

ENGINEERING DIRECTIVES AND STANDARDS

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Section : 1 Subject : **PUBLIC ROAD EXCHANGE AND TRANSFER**
Directive : 19

1. PURPOSE:

This directive establishes a uniform policy for the exchange of public roads between the State and local governments, and for the transfer of ownership of public roads from the State to local governments.

2. SCOPE:

The exchange and transfer of ownership of public roads concerning the state highway system shall be governed by this policy and EDSM I.1.1.10 where applicable.

3. POLICY:

The exchange of public roads and transfer of ownership of public roads concerning the state highway system and related properties shall be conducted according to the procedures herein. However, they shall not violate the requirements of LRS 48:191, LRS 48:192, LRS 48:221, LRS 48:224 or any other applicable state law.

4. OBJECTIVE:

This policy is intended to provide the Department with a method to consistently negotiate, process and execute binding agreements with local governments on behalf of the State of Louisiana for the equitable exchange of public roads with, or the transfer of ownership of state owned public roads or related properties to local governments when it is consistent with the mission of the state highway system to provide effective mobility and connectivity on the rural arterial and collector systems to and through the population centers of Louisiana.

5. PROCEDURE:

5.1 Proposed exchanges of public roads initiated by the request of the governing body of local governments will be processed by the Department as follows:

5.1.1 The governing body of local governments shall initiate all requests for the exchange of public roads with the State by adopting a resolution similar in content to the appended form of resolution that states the proposed road exchange and affirms its willingness to accept the same as a binding agreement.

5.1.2 The Office of Planning and Programming will initially review the minimum requirements for the proposed road exchange to ascertain if the contents of the resolution are acceptable, if there is equity in the obligations exchanged and if the mission of the state highway system is better served.

- 5.1.3 If the minimum requirements are not met, the Office of Planning and Programming will provide a recommendation with concurring correspondence for the Secretary's signature to decline the proposed road exchange with stated reasons.
- 5.1.4 If the minimum requirements are met, the Office of Planning and Programming will request the district to provide the portion of the following information deemed necessary to assess or process the proposed road exchange:
 - 5.1.4.1 A complete condition inventory of all the facilities on the state and local government owned roads in the proposed road exchange and a traffic count on the same.
 - 5.1.4.2 A compilation of the Department standards that apply to each road in the proposed road exchange.
 - 5.1.4.3 An estimate of the costs to bring each road proposed to be taken into the state highway system in the proposed road exchange up to the current design standards of the Department or a reasonable condition as determined by the Department considering the design standards in effect at the time the road was originally constructed or reconstructed.
 - 5.1.4.4 Obtain the name of the contact person and address of any public and other holder of recorded right-of-way agreements or permits affected by the proposed road exchange.
 - 5.1.4.5 The recommendation of the District Administrator concerning the proposed road exchange.
- 5.1.5 The Office of Planning and Programming will assess the feasibility of the proposed road exchange based on an evaluation of the information provided by the district and contained in the Department's records. The Office of Planning and Programming will then provide its recommendation to either decline or accept the proposed road exchange to the Secretary for review with concurring correspondence for the Secretary's signature. Upon approval of the Secretary to accept a proposed road exchange, the Office of Planning and Programming will provide the Real Estate Section the documentation.
- 5.1.6 The Real Estate Section will process the road exchange and perform the portion of the following process deemed necessary to extinguish the Department's ownership and associated liabilities as appropriate.
 - 5.1.6.1 Secure concurrence for the reduction of right-of-way from the FHWA when appropriate.
 - 5.1.6.2 Provide notification to public utilities and other holders of recorded right-of-way agreements or permits affected by the exchange and to each member of the legislature in whose district the exchange is located.
 - 5.1.6.3 Prepare and execute a declaration of abandonment for the portion of right-of-way being transferred to the local government.
 - 5.1.6.4 Prepare and execute an act of transfer and exchange between the local

government and the State for the exchange of public roads consistent with the resolution adopted by the local government.

5.1.6.5 File the appropriate documents with the parish clerk of court.

5.2 Proposed transfer of public road segments to local governments bypassed by, and/or in compensation for, state route realignments initiated by the Department will be processed by the Department as follows:

5.2.1 The Road Design Section and/or other appropriate section will notify the Office of Planning and Programming of projects in preliminary design with realignments of the state highway system where a bypassed portion of state route must continue in service after construction and furnish a map to show the proposed bypassed portion of state route.

5.2.2 The Office of Planning and Programming will evaluate the bypassed portion of state route that will continue in service as a public road after construction to determine if it effectively serves the mission of the state highway system and thereby determine if it is appropriate or not for it to remain on the state highway system.

5.2.3 If the Office of Planning and Programming concludes that it is appropriate to transfer to the local government ownership of the bypassed portion of a state route that will remain after construction or of an alternate portion of state route(s) in the jurisdiction of the local government, it will provide a resolution similar to the appended form of resolution that describes the proposed transfer, and notify the district to proceed as follows:

- 5.2.3.1 Determine the receptivity of the local government to accept the proposed transfer of ownership of the bypassed portion of state route and any conditions that will make the transfer acceptable.
- 5.2.3.2 Provide an estimate of the quantities and costs to bring the bypassed portion of state route up to conditions acceptable to the local government for the transfer of ownership.
- 5.2.3.3 Provide a recommendation by the District Administrator concerning the feasibility of the transfer of ownership of the bypassed portion of state route or of the transfer of ownership of alternate state routes in the jurisdiction of the local government.
- 5.2.3.4 The district will attempt to expedite a resolution adopted by the governing body of the local government the same as or similar to that composed and provided by the Office of Planning and Programming.
- 5.2.4 The Office of Planning and Programming will review the contents of the resolution adopted by the governing body of the local government agreeing to accept the transfer of ownership for acceptability and provide its recommendation to the Secretary with concurring correspondence for the Secretary's signature to either decline or accept the resolution. Upon the acceptance by the Secretary of a resolution being acknowledged by registered mail, the Office of Planning and Programming will provide the Road Design Section and/or other appropriate section with a copy of the resolution for the incorporation of its conditions into the project plans and specifications as appropriate.
- 5.2.5 When the conditions of the agreement noted in the project plans are believed to be met during construction, the district will obtain the concurrence of the local government and notify the Real Estate Section to process the public road transfer.
- 5.2.6 The Real Estate Section, upon notification that the conditions of the agreement are met, will process the public road transfer and perform the portion of the following processes deemed necessary to extinguish the Department's ownership and associated liabilities:
 - 5.2.6.1 Secure concurrence for the reduction of right-of-way from the FHWA when appropriate.
 - 5.2.6.2 Provide notification to public utilities and other holders of recorded right-of-way agreements or permits affected by the transfer and to each member of the legislature in whose district the transfer is located.
 - 5.2.6.3 Prepare and execute an act of transfer and acceptance for the portion of right-of-way being transferred to the local government.
 - 5.2.6.4 Prepare and execute an act of transfer and acceptance between the State and the local government for the transfer of ownership of the bypassed portion state routes from the State to the local government consistent with the resolution adopted by the local government.
 - 5.2.6.5 File the appropriate documents with the parish clerk of court.

5.2.7 If the Department fails to obtain an acceptable, adopted resolution for the transfer of ownership by the governing body of the local government, it may exercise the prerogative to delay the development of the project indefinitely and/or consider with prejudice future proposed road exchanges to accommodate the local government until an acceptable, adopted resolution is obtained.

5.3 Proposed transfer of public roads in compensation for new state routes on new alignments initiated by the Department will be processed by the Department as follows:

5.3.1 The Department will seek compensation for public roads to be added to the state highway system or new state routes to be constructed that are authorized by the legislature without provision to be added to the length to the state highway system by negotiating with the governing body of the local government in whose jurisdiction the new state route is located to accept an equitable length of state route segments in their jurisdictions that do not serve the mission of the state highway system.

5.3.2 The Road Design Section and/or other appropriate section will notify the Office of Planning and Programming of projects in preliminary design that incorporate new state route segments on the state highway system and furnish a map to show the proposed new state routes.

5.3.3 The Office of Planning and Programming, if required, will reevaluate the state routes on the public road system including the proposed new state route segments for consistency with the mission of the state highway system.

5.3.4 The Office of Planning and Programming will, if it is appropriate to transfer to the local government the ownership of state route segments that do not serve the mission of the state highway system, compose a resolution similar to the appended form of resolution that describes the proposed state route transfer and its conditions and affirms the willingness to accept the same as a binding agreement, and notify and support the district to proceed as follows:

5.3.4.1 Determine the receptivity of the local government to accept an equitable length of the specified state route segments in its jurisdiction that are not consistent with the mission of the state highway system and any conditions that will make the transfer acceptable.

5.3.4.2 Provide an estimate of the quantities and costs to bring the specified state routes up to conditions acceptable to the local government for the transfer of ownership.

5.3.4.3 Provide a recommendation by the District Administrator concerning the feasibility of the transfer of ownership of the subject state routes or of the transfer of ownership of alternate state routes in the jurisdiction of the local government.

5.3.4.4 The District Administrator, if appropriate, will attempt to expedite a resolution adopted by the governing body of the local government.

5.3.5 The Office of Planning and Programming will review the contents of the resolution for the public road transfer for acceptability and provide its recommendation to the

Secretary with concurring correspondence for the Secretary's signature to decline or accept the resolution. Upon the acceptance by the Secretary of a resolution agreeing to accept a public road transfer, the Office of Planning and Programming will provide the Road Design Section and/or other appropriate section with a copy of the resolution for the incorporation of its conditions into the project plans and specifications as appropriate.

- 5.3.6 When the conditions of the public road transfer agreement noted in the project plans and specifications are believed to be met during construction, the district will obtain the concurrence of the local government and notify the Real Estate Section to process the public road transfer.
- 5.3.7 The Real Estate Section, upon notification that the conditions of the resolution are met, will process the act of transfer and acceptance and perform the portion of the following processes deemed necessary to extinguish the Department's ownership and associated liabilities:
 - 5.3.7.1 Secure concurrence for the reduction of right-of-way from the FHWA when appropriate.
 - 5.3.7.2 Provide notification to public utilities and other holders of recorded right-of-way agreements or permits affected by the transfer and to each member of the legislature in whose district the transfer is located.

- 5.3.7.3 Prepare and execute a declaration of abandonment for the portion of right-of-way being transferred to the local government.
 - 5.3.7.4 Prepare and execute an act of transfer and acceptance between the State and the local government for the transfer of ownership of state routes from the state to the local government consistent with the resolution adopted by the local government.
 - 5.3.7.5 File the appropriate documents with the parish clerk of court.
- 5.3.8 If the Department fails to obtain an acceptable resolution for transfer of ownership adopted by the governing body of the local government, it may exercise the prerogative to delay the development of the project indefinitely and/or consider with prejudice future proposed road exchanges to accommodate the local government until an acceptable, adopted resolution is obtained.

6. RESPONSIBILITY:

- 6.1 The Office of Planning and Programming will develop feasibility reports and the resulting recommendations as required for public road exchanges with, and transfers to, local governments. The Office of Planning and Programming will also attempt to expedite proposed agreements to exchange public roads and support the district negotiations to obtain agreements from local governments to accept the transfer of ownership of state route segments as appropriate. The Office of Planning and Programming will serve as a repository of the executed agreements to exchange or transfer public roads until the act of transfer and exchange or the act of transfer and acceptance is executed and recorded.
- 6.2 The Road Design Section and/or other appropriate section will develop applicable plans and specifications that reflect the conditions of the road transfer agreement executed between the State and the local government and provide a reference to the agreement.
- 6.3 The district will provide the Office of Planning and Programming the information and recommendations required to assess the feasibility of public road exchange proposals, and negotiate with local government officials to obtain public road transfer agreements. When the conditions of the road transfer agreement are believed to be met, the district will seek the concurrence of the local government and notify the Real Estate Section to proceed with the act of transfer and acceptance once the conditions are met.
- 6.4 The Secretary must by letter accept on behalf of the State, a resolution by the governing body of a local government agreeing to a public road exchange

between the Department and the local government or to transfer the ownership of a state route segment to the local government to authorize the change in the state highway system and form a binding agreement between the local government and the State.

- 6.5 The Real Estate Section will prepare the necessary instruments and documents to execute the exchange or the transfer of ownership of public roads, record the documents in the conveyance records of the office of the parish clerk of court and transmit copies of the executed agreements to the Project Control Section and the Office of Planning and Programming of their final disposition in the Department's inventory of the state highway system.
- 6.6 The Project Control Section will update and maintain a current description of the state highway system and undeveloped rights-of-way owned by the Department and identified by control section.

7. OTHER ISSUANCES AFFECTED:

This directive replaces EDSM NO. I.1.1.19, dated November 15, 1995. All directives, memoranda or instructions issued heretofore in conflict with this directive are hereby rescinded.

8. EFFECTIVE DATE:

This directive will become effective immediately upon receipt.

WILLIAM H. TEMPLE, P. E.
CHIEF ENGINEER

Form of Resolution to Exchange Public Roads

WHEREAS, The _____ Parish Police Jury is agreeable to relinquish ownership of whatever rights it may own in and to the following described property and all future liabilities associated therewith for its operation and maintenance to the State of Louisiana:

The portion of parish route known as _____ from its intersection with state route LA 999 proceeding north approximately 1.23 miles to its intersection with state route LA 777.

WHEREAS, The _____ Parish Police Jury in exchange for the acceptance by the State of Louisiana for the aforesaid described property is agreeable to accept ownership of whatever rights the State of Louisiana may own in and to the following described property and accept all future liabilities associated therewith for its operation and maintenance as a parish road:

The state route LA 999 in its entirety from its intersection with state route LA 888 proceeding west approximately 1.47 miles to its termination.

RESOLVED, That the _____ Parish Police Jury will accept the exchange of properties described herein as a binding agreement between the State of Louisiana and the Parish of _____ provided the Department of Transportation and Development accepts the exchange of properties described herein within 90 days of the adoption of this resolution.

FURTHER RESOLVED, That the _____ Parish Police Jury authorizes the presiding President of the Police Jury to execute the instruments to exchange the aforesaid properties described herein once the conditions of this agreement are met.

On motion by _____ and seconded by _____, the above and foregoing resolution was declared duly adopted on this the ___ day of _____, 200_.

President
_____ Parish Police Jury

Secretary
_____ Parish Police Jury

I hereby certify the above and aforementioned resolution was adopted by the _____ Parish Police Jury in regular session convened on _____, 200_, at which a quorum was present, given under my official signature and seal of office this ___ day of _____, 200_.

Secretary

Form of Resolution to Transfer Public Roads

WHEREAS, The _____ Parish Police Jury is agreeable to conditionally accept ownership of whatever rights the Department may own in and to the following described property and accept all future liabilities associated therewith for its operation and maintenance as a parish route:

Including two new connections to relocated state route LA 999, the portion of state route LA 999 to remain after its relocation located approximately 2.47 miles northeast of its intersection with state route LA 888 and proceeding north from its south connection approximately 0.38 mile to its north connection.

WHEREAS, The _____ Parish Police Jury is agreeable to accept ownership of whatever rights the Department may own in and to the aforesaid portion of the state route if and only when the State of Louisiana completes the following action:

Resurface the pavement with 1½ inches of hot mix asphalt on that portion of state route LA 999 to be transferred to the Parish.

RESOLVED, That the _____ Parish Police Jury will accept ownership of whatever rights the Department may own in and to the aforesaid portion of the state route described herein as a binding agreement between the State of Louisiana and the Parish of _____ provided the Department of Transportation and Development accepts the transfer of property described herein and complies with the conditions described herein within 10 years of the adoption of this resolution.

FURTHER RESOLVED, That the _____ Parish Police Jury authorizes the President of the Police Jury to execute the instruments to transfer the aforesaid property described herein once the conditions of this agreement are met.

On motion by _____ and seconded by _____, the above and foregoing resolution was declared duly adopted on this the ____ day of _____, 200_.

President

Parish Police Jury

Secretary

Parish Police Jury

I hereby certify the above and aforementioned resolution was adopted by the _____ Parish Police Jury in regular session convened on _____, 200_, at which a quorum was present, given under my official signature and seal of office this ____ day of _____, 200_.

Secretary