



Regional Transit Authority
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February 12, 2019

Mark Romig
President/Chief Executive Officer
New Orleans Tourism Marketing Corporation
2020 St. Charles Ave.
New Orleans, LA 70130

RE: Final Settlement, Cooperative Endeavor Agreement, and ENMNOEHA-Transit Fund

Mr. Romig:

As you are aware, as a result of a legal settlement in 2000 (RTA v Kahn), the New Orleans Tourism and Marketing Corporation (NOTMC) and the Ernest N. Morial New Orleans Exhibition Hall Authority (ENMNOEHA) receive a portion of the RTA's 1% hotel occupancy tax. This payment from the RTA to NOTMC and ENMNOEHA has totaled over \$62,000,000 since the settlement agreement took effect in 2001. This is \$62,000,000 that has been unavailable to the RTA for investments in transit services, improvements to infrastructure, amenities for our riders, and the replacement of aging vehicles. These dollars stem from a sales tax approved by the voters of New Orleans in 1985 specifically in support of transit and this division of funds was an 'amicable' way to resolve litigation after the RTA's Board exercised this voter-approved taxation measure on hotel occupancy in 1999.

Pursuant to Section 4.3 of the Cooperative Endeavor Agreement (CEA) and Section 4.6 of the Escrow Agreement, the RTA is requesting arbitration before the Mayor of the City of New Orleans relative to the repayment of all funds held in the ENMNOEHA- Transit Fund and termination of future payments under the Agreement.

With respect to ongoing contributions to the ENMNOEHA-Transit Fund, this Fund was created for the express purpose of supporting the development of Phase IV of the Convention Center's expansion, a project that was placed on indefinite hold in 2007 and has since been replaced by a private hotel development generally referred to as "Phase V." The RTA has not consented to use of our revenue to support such a project and hereby requests NOTMC refund the balance of the ENMNOEHA-Transit Fund (\$31,823,875.40 plus applicable interest earned since 2001).

Regarding the CEA between the parties, the RTA believes the settlement agreement is unconstitutional pursuant to La. Const. Art. VI, § 32, as applied by the Louisiana Supreme Court (No. 05-CA-2548. (La. Oct. 1, 2007) (986 So.2d 1) and the Louisiana Attorney General (La. Atty. Gen. Op. No. 07-0295), which provides that a voter-approved special tax levied by a political subdivision may only be used for the purpose authorized by the electorate. As the 1985 ballot measure, which authorized the RTA's 1% sales tax, specifically provided that tax revenue would specifically benefit public transit, diversion of these funds to non-transit related activities is prohibited. Therefore, the RTA will cease further payments to NOTMC effective immediately.

While the RTA recognizes that termination of this agreement may have repercussions on NOTMC's budget, our fiduciary and legal duty to the RTA requires this action. For two decades our service has been impacted by limitations on financial resources, while the resources available to the tourism and hospitality marketing agencies have steadily increased. New Orleans cannot be a 21st century city without 21st century transit for its citizens - including the thousands of tourism and hospitality workers reliant on the RTA's services. The restoration of this funding will allow the RTA the budgetary flexibility to invest in new vehicles to replace our aging fleet, to invest in innovative service solutions to areas such as New Orleans East and Algiers, to invest in service frequency increases throughout the network, all of which will benefit our local and visiting riders, employees of the hospitality industry, and every citizen of our city.

We are confident that NOTMC will concur with the RTA in the real, appreciable benefits that can be realized by our entire community in dissolving this CEA. However, if we are mistaken in this confidence, we prevail upon the Mayor to exercise her discretion as the arbitrator of disagreements arising from the CEA and Escrow Agreement to terminate these agreements and allow these voter-approved funds to remain with the agency for which they were authorized.

Sincerely,



Flozell Daniels, Jr.,

Chairman

Regional Transit Authority

CC: LaToya Cantrell, Mayor, City of New Orleans
Darryl Berger, Chair, New Orleans Tourism Marketing Corporation
Melvin J. Rodrigue, President, Ernest N. Morial New Orleans Exhibition Hall Authority