

MEMORANDUM OF AGREEMENT

**Among
the Federal Highway Administration,
the Louisiana Department of Transportation and Development
the Louisiana State Historic Preservation Officer
and the Advisory Council on Historic Preservation
Regarding the Proposed I-49 Connector Project in Lafayette, LA**

WHEREAS, the Louisiana Department of Transportation and Development (LaDOTD) proposes to construct a new freeway along the Evangeline Thruway corridor in Lafayette, Louisiana, called the I-49 Connector; and

WHEREAS, the proposed I-49 Connector project is described below:

Project Overview

In 1987, the U.S. Congress authorized and funded a demonstration study "to provide limited continuous access between an interstate route and a highway on the Federal-Aid primary system in Lafayette, Louisiana." In October, 1990, the Louisiana Department of Transportation and Development (LaDOTD) began a comprehensive Environmental Impact Statement (EIS) study of potential transportation improvements in the U.S. 90/U.S. 167 Evangeline Thruway corridor in Lafayette. A Draft EIS was approved for public distribution and circulated in May 1992 and a Public Hearing was held on July 1, 1992. Following the Public Hearing, the Draft EIS was withdrawn on December 11, 1992. In December 1997, LaDOTD restarted the project with a reconciled set of alternatives.

The proposed project is within the city limits of Lafayette, Louisiana (1990 pop. 94,440; 2000 pop. 110,257; a percent change of 16.7%). Now called the I-49 Connector, the proposed action includes construction in the Evangeline Thruway U.S. 90/U.S. 167 corridor of a freeway with accompanying interchanges and flanking collector/ distributor roadways for local traffic circulation and land access. The proposed project would be compatible with LaDOTD's long-range statewide highway goal for U.S. 90 south of Lafayette.

The existing Evangeline Thruway is a north-south arterial passing through the older part of Lafayette, serving local residential and business traffic and also functioning as an integral part of the federal-aid primary highway network servicing south Louisiana. Construction and freeway implementation would begin just south of the Lafayette Regional Airport (commercial service) and continue north to the current southern terminus of I-49 at the I-10/I-49 interchange, a length of approximately five miles.

Given that no construction funding is currently available for the selected alternative, a staged approach for project implementation will be taken. The first stage is intended to be the adoption by the Lafayette Consolidated Government of a Corridor Preservation Plan that will allow for the project to be placed in the Metropolitan Planning Organization's (MPO) Financially Constrained Plan. After the project is placed into the Financially Constrained Plan, this will enable the development of a signed Record of Decision (ROD) at the conclusion of the EIS process.

Alternatives

The existing Thruway alignment and several partially new alignments within the corridor have been considered for implementation of the freeway. These are documented in the Environmental Impact Statement (EIS). A "no-build" alternative has been established as a base for comparison. The I-49 Connector consists of six possible alternatives on four alignments throughout the corridor.

All six alternatives follow the same path between the Union Pacific Railroad Spur and the existing I-10/I-49 interchange - comprising approximately 1.7 miles of the northernmost portion of the corridor. Additionally, the six alternatives follow a common route between the I-49 Connector's southern terminus and Kaliste Saloom Road- comprising approximately 0.7 miles.

The difference between the Elevated and Selected Overpasses alternatives is in the core part of the study area between Pinhook Road and the Union Pacific spur crossing. The Elevated alternatives would be continuously on bridge through this area, with all arterial cross streets remaining open to traffic below. The Selected Overpasses alternatives would be at-grade in the core area, with overpasses provided at Pinhook Road, Johnston Street, and Mudd Avenue. Other major crossing streets would be severed and closed by the freeway. The Elevated and Selected Overpasses alternatives would be equivalent outside of the core area.

Selected Alternative

With the information gathered and studies conducted through the environmental process a selected alternative has been identified for implementation in the corridor. The Lafayette Consolidated Government acting as the Metropolitan Planning Organization (MPO) has adopted the RR-4 Elevated alignment as the locally preferred alternative for I-49 through Lafayette. This alternative shifts the existing Evangeline Thruway away from St. Genevieve Church and School. See Exhibit 1. This action is based on the ability to depress Jefferson and Simcoe streets and keep them open underneath the I-49 freeway. The locally preferred alternative was approved as the selected alternative based upon the result of supplemental studies proving the feasibility and effectiveness; and

WHEREAS, impacts within the study corridor have been studied and documented within the EIS; and

WHEREAS, a study of properties listed on or eligible for inclusion on the National Register of Historic Places (NRHP) has been conducted for the proposed project in the study corridor; the findings of the study have been reported in the I-49 Connector Section 106 Adverse Effect Documentation Report; and

WHEREAS, FHWA has determined that the I-49 Connector Project will have an adverse visual effect upon the Sterling Grove Historic District, a district included on the National Register of Historic Places, and has consulted with the Louisiana State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the Sterling Grove Historic District was listed on the National Register of Historic Places (NRHP) in 1984 under Criterion C because, as a unit, it is architecturally cohesive; and

WHEREAS, the District is roughly bound by the northbound existing Evangeline Thruway, East Simcoe, Chopin and North Sterling streets as shown on Exhibits 2-a and 2-b attached; and

WHEREAS, in conjunction with the Section 106 documentation, LaDOTD, the Federal Highway Administration (FHWA), and the local MPO held a public meeting/workshop on December 6, 2001 to specifically discuss methods for mitigating the visual effects imposed by the proposed project to the Sterling Grove Historic District. Also, a separate meeting involving the St. Genevieve Catholic Church and School, which are located within the Sterling Grove Historic District, was conducted with LaDOTD, FHWA, and the local MPO to receive their comments concerning mitigation to the area. These two meetings specifically addressed mitigation opportunities for the Sterling Grove Historic District and St. Genevieve Church. Input on potential mitigation measures has also been received through previous meetings and charrettes held as part of the community participation program; and

WHEREAS, a plan for archaeological investigations for the selected alternative has been developed under a corridor preservation approach; and

WHEREAS, LaDOTD and FHWA have consulted, as described above, with the Lafayette MPO, St. Genevieve Catholic Church, residents of Sterling Grove Historic District, and other interested parties regarding the adverse visual effects of the proposed project on the Sterling Grove Historic District and the Lafayette MPO has been invited to concur in this Memorandum of Agreement as a concurring party;

NOW, THEREFORE, the LaDOTD, the FHWA, the Advisory Council on Historic Preservation and the Louisiana SHPO agree with concurrence from the Lafayette Planning Commission, that the I-49 Connector Project will be implemented in accordance with the

following stipulations in order to take into account the adverse visual effect of the proposed project on the Sterling Grove Historic District and to outline the methodology for archaeological survey within the Selected Alternative.

STIPULATIONS

FHWA will ensure that the following measures are carried out:

STERLING GROVE HISTORIC DISTRICT

1. LaDOTD will develop a mitigation plan for the Sterling Grove Historic District. The mitigation plan will be designed in consultation with, and approved by, the Louisiana SHPO to mitigate adverse visual impacts to the Historic District.
2. Within the mitigation plan, LaDOTD will include provisions for mitigating adverse visual impacts of the project that will occur at the Sterling Grove Historic District through the use of landscaping and other measures that will be designed into the construction project. The types of mitigation measures that will be considered during the design process will include:
 - Landscaping
 - Earthberms
 - Masonry walls
 - Special lighting
 - Long span bridges
 - Attention to use of under bridge areas
 - Hardscape and brick paver treatment
 - Fencing
 - Parks
3. The mitigation plan will take into account that downlighting should be considered and given priority as appropriate on all lighting installations including signage, flag poles, decorations, buildings, landscaping, trees, and similar items.
4. The mitigation plan will specifically include at a minimum the following provisions proposed by St. Genevieve Catholic Church and School and agreed upon by LaDOTD and FHWA (If any modifications are made to these provisions this will require consultation and approval from the Louisiana SHPO and the Advisory Council on Historic Preservation):

- A. Providing lighting in the area directly in front of St. Genevieve Church and School as well as in the rights-of-way adjacent to the church and school for both aesthetic and security purposes;
 - B. Developing the remaining area immediately adjacent to the Church and School as a plaza and green space with illumination and landscaping provided; and
 - C. Providing a simple decorative fence, in the manner of wrought iron, with locking gates enclosing the area.
5. Upon completion of and acceptance by LaDOTD and FHWA of the installation of the improvements listed in the Stipulation 4, the ownership of the property, including all future maintenance requirements for the property, will be transferred to St. Genevieve Catholic Church as compensation for and part of the mitigation for the adverse visual impacts to the Sterling Grove Historic District.
6. The conversion of Greig Street to a one-way street or alley from Elizabeth Street to a new intersection with Mudd Avenue, and the elimination of its existing intersection with Evangeline Thruway shall be implemented and more fully developed at the time of project design to enhance access to the church and school. The development of a semicircular drive west of the school with associated parking shall also be included as part of the project design and shall be incorporated into the above landscaped area as appropriate.
7. Due to the historic nature of St. Genevieve Catholic Church, construction specifications shall include utilization of drill shafts or a comparable construction technique (instead of pile driving) in the vicinity of the church in order to minimize the possibility of vibration damage to the historic structure.
8. During the development of the specific details for design and construction in the area, LaDOTD shall seek input from both St. Genevieve Catholic Church and School as well as provide opportunities for input by affected citizens and local government through a public involvement process. Public involvement will occur prior to the formal submittal of the specific details to the SHPO for approval as specified in Stipulation 9.
9. LaDOTD will ensure that the mitigation plan is complete and approved by the Louisiana SHPO prior to the commencement of final plans in the vicinity of the Sterling Grove Historic District.
10. If a subsequent discovery or identification of additional historic properties is made following the completion of the mitigation plan, LaDOTD and FHWA, in consultation

with the Louisiana SHPO, will ensure that the owners of the additional properties are made aware of the mitigation plan and their input may be considered for amendments with the terms of this Memorandum of Agreement (MOA) pursuant to Stipulation 15 (*Amendments and Noncompliance*) below.

PLAN FOR ARCHAEOLOGICAL INVESTIGATIONS

11. A plan for archaeological investigations, attached as Appendix A, will be implemented prior to those project activities that could disturb the archaeological sites within the selected alternative. The archaeological plan addresses the corridor preservation aspect of the I-49 Connector Project in which right-of-way will be acquired over time under a corridor preservation program, rather than all at once at the initiation of the project. The plan specifies those procedures by which archaeological investigations will occur over the extended period of time that right-of-way is acquired. The plan for archaeological investigations has been developed by LaDOTD and FHWA in conjunction with the Louisiana SHPO and is summarized as follows:

- A. The first phase of the study will consist of a comprehensive literature review for the Selected Alternative. A pedestrian archaeological survey will be completed once each benchmark in right-of-way acquisition is achieved – 25 percent, 50 percent, 75 percent, and 100 percent.
- B. Should any additional information be required to make an eligibility determination of an archaeological site discovered during the pedestrian archaeological survey, Phase II site testing will be undertaken at the site.
- C. Phase III mitigation investigations (data recovery) will be conducted if necessary. It is anticipated that both mechanical and hand excavations will be necessary for the fieldwork associated with this phase.
- D. A plan for discovery of unmarked human burial sites is also contained within the Archaeological Plan.
- E. The results of the archaeological investigations, along with other aspects of the proposed project, will be monitored and reported through the Information Management System (IMS) for the I-49 Connector project. The IMS will be developed in accordance with Stipulation 13 (*Monitoring and Reporting*) below.

DURATION

12. This agreement will be null and void if its terms are not carried out within fifteen years from the date of its execution. Prior to such time, LaDOTD and FHWA may consult with the other signatories to reconsider the terms of the agreement if a lapse in right-of-way

acquisition occurs for a period exceeding three years at any time during the course of the corridor preservation program and amend the agreement in accordance with Stipulation 15 (*Amendments and Noncompliance*) below.

MONITORING AND REPORTING

13. Following the execution of this agreement until it expires or is terminated, LaDOTD and FHWA will monitor the progress of the above stipulations and periodically provide all parties to this agreement, the public, and the Advisory Council on Historic Preservation information concerning the status of the stipulations listed in this MOA. LaDOTD and FHWA will ensure that the following provisions for monitoring and reporting the progress of the undertakings are adhered to:

- A. Each year, LaDOTD shall submit a summary report detailing work undertaken pursuant to its terms to all parties to this agreement. Such a report shall include any scheduling changes proposed for the mitigation and/or archaeological plans, any problems encountered with the two plans, and any disputes and objections received in LaDOTD's efforts to carry out the terms of this agreement. Failure to provide such summary report may be considered noncompliance with the terms of this MOA pursuant to Stipulation 15 (*Amendments and Noncompliance*) below.
- B. In addition, due to the corridor preservation nature of the proposed project, LaDOTD will create and maintain an Information Management System (IMS) specifically for the I-49 Connector project to track the right-of-way acquisitions and archaeological investigations as they occur, as well as many other commitments of the project that have been made as a result of the environmental studies. Some of the types of information that may be maintained within the IMS include:
 - Plan drawings and aerial photography depicting the proposed project and the required right-of-way,
 - All rights-of-way records, including appraisals, offers, and maps,
 - Status and results of archaeological investigations (secure location with access by authorized personnel only),
 - Public information dissemination as appropriate, and
 - Input to development of mitigation, enhancements, and other commitments made for the proposed project.
- C. The IMS may be developed to have two or more different levels of security privileges. At one level, project managers at state and federal agencies will be able to access sensitive information such as the archaeological

investigation results. At a second level, lesser amounts of information might be available to others such as the general public. Failure to update the IMS (on appropriate security levels) after each stage of the right-of-way acquisition program may be considered noncompliance with the terms of this MOA pursuant to Stipulation 15 (*Amendments and Noncompliance*) below.

DISPUTE RESOLUTION

14. Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with the objecting party(ies) to resolve the objection. If FHWA determines, within 30 days, that such objection(s) cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (the Council) in accordance with 36 CFR Section 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise FHWA on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the parties to the MOA, will be taken into account by FHWA in reaching a final decision regarding the dispute.
- B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, FHWA may render a decision regarding the dispute. In reaching its decision, FHWA will take into account all comments regarding the dispute from the others parties to the MOA (LaDOTD, SHPO, and MPO).
- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. FHWA will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute under this stipulation. FHWA's decision will be final.

AMENDMENTS AND NONCOMPLIANCE

15. If any signatory to this MOA, including any invited signatory, determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this MOA pursuant to 36 CFR §§800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the Advisory Council on Historic Preservation. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation 16 (*Termination*) below.

TERMINATION

16. If this MOA is not amended following the consultation set out in Stipulation 14 (*Dispute Resolution*), it may be terminated by any signatory or invited signatory. Within 30 days following termination, the FHWA shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR §800.6(c)(1) or request the comments of the Advisory Council on Historic Preservation under 36 CFR §800.7(a) and proceed accordingly.

Execution of this Memorandum of Agreement by FHWA, LaDOTD, and the Louisiana SHPO with concurrence from the MPO, the submission of documentation and filing of this Memorandum of Agreement with the Council pursuant to 36 CFR Section 800.6(b)(1)(iv) prior to LaDOTD's approval of this undertaking, and implementation of its terms evidence that FHWA has taken into account the effects of the proposed I-49 Connector on historic properties and afforded the Council an opportunity to comment.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION (FHWA)

William A. Sussmann Date: 7/11/02
William A. Sussmann
Division Administrator

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT (LaDOTD)

Kam K. Movassaghi Date: 6-21-02
Kam K. Movassaghi, Ph.D., P.E.
Secretary

LOUISIANA STATE HISTORIC PRESERVATION OFFICER (SHPO)

Laurel Wyckoff Date: 7/10/02
Laurel Wyckoff
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

John M. Fowler Date: 7/31/02
John Fowler
Executive Director