

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

**AGREEMENT
STATE PROJECT NO. 744-45-0003
FEDERAL AID PROJECT NO. ENH-4500(503)
ST. CHARLES PARISH BIKE AND PEDESTRIAN PATH - PHASE A
ST. CHARLES PARISH**

THIS AGREEMENT, made and executed in three (3) original copies on this 27th day of September 2000, by and between the **Department of Transportation and Development**, hereinafter referred to as "DOTD", and the **Parish of St. Charles**, a political subdivision of the State of Louisiana, hereinafter referred to as "Sponsor";

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 enhancement projects under the direct administration of the DOTD; and

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

WHEREAS, the Sponsor insures the project is part of the Transportation Improvement Program (TIP), if applicable, which serves to implement the areawide plan held currently valid by the appropriate local officials; and

WHEREAS, the DOTD is agreeable to the implementation of this Project and desires to cooperate with the Sponsor 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 will consist generally of 14,520 linear feet of asphalt path on the top of the eastbank Mississippi River levee and related work.

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

For preliminary engineering services and construction costs, State Project No. 744-45-0008 and Federal Project No. ENH-4500(508) have been assigned. All progress reports, invoices and other such data in connection with construction shall be identified with these project numbers.

ARTICLE II - FUNDING

Except for services hereinafter specifically listed to be furnished at the DOTD's expense or at the Sponsor's expense, as the case may be, the cost of this project will be a joint participation between the Sponsor and the Federal Highway Administration, hereinafter "FHWA", with the Sponsor contributing the 20% match of the participating cost and the FHWA contributing, through the DOTD, the remaining 80%. The maximum federal funds available for funding this project is \$410,000. The Sponsor may incorporate items of work into the construction contract not eligible for Federal-Aid participation at its own costs. Funds will be disbursed as provided in Article X.

In accordance with Article III of this agreement, the disbursement ratio from the FHWA Enhancement funds shall effectively be 95% of the participating construction costs from the FHWA and the remaining 5% from the Sponsor.

The Sponsor is hereby forewarned that no contractual obligations or expenditures of funds will be incurred until the DOTD and the Sponsor are in receipt of the Federal Highway Administration authorization (FHWA form 1240) and the DOTD formally notifies the Sponsor that it may incur contractual obligation and fund expenditures.

ARTICLE III - PRE-CONSTRUCTION ENGINEERING

The Sponsor shall select and enter into a contract with a consulting engineer firm for the performance of all engineering services necessary for the preparation of complete plans, specifications and estimates for the proposed improvements as covered herein. The fee for these services shall be paid for by the Sponsor and shall be credited as 75 % of its matching funds as provided hereinafter.

The Sponsor or consulting engineers employed by it shall make all necessary surveys, prepare plans and special specifications for the project in accordance with the applicable requirements of Volume 6, Chapter 3, Section 3, Subsection 1 of the Federal Aid Highway Programs Manual and the following specific requirements.

1. The design standards shall comply with the criteria prescribed in Volume 6, Chapter 2, Section 1, Subsection 1 of the Federal Aid Highway Programs Manual. The format of the plans shall conform to the standards used by the DOTD in the preparation of its contract plans for items of work of similar character, including plans for all drainage and utilities affected, as contained in the current edition of its "Roadway Plan Preparation Manual", and the "Drainage Manual" which is made a part hereof by reference.

2. Design surveys, right-of-way surveys and the preparation of right-of-way maps shall be performed in accordance with the requirements specified in the current edition of the DOTD's "Location & Survey Manual."

3. The Sponsor will be required to develop this project in accordance with DOTD's "Environmental Impact Procedures Manual" dated 1994. Requirements for Environmental documents are prescribed in the FHWA's "Federal-Aid Policy Guide". All environmental documents and public involvement proposals are required to be developed under these requirements and shall be submitted to the DOTD for review and comments.

4. After preliminary plans have been developed to show all information required for a plan-in-hand inspection, the Sponsor shall arrange and provide plans for a complete plan-in-hand field inspection with members of the DOTD and the FHWA at a time and date mutually agreed to in advance by all parties.

Subsequent to the plan-in-hand inspection, the Sponsor shall make such changes in the plans as necessary to reflect agreements reached at this stage and shall show existing or taking lines required for right-of-way, referenced to the centerline of the Project.

5. Following the completion of preliminary plans, two (2) complete sets of blue line prints of the basic plans, dated and stamped "Preliminary", shall be submitted to the DOTD for review and comment.

6. Upon completion of its review of the preliminary plans, the DOTD will return one (1) set to the Sponsor with comments, if any, marked thereon and the plans will be corrected accordingly.

7. Upon receipt of design approval (Volume 7, Chapter 7, Section 5 of Federal Aid Highway Programs Manual) and approval of right-of-way plans, the Sponsor may proceed with the acquisition of right-of-way.

8. The Sponsor shall provide one (1) set of vellum reproducible of the final plans and one (1) reproducible copy of the final technical specifications, special provisions and cost estimate.

9. Subsequent to approval of final plans, acquisition of all required right-of-way and the relocation and/or adjustment of all utility conflicts, the DOTD shall prepare the construction proposals and prepare a Plan, Specification and Estimate (P S & E) submittal to FHWA as specified in Volume 6, Chapter 3, Section 3, Subsection 1 of the Federal Highway Programs Manual. This submission shall contain all certifications and data necessary to conform to Volume 6, Chapter 4, Section 2, Subsection 1 of the Federal Highway Programs Manual. Upon receipt of formal approval of the P S & E submission from the FHWA, the DOTD will advise the Sponsor in writing of such approval and will advertise the project for the receipt of bids.

ARTICLE IV - CONSTRUCTION PLANS

Plans for the improvement and any environmental documents shall be prepared by the Sponsor or Consulting Engineers employed by the Sponsor at no expense to the DOTD and FHWA and shall conform to DOTD standards. The plans and any environmental documents shall be approved by the DOTD and FHWA.

ARTICLE V - RECEIPT OF BIDS

The DOTD will, at its expense and at the proper time, prepare construction proposals based on the latest edition of the "Louisiana Standard Specifications for Roads and Bridges", as amended to comply with the DOTD's current practices, advertise for and receive bids for the work in accordance with the DOTD's normal requirements. All such bids will be properly tabulated, extended and summarized to determine the official low bidder. The DOTD will then submit to the Sponsor copies of the official bid tabulations for their information and comments or approval while its Review Committee will concurrently analyze the bids for the DOTD. The award of contract, which by law must be made within sixty (60) days following the receipt of bids, will be made by the DOTD on behalf of the Sponsor following the favorable recommendation of award by the Review Committee and concurrence by the Federal Highway Administration and the Sponsor.

Construction contracts will be prepared by the DOTD after the award of contract and will be transmitted to the Sponsor for its further handling toward execution. The Sponsor will be responsible for construction contract recordation. The DOTD will, at the proper time, inform the Sponsor in writing to issue to the Contractor an official "Notice to Proceed" with construction.

ARTICLE VI - CONSTRUCTION

The Sponsor or its consultant will provide technical administration and inspection during the project construction; however, in the event a consultant provides this service for the Sponsor it will be performed under the direct supervision of a full time employee of the Sponsor who will have charge and control of the project at all times.

The DOTD will assign a project engineer from its District Office at Bridge City (02) to serve as a construction coordinator for the 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 Sponsor 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 Sponsor.

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

1. When it is stipulated in Louisiana Standard Specifications for Roads and Bridges that approval by the engineer or the DOTD is required for equipment and/or construction procedures, such approval must be obtained through the DOTD Construction Section. All DOTD policies and procedures for obtaining such approval shall be followed.
2. All construction inspections personnel utilized by the Sponsor and/or the Sponsor'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, and any applicable memoranda. These documents will be made available to the consultant through the Sponsor from DOTD.
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 Sponsor from DOTD.
5. All materials to be tested shall be sampled in accordance with the DOTD's Sampling Manual. All material testing other than those test normally run by project personnel on the job site shall be tested by the DOTD's District or Central Laboratory.

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

ARTICLE VII - SUBCONTRACTING

Any subcontracting performed under this project either by consulting engineers engaged by the Sponsor or the construction contractor must have the prior written consent of the Sponsor and the 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 Small Business (SB) and Disadvantaged/Women-Owned Business Enterprises (DBE/WBE) as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

- (a) Including qualified SB & DBE/WBE on solicitation lists.
- (b) Assuring that SB & DBE/WBE are solicited whenever they are potential sources.

(c) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum SB & DBE/WBE participation.

(d) Where the requirement permits, establishing delivery schedules which will encourage participation by SB & DBE/WBE.

(e) Using the services and assistance of the Small Business Administration, 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 VIII - DBE/WBE 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 23 (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 Sponsor or its contractor agrees to ensure that Disadvantaged Businesses (DBE) and eligible Women-Owned Business Enterprises (WBE) 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 Sponsor 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 Sponsor 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/WBE 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 Sponsor 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 Sponsor or its Contractor.

ARTICLE IX - INCIDENTAL COSTS

Incidental project costs incurred by the Sponsor in negotiating pre-construction engineering contracts, right-of-way appraisals and settlements, railroad and utility adjustments, contract recordation, and such other costs not provided in Article X shall be the responsibility of the Sponsor.

Incidental project costs incurred by the DOTD for services relating to pre-construction engineering, right-of-way acquisitions, utility relocations, bid advertisements, construction and construction engineering will be absorbed by DOTD.

ARTICLE X - COST REIMBURSEMENTS

The DOTD will reimburse the Sponsor monthly the correct FHWA ratio of the costs of right-of-way acquisitions, utility adjustments and the costs of construction in effect at the time of authorization. The Sponsor shall render invoices monthly for reimbursement, which invoices shall be certified as correct by the proper designated official of the Sponsor. All invoices shall have the official name of project and project numbers affixed to each sheet. All such charges shall be subject to verification, adjustment and/or settlement by the DOTD's Audit Officer.

When the final costs of right-of-way acquisitions and utility adjustments, and the costs of construction have been determined, adjustments will be made 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 Sponsor 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 Sponsor will be obligated to assume full financial responsibility. The Sponsor 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 Sponsor.

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

Should the Sponsor fail to reimburse the DOTD any and all cited amounts within a thirty (30) day period after notification, all future payment request from the Sponsor 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 Sponsor projects 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 Sponsor and its contractor.

ARTICLE XI - COST RECORDS

The Sponsor and all others employed by it in connection with this project shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred relative to this project and shall keep such material available at their respective 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 the DOTD and/or Legislative Auditor, the FHWA or any authorized representative of the Federal Government under State and Federal Regulations effective as of the date of this contract and copies thereof shall be furnished if requested.

ARTICLE XII - 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 to the Sponsor have been made; but 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 Sponsor should it desire to cancel the project prior the receipt of bids, provided any cost that has been incurred for the preparation of plans is not eligible for reimbursement by the DOTD or the FHWA.
3. By the DOTD due to the withdrawal of State or Federal funding for the project.

ARTICLE XIII - PROJECT RESPONSIBILITY

The DOTD, its officers, engineers and employees will not be required to supervise or perform such other services in connection with the development of this project as specifically set forth herein; however, the Sponsor will assume full responsibility for the project development and will save harmless the DOTD against any loss or damage of any kind incident to or occasioned by deeds undertaken in pursuance of this agreement.

ARTICLE XIV - CIVIL RIGHTS

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

Further, the Sponsor 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 Sponsor as a recipient of federal financial assistance under this agreement, is subject to monitoring and review of its civil rights activities by the 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 XV - PUBLIC LIABILITY

The Sponsor shall indemnify and save harmless the DOTD against any and all claims, demands, suits and judgements 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 Sponsor, its agents, servants or employees while engaged upon or in connection with the services required or performed by the Sponsor or resulting from the ownership, possession or control of the improvement during its life.

ARTICLE XVI - FINAL INSPECTION AND MAINTENANCE

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

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

Upon completion and final acceptance of the project, the Sponsor shall assume the maintenance thereof.

ARTICLE XVII- FEDERAL PROVISIONS

The Sponsor agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions set forth in 23 CFR, Part 630, Subpart C, Appendix A, which is incorporated herein by reference.

ARTICLE XVIII - STATE HORTICULTURE PROVISIONS

The Sponsor agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with all LA Horticulture Laws, Rules, and Regulations which are incorporated herein by reference.

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

WITNESSES:

Nicole Breau
Witness for First Party

Valerie Berthelot
Witness for First Party

Tommy Russo
Witness for Second Party

Savanne M. Boat
Witness for Second Party

**STATE OF LOUISIANA
PARISH OF ST. CHARLES**

BY: Albert D. Laque
Albert D. Laque
Typed or Printed Name

TITLE: Parish President

72-6001207
Federal Identification Number

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

BY: Mark M. ...
Secretary

RECOMMENDED FOR APPROVAL

BY: Curtis S. ...
Assistant Secretary, Public Works
and Intermodal Transportation