packages and specifications, traffic control plans, RTA Right of Way permit, as-built drawings for sidewalk and pedestrian access improvements.

4. Branding & Design Standards

- a. RTA’s current brand color palette and finish specifications.
- b. Requirement for physical samples for approval.
- c. Standards for graphics and protective coatings.

5. Work Windows & Notifications to RTA

- a. **Routine Work:** ≥ 14 days' notice.
- b. **Work Impacting Passenger Flow:** ≥ 30 days' notice with approved Traffic Control Plan.
- c. **Work Requiring Closure/Service Impact:** ≥ 45 days' notice with RTA-approved Closure Plan.
- d. All work is subject to daily safety briefings and RTA right-of-way rules, and all work requires submission of an RTA Right of Way permit.