10.01 General Discussion

Since federal regulations do not allow the certification of right-of-way to be sub delegated, the Montana Department of Transportation (MDT) has overall responsibility to the Federal Highway Administration (FHWA) for the acquisition of right-of-way on all FHWA funded transportation projects in the state.

For a current project to be eligible for federal funding on any part of the project, the project's right-of-way must be acquired in accordance with the requirements of this manual. (Right-of-way acquired prior to July 1, 1971, is exempt.)

To assure fair and equitable treatment of displaced persons ("displaces"), and encourage and expedite acquisitions by negotiations, the acquisition process is regulated by the Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970 (Uniform Act) (49 United States Code Part 24) as amended. MDT may, by written agreement, use the services of land acquisition organizations of counties, municipalities, or other state or local governmental agencies for acquiring rights-of-way for FHWA projects. Any such organization may be used only if it is adequately staffed, equipped, and organized to provide such services, and if its practices and procedures are in conformity with MDT accepted procedures. In acquiring right-of-way, the local agency must follow all the requirements of the Uniform Act.

It is the responsibility of MDT to fully inform political subdivisions of their responsibilities in connection with federally assisted transportation projects. It is essential that local agencies and MDT communicate freely and work closely together during the entire acquisition process to expedite projects and to assure that all federal and state requirements are met. Guidance is provided in the *MDT Right-of-Way Operations Manual* Responsibilities for non-project related (program) approval actions [FHWA (F), state (S), or local agency (L)] are shown below.

Action	Non-NHS
a. Non-highway Use and Occupancy of Right-of-Way	S/L
b. Air Space Agreements	S/L
c. Disposal of Right-of-Way No Longer Needed	S/L
d. Temporary Use of Right-of-Way	S/L
e. Disposal of Access Control and Relinquishment of Right-of-Way	S/L

Project related approval actions:

Action	Non-NHS
a. Use of Fee Negotiators	S/L
h. Interest on Right-of-Entry	S/L
c. Hardship and Protective Buying	F
d. Use of Fee Attorneys	S/L
e. Appraisal Fees	S/L
f. Land Service Facilities	S/L
g. Right-of-Way Certificates	S/L

General

a. Local agency may acquire sidewalk easements.
b. Local agency may acquire permanent right-of-way easements
c. Right-of-way plans will be prepared for authorization and sent for filing, but are not required to be recorded. The decision to record is at the local agency's discretion.

d. Right-of-way may be purchased in the name of the appropriate public agency or private entity on a case-by-case basis.

.011 MDT Services

MDT is committed to an ongoing program which will provide effective assistance and guidance to local acquiring agencies. To this end, MDT will designate a local agency Right-of-Way Coordinator (LA Coordinator) to provide information and establish appropriate state staff contacts; provide training and educational opportunities for local agencies through workshops and acquisition course offerings; and provide mutually acceptable technical and advisory services as necessary to accomplish the acquisition program.

MDT will consult and advise the local agency concerning real property acquisition activities to ensure that right-of-way is acquired in accordance with provisions of state and federal laws and FHWA directives.

At the earliest possible date, the local agency should advise the LA Coordinator of the need for MDT assistance.

.012 Consultant Services

When the local agency does not have adequate staff to perform appraisal, negotiation or relocation functions, it may contract for these services and obtain federal participation in the costs.

The local agency should contact MDT for assistance in preparing any contract for services to assure FHWA participation in the contract. FHWA has determined the consultant agreements for right-of-way services must meet the consultant contracting requirements as described in Chapter 12 "Using Consultants." This includes local contracting for right-of-way services as well as sub-contracting to prime design consultant. See Chapter 12 Appendixes for sample consultant agreements for appraisal and negotiation.

10.02 Right-of-Way Acquisition Procedures

Before requesting authority to acquire right-of-way, the local agency must have secured approval of acquisition procedures (Appendix 10.141). Procedures should contain at a minimum the following:

a. Agreement to conform with state and federal laws and FHWA regulations. The agency should agree to follow MDT's *Local Agency Guidelines Manual ,MDT Right-of-Way Operations Manual , and FHWA Real Estate Acquisition Guide* or the agency's own manual if they have a MDT approved right-of-way manual.

b. A listing of the positions performing the separate functions of program administration, appraisal, appraisal review, acquisition, relocation, and property management.

c. A listing of current staff filling the above positions and a brief statement of their qualifications.

d. A policy for handling administrative settlements including the approving authority(s) and process.

e. Appraisal waiver process (see Section 10.051)

.021 No Right-of-Way Acquisition

Local agencies, after determining that new right-of-way will not be required for the current project, need only

check the appropriate box on the project proposal (see Chapter 6). If it is later determined that right-of-way is required, a Right-of-Way Project Funding Estimate (Appendix 10.142) or a True Cost Estimate (Appendix 10.143) must be prepared and MDT notified.

.022 Acquiring Right-of-Way

Acquisition of right-of-way may be performed by the following entities:

- By a local agency that is adequately staffed, equipped, and organized to discharge its right-of-way responsibilities and has right-of-way procedures approved by MDT. Staff may consist of qualified contract personnel and/or licensed private firms in addition to or in lieu of regular employees of the agency.
- By another local agency that meets the requirements above.

10.03 Funds for Right-of-Way

.031 Acquisition With Federal Funds

Authorization of federal funds for right-of-way requires compliance with Chapter 4, FHWA approval of environmental documents, and the submittal of the following documents to MDT.

- Costs and expenses
- Local Agency Agreement Supplement.
- Estimate of probable project right-of-way costs.
- Right-of-way plan.
- Relocation plan (if relocation is required — contact the LA Coordinator for assistance).

MDT is responsible for review and approval of right-of-way plans, deeds, and exhibits. The right-of-way plans should at least show the following information and be prepared in accordance with *MDT Right-of-Way Design Manual*.

- Survey line or centerline for the alignment;
- The old and new right-of-way limits with sufficient ties to the survey line to allow for legal descriptions of the areas to be acquired;
- Show all rights to be acquired, for example, easements and permits;
- Show the ownership boundaries of the parcels with rights to be acquired;
- Parcel identification number should be shown;
- Show the area of the parcel to be acquired; and
- Show the area of the remainder.

Once FHWA approval has been obtained, the LA Coordinator will notify the local agency of authorization to acquire right-of-way. No acquisition costs are eligible prior to this authorization.

.032 Acquisition With Local Agency Funds

If federal funds are to be used in any part of the project, federal guidelines for acquisition of the right-of-way must be followed. For projects that involve local agency funds only for right-of-way acquisition, the local agency must have the following documents prior to starting the acquisition process:

- Right-of-way plan;
- Relocation plan (if relocation is required, the relocation plan must be submitted to the Region Local Programs Engineer. The local agency need not wait for written authorization to acquire

right-of-way.)

The right-of-way plans should at least show the following information and be prepared in accordance with *MDT Right-of-Way Design Manual*.

- Survey line or centerline for the alignment;
  - The old and new right-of-way limits with sufficient ties to the survey line to allow for legal descriptions of the areas to be acquired;
  - Show all rights to be acquired, for example, easements and permits;
  - Show the ownership boundaries of the parcels with rights to be acquired;
  - Parcel identification number;
  - Show the area of the parcel to be acquired; and
  - Show the area of the remainder.

A copy of the right-of-way plan must be made available at the time of certification. It is advisable, but not required, to submit a copy to the LA Coordinator for review. This review will help minimize potential problems which surface during the certification process.

.033 Acquisition in Advance of NEPA Clearance

There are four circumstances under which right-of-way can be acquired in advance of NEPA clearance:

a. An agency may use its own funds to purchase R/W prior to NEPA clearance and may apply the purchase price (or if donated, the fair market value) toward their share of project costs, as long as they meet the requirements of 23 CFR 710.501(b). They cannot be reimbursed for these project costs, however.

b. An agency may purchase R/W prior to NEPA clearance under the protective buying and hardship acquisition provisions, as per 23 CFR 710.503, and be reimbursed. Note, however, that while these purchases are in advance of formal NEPA clearance of the project, individual clearance via a Categorical Exclusion is required. Consequently, although the project has not yet been cleared, the individual parcels have been cleared.

c. An agency may purchase R/W prior to NEPA clearance under the corridor preservation provisions of 23 CFR 630.106 (3) & (4) and be reimbursed. This process is similar to the process for protective buying (see 3 above). Generally, this is only done for parcels which will not require any displacement. Note, however, that as with hardship and protective buying, these purchases are in advance of formal NEPA clearance of the project and individual clearance via a Categorical Exclusion is required.

10.04 Appraisal

The requirements pertaining to appraisal of property to be acquired are given in Chapter 3 of the *MDT Right-of-Way Operations Manual*. If desired, a listing of MDT approved fee appraisers and appraisal reviewers is available from the LA Coordinator.

The appraiser shall be an experienced, qualified appraiser approved by MDT. Federal statue requires contract appraisers to be certified. Staff appraisers for public agencies do not have to be certified. The appraiser shall prepare an Appraisal Report which is a written document containing at least the following:

a. The purpose of the appraisal which includes a statement of the estimated value and the rights or interests being appraised.
b. Identification of the property and its ownership.
c. A statement of appropriate contingent and limiting conditions if any.
d. An adequate description of the neighborhood. The property, the portion of the property or interest therein being acquired, and the remainder(s) *if* any.
e. Identified photographs of the property including all principal above-ground improvements or unusual features affecting the value of the property.
f. A listing of the buildings, structures, fixtures, and other improvements which the appraiser considered part of the real property to be acquired.
g. The estimate of just compensation for the acquisition. In the case of a partial acquisition, allocate the estimate of just compensation for the property to be acquired and for damages to remaining property in either the report or a separate statement.
h. The data and analyses (or reference to same) to explain, substantiate, and document the estimate of just compensation.
i. The date to which the estimate of just compensation applies.
j. The certification, signature, and date of signature of the appraiser.
k. Other descriptive material (maps, charts, plans, photographs).
l. The federal aid project number and parcel identification.
m. History of appraiser contact with owner.

Sample appraisal report forms can be found in Appendix 10.144.

.041 Appraisal Waiver

In certain cases, an appraisal can be waived. To qualify the just compensation, must be $10,000 or less per parcel. The acquisition must be uncomplicated and the only damages will be minor cost to cure items.

In such instances where the appraisal is waived, just compensation should be based on comparable sales. All data used to arrive at just compensation must be included in the project file. When the waiver is used, it is important that the local agency determines that the offer being made is fair and equitable. If the owner wants an appraisal, the local agency is required to have an appraisal completed per guidelines of this section. See Appendix 10.145 for a sample appraisal waiver procedure.

.042 Appraisal Review

The requirements pertaining to appraisal review of the property to be acquired is given in Chapter 3 of the *MDT Right-of-Way Operations Manual*. The reviewing appraiser should be knowledgeable of the property values in the project area. The depth of review should be in direct relationship to the difficulty of the particular appraisal. The reviewing appraiser must be either a MDT Review Appraiser, on the approved list of review appraisers maintained by MDT or a permanent employee of the local agency who is qualified to review appraisals.

The reviewing appraiser should field inspect the property appraised as well as the comparable sales which the appraiser(s) considered in arriving at the fair market value of the whole property and of the remainder(s), if any. If a field inspection is not made, the file shall contain the reason(s) why it was not made.

The reviewing appraiser shall examine the Appraisal Reports to determine that they:

a. Are complete in accordance with the *Local Agency Guidelines* and contain the criteria required by the *MDT Right-of-Way Operations Manual,* Chapter 3.

b. Follow accepted appraisal principles and techniques in the valuation of real property in accordance with existing state law.

c. Include consideration of compensable items, damage, and benefits, but do not include compensation for items noncompensable under state law.

Prior to finalizing the estimate of just compensation, the reviewing appraiser shall obtain corrections or revisions of Appraisal Reports which do not substantially meet the requirements set forth in the *Local Agency Guidelines* or Chapter 3, *MDT Right-of-Way Operations Manual***.** These shall be documented and retained in the parcel file.

The reviewing appraiser may supplement an Appraisal Report with corrections of minor mathematical errors as long as such errors do not affect the final value conclusion. The reviewer may also supplement the appraisal file where the following factual data have been omitted:

a. Project and/or parcel number.
b. Parties to transaction, date of purchase, and deed-book reference to sale of subject property and comparables.
c. Statement that there was no sale of subject property in the past five years.
d. Location, zoning, or present use of subject property or comparables.

The reviewing appraiser shall initial and date corrections and/or factual data supplements to the Appraisal Report. The reviewing appraiser may conclude a value other than that concluded in the appraisal only *if* the conclusion is supported by relevant market data and analysis in the review document.

The reviewing appraiser shall place in the parcel file a signed and dated MDT Form 109-Review Appraisers Determination of Just Compensation (Appendix 10.146) setting forth:

a. An estimate of just compensation including, where appropriate, the allocation of compensation for the property acquired and for damages to remaining property.
b. A listing of the buildings, structures, fixtures, and other improvements on the land which were considered part of the property to be acquired.
c. A statement that the reviewing appraiser has no direct or indirect present or future interest in such property or in any monetary benefit from its acquisition.
d. A statement that the estimate has been reached independently, without collaboration or direction, and is based on appraisals and other factual data.

It is the responsibility of the local agency to set Just Compensation.

10.05 Title

The local agency will acquire evidence of the condition of title for all properties from which rights are to be acquired. It is suggested that a title commitment be ordered from a title company and the title to the property acquired cleared so that a policy of title insurance can be issued showing title vested in the agency subject

only to those exceptions which can reasonably be accepted.

In general, the elements necessary to acquire the needed interest are:

a. Acquisition instruments signed by all parties with an interest in the fee title.
b. Releases from mortgages and deeds of trust as the agency determines to be reasonable.
c. Releases of encumbrances, such as easements, which adversely impact the rights being acquired.
d. Releases of priority liens, such as material man's lien. judgments, state tax liens, and federal tax liens.

10.06 Negotiations

Various requirements in negotiating an acquisition of property are found in chapter 4 of the MDT *Righ-of-Way Operations Manual.*

If a local agency uses a consultant fee negotiator, the negotiator must be approved by MDT.

Local agencies using staff to negotiate must work closely with the LA Coordinator as explained in the Procedures Approval letter.

A separation of functions maintains the integrity of the acquiring local agency's transactions. Thus, the appraisal, appraisal review, and negotiations for a parcel are performed by three different persons. Recognizing the fact that the use of two separate individuals as appraiser and negotiator on a low-value taking can be both difficult and expensive, the use of a single individual to both appraise and negotiate a parcel is permitted where the value of the acquisition is $10,000 or less. It should be noted that the determination of value shall be approved prior to negotiations, and the approving authority shall be neither the appraiser nor the negotiator.

The local agency shall establish the just compensation and shall make a written offer to acquire in that amount. Appraisals are not required if the owner has indicated a willingness to donate the right-of-way after being informed of their right to receive just compensation.

A donation may be accepted only after the owner has been informed in writing of their right to just compensation. This applies to individuals, businesses, corporations, and other private entities. Donations from government agencies are exempt from these requirements.
Right-of-way obtained through normal zoning, subdivision or building permit procedures requiring the donation or dedication of strips of land may be incorporated into a federal aid project without jeopardizing participation in other project costs.

10.07 Donated Property

Donations of right of way can be accepted only after the owner has been notified of their rights to receive just compensation. A signed donation statement must be included in each parcel file.

Section 323 of 23 U.S.C. provides for using the value of donated lands as part of the match against an agency's contribution to the project. Certain conditions need be met.

- The credit can only be applied to a federal aid project if Federal Financial assistance was not used in any form to acquire the hand. Credit to the matching share may not exceed the matching share of

costs for that project and excess costs may not be utilized on other projects.

- The donation must be related to the project requiring the donated land.
- Donations of privately owned real estate made after April 2, 1987, and subsequent to NEPA clearance, are eligible for credit purposes.
- Donations of publicly owned real estate after June 8, 1998, are eligible for credit purposes.

For sample donation letters, see Appendix 10.147.

10.08 Administrative Settlements

The Uniform Act requires that "The head of a federal agency shall make every reasonable effort to expeditiously acquire real property by negotiation." Negotiation implies an honest effort by the local agency to resolve differences with property owners. Additionally, the legislative history of the Uniform Act indicates that offers can be flexible, and there is no requirement that they reflect a "take it or leave it position." Negotiations should recognize the inexact nature of the process by which just compensation is determined. Further, the law requires an attempt by agencies to expedite the acquisition of real property by agreements with owners and to avoid litigation and relieve congestion in the courts.

In addition to the mandates of the Uniform Act, there are significant cost savings which can be realized through an increased use of administrative and legal settlements. Cost savings are in the areas of salaries, witness fees, travel, per diem, court costs, etc.

FHWA and MDT encourage local agencies to carefully consider and maximize use of administrative settlements in appropriate situations.

An administrative settlement or stipulated settlement is a negotiated settlement of a right-of-way acquisition case in which the local agency has administratively approved payment in excess of fair market value as shown on the local agency's approved just compensation.

a. Any administrative settlement which exceeds the fair market value must be documented and thoroughly justified in order to be eligible for federal aid funds. The rationale for the settlement shall be set forth in writing. The extent of written explanation is a matter of judgment and should be consistent with the circumstances and the amount of money involved. If the local agency has any doubt as to eligibility, it should obtain prior approval from MDT through the LA Coordinator.

b. The local agency shall document the following and make it available for review by MDT if it is not already part of the local agency's approved procedures:

   1. Identify the responsible official who has the authority to approve administrative settlements, and
   2. Describe the procedure for handling administrative settlements.

   The designated local agency representative may approve an administrative settlement when it is determined that such action is in the public interest. In arriving at a determination to approve an administrative settlement, the designated official must give approve an administrative settlement, the designated official must give full consideration to all pertinent information including, but not limited to, the following:

   1. All available appraisals, including the owner's, and the probable range of testimony in a

condemnation trial.

2. Ability of the local agency to acquire the property, or possession, through the condemnation process to meet the construction schedule. Impact of construction delay pending acquisition.
3. The negotiator's recorded information.
4. Recent court awards in cases involving similar acquisition and appraisal problems.
5. Likelihood of obtaining an impartial jury in local jurisdiction, opinion of legal counsel where appropriate.
6. Estimate of trial cost weighed against other factors.

10.09 Condemnation Process

Refer to the MDT *Right-of-Way Operations Manual*, Chapter 4-1.

10.10 Relocation

The regulations governing relocation assistance are covered in Title 49, Code of Federal Regulations, Part 24.

The majority of local agencies will find that it is not economically feasible to maintain staff to perform the relocation function. Those agencies who have trained staff and are approved by MDT through the procedures process to provide relocation services may do so. All other agencies should contact the LA Coordinator for help in having MDT provide relocation services or for advice on contracting with private consultants. MDT does not maintain a list of qualified relocation consultants.

If a project includes relocation, a relocation plan must be submitted prior to right-of-way funding authorization. Since relocation plans are unique to each project requiring them, no sample is provided. Contact the LA Coordinator for assistance in preparing relocation plans and carrying out relocation activities.

10.11 Right-of-Way Certification

After right-of-way acquisition has been completed and about one month before the federal aid project is to be advertised for contract, the right-of-way certification must be submitted to MDT.

There are three categories of certifications.

#1 All Right-of-Way Acquired. Legal possession has been obtained. All occupants have vacated the right-of-way and the local agency has the right to remove any remaining improvements. *(*See Appendix 10.148*)*

#2 Right to Occupy All Right-of-Way Acquired. Trial or appeal of some parcels may be pending arid some parcels may have right of way or possession and use only. All occupants have vacated the right-of-way and the local agency has the right to remove any remaining improvements. *(*See Appendix 10.149*)*

#3 All Right-of-Way Not Acquired. This certification is to be used only in very unusual circumstances and with prior approval of the LA Coordinator. Acquisition of a few remaining parcels is not complete. All occupants of residences have had replacement housing made available to them in accordance with 49 CFR 24.204. The local agency must adequately explain why construction of the project before acquisition is complete. is in the public good. The local agency will ensure that occupants of residences, businesses, farms or nonprofit organizations who have not yet moved from the right-of-way are protected against unnecessary inconvenience or coercive action. All uncured parcels will be identified and a realistic date given for completion of acquisition and relocation. An explanation of why the properties are not acquired and how they will be acquired by the given date is also required. Appropriate notification will be provided

in the bid proposals identifying all locations where acquisition is not complete. (See Appendix 10.150)

Certifications with exception must be followed by a certification without exception when possession of all parcels is obtained.

The LA Coordinator will visit the local agency and review the acquisition files for the project and determine if the right-of-way was acquired according to the guidelines. For a copy of the coordinators' worksheets and a Federal Aid Requirement Checklist showing the general areas reviewed by the LA Coordinator, see Appendixes 10.152 and 10.153.

If the LA Coordinator determines that the project cannot be certified, a letter will be provided to the local agency office detailing the deficiencies encountered and the corrective action required before certification can be completed.

10.12 Property Management

If using FHWA funding, the local agency shall establish property management policies and procedures that will assure control and administration of excess lands and improvements acquired for right-of-way purposes. These procedures shall establish:

a. Property records showing:

   1. An inventory of all improvements acquired as a part of the right-of-way:

   2. An accounting of excess properties acquired with FHWA funding;

   3. An accounting of the property management expenses and the rental payments received; and

   4. An accounting of the disposition of improvements arid the recovery payments received.

b. Methods for accomplishing the clearing of right-of-way when such clearance is performed separately from the control for the physical construction of the project.

c. The methods for managing the rodent control program.

d. The methods for employing private firms or public agencies for the management of real property.

e. The methods for accomplishing the disposition of improvements through resale, salvage, owner retention, or other means.

If the local agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the local agency on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

Property management activities shall be handled in a manner consistent with the public interest and designed to reflect the maximum long-range public benefit.

The local agency is responsible for the preservation of the improvements and for reasonable safety measures

when it has acquired ownership and possession of the property.

Should rights-of-way acquired with FHWA funds become excess, they may be disposed of only after FHWA approval. All disposals will be done in accordance with state statute. If the disposal is to a private party, the local agency must determine fair market value through the appraisal process. A disposal may be made to a governmental agency for a public use without charge.

Uneconomic remnants acquired by the local agency with federal funds but not incorporated into the right-of-way may be disposed of without FHWA approval, but a credit to FHWA is required in the same manner as described earlier in this section.

Federal regulations provide for the use of airspace for non-highway purposes above, at, or below the highway's established gradeline, lying within the approved right-of-way limits. The airspace may be put to various public and private uses, such as parks, play areas, parking, etc., as long as it is a proper operation and does not impose a safety hazard on the traveling public.

Where an local agency has acquired sufficient legal right, title, and interest in the right-of-way of a highway on a federal aid system to permit the use of certain airspace, the right to temporary or permanent occupancy or use of such airspace may be granted by the state subject to prior FHWA approval.

If the use of airspace is contemplated. The LA Coordinator should be contacted for more detailed policies and procedures that must be considered.

10.13 Document Retention

The local agency shall maintain all records of its right-of-way actions for at least three years after payment of the final voucher to demonstrate compliance with 49 CFR Part 24. In addition, a diary must be maintained wherein each individual involved in a relocation, negotiations, or property management function shall enter and initial a suitable description of each contact and other information concerning that function. Each entry shall clearly show the month, day, and year of the contact; the name of the individual who made such contact and the name(s) of the individual(s) contacted. Upon request, the LA Coordinator will provide explanations and/or counseling as to what are considered adequate records.

10.14 Appendixes

10.141 Right-of-Way Procedures

10.142 Right-of-Way Project Funding Estimate Sample

10.143 True Cost Estimate Sample

10.144 Appraisal Report Forms (Sample)

10.145 Appraisal Waiver Procedure (Sample)

10.146 Review Appraiser's Report and Determination of Just Compensation Form (Sample)

10.147 Donation Statements (Sample)

10.148 Certification #1 (Sample) — All Right-of-Way Acquired

10.149 Certification #2 (Sample) Right to Occupy All Right-of-Way Acquired

10.150 Certification #3 (Sample) — All Right-of-Way Not Acquired

10.151 MDT Policy – Uniform Right of Way Widths

10.152 Coordinators Worksheets (Sample)

10.153 Federal Aid Requirement Checklist

Appendix 10.141 Right-of-Way Procedures

AGENCY_____

The _____ *("LOCAL AGENCY"),* desiring to acquire Real Property in accordance with the state Aquistion of Property (Title 60 Chapter 4 Part 1, MCA) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Montana Administrative Code. The _____ *("Department")* of the LOCAL AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the LOCAL AGENCY. To fulfill the above requirements the _____ *("Department")* will acquire right-of-way in accordance with the policies set forth in the Montana Department of Transportation *Right-of-Way* ***Operations*** *Manual* and *Local Agency Guidelines* manual. The LOCAL AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the LOCAL AGENCY's request.

   a. List the functions below for which the local agency has qualified staff and the responsible position. Attach a list of the individuals on the LOCAL AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An LOCAL AGENCY will be approved to acquire based upon staff qualifications.

      (1) PROGRAM ADMINISTRATION

      _____

      Agency Position

      (2) APPRAISAL

      _____

      Agency Position

      (3) APPRAISAL REVIEW

      _____

      Agency Position

      (4) ACQUISITION

      _____

      Agency Position

      (5) RELOCATION

      _____

      Agency Position

      (6) PROPERTY MANAGEMENT

      _____

      Agency Position

   b. Any functions for which the Local Agency does not have staff will be contracted for with MDT, another local agency with approved procedures or an outside contractor. A LOCAL AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the MDT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met.

When the LOCAL AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.

c. A LOCAL AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued at $10,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual Appendix 10.145 has already been approved. The LOCAL AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.

d. Attach a copy of the Local Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.

2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages and for a three year period following acceptance of the projects by MDT.

3. Approval of the LOCAL AGENCY's procedures by MDT may be rescinded at any time the LOCAL Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

_____ _____

Mayor or Chairman **Date**

MONTANA DEPARTMENT
OF TRANSPORTATION

Approved By:

_____ _____

Right-of-Way Bureau Chief **Date**

Appendix 10.142 Right-of-Way Project Funding Estimate Sample

PFE PARCEL WORKSHEET

PROJECT:_____

OWNERS NAME: _____

PROPERTY LOCATION:_____

BEFORE AREA:_____ AFTER AREA:_____

ACQUISITION AREA

FEE: _____ _____EASEMENT: _____
(area) (type) (area)

CURRENT USE:_____ ZONING:_____

HIGHEST & BEST USE: _____

EFFECTS OF
ACQUISITION:_____
_____
_____
_____

SALES RELIED ON:_____(contained in Project Catalog for this project dated _____)

Subject Sold within last 5 Years? _____ If yes, is Sale included in Project Catalog?_____

ACQUISITION COMPENSATION

FEE

LAND:

_____ $_____
(area) (unit value)

_____ $_____
(area) (unit value)

IMPROVEMENTS

_____ $_____
(type and size) (unit value)

_____ $_____
(type and size) (unit value)

EASEMENT: _____ $_____
(unit value)

DAMAGES:

_____ $_____

_____ $_____

TOTAL: $_____

Sheet __ of __ Sheets Parcel_____
Plan Approval Date _____ Revision Date _____Worksheet Date _____

RIGHT OF WAY PROJECT FUNDING ESTIMATE

Project:_____ FA#_____

Date:_____

1	2	3	4	5	6	7	8	9	10	11
Parcel Number	Just Compen (Offer)	Appraisal Fee Costs	Appraisal Review Fee Costs	Negotiation Fee Costs	Title, Escrow Costs	Prop. Mgmt. Service Costs	Relocation Service Costs	Relocation Payments	Condemn. and Incid. Costs	Total parcel Costs
									Total ROW Costs	

SAMPLE
NEIGHBORHOOD DESCRIPTION

Date: February 10, 2004

The project neighborhood is the town of Seeley Lake, Montana, approximately 40 miles northwest of the Missoula city limits. The project area is a one-mile strip of highway passing through the town. The area is scenic and heavily used for recreation. Ownership and uses in the surrounding area includes USFS, State Trust lands, a wildlife management area, Plumb Creek Timber lands, and several recreational lakes.

Population estimates vary from 1400 to 4000 depending on area boundaries and time of year measured. One study estimates that the population doubled from 1990 to 1996.[1] Development is scattered outside of town on hillsides and around the lakes. Much of the population is seasonal. Traffic in this area is moderate in winter and heavier in the summer. Population growth and new development are expected to continue, considering increasing use of the lakes, snowmobiling, hunting, camping, and golfing activities in the area.

Historically a logging community, over the past four decades the area has experienced extensive development of rural residential vacation home-sites, resort property, and an expanding golf course. Vacant lake-frontage is now scarce and in high demand from second-home buyers from the four larger cities within 100 miles. New development must comply with state subdivision, water, septic, and air quality regulations.

The town of Seeley Lake has an elementary school and high school, a small airport, gas stations, a grocery store, several lodging facilities, and federal and state agency field offices. Electricity, phone and cable services are available.

The proposed project will widen this highway to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Boy Scout Road and Highway 83. The project will be at present grade and will include curbing and a pedestrian/bicycle lane. Access points will be controlled, preserving existing access. The right-of-way to be acquired is a 20-foot strip of land from each side of Highway 83 between the two ends of the Boy Scout Loop road.

Fourteen parcels will be affected, five retail properties, a church, a bank, a strip center, a maintenance shop, a gas station-convenience store, medical offices, a real estate office, a fast-food kiosk and a steakhouse. Parking area will be affected. All of the properties have excess parking area except the strip center where new parking area can be developed to the north or south of the existing building. A storage shed is in the acquisition area of the maintenance shop property. The gas station canopy is partially in the acquisition area. The project is expected to improve traffic flow and increase the safety of ingress and egress to the commercial uses.

[1] Seeley Swan Pathfinder, July 1996

Appendix 10.143 True Cost Estimate Sample

TRUE COST PARCEL WORKSHEET

Project: _____ Parcel #_____

Notes:

Assessor's Tax Parcel Number (s):

Zone Size Min. = _____: Assessed Value Land = _____:

A.V. Bldg. #1 = _____: Bldg.#2 = _____ Bldg.#3 = _____:

Bldg.#4 = _____: Total Property Assessed Value = _____

ROW Map Info:

Before Area = _____: After Area = _____: Fee Take= _____:

Permanent Esmt Take = _____: Temporary Esmt Take = _____

Property Costs:

Total Take = (total property A.V. x 1.20) =$_____
Or
Partial Take =
Fee Land = _____@$_____ (A.V. land per unit) x 1.20 =$_____

Yard/Site Improvements in Take @Administrative Lump Sum =$_____

Major Building in Take @ (A.V. of Bldg.#_____) x 1.20 =$_____

Perm. Esmt. = _____ @$_____(A.V. land per unit) =$_____

Temp. Esmt. =_____@ $_____(A.V. land per unit) x10% =$_____

TOTAL PROPERTY COSTS (put in column 2 of True Cost) =$_____

Administrative Costs (put in respective columns of True Cost):

3.Appraisal Fee = _____
4. Appraisal Review Fee = _____
5. Negotiation Fee = _____
6. Title and Escrow Fee = _____
7. Prop. Mgmt. Services = _____
8. Relocation Services = _____
9. Relocation Payments = _____
10. Condemn & Incidentals = _____

TRUE COST ESTIMATE

Project:_____ FA#_____

Date:_____

1	2	3	4	5	6	7	8	9	10	11
Parcel Number	Just Compen (Offer)	Appraisal Fee Costs	Appraisal Review Fee Costs	Negotiation Fee Costs	Title, Escrow Costs	Prop. Mgmt. Service Costs	Relocation Service Costs	Relocation Payments	Condemn. and Incid. Costs	Total parcel Costs
										Total ROW Costs

S A M P L E
NEIGHBORHOOD DESCRIPTION

Date: February 10, 2004

The project neighborhood is the town of Seeley Lake, Montana, approximately 40 miles northwest of the Missoula city limits. The project area is a one-mile strip of highway passing through the town. The area is scenic and heavily used for recreation. Ownership and uses in the surrounding area includes USFS, State Trust lands, a wildlife management area, Plumb Creek Timber lands, and several recreational lakes.

Population estimates vary from 1400 to 4000 depending on area boundaries and time of year measured. One study estimates that the population doubled from 1990 to 1996.[2] Development is scattered outside of town on hillsides and around the lakes. Much of the population is seasonal. Traffic in this area is moderate in winter and heavier in the summer. Population growth and new development are expected to continue, considering increasing use of the lakes, snowmobiling, hunting, camping, and golfing activities in the area.

Historically a logging community, over the past four decades the area has experienced extensive development of rural residential vacation home-sites, resort property, and an expanding golf course. Vacant lake-frontage is now scarce and in high demand from second-home buyers from the four larger cities within 100 miles. New development must comply with state subdivision, water, septic, and air quality regulations.

The town of Seeley Lake has an elementary school and high school, a small airport, gas stations, a grocery store, several lodging facilities, and federal and state agency field offices. Electricity, phone and cable services are available.

The proposed project will widen this highway to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Boy Scout Road and Highway 83. The project will be at present grade and will include curbing and a pedestrian/bicycle lane. Access points will be controlled, preserving existing access. The right-of-way to be acquired is a 20-foot strip of land from each side of Highway 83 between the two ends of the Boy Scout Loop road.

Fourteen parcels will be affected, five retail properties, a church, a bank, a strip center, a maintenance shop, a gas station-convenience store, medical offices, a real estate office, a fast-food kiosk and a steakhouse. Parking area will be affected. All of the properties have excess parking area except the strip center where new parking area can be developed to the north or south of the existing building. A storage shed is in the acquisition area of the maintenance shop property. The gas station canopy is partially in the acquisition area. The project is expected to improve traffic flow and increase the safety of ingress and egress to the commercial uses.

[2] Seeley Swan Pathfinder, July 1996

Appendix 10.144 Appraisal Report Forms (Sample)

R/W FORM APPRAISAL REPORT

(COMPLETE, SUMMARY APPRAISAL REPORT FOR R/W ACQUISITIONS)

(1) PROJECT N0.: DESIGNATION:

PROJECT ID: PARCEL NO.:

(2) RECORD OWNER:
ADDRESS:

CONTRACT PURCHASER:
ADDRESS:

LESSEE OF ACQUISITION:
ADDRESS:

(3) ADDRESS AND/OR LOCATION OF THE PROPERTY:

(4) BRIEF LEGAL DESCRIPTION OF THE PROPERTY:

Photo of Subject

(Additional photos are to be attached on a Photo Sheet)

Date Taken: Taken by:
Taken From: Facing:
Remarks:

---

(5) 5 YEAR DELINEATION OF TITLE:
To:
From: Recording
Date: Info.
Consideration (last transfer):

(6) PURPOSE: The purpose of the appraisal is to estimate the Current Fair Market Value, as defined in MCA 70-30-313, of all the rights of ownership of the part to be acquired, and/or to address depreciation in current fair market value to the remainder not offset by special benefits, and/or the value of the other rights to be acquired as designated by MDT in conjunction with a highway project, subject to the assumptions and limiting conditions.

(7) PROPERTY RIGHTS BEING APPRAISED:
Fee Simple ☐ Easement ☐ Permit ☐ Other (specify) _____

(8) CURRENT FAIR MARKET VALUE is to be established in terms of cash or based on terms of financial arrangements equivalent to cash for the rights being appraised.

(9) SCOPE OF THE APPRAISAL: Summarize the process of collecting, confirming, and reporting data contained in this report:

(10) ASSUMPTIONS AND LIMITING CONDITIONS: List only those assumptions and limiting conditions applicable to this parcel; refer to the Project Report ; and/or:

When applied to partial acquisitions the information contained within this report cannot be used to estimate the value of the whole property by simple mathematical extraction or extension.

(11) SUMMARY DESCRIPTION OF NEIGHBORHOOD:

Summary description of the neighborhood considered for collection of sales data:
Refer to Project Report or

Surrounding area is:	Depressed ☐	Declining ☐	Static ☐	Growing ☐	Other _____

Unusual features affecting property values:
Subject property conforms with general area: Yes ☐ No ☐
If no, explain:

Surrounding area is:	Vacant ☐	Partially Developed ☐
	Developed ☐	In Transition ☐

Zoning in the area:
Has subject project influenced property values? Yes ☐ No ☐
If yes, explain:

(12) SUMMARY DESCRIPTION OF PROPERTY BEFORE ACQUISITION:

Total Area Contiguous Ownership (Larger Parcel):
Shape:
Dimensions:
Corner Site: ☐ Interior Site: ☐ Alley Access: ☐
Access:
Property's present location in respect to grade:
Topography:
Drainage:

Present Use:	Residential: ☐	Commercial: ☐	Industrial: ☐
	Suburban Residential: ☐	Special Purpose: ☐	Farm/Ranch: ☐
	Other: _____		

Zoning:
Utilities: Phone: ☐
Power: ☐
Sewerage: ☐
If septic, note location:
Water: ☐
If private well, note location:

Brief description of improvements:

(13) Fencing (Fencing, Gates, Portals and/or Cattle Guards within R/W acquisition):

(14) HIGHEST AND BEST USE, BEFORE:
Summary analysis and conclusion based on the use being reasonably probable, as evaluated for it being legally permissible, physically possible, financially feasible, and maximally profitable, creating the greatest return to the land.

(15) LAND VALUATION, BEFORE:

Land values based on Sales Catalog/Project Report : Sale Numbers ; or Sales attached (See Addenda).

(16) VALUE BASED ON COST APPROACH, BEFORE:

(17) VALUE BASED ON SALES COMPARISON APPROACH, BEFORE:

(18) VALUE BASED ON INCOME APPROACH, BEFORE:

(19) RECONCILIATION AND CONCLUSION TO VALUE, BEFORE:

(20) SUMMARY DESCRIPTION OF ACQUISITION:

Brief description of the acquisition, easement, permit, or (other) :
Type and amount of land:
Improvements:
Fixtures and Personal Property Considered Realty:

(21 VALUE OF THE ACQUISITION AS PART OF THE WHOLE, BEFORE:

(22 VALUE OF THE REMAINDER, BEFORE:

(23 HIGHEST AND BEST USE, AFTER:

(24 COST TO CURES TOTALING LESS THAN $1000 (when not completing an after appraisal):

(25 LAND VALUATION, AFTER:

Land values based on Sales Catalog/Project Report : Sale Numbers ; or
Sales attached (See Addenda).

(26 VALUE BASED ON COST APPROACH, AFTER:

(27 VALUE BASED ON SALES COMPARISON APPROACH, AFTER:

(28 VALUE BASED ON INCOME APPROACH, AFTER:

(29 RECONCILIATION AND CONCLUSION TO VALUE, AFTER:

(30 DEPRECIATION IN CURRENT FAIR MARKET VALUE TO THE REMAINDER:

Cost to cure items, explanation:
Value of the remainder as cured:
Special Benefits:
Remaining depreciation in current fair market value:

(31 ACCESS CONTROL (Appraised Value or Minimum Payment):

(32 RECAPITULATION (Based on reconciled value(s)):

Value of Acquisition:
Land:

Improvements (Inclusive of site improvements):

Fixtures and Personal Property:

Permits:

Easements:

Depreciation in Current Fair Market Value:
Not Offset by Special Benefits or Cured:

Cost to Cure:

Compensation as of (Effective Date)
Compensation, Rounded
Access Control: (Appraised Value or Minimum Payment)

TOTAL COMPENSATION
The compensation is based on right of way plans dated .

(33 METRIC CONVERSIONS:

(34 LESSEES
INTEREST:
LESSORS
INTEREST:

(35 I CERTIFY THAT...:

...the statements of fact contained in this report are true and correct.

...the appraisal has been made in conformity with state laws, the Uniform Standards of Professional Appraisal Practice, and the Uniform Appraisal Standards for Federal Land Acquisitions, as they apply to the appraisal assignment.
...I have personally inspected the subject property and that I have afforded the owner, or their representative, the opportunity to accompany me on the inspection. (If not explain.)

...I have personally inspected and verified the comparable sales relied upon in making this appraisal. (If not explain.)

...I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition of such property beyond my responsibility as an appraiser for the Montana Department of Transportation.
...neither my employment or compensation is contingent on an action, event or value resulting from the analyses, opinions, or conclusions in, or the use of, this appraisal report.

...the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions contained within this report.

...the value conclusion is based on my personal, unbiased professional analyses, opinions, and conclusions derived from the data collected for this appraisal.

...my determination has been reached independently based on appraisals and other factual data of record without collaboration or direction, except as outlined within this report.

...I understand that the value shown herein is to be used in connection with a Federal-aid highway project and that to the best of my knowledge, my determination does not contain items which are not eligible for Federal reimbursement, except as outlined within this report.

DATE: SIGNATURE:

(Date of Report) Appraised By:

(36 REQUIRED ATTACHMENTS (Also see instructions.): Sketch(s) or Map(s) Showing: Acquisition, Improvements and Site Plan (if applicable); Supplemental Photos of the Subject; Comparable Sale information (if applicable); Appraisal History.

:Q:

Appendix 10.145 Appraisal Waiver Procedure (sample)

MONTANA DEPARTMENT OF TRANSPORTATION
DETERMINATION OF VALUE
(TOTAL COMPENSATION $10,000 OR UNDER)

This determination of value is to be used for the purpose of acquiring low value acquisitions with or without minimal improvements and/or with nominal depreciation measurable by a cost to cure which results in no loss in value to the remainder "as cured."

(1) PROJECT ID: PROJECT NO.:
DESIGNATION: PARCEL NO.:

(2) RECORD OWNER:
ADDRESS:
PHONE NO:

CONTRACT PURCHASER:
ADDRESS:
PHONE NO:

LESSEE OF ACQUISITION:
ADDRESS:
PHONE NO:

Photo of Subject
(Additional photos are to be attached on a Photo Sheet)

Date Taken: Taken From: Facing:
Remarks:

(3) LARGER PARCEL SIZE AND LAND VALUE CLASSIFICATION:

(4) LAND VALUE ANALYSIS (State data source and/or reference sales used in support of the valuation.):

(5) VALUE of IMPROVEMENTS (Including signs):

(6) DEPRECIATION IN CURRENT FAIR MARKET VALUE TO THE REMAINDER (State data source and/or attach contractor estimate(s):

(7) VALUATION:

Compensation for Land and Improvements:
Land:
Fee Simple:

Easement:

Improvements (Inclusive of site improvements):

Fixtures and Personal Property Considered Realty:

Subtotal of Land and Improvements ....._____
Other Compensation:
Construction Permits:

Cost to Cure:

Subtotal of Other Compensation ....._____
Compensation .....
Minimum Payment or Rounded
Access Control: (Minimum Payment or Market Value)
.....

TOTAL COMPENSATION ..... _____

LESSEE'S INTEREST:
LESSOR'S INTEREST:

(8) I CERTIFY THAT...:
...in the preparation of this valuation assignment, I have personally inspected this property and have no present or contemplated future interest therein: that the compensation to me for this valuation service is not contingent upon my value conclusions herein set forth; and that all statements herein are true to the best of my knowledge and belief.

Signature:_____ Date: _____
Prepared by:

Signature:_____ Date: _____
Primary Consultant (If Applicable)

(9) APPROVED FOR AND ON BEHALF OF MDT:

_____ Date: _____
MDT R/W Supervisor or Acquisition Manager

(10) FENCING:

A. Station to Station

B. Station to Station

C. Station to Station

NOTE: The limitation of this form ($10,000) cannot be waived.

Appendix 10.146 Review Appraiser's Report (Sample)

REVIEW APPRAISER'S REPORT AND DETERMINATION OF COMPENSATION
APPRAISAL FORMAT: _____

Project No.: Parcel No.:
Project ID: Owner:
Designation:

TABULATION OF APPRAISALS

Name of Appraiser	Date of Appraisal	Revision Date(s)

DETERMINATION OF COMPENSATION

Value of Acquisition:
Land:
$
$
Improvements (Inclusive of site improvements):
$
$
Fixtures and Personal Property (considered realty):
$
$
Easements:
$
$
Subtotal of Acquisition ..... $

Other Compensation:
Permits:
$
$
Depreciation in Current Fair Market Value:
(Not Offset by Special Benefits or Cured)
$
$
Cost to Cure:
$
$

Subtotal ..... $_____

Total Compensation as of (Effective Date)..... (A) $_____

TOTAL COMPENSATION, ROUNDED ..... $
Access Control: (Minimum Payment or Appraised Value)
$
TOTAL JUST COMPENSATION ..... $
Uneconomic Remnant:
(B) $
Total Just Compensation (A + B) ..... $
TOTAL JUST COMPENSATION W/ UNECONOMIC REMNANT, ROUNDED ..... $
The compensation is based on right of way plans dated .

Partial Interests to be Divided as Follows:
Lessor's Interest $
Lessee's Interest $

REMARKS:

I CERTIFY THAT...:
...the statements of fact contained in this report are true and correct.
...I understand that the value shown herein is to be used in connection with a Federal-aid highway project and that to the best of my knowledge, my determination does not contain items which are not eligible for Federal reimbursement, except as outlined in the attached remarks.
...the review has been made in conformity with state laws, the Uniform Standards of Professional Appraisal Practice, and the Uniform Appraisal Standards for Federal Land Acquisitions, as they apply to the review assignment.
...I have personally inspected the subject property. (If not explain.)
...I have personally inspected the comparable sales applicable to this appraisal. (If not explain.)
...I have no direct or indirect present or contemplated future personal interest in the subject property or in any benefit from the acquisition of such property beyond my responsibility as review appraiser for the Montana Department of Transportation.
...neither my employment or compensation is not contingent on an action, event or value resulting from the analyses, opinions, or conclusions in, or the use of, this review report.
...my conclusions have been reached independently based on appraisals and other factual data of record without collaboration or direction, except as outlined within the attached remarks.

Reviewed by: Signature: _____
Date:

Approved for Compensation: Date: _____ No Remarks: ☐ Remarks Attached: ☐

Signature: _____ Title:_____

Appendix 10.147 Donation Statements (Sample)

Date

_____
_____
_____

Subject: Project Title
Parcel Number

Sirs:
(My/Our) donation of (parcel number or property description) to the (name of local agency) for highway/transportation purposes is made voluntary and with full knowledge of (my/our) entitlement to receive just compensation therefore. (I/We) hereby release the (name of local agency) from obtaining an appraisal of the acquired property.

Sincerely,

_____

Proposed Donation Letters (Through Local Agency)

Date

Regional Administrator/
Chief Right-of-Way Agent
Montana Department of Transportation
Helena, MT 59620

Subject: (Project Title)
(Federal Aid Number)
Parcel Number_____

Sirs:
The attached instrument for donation of right-of-way to the agency is in compliance with the provisions of *_____.

Sincerely,

_____
Accept and Approval

_____
State of Montana Department of Transportation

Concur and Approve

_____
Title_____

_____
(Local Agency)

*(Typical language.)
… City/County Ordinance No.111

(For use when a local agency project is adjacent to MDT right-of-way and MDT does not have an active project at this location.)

Appendix 10.148 Certification #1 (Sample)

All Right-of-Way Acquired

RIGHT-OF-WAY CERTIFICATE #1

TO: _____ Date: _____

Regional Highways and Local Programs Engineer

_____

_____ RE: Federal Aid No.:_____

Project Title:_____

_____

Local Agency:_____

Dear Sir:

As per title 23 CFR, Part 635, Section 309, Para(c), right of way has been acquired in accordance with current FHWA Directives covering the acquisition of real property and the following applies:

I hereby certify that all necessary rights-of-way, including control of access rights (when pertinent), have been acquired including legal and physical possession.

AND

(select (a) or (b))

(a) there are no improvements to be removed or demolished for the above cited project.

OR

(b) All occupants have vacated the lands and improvements and the agency has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands.

AND

(select (a) or (b))

(a) I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA Directives covering the relocation of displacees to DS&S housing and availability of adequate replacement housing are not applicable to this project.

OR

(b) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right-of-way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.

Project Description:

Total parcels required for project: _____

Parcel(s) with Relocation: _____

Temporary Construction Permits: _____

Sincerely,

_____ _____

Chief Administrative Officer of Manager, Real Estate Services

Local Agency or Delegated Authority _____Region

Appendix 10.149 Certification #2 (Sample)

Right to Occupy All Right-of-Way Acquired (Some P&U's or Rights of Entry)

RIGHT-OF-WAY CERTIFICATE #2

TO: _____ Date: _____
Regional Highways and Local Programs Engineer
_____
_____ RE: Federal Aid No.:_____
Project Title:_____
_____
Local Agency:_____

Dear Sir:

As per title 23 CFR, Part 635, Section 309, Para(c), right of way has been acquired in accordance with current FHWA Directives covering the acquisition of real property and the following applies:

I hereby certify that although all necessary rights-of-way have not been acquired, the right to occupy and use all rights of way required for the proper execution of the project have been acquired.

AND

(select (a) or (b))

(a) There are no improvements to be removed or demolished for the above cited project.

OR

(b) All occupants have vacated the lands and improvements and the agency has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands.

AND

(select (a) or (b))

(a) I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA Directives covering the relocation of displacees to DS&S housing and availability of adequate replacement housing are not applicable to this project.

OR

(b) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right-of-way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.

Sample #2 Certification (continued)

Project Description:
Total parcels required for project: _____
a. Parcel(s) acquired: _____
b. Parcel(s) with possession and use only: _____
List:

P&U Parcel #	Owner	Effective Date
1.		
2.		

c. Parcels covered by right(s) of entry: _____
List:

R/E Parcel #	Owner	Effective Date	Termination Date
1.			
2.			

d. Temporary Construction Permit(s) acquired: _____
e. Parcel(s) with Relocation: _____

Sincerely,

_____ _____

Chief Administrative Officer of
Local Agency or Delegated Authority

Manager, Real Estate Services
_____Region

Appendix 10.150 Certification #3 (Sample)

All Right-of-Way Not Acquired (Use Only in Very Unusual Circumstances)

RIGHT-OF-WAY CERTIFICATE #3

TO: _____ Date: _____
Regional Highways and Local Programs Engineer
_____
_____ RE: Federal Aid No.:_____
Project Title:_____
_____
Local Agency:_____

Dear Sir:

As per title 23 CFR, Part 635, Section 309, Para(c), right of way has been acquired in accordance with current FHWA Directives covering the acquisition of real property and the following applies:

I hereby certify that the acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204.

AND

(select (a), (b), or (c))

(a) There are no improvements to be removed or demolished for the above cited project.

OR

(b) All occupants have vacated the lands and improvements and the agency has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands.

OR

(c) Occupants remain to be vacated and the agency ensures that occupants who remain in the right-of-way will be protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

AND

(select (a), (b) or (c))

(a) I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA Directives covering the relocation of displacees to DS&S housing and availability of adequate replacement housing are not applicable to this project.

OR

(b) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right-of-way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.

OR

(c) I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented except for a few remaining parcels as explained in the exception section.

Sample #3 Certification (continued)

Project Description:
Total parcels required for project: _____
a. Parcel(s) acquired: _____
b. Parcel(s) with possession and use only: _____
List:

P&U Parcel #	Owner	Effective Date
1.		
2.		

c. Parcels covered by right(s) of entry: _____
List:

R/E Parcel #	Owner	Effective Date	Termination Date
1.			
2.			

d. Temporary Construction Permit(s) acquired: _____
e. Parcel(s) with Relocation: _____

Exceptions:

(List all exceptions by parcel number. A realistic date of occupancy of the parcel and of completion of relocation must be given with an explanation of why those dates are realistic. Explain also, why it is in the public interest that the project be advertised without acquisition being completed.)

I further certify that appropriate notification will be provided in the bid proposals identifying all locations where right of occupancy and use has not been obtained.

Sincerely,

_____ _____
Chief Administrative Officer of Manager, Real Estate Services
Local Agency or Delegated Authority _____Region

Appendix 10.151 MDT Policy – Uniform Right-of-Way Widths

MONTANA DEPARTMENT OF TRANSPORTATION **ENGINEERING DIVISION POLICY & PROCEDURE**	**Policy Number:**	ENG 2000-01
	Date Effective:	01-01-01
	This Revision:	
	Last Revision:	
Subject: Uniform Right of Way Widths		

POLICY

Arterial Highways

Standard Right-of-Way Width
The standard right-of-way limits for all arterial projects is 25m (80 ft.) from the centerline of the nearest roadway to the right-of-way line or 3 meters (10 ft.) beyond the construction limits, whichever is greater. The minimum length of parallel right-of-way is 150 meters (500 ft.).

Minimum Allowable Right-of-Way Width
The minimum allowable right-of-way width for an arterial project is three meters (10 ft.) beyond the construction limits. The minimum length of parallel right-of-way is 150 meters (500 ft.)

During the Preliminary Field Review and the Alignment and Grade Review, the decision will be made whether the project will be designed to the minimum allowable right-of-way width. The decision to design and acquire the right-of-way to the minimum allowable width must be documented in the Scope of Work (SOW) report. The minimum allowable right-of-way width should only be used where the clear zone is within the right-of-way.

The Chief Engineer must approve any right-of-way limit less than the minimum allowable width.

The standard and minimum right-of-way requirements are not applicable to projects that are proposed to stay within the existing right-of-way, such as some safety projects.

Collector Highways

Standard Right-of-Way Width
The standard right-of-way limits for a collector project is 20 meters (65 ft.) from centerline of the nearest roadway to the right-of-way line or three meters (10 ft.) beyond the construction limits, whichever is greater. The minimum length of parallel right-of-way is 150 meters (500 ft.).

Minimum Allowable Right-of-Way
The minimum allowable right-of-way width for a collector project is three meters (10 ft.) beyond the construction limits. The minimum length of parallel right-of-way is 150 meters (500 ft.)

During the Preliminary Field Review and the Alignment and Grade Review, the decision will be made whether the project will be designed to the minimum allowable right-of-way width. The decision to design and acquire the right-of-way to the minimum allowable width must be documented in the Scope of Work (SOW) report. The minimum allowable right-of-way width should only be used where the clear zone is within the right-of-way.

The Chief Engineer must approve any right-of-way limit less than the minimum allowable width.

Uniform Right of Way Widths (continued)

The standard and minimum right-of-way requirements are not applicable to projects that are proposed to stay within the existing right-of-way, such as some safety projects.

Urban Highways

There are no set rules governing right-of-way widths in urban areas. Sound engineering judgement must be applied to obtain a logical balance between right-of-way costs and right-of-way widths. This must be coordinated with the local road authority and documented in the project documents for an urban design within urban limits.

Urban rights-of-way must be wide enough to accommodate the curb to curb dimensions of the highway or street plus a border strip between the curb and the right-of-way on each side, typically to provide space for sidewalks, signs, fire hydrants, street lights, etc. Except where existing improvements do not permit, border strips should be at least three meters (10 ft.) and preferably four meters (13 ft.) or more, particularly on reconstruct type projects in suburban/undeveloped areas. The border strip is defined as the area between the curb and the right-of-way line.

Where possible, sufficient right-of-way should be acquired at intersections to provide adequate sight distance.

Urban projects within Urban Limits

The minimum right-of-way width shall be sufficient to encompass all project design features, including construction limits, utilities, signs, lighting, sidewalks, etc.

Frontage Roads

Standard Right-of-Way Width
The standard right-of-way limit for a frontage road is 20 meters (65 ft.) from centerline of the frontage road to the right-of-way line. The minimum length of parallel right-of-way is 150 meters (500 ft.).

Minimum Allowable Right-of-Way Width
The minimum allowable right-of-way width for a frontage road is three meters (10 ft.) beyond the construction limits, but shall never be less than 9.1 meters (30 ft.) from the frontage road centerline, where there is no common right-of-way with another roadway. The minimum length of parallel right-of-way is 150 meters (500 ft.).

During the Preliminary Field Review and the Alignment and Grade Review the decision will be made whether the project will be designed to the minimum allowable right-of-way width. The decision to design and acquire the right-of-way to the minimum allowable width must be documented in the Scope of Work (SOW) report. The minimum allowable right-of-way width should only be used when the clear zone is within the right-of-way.

The Chief Engineer must approve any right-of-way limit less than the minimum allowable width.

The standard and minimum right-of-way requirements are not applicable to projects that are proposed to stay within the existing right-of-way, such as some safety projects.

Bridge Projects (on System)

The standard right-of-way width based upon the roadway classifications discussed above is normally maintained through the bridge and connected to the existing right-of-way width of the existing roadway at the beginning and end of the bridge project.

Uniform Right of Way Widths (continued)

Bridge Projects (off System)

The minimum allowable right-of-way width for an off system bridge project is three meters (10 ft.) beyond the construction limits, but never less than 9.1 meters (30 ft.) from the county road centerline. The right-of-way width is maintained through the bridge and connected to the existing right-of-way of the existing roadway at the beginning and end of the bridge project.

Approved, Gary A. Gilmore Chief Engineer, Date 01/02/01
Gary A. Gilmore P. E.

Appendix 10.152 Coordinators Worksheets (Sample)

PROJECT WORK SHEET

AGENCY:_____ F.A. NUMBER:_____

PROJECT TITLE:_____

PROCEDURES DATED: _____

NUMBER OF PARCELS: _____

RELOCATION PLAN DATED: POSITIVE:_____ NEGATIVE:_____

PROJECT FUNDING ESTIMATE DATED:_____

FHWA PARTICIPATION IN ROW:_____ ACQ. AUTHORIZATION DATED_____

RIGHT OF WAY PLAN:

F.A. NUMBER:_____ OWNERSHIP INFORMATION:_____

AREAS BEFORE:_____ AFTER:_____ ROW:_____

ADEQUATE DATA FOR LEGAL:_____

COMMENTS:

PARCEL WORK SHEET

PROJECT TITLE:

PARCEL NUMBER: ACREAGE:

APPRAISAL – DATED_____ REVIEW – DATED_____
AMOUNT _____ AMOUNT_____
FIRM_____

JC SET BY AGENCY – DATED_____ OFFER LETTER – DATED_____
AMOUNT_____ AMOUNT_____

ADMN. SETTLEMENT AMOUNT_____ AGENCY APPROVED

TOTAL SETTLEMENT AMOUNT_____

UNECONOMIC REMNANT_____ VALUE_____ OFFER MADE

DONATION: STATEMENT SIGNED_____

TITLE REPORT_____ ENCUMBRANCES CLEARED

DEED DATED_____ RECORDED_____

DOCUMENTS 1. LEGAL DESCRIPTION_____
2. PARTIES _____
1. NOTARY _____

PROOF OF PAYMENT_____ NEGOTIATOR DISCLAIMER_____

DIARY COMPLETE_____ SIGNED_____

RELOCATION

ADDITIONAL COMMENTS

Parcel:

The following is a list of items needed in a Local Agency's files to allow the LA Coordinator to complete a project certification review. This list is not all-inclusive and is meant as an aid to file preparation only.

PROJECT FILE

1. RIGHT OF WAY PLAN
2. PROJECT FUNDING ESTIMATE
3 RELOCATION PLAN
4. FWHA ACQUISITION AUTHORIZATION
5. CONDEMNATION AUTHORIZATION (IF NEEDED)

NEGOTIATION FILE

1. APPRAISAL(S)
2. APPRAISAL REVIEW(S)
3. JUST COMPENSATION (SET BY AGENCY)
4. DIARY(S)
5. OFFER LETTER(S)
6. ADMINISTRATIVE SETTLEMENT JUSTIFICATION AND APPROVAL
7. DONATION STATEMENT APPLICABLE)
8. TITLE EVIDENCE
9. COPIES OF RECORDED DOCUMENTS
10. PROOF OF PAYMENT(S)
11. NEGOTIATOR DISCLAIMER STATEMENT
12. CONSULTANT CONTRACT(S)
13. CORRESPONDENCE

RELOCATION FILE

1. DIARY(S)
2. PROPER NOTICE(S):

GENERAL INFORMATION
RELOCATION ELIGIBILITY
90 DAY NOTICE

RESIDENTIAL:

3. RELOCATION BENEFITS COMPUTATION
4. BENEFITS NOTICE
5. MOVING AGREEMENT
6. PROOF OF PURCHASE OR RENT
7. DS&S INSPECTION REPORT
8. EVIDENCE OF ADVISORY ASSISTANCE
9. ALL SUPPORTING DOCUMENTATION

BUSINESS:

10. BENEFITS NOTICE
11. MOVING AGREEMENT
12. CLAIM FORMS
13. EVIDENCE OF ADVISORY ASSISTANCE
14. ALL SUPPORTING DOCUMENTATION

15. PROOF OF PAYMENT(S)

Appendix 10.153 Federal Aid Requirement Checklist

Informational Only

Agency Region _____ Date _____ Project
(Federal Aid Number) (Name)

Federal Funds Will Be Used For: PE RJW ____CONST. ____

Persons Will Be Displaced: YES ____NO ____

Right-of-Way Acquired For This Project: YES ____NO ____

(Reminders)	(Comments)
1. Real property must be appraised before initiation of negotiations with the owner, per 49 CFR 24.102(c) and 24.108.	1.
2. Owners must be given an opportunity to accompany each appraiser during his inspection of the property, per 49 CFR 24.102(c).	2.
3. The local agency must establish just compensation before initiation of negotiations with the owners, per 49 CFR 24.102(d).	3.
4. No increase or decrease in the FMV due to the project except physical deterioration, is to be considered in the valuation of the property, per 49 CFR 24.103(d).	4.
5. Appraisals are not to give consideration nor include any allowance for relocation assistance benefits.	5.
6. The owner is not to be left with an uneconomic remnant that the local agency did not offer to acquire, per 49 CFR 24.102(k).	6.
7. The owner is to be given a written statement of the amount offered as just compensation, and where appropriate, the compensation for real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated in the written statement, per 49 CFR 24.102(e).	7.
8. No owner shall be required to surrender possession before the agreed purchase price has been paid or the approved amount of compensation has been paid into the court, per 49 CFR 24.102(j).	8.
9. No lawful occupant shall be required to move unless the occupant has been given at least 90 days advance written notice of the earliest date by which the occupant may be required to move, per 49 CFR 24.203(c).	9.
10. The rental amount charged to owners and/or tenants permitted to occupy the property subsequent to acquisition must not exceed the fair rental value for such occupancy. per 49 CFR 24.102(m),	10.
11. No action must be taken to advance condemnation, defer negotiations or condemnation or taken any other action coercive in nature in order to compel an agreement on the price to be paid for the property, per 49 CFR 24.102(h).	11.
12. The local agency must acquire an equal interest in all buildings, etc., located upon the real property acquired, per 49 CFR 24.105.	12.

(Reminders)	**(Comments)**
13. The local agency must pay recording fees, transfer taxes, etc.; penalty costs for pre-payment of a pre-existing mortgage and the pro rata share of real property taxes paid subsequent to vesting title in the local agency, per 49 CFR 24.106.	13.
14. No property owner can voluntarily donate his property prior to being informed of his right to receive just compensation.	14.
15. Provisions have been made for rodent control should it be necessary.	15.
16. No owner was intentionally required to institute legal proceedings to prove the fact of the taking of his real property.	16.

Prepared by_____

Title _____

Appendix 10.154 Government Agreement For Aid

Montana Department of Transportation

Organization and Address	
Government Agreement For Aid Work by State - Actual Cost Agreement Number- Federal Employers ID. Number	
Region	**Land Acquisition, Relocation, and Related Services**

THIS AGREEMENT, made and entered into this _____ day of _____ , between the STATE OF MONTANA, Department of Transportation, acting by and through the Secretary of Transportation, hereinafter the "DEPARTMENT" and the above named organization, hereinafter the "LOCAL AGENCY.

WHEREAS, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646. 84 Stat. 1894) amended by Uniform Relocation Act Amendments of 1987 (PL. 100-17, 101 Stat. 246-256) as implemented by the United States Department of Transportation (49 CFR 24), Chapter 8.26 Revised Code of Montana (RCW), and Chapter 468-I 00 Montana Administrative Code (WAC) promulgated by Montana State Office of Community Development (OCD), all of which are hereinafter referred to as the REGULATIONS, establish a uniform policy for the expedient and consistent treatment of owners subjected to land acquisition practices and provide for the fair and equitable treatment of persons displaced in connection with or as a result of public works programs or projects of a State agency or local public body; and

WHEREAS, the LOCAL AGENCY may propose to acquire or to administer the acquisition of real property in connection with public works programs or projects which may necessitate displacement of an individual, a family business, farm, or nonprofit organization; and

WHEREAS, the DEPARTMENT has an established organization to complete project impact studies and to conduct land acquisition, property management, and relocation assistance programs in compliance with the REGULATIONS and is empowered to provide such services to other governmental agencies pursuant to Chapter 39.34 RCW; and

WHEREAS, the DEPARTMENT, in accordance with its policies does not desire to perform services for a public agency by entering into or otherwise interfering with competitive bidding by private enterprise in response to advertisement or solicitation by such public agency; and

WHEREAS, the LOCAL AGENCY, in support of said departmental policies, assures the DEPARTMENT that the LOCAL AGENCY's assignments and/or requests for services under this AGREEMENT will not result from bidding, negotiation! or other competition involving private enterprise; and

WHEREAS, the LOCAL AGENCY may desire to obtain such services from the DEPARTMENT and the DEPARTMENT is willing to furnish such services to the LOCAL AGENCY, and both deem it in the interest of the public to enter into this AGREEMENT;

NOW, THEREFORE, in consideration of the stated premise and in the interest of providing expedient, fair, equitable, and uniform treatment of land owners and persons to be displaced by proposed land acquisition projects and pursuant to RCW 8.26.120, the parties hereto agree as follows.

I. GENERAL

A. The DEPARTMENT shall, to its maximum ability, provide the LOCAL AGENCY with impact study, appraisal, appraisal review, acquisition, relocation assistance, or property management services described hereinafter, all in accordance with the

appropriate elements of the department's operating requirements set forth in the departmental publication M26-O1 (HW), Right of Way Manual, except where specific operating requirements are otherwise described herein. All such requirements shall conform to the REGULATIONS.

B. The normal workload of the department shall have priority over any work performed under the AGREEMENT. The work performed under this AGREEMENT shall be pursued with care and diligence, making every effort to recognize pertinent schedules of the LOCAL AGENCY. The DEPARTMENT shall promptly notify the LOCAL AGENCY of any hardship or other inability to perform under this AGREEMENT including postponement of the local agency's work due to priority given to the departments work.

C This AGREEMENT may be increased or decreased in scope or character of work to be performed if such change becomes necessary, but any such change shall be accomplished by written supplement executed by all parties to said AGREEMENT.

D. The LOCAL AGENCY shall indemnify and hold the DEPARTMENT and its agents, employees, and/or officers harmless from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the DEPARTMENT arising out of, in connection with, or incident to the execution of this AGREEMENT and/or the LOCAL AGENCY performance or failure to perform any aspect of this AGREEMENT to the extent allowed by law.

II. WORK ASSIGNMENT/REQUEST

A. Specific assignments shall be made in writing to the DEPARTMENT by the LOCAL AGENCY. The LOCAL AGENCY shall make such assignments before any negotiations for property acquisition and before ny discussion of price with the property owner, when required by the REGULATIONS.

B. The LOCAL AGENCY shall furnish the DEPARTMENT with all information which has been compiled by or is available to the LOCAL AGENCY concerning the property to be affected by each particular project. Such information shall include, but not be limited to, a list identifying each property affected by the project by parcel number, a tabulation of

improvements on each property, the geographical location and boundaries of each property, and a description of how the project affects each property. The LOCAL AGENCY shall furnish the DEPARTMENT copies of plan sheets showing limits of parcels, rights to be acquired, and sufficient engineering data to develop legal descriptions.

C. The DEPARTMENT shall furnish all labor, materials, supplies, and incidentals necessary to complete the work assigned by the LOCAL AGENCY and shall furnish all information necessary to the conduct of a land acquisition program.

D The DEPARTMENT will at its discretion and upon written request from the LOCAL AGENCY furnish the following as required:

Impact Studies: Impact studies shall be made and reported in written narrative addressing potential influences by a program or project on land economics or land use factors, displacement/relocation factors, acquisition costs, and relocation plans, as requested.

Appraisal: Property shall be evaluated and value conclusions reported to conform with departmental operating requirements. Any request by the LOCAL AGENCY for court preparation and testimony will be a separate work assignment request under this AGREEMENT and shall be submitted to the DEPARTMENT in a timely manner to provide not less than ninety (90) days notice in advance of any expected court appearance.

Appraisal Review: Appraisal reports shall be reviewed to conform with departmental operating requirements for validity of value conclusions provided such reports are accompanied by a copy of the appraiser's contract and provided that the LOCAL AGENCY (or its agent) has determined that such reports appear to comply with the local agency's procedural requirements and include adequate description of the property appraised and the interest to be acquired and appear to include adequate data supporting said conclusions. The LOCAL AGENCY shall be responsible for obtaining any necessary replacements for unacceptable appraisal reports or for obtaining any substantive revisions of inadequate reports where such reports were furnished to the DEPARTMENT by the LOCAL AGENCY.

Acquisition: Every reasonable effort will be made to acquire real property by negotiations in accordance with the REGULATIONS The DEPARTMENT shall attempt to acquire all property within the project limits without commencing condemnation proceedings. A written offer will be presented to each owner at the time price is first discussed for the property The offer will be documented and retained as part of the parcel file. Individual parcel diaries will be maintained containing adequate written records of the negotiations including, but not limited to, the following:

1. Date and place of contacts;
2. Persons present;
3. Offers made (actual dollar amount);
4. Counter offers made;
5. Reasons settlement could not be reached (If appropriate).

Each request by the AGENCY shall specify the name of the grantee in whose name the property is to be conveyed. The DEPARTMENT shall provide the AGENCY with deeds to all property acquired and, wherever possible, instruments to clear encumbrances of title from those deeds. The DEPARTMENT will provide information leading to clearing of encumbrances which the DEPARTMENT cannot clear without legal action. Upon completion of a review of each acquisition by the DEPARTMENT's Title Section, all instruments and materials pertaining thereto will be provided to the AGENCY. Clearing remaining encumbrances of title and making the actual payment for the property shall be the responsibility of the AGENCY. Should it become apparent that negotiations for attempted acquisition have reached an impasse and sufficient time has elapsed for a property owner to make a decision, the DEPARTMENT will, either at its discretion or upon written request by the AGENCY, submit to the AGENCY a condemnation report that will contain a summary of negotiations, amounts of counter offers, if any, and other historic data relative to such attempted acquisition. The actual filing of condemnation and subsequent litigation shall be the responsibility of the AGENCY.

Relocation Assistance: Relocation assistance services
shall be provided to conform with departmental operating requirements. All relocation claims presented by displaces will be processed by the DEPARTMENT, but the actual disbursement of monies shall be made by the AGENCY As may be assigned by the AGENCY, the DEPARTMENT will respond to and assist the AGENCY with an appeal as to relocation assistance benefits filed by an aggrieved displacee; however, the AGENCY shall remain responsible for any appointment of a hearings officer, conducting hearings, maintaining records thereof, and rendering of the final decision of the AGENCY.

Property Management: Effective management of agency controlled properties will be provided in the name of the AGENCY in conformity with departmental operating requirements.

E. At the completion of the project the DEPARTMENT will, either at its discretion or upon written request by the AGENCY, turn over to the AGENCY all records including appraisal and appraisal review reports, acquisition, relocation assistance, and property management records pertinent to the work performed by the DEPARTMENT.

III. PAYMENT

The DEPARTMENT shall be paid by the AGENCY for completed work and for services rendered under the AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, and incidentals necessary to complete the work. The DEPARTMENT acknowledges and agrees that only those costs actually allocable to a project shall be charged to such project.
A. The DEPARTMENT shall be reimbursed in full by the AGENCY for its direct and related indirect costs accumulated in accordance with its current accounting procedures.

B. Partial payments will be made by the AGENCY upon receipt of the AGENCY of billings from the DEPARTMENT Billings will not be more frequent than one per month. It is agreed that payment of any particular claim will not constitute agreement as to the appropriateness of any item and that at the time of final billing all required adjustments will be made.

C. Upon termination of this AGREEMENT as provided in Section VI, the DEPARTMENT shall be paid by the AGENCY for services rendered to the effective date of termination less all payments previously made. No payment shall be made by the AGENCY for any expense incurred or work done following the effective date of termination unless authorized, in writing, by the AGENCY.

D. Final payment of any balance due the DEPARTMENT of the ultimate gross reimbursable amount, prior to the effective date of termination. will be made upon ascertainment of such balance by the DEPARTMENT and certification thereof to the AGENCY

IV. NONDISCRIMINATION

The DEPARTMENT shall comply with RCW Chapter 49.60 and with Title VI of the Civil Rights Act of 1964, 42 USC 2000d et seq. With respect to the work to be performed by the DEPARTMENT during the contract, the DEPARTMENT shall not discriminate on the grounds of race, color, sex, national origin, marital status, age, or the presence of any sensory, mental, or physical handicap in the selection and retention of agents, subcontractors or in the procurement of services or materials, leases, or equipment.

V. VENUE

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action or proceeding shall be brought in a court of competent jurisdiction situated in Thurston County, Montana.

VI. COMMENCEMENT AND TERMINATION OF AGREEMENT

The work is of a continuing nature and will be in force as of the date of this AGREEMENT. Either party may terminate this AGREEMENT at any time upon not less than sixty (60) days written notice to the other party with or without cause. The AGREEMENT shall terminate three years from the date of execution hereof unless otherwise terminated or unless extended in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the date first above written,

AGENCY

STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION

By_____ _____ Title

By_____ _____ Title