

Consultant's
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STATE OF LOUISIANA
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

AGREEMENT
STATE PROJECT NO. H.009115
FEDERAL AID PROJECT NO. H009115
BEAUTIFICATION AND PARISH BOUNDARY SIGNAGE
ST. CHARLES PARISH

THIS AGREEMENT, is made and executed in three original copies on this 12th day of September, 2011, by and between the Louisiana Department of Transportation and Development, through its Secretary, hereinafter referred to as "DOTD", and St. Charles Parish, a political subdivision of the State of Louisiana, hereinafter referred to as "Entity;" and

WITNESSETH: That;

WHEREAS, under the provisions of Title 23, United States Code, "Highways", as amended, funds have been appropriated out of the Highway Trust Fund to finance improvement projects under the direct administration of DOTD; and

WHEREAS, the Entity has requested an appropriation of funds to finance a portion of the project as described herein; and

WHEREAS, DOTD is agreeable to the implementation of the Project and desires to cooperate with the Entity as hereinafter provided:

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

ARTICLE I: PROJECT DESCRIPTION

The improvement that is to be undertaken under this Project is to install gateway signage at the St. Charles Parish limits at five locations. Two on US 90 at the Jefferson and Lafourche Parish Lines, one on US 61 at the Jefferson Parish line and one at either end of the Luling Bridge on I-310 in St. Charles Parish, Louisiana. The purpose of this project is to provide information and beautification along state roadways entering the Parish. These five signs will enhance and beautify the roadway while instilling a "sense of place" for the benefit of through motorists and local residents. The project will install decorative signs at high traffic entrances to the Parish (hereinafter, the "Project").

For purposes of identification and record keeping, State and Federal Project Numbers have been assigned to this project as follows:

State Project No. H.009115 and Federal Aid Project No. H009115.

ARTICLE II: FUNDING

Except for services hereinafter specifically listed to be furnished at the Entity's expense or at DOTD expense, as the case may be, the cost of this project will be a joint participation between Entity and the Federal Highway Administration ("FHWA"), with Entity contributing the 20% match of the participating construction cost using STP>200K and the FHWA contributing, through DOTD, the remaining 80% at the time of authorization. The Entity does, however, reserve the right to incorporate items of work into the construction contract not eligible for Federal-Aid participation if it so desires, and at its own cost. Funds will be disbursed as provided in **Article XII**.

For services eligible for reimbursement, no Notice to Proceed shall be issued and no compensable costs may be incurred prior to a formal notification from DOTD that FHWA authorization has been received. Any costs incurred prior to such authorization will not be compensable.

In the event that right-of-way acquisition for, or actual construction of the road for which this preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, FHWA requires repayment of Federal funds. The Entity shall be responsible for providing the funds for the repayment.

ARTICLE III: CONCEPTUAL PLANS AND ENVIRONMENTAL DECISION

This project has been reviewed and the finding is that this project meets the requirements for actions classified as "Categorical Exclusions."

ARTICLE IV: PRE-CONSTRUCTION ENGINEERING

The Entity shall perform all pre-construction engineering services necessary for the preparation of complete plans, specifications and estimates with assistance and review from DOTD for the proposed improvements as covered herein.

ARTICLE V: BIDS/CONSTRUCTION

DOTD shall prepare bid proposals, advertise for and receive bids for the work, and award and enter into a contract with the lowest responsible bidder.

DOTD shall construct this Project in accordance with its requirements and shall provide technical administration and inspection services during construction in accordance with its

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normal procedures.

ARTICLE VI: RIGHT-OF-WAY ACQUISITION AND RELOCATION

If right-of-way is required for this project, the Entity shall acquire all real property and property rights required for this Project in accordance with all applicable State and Federal Laws, including Title 49 CFR, Part 24 as amended; Title 23 CFR, Part 710 as amended; LADOTD's Right-of-Way Manual; LADOTD's LPA Right of Way Manual; LADOTD's Guide to Title Abstracting and any additional written instructions as given by the LADOTD Right of Way Section.

Entity shall sign and submit the LPA Assurance Letter to the LADOTD Right-of-Way Section annually. As soon as it is known that the acquisition of right-of-way is required for this Project, the Entity shall contact the LADOTD Right-of-Way Section for guidance.

All right-of-way acquisition files and Relocation Assistance files shall be certified by the LADOTD Right-of-Way Section and may be subject to review/audit by the LADOTD Right-of-Way Section and/or FHWA.

The Entity ensures that the project will be constructed within the existing right-of-way or within the right-of-way acquired by the Entity for the project, as shown on the construction plans. The Entity will send to the Project Manager a letter certifying the project can be built within the existing right-of-way. If right-of-way was acquired for construction, the letter should state that the right-of-way was acquired according to all state and federal guidelines as mentioned above. All liability and any costs incurred due to insufficient right-of-way is the responsibility of the Entity.

ARTICLE VII: UTILITY RELOCATION

Utilities are a compensable item. The Entity is responsible for obtaining all of the agreements and for the design of the new system, if required. The District DOTD Utility Representative will determine the eligibility of the relocated system for reimbursement with federal funds and will review the utility agreements to ensure they have been accurately completed. The design of the new system is not eligible for federal funds; the cost of the design or any ineligible items is borne by the Entity or its representative.

No Notice to Proceed shall be issued and no compensable costs for utility relocation may be incurred prior to a formal notification from DOTD and FHWA that authorization has been received. Any costs which the Entity expects to be reimbursed prior to such authorization will not be compensable.

ARTICLE VIII: CONSTRUCTION ADMINISTRATION AND INSPECTION

DOTD will conduct the construction administration and inspection or advertise and select a consultant via the STP>200K funds with local match from the Entity. The selected consultant shall enter into a contract (prepared by DOTD) with the Entity to provide construction administration and inspection during the project construction. No sub-consultants shall be added without prior approval of the Consultant Contract Services Unit. The Entity will provide a full time employee to provide direct supervision and have charge of the project at all times.

DOTD will assign a project engineer from its District 02 Office at Bridge City to serve as a construction coordinator for DOTD during project construction. The construction coordinator will make intermittent trips to the construction site to insure that the construction contractor is following established construction procedures and that applicable Federal and State requirements are being enforced. The construction coordinator will advise the Project Engineer of any discrepancies noted and, if necessary, will direct that appropriate remedial action be taken. Failure to comply with such directives will result in the withholding of funds by DOTD until corrective measures are taken by the Entity.

Except where a deviation has been mutually agreed to in writing by both DOTD and the Entity, the following specific requirements shall apply.

1. When it is stipulated in the latest edition of the Louisiana Standard Specifications for Roads and Bridges that approval by the engineer or DOTD is required for equipment and/or construction procedures, such approval must be obtained through DOTD Construction Section. All DOTD policies and procedures for obtaining such approval shall be followed.
2. All construction inspections personnel utilized by the Entity and/or the Entity's consultant must meet the same qualifications required of DOTD construction personnel. When certification in a specific area is required, these personnel must meet the certification requirements of DOTD.
3. All construction procedures must be in accordance with DOTD guidelines and policies established by the Construction Contract Administration Manual, latest edition, the Engineering Directives and Standard Manual (EDSM), and any applicable memoranda. These documents will be made available to the consultant through the Entity.
4. All documentation of pay quantities must conform to the requirements of DOTD as outlined in the Construction Contract Administration Manual, latest edition. This manual will be made available to the consultant through the Entity.

5. All materials to be tested shall be sampled in accordance with DOTD's Sampling Manual. All material testing other than the test normally run by project personnel on the job site shall be tested by DOTD's District or Central Laboratory.

6. In the event that a private laboratory is used for material testing, the Entity will be responsible for all cost associated with the material testing and the selected laboratory must meet the AASHTO Material Reference Laboratory (AMRL) requirements.

7. All private laboratory personnel utilized by the Entity and/or the Entity's consultant must meet all the same qualifications required of DOTD laboratory personnel. When certification in a specific area is required, these personnel must meet the certification requirements of DOTD.

The Consultant and/or the Entity shall be required to comply with all parts of this section while performing duties as project engineer.

ARTICLE IX: SUBCONTRACTING

Any subcontracting performed under this project either by consulting engineers engaged by the Entity or the construction contractor must have the prior written consent of the Entity and DOTD. In the event that the consultant or the contractor elects to sublet any of the services required under this contract, it must take affirmative steps to utilize Disadvantaged Business Enterprises (DBE) as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

- (a) Including qualified DBE on solicitation lists.
- (b) Assuring that DBE are solicited whenever they are potential sources.
- (c) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum DBE participation.
- (d) Where the requirement permits, establishing delivery schedules which will encourage participation by DBE.
- (e) Using the services and assistance of, the Office of Disadvantaged Business Enterprise of the Department of Commerce and the Community Services Administration as required.

Also, the Contractor is encouraged to procure goods and services from labor surplus areas.

ARTICLE X: DBE REQUIREMENTS

It is the policy of the Federal Highway Administration that small business firms owned and controlled by socially and economically disadvantaged persons and other persons defined as eligible in Title 49 Code of Federal Regulations, Part 26 (49 CFR 26) shall have maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the requirements of 49 CFR 26 apply to this project.

The Entity or its contractor agrees to ensure that Disadvantaged Businesses (DBE) as defined in 49 CFR 26 have maximum opportunity to participate in performance of contracts and subcontracts financed in whole or in part with Federal funds. The Entity or its contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that such firms have maximum opportunity to compete for and perform contracts. The Entity or its contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract.

The preceding Policy and DBE Obligation shall apply to this project and shall be included in the requirements on any contract or subcontract. Failure to carry out the requirements set forth therein shall constitute a breach of this agreement and, after notification by DOTD, may result in termination of this agreement by DOTD or other such remedy as DOTD deems appropriate.

The Entity or its contractor shall utilize the services of banks in the community which are owned and controlled by minorities or women when feasible and beneficial. The above requirements shall be physically included in all subcontracts entered into by the Entity or its Contractor.

ARTICLE XI: INCIDENTAL COSTS

Incidental Project costs, if any, incurred by the Entity shall be its responsibility. Incidental Project costs, if any, incurred by DOTD will be absorbed by DOTD.

ARTICLE XII: COST DISBURSEMENTS

The DOTD will disburse the Entity monthly the correct FHWA ratio of the costs of pre-construction engineering services, right-of-way acquisitions, utility adjustments and the costs of construction in effect at the time of authorization. The Entity shall render invoices monthly for disbursement, which invoices shall be submitted with an executed DOTD Cost Disbursement

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Certification by the proper designated official of Entity. Upon receipt of each disbursement requested, Entity is required to tender payment for the invoiced cost and within sixty (60) days from receipt of payment from DOTD, Entity will provide proof of said payment. All such charges shall be subject to verification, adjustment and/or settlement by the DOTD's Audit Officer.

When the final costs of engineering services, right-of-way acquisitions, utility adjustments, construction and construction engineering have been determined, adjustments will be made (except as noted above for construction engineering charges) so that the amount of participation in these items will not exceed the percentages outlined in Article II. Before final payment is recommended by DOTD, all documentation of pay quantities shall conform to DOTD policies and procedures. The Entity acknowledges, however, that the FHWA will not participate in the cost of those items not constructed in accordance with the approved plans and specifications and in this event the Entity will be obligated to assume full financial responsibility. The Entity shall also submit all final billings for all phases of work within one year after the completion of final acceptance of the project. Failure to submit these billings within the specified one year period shall result in the project being closed on previously billed amounts and any unbilled cost shall be the responsibility of the Entity.

The Entity shall reimburse the DOTD any and all amounts which may be cited by the FHWA or DOTD due to the Entity's noncompliance with Federal/State laws and/or regulations. The cited amounts reimbursed by the Entity will be returned to the Entity upon clearance of the citation(s).

Should the Entity fail to reimburse the DOTD any and all cited amounts within a thirty (30) day period after notification, all future payment request from the Entity will be held until the cited amount is exceeded at which time only the amount over and above the cited amount(s) will be released for payment. Additionally, no new Urban System project will be approved until such time as the cited amount is reimbursed to the DOTD.

The participation by the DOTD and the FHWA in the project shall in no way be construed to make the DOTD or the FHWA a party to the contract between the Entity and its contractor.

ARTICLE XIII: COST RECORDS

The Entity and all others employed by it in connection with this Project shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred relative to this Project and shall keep such material available at its offices at all reasonable times during the contract period and for five years from the date of final payment under the Project, for inspection by DOTD and/or Legislative Auditor, the FHWA, or any authorized representative of the Federal

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Government under State and Federal Regulations effective as of the date of this Agreement and copies thereof shall be furnished if requested.

ARTICLE XIV: CANCELLATION

The terms of this Agreement shall be binding upon the parties hereto until the work has been completed and accepted and all payments required to be made have been made, however this Agreement may be terminated under any or all of the following conditions:

1. By mutual agreement and consent of the parties hereto.
2. By the Entity should it desire to cancel the project prior to the receipt of bids, provided any cost that has been incurred for the preparation of plans is not eligible for reimbursement by DOTD or the FHWA.
3. By DOTD due to the withdrawal or reduction of State or Federal funding for the Project.

ARTICLE XV: CIVIL RIGHTS

The Entity agrees that the project will be developed in full, in accordance with the principles and intents contained in DOTD's latest Title VI Plan (Phase I) and that the same or closely related procedures providing for involvement of the Entity designated civil rights specialist in appropriate key stages of project development as identified in the aforementioned Title VI Plan, will be followed.

Further, the Entity agrees that its own employment policies and practices will afford fair and nondiscriminatory employment opportunities to all employees and applicants for employment and that a viable affirmative action program is maintained in the interest of increasing employment opportunities for minorities, women and other disadvantaged persons. It is understood that the Entity, as a recipient of federal financial assistance under this agreement, is subject to monitoring and review of its civil rights activities by DOTD and agrees to cooperate with DOTD officials in the achievement of civil rights objectives prescribed in the agreement and in any contracts resulting herefrom.

ARTICLE XVI: PUBLIC LIABILITY

The Entity shall indemnify, save harmless, and defend DOTD against any and all claims, demands, suits and judgments for sums of money allegedly due to any party for loss of life or injury or damage to persons or property growing out of, resulting from, or by reason of, any negligent act or omission, operation or work of the Entity, its agents, servants or employees while engaged upon or in connection with the services required or performed by the Entity or resulting from the ownership, possession or control of the improvement during its life.

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ARTICLE XVII: FINAL INSPECTION AND MAINTENANCE

Upon completion and Final Acceptance of the project, copy of which Acceptance shall be furnished by DOTD to the Entity, the Entity shall assume the maintenance of the improvement at its expense and in a manner satisfactory to DOTD and/or the FHWA. The Final Acceptance will be recorded by DOTD. Before making the final inspection, the Entity and DOTD's District Administrator shall be notified so that they may have representatives present for such inspection.

Title to any acquired project right-of-way shall be vested in the Entity but shall be subject to DOTD and FHWA requirements and regulations concerning abandonment, disposal, encroachments and/or uses for non-highway purposes.

ARTICLE XVIII: CONTRACTUAL OBLIGATIONS OF THE STATE

The provisions of this Agreement are in no way and to no extent intended to nor shall they be construed in any manner which will impair the contractual obligations of the State, DOTD, or the Entity, in violation of Louisiana Constitution, Article 1, § 23.

ARTICLE XIX HOUSE BILL 1 COMPLIANCE

Entity shall fully comply with the provisions of House Bill 1, if applicable, by submitting to DOTD, for approval, the comprehensive budget for the Project showing all anticipated uses of the funds appropriated, an estimate of the duration of the Project, and a plan showing specific goals and objectives for the use of the appropriated funds, including measures of performance.

Entity understands and agrees that no funds will be transferred to Entity prior to receipt and approval by DOTD of the submissions required by House Bill 1.

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IN WITNESS THEREOF, the parties have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

WITNESSES:

Charles Culbert

Holly Fonseca

**STATE OF LOUISIANA
ST. CHARLES PARISH**

BY: *V.J. St. Pierre, Jr.*

V.J. St. Pierre, Jr.

Typed or Printed Name

Parish President

Title

72-6001208

Taxpayer Identification Number

079448924

DUNS Number

WITNESSES:

Patrice Little

Cassidy Gray

**STATE OF LOUISIANA
THROUGH THE DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

BY: *Phyllis Desautels*

Secretary

RECOMMENDED FOR APPROVAL:

BY: *[Signature]*
Division Head