

A COOPERATIVE ENDEAVOR AGREEMENT BY AND AMONG

THE RED RIVER WATERWAY DISTRICT,

THE CITY OF
BOSSIER CITY

AND

THE CITY OF
SHREVEPORT

FOR THE INSTALLATION OF PROGRAMMABLE LED LIGHT SYSTEM ON
THE TEXAS STREET BRIDGE

This Cooperative Agreement (the “**Agreement**”) effective on the ____ day of _____, 2020, by and among:

THE RED RIVER WATERWAY DISTRICT, through its statutorily empowered governing body, the Red River Waterway Commission (the “**Waterway Commission**”), represented herein by Colin S. Brown, its Executive Director;

THE CITY OF BOSSIER CITY, a duly incorporated municipal corporation in the State of Louisiana (“**Bossier City**”), represented herein by _____, duly authorized by Ordinance No. ____ of 2020 of the City Council of the City of Bossier City; and

THE CITY OF SHREVEPORT, a duly incorporated municipal corporation in the State of Louisiana (“**Shreveport**”), represented herein by _____, duly authorized by Resolution No. ____ of 2020 of the City Council of the City of Shreveport.

(**Shreveport** and **Bossier City** collectively, the “**Parties**”)

WHEREAS, the Texas Street Bridge (US 79, 80) (the “**Bridge**”) crossing the Red River is a vital traffic artery connecting the cities of Bossier City and Shreveport;

WHEREAS, Bossier City and Shreveport have both implemented a long-term comprehensive plan to revitalize the urban riverfront of the Red River by making substantial investments on the riverfront in the vicinity of the Bridge;

WHEREAS, the revitalization plan has been a tremendous success, transforming the riverfront in downtown Bossier City and Shreveport into a major destination for recreation, tourism, and commercial establishments;

WHEREAS, revitalization successes include hard edging both sides of the river, recreational boat launches, a Bass Pro Shop, the Sci-Port Discovery Center, the Shreveport Aquarium, the Shreveport Riverview Park, eating establishments, and four (4) casinos;

WHEREAS, the Waterway Commission has participated in development projects near each end of the Bridge to promote economic and recreational development;

WHEREAS, as a result of the revitalization of the riverfront, thousands of residents and tourists visit the riverfront each year in downtown Bossier City and Shreveport to enjoy the recreational and commercial aspects of the Red River;

WHEREAS, revitalization of the Bridge is the next major component of riverfront downtown revitalization for the Parties;

WHEREAS, the Bridge has recently been repaired and repainted by the State of Louisiana through the Louisiana Department of Transportation and Development (the “**DOTD**”);

WHEREAS, the Parties desire to design, develop, construct/install, operate, secure, maintain, repair and replace programmable LED decorative lighting (the “**Project**”) on the Bridge which will substantially enhance the recreational and commercial attributes of the Red River in downtown Shreveport and Bossier City;

WHEREAS, the Parties are requesting that the Waterway Commission provide funding for the construction/installation of the LED lights on the Bridge;

WHEREAS, the Waterway Commission is willing to provide funding assistance to construct/install the LED lights on the Bridge if Shreveport and/or Bossier City agree to assume all other costs and expenses associated with the Project, to include but not limited to the design, development, construction not associated with the installation of the lights, operation, maintenance, security, repair and replacement of all aspects of the Project; and

WHEREAS, the Waterway Commission and Parties confirm that this Agreement is in the public interest and constitutes a cooperative endeavor between parties for a public purpose as provided under Art. VII, Sec. 14(c) of the Constitution of the State of Louisiana.

NOW, THEREFORE, the Parties and the Waterway Commission, under the terms and conditions set forth herein, agree as follows:

1.

Cooperative Development

Subject to the terms and conditions set forth in this Agreement, each party to this Agreement shall make the following contributions to the Project and be responsible for the following:

- (a) Bossier City and Shreveport agree as follows:
- (i) Bossier City and Shreveport shall be responsible for, and fund or obtain funds from other sources (some of which are identified below), for the design, development and construction/installation of the Project (with Waterway Commission assistance for installation only, as provided below), which shall include but not be limited to engineering services, IT services, acquisition of the LED lights and other equipment and technology (hardware and software) needed to operate the LED lights, a computer/lights programmer, etc.;
 - (ii) Shreveport shall completely operate, maintain, secure, repair and replace the Project for a minimum of 20 years. Shreveport shall be responsible for and shall provide, at no cost or obligation to the Waterway Commission, all funds and personnel necessary and appropriate for the 20-year operation, maintenance, security, repair and replacement of the Project. The operation, maintenance, security, repair and replacement of the Project shall be performed by Shreveport in a manner satisfactory to the Waterway Commission and in a manner in compliance with the laws, ordinances, rules, resolutions, and regulations of the State of Louisiana and United States Government, which are now or hereinafter enacted;
 - (iii) Bossier City and Shreveport shall obtain all necessary permits, licenses and rights of way or rights of use for the design, development, construction/installation, operation, maintenance, security, repair and replacement of the Project, including without limitation to licenses or permits from the State of Louisiana Department of Transportation and Development (LADOTD), the owner of the Bridge;
 - (iv) Bossier City and Shreveport shall require proper insurance coverage with adequate limits for the type of work required, including maritime insurance coverage for work on, or over, the river;
 - (v) Bossier City and Shreveport shall secure the following funding for the Project (which has already been committed):

One Million Dollars (\$1,000,000) to purchase the LED lighting system;

Two Hundred Fifty Thousand Dollars (\$250,000) from the Louisiana Public Service Commission;

Twenty Thousand Dollars (\$20,000) from the National Endowment of Arts; and

One Hundred Ninety-One Thousand Two Hundred Fifty Thousand Dollars (\$191,250) from other fundraising;

Should any of these funding commitments decrease, Shreveport and Bossier City shall be responsible for the difference or shall obtain funding from other sources.

- (vi) Bossier City and Shreveport shall ensure the Project is substantially completed by December 31, 2021. If the Project cannot be substantially completed by December 31, 2021, as a result of delay directly caused by a Force Majeure, Bossier City and Shreveport shall request a reasonable alternative substantial completion date from the Waterway Commission, which request shall not be unreasonably denied.

“Force Majeure” shall mean any event that cannot be reasonably anticipated or controlled, including without limitation war, riots, revolution, epidemic, pandemic, COVID-19 or natural disasters or “Acts of God” such as hurricanes, tornados or floods.

- (b) Bossier City and Shreveport shall bid and construct the Project in accordance with the laws of the State of Louisiana, including without limitation to the Louisiana Public Bid Law.
- (c) The Waterway Commission shall provide up to, and no more than, ONE MILLION AND 00/100 DOLLARS (\$1,000,000) to be used by Shreveport and Bossier City for the construction/installation of the LED lights and related equipment on the Bridge. For the sake of clarity, if the actual construction/installation costs of the LED lights are less than \$1,000,000.00, the Waterway Commission will contribute only the actual cost incurred for the construction/installation costs. If the actual construction costs of the construction/ installation costs of the LED lights are more than \$1,000,000.00, the Waterway Commission will contribute only up to \$1,000,000.00.
- (d) Nothing herein shall be construed as review or approval of any aspect of the design or design/bidding process by the Waterway Commission. Shreveport and Bossier City are solely responsible for all aspects of the Project.

2.

Prerequisites to Waterway Commission Obligations

In addition to other terms and conditions set forth in this Agreement, the Waterway Commission shall not be obligated to provide funds for the Project until it receives the following from the Parties:

- (a) A fully executed original of this Agreement, with a valid resolution from the City Councils of Bossier City and Shreveport approving this Agreement;
- (b) A copy of all permits and approvals necessary for the design, development, construction/installation, operation, maintenance, security, repair and replacement of the Project; and
- (c) A letter or permit from DOTD approving the Project.

3.

Delivery of Funds

If all the terms and conditions set forth in this Agreement are satisfied, the Waterway Commission shall deliver funds on a reimbursement basis. Shreveport shall submit to the Waterway Commission (through its Executive Director) requisitions supported by detailed invoices with evidence of payment and/or approval by Shreveport received in connection with the construction/installation of the LED lights. The invoice(s) shall be reviewed by the management staff of the Waterway Commission for approval prior to making the reimbursement payment to Shreveport. The Waterway Commission will pay 100% of the approved invoices until such time as the construction/installation of the LED lights is completed or until the Waterway Commission has contributed \$1,000,000.00, whichever comes first, at which time no further reimbursement is due or owed.

4.

Additional Obligations of Shreveport and Bossier City

Shreveport and Bossier City additionally agree to:

- (a) Use reasonable best efforts to take such actions as may be deemed necessary or appropriate by the Waterway Commission to continue to develop and establish the Project as a significant recreational attraction on the Red River;
- (b) Maintain all records and supporting documentation relating to this Agreement for a period of three years after completion of the construction/installation of the Project, except records that are subject to audit shall be retained for three years after all questions raised by the audit have been resolved;
- (c) Make all records and supporting documentation relating to this Agreement and the Project available for inspection or audit by representatives of the Waterway Commission after reasonable notice; and
- (d) Refrain from using any of the funds, materials, property or services provided directly or indirectly under the terms of this Agreement for any partisan or political activity, to further the election or defeat of any candidate for public office or for any purpose not expressly approved pursuant to this Agreement.

5.

Project Abandonment, Delay, etc.

The Project shall not be abandoned, delayed or modified prior to its completion without notification of and consultation with the Waterway Commission. Shreveport and Bossier City shall immediately notify the Waterway Commission (through its Executive Director) of the occurrence of any of the following: (1) the abandonment, modification or delay of all or any portion of the Project; (2) Shreveport or Bossier City becoming aware of facts which may cause or lead to abandonment, modification or delay of all or any portion of the Project, however remote a possibility; (3) any source or amount of funding (public or private) for the Project becomes unavailable; (4) the estimated cost of the Project increases or decreases; (5) Shreveport and Bossier City breach any representation, warranty or covenant set forth in this Agreement. If any event

listed in the preceding sentence occurs, the Waterway Commission shall have no further obligation to provide funds under this Agreement, even if the work has been performed or the materials acquired. If the Waterway Commission reasonably determines that the Project has been abandoned, substantially delayed or substantially modified prior to completion, Shreveport and Bossier City shall reimburse the Waterway Commission for all funds spent by the Waterway Commission for the Project if the Waterway Commission requests to be reimbursed. Reimbursement shall be allocated and limited as set forth in Section 8 below. **Notwithstanding the foregoing, if the Project is substantially delayed as a result of a Force Majeure, Bossier City and Shreveport shall request a reasonable alternative substantial completion date from the Waterway Commission, which request shall not be unreasonably denied.**

6.

Assignability

This Agreement may not be assigned nor transferred.

7.

Indemnification

Shreveport and Bossier City shall, as solitary obligors, indemnify, hold harmless, save, protect, and defend the Waterway Commission, and its employees, engineers, architects, officers, commissioners, attorneys and agents, from all suits, actions, damages, claims, demands, causes of action, lawsuits, liabilities, and expenses (including court costs, costs of defense and attorney's fees) of whatsoever nature, which may be asserted by any person or entity whomsoever, in connection with the loss of life, personal injury, property loss or damage, or any other claim of whatever kind or nature, arising from, out of, or in any way connected with (i) this Agreement; (ii) the Project; (iii) any defect, latent or otherwise in the Project's design, engineering or construction; (iii) any occurrence in, upon, or at the property on which the Project is constructed; (iv) any use, operation, maintenance, repair, or replacement of the Project; and/or (v) any negligence or fault on the part of the Waterway Commission, or its employees, engineers, architects, officers, commissioners, attorneys and agents in connection with the Project.

8.

20 Year Project Life

If Shreveport fails to operate, maintain, secure, repair or replace the Project for a period of twenty (20) years from the date of substantial completion of the Project, Shreveport and Bossier City shall, at the request of the Waterway Commission, reimburse the Waterway Commission all funds expended by the Waterway Commission on the Project, as follows: (i) Shreveport shall reimburse the Waterway Commission fifty percent (50%) of all funds expended by the Waterway Commission on the Project (up to a maximum of \$500,000) after deducting TWENTY FIVE THOUSAND (\$25,000.00) for each consecutive 12 month period of full and uninterrupted operation; and (ii) Bossier City shall reimburse the Waterway Commission fifty percent (50%) of all funds expended by the Waterway Commission on the Project (up to a maximum of \$500,000) after deducting TWENTY FIVE THOUSAND (\$25,000.00) for each consecutive 12 month period of full and uninterrupted operation.

If the operation, maintenance, security, repair or replacement of the Project is temporarily interrupted as a result of a Force Majeure, but the Project is reinstated to full operation within a

reasonable time (as determined by the Waterway Commission), there will be no default under this Agreement.

9.

Nonwaivability

Failure of the Waterway Commission to strictly and promptly enforce any condition or provision of this Agreement or to exercise any legal remedy available to the Waterway Commission, shall not operate as a waiver of any rights of the Waterway Commission, which expressly reserves such rights, regardless of any indulgences or extensions previously granted to the Parties. No provisions of this Agreement shall be deemed to have been waived unless such waiver shall be in writing signed by the Waterway Commission.

10.

Severability

If any provision or item of this Agreement or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Agreement which can be given effect without the invalid provisions, items or applications and to this end the provisions of this Agreement are hereby declared severable.

11.

Applicable Law

This Agreement is made under the laws of the State of Louisiana and shall be construed in accordance with such.

12.

Notices

Any notice, demand, request or other instrument which may be or is required to be given under this Agreement shall be delivered in person, or sent by United States Mail, certified or registered, postage prepaid, addressed:

(a) if to the Waterway Commission to:

Executive Director
Red River Waterway Commission
P. O. Box 776
Natchitoches, LA 71458

(b) if to Bossier City to:

Mayor of Bossier City
620 Benton Road
Bossier City, LA 71111

(c) if to Shreveport to:

Mayor of Shreveport
505 Travis Street
Shreveport, LA 71101

Any party may designate in writing, such other addresses as may be convenient or desired, and such new designation shall be effective upon receipt by other party.

13.
Entire Agreement

This Agreement sets forth the entire Agreement between the Parties and Waterway Commission. Any prior conversations or writing are merged herein and extinguished. No subsequent amendment or modification of this Agreement shall be binding upon the Parties unless reduced to writing and signed by the Parties.

WITNESSES:

RED RIVER WATERWAY DISTRICT, through
its statutorily empowered governing body, the
RED RIVER WATERWAY COMMISSION

By: _____
Colin S. Brown, Executive Director

Date: _____

WITNESSES:

CITY OF SHREVEPORT, LOUISIANA

By: _____
Adrian Perkins, Mayor

Date: _____

WITNESSES:

CITY OF BOSSIER CITY, LOUISIANA

By: _____
Lorenz Walker, Mayor

Date: _____