

COOPERATIVE ENDEAVOR AGREEMENT

Between

NEW ORLEANS REGIONAL TRANSIT AUTHORITY

and the

PLAQUEMINES PORT HARBOR & TERMINAL DISTRICT

THIS COOPERATIVE ENDEAVOR AGREEMENT, for the public purposes hereinafter declared, is made, and entered as of this _____ day of _____ 2024 ("Effective Date"), by and between the New Orleans Regional Transit Authority, hereinafter "RTA" or "Charterer" and Plaquemines Port Harbor & Terminal District, hereinafter "PPHTD" or "Owner".

WITNESSETH:

WHEREAS, Article VI, Section 20 of the Constitution of the State of Louisiana provides that a political subdivision may exercise and perform any authorized power and function, including financing, jointly or in cooperation with one or more political subdivisions, either within or without the state, or with the United States or its agencies; and

WHEREAS, Sub-Part A, Part VII, Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 33:1321, et seq.) (the "Local Services Law"), provides that political subdivisions may engage jointly in the construction, acquisition or improvement of any public project or improvement, the promotion of and maintenance of any undertaking or the exercise of any power, provided at least one of the participants is authorized under a provision of general or special law to perform such activity or exercise such power as may be necessary for completion of the undertaking; and

WHEREAS, under the Local Services Law such arrangements may provide for the joint use of funds, facilities, personnel or property or any combination thereof necessary to accomplish the purpose of the Agreement (as defined below), and such agreements may include but are not limited to activities concerning the improvement, operation, repair and maintenance of public assets or improvements; and

WHEREAS, Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 33:9020, et seq.) (the "Cooperative Economic Development Law"), provides that local governmental subdivisions and political subdivisions may cooperate or engage in cooperative endeavors with other local governmental subdivisions or with any other private or public entity or person, for the purpose of aiding in cooperative development, all as defined in the Cooperative Economic Development Law; and

WHEREAS, in accordance with 2013 La. Sess. Law Serv. Act 273 (S.B. 215) (West), the DOTD may enter into a cooperative endeavor agreement for ferry service with a political subdivision of the state;

WHEREAS, the DOTD and RTA determined that the Ferry Services constitute a public purpose within the meaning of Article VII, Section 14(C) of the Constitution of the State of Louisiana and specifically it has been determined by DOTD and RTA that the continuance of ferry services for public transit is an essential public purpose, whereby the ferry services provide a critical portion of transit in this region.

WHEREAS, the RTA agrees to pay five thousand dollars (\$5,000) per month to PPHTD for the charter of BELLE CHASSE II, which operational uses are further defined in the Blanket Bareboat Charter and therein.

WHEREAS, the RTA is authorized by statute to operate Ferry Services, and

WHEREAS, the parties hereto wish to cooperate for the purposes of:

- a) the efficient operation, management, and administration of the designated Chalmette and Lower Algiers line; and
- b) access to the designated ferry line in accordance with the terms and conditions set forth in this Agreement, including any exhibits thereto;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS AND SCOPE

1.1 For purposes of this Agreement the terms below are defined as set forth:

"Agreement" means this Cooperative Endeavor Agreement between the PPHTD and the RTA setting forth the obligations of the parties thereunder. The Agreement includes this Cooperative Endeavor Agreement and all exhibits and attachments thereto (collectively the "CEA Documents"); the Notice to Proceed ("NTP"); and any amendments that are required to complete the performance of the Agreement in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

- a) "Alteration" means the definition as defined in the regulation implementing the Americans with Disabilities Act, 49 CFR 37.3.
- b) "DOTD" means the Department of Transportation and Development, State of Louisiana.
- c) "Ferry Service" means the Chalmette-to-Lower Algiers ferry line.

- d) "Ferry Services Transition Period" means that period of time commencing upon the Effective Date of this Agreement and ending five years from the Effective Date.
- e) "Gross Revenue" means all revenues received by RTA or its subcontractors of any tier, designee(s), assignee(s), and/or sub-charterer(s) in connection with Ferry Services minus the subsidy repayment requirement in Section 2.5(e).
- f) "Operating Cost" means expenses incurred in the operation and support of Ferry Services, including any insurance deductibles, accruals or claim expenses.
- g) "Operating Subsidy" means necessary State of Louisiana public funding provided to assist in deferring the cost of Ferry Services.
- h) "RTA" means the Regional Transit Authority, the party authorized operate transportation services in Orleans, St. Tammany, Plaquemines, Jefferson and St. Bernard Parishes of Louisiana and engaged by the DOTD to manage the Ferry Service.
- i) "Vessel" means the BELLE CHASSE II owned by the PPHTD covered from time to time under the Blanket Bareboat Charter Agreements between PPHTD and RTA (as Owner and Charterer, respectively) and between RTA and its assignee (as Charterer and Sub-Charterer, respectively).
- j) "Vessels" also includes those barges owned by DOTD and chartered and sub-chartered pursuant to individual Charter Orders under the respective Blanket Bareboat Charter Agreements.

Additionally, all defined terms in the Blanket Bareboat Charter Agreement and Blanket Bareboat Sub-Charter Agreement shall have the same meanings in this Agreement, unless otherwise expressly defined herein. The Parties agree to execute any documents necessary to effect the covenants set forth in this Agreement including without limitation the Blanket Bareboat Charter Agreement, the Blanket Bareboat Sub-Charter Agreement, and the Charter Orders for the BELLE CHASSE II all in substantially the present form contemporaneously with the execution of this Cooperative Endeavor Agreement Exhibit "A," Blanket Bareboat Charter Agreement and Charter Orders; and Exhibit "B," Blanket Bareboat Sub-Charter Agreement and Sub-Charter Order.

ARTICLE II

AGREEMENT TERM AND TERMINATION

2.1 Term. This Agreement shall commence on the Effective Date, and terminate five years from the Effective Date, unless terminated earlier as provided in this Agreement.

2.2 Ferry Services Transfer Date. This agreement is considered optional, and approval of the agreement allows transfer of the BELLE CHASSE II from PPHTD to RTA with a 48-hour written request from RTA to execute this optional agreement from the Effective Date. The agreed "Charter Fee" as outlined in **ARTICLE VIII**, will not be in effect until RTA is in receipt of the BELLE CHASSE II Vessel and will end upon return of the BELLE CHASSE II from RTA to PPHTD.

2.3 Ferry Services Transition Period. Each month during the Ferry Services Transition Period, RTA, or its assignee, will review the operational and financial data from the operation and evaluate any proposals for amendments of the operations model to assure viability. DOTD will be provided monthly copies of all operational and financial data.

2.4 Termination for Default. This Agreement may be terminated by either party for default. Prior to any termination for default, the terminating party(ies) shall give written notice of default to the alleged defaulting party(ies) and provide said party with thirty (30) days within which the alleged defaulting party(ies) may cure the default. Should the alleged defaulting party(ies) fail to cure the default within the thirty (30) day cure period (or, in circumstances where the alleged default cannot reasonably be cured in thirty (30) days, have failed to take reasonable efforts to cure the default in a commercially reasonable time period) this Agreement shall terminate on the date specified in the notice of default. Nothing herein shall be construed to limit any rights or remedies of the non-defaulting party(ies) for damages arising from the default of the other party(ies).

2.5 Termination for Convenience. This Agreement may be terminated at any time for convenience by either party on not less than sixty (30) days written notice. Upon receipt of notice of termination for convenience, the parties shall take all reasonable steps to wind down and/or transfer the Ferry Services. Ferry Services and funding therefrom shall continue until the termination date.

2.6 Responsibilities upon Termination. If this Agreement is terminated:

- a) The parties shall cooperate to take all necessary steps to effectuate the termination and to preserve all Vessels, equipment and facilities;
- b) The Blanket Bareboat Charter Agreement, Blanket Bareboat Sub-Charter Agreement and all individual Charter Orders shall terminate at midnight on the termination date;
- c) All PPHTD equipment shall be returned to PPHTD as soon as practicable following the termination date;
- d) All unpaid sums due and owing for services performed and expenses incurred previously from any party to another party shall be paid within thirty. (30) days;
- e) RTA or its assignee shall continue to operate Ferry Services until the last sailing prior to midnight on the termination date.

ARTICLE III **EQUIPMENT**

Equipment Inventory. Exhibit "C." sets forth an inventory of PPHTD vessel BELLE CHASSE II and equipment currently available for use in operation of the Ferry Services. RTA, or its assignee, shall, by written designation, specify the PPHTD asset it will use to operate the Ferry Services. PPHTD and RTA shall enter into a Blanket Bareboat Charter Agreement and shall execute separate Charter Orders, each in the present form attached as Exhibit "A," for the BELLE CHASSE II vessel to be used in active ferry operations

("Chartered Vessels"). All other equipment, as attached in Exhibit "C," shall be transferred by PPHTD to RTA.

ARTICLE IV **FERRY OPERATIONS**

4.1 State Mandated Minimum Service. RTA, or its assignee, shall operate automobile ferry services on the Chalmette-Lower Algiers line from 6:00am to 8:45pm seven days a week operating a minimum of four (4) one-way trips an hour.

4.2 RTA Discretionary Service. RTA, or its assignee, shall have the right, but not the obligation, as determined by RTA, or its assignee, in its sole discretion and conditioned on financial viability and available resources, to:

- a) increase service beyond state mandated levels on the Chalmette-Lower Algiers line;
- b) operate surge services (additional ferry services above and beyond the normal weekday and weekend hours of service to serve demand created by special events). Said service may be operated at fares set by the RTA for said surge services; and
- c) reduce services on any ferry line for any reason at any time, subject to the minimum requirements in Section 4.1

4.3 Services Suspended for Safety Reasons. In addition to being subject to the Force Majeure provision in this Agreement, the Ferry Services may be reduced or suspended for safety reasons in the sole discretion of the Master of any Vessel at any time.

4.4 Operational Requirements. Ferry Service shall be operated in accordance with the requirements of the following which shall have precedence over all other requirements:

- a) United States Coast Guard (USCG) Operations Requirements, per 46 CFR Subchapter H (Part 71);
- b) United States Coast Guard Maritime Security Requirements: Vessels, per 33 CFR Subchapter H (Part 103);
- c) Environmental Protection Agency (EPA) Vessel General Permit (VGP) Requirements, which can be viewed at <http://cfpub.epa.gov/npdes/vessels/vgpermit.cfm>; and
- d) United States Coast Guard Non Tank Vessel Response Plan (NTVRP), per 33 USC 13210(5).

4.5 Terminal Security. Ferry terminals and landings shall be operated in accordance with the requirements of United States Coast Guard Maritime Security Requirements: Facilities, per 33 CFR Subchapter H (Part 104), which have precedence over all other requirements.

ARTICLE V **MAINTENANCE**

5.1 Equipment. As required pursuant to the Blanket Bareboat Charter Agreement, Blanket Bareboat Sub-Charter Agreement, and Charter Orders, a Condition and Valuation Survey of the BELLE CHASSE II shall be conducted and attached hereto as Exhibit "H." **While the vessel is in the possession of RTA,** RTA or its assignee shall maintain all Chartered Vessels and equipment in accordance with the requirements of the Blanket Bareboat Charter Agreement and Charter Orders, including preventative maintenance and repair. RTA, or its assignee, shall be responsible for the cost of all vessel preservation and improvement maintenance and repairs including, but not limited to, major component rebuilds and all vessel maintenance requiring any dry docking or shipyard services for any purpose whatsoever, in accordance with the requirements of the Blanket Bareboat Charter Agreement and Charter Orders. All maintenance shall be conducted in accordance with the requirements of United States Coast Guard Inspection & Certification Requirements, per 46 CFR Subchapter H (Part 78), which shall have precedence over all other requirements.

5.2 Warranty of Condition of Chartered Vessels. The PPTH D warrants at the time of delivery to RTA that the BELLE CHASSE II is in the condition recited in the respective Blanket Bareboat Charter Agreements and the respective Charter Orders. RTA, or its assignee, agrees to maintain the BELLE CHASSE II in accordance with the respective Blanket Bareboat Charter Agreements and respective Charter Orders. RTA shall return the BELLE CHASSE II to the PPTH D at the termination of the Agreement (for any reason) in the condition and repair required by the respective Blanket Bareboat Charter Agreements and respective Charter Orders.

5.3 Subject to the availability of maintenance agreements held by RTA, RTA acknowledges its willingness to provide maintenance resources to PPTH D at cost.

ARTICLE VI **PERSONNEL**

RTA's assignee shall provide sufficient staff necessary to manage, and operate and maintain the Ferry Services, and the associated equipment. All staff shall be properly trained in their duties and possess such licenses and certifications as required by state and federal oversight agencies for the performance of their assigned duties. PPTH D is not responsible for any staff compensation and or employee benefits, except for the Staffing Period described below. To the extent that any Federal Transit Administration 13(c) liabilities arises in connection with Ferry Services or the transfer of operations from PPTH D to RTA, as well as its subcontractors of any tier, designee(s), assignee(s), and/or sub-charterer(s), the PPTH D shall remain solely financially responsible for any liability.

ARTICLE VII
INSURANCE AND INDEMNIFICATION

7.1 Compliance with Respective Blanket Bareboat Charter Agreements. The parties shall comply with the indemnification and insurance provisions of the applicable respective Blanket Bareboat Charter Agreement and respective Charter Orders. For avoidance of doubt, RTA, or its assignee, shall not be required to insure any vessel or indemnify PPHTD regarding claims associated with any vessel not chartered to RTA or its assignee as the case may be, under a current Charter Order for Ferry Services.

7.2 Indemnification Agreement. RTA or its assignee shall fully release, defend, indemnify and hold PPHTD harmless from and against all claims, demands, suits, causes of action, losses, damages, judgments, awards, and other costs of every kind and character (including, without limitation, court costs and attorney's fees), known or unknown, whether the underlying claim, demand or suit is groundless, false or fraudulent, brought by or on behalf of any party or person, for any and all personal injury, emotional distress, pain and suffering, illness, disease or death of any person (including any survivor's action), any loss of wages, consortium services or support, and for all damage to or loss of use of property, whether real or personal, of any person or entity, and for any and all claims (including, without limitation, any fines, penalties, attorney's fees, court costs, and all costs to respond to, contain, assess, clean up, handle, remediate, remove and dispose of all contaminates, resulting contaminated media, pollutants, resulting polluted media) resulting from pollution, contamination, harm to the environment (including air, water, soil or other media), and any damage to or loss of any natural resources (including, without limitation, the replacement cost and loss of use thereof) arising directly or indirectly out of or in any way involving the Ferry Services or any Equipment Inventory described herein that arise after the Effective Date of this Agreement (collectively "Claims"). It is the specific and expressed intent and agreement that RTA's obligation to release, defend, hold harmless and indemnify PPHTD as previously set forth herein shall be not apply to any Claims that arise from the sole negligence, gross negligence and/or willful misconduct of PPHTD.

PPHTD shall fully release, defend, indemnify and hold RTA, as well as its subcontractors of any tier, designee(s), assignee(s) and/or sub-charterer(s) harmless from and against all claims, demands, suits, causes of action, losses, liabilities, damages, judgments, awards, and other costs of every kind and character (including, without limitation, court costs and attorney's fees), known or unknown, whether the underlying claim, demand or suit is groundless, false or fraudulent, brought by or on behalf of any party or person, for any and all personal injury, emotional distress, pain and suffering, illness, disease or death of any person (including any survivor's action), any loss of wages, consortium services or support, and for all damage to or loss of use of property, whether real or personal, of any person or entity, and for any and all claims (including, without limitation, any fines, penalties, attorney's fees, court costs, and all costs to respond to, contain, assess, clean up, handle, remediate, remove and dispose of all contaminates, resulting contaminated media, pollutants, resulting polluted media) resulting from pollution, contamination, harm to the environment (including air, water, soil or other media), and any damage to or loss of any

natural resources (including, without limitation, the replacement cost and loss of use thereof) arising directly or indirectly out of or in any way involving the Ferry Services or any Equipment Inventory described herein that arise on or before the Effective Date of this Agreement (collectively "Claims"). It is the specific and expressed intent and agreement that PPHTD's obligation to release, defend, hold harmless and indemnify RTA, as well as its subcontractors of any tier, designee(s), assignee(s) and/or sub-charterer(s) as previously set forth herein shall apply to any Claims that arise from the partial, concurrent, joint and/or sole negligence of RTA, its subcontractors of any tier, assignee(s) or sub-charterer(s), but shall not apply to any claims that arise solely from the gross negligence and/or willful misconduct of RTA, its subcontractors of any tier, assignee(s), or sub-charterer(s). PPHTD recognizes the right of RTA's subcontractors of any tier, assignee(s) or sub-charterer(s) to enforce the provisions of the release, defense, indemnity and hold harmless provisions.

ARTICLE VIII FINANCIAL MATTERS

8.1 Transfer of Funds. DOTD shall deposit all funds as follows:

- a) Operating Subsidy Funds: All state funds available to fund Ferry Services and any revenues generated by RTA or its assignee from Ferry Services may be deposited to an account identified by RTA for operational purposes.

8.2 Charter Fees, RTA shall commence to pay the charter fee of \$5,000 per month to PPHTD on the Effective Date and end once all terms are met.

ARTICLE IX ASSIGNMENTS

No party to this Agreement will assign any interest in this Agreement by assignment, transfer, or novation, without written notice to and approval of the other parties. Notwithstanding, RTA is expressly permitted to shift any or all obligations to any third party ("assignee") for purposes of providing Ferry Services under this Agreement by any means necessary.

ARTICLE X DISCRIMINATION CLAUSE

10.1 The parties hereto agree to abide by the requirements of the following as applicable: Title VI And Title VII of the Civil Rights Act of 1964, as amended; the Equal Opportunity Act of 1972, as amended; Federal Executive Order 11246, as amended; the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Americans with Disabilities Act of 1990, as amended.

10.2 The parties hereto agree not to discriminate in employment practices, and shall render services under the Agreement without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities.

10.3 Any act of discrimination committed by any party to this agreement, or failure to comply with these statutory obligations, when applicable, shall be grounds for termination of this Agreement.

10.4 Notwithstanding anything to the contrary contained herein, in the event of any conflict between any federal requirements and the other requirements of this Agreement, the federal requirements will prevail, take precedence, and be in force over and against any such conflicting provisions. The Federal Transit Administration's required contract clauses are attached and incorporated into this Agreement as Exhibit "L," - Federal Transit Administration's Required Contract Clauses.

ARTICLE XI **SEVERABILITY**

If any term, covenant, condition, or provisions of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent of the law.

ARTICLE XII **ENTIRE AGREEMENT/MODIFICATIONS**

This Agreement, as defined in Section 1.1, contains the entire agreement between the parties regarding the operation and funding of Ferry Services and supersedes any and all agreements, writings, discussions or contracts previously entered into between the parties regarding said matters. No representations were made or relied upon by either party, other than those that are expressly set forth in this Agreement. Any modification or amendment of this Agreement shall be valid only when it has been reduced to writing, executed and approved by all parties.

ARTICLE XIII **CONTROLLING LAW**

The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana.

ARTICLE XIV **LEGAL COMPLIANCE**

The parties hereto shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, et seq.), in carrying out the provisions of this Agreement.

ARTICLE XV
OWNERSHIP AND CONDITION OF THE ASSETS

15.1 After the termination or expiration of the Agreement, all immovable improvements shall become the property of the PPHTD.

15.2 All records, reports, documents, and other material delivered to the RTA or its assignee by the PPHTD shall remain the property of the PPHTD, and shall be returned by the RTA, or its assignee, to the PPHTD, at their expense, at termination or expiration of this Agreement.

ARTICLE XVI
CLAIMS FOR LIENS

RTA, or its assignee, shall hold the PPHTD harmless from any and all claims for liens for labor, services, or material furnished to RTA or its assignee in connection with its performance of obligations under this Agreement.

ARTICLE XVII
COMPLIANCE WITH LAW

All parties to this Agreement shall comply with all applicable federal, state, and local laws, regulations, rules, and ordinances, as shall all others employed in carrying out the provisions of this Agreement.

ARTICLE XVIII
AUTHORIZED REPRESENTATIVES

Any notice or demand to be given by one party to the other will be given in writing by personal service, FedEx, DHL, United Parcel Services (UPS), the United States Postal Service (USPS), or any other similar form of courier or delivery service addressed to such party as follows: If to the PPHTD:

Plaquemines Port Harbor & Terminal District
ATTN: Charles D. Tillotson
8056 LA-23, 3rd Floor

Belle Chasse, LA 70037

If to New Orleans Regional Transit Authority:
ATTN: Lona Edward Hankins
2817 Canal Street
New Orleans, Louisiana 70119

Any party may change the authorized representative to whom and/or address at which such party desires to receive written notice by delivery of written notice of such change to the party as set forth herein. Any notice given under this Article XXI will be deemed to have been given, and will be effective, on delivery to the notice address then applicable for the party to which the notice is directed, provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated will not defeat or delay the giving of a notice.

ARTICLE XIX SURVIVAL

The parties' rights and obligations, which by their nature would continue beyond the expiration or termination of this Agreement, including but not limited to those regarding financial obligations or payments, indemnification, compliance with laws, and representations and warranties, shall survive any termination or expiration of this Agreement.

ARTICLE XX WAIVER

The failure of any party to insist upon the performance of any of the options, covenants, agreements, or conditions herein in any one or more instances shall not be a waiver of the right thereafter to exercise said options or to insist upon full and complete performance of same or any other covenant.

ARTICLE XXI FORCE MAJEURE

Except for the obligation to make payments and the obligation to indemnify all as set forth in this Agreement, a delay in or failure to perform by a party, shall not constitute a default that exposes it to liability for breach if and to the extent the delay or failure to perform is caused by an occurrence beyond the reasonable control of the party, including, but not limited to, failure of a PPHTD supplied vessel or equipment, an Act of God or the

public enemy; compliance with any order or requirement of any governmental authority; act of war, rebellion or sabotage or damage resulting therefrom; fire, flood, hurricane, named storm, explosion or accident; riots or strikes or other concerted acts of workmen, whether direct or indirect; inability after diligent effort to obtain necessary licenses or permits; or any other cause, whether or not of the same class or kind as those specifically above named, which is not within the control of the party and which, by the exercise of reasonable diligence, the party is unable to prevent or remedy.

[Signature Execution on Next Page]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day, month and year first written above.

WITNESSES:

PLAQUEMINES PORT HARBOR &
TERMINAL DISTRICT

BY: _____

TITLE: _____

WITNESSES:

REGIONAL TRANSIT AUTHORITY

BY: _____

TITLE: _____