

1
2
3

**COOPERATIVE ENDEAVOR
AGREEMENT**

UNITED STATES OF AMERICA

BY AND BETWEEN

**THE NEW ORLEANS BUILDING
CORPORATION**

STATE OF LOUISIANA

AND

PARISH OF ORLEANS

**THE FAUBOURG MARIGNY
IMPROVEMENT ASSOCIATION**

4
5
6
7
8
9

BE IT KNOWN that on the dates set forth below, before me, the undersigned notary public, duly commissioned and qualified for the Parish and the State, and in the presence of the undersigned competent witnesses, personally came and appeared:

10
11
12
13
14
15
16

The City of New Orleans (the “City”), by and through the New Orleans Building Corporation (the “NOBC”) (TIN 72-1503187), its successors, assignees and sub-lessees including anyone subsequently delegated, assigned or otherwise granted control over the Project or Special Events described herein, duly organized and existing under the laws of the State of Louisiana, having a permanent mailing address at 2 Canal Street, Suite 1843, New Orleans, LA 70130 represented herein by C. Ray Nagin its President and Chairman;

17

and

18
19
20
21

The Faubourg Marigny Improvement Association (TIN _____) (the “Association”), a nonprofit corporation organized and existing under the laws of the State of Louisiana, represented herein by _____, its President;

22

who enter into this Cooperative Endeavor Agreement (the “Agreement”). They declare and acknowledge as follows:

25

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

27 **WHEREAS**, pursuant to the authority contained in Article 7, Section 14 of the Louisiana
28 Constitution of 1974, and statutory authority supplemental thereto, the State of Louisiana and its
29 political subdivisions may enter into agreements with each other, or with any public or private
30 corporation or individual for a public purpose; and further, pursuant to Section 9-314 of the
31 Home Rule Charter of the City of New Orleans, the City, its political subdivisions and related
32 public benefit corporations, including the NOBC, may enter into cooperative endeavors with any
33 public or private association, corporation or individual for activities in support of economic
34 growth and other public purposes; and

35 **WHEREAS**, the City, by and through the NOBC pursuant to Article X, Section X.10 of
36 the Cooperative Endeavor Agreement (“the CEA”) between the City and the Port of New
37 Orleans dated 15 November 2006, is developing the Reinventing the Crescent Downriver Park
38 (the “Project”), a major component and first phase of the overall Reinventing the Crescent
39 Development Plan published 27 February 2008; and

40 **WHEREAS**, the Project will reconnect the city to its riverfront, provide linear access
41 along the riverfront, offer compelling new architecture, and create places for recreation, civic
42 gathering, cultural amenities and natural habitat; and

43 **WHEREAS**, with the Project, the City aspires to create greater prosperity and lasting
44 economic growth by transforming its riverfront, and thereby fundamentally increasing the quality
45 of life in proximate neighborhoods and throughout the city; and

46 **WHEREAS**, the Project includes the adaptive re-use of the Mandeville Wharf, over forty
47 (40) acres of public open space including 1.4 miles of continuous linear pathway and gardens,
48 and the adaptive re-use of the Piety Wharf. Each element incorporates customary park
49 amenities such as recreational facilities, playgrounds, seating, lighting, fencing, security systems,
50 parking and the like; and

51 **WHEREAS**, the Project includes all riparian parcels of immovable property, and
52 wharves thereon, bounded by the downriver-most edge of Elysian Fields Avenue and the
53 downriver-most edge of Mazant Street from the ordinary low stage of the Mississippi River to
54 the waterside curb of South Peters Street between Elysian Fields Avenue and St. Ferdinand
55 Street, to the floodwall between St. Ferdinand Street and Piety Street, and to the waterside curb

56 of Chartres Street between Piety and Mazant, in which the City now holds or hereafter acquires a
57 leasehold or ownership interest, all pursuant to the CEA, in whole or in part (the "Property"); and

58 **WHEREAS**, the City Council initiated the rezoning of the Property from HMLI-Historic
59 Marigny/Treme Light Industrial District and LI-Light Industrial to P-Park and Recreation with
60 Motion No. 09-366 on 23 July 2009; and

61 **WHEREAS**, the Association is an officially recognized neighborhood association, as
62 defined by its By-laws, dated _____, for the Faubourg Marigny Neighborhood, adjacent to a
63 portion of the Project, attached hereto as Exhibit A; and

64 **WHEREAS**, the Association warrants to represent the sometimes divergent views of its
65 constituents with respect to the City, the NOBC and the Project, and that the Bylaws of the
66 Association provide for democratic elections by the general membership of a Board of Directors
67 which Board members vote on official positions taken by the Association, and further certifies
68 by the attached Resolution (Exhibit B) that the President, on behalf of the Board of Directors, is
69 duly-authorized to enter into this Agreement; and

70 **WHEREAS**, the Association undertakes numerous acts for public purposes, including
71 working to preserve the architecture and culture of a National Historic District, the Faubourg
72 Marigny, and maintaining the only public park currently in is district, Washington Square Park.

73 **WHEREAS**, the Project will include the adaptive reuse of the Mandeville Street Wharf,
74 including making it able to be used for Special Events, defined as any event in which the
75 expected attendance will be greater than 200 people; and

76 **WHEREAS**, the Special Events will impose a parking, vehicular circulation, and noise
77 burden on the constituents of the Association, who live in the historic neighborhood that is
78 directly adjacent to the Mandeville Street Wharf; and

79 **WHEREAS**, the Association, interested neighbors and the NOBC have met multiple
80 times throughout the Reinventing the Crescent design process, during which the Association and
81 neighbors have expressed support for the Project as well as a need to safeguard quality of life
82 with regard to park access and use, noise, vehicular circulation and parking associated with the
83 Project and any Special Events; and

84 **WHEREAS**, the NOBC and the Association have made good-faith efforts to resolve the
85 Association's quality of life concerns, including through the limitations expressed in this
86 Agreement; and

87 **WHEREAS**, with the Project, the NOBC and the Association mutually desire to
88 safeguard, preserve and enhance the quality of life citywide and in the adjacent neighborhoods;
89 and

90 **WHEREAS**, this Agreement is being entered into to further public purposes, including
91 the economic development and reuse of the Mandeville Street Wharf as a venue for periodic
92 Special Events, with those lease funds to be dedicated to funding and maintaining park and
93 neighborhood improvements in and adjacent to the National Historic District of the Faubourg
94 Marigny.

95 **NOW, THEREFORE**, in consideration of the mutual benefits and exchange of
96 consideration associated with the Project (including the constituents of the Association agreeing to
97 bear the parking, noise and traffic burdens associated with Special Events), the other covenants and
98 agreements expressed herein and for other good and valuable consideration, the receipt and
99 sufficiency of which are hereby acknowledged, the NOBC and the Association hereby establish,
100 dedicate and impose the following additional regulations and contractual terms:

101

102 **I. Noise**

103 a. Any use of the Project, including Special Events, shall cause no noise greater than [x]
104 dBA at maximum and [x] dBA for more than ten percent of any measurement period,
105 as measured at the Riverside curb of the nearest residence. Any Special Event shall
106 end no later than 10:30 PM Central Time, unless the Special Event causes noise less
107 than [x] dBA at maximum and [x] dBA for more than ten percent of any
108 measurement period, as measured at the Riverside curb of the nearest residence, in
109 which case the Special Event can continue until midnight on Friday & Saturday
110 nights.

111 b. NOBC and the City agree to use diligent efforts to enforce these noise restrictions,
112 including (i) adding these noise restrictions to any contract leasing the use of the
113 Mandeville Street Wharf for Special Events, with the shutdown of the event and a
114 \$5,000 contractual penalty (payable to the Association) imposed on the lessee for any
115 violation of these noise restrictions; (ii) requiring any lessee whose intended use is an
116 amplified concert to deposit \$5,000 in escrow (to be held by NOBC) to pay for any
117 noise penalty, and (iii) making enforcement of the noise restrictions part of the
118 security and law enforcement functions for the Project. Repeated violation of these

119 noise restrictions further entitles the Association to have a court enjoin and prohibit
120 further use of the Mandeville Street Wharf for any amplified concerts or other
121 category of Special Events that is causing the noise violations.
122

123 **II. Parking**

- 124 a. The NOBC agrees to provide a minimum of 180 proximate parking spaces, as more
125 fully depicted in Exhibit D, for full time use of the Project.
- 126 b. Special Events by their very nature (i.e., expected attendance over 200) will impose a
127 substantial parking burden.
- 128 c. [PREFERRED ALTERNATIVE FOR PARKING] On-site parking (defined as
129 parking on or directly adjacent to the Mandeville Street Wharf or the Esplanade
130 Wharf) will be provided for Special Events, in the ratio of 1 parking spot to every 2.5
131 projected attendees.
- 132 d. [DISFAVORED PARKING APPROACH TENDERED BY NOBC] To
133 accommodate parking associated with special events, the NOBC agrees to offer
134 parking at proximate public facilities, currently providing over one thousand (1000)
135 proximate spaces, as shown in Exhibit G, as well as to encourage ridership on means
136 of public transportation, such as the riverfront streetcar and bus lines. It also agrees
137 to diligently comply with applicable parking Ordinances and Programs then in effect.
138 And, it further agrees to implement parking shuttle programs from off-site parking
139 facilities, as reasonably necessary.
140

141 **III. Vehicular Circulation**

- 142 a. Although Urban Systems, Inc. concludes that the associated circulation of vehicles
143 other than during Special Events will not adversely impact the adjacent
144 neighborhoods (Exhibit H), at the written request of the Association, the NOBC will
145 support a Residential Parking Program if the residents in the affected area so desire,
146 in accordance with the provisions set forth in City Code of Ordinances Chapter 154,
147 Article VIII, Division 10 Residential Permit Parking Program.
- 148 b. Moreover, the NOBC agrees to also implement reasonable plans for the orderly
149 egress of vehicles associated with periodic Special Events, causing peak traffic to
150 flow onto larger streets such as North Peters Street and Elysian Fields Avenue.

- 151 c. [ADOPTING PREFERRED ALTERNATIVE FOR PARKING] For Special Events,
152 sufficient law enforcement personnel will be provided to direct traffic to and from the
153 on-site parking provided for the Special Event.
154

155 **IV. Security**

- 156 a. The NOBC shall provide security patrol on a 24-hour basis, as well as enhance and
157 support the patrol with an electronic surveillance system. Special Events will require
158 the presence of an appropriate number of officers from the New Orleans Police
159 Department (NOPD) or other law enforcement organization, such as but not limited
160 to the Louisiana State Police.
161

162 **V. Special Events: Frequency, Size and Park Access**

- 163 a. Special Events are defined as any event scheduled for the Mandeville Street Wharf in
164 which the expected attendance is greater than 200. Other than Special Events held
165 during Mardi Gras or French Quarter Festival, no Special Event shall exceed twelve
166 hours in duration. Special Events are an important source of money, and the revenues
167 from those Special Events are specifically dedicated and limited to fund repairs,
168 maintenance and capital replacement for the Project and to fund the Association's
169 maintenance of Washington Square Park and infrastructure improvements in the
170 National Historic District, the Faubourg Marigny.
- 171 b. Special Events held during (i) Mardi Gras (defined as the Friday before Fat Tuesday
172 to Fat Tuesday); (ii) French Quarter Festival (defined as the Friday, Saturday and
173 Sunday of the weekend of the French Quarter Festival); shall not be included in the
174 limits on the permitted yearly number of Special Events set forth below.
- 175 c. The Association is also entitled to lease the Mandeville Street Wharf for Special
176 Events up to twice a year at the nominal charge of one dollar an event. The
177 Association may use these Special Events for any purpose permitted by its By-Laws
178 and its 501(c)(3) status, including fund-raising for the Association. These Special
179 Events for the Association shall not be included in the limits on the permitted yearly
180 number of Special Events set forth below.
- 181 d. The Association is entitled to 10% of the lease proceeds from Special Events. The
182 NOBC agrees to account for and pay the Association these proceeds no less than once
183 a quarter. The Association represents and warrants that these proceeds shall be

184 dedicated to maintaining Washington Square Park or to infrastructure improvements
185 (e.g., signage, sidewalks, plantings and trees) within the National Historic District of
186 the Faubourg Marigny.

187 e. [PREFERRED ALTERNATIVE OF ONSITE PARKING] Onsite parking will be
188 provided for all Special Events. In light of this, the NOBC may permit up to four
189 Special Events a month, no more than two of which may have expected attendance
190 greater than 1,000.

191 f. [DISFAVORED APPROACH: PARKING PER NOBC APPROACH]. The NOBC
192 may permit up to ten Special Events a year, no more than five of which may have
193 expected attendance greater than 1,000.

194 g. The NOBC agrees that public access to the Project will be maintained at the
195 Esplanade and Marigny ramp during Special Events and/or a public ramp access will
196 be added at Spain Street that permits access to the Project during Special Events.
197 Special Events may bar public access only from the covered part of the Mandeville
198 Street Wharf, and any adjacent on-site parking. Public access from this area may be
199 barred only during the Special Event and a reasonable amount of time to set up and
200 take down any stage or related items provided with the Special Event, but in no event
201 may the total time of barred public access exceed one twenty-four hour period per
202 Special Event.

203

204 **VI. General Provisions**

205 a. In the event that the Association shall employ an attorney or attorneys to enforce
206 against NOBC any of the provisions hereof or to protect its interests in any
207 manner arising under this Agreement, in any action pursued in courts of
208 competent jurisdiction (the finality of which is not legally contested) and the
209 Association's position was not found to be frivolous or taken in bad faith, the
210 Association shall recover all reasonable and documented costs, damages and
211 expenses, including attorneys' fees, expended or incurred in connection therewith.

212 b. Headings. The description article and section headings of this Agreement are
213 inserted for convenience only and are not intended to and shall not be construed to
214 limit, enlarge or affect the scope or intent of this Agreement nor the meaning of
215 any provision hereof.

216 c. Notices. All notices, consents, waivers, or other communications provided for
 217 under this Agreement shall be addressed as follows:

<p>If to the NOBC:</p> <p>Chief Executive Officer New Orleans Building Corporation 2 Canal Street Suite 1843 New Orleans, Louisiana 70130;</p>	<p>With Copy to:</p> <p>City Attorney City of New Orleans City Hall, Room 5E03 1300 Perdido Street New Orleans, Louisiana 70112;</p>
<p>And, If to the Association:</p> <p>President Faubourg Marigny Improvement Association Street Address New Orleans, Louisiana 70117</p>	<p>With copy to:</p> <p>General Counsel Street Address New Orleans, Louisiana Zip.</p>

218
 219 d. Severability. If any terms or provisions of this Agreement, or the application
 220 thereof to any circumstance, shall be invalid or unenforceable, the remainder of
 221 this Agreement or the application, term, provision or application to circumstances
 222 that is not held invalid or unenforceable shall not be affected thereby and each
 223 term and provision of this Agreement shall be valid and enforceable to the fullest
 224 extent permitted by law.

225 e. Interpretation of Agreement. This Agreement is deemed to be a jointly drafted
 226 document and is not to be construed against either the Association or the NOBC
 227 as the primary or sole drafter of the document.

228 f. Entire Agreement. This Agreement embodies the entire agreement between the
 229 parties as to the subject matter hereof and supersedes all prior agreements and
 230 understandings, if any, and may be amended or supplemented only by a written
 231 instrument executed by the parties.

232 g. Amendments, Supplements and Modifications. This Agreement may not be
 233 amended, supplemented or modified, except in writing and executed by the
 234 parties hereto.

235 h. Execution in Counterparts. This Agreement may be executed in several
 236 counterparts, each of which shall be an original and all of which shall constitute
 237 one and the same instrument.

238 i. NOBC as Agent of the City. The parties hereto acknowledge and agree that the
239 Property subject to non-maritime use shall be managed on behalf of the City by
240 the NOBC as its duly authorized agent or lessee.

241
242 THUS DONE, SIGNED AND PASSED by the City and the NOBC at New Orleans,
243 Louisiana on the ___ day of _____, 2009 in the presence of the undersigned competent witnesses
244 and me, notary, after due reading of the whole.

245
246

WITNESSES:

NOBC:

By: _____
Name: C. Ray Nagin
Title: President and Chairman

Print Name: _____

CITY OF NEW ORLEANS

By: _____
Name: C. Ray Nagin
Title: Mayor

Print Name: _____

247
248
249
250
251
252
253

NOTARY PUBLIC
Print Name: _____
Bar/Commission No. _____
My Commission Expires _____
(Affix Seal)

254
255

THUS DONE, SIGNED AND PASSED by the Faubourg Marigny Improvement Association

256

at New Orleans, Louisiana on the ___ day of _____, 2009 in the presence of the undersigned

257

competent witnesses and me, notary, after due reading of the whole.

WITNESSES:

**FAUBOURG MARIGNY IMPROVEMENT
ASSOCIATION:**

Print Name: _____

By: _____
Name:
Title:

Print Name: _____

258
259
260
261
262
263
264

NOTARY PUBLIC
Print Name: _____
Bar/Commission No. _____

265

266

267

268

269

270

271

272

273

274

275

276

**COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE NEW ORLEANS BUILDING CORPORATION
AND
THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

**EXHIBIT A
BY-LAWS OF THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

See attached

277 **COOPERATIVE ENDEAVOR AGREEMENT**
278 **BY AND BETWEEN**
279 **THE NEW ORLEANS BUILDING CORPORATION**
280 **AND**
281 **THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

282
283 **EXHIBIT B**
284 **RESOLUTION OF THE BOARD OF DIRECTORS**

285
286 **See attached**
287

288
289
290
291
292
293
294
295
296
297
298

**COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE NEW ORLEANS BUILDING CORPORATION
AND
THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

**EXHIBIT C
CITY OF NEW ORLEANS NOISE ORDINANCE**

See attached

299
300
301
302
303
304
305
306
307
308
309

**COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE NEW ORLEANS BUILDING CORPORATION
AND
THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

**EXHIBIT D
PARKING PLAN FOR THE DOWNRIVER PARK**

See attached

310
311
312
313
314
315
316
317
318
319
320

**COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE NEW ORLEANS BUILDING CORPORATION
AND
THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

**EXHIBIT E
COMPARATIVE PARKING STUDY**

See attached

321
322
323
324
325
326
327
328
329
330
331

**COOPERATIVE ENDEAVOR AGREEMENT
BY AND BETWEEN
THE NEW ORLEANS BUILDING CORPORATION
AND
THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

**EXHIBIT F
URBAN SYSTEMS PARKING STUDY**

See attached

332 **COOPERATIVE ENDEAVOR AGREEMENT**
333 **BY AND BETWEEN**
334 **THE NEW ORLEANS BUILDING CORPORATION**
335 **AND**
336 **THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

337
338 **EXHIBIT G**
339 **SPECIAL EVENTS PARKING PLAN**

340
341 **See attached**
342

343 **COOPERATIVE ENDEAVOR AGREEMENT**
344 **BY AND BETWEEN**
345 **THE NEW ORLEANS BUILDING CORPORATION**
346 **AND**
347 **THE FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION**

348
349 **EXHIBIT H**
350 **URBAN SYSTEMS TRAFFIC STUDY**

351
352 **See attached**
353
354
355
356
357
358
359
360