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Please contact Ruth McIntyre at 360-705-7383 with comments, questions, or suggestions for improvement to the manual.

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Page numbers indicating portions of the manual that are to be removed and inserted are shown below.

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Washington State Department of Transportation
Administrative and Engineering Publications
PO Box 47304
Olympia, WA 98504-7304

Phone: 360-705-7430
E-mail: engrpubs@wsdot.wa.gov

Approved By	Signature
Dave Mounts	/s/

Washington State
Department of Transportation

TECHNICAL MANUAL

Local Agency Guidelines

M 36-63.08

August 2010

Highways and Local Programs
Engineering Services

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Chapter 25 Right of Way Procedures

25.01 General Discussion

The Real Estate Services website is located at www.wsdot.wa.gov/realestate/.

Since neither the Uniform Relocation Assistance and Real Property Acquisition Act nor its implementing regulations at 49 CFR 24 allow the certification of right of way (R/W) to be subdelegated, the Washington State Department of Transportation (WSDOT) has overall responsibility to the Federal Highway Administration (FHWA) for the acquisition of R/W on all FHWA funded transportation projects in the state.

For a project to be eligible for federal funding on any phase of the project (P.E., R/W, or construction), the project's R/W must be acquired in accordance with the requirements of this manual. R/W acquired prior to July 1, 1971, is exempt. Projects that do not use FHWA funding on any phase may choose not to follow the requirements of this chapter.

The acquisition process is regulated by Chapter 8.26 RCW and WAC 468-100.

WSDOT 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 substantial conformity with WSDOT accepted procedures.

It is the responsibility of WSDOT to fully inform political subdivisions of their responsibilities in connection with federally-assisted transportation projects. It is essential that local agencies and WSDOT 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 WSDOT *Right of Way Manual* M 26-01.

The Local Agency Right of Way Coordinator (LA Coordinator) should be contacted immediately when it is determined that the local agency project requires the use of WSDOT's right of way. The LA Coordinator will advise the local agency of the process and timeline needed to acquire sufficient legal rights to construct and operate on WSDOT property (see Section 25.14, Property Management, for more information).

.011 WSDOT Services. WSDOT is committed to an ongoing program which will provide effective assistance and guidance to local acquiring agencies. To this end, WSDOT will designate a LA Coordinator in each region 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.

WSDOT will consult and advise the local agency concerning real property acquisition activities to ensure that R/W is acquired in accordance with provisions of state and federal laws and FHWA directives.

At the earliest possible date, the local agency should notify the LA Coordinator of upcoming projects with R/W acquisition that may be eligible for federal funding. In addition, the local agency should advise the LA Coordinator of the need for WSDOT assistance. If WSDOT is requested to perform the appraisal, negotiation, or relocation functions, the local agency should obtain the estimated cost of such assistance from the LA Coordinator. The LA Coordinator will arrange for the preparation of an agreement if WSDOT has the personnel available to provide the needed assistance or acquire the necessary R/W (Appendix 25.185). WSDOT will furnish the local agency with an estimate of the cost of WSDOT's services. The local agency shall include the cost in the Local Agency Agreement.

When WSDOT provides these services, WSDOT will prepare all necessary R/W documentation and certification.

.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 the Region Local Programs Engineer for assistance in preparing any contract for services to assure FHWA participation in the contract. FHWA has determined that the consultant agreements for R/W services must meet the consultant contracting requirements as described in Chapter 31, Using Consultants. See Chapter 31 appendixes for sample consultant agreements for appraisal and negotiation.

25.02 Right of Way Acquisition Procedures

Before requesting authority to acquire R/W, the local agency must have secured approval of acquisition procedures (Appendix 25.172). Acquisition procedures are submitted to the Region Local Programs Engineer for review prior to final execution by the local agency. Region Local Programs forwards the procedures through the LA Coordinator for approval. The local agency will be approved to acquire R/W based upon the submitted procedures.

The level at which an agency will be approved will be dependent upon the agency's staff qualifications. An agency with minimal staff may be approved to acquire a single project with direct supervision by the Region LA Coordinator. Highways and Local Programs notifies the local agency

of the approval, with a copy to the Region LA Coordinator. Periodic reviews of procedures will be conducted on agencies acquiring R/W on federal aid projects. Procedures shall include the following:

1. Agreement to conform with state and federal laws and FHWA regulations. The agency should agree to follow the WSDOT *Local Agency Guidelines* and *Right of Way Manual* or the agency's own manual if they have a WSDOT approved R/W manual.

2. A listing of the positions performing the separate functions of program administration, appraisal, appraisal review, acquisition, relocation, and property management. All agency positions that perform any of these separate functions should be listed. ***Note:*** Agency personnel such as administrators and members of the executive branch who might participate in the acquisition of R/W for federal aid projects need to be aware that their actions must conform to the Uniform Act and 49 CFR 24.

3. A listing of all current staff filling the above positions and a brief statement of their qualifications. (See minimum qualifications for appraisal, appraisal review, and acquisition in this chapter.)

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

5. Appraisal waiver process (see Section 25.052).

.021 No Right of Way Acquisition. No R/W acquisition means that the proposed project can be built entirely within the existing roadway facility (the facility may be something other than roadway for transportation enhancement projects). Existing R/W is defined as land already incorporated into the roadway facility or land previously certified under a previous federal aid project. Permits and easements are generally considered R/W acquisition. Contact the LA Coordinator if you have questions.

Local Agencies, if after determining that additional R/W will not be required for the current project, should check the appropriate box on the project prospectus (see Chapter 21). If it is later determined that R/W is required, either a R/W Project Funding Estimate (PFE) or a True Cost Estimate (TCE) must be prepared and submitted to the Region Local Programs Engineer who will notify the Region LA Coordinator. See Section 25.041 for explanations of the PFE and the TCE.

New R/W is defined as land necessary for construction of the proposed project, or any prior acquisition that was made specifically for the current project including land that was previously purchased by the agency for the project. This includes temporary easements and permits that are required to complete the construction. If the agency already owns the land or property rights necessary for the project, the agency will provide adequate

documentation showing when and why the property was purchased. If the property was purchased for use on the project, then the R/W must have been acquired in accordance with the requirements of this manual.

If it can be documented that the land or property rights were purchased for a purpose other than the transportation related project, and that the land/property rights are no longer required for the original purpose, then the Uniform Act and 49 CFR 24 requirements do not apply.

.022 Acquiring Right of Way. Acquisition of R/W may be performed by the following entities:

- By WSDOT on a local agency's behalf. In this case, an agreement for assistance between WSDOT and the local agency will be prepared and approved (Appendix 25.185). If there are federal funds in the R/W Phase and WSDOT is performing some of the work, consult with the LA Coordinator to select the correct agreement.
- By a local agency that is adequately staffed, equipped, and organized to discharge its R/W responsibilities and has R/W procedures approved by WSDOT. Staff may consist of qualified contract personnel and/or licensed private firms (see RCW 18.85.010) in addition to or in lieu of regular employees of the agency.
- By another local agency that meets the requirements above.

25.03 Voluntary Acquisition

A unique process called "Voluntary Acquisition," under 49 CFR 24.101(a)(2), different from "Donation," may on rare occasion be appropriate for acquisition of property, but only under the following circumstances:

- If the properties are not acquired, the project will not proceed.
- Condemnation will not be used for any reason on the entire project.
- All parcels will be under the same restrictions, and must be acquired through this process.

If these circumstances appear to apply to a project, the Voluntary Acquisition process may apply, but **must** be approved by the LA Coordinator with HQ Real Estate Services before any steps are taken to initiate the acquisition process. If approved, steps to follow for voluntary acquisition are governed by WAC 468-100-101 and shall include:

1. Clearly advise the property owner, in writing, prior to making any offers that the agency will be unable to acquire the property in the event that negotiations fail.
2. Provide the owner with an estimate of the fair market value of the property.
3. Provide relocation assistance to any tenants upon mutual acceptance.

If approved, the Local Agency must work closely with the LA Coordinator on all steps of the voluntary acquisition process.

Note: Real estate transactions using this process are subject to real estate excise tax.

25.04 Funds for Right of Way

.041 Acquisition With Federal Funds. Authorization of federal funds for R/W requires compliance with Chapter 14 of this manual, FHWA approval of environmental (NEPA) documents, and the submittal of the following documents to the Region Local Programs Engineer.

- Local Agency Agreement Supplement.
- Estimate of probable R/W costs and expenses broken down by parcel. There are two types of estimates:
  - **Project Funding Estimate** is a detailed parcel-by-parcel estimate of total expected right of way acquisition costs and is used to obtain authorization and funding for the project. A PFE is based on market transactions (sales) that reflect the current real estate market. Ideally, it is completed by an appraiser, an appraisal reviewer, and a relocation expert. Other R/W staff with appropriate experience, including qualified consultants, may also prepare a PFE.

    See Appendix 25.173 for instructions, worksheets, a sample estimate summary and a sample neighborhood analysis. See also WSDOT *Right of Way Manual* Section 4-2 for the requirements for a PFE (4-2.1, paragraphs E, F, and G do not apply to local agencies).
  - **True Cost Estimate (TCE)** is a parcel-by-parcel estimate of total expected right of way acquisition costs drawn from the County Assessor's records and is used to obtain authorization and funding for the project; therefore, the level of expertise required for its preparation may be less stringent than for a PFE.

    A TCE consists of two parts: a worksheet for each parcel to be acquired and a table summarizing all estimated acquisition costs. Both should generally conform to the examples provided in Appendix 25.174.

    Note: The TCE can be used only when all parcels are to be appraised or donated. The R/W PFE **must** be used if the agency wishes to make use of the appraisal waiver process (see Section 25.052).
- R/W plan.
- WSDOT Approved Relocation Plan (if relocation is required, contact the LA Coordinator for assistance).

The R/W plans should meet the requirements of WAC 332-130 and show at the minimum the following information:

- Survey line or centerline for the alignment.
- The old and new R/W 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.
- Show the parcel identification number.
- Show the area of the parcel to be acquired.
- Show the area of the remainder.

All plan sheets shall carry the seal and signature of a registered Professional Engineer or Professional Land Surveyor in accordance with RCW 18.43.070 and RCW 58.09.

Once FHWA approval has been obtained, Highways and Local Programs will notify the local agency of authorization to acquire R/W. No acquisition costs are eligible prior to this authorization.

.042 Acquisition With Local Agency Funds. If federal funds are to be used in any part of the project, federal guidelines for acquisition of the R/W must be followed. For projects that involve local agency funds only for R/W acquisition, the Local Agency must submit the WSDOT approved Relocation Plan (if relocation is required) to the Region Local Programs Engineer prior to starting the acquisition process.

In order to minimize potential problems which surface during the certification process, it is advised that the local agency submit a copy of the R/W plan for review before starting the acquisition process.

A copy of the R/W plan must be made available at the time of certification.

.043 Acquisition in Advance of NEPA Clearance. There are four circumstances under which R/W can be acquired in advance of NEPA clearance. In each case, federal guidelines must be followed in the acquisition process.

1. 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 current appraised value) toward their share of project costs, as long as they meet the requirements of 23 CFR 710.501(b). The acquisition of advance R/W must not influence the environmental assessment for the project. The agency cannot be reimbursed for the cost of the appraisal or any other documents necessary to meet the requirements of 23 CFR 710.501(b).

2. An agency may use its own funds to purchase R/W prior to NEPA clearance and be reimbursed. However, the agency must meet the very stringent requirements of 23 USC 108 (c)(2)(c&d), as explained in 23 CFR 710.501(c). This option (which requires the Governor's and EPA's sign-off) will rarely be used.

3. 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 with federal funds for reasonable costs. 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.

   To use protective buying, the agency will have to provide documentation showing that development of the property is imminent and that the development would limit future transportation choices.

   To use hardship acquisition, the agency must have a property owner's written submission providing justification that remaining on the property poses undue hardship compared to others and the property owner must provide written documentation showing their inability to sell the property. This process is described in greater detail in WSDOT *Right of Way Manual* Section 6.3-3.

   The agency must work with the LA Coordinator from the outset if they are proposing to use protective buying or hardship acquisition. **FHWA approval is required for protective buying and hardship acquisition.**

4. An agency may purchase R/W prior to NEPA clearance under the corridor preservation provisions of 23 CFR 630.106(c)(3) and be reimbursed with federal funds for reasonable costs. This process is similar to the process for protective buying (see C 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. This option will rarely be approved.

25.05 Appraisal/Appraisal Waiver – Administrative Offer Summary (AOS)

Per 49 CFR 24.102(n)(2), negotiators cannot supervise appraisers, review appraisers, or waiver valuation preparers, unless FHWA approves a waiver of this requirement, and appraisers, review appraisers, or waiver valuation preparers shall not have any interest, direct or indirect, in the property being valued.

.051 Appraisal. The requirements pertaining to the appraisal of property to be acquired are given in WSDOT *Right of Way Manual* Chapter 4. If desired, a listing of WSDOT approved fee appraisers and appraisal reviewers is available from the Region LA Coordinator or via a link on the WSDOT Real Estate Services website at www.wsdot.wa.gov/realestate/.

The appraiser shall be an experienced, qualified appraiser. At a minimum, an appraiser should have a college degree or four years of active experience in the real estate field leading to a basic knowledge of real property valuation, or any combination of such experience and college study to provide a total of four years beyond high school graduation. An appraiser who is qualified under WSDOT criteria will be considered qualified for FHWA projects.

The appraiser shall prepare an Appraisal Report which is a written document containing among other elements, the following:

1. The purpose of the appraisal which includes a statement of the estimated value and the rights or interests being appraised.
2. 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.
3. The data and analyses (or reference to same) to explain, substantiate, and document the estimate of just compensation.

A complete explanation of requirements for an acceptable appraisal report can be found in WSDOT *Right of Way Manual* Chapter 4.

Examples of appraisal report forms can be found in Appendix 25.175.

.052 Appraisal Waiver. In certain cases, an appraisal can be waived. To qualify, the just compensation, based on the R/W Project Funding Estimate or its equivalent, must be no greater than the appraisal waiver limit as defined in the agency's approved R/W procedures (typically $25,000), the acquisition **must be uncomplicated**, and the only damages will be minor cost to cure items. The PFE must be based on confirmed comparable sales and must reflect the current market.

For example, if the agency plans to acquire a strip of land that they believe is worth $12,000, but the acquisition will change/limit the owner's ability to develop their property at some point in the future, the appraisal waiver process **cannot** be used because it is no longer uncomplicated and an appraisal must be prepared by a qualified appraiser.

In such instances where the appraisal is waived, just compensation should be based on current 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.

The owner **must** be informed in the offer letter that an appraisal was not done and the owner has the right to request that an appraisal be done. If the owner requests an appraisal, the local agency **is required** to provide and pay for one that meets the standards outlined in Section 25.051. See Appendix 25.176 for an example appraisal waiver procedure.

25.06 Appraisal Review

The requirements pertaining to appraisal review of the property to be acquired is provided in WSDOT *Right of Way Manual* Chapter 5.

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 WSDOT Review Appraiser, on the approved list of review appraisers maintained by WSDOT, or an employee of the acquiring agency, who is authorized by their approved R/W procedures to review appraisals. To qualify as an agency review appraiser, an individual must, at a minimum, be a Certified General Appraiser with the Washington State Department of Licensing and have successfully completed at least one approved appraisal review training class.

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:

1. Are complete in accordance with the *Local Agency Guidelines* and contain the criteria required by WSDOT *Right of Way Manual,* Chapter 4, Appendix 4-1, Appraisal Guide.
2. Follow accepted appraisal principles and techniques in the valuation of real property in accordance with existing state law.
3. Include consideration of compensable items, damage, and benefits, but do not include compensation for items noncompensable under state law.

The reviewing appraiser shall place in the parcel file a signed and dated statement (Appendix 25.177) setting forth:

1. An estimate of just compensation including, where appropriate, the allocation of compensation for the property acquired and for damages to remaining property.
2. A listing of the buildings, structures, fixtures, and other improvements on the land which were considered part of the property to be acquired.
3. If applicable, a statement that there is an uneconomic remnant/remainder, and the value of the remainder.
4. 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.
5. A statement that the estimate has been reached independently, without collaboration or direction, and is based on appraisals and other factual data.

.061 Uneconomic Remainders. An uneconomic remainder is defined as a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the agency has determined has little or no value or utility to the owner (49 CFR Part 24.2(27).

For partial acquisitions, the review appraiser determines (if staff) or recommends (if fee) whether the remainder is uneconomic. If the remainder will no longer have utility to the owner, and the **local agency determines** that it is uneconomic, the agency must offer to purchase the remainder from the property owner.

See WSDOT *Right of Way Manual* Section 5-5.2 for detailed instructions regarding the review appraiser's responsibilities for reporting and documenting uneconomic remainders.

25.07 Agency Concurrence for Setting Just Compensation

In conformance with 49 CFR 24.102(d), it is the responsibility of the **agency** to set Just Compensation. This can be done by adding a line to the bottom of the review appraiser's certificate as shown in Appendix 25.177, or by stating the same information in a separate memo. In either case, the statement must be signed and dated by an employee of the agency who has approving authority prior to the time the offer is made.

25.08 Title

The 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 report 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. If a title company is not used to provide this information, the acquisition file must include sufficient documentation to validate the signatories on the instruments and show that the interest acquired is free from unreasonable encumbrances.

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

1. Acquisition instruments signed by all parties with an interest in the fee title.
2. Releases from mortgages and deeds of trust as the agency determines to be reasonable.
3. Releases of encumbrances, such as easements, which adversely impact the rights being acquired.
4. Releases of priority liens, such as materialman's liens, judgments, state tax liens, and federal tax liens.

25.09 Negotiations

Various requirements in negotiating an acquisition of property are found in WSDOT *Right of Way Manual* Section 3-4.1C.

If a local agency uses a consultant fee negotiator, the negotiator must meet the applicable state licensing requirements (verify with the Department of Licensing).

For local agency staff to be approved to acquire property without direct supervision by the LA Coordinator, they must have either an Associate Degree in real estate or a Bachelor Degree or equivalent experience. In addition, they must have two years full-time experience in real estate acquisition, sales leasing, appraisal, title, escrow, or property management. One year of experience must be in eminent domain acquisition. Additional experience in eminent domain acquisition can replace education on a year-for-year basis.

Local agencies using staff to negotiate who do not have the necessary qualifications must work closely with the LA Coordinator as explained in the Procedures Approval letter.

A diary or negotiator's log must be maintained for each parcel wherein each individual involved in a negotiation, a relocation, or a property management function shall enter and initial a suitable description of each contact and other information concerning that function. See Section 25.15 for additional direction on preparing diaries. Upon request, the Region LA Coordinator will provide explanations and examples of adequate records.

A separation of functions maintains the integrity of the acquiring 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 acquisition can be both difficult and expensive, the use of a single qualified 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 appraisal shall be reviewed prior to negotiations, and the review appraiser shall be neither the appraiser nor the negotiator.

Before initiating negotiations for real property, the **agency** shall establish the just compensation which **shall not** be less than the approved appraisal of the property 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 R/W after being informed of their right to receive just compensation.

A donation may be accepted only after the owner has waived, in writing, their right to just compensation (see Appendix 25.178). This applies to individuals, businesses, corporations, and other private entities. Donations from government agencies are exempt from these requirements. If a donation is accepted in advance of NEPA clearance, additional documentation will be needed in the Project Prospectus and the ECS form.

R/W obtained through normal zoning, subdivision, or building permit procedures may be incorporated into a federal aid project without jeopardizing participation in other project costs.

If an appraisal waiver was used to set just compensation, the negotiator must notify the property owner that they can request an appraisal be prepared. The local agency is responsible for providing and paying for this appraisal.

The agency must notify the property owner of the availability of a statutory evaluation allowance not to exceed $750 to help defray the owner's expenses actually incurred in evaluating the agency's offer (RCW 8.25.020).

When negotiations are complete, the negotiator shall keep in the project file a signed statement for each parcel that:

1. The written agreement embodies all considerations agreed to by the negotiator and the property owner.
2. The negotiator understands that the acquired property is for use in connection with a federal aid transportation project.
3. The negotiator has no direct or indirect interest in the property or in any monetary benefit from its acquisition, at present or in the future.
4. The agreement has been reached without any type of coercion.

.091 Negotiations by Mail. If no relocation is involved, the local agency may conduct R/W negotiations as follows:

1. Mail to the owner the fair-offer letter, a summary statement (explains nature of acquisition, conditions affecting remainder after construction, and other pertinent details which would have been explained in a face-to-face meeting with owner), the document of acquisition (deed, easement, or other document required for signature), property plat or sketch showing acquisition limits and effects on any remainder, and a copy of an acquisition brochure.
2. Within a reasonable period of time, typically about two weeks, make a follow-up phone call (documented in the diary). Answer questions or, if owner requests it, make an appointment for personal contact.
3. Follow normal procedures for further negotiations.

.092 Acquisition of Contaminated Properties. The agency should take reasonable care to determine if properties needed for a project are contaminated. In the case where properties being acquired by the agency will become part of a state highway, the agency must involve WSDOT in the acquisition process as early as possible to insure that the property will be in an acceptable condition for WSDOT to accept the transfer of ownership.

.093 Global Settlements. A global settlement is the combining of just compensation and relocation benefits into a lump sum settlement.

Because global settlements could compromise the entire project's federal aid eligibility, FHWA will not accept a project R/W certification if it includes a global settlement until it can be shown that relocation benefits were not impacted.

.094 Functional Replacements. When publicly-owned real property, including land and/or facilities, is to be acquired for a federal aid highway project, in lieu of paying the fair market value for the real property, the Local Agency may provide compensation by replacing the publicly owned real property with another facility which will provide equivalent utility.

The Local Agency must contact the LA Coordinator if they are considering a functional replacement. **FHWA will be involved in this process and will have final approval.**

25.10 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 (Appendix 25.178) 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 may only be applied to a federal aid project if federal financial assistance was not used in any form to acquire the land. 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. If a donation is accepted in advance of NEPA clearance, additional documentation will be needed in the Project Prospectus and the ECS form. The value of publicly owned real estate donated after June 8, 1998, is eligible for match credit.

For donation letter examples, see Appendix 25.178.

25.11 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 acquiring 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 WSDOT 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 R/W acquisition case in which the agency has administratively approved payment in excess of fair market value as shown on the agency's

approved determination of value. Since relocation benefits by regulation cannot be waived, care should be taken not to include "relocation" in a blanket settlement as the agency may still be required to pay additional benefits as part of the relocation program. This is sometimes called a global settlement (see Section 25.093).

1. 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 WSDOT through the Region LA Coordinator.

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

   a. Identify the responsible official who has the authority to approve administrative settlements.

   b. Describe the procedure for handling administrative settlements.

e. 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 full consideration to all pertinent information. The settlement justification must include an analysis of the circumstances of each individual parcel that convince the agency that an administrative settlement is in the agency's and public's best interest. This documentation shall be completed and approved by the designated local agency official prior to payment(s) being made. The list below is a sample of items to be considered for an administrative settlement, and should not be used as a template.

   a. The negotiator's recorded information, including parcel details, estimates, bids, research information, and the owner's rationale for increased compensation.

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

   c. The ability of the agency to acquire the property, or possession, through the condemnation process to meet the construction schedule.

   d. Recent court awards in cases involving similar acquisition and appraisal problems.

e. The likelihood of obtaining an impartial jury in local jurisdiction, opinion of legal counsel where appropriate.

f. The estimate of trial cost weighed against other factors.

Note: Specific information about the parcel, including copies of appraisals, estimates, bids, research information, etc., **must** carry the most weight in the justification.

For additional guidance, reference WSDOT *Right of Way Manual* Section 6-12.

25.12 Relocation

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

Those agencies that have trained staff and are approved by WSDOT through the procedures process to provide relocation services may do so. All other agencies should contact their Region LA Coordinator for help in having WSDOT contract to provide relocation services or for advice on contracting with private consultants. WSDOT does not maintain a list of qualified relocation consultants.

If a project includes relocation, a WSDOT approved Relocation Plan must be submitted prior to R/W funding authorization. The Local Agency must have the WSDOT approved Relocation Plan **prior** to starting the acquisition process when the project includes relocation.

To maintain a project's federal aid eligibility, a Relocation Plan needs to be submitted and approved prior to starting acquisition activities, even if there are no federal funds in a R/W Phase. **This is also true in the case of advanced acquisition** (see Section 25.043).

You may contact WSDOT for sample relocation plans or refer to WSDOT *Right of Way Manual* Chapter 12 for guidance. Contact the Region LA Coordinator for assistance in preparing relocation plans and carrying out relocation activities.

25.13 Right of Way Certification

After R/W acquisition has been completed and about one month before the federal aid project is to be advertised for contract, the R/W certification must be submitted to the Region Local Programs Engineer.

The Certification provides the following information and assurances.

1. Right of way sufficient to construct, operate, and maintain the facility has been acquired.

2. Right of way has been acquired in accordance with Uniform Act requirements.

3. Relocation Assistance has been completed in accordance with the Uniform Act and meets the requirements of WSDOT *Right of Way Manual*, Chapter 12.

4. Properties acquired in advance of NEPA Clearance (including donations) shall be identified by parcel number. (This information could take the form of an address or a county tax ID if parcel numbers are not assigned.)

There are two categories of certifications which state that sufficient rights have been acquired and the project is ready to be advertised and constructed.

1. **All R/W Acquired.** Legal possession has been obtained but trial or appeal of cases may be pending. All occupants have vacated the R/W and the agency has the right to remove any remaining improvements (Appendix 25.179).

2. **Right to Occupy All R/W Acquired.** Trial or appeal of some parcels may be pending and some parcels may have right of entry or possession and use only. All occupants have vacated the R/W and the agency has the right to remove any remaining improvements (Appendix 25.180).

In **very unusual circumstances,** and with **prior approval** of the LA Coordinator and the FHWA, a third category of certification states that some right of way remains to be acquired.

3. **All R/W Not Acquired.** 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 agency must adequately explain why construction of the project before acquisition is complete, is in the public good. The agency will ensure that occupants of residences, businesses, farms or nonprofit organizations who have not yet moved from the R/W are protected against unnecessary inconvenience or coercive action. All unacquired 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 25.181).

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

The Local Programs Engineer will submit the certification request to the Real Estate Services Manager for the federally mandated certification review. The LA Coordinator will review the local agency's acquisition files for the project

and determine if the R/W was acquired according to the guidelines. For a copy of the LA Coordinators' worksheets and a Federal Aid Requirement Checklist showing the general areas reviewed by the coordinator, see Appendices 25.182 and 25.183.

If the coordinator determines that the project is ready for certification, they will have the Real Estate Services Manager sign the certification form and return it to Local Programs for inclusion in the package to be transmitted to Headquarters Highways and Local Programs for final processing. The coordinator will also provide the agency and Local Programs Engineer with a letter detailing the findings of the review and any deficiencies that may have been noted.

If the LA Coordinator determines that the project cannot be certified, a letter will be provided to the agency and the Local Programs Engineer detailing the deficiencies encountered. The letter will outline the corrective action(s) required to qualify for certification, assuming that corrective action(s) is possible. After the agency has performed the corrective action(s), the coordinator will review the steps taken and certify the project if appropriate.

25.14 Property Management

If using FHWA funding, the acquiring agency shall establish property management policies and procedures that will assure control and administration of R/W, excess lands and improvements acquired. These procedures shall establish:

1. Property records showing:
   a. An inventory of all improvements acquired as a part of the R/W.
   b. An accounting of excess properties acquired with FHWA funding.
   c. An accounting of the property management expenses and the rental payments received.
   d. An accounting of the disposition of improvements and the recovery payments received.
2. Methods for accomplishing the clearing of R/W when such clearance is performed separately from the control for the physical construction of the project.
3. The methods for managing the rodent control program.
4. The methods for employing private firms or public agencies for the management of real property.
5. The methods for accomplishing the disposition of improvements through resale, salvage, owner retention, or other means.

If the 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 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 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, including uneconomic remnants, acquired with FHWA funds become excess, they may be disposed of only with the approval of WSDOT. If the disposal is to a private party, the agency must determine fair market value (either through the appraisal process or by public sale), and either credit FHWA for its share of the net proceeds of the sale or use the Federal share of the net proceeds for activities eligible for funding under Title 23 of the United States Code for transportation purposes. A disposal may be made to a governmental agency for a continued public highway use without charge, and no credit to FHWA is required; however a reversionary clause is required in the deed.

FHWA approval is required for disposal of any rights of way or uneconomic remnants sold at less than fair market value.

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 R/W limits. The airspace may be put to various public and private uses, such as parks, play areas, parking, trails, etc., as long as it does not interfere with the roadway operations and does not create a safety hazard to the traveling public. Any such lease will need to describe what activities are allowed on the land.

Where an acquiring agency has acquired sufficient legal right, title, and interest in the R/W 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 Region LA Coordinator should be contacted for more detailed policies and procedures that must be considered.

25.15 Diaries

.151 General. The diary (also can be referred to as a negotiator's log) is one of the most important elements of an acquisition or relocation file. It is crucial that it be accurate and complete, for it is frequently the only document in a file that explains how a difficult or complex real property transaction proceeded.

Diaries are also often the only written documentation that is available to show that R/W transactions were done in compliance with the Uniform Act and 49 CFR Part 24. Therefore, diaries need to provide a complete record of the transaction. They need to be well organized and factual, and they should be written to be understandable by someone unfamiliar with the transaction. Also, they should reference any appropriate documents in the file such as brochures provided to property owners or estimates obtained to support an administrative record.

Each diary entry shall clearly show the month, day, and year of the contact; the name of the individual who made such a contact; how the contact was made (i.e., in person or by phone) and the name(s) of the individual(s) contacted. Each diary entry shall provide a summary of the contact. It is not sufficient to enter a simple posting of events as they occurred. For example, merely recording that the agent presented an offer or that "discussions were held" on a given date is not sufficient. The entry should indicate, at the least, where the event took place, what questions the owner asked and what answers the agent supplied. These elements are at the very heart of the negotiation process, and when an acquisition becomes difficult or negotiations break down, a well-written diary may be the most important document protecting the acquiring agency's interests.

Multiple contacts should not be combined into one diary entry. These entries need to be made as soon as possible to ensure accuracy. Upon completion of activity entry, the specialist should initial each entry. Electronic diaries are recommended. Once a diary is complete, it must be dated and signed at the end.

Diary entries need to be limited to a recitation of the facts because the diary is subject to the rights of discovery by all parties in any court proceeding or appeal case. **All persons** who participate in negotiations with a property owner to acquire real property interests, whether a staff or consultant agent/negotiator, a member of an agency's administrative or executive branch, or an agency's attorney, shall maintain an appropriate diary or log of such activities and discussions with the property owner.

A collection of e-mails pertaining to the acquisition of a parcel does not constitute a diary. Information taken directly from email correspondence often contributes to a good diary, but care should be taken to exclude extraneous information.

Relocation diaries are further discussed in WSDOT *Right of Way Manual* Chapter 12.

25.16 Document Retention

The acquiring agency shall maintain all records of its R/W actions for at least three years after payment of the final voucher to demonstrate compliance with 49 CFR Part 24.

25.17 Appendices

Cautionary Note: Please contact your LA Coordinator prior to changing any templates in the appendices.

25.172 Right of Way Procedures

25.173 Right of Way Project Funding Estimate Example

25.174 True Cost Estimate Example

25.175 Appraisal Report Forms Example

25.176 Appraisal Waiver Procedure Example

25.177 Review Appraiser Form Example

25.178 Donation Statements Example

25.179 Certification #1 Example

25.180 Certification #2 Example

25.181 Certification #3 Example

25.182 Coordinators Worksheets Example

25.183 Federal Aid Requirement Checklist

25.184 Process Flowchart

25.185 Governmental Agreement for Aid

AGENCY_____

The _____ ("AGENCY"), desiring to acquire Real Property in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Chapter 8.26 RCW) and state regulations (Chapter 468-100 WAC) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The _____ ("Department") of the AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the _____ ("Department") will acquire right of way in accordance with the policies set forth in the WSDOT *Right of Way Manual* and *Local Agency Guidelines*. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

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

   a. List the functions below for which the agency has qualified staff and the responsible position. Attach a list of the individuals on the 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 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 Agency does not have staff will be contracted for with WSDOT, another local agency with approved procedures or an outside contractor. An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the 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. An AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued up to $25,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual Appendix 25.176 has already been approved. The 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 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 WSDOT.

3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the 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

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION

Approved By:

_____ _____
Real Estate Services Date

A. A Project Funding Estimate (PFE) is prepared for every project where right of way will be acquired.

B. As a minimum, the PFE contains the following information.

   1. A parcel-by-parcel list of right of way costs reported on the Right of Way Estimate.

   2. A total project right of way cost summary reported on the Right of Way Project Cost Breakdown and Summary.

   3. A project data package including sales, sales map, neighborhood and project description, scope of sales search and, if applicable, damage studies, cost to cure documentation, and Assumptions and Limiting Conditions. ***Note:*** The PFE Parcel Worksheet is not a part of the data package.

The Agent assigned to do the PFE completes the estimate as follows:

A. Inspect the project and becomes familiar with the engineering features of the plan.

B. View individual parcels to determine the effects of acquisition.

C. Prepares a Neighborhood and Project Description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its effect on parcels, and any changes in the aforementioned likely to be caused by the project.

D. Gathers sufficient comparable land sales and listings for the various types of parcels and remainders within the project. All sales shall be inspected, photos taken and written up on Market Data (WSDOT Form RES-210) sheets. (If the sales are to be used exclusively on parcels where the Agency has determined to waive the appraisal, the sales need not be confirmed. In all other cases, a reasonable effort shall be made to confirm all sales. Unconfirmed sales will contain an explanation of the confirmation effort along with names and phone numbers of uncontracted parties.)

E. Prepares project and sales vicinity map.

F. Prepares PFE Parcel Worksheet for each parcel on the project.

G. Includes any applicable damage studies.

H. Includes cost-to-cure documentation for estimates and/or bids.

I. Includes applicable Assumptions and Limiting Conditions if data Package will be referred to in the preparation of Abbreviated Appraisals.

PFE PARCEL WORKSHEET

PROJECT: _____

OWNERS NAME: _____

PROPERTY LOCATION: _____

BEFORE AREA: _____ AFTER AREA: _____

ACQUISITION AREA

FEE: _____ (area) _____ (type) EASEMENT: _____ (area)

CURRENT USE: _____ ZONING: _____

HIGHEST & BEST USE: _____

EFFECTS OF ACQUISITION: _____
_____
_____
_____
_____

SALES RELIED ON : _____ (contained in Data Package for this project dated _____.

Subject Sold within last 5 Years? _____. If yes, is Sale included in Data package? _____

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 SUMMARY

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 R/W Costs	

S A M P L E
NEIGHBORHOOD DESCRIPTION
FOR PROJECT: YAKIMA COUNTY: SUNSET HILL ROAD WIDENING No. 311

Date: October 21, 1986

The project vicinity is rural Yakima County lying about 25 miles (40 km) westerly of Yakima city limits in an area commonly called Sunset Hill. The county road connecting the area to the city of Yakima is the Sunset Hill Road, which is currently a two-lane arterial. The area is primarily devoted to agricultural uses, such as cattle raising and forest products, but also is developing with single family lot subdivisions and ranchette residential uses. This part of the county is becoming a bedroom area for commuters to Yakima and several commercial uses have developed along the Sunset Hill Road. Zoning here is Agricultural (AG) minimum 20 acres (8 ha), with areas bordering the Sunset Hill Road zoned Single Family Residential (SR-13), minimum 13,000 square feet (1210 square meters) per site, and a strip along said arterial between Henderson Road and White Bluff Boulevard being zoned for commercial and/or office uses (CPD), with a minmum area required of 15,000 square feet (1 395 square meters) per site. Utilities available along Sunset Hill Road are Puget Power, West Yakima Water (Community System), PNB telephone, and sewers are by individual septic systems (soils percolate adequately). There appears to be minimal demand for new commercial development along Sunset Hill Road.

Traffic along the Sunset Hill Road is heavy during the rush hour. Hence, the proposed project is to widen this arterial to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Henderson Road. The project will be at present grade and will include curbing. Access ponts will be controlled at existing locations. The right of way needed is a 20-foot (6-meter) strip of fee land from each side of Sunset Hill Road between Henderson Road and White Bluff Boulevard.

Eleven parcels will be affected: seven homes, a tree farm (2,000 acres (810 ha) in size), one convenience store, a small wholesale lumber mill, and a new professional (medical) office complex. One of the residences is partially in the take and possibly will require relocating the owner-occupant family. A machine shed on the lumber mill site is partially in the take and it contains tenant-owned equipment. The convenience store's gasoline dispensers and canopy are partially in the take. About 10 of the 40 parking stalls for the medical office are in the taking, possibly resulting in loss of one tenant. The project should generally benefit the neighborhood by improving traffic flow during the rush hour. The neighborhood should continue to moderately change from agricultural to single family uses, with no major zoning changes immediately foreseeable, since neighborhood commercial services should remain adequate for the next five or more years.

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 = _____

R/W 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 **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) x 10% = $_____

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 R/W Costs	

S A M P L E
NEIGHBORHOOD DESCRIPTION
FOR PROJECT: YAKIMA COUNTY: SUNSET HILL ROAD WIDENING No. 311

Date: October 21, 1986

The project vicinity is rural Yakima County lying about 40 km (25 miles) westerly of Yakima city limits in an area commonly called Sunset Hill. The county road connecting the area to the city of Yakima is the Sunset Hill Road, which is currently a two-lane arterial. The area is primarily devoted to agricultural uses, such as cattle raising and forest products, but also is developing with single family lot subdivisions and ranchette residential uses. This part of the county is becoming a bedroom area for commuters to Yakima and several commercial uses have developed along the Sunset Hill Road. Zoning here is Agricultural (AG) minimum 8 ha (20 acres), with areas bordering the Sunset Hill Road zoned Single Family Residential (SR-13), minimum 1 210 square meters (13,000 square feet) per site, and a strip along said arterial between Henderson Road and White Bluff Boulevard being zoned for commercial and/or office uses (CPD), with a minmum area required of 1 395 square meters (15,000 square feet) per site. Utilities available along Sunset Hill Road are Puget Power, West Yakima Water (Community System), PNB telephone, and sewers are by individual septic systems (soils percolate adequately). There appears to be minimal demand for new commercial development along Sunset Hill Road.

Traffic along the Sunset Hill Road is heavy during the rush hour. Hence, the proposed project is to widen this arterial to four traffic lanes with a dual-left turn lane in the center. A traffic light is planned at the intersection of Henderson Road. The project will be at present grade and will include curbing. Access ponts will be controlled at existing locations. The right of way needed is a 6-meter (20-foot) strip of fee land from each side of Sunset Hill Road between Henderson Road and White Bluff Boulevard.

Eleven parcels will be affected: seven homes, a tree farm (810 ha (2,000 acres) in size), one convenience store, a small wholesale lumber mill, and a new professional (medical) office complex. One of the residences is partially in the take and possibly will require relocating the owner-occupant family. A machine shed on the lumber mill site is partially in the take and it contains tenant-owned equipment. The convenience store's gasoline dispensers and canopy are partially in the take. About 10 of the 40 parking stalls for the medical office are in the taking, possibly resulting in loss of one tenant. The project should generally benefit the neighborhood by improving traffic flow during the rush hour. The neighborhood should continue to moderately change from agricultural to single family uses, with no major zoning changes immediately foreseeable, since neighborhood commercial services should remain adequate for the next five or more years.

ACQUISITION APPRAISAL REPORT

1. OWNER:

2. LOCATION OF SUBJECT:

3. SUBJECT LEGAL DESCRIPTION:

4. DELINEATION OF TITLE (5 years):

5. DESCRIPTION OF SUBJECT PROPERTY including Neighborhood, Larger Parcel, Zoning, Present Use, Improvements, Highest and Best Use-Vacant and Improved:

6. PROPERTY RIGHTS TO BE ACQUIRED AND EFFECTS OF ACQUISITION / PROJECT:

7. VALUATION-BEFORE
   - A. Land as Though Vacant
     - (1) Scope of Data Search
     - (2) Comparative Analyses
     - (3) Correlation and Conclusion-Land Value Before
   - B. Whole Property
     - (1) Scope of Data Search
     - (2) Comparative Analyses
     - (3) Correlation and Conclusion-Property Value Before

8. DESCRIPTION OF SUBJECT REMAINDER:

9. VALUATION-AFTER:
   - A. Land as Though Vacant
     - (1) Scope of Data Search
     - (2) Comparative Analyses
     - (3) Correlation and Conclusion-Land Value After
   - B. Whole Property
     - (1) Scope of Data Search
     - (2) Comparative Analyses
     - (3) Correlation and Conclusion-Property Value After

10. EXPLANATION, MEASUREMENT, AND ALLOCATION OF DAMAGES / SPECIAL BENEFITS:

11. REPORT OF CONTACT WITH OWNER:

Person(s) Contacted
Address:

Phone:
Comments:

Date of Contact:
Relationship to Owner:
Date of Joint Inspection:

Appraiser: Page Parcel:

Washington State Department of Transportation

Parcel No.:
Federal Aid No.:
Project:
Map Sheet of **Sheets**
Map Approval Date:
Date of Last Map Revision:

CERTIFICATE OF APPRAISER

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this appraisal are true and correct;
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conclusions, and are my personal, unbiased professional analyses, opinions, and conclusions;
- I have no present or prospective interest in the property that is the subject of this appraisal, and I have no personal interest or bias with respect to the parties involved;
- my compensation is not contingent upon the reporting of a predetermined value or direction that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event;
- my analyses, opinions, and conclusions were developed, and this appraisal has been prepared, in conformity with the appropriate State and Federal laws, regulations, policies and procedures applicable to the appraisal of right of way for such purposes;
- I have made a personal inspection of the property that is the subject of this report. I have made a personal inspection of the comparable sales contained in the report addenda;
- I have afforded the owner or a designated representative of the property that is the subject of this appraisal the opportunity to accompany me on the inspection of the property.
- no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated);
- I have disregarded any increase in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation. I have disregarded any decrease in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation, except physical deterioration within the reasonable control of the owner;

The property has been appraised for its fair market value as though owned in fee simple, or as encumbered only by the existing easements as described in the title report dated _____.

The opinion of value expressed below is the result of, and is subject to the data and conditions described in detail in this report of _____ pages.

I made a personal inspection of the property that is the subject of this report on

The **Date of Value** for the property that is the subject of this appraisal is _____. Per the FAIR MARKET VALUE definition contained in the Acquisition Appraisal Salient Information, the value conclusions for the property that is the subject of this appraisal are on a cash basis and are:

FAIR MARKET VALUE BEFORE ACQUISITION $ _____

FAIR MARKET VALUE AFTER ACQUISITION $ _____

DIFFERENCE $ _____

Date of Assignment or Contract: _____ Name: _____

Date Signed: _____ Signature: _____

Washington State-certified general real estate appraiser certification number:

CERTIF1
DO NOT WRITE BELOW THIS LINE_____

Headquarters Service Center Date Stamp Region Date Stamp

CERTIF1 Page 1

WAIVER OF APPRAISAL

The (Agency) desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State directives and desiring to take advantage of the $25,000.00 appraisal waver process approved by the Federal Highway Administration for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation as follows:

Rules

A. The (*Agency*) may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the PFE (Project Funding Estimate) is $25,000.00 or less including cost-to cure items.

B. The Agency must make the property owner(s) aware that an appraisal has not been done on the property and that one will be completed if they desire.

C. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

A. An Administrative Offer Summary (AOS) is prepared using data from the PFE.

B. The AOS is submitted to (*position Title Only*) for approval.

C. _____ (*position Title Only*) signs the AOS authorizing a first offer to the property owner(s).

APPROVED:

(Agency)

By: _____ _____

Real Estate Services
Washington State Department
of Transportation

ADMINISTRATIVE OFFER SUMMARY

PROJECT: _____

OWNERS NAME: _____

PROPERTY LOCATION: _____

BEFORE AREA: _____ AFTER AREA: _____

ACQUISITION AREA

FEE: _____ (area) _____ (type) EASEMENT: _____ (area)

CURRENT USE: _____ ZONING: _____

HIGHEST & BEST USE: _____

EFFECTS OF ACQUISITION: _____
_____
_____
_____
_____

SALES RELIED ON : _____ (contained in Data Package for this project dated _____.)

ACQUISITION COMPENSATION

FEE
LAND:

_____ (area) (unit value) $_____

IMPROVEMENTS:

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

_____ $_____

EASEMENT: _____ (unit value) $_____

DAMAGES:

_____ $_____

TOTAL: $_____

Sheet ___ of ___ Sheets Parcel _____

Plan Approval Date _____ Revision Date _____ Worksheet Date _____

Prepared By: _____ Date: _____

I concur in the value estimate herein and authorize an Administrative Offer be made in said amount.

_____ (Region RES Manager) _____ (Date)

This form is prepared in conformance with WSDOT policy and procedures. It does not constitute an appraisal as defined by the USPAP.

Federal Aid # _____. Parcel # _____

Washington State
Department of Transportation

REVIEW APPRAISER'S CERTIFICATE NO. 1

FROM: _____, Review Appraiser

TO:

Agency:
Parcel No.:
Owner:
Federal Aid No.
Project:

Map Sheet:
Map Approval Date:
Date of last map revision:

The following appraisals have been made on subject property:

APPRAISER	VALUATION DATE	BEFORE VALUE $	AFTER VALUE $	VALUE DIFFERENCE $	ALLOCATION $	
					TAKING $	DAMAGES $
1.						

The following prior certificate(s) of value have been made on subject property:

REVIEW APPRAISER	DATE OF PRIOR DV	BEFORE VALUE $	AFTER VALUE $	JUST COMPENSATION $	ALLOCATION $	
					TAKING $	DAMAGES $
1.						

Comments:

The appraiser completed a narrative appraisal report as contracted. The data used is adequate and relevant and any adjustments made to the data are proper. The appraisal methods and techniques used are appropriate. The analyses, opinions and value conclusions in the report under review are appropriate and reasonable.

I, the review appraiser, have both the experience and the knowledge to perform this appraisal review competently. Attached are my Appraisal Review Assumptions and Limiting Conditions and my Appraisal Review Salient Information which are made a part of this appraisal review report.

I inspected the subject property and the sales data used in the appraisal report on _____.

My value conclusions and appraisal review findings are as follows:

REVIEWER'S DETERMINATION OF VALUE (This Review):
VALUE BEFORE ACQUISITION: $
VALUE AFTER ACQUISITION: $
VALUE DIFFERENCE: $

Reviewer's Allocation of Just Compensation:
Acquisition: $
Damages: $

JUST COMPENSATION IS $ AS OF

CERTIFICATE OF REVIEW APPRAISER

I, the review appraiser, certify that, to the best of my knowledge and belief:

1. The facts and data reported by the review appraiser and used in the review process are true and correct.
2. The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review report.
5. My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the appropriate State laws, regulations, procedures and policies applicable to appraisal of right-of-way for such purposes.
6. I did personally inspect the subject property of the report under review.
7. No one provided significant professional assistance to the person signing this review report.

I further certify that if this determination is to be used in conjunction with a Federal aid highway project or other Federally funded project, none of the approved just compensation is ineligible for Federal reimbursement.

Washington State-certified general real estate appraiser certificate number:

Signature: _____

_____ **, Review Appraiser,**

Date:

ACQUIRING AGENCY CONCURRENCE AND AUTHORIZATION:

The _____of_____does hereby indicate the concurrence with the above certification and does authorize further action by _____to proceed according to established procedures with the acquisition of the designated property.

_____(Date) _____ _____.

Proposed Donation Letter

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
Washington State Department of Transportation
Transportation Building
Olympia, WA 98504

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,

_____
Concur and Approve

_____
Accept and Approval

_____
STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

Title _____

_____
(Local Agency)

*(Typical language.)
...City/County Commission Resolution No. 111.
...City/County Ordinance No. 111.
...City/County Conditional Use Permit No. 111.
...City/County Building Permit No. 111.

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

All Right of Way Acquired

Date: _____

TO: _____
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
Local Agency or Delegated Authority

Manager, Real Estate Services
_____ Region

Right to Occupy All Right of Way Acquired (Some P&Us or Rights of Entry)

Date: _____

TO: _____
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.

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

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

Date: _____

TO: _____
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.

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
Local Agency or Delegated Authority

_____
Manager, Real Estate Services
_____ Region

PROJECT REVIEW WORKSHEET

Agency:_____ **F.A. number:**_____

Project title:_____

Agency procedures approval date:_____ **Current ?** _____

FHWA participation in r/w - amount paid: _____

Local Programs r/w authorization date: _____

FHWA participation in phase other than r/w - amount paid: _____

Number of parcels: _____ Number acquired by condemnation: _____

Relocation plan dated: _____ Funding estimate dated: _____

Right of Way Plan

F.A. number shown: _____ Ownership information shown: _____

Areas to be acquired shown: _____ Remainder areas shown: _____

Adequate data for legal descriptions: _____ Ownership boundaries shown: _____

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 _____
3. NOTARY _____

PROOF OF PAYMENT _____ NEGOTIATOR DISCLAIMER _____

DIARYCOMPLETE _____ SIGNED _____

RELOCATION

ADDITIONAL COMMENTS

REVIEWER: DATE:

Page 2 of 3

The following is a list of items needed in an Agency's files to allow the LPA 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. FHWA 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(IF 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)

Page 3 of 3

Appendix 25.183 Federal Aid Requirement Checklist

Informational Only

Agency _____ Region _____ Date _____

Project _____
(Federal Aid Number) (Name)

Federal Funds Will Be Used For: PE _____ R/W _____ 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.	
2. Owners must be given an opportunity to accompany each appraiser during his inspection of the property, per 49 CFR 24.102(c).	
3. The acquiring agency must establish just compensation before initiation of negotiations with the owners, per 49 CFR 24.102(d).	
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).	
5. Appraisals are not to give consideration nor include any allowance for relocation assistance benefits.	
6. The owner is not to be left with an uneconomic remnant that the acquiring agency did not offer to acquire, per 49 CFR 24.102(k).	
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).	

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).

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).

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).

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).

12. The acquiring agency must acquire an equal interest in all buildings, etc., located upon the real property acquired, per 49 CFR 24.105.

13. The acquiring 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 acquiring agency, per 49 CFR 24.106.

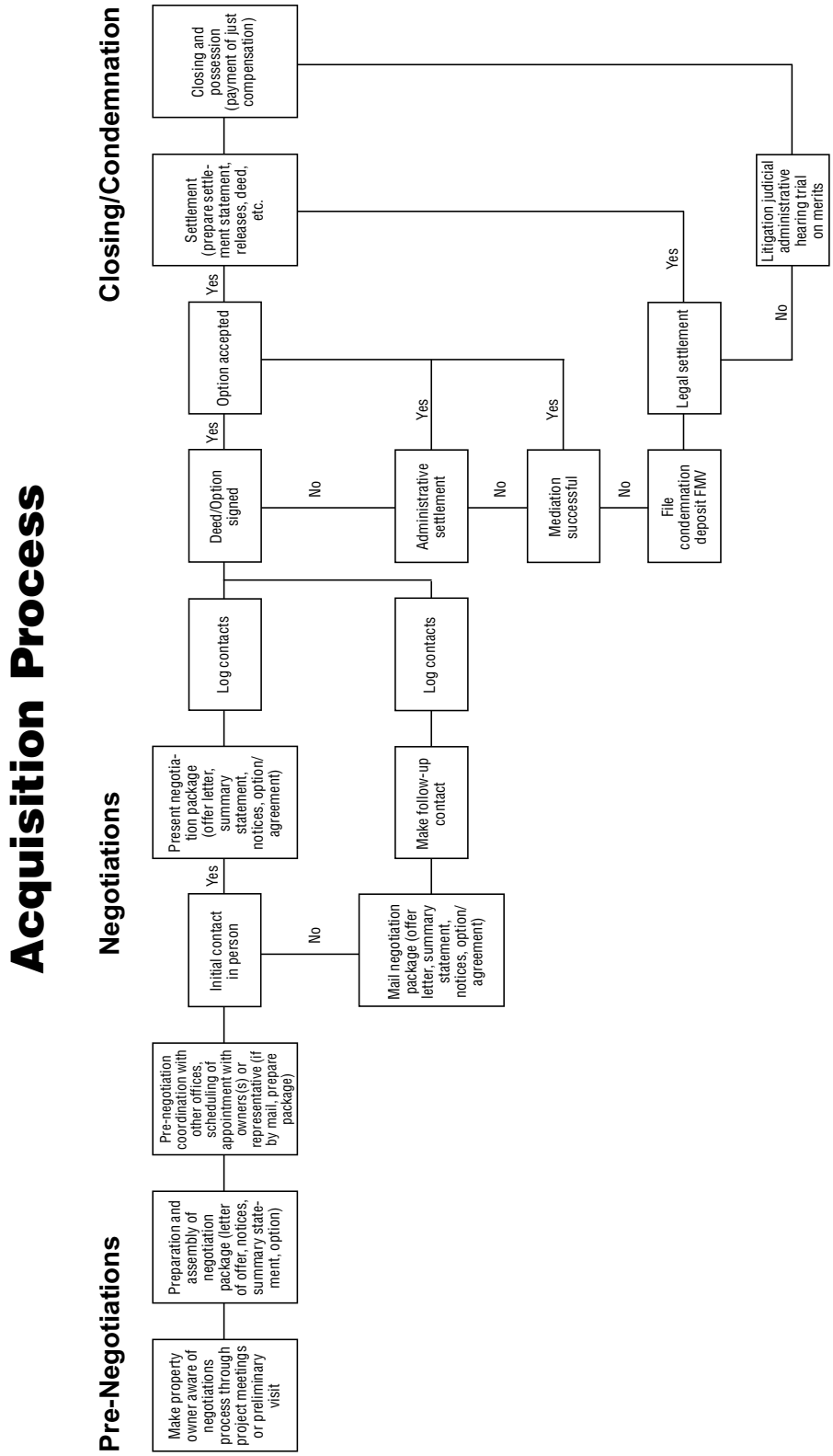
14. No property owner can voluntarily donate his property prior to being informed of his right to receive just compensation.

15. Provisions have been made for rodent control should it be necessary.

16. No owner was intentionally required to institute legal proceedings to prove the fact of the taking of his real property.

Prepared by _____

Title _____


Acquisition Process
Pre-Negotiations
Negotiations
Closing/Condemnation
Make property owner aware of negotiations process through project meetings or preliminary visit
Preparation and assembly of negotiation package (letter of offer, notices, summary statement, option)
Pre-negotiation coordination with other offices, scheduling of appointment with owners(s) or representative (if by mail, prepare package)
Initial contact in person
Yes
No
Present negotiation package (offer letter, summary statement, notices, option/agreement)
Mail negotiation package (offer letter, summary statement, notices, option/agreement)
Make follow-up contact
Log contacts
Log contacts
Deed/Option signed
Yes
No
Option accepted
Yes
Administrative settlement
Yes
No
Mediation successful
Yes
No
File condemnation deposit FMV
Legal settlement
Yes
No
Settlement (prepare settlement statement, releases, deed, etc.
Litigation judicial administrative hearing trial on merits
Closing and possession (payment of just compensation)

Washington State
Department of Transportation

Government Agreement For Aid Work by State - Actual Cost	Organization and Address
Agreement Number	Federal Employers I.D. Number
Region	**Land Acquisition, Relocation, and Related Services (For Highway, Road, and Street Purposes Only)**

THIS AGREEMENT, made and entered into by and between the Washington State Department of Transportation, hereinafter the "WSDOT," and the above named organization, hereinafter the "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 Washington (RCW), and Chapter 468-100 Washington Administrative Code (WAC), 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 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 RCW 47.28.140; and

WHEREAS, the AGENCY, assures the DEPARTMENT that the AGENCY's requests for services under this AGREEMENT will not result from bidding, negotiation, or other competition involving private enterprise; and

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

WHEREAS, the actual work to be performed shall be specified in a Task Assignment signed by both parties;

WHEREAS, the AGENCY shall pay for any work identified in a Task Assignment as specified by the terms of the Task Assignment and this AGREEMENT;

NOW, THEREFORE, in consideration of the stated premise and in the interest of providing expedient, fair, equitable, and uniform treatment of landowners and persons to be displaced by proposed land acquisition projects and pursuant to RCW 8.26.095, the parties hereto agree as follows:

I
GENERAL

A. The DEPARTMENT shall, to its maximum ability, provide the 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 M26-01 (HW), Right of Way Manual, except where specific operating requirements are otherwise described herein. All such requirements shall conform to the REGULATIONS. All work to be performed shall be identified in a Task Assignment signed by both parties.

DOT Form 224-076 EF
Revised 6/10

Page 1 of 4

B. The normal workload of the department shall have priority over any work performed under this AGREEMENT or any Task Assignment. The work performed under this AGREEMENT and the associated Task Assignments shall be pursued with care and diligence, making every effort to recognize pertinent schedules of the AGENCY. The DEPARTMENT shall promptly notify the AGENCY of any hardship or other inability to perform under this AGREEMENT including postponement of the agency's work due to priority given to the department's 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 parties shall agree on a satisfactory completion date for work performed under any Task Assignment ("work completion date"), which shall be specified in the Task Assignment. The AGENCY shall, upon satisfactory completion of work performed pursuant to a Task Assignment, issue a letter of acceptance that shall include a release and waiver of all future claims or demands of any nature resulting from the performance of the work under the Task Assignment. If the DEPARTMENT does not receive a letter of acceptance within 90 days following the work completion date, the work will be considered accepted by the AGENCY. The AGENCY may withhold acceptance of work by submitting written notification to the DEPARTMENT within a 90-day period. This notification shall include the reasons for withholding acceptance.

II
WORK ASSIGNMENT/REQUEST

A. Specific assignments shall be made in the form of a written Task Assignment to the DEPARTMENT by the AGENCY and signed by both parties. Each Task Assignment shall contain an agreed upon budget and schedule for all services to be rendered. AGENCY approval is required for budget and schedule changes. The agreed upon budget will include estimated DEPARTMENT staff and related costs in addition to applicable acquisition/relocation cost estimates. The AGENCY shall make such assignments before any negotiations for property acquisition and before any discussion of price with the property owner, when required by the REGULATIONS.

B. The AGENCY shall furnish the DEPARTMENT with all information that has been compiled by or is available to the AGENCY concerning the property to be affected by each particular project. Such information shall include, but not be limited to, copies of approved right of way plan sheets showing limits of parcels, rights to be acquired, and sufficient engineering data to develop legal descriptions; 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.

C. The DEPARTMENT shall furnish all labor, materials, supplies, and incidentals necessary to complete the work assigned by the 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 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 AGENCY for court preparation and testimony will be a separate Task Assignment 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 AGENCY (or its agent) has determined that such reports appear to comply with the 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 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 AGENCY.

Acquisition: Every reasonable effort will be made to acquire real property by negotiations in accordance with the REGULATIONS and the AGENCY's condemnation authority, including the AGENCY's authority to acquire limited access where applicable. 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 that 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 payment claims presented by displacees will be processed by the DEPARTMENT, but the actual disbursement of monies shall be made by the AGENCY. As may be requested by the AGENCY, the DEPARTMENT may assist the AGENCY, on a case by case basis, with an appeal as to relocation assistance benefits filed by an aggrieved displacee. However, the AGENCY shall remain responsible for any appointment of a hearing officer, conducting hearings, maintaining records thereof, and rendering 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 Task Assignment, the DEPARTMENT will 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 this AGREEMENT and associated Task Assignments 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 within 30 days of receipt of the 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
LEGAL RELATIONS

A. **INDEMNIFICATION:** Each of the parties to this AGREEMENT shall protect, defend, indemnify and save harmless the other party from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorney's fees, arising out of or related to the terms, covenants or conditions of this AGREEMENT and such parties' performance or failure to perform any aspect of this AGREEMENT; provided, however, that if the claims or suits are caused by or result from the concurrent negligence of (a) the AGENCY, its agents or employees, and (b) the DEPARTMENT, its agents or employees, including those actions covered by RCW 4.24.115, the obligations shall be valid and enforceable only to the extent of the parties' negligence; and provided further, that nothing herein shall require either party to hold harmless or defend the other party from any claim arising from the sole negligence of the other party.

B. **DISPUTE RESOLUTION:**

1. The AGENCY and the DEPARTMENT shall confer to resolve disputes that arise under this AGREEMENT as requested by either party.
2. The following individuals are the Designated Representatives for the purpose of resolving disputes that arise under this agreement:

	AGENCY	DEPARTMENT
Name/Title		Region Real Estate Services Manager
Address		

3. In the event the Designated Representatives are unable to resolve the dispute, the following individuals shall confer and resolve the dispute.

	AGENCY	DEPARTMENT
Name/Title		Real Estate Services Program Administrator
Address		PO Box 47338, Olympia, WA 98504-7338

The AGENCY and the DEPARTMENT agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.

C. **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, Washington.

V
NONDISCRIMINATION

The DEPARTMENT shall comply with Chapter 49.60 RCW 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.

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. The DEPARTMENT may terminate this AGREEMENT at any time upon not less than sixty (60) days written notice to the AGENCY with or without cause. The AGENCY may terminate this AGREEMENT or Task Assignment at any time provided that the AGENCY reimburses the DEPARTMENT for all direct and indirect costs incurred to date. This AGREEMENT shall terminate five years from the date of execution hereof unless otherwise terminated or unless extended in writing signed by both parties. Upon termination of this AGREEMENT, the DEPARTMENT will 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.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year last written below.

AGENCY	STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION
By:	By:
Title:	Title: Region Real Estate Services Manager
Date:	Date:

DOT Form 224-076 EF
Revised 6/10

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