

MEMORANDUM OF COOPERATIVE ENDEAVOR

BETWEEN

THE RED RIVER WATERWAY DISTRICT,

THE CITY OF SHREVEPORT, LOUISIANA, AND

SHREVEPORT DOG PARK ALLIANCE

THIS AGREEMENT (the "**Agreement**") is entered into as of _____, 2014 between:

The **RED RIVER WATERWAY DISTRICT**, through its statutorily empowered governing body, the RED RIVER WATERWAY COMMISSION (the "**Waterway Commission**") represented by Kenneth P. Guidry, duly authorized by vote of the Waterway Commission taken on the ____ day of _____, 2014;

The **CITY OF SHREVEPORT, LOUISIANA** ("**Shreveport**"), represented herein by Cedric Glover, its Mayor, duly authorized by vote of the City Council of Shreveport taken the ____ day of _____, 2014; and

The **SHREVEPORT DOG PARK ALLIANCE**, ("**SDPA**") an unincorporated association, represented herein by _____, duly authorized by vote of the members of the association on the ____ day of _____, 2014.

WITNESSETH THAT:

WHEREAS, Shreveport owns immovable property adjacent to the Red River in Shreveport, Louisiana;

WHEREAS, Shreveport desires to develop a regional dog park on the property (the "**Project**" or "**Dog Park**") for the benefit of the citizens of, and visitors to, Shreveport;

WHEREAS, the Preliminary Draft of the Dog Park is attached hereto as Exhibit A and the Cost Estimate for the Dog Park is attached hereto as Exhibit B;

WHEREAS, in addition to allowing its property to be the site of the Dog Park, Shreveport has agreed to operate and maintain the Dog Park;

WHEREAS, Shreveport and SDPA have requested that the Waterway Commission fund the construction of the Dog Park and SDPA has agreed to fund the designing, planning, and engineering of the Project; and

WHEREAS, the Waterway Commission has agreed to assist Shreveport by funding the Project based upon the representations, warranties, and covenants by Shreveport as set forth in this Agreement.

NOW THEREFORE, the Waterway Commission and Shreveport agree as follows:

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:

- (a) The Waterway Commission shall provide up to, and no more than, TWO HUNDRED EIGHTY THOUSAND ONE HUNDRED THIRTY AND 00/100 DOLLARS (\$280,130.00) to Shreveport to be used solely for the construction of the Dog Park.
- (b) The SDPA shall provide not less than \$28,013 (“Alliance funds”) to Shreveport to be used solely for the payment of costs for the design, planning, engineering and construction of the Dog Park as set forth in the Plans and Specifications to be developed for the Project.
- (c) (1)The parties to this Agreement acknowledge, understand and agree that Shreveport shall have no obligation to contribute funds to or for the Project, whether for construction, design, planning, engineering or otherwise, in excess of the amounts provided for such services by the Waterway Commission and the SDPA pursuant to the provisions of Sections 1(a) and 1(b) of his Agreement.

(2) The SDPA acknowledges, understands and agrees that Shreveport shall not be obligated to proceed with the Project if the total cost of construction of the Project is projected to exceed the amount provided by the Waterway Commission, in which case, Shreveport shall not be liable to the SDPA for reimbursement or repayment of any funds or contributions received by City from the SDPA for payment of costs for the design, planning, engineering and construction of the Dog Park.

(3) Shreveport may in its sole discretion include provisions in its contract with the design professional that set a “not to exceed” budget for the construction, and require the design professional to inform the city if the project cannot be designed as desired for that budget. Shreveport may also include in said contract

provisions that in the event the bids come in over budget, the alternatives are, at the city's option:

a) The city may determine the project should not be constructed, b) the city may re-bid the project, c) the city may require the architect to revise the project program, scope or quality as required to reduce the cost of the project, or d) implement any other alternative acceptable to the city and the design professional.

(4) Shreveport shall obtain the permits necessary for the construction and operation of the Project, including but not limited to all permits that may be required by the United States Army Corps of Engineers, the United States Coast Guard, the State of Louisiana, and any of its political subdivisions.

(d) The dog park shall be located within city owned property adjacent to the Red River near Stoner Avenue, north of the boat launch and south of the skate park, as generally shown on the map attached hereto. Shreveport shall have the sole and final authority to determine the size and layout of the Dog Park within the area described above.

(e) Shreveport shall be solely responsible for the operation and maintenance of the Project but may share the responsibility for same with other parties pursuant to a separate written agreement between Shreveport and the contracting party.

Prerequisites to Waterway Commission Funding

In addition to other terms and conditions set forth in this Agreement, the Waterway Commission shall not be obligated to provide funding as set forth above until it has received a fully executed original of this Agreement.

Additional Obligations of Shreveport

Shreveport additionally agrees to:

Furnish to Waterway Commission information relating to the Project as may be reasonably required by Waterway Commission;

Use reasonable best efforts to take such actions as may be deemed necessary or appropriate to promote the use of the Red River;

Maintain financial records and supporting documentation applicable to this Agreement and the Project for a period of three years after completion 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;

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; and

Immediately return to Waterway Commission any funds advanced by Waterway Commission pursuant to this Agreement that are not used in strict accordance with the provisions of this Agreement or which are used for any purpose other than that approved by Waterway Commission pursuant to this Agreement.

- (f) Non-Appropriation. In the event sufficient funds for the continued operation and maintenance of the Dog Park are not appropriated by the City Council of Shreveport in any future fiscal year, Shreveport shall have no obligation to continue said operation and maintenance.
- (g) After a period of ten years from the substantial completion of the Project, Shreveport shall have no obligation to continue the use of the property as a Dog Park, and shall have the exclusive right and discretion to determine the use of the property for any purpose, and shall also specifically have the right to convey, lease, grant other rights of use, or otherwise use or discontinue the use of the property as it shall determine in its sole discretion.

Project Abandonment, Delays, etc

The Project shall not be abandoned, delayed or modified without consultation with the Waterway Commission. Shreveport shall immediately notify the Waterway Commission (through its Executive Director) of the occurrence of any of the following: (1) abandonment, modification or delay of any portion of the Project; (2) a source or amount of funding (public or private) becoming unavailable; or (3) the estimated cost of any component increasing by more than ten percent (10%). If any event listed in the preceding sentence occurs, the Waterway Commission shall have no further obligation to provide funds or proceed with the Project. If the Waterway Commission determines that the Project is, or may be, abandoned, substantially delayed or substantially modified, Shreveport agrees to reimburse the Waterway Commission for all funds spent by the Waterway Commission for development of the Project. Provided, however, Shreveport is not required to reimburse any funds spent by the Waterway Commission when the cause of the project abandonment, modification, delay, loss of funding, or increased costs was beyond the reasonable control of Shreveport.

Delivery of Funding

(a) If all the terms and conditions set forth in this Agreement are satisfied, the Waterway Commission shall deliver funds obligated by this Agreement upon submission by Shreveport to the Waterway Commission (through its Executive Director) of requisitions supported by detailed invoices received in connection with the construction of the Project. Each submitted invoice shall be accompanied by a certificate attested to by the appropriate city official that the invoice is accurate and complete. The requisition shall be reviewed by the Engineering Supervisor and Executive Director of the Waterway Commission for approval prior to payment.

(b) The Alliance funds shall be delivered to Shreveport by the SDPA within thirty (30) days of execution of this Agreement by all parties.

Equal Employment Opportunity

In all hiring or employment made possible by or resulting from this Agreement there: (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, national origin, age, handicap or veteran status; and (2) where applicable, affirmative action will be taken to ensure that employees of Shreveport are treated during employment without regard to their race, color, religion, sex, national origin, age, handicap or veteran status. 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, national origin, age, handicap or veteran status.

Assignability

This Agreement may not be assigned nor transferred.

Indemnification

Shreveport shall indemnify, defend and hold harmless Waterway Commission and SDPA (including their Commissioners, officers, agents, employees, or attorneys, from and against all claims, demands, suits, judgments, or awards of any money accruing in favor of any party against Waterway Commission or SDPA (including their Commissioners, officers, agents, employees, or attorneys) for loss of life or injury or damage to persons or property, growing out of or resulting from, or by reason of (i) any negligent or willful act and/or omission of Shreveport (including its officers, agents, employees, lessor or contractors, or invitees of any of

them), in the performance of obligations under this Agreement or the development, construction, maintenance, or operation of the Project, (ii) the Project, or (iii) this Agreement, but excluding any negligent or willful act and/or omission of Waterway Commission or SDPA (including its officers, agents, employees or attorneys) or any failure of Waterway Commission or SDPA to perform its obligations under this agreement. The indemnification obligations set forth in this Agreement shall survive the expiration or termination of this Agreement, and Shreveport's obligations hereunder shall apply whenever Waterway Commission or SDPA incurs costs or liabilities of the types described in this paragraph.

Acknowledgment of Exclusion of Workmen's Compensation Coverage

The parties hereto expressly agree and acknowledge that this is a cooperative endeavor as defined in La. Article VII, Section 14 of the Louisiana Constitution of 1974 and it is expressly agreed and understood between the parties hereunto in entering into this Agreement, that none of the parties shall be liable to the other for any benefits or coverages as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of R.S. 23:1034 any employee of Shreveport shall not be considered an employee of Waterway Commission or SDPA, nor shall any employee of Waterway Commission or SDPA be considered an employee of Shreveport for purposes of Workmen's Compensation coverage.

Acknowledgment of Exclusion of Unemployment Compensation Coverage

It is expressly declared and understood between the parties hereto, in entering into this Agreement and in connection with unemployment compensation coverage only, that:

No party will exercise any control or direction over the other in the performance of the services covered by this Agreement;

The services to be rendered by the various parties are outside the scope of the other parties' usual businesses; and

The employees of Shreveport, Waterway Commission and SDPA shall not be under the control or direction of the others and shall not be considered employees of the others for the purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the parties hereto.

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.

12. Force Majeure.

Neither party shall be liable for or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, but not limited to acts of God, fires, flood, wars or civil disturbances, sabotage, storms, earthquakes, labor disputes, or acts of any governmental body. Each party shall use reasonable efforts to minimize the duration and consequences of any delay or failure resulting from a Force Majeure event. This provision specifically applies to but is not limited to Paragraph 4, Project Abandonment, Delays, etc.

13. City's Right to Audit.

The Waterway Commission and SDPA shall:

(a) Maintain financial records pertaining to all matters relative to the contract in accordance with standard accounting principles and procedures and retain all of its records and support documentation applicable to the contract for a period of three years, except that records that are subject to audit findings shall be retained for three years after such findings have been resolved.

(b) Permit the audit by the city or its designated representative of all its records relative to the contract at any time.

(c) If at the time of the audit, the Waterway Commission's or SDPA's records are not located within Caddo or Bossier Parish, it shall deliver the records or have the records delivered to the city's designated representative at an address designated by the city within the City of Shreveport. If the city's designated representative finds the records delivered to be incomplete the Waterway Commission or SDPA, as applicable, shall pay the representative's costs to travel to the Waterway Commission's or SDPA's offices to audit or retrieve the complete records.

14.
Conflict of Laws and Venue.

This Agreement and its enforcement shall be governed by and construed in accordance with the laws and court decisions of the State of Louisiana (without regard to its choice of law principles). The Waterway Commission, SDPA and Shreveport agree that the venue of any litigation arising hereunder shall be either in the United States District Court, Western District of Louisiana or the First Judicial District Court, Caddo Parish, Louisiana.

Thus done and signed in _____, Louisiana on this ____ day of _____, 2014.

RED RIVER WATERWAY DISTRICT

By : _____
Kenneth P. Guidry, Executive Director

Thus done and signed in _____, Louisiana on this ____ day of _____, 2014.

SHREVEPORT DOG PARK ALLIANCE

By: _____

Thus done and signed in _____, Louisiana on this ____ day of _____, 2014.

CITY OF SHREVEPORT, LOUISIANA

By : _____
Cedric Glover, Mayor