

INTERGOVERNMENTAL COOPERATIVE ENDEAVOR AGREEMENT
between the
STATE OF LOUISIANA
through the
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
and
CITY OF HAMMOND
Routes LA 3260 and LA 1065

This **COOPERATIVE ENDEAVOR AGREEMENT** (“Agreement”), is made and entered into this _____ day of _____, 201__, in duplicate originals, by and between the State of Louisiana, through the Department of Transportation and Development (DOTD), represented herein by its Secretary, and the City of Hammond (sometimes referred to hereinafter as “Entity”), a political subdivision of the State of Louisiana, represented herein by its Mayor, for the public purposes hereinafter declared.

WITNESSETH:

WHEREAS, Article VII, Section 14(C) of the Constitution of the State of Louisiana provides that, “[f]or a public purpose, the state and its political subdivisions or political corporations may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;” and

WHEREAS, the actions and agreements provided for herein promote greater efficiency in the performance of DOTD’s mandated functions, as set forth in La. R.S. 48:21, *et seq.*, and La. R.S. 48:191 – 193, in particular; and

WHEREAS, in an effort to reduce the size of the state highway system, rectify inequities in the distribution of state highway miles among parishes, and empower local governments through the “right-sizing” of the state highway system and in further compliance with La. R.S. 48:191; and

WHEREAS, the City of Hammond wishes to cooperate with DOTD in its aforesaid effort and to participate in DOTD’s voluntary road transfer program, under the terms and conditions as set forth herein below; and

WHEREAS, the Entity and its Mayor, by resolving to and entering into this Agreement, hereby request the proposed transfer of the ownership, operation, and maintenance of certain property, as set forth herein below, and pursuant to Ordinance Number _____ authorizing the Entity to enter into this Agreement with DOTD for the transfer of said property, a copy of which is attached hereto and made a part hereof by reference as Exhibit “A”, which Ordinance evidences the Entity’s willingness to accept same as a binding agreement pursuant to La. R.S. 48:224.1; and

WHEREAS, by entering into this Agreement, the Secretary accepts the provisions of Ordinance No. _____ in accordance with La. R.S. 48:224.1; and

WHEREAS, as part of said transfer, DOTD desires to relinquish ownership of whatever rights it has, with the exception of any and all mineral rights, in and to certain property, as set forth herein below, in favor of Entity; and

WHEREAS, DOTD has determined that the conditions and requirements for the proposed road transfer are acceptable, that there is equity in the obligations exchanged, that DOTD is receiving an equivalent value in exchange for the proposed road transfer, and that the mission of DOTD and the interests of the citizens of the State of Louisiana are best served by the exchange of rights and obligations contained herein.

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

ARTICLE I PURPOSE

1.1 The Recitals set forth above are hereby incorporated herein and expressly made a part of this Agreement.

1.2 DOTD agrees that it shall relinquish ownership of whatever rights it has, with the exception of any and all mineral rights and subject to the servitude described below, in and to the following described property (hereinafter, “the Property”) and all future liabilities, including, but not limited to, all future operation, maintenance, and repairs, associated therewith to the Entity, and the Entity agrees that it shall accept same:

Segment 1 - State route LA 3260 (known as West Church Street) in its entirety from its junction with state route US 190 proceeding east approximately 0.74 mile to its intersection with state route US 51 (known as North Morrison Boulevard).

Segment 2 – The portion of state route LA 1065 (known as North Cherry Street) from its intersection with state route US 190 westbound (known as East Thomas Street) proceeding north approximately 0.32 mile to a point 125 feet south of its intersection with local road known as East Michigan Street, inclusive of all rights and responsibilities of DOTD in connection with the Illinois Central railroad crossing located 0.07 mile north of local road known as East Church Street and identified as DOT # 303368R.

ARTICLE II RESPONSIBILITIES OF THE PARTIES

2.1 Responsibilities of DOTD

2.1.1 DOTD hereby agrees, at the proper time and under the conditions specified herein, to

transfer ownership of each of the above described segments of the Property by executing for each an Act of Transfer and Acceptance transferring the Property; and DOTD shall record each of the said Acts of Transfer and Acceptance in the conveyance records for the Parish of Tangipahoa, State of Louisiana, and shall provide Entity with a certified copy of same. Entity hereby acknowledges that utilities may exist within the limits of the state route rights of way affected by the transfer, by permit from DOTD, and this transfer is made subject to a servitude for the benefit of DOTD authorizing it to continue to locate, maintain, and improve or replace a fiber optic cable within the transferred right of way. The Department shall provide the Entity with a listing of existing permit holders and public utilities within the limits of the state route rights of way affected by the transfer.

2.1.2 DOTD hereby agrees to the following conditions:

CONDITION I:

Segment 1 - Patch, cold plane and overlay with 2 inches of asphaltic concrete the turn lane on state route LA 3260 (known as West Church Street) at its intersection with state route US 51 (known as North Morrison Boulevard). Patch shoulders and turnouts, and re-stripe the entire portion of state route LA 3260 (known as West Church Street) to be transferred to the City of Hammond according to the plans and specifications to be developed by the Department and mutually approved by the parties hereto. Roadway travel lanes of state route LA 3260 (known as West Church Street) will be transferred in their current condition.

Segment 2 – Cold plane and overlay with 2 inches of asphaltic concrete the portion of state route LA 1065 (known as North Cherry Street) to be transferred to the City of Hammond according to the plans and specifications to be developed by the Department and mutually approved by the parties hereto.

CONDITION II: The Department shall provide \$441,248.46 in road transfer credit for state route LA 3260 (known as West Church Street) in its entirety and the portion of state route LA 1065 (known as North Cherry Street) to be transferred to the City of Hammond to be applied to the said debt in Condition III.

CONDITION III: The Department shall apply the road transfer credit described in Condition II herein above to satisfy the current Utility Relocation Assistance Fund (URAF) debt owed to DOTD by the City of Hammond as per agreement No. 08398 in the amount of \$441,248.46.

2.2 Responsibilities of Entity

2.2.1 Entity hereby agrees to provide notification to public utilities and other holders of recorded right-of-way agreements or permits affected by the transfers contemplated herein.

2.2.2 Entity represents that it has notified each member of the state legislature in whose district the Property is located; and by execution of this Agreement, Entity further represents it has received approval from a majority of the state legislative delegation from Tangipahoa Parish to participate in the road transfers contemplated herein.

2.2.3 Upon issuance of Final Acceptance by DOTD of each construction project relevant to the satisfaction of one of the conditions set forth herein above, Entity will execute documents necessary to effectuate the transfer of the ownership of each portion of roadway to be transferred upon satisfaction of that condition, and shall accept all future liabilities, including, but not limited to, all future operation, maintenance, and repairs, associated with the ownership, operation and maintenance of the Property described herein above as a City Street.

2.2.4 Entity hereby agrees that, in the event Entity fails to execute any transfer and acceptance provided for or contemplated by this agreement regarding any portion of roadway owned by Entity prior to the term of this Agreement that is taken into the state highway system pursuant to this Agreement, said portion of roadway shall revert back to Entity in full ownership and as part of Entity's system of roads upon completion and Final Acceptance of any work of repair or improvement contained in any Condition herein above relative to said portion of roadway.

ARTICLE III TERM

This Agreement shall commence on the date first written above and shall remain in effect until all obligations contained herein have been performed.

ARTICLE IV TERMINATION

The DOTD or the Entity may terminate this Agreement for cause based upon the failure of the other party to comply with the terms and conditions of the Agreement, provided that the party wishing to terminate shall give the other party written notice specifying the other party's failure. If within thirty (30) days after receipt of such notice, the other party shall not have either corrected such failure or thereafter proceeded diligently to complete such correction, then the party wishing to terminate the Agreement may, at its option, place the other party in default, and the Agreement shall terminate on the date specified in such notice.

ARTICLE V OWNERSHIP OF DOCUMENTS

All records, reports, documents and other material delivered or transmitted to the Entity

by the DOTD shall remain the property of the DOTD and shall be returned by the Entity to the DOTD, at the Entity's expense, at termination or expiration of this Agreement.

ARTICLE VI ASSIGNMENTS

Neither party may assign any interest in this Agreement by assignment, transfer, or novation, without prior written consent of the other party.

ARTICLE VII AUDITORS

It is hereby understood and agreed that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administration, auditors shall have the option of auditing all accounts of the Entity and the DOTD that relate to this Agreement. The Entity shall be audited in accordance with La. R.S. 24:513.

ARTICLE VIII FISCAL FUNDING AND APPROVAL CONTINGENCIES

The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Legislature. If the Legislature fails to appropriate sufficient monies to provide for the continuation of the Agreement, or if such appropriation is reduced by veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the Agreement, the Agreement shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

ARTICLE IX INDEMNIFICATION/INSURANCE

The Entity shall indemnify and save harmless DOTD against any and all claims, losses, liabilities, demands, suits, causes of action, damages, and judgments of sums of money growing out of, resulting from, or by reason of any act or omission of the Entity, its agents, servants, independent contractors, or employees while engaged in, about, or in connection with the discharge or performance of the terms of this Agreement. Such indemnification shall include the DOTD fees and costs of litigation, including, but not limited to, reasonable attorney's fees.

ARTICLE X DISCRIMINATION CLAUSE

10.1 The parties agree to abide by the requirements of the following as applicable: Titles VI and Title VII of the Civil Rights Act of 1964, as amended; the Equal Opportunity Act of 1972, as amended; Federal Executive Order 11246, as amended; the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990, as amended, and Title II of the Genetic Information Nondiscrimination Act of 2008.

10.2 The parties agree not to discriminate in employment practices, and shall render services under this contract without regard to race, color, age, religion, gender, national origin, veteran status, genetic information, political affiliation, or disabilities.

10.3 Any act of discrimination committed by either party, or failure to comply with these statutory obligations, when applicable, shall be grounds for termination of this Agreement.

ARTICLE XI SEVERABILITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent of the law.

ARTICLE XII ENTIRE AGREEMENT/MODIFICATIONS

This Agreement, including any attachments that are expressly referred to in this Agreement, contains the entire agreement between the parties and supersedes any and all agreements or contracts previously entered into between the parties on the same subject matter. No representations were made or relied upon by either party, other than those that are expressly set forth herein. Any modification or amendment of this Agreement shall be valid only when it has been reduced to writing and executed by both parties.

ARTICLE XIII
CONTROLLING LAW, LEGAL COMPLIANCE AND VENUE

13.1 The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana. In the event of default by either party, the aggrieved party shall have all rights granted by the general laws of the State of Louisiana.

13.2 DOTD and the Entity shall comply with all applicable federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (LSA-R.S. 42:1101, *et seq.*) in carrying out the provisions of this Agreement.

13.3 The exclusive venue for any suit arising out of this Agreement shall be in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, State of Louisiana.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day, month and year first written above.

WITNESSES:

CITY OF HAMMOND

(Witness for First Party)

By: _____
Mayson H. Foster, Mayor

(Witness for First Party)

WITNESSES:

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

(Witness for Second Party)

By: _____
Secretary

(Witness for Second Party)

RECOMMENDED FOR APPROVAL

By: _____
Division Head