

LOCAL PUBLIC AGENCY RIGHT OF WAY NEGOTIATOR TRAINING

Presented by:

Mendy Sundermeyer, Right of Way Liaison



CONTACTS

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Gregory Wood (Region 2 and 3)

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Consultant contacts

OR Colon

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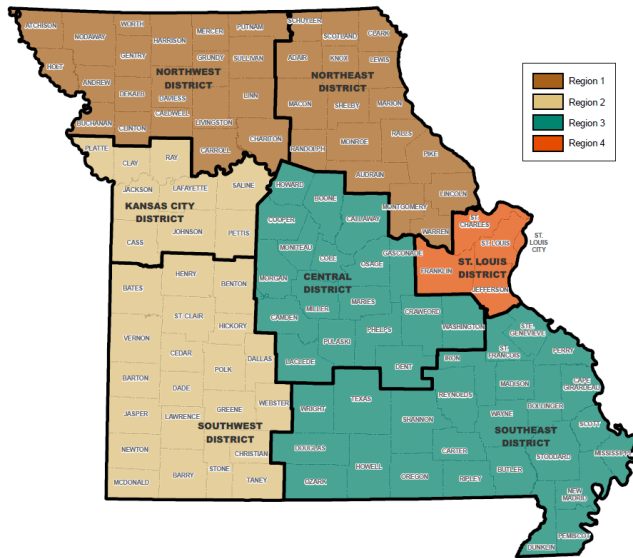
Region 3 and 4 (CD, SE, SL)

Lochmueller Group, LLC

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Todd Halfman Director of Land Acquisitions/RW Services

618-667-1409/618-304-2395



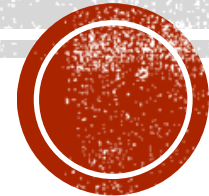
Steve Thompson

RW Services

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Land Acquisitions/RW Services

618-667-1409/618-304-2395



Right of Way Acquisition Process

- Uniform Act Foundation, CFR, and CSR
 - Law, rules, procedures
- Property Rights
 - What realty right is needed
- Pre-Acquisition
 - Who owns the affected property
 - Who else has an interest
 - Plan development
- Acquisition
 - Required documentation
- Relocation
 - What must be considered
- Clearance



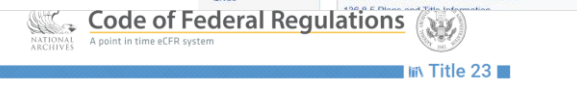
- Main Page
- 100 General
- 136 LPA Policy
- 200 Geometrics
- 300 Bases
- 400 Flexible Pavement
- 500 Rigid Pavement
- 600 Incidental Construction
- 700 Structures and Hydraulics
- 800 Roadside Development
- 900 Traffic Control
- 1000 Materials
- 1100 Maintenance Materials
- Minor Routes
- Shouldering Project Guidelines
- Help
- QRs

LPA

LPA:136.8 Local Public Agency Land Acquisition

Contents [hide]

- 136.8.1 General
 - 136.8.1.1 Introduction
 - 136.8.1.2 State Responsibility
 - 136.8.1.3 Local Public Agency's Responsibility
 - 136.8.1.4 MoDOT Right of Way Procedures
 - 136.8.1.5 Local Public Agency Right of Way Acquisition Brochure
 - 136.8.1.6 Local Public Agency - Right of Way and Easement Acquisition
- 136.8.2 Funding
 - 136.8.2.1 Funding Requirements
 - 136.8.2.2 Acquisition Authority
 - 136.8.2.3 Notification by MoDOT
 - 136.8.2.4 Costs Eligible for Reimbursement Before Receipt of an A-Date
 - 136.8.2.5 Costs Eligible for Reimbursement After Receipt of an A-Date
 - 136.8.2.6 Support for Claims for Reimbursement
 - 136.8.2.7 Inspection of Documents
 - 136.8.2.8 Federal Project Number
- 136.8.3 State Monitoring
- 136.8.4 Retention and Access to Records



Displaying title 23, up to date as of 6/21/2022. Title 23 was last amended 6/06/2022. view historical versions

Go to CFR Reference ec: 1 CFR 1.1 Go

Title 23 Chapter I Subchapter H

SCFR CONTENT

- Title 23 Highways
 - Chapter I Federal Highway Administration, Department of Transp.
 - Subchapter H Right-of-Way and Environment
 - Part 710 Right-of-Way and Real Estate
 - Subpart A General
 - Subpart B Program Administration
 - Subpart C Project Development
 - Subpart D Real Property Management
 - Subpart E Property Acquisition Alternatives
 - Subpart F Federal Assistance Programs
 - Subpart G Concession Agreements
 - Part 730 Highway Reacquisition
 - Subpart A National Standards for Regulation by States or Advertising Adjacent to the Interstate System
 - 1958 Bonus Program

Code of State Regulations

Title 7 - Missouri Department of Transportation

[Division 10 | Division 60 | Division 265 |

In order to minimize download time, some of the larger chapters have been segmented into sections. The segmented chapters will have a "Next Section" button in the top and bottom right corners to navigate to the next section and a "Previous Section" button in the top and bottom left corners to navigate to the previous section.

The Code of State Regulations (CSR) is updated monthly. Pursuant to section 536.021.8, RSMo, "no rule...shall become effective prior to the thirtieth day after the date of publication of the revision to the Missouri code of state regulations." Therefore, some of the rules published in the current version of the CSR may not be effective. A rule's effective date is found in the authority section at the end of the rule. If a rule's effective date has not arrived yet, the previous edition of the rule would be the rule still in effect. Previous editions of these rules may be available in the [archived editions](#).

DIVISION 10 - MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

- Chapter 1 - Organization; General Provisions
- Chapter 2 - Traffic Regulation
- Chapter 3 - Utility and Private Line Location and Relocation
- Chapter 4 - Uniform Relocation Assistance
- Chapter 5 - Junkyards

FOUNDATIONS

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act)

- On **January 2, 1971**, 42 U.S.C. 4601-4655/Public Law 91-646, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," (Uniform Act) was signed into law. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving federal funds, will be treated fairly and equitably, and if relocated will receive assistance in moving from the property that they occupy.
- **U.S. DOT/FHWA designated Lead Federal Agency**
- **MoDOT oversees compliance in Missouri**

Uniform Act

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CODE OF FEDERAL REGULATIONS (CFR) CODE OF STATE REGULATIONS (CSR)

Federal law
State law

Commission Policy

Right of Way Procedures

ALTA COMMITMENT FORM
COMMITMENT FOR TITLE INSURANCE

Issued By
ALLIANT NATIONAL TITLE INSURANCE COMPANY

File No.: 9999

Commitment No.: 9999

SCHEDULE A

1. Commitment Date: January 25, 2019 at 12:00 AM
2. Policy (or Policies) to be issued:
 - a. Loan Policy ALTA Short Form (12/3/12) Policy Amount \$247,600.00
Proposed Insured: ABC Mortgage Lender, LLC ISAOA/ATIMA
 - b. Owner's Policy ALTA (06/17/06) Policy Amount \$309,500.00
Proposed Insured: Barry Buyer
3. Fee Simple interest in the land described in this Commitment is owned, at the Commitment Date, by Sally Spitzer and Steve Salter.
4. The land referred to in the Commitment is described as follows:

Lot 8, Block 15, Sixth Avenue West - Second Flng
County of Jefferson, State of Colorado

Commonly known as:
123 Main Street
Denver, CO 80210

APN # 16546798441

First Alliance Title, LLC
1777 S. Harrison St #1100
Denver, CO 80210

Gregory C. Parham,
Authorized Agent/Officer

ALLIANT NATIONAL TITLE INSURANCE COMPANY

By: President
 Attest: Secretary

ALTA COMMITMENT FORM
COMMITMENT FOR TITLE INSURANCE

Issued By
ALLIANT NATIONAL TITLE INSURANCE COMPANY

File No.: 9999

Commitment No.: 9999

SCHEDULE B - SECTION II

EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

1. Any facts, rights, interests or claims that are not shown by the Public Records but which could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
2. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
3. Any encroachments, encumbrances, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by Public Records.
4. Any lien and right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Defects, liens, encumbrances, adverse claims, or other matters, if any, created, first appearing in the public records, or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon conveyed by this Commitment.
6. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
7. (a) Unpatented mining claims; (b) reservations or exceptions in patents, or in Acts authorizing the issuance thereof; (c) water rights, claims of title to water, whether or not the matters excepted under (a), (b), or (c) are shown in the public records.
8. Terms, provisions, covenants, conditions, restrictions, easements, charges, assessments, and liens provided by the Condominium Declaration recorded 01/09/1982, at Reception No. D89034, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.
9. Terms, provisions, covenants, conditions, restrictions, easements, rights of way and notes as set forth on the Condominium Map recorded 1/10/1981, at Reception No. D567437.

WHAT IS A REALTY RIGHT??



Single

MoDOT Verification of Signatory on
Conveyance Documents.doc

Married

Tenant

Tenant in Common

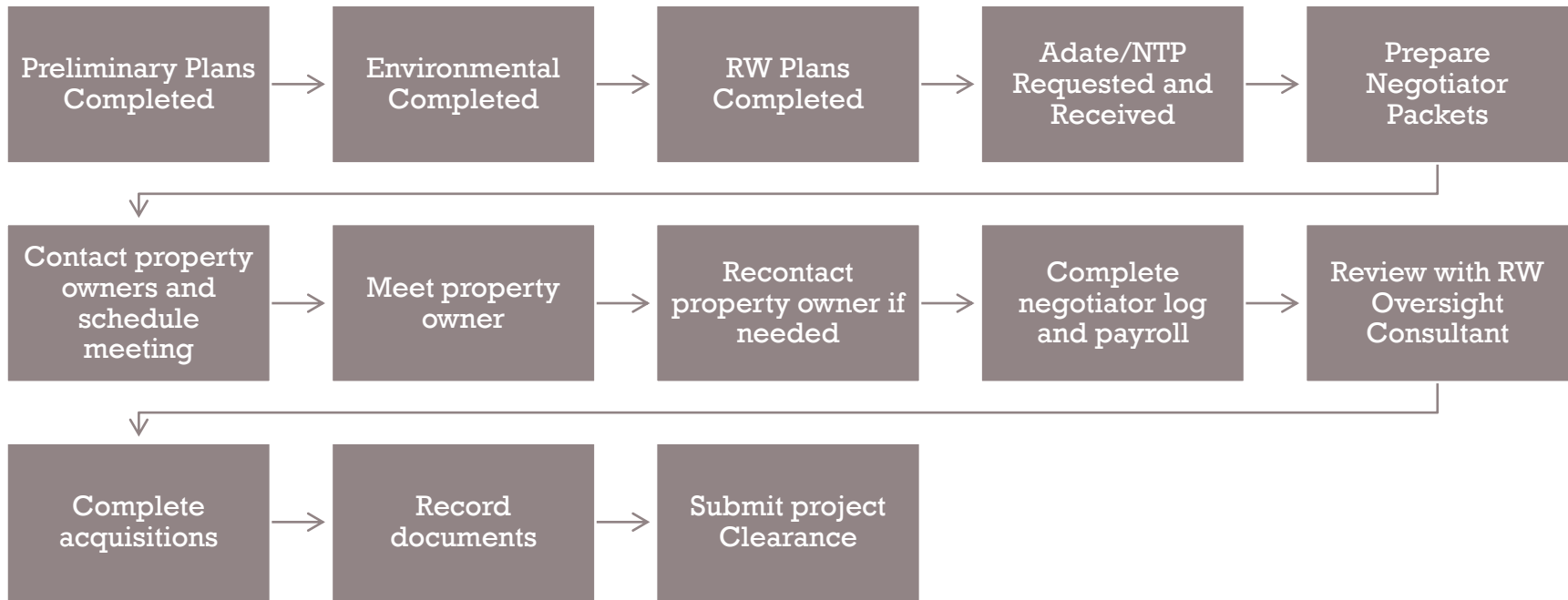
Joint Tenants in Common

Trust

Beneficiary

**TYPES OF
REALTY
INTEREST**





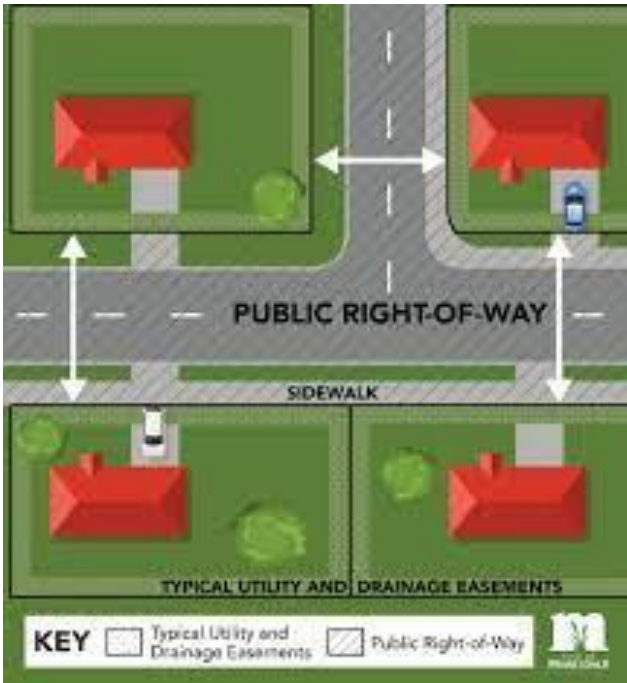
RW PROCESS



ROLE OF LPA

- Communicate with oversight consultants and Central Office ROW staff for guidance.
- Confirm negotiators are on LPA basic training and ROW negotiator training roster and appraisers are on approved appraiser roster.
- Do not edit forms/templates.
- Project schedule and deadlines
 - Reasonable progress





PRE-ROW ACQUISITION

ROW PLAN REVIEW



- Preliminary Plan Approval Memo be provided with ROW Plans.
- Follow the ROW Plan Review Checklist. [ROW Plan Checklist](#)
 - Identifying accurate project limits (beginning and ending)
 - Existing and remaining acreage for each parcel.
- Send request for approval to ORCLPARWO@modot.mo.gov or LOCHLPARWO@modot.mo.gov email groups, copying the COROW@modot.mo.gov email group.



City/County _____
Project No. _____
Road Name _____

LPA PROJECTS - R/W PLAN REVIEW - CHECKLIST

- a. Existing right of way line;
- b. Beginning and ending right of way project limits by station; *Easements must fall within termini
- c. Proposed right of way and easements; *Permanent easements should specify use
- d. Dimensions of proposed acquisition;
- e. Names of property owners from title report or assessor's records;
- f. Land survey lines (including quarter and quarter-quarter section lines with notated reference to quarter-quarter Section, Township, and Range), all property lines, and at least one witnessed land corner tied to the project centerline. For platted areas, plans can alternatively show Lot, Block (if applicable) and Subdivision for each parcel, and one tie to any corner of record. Land ties/corners of record are not required for projects requiring temporary easements only.
- g. Parcel identification numbers; *1,2,3- NOT Assessor's Parcel ID
- h. Areas of new land, permanent and temporary easements;
- i. Remainder of land holdings on each side of road;
- j. All improvements/structures acquired or in proximity to the project; *#1 cause of revisions- MUST show impacts to property
- k. Grading and slope lines;
- l. Entrances (station location, type and surface material); *Also commonly missed
- m. Federal-aid project number on each sheet.

Approved on (date) _____ Approved by _____



ROW ACQUISITION AUTHORITY A-DATE/NOTICE TO PROCEED

Acquisition Authority
Request/Notice to Proceed Form:

- Approved ROW Plans
- Environmental Clearances (NEPA and SHPO)
- ROW Acquisition Scheduling Tool
- Send approval request to ORCLPARWO@modot.mo.gov or LOCHLPARWO@modot.mo.gov copying COROW@modot.mo.gov.



RIGHT OF WAY ACQUISITION SCHEDULING TOOL

County/City: Sponsor Name
Route: _____
Job Number: _____
Letting Date: Don't forget this- also must work with clearance date
No. of Parcels: _____

..... Allow Processing Time,
Should not be submittal date

*Securing appraisal contracts
Appraisers developing reports
Securing review appraisal contracts*

Will take longer if hiring
appraisers, window can be shorter
for payment estimates

Appraisals/Payment Estimates Complete

Appraisals being reviewed

May put N/A, expect payment
estimates/waiver valuations only

Appraisal Reviews Complete

*Preparing negotiation packets
(deeds, offer letters, brochures,
prorata tax claim forms, etc.)*

Do not need a large window,
may send as soon as values
are ready

Written Offers Made

Negotiation period

May be prior to offer date
if you choose

60-Day Notices Sent

Negotiations continue

MUST be 60 days after
above date.
Current Offer must be open 30

File Condemnation Petition or Cancel Project

*Condemnation Hearing
Condemnation Commissioners' Viewing
Condemnation Commissioners' Award*

ALLOW TIME
Courts/Commissioners
can be unpredictable
must have paid award to clear

Submit Clearance Certification

NOTE: *Complete the schedule as if no donations are expected.*
NOTE: *If relocation/personal property is involved, contact MoDOT for
additional information regarding scheduling.*



DETERMINING JUST COMPENSATION





Sponsors may request donations.

ALL Valuation documents must be signed by an agency employee to establish approval of just compensation

Contract review appraiser signatures are not sufficient, the agency must approve in writing.

VALUATION

1. Waiver Valuation/Payment Estimate (most common)

- **May be developed by non-appraisers**
- **Acquisition is simple** and worth **\$25,000** or less
- Land value is easily determined
- Only nominal structural improvements and/or access rights
- No apparent damages to the remainder



VALUATION

2. Value Finding Appraisal

- **Must be developed by a state-certified residential or general appraiser, as appropriate**
- Acquisition is simple
- Sales comparison approach with only minor adjustments
- Damage can be measured by the cost to cure, or is consequential and not exceeding **\$10,000 per element**
- Highest and best use stays the same
- Since this is an appraisal, it must also be reviewed by a certified appraiser



VALUATION

3. Standard Appraisal

- **Must be developed by a state-certified residential or general appraiser, as appropriate**
- Appraisal problems are judged to be complex
- Highest and best use of a property as improved is different than the highest and best use as if vacant
- A Residents or other major improvements are acquired
- Change in highest and best use after the acquisition
- Since this is an appraisal, it must also be reviewed by a certified appraiser



ROW Plans

Appraisal

Offer Letter

Brochure

Title Commitment

Negotiator Contact Information

Conveyance Documents

Exhibits (plats and/or legal descriptions)


Pro-Rata Tax Form (if applicable)

PROPERTY OWNER PACKETS





- Written Justification for Administrative Settlement .
- **Administrative settlements are not new “offers.”**
- **Detailed log**



CONDEMNATION — EPG 136.8.8

- Owners must be provided at least 60 days' notice.
- The offer timeline
- Certified mail/signed receipt
- Negotiator log details

RELOCATION

136.8.9/236.8

The Missouri Uniform Relocation Act

- Acquisition vs. relocation
- What is reimbursable?
- Residences vs. Business Relocation
- Different timelines

FHWA does not allow for “global settlements,” please be aware the agency/ agencies representative should not make such deals.



CLEARANCE CERTIFICATION

RIGHT OF WAY CLEARANCE CERTIFICATION STATEMENT
SAMPLE LETTER
(USE AGENCY LETTERHEAD and then delete from this line up)

DATE: _____

TO: District Right of Way Manager

FROM: Name, Title, Agency

SUBJECT: Each certification must contain the following:
(Explained in EPG 136.8.10.3 of the MoDOT EPG)
Right of Way Clearance Certification

_____	Date of NEPA Clearance
_____	Entire Project or Partial Clearance
_____	Name of Sponsor
_____	Road or Project Name
_____	Federal Project Number
_____	Termini of the Entire Right of Way Project
_____	Termini of the Portion of Project Being Cleared



PARCEL CHECKLIST

Project Acquisition Monitor Checklist Form

LPA Project Acquisition Monitoring Checklist

Project Number: City/County of:

Project Name Road or Bridge:

Parcel Number: Owner:

1.	Environmental Document and Section 106 has been Completed?	Select One
2.	Notice to Proceed (no federal funds)?	Select One
3.	Federal Participation in Right of Way? <input type="text"/> Select One If yes: (A-Date) Approved Date? <input type="text"/>	
4.	Do the Right of Way Plans Contain Information Required in Section 136.8.5 of LPA EPG?	Select One
5.	Agency Staff Performed RW and Easement Acquisition?	Select One
6.	Agency used Fee Services for Negotiations from Qualified Sources?	Select One
7.	Property Interest Acquired in RW and Easements (temporary or permanent) and Recorded?	Select One
8.	Agency is Aware of Document Retention (3 Years after Final Audit)?	Select One
9.	Reasonable Effort Made to Contact Owner or Owner's Representative by Appropriate Means?	Select One
10.	Acquisition Explained?	Select One
11.	Acquisition Brochure Provided?	Select One
12.	Prorata Tax Claim Form Provided?	Select One
13.	Reasonable Effort to Acquire Expeditiously by Negotiations?	Select One
14.	Negotiator's Report is Adequate?	Select One
15.	Right of Way Acquired by Donation?	Select One
	If yes, did Owner or Tenant Sign Waiver Letter?	Select One
16.	Valuation Made Complying with the LPA EPG?	Select One
17.	Appraiser and Review Appraiser are on MoDOT Roster?	Select One
18.	Did the Agency Approve just Compensation?	Select One
19.	Prompt Written Offer to Acquire for Full Amount of Approved Appraisal?	Select One
20.	Offer to Acquire Uneconomic Remnant(s) on this Parcel?	Select One



FILE REVIEW



Each parcel file must contain the following documentation:

- Recorded conveyance documents
- **Detailed** Negotiator's Report/log
- Title/proof of ownership
- Copies of offer letters, 60-day notices, donation letters, and any other correspondence
- Appraisal or other valuation document
- Any applicable agreements
- Justification for Administrative Settlement
- Proof of Payment to owner prior to sponsor possession
- Additional documentation supporting/verifying the person signing has the authority to sign on behalf of the ownership group.
- W-9 (if applicable)



CLEARANCE CERTIFICATION DETAILS

Parcel Acquisition Detail:

- A. _____ Parcels on this project that required the acquisition of right of way, easements and/or access rights. (A=B+C)
- B. _____ Parcels acquired by negotiation (B=1+2+3)
1. _____ Parcels that were acquired by condemnation.
 2. _____ Parcels settled administratively for an amount other than the approved offer.
 3. _____ Parcels acquired for offer amount.
- C. _____ Parcels acquired by donation.
- D. _____ Parcels that were appraised and subsequently voided and not acquired.
- E. _____ Parcels that were deleted from the project, if any.
(Please attach a written explanation as to why these parcels were deleted from the project)

Responsibility of Parcel Acquisition:

(A=F+G+H)

- F. _____ Parcels that were acquired by MoDOT personnel.
- G. _____ Parcels that were acquired by Local Public Agency personnel.
- H. _____ Parcels that were acquired by Contract Negotiator(s) on the MoDOT Roster.

Expenditure Detail

There was \$ _____ spent on total Acquisition of land, realty rights, and improvements. (Please do not include incidental expenses in this figure)

The LPA Oversight Consultant will review the parcel acquisition files and submit this certification to Central Office Right of Way for final approval.





**FIVE
YEAR
RULE**




RECORDKEEPING

Project sponsor is required to:

- Retain all documents
- Details on all project documents
- File maintenance
- Inventory of items

- **All project and parcel documentation shall be kept a minimum of three years after the final invoice is submitted**



Records

Questions

Contact Information

- Brenda Harris – 573-751-7458/573-338-5245
- Gregory Wood – 573-751-7716/573-508-9883
- Mendy Sundermeyer – 573-751-6774/573-508-2229
- Oversight Consultants
 - ORColan – Shantel Bowers – 636-949-2125/314-494-6668
 - Lochmueller- Todd Halfman- 618-667-1409/618-304-2395

CONCLUSION

