

CHAPTER 7 -- ACQUISITION AND RELOCATION

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CHAPTER 7

ACQUISITION AND RELOCATION

I. OVERVIEW

The purpose of this chapter is to provide guidance to local CDBG grantees for dealing with the complex issue of acquiring real property. Two different acquisition procedures are defined and described: voluntary acquisition and non-voluntary acquisition. The appendix provides sample letters, notices, and forms that should be helpful to the grantee.

Grantees involved in the acquisition of real property for CDBG assisted activities should keep these key issues in mind:

- ❑ two options are available for grantees when acquiring property: voluntary acquisition or nonvoluntary acquisition;
- ❑ property owners must be paid at least the appraised fair market value for acquired property and improvements;
- ❑ Condemnation and litigation should be avoided and used only as a last resort;

sites for CDBG activities should be chosen so that displacement is avoided; and acquisitions should be documented in accordance with procedures outlined in Section IV, RECORDKEEPING REQUIREMENTS, of this Chapter.

II. APPLICABLE REQUIREMENTS

A. FEDERAL

1. Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, more commonly known as the Uniform Relocation Act Amendments of 1987, which amends the 1970 Uniform Relocation Act.
2. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), which provides uniform procedures for the acquisition of real property for federal or federally assisted projects, and ensures the uniform and equitable treatment of persons and businesses displaced as a result of federal or federally assisted projects.

HUD Handbook 1378 explains and summarizes the URA and implementing regulations at 49 CFR Part 24 and delineates the requirements that are passed on to state CDBG programs and their grantees.

Excerpts from Handbook 1378 – Tenant Assistance Relocation and Real Property Acquisition

5-1 APPLICABILITY OF ACQUISITION REQUIREMENTS (49 CFR 24.101).

- a. General. The requirements of this chapter apply to any **acquisition of real property for a project.**

- b. Less-Than-Full-Fee Interest in Real Property. The provisions of this chapter apply to: **the acquisition of permanent easements**.

5-2 BASIC ACQUISITION POLICIES (49 CFR 24.102).

- a. Expeditious Acquisition. The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.
- b. Notice to Owner. As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property. (Public Agencies may meet the requirement to notify the owner of the basic protections available **by providing and explaining, as appropriate, the HUD information brochure, "When a Public Agency Acquires Your Property"** (HUD-1041-CPD). It is available from HUD Field Offices.)

- 5-8. DONATIONS (49 CFR 24.108). A property owner may, after being fully informed by the Agency of a person's right to receive just compensation for property taken for a project, donate his or her property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency must obtain an appraisal of the real property unless the owner, in writing, releases the Agency from such obligation, or, as provided in Paragraph 5-2c(1)(b), the valuation problem is uncomplicated and the fair market value does not exceed \$2,500. **Whenever a State agency acquires real property under this donation provision, it must obtain the written consent of the owner. Such consent must indicate that the owner understands that under the URA he/she cannot be required to sell the real property to the State agency for less than its appraised fair market value.**

Section 2. State CDBG Program

- 8-21 APPLICABLE RULES. **The State CDBG Program (24 CFR 570, Subpart 1) is subject to the URA and implementing regulations at 49 CFR Part 24.**

3. Title VI of the Civil Rights Act of 1964, which prohibits the selection of sites for facilities of federally assisted programs with the purpose or effect of discrimination. For a more detailed explanation of applicable civil rights requirements refer to Chapter 5, CIVIL RIGHTS.

B. STATE

Relocation Assistance/Fair Treatment of Condemnees, Title 70, Chapter 31, Montana Code Annotated (MCA), is the state statute that compliments requirements in the federal legislation.

III. GRANTEE RESPONSIBILITIES

For each acquisition activity, the grantee must determine whether or not the acquisition is voluntary or non-voluntary. This will determine how the transaction is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which deals specifically with real property acquisition.

A. VOLUNTARY ACQUISITIONS

The acquisition can be considered voluntary, and not subject to the stricter requirements of the Uniform Relocation Act if, in the case of an acquisition by a state agency (i.e., an entity with the power of eminent domain), ALL of the following conditions are present:

- the state agency determines and informs the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement; and
- no specific site or property is designated for acquisition, although the grantee may have a general geographic area in mind; and
- the property to be acquired is not part of an intended, planned or designated project area where all or substantially all of the property within the area will eventually be acquired; and
- the grantee informs the owner of its estimate of the fair market value of the property. An appraisal is not required; however, the estimate must be prepared by a person familiar with real estate values, and the grantee's files must include an explanation of the basis for the estimate. However, if the property owner requests an appraisal, one must be done.

The acquisition can also be considered voluntary, if, in the case of an acquisition by an entity that does not have the power of eminent domain, ALL of the following conditions are present:

- the grantee determines and informs the owner in writing that it does not have the power of eminent domain, and therefore will not attempt to acquire the property if negotiations fail to result in an amicable agreement; and
- the grantee informs the property owner of its estimate of the fair market value of the property. **This notice must be in writing and provided before the seller enters into the contract for sale.** An appraisal is not required; however, the estimate must be prepared by a person familiar with real estate values, and the grantee's files must include an explanation of the basis for the estimate. An appraisal must be completed if requested by the property owner.

The required notices must be in writing and provided before the seller enters into the contract for sale. In those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement after this information is provided.

If the grantee determines that an acquisition will be voluntary in nature, the grantee should adhere to the procedures outlined below:

1. If the grantee receives a voluntary offer of sale for an acceptable property, the offer should be documented in a manner similar to **Exhibit 7-B**, Voluntary Agreement Between Grantee and Individual Seller. Properties may be voluntarily donated as well. For such cases **Exhibit 7-K** can be used to reflect a donation rather than a sale.

The voluntary seller or donor should be provided with a copy of **Exhibit 7-L “When A Public Agency Acquires Your Property”** so as to be properly informed regarding the important features of the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*.

2. Real property being acquired through voluntary acquisition may be appraised in order to assure that fair market value is paid for the acquisition. The name of the appraiser, date of appraisal, appraised value of the property, and a copy of the appraisal must be retained in the grantee's CDBG Project File. An appraisal is not required for a voluntary acquisition in the following situations:
 - a) if the landowner agrees to donate the property;
 - b) if the grantee determines that an appraisal is unnecessary because the determination of valuation is uncomplicated and the fair market value is estimated at \$2,500 or less, based upon a review of available data¹ prepared by a person familiar with real estate values (with a written explanation of the basis for the estimate kept in the grantee's appropriate CDBG Project file); or
 - c) if the property owner agrees to waive the appraisal, and such approval is obtained in writing.
3. In cases involving voluntary acquisitions, property owners are not eligible to receive relocation assistance payments. However, tenants of acquired property are eligible for relocation assistance. The federal requirements for relocation of households or businesses are extensive and extremely complex. **Displacement of households or businesses should be avoided whenever possible.** Contact your assigned CDBG Program Officer for further guidance on how to proceed for potential relocation situations.
4. To document acquisition of property on a voluntary basis, the grantee should complete the Voluntary Acquisition File Checklist (**Exhibit 7-C**).
5. A copy of the contract for sale, purchase price of the property, settlement costs, donation agreement (if applicable), recorded deed of property to the grantee, and proof of payment must be retained in the applicable CDBG Project file.

B. NON-VOLUNTARY ACQUISITIONS

If the acquisition is not voluntary in nature, and therefore subject to the stricter rules and regulations of the Uniform Relocation Act, the following procedures should be followed:

1. Obtain a Copy of HUD Handbook 1378, Tenant Assistance Relocation and Real Property Acquisition. Grantees who have activities involving non-voluntary acquisition must obtain a copy of HUD Handbook 1378 available on-line before proceeding with the acquisition activities. Find the handbook at: http://www.hud.gov/offices/cpd/library/relocation/policy_and_guidance/handbook1378.cfm. This handbook provides the grantee with guidelines for acquisition under the Uniform Relocation Act, and it should be used in conjunction with instructions in this Chapter. **Exhibit 7-J** describes a typical acquisition process under the Uniform Relocation Act.
2. Send Preliminary Acquisition Notice. A Preliminary Acquisition Notice (**Exhibit 7-D**) must be delivered in person or sent by registered mail to the property owner to inform the property owner of the grantee's intent to acquire the property and of the owner's basic protections

¹ If the owner requests an appraisal, the grantee must obtain an appraisal.

under the Uniform Relocation Act. The notice should include information about the activity for which the property will be used, indicate that the notice is not a notice to vacate the property, describe the procedures by which the grantee will proceed with its attempt to acquire the property, and provide the name and telephone number of a local contact person who can answer questions and provide further information. **The grantee's CDBG Project Manager should enclose a copy of HUD's information booklet, When a Public Agency Acquires Your Property, or its equivalent.** This booklet is available from MDOC.

3. Have Property Appraised to Determine Fair Market Value. Once the grantee has obtained preliminary title evidence, a boundary description, and a legal description of the property to be acquired, it should have the property appraised. The term "appraisal" means a written statement independently and impartially prepared by a qualified, professional appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

The Uniform Relocation Act requires that the public agency must compensate the owner at no less than the fair market value of the property. Although only one appraisal is required by law, past experience suggests that two appraisals are preferred in instances where the property is valued at greater than \$25,000. Regardless of the number of appraisals, **the property owner or his or her representative must be invited to accompany the appraiser during his/her inspection of the property.**

To determine the standards for a "qualified professional appraiser," the Montana CDBG program recommends, at a minimum, professional affiliation with one of the eight national appraisal organizations (see list below), or a listing on the Montana Department of Transportation's list of appraisers.

List of National Appraisal Organizations:

- American Society of Appraisers
- American Institute of Real Estate Appraisers
- American Society of Farm Managers and Rural Appraisers
- International Association of Assessing Officers
- International Right of Way Association
- National Association of Independent Fee Appraisers
- National Society of Real Estate Appraisers
- Society of Real Estate Appraisers

The appraiser must also be someone who does not have interest in the property, nor can the appraiser be the person secured as an agent to sell it.

Under the Uniform Relocation Act an appraisal is not required in the following situations:

- if the landowner agrees to donate the property. However, the landowner(s) must first be informed of their rights under the Uniform Relocation Act, including the right to receive just compensation. They must also state in writing that they have been informed of these rights; that they agree to waive the appraisal requirement; and they have been informed that the grantee will not exercise its right of (or does not have the power of) eminent domain as a means of acquiring the property. (Exhibit 7-K provides a model for waiver of procedures required under the Uniform Relocation Act when a property donation is involved);

- ❑ if the determination of valuation is uncomplicated and the fair market value is estimated at \$2,500 or less, based upon a review of available data prepared by a person familiar with real estate values (with a written explanation of the basis for the estimate kept in the grantee's appropriate CDBG Project file); or
- ❑ if the landowner agrees to waive the appraisal, and approval of such waiver is obtained in writing.

Contracting for appraisal services is subject to federal requirements for procurement of professional services (see Chapter 3). **Exhibit 7-E**, Agreement for Appraisal Services (Acquisition) should be used when securing appraisal services for CDBG acquisitions.

4. Have Appraisal Reviewed. The Uniform Relocation Act requires that a “qualified review appraiser” examine all appraisals. The Acquisition File should include the review appraiser's certification and the recommended or approved value of the property in a signed written statement. An explanation of the basis for the recommendations should be included as well. (See **Exhibit 7-F** for a sample Appraisal Report Review Form). Contracting for review appraisal services is also subject to federal requirements for procurement of professional services (see Chapter 3, Procurement). The review appraisal can also be waived so long as the landowner(s) are informed of their rights and agree to the waiver in writing.
5. Determine Just Compensation for the Property. The grantee will establish what it considers to be a fair price for the property. **This amount shall not be less than the review appraiser's recommendation as to the fair market value of the property.**
6. Make a Written Offer to the Owner. As soon as possible following the determination of just compensation for the property, the grantee should submit a written offer to the property owner. The grantee is encouraged to deliver the written notice in person, although this is not required under the Uniform Relocation Act. A written statement of the basis for the offer, must be included with the notice to acquire. (See **Exhibit 7-G** for a sample Written Offer to Purchase that includes a Statement of the Basis for Determination of Just Compensation.)
7. Review Any Additional Materials Related to Determination of the Purchase Price. Based on discussions with the owner(s) and any additional information that they have supplied, the grantee may determine that the original appraisal requires updating, or the grantee may request a new appraisal. If subsequent updating or a new appraisal justifies a higher rate of compensation, the grantee should immediately establish a new offer price and submit the new offer in writing as described in step 6 above.
8. Administrative Settlement. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized MDOC official approves such administrative settlement as being reasonable, prudent, and in the public interest. A written justification explaining the basis for the settlement shall be included in the grantee's files (see Section C, FINAL OFFER BEFORE INITIATING CONDEMNATION PROCEDURES - ADMINISTRATIVE SETTLEMENT, below).
9. Make Payment or Make a Final Offer Before Initiating Condemnation Procedures **In those cases where the grantee and the property owner arrive at a mutually agreed upon price, the grantee must make direct payment to the owner before requiring that possession of**

the property be surrendered. In addition, the grantee must reimburse the owner for all reasonable expenses necessarily incurred for:

- ❑ recording fees, transfer taxes, documentary stamps and similar expenses incidental to conveying the real property to the grantee;
- ❑ penalty costs and other charges for prepayment of any preexisting mortgage; and
- ❑ the pro rata portion of any prepaid real property taxes, allocable to the period after the grantee obtains title to the property.

However, the grantee is not required to pay costs required solely to perfect the owner's title.

The Uniform Relocation Act specifically prohibits the grantee from taking actions such as threatening to move up the condemnation date in order to coerce the property owner into agreeing to the agency's final offer.

C. FINAL OFFER BEFORE INITIATING CONDEMNATION PROCEDURES - ADMINISTRATIVE SETTLEMENT

The Uniform Relocation Act allows for an administrative settlement when reasonable efforts at negotiation have failed. A written justification must be prepared which indicates that available information supports such a settlement (e.g., appraisals, recent court awards, estimated trial costs, and valuation problems). The grantee and MDOC must agree that such a settlement is reasonable, prudent, and in the public interest.

MDOC generally considers a figure that does not exceed 10 percent of the established just compensation as a reasonable alternative to condemnation. If the grantee's justification for an administrative settlement appears unreasonable, MDOC may determine the excess payment to be an ineligible cost under the CDBG program. The purpose of this provision is to allow the grantee flexibility in the negotiation process, while discouraging windfall profits from the sale of properties for use in publicly assisted projects.

The final offer should be hand delivered or sent by registered mail. It must include: the final offer; an invitation to discuss again the basis of the final offer; and the anticipated date on which the grantee intends to begin condemnation procedures. The notice should be received by the property owner at least seven days prior to the date provided for the commencement of condemnation proceedings (see Exhibit 7-H for a sample Final Notice to Acquire by Negotiation).

D. CONDEMNATION PROCEEDINGS

In the event that the property cannot be acquired by negotiations, condemnation proceedings can begin on the date provided in the Final Notice to Acquire by Negotiations. The Uniform Relocation Act requires that an amount not less than the grantee's approved appraisal of the fair market value of the property be deposited with the court for the benefit of the owner. Section 70-30-101, MCA describes state procedures for counties and municipalities when exercising the power of eminent domain. Any grantee involved in a condemnation proceeding is strongly encouraged to work closely with their attorney to assure compliance with relevant state and federal laws.

E. OTHER ACQUISITION CONSIDERATIONS

1. Donations. Donation of property can occur under either the voluntary acquisition process or under provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Relocation Act). The Act allows for reduction of the costs of acquiring land without reducing the protection of affected persons, by permitting the full or partial donation of real property to an acquiring agency as long as the donor is informed of his or her right to just compensation. An owner of real property to be donated may waive the right to appraisal of the property, as long as he or she is informed that they are entitled to an appraisal. For donations falling under the Uniform Relocation Act, the CDBG Acquisition File should contain documentation that the owner was informed of his or her rights when agreeing to make the donation, and the file must include a copy of the deed for the donated property.
2. Decision Not To Acquire. If, at any time after the Preliminary Acquisition Notice (**Exhibit 7-D**) has been sent, a decision is made not to buy or condemn a property, the property owner and any tenants should be notified in writing. The notice should specify that any person moving from the property thereafter will not be eligible for relocation payments and assistance.
3. Uneconomic Remnant. If the grantee acquires only a portion of the owner's parcel and the remaining portion(s) would have little or no utility or economic value, the agency must offer to acquire the "uneconomic remnant" as part of the total acquisition offer.
4. Tenant-Owned Improvements. The grantee must offer "just compensation" for any improvements on the acquired property. Just compensation is the amount that the improvement adds to the total value of the real property, or the salvage value of the improvement, whichever is greater.
5. Owner Retention of Improvements. If the property owner chooses to remove any improvements that have been included in the fair market appraisal of the property, the grantee may subtract the salvage value of the removed improvements from the purchase offer. For example, if a property value includes a utility shed that the owner removes from the property upon public acquisition, the offer to the owner may be decreased to the appraised property value, less the salvage value of the shed.
6. Rental Payments. If the grantee agrees to allow the owner to remain on the property for a period of time following payment for acquisition, it can charge the owner rent for an amount up to the fair market rent for the period during which the owner remains on the property.

IV. RECORDKEEPING REQUIREMENTS

The grantee is responsible for maintaining files and documentation on each property acquired. To assist the grantee in complying, a Uniform Relocation Act Governed Acquisition Checklist (**Exhibit 7-I**) has been developed to serve as a left inside attachment in each CDBG Acquisition File. Through using it and maintaining a comprehensive file in chronological order, the grantee can better and more easily comply with Uniform Relocation Act documentation requirements, and complete the acquisition process in a manner that complies with requirements of the Act. At a minimum, the CDBG Acquisition File should include the following items:

- copy of the Public Invitation for Acquisition of Real Property (**Exhibit 7-A**);

- completed Uniform Relocation Act Governed Acquisition Checklist (**Exhibit 7-I**) and completed Voluntary Acquisition File Checklist (**Exhibit 7-C**), if applicable;
- description of property and reasons for acquisition;
- completed Preliminary Acquisition Notice (**Exhibit 7-D**); Voluntary Agreement Between Grantee and Individual Seller (**Exhibit 7-B**); and Waiver of Procedures and Rights Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**Exhibit 7-K**);
- appraiser contracts [**Exhibit 7-E**, Agreement for Appraisal Services (Acquisition)];
- invitation of owner to accompany appraisers;
- copy of appraisals;
- completed Appraisal Report Review Form (**Exhibit 7-F**);
- copy of the Written Offer to Purchase, which includes a Statement of the Basis for Determination of Just Compensation (**Exhibit 7-G**);
- records of any negotiations with owner;
- copy of any materials supplied by the owner to determine just compensation;
- copies of any written agreements to waive or modify benefits or compensation requirements under the Uniform Relocation Act;
- copy of agreements for compensation of related improvements;
- if applicable, completed Final Notice to Acquire by Negotiations (**Exhibit 7-H**);
- evidence of payment;
- copy of deed and settlement costs;
- justification of excess payment (if applicable); and
- notice of initiation of condemnation (if applicable).

V. RELOCATION

The federal requirements for relocation of households or businesses are extensive and extremely complex and were intended by Congress to discourage the displacement of low and moderate income persons by CDBG projects. The amendments generally require the one-for-one replacement of all occupiable, lower income units that are demolished or converted to other uses as a direct result of CDBG activity. The amendments further mandate that any replacement housing be affordable to lower income families for at least 10 years and authorizes assistance to displaced lower income persons that, in some cases, is more generous than they could have received under the federal Uniform Relocation Assistance Act.

Grantees planning CDBG-assisted projects that may involve either temporary or permanent displacement of local residents or businesses as a result of their acquisition activities should contact their CDBG Program Specialist for guidance on the federal requirements that apply.

CDBG grant recipients are strongly encouraged to design their programs so as to avoid actual or potential relocation as part of their CDBG projects. Grantees who foresee or contemplate a relocation action as part of their project should contact their CDBG program specialist immediately for further guidance.

CHAPTER 7

EXHIBITS

- 7-A Public Invitation for Acquisition of Real Property**
- 7-B Voluntary Agreement Between Grantee and Individual Seller**
- 7-C Voluntary Acquisition File Checklist**
- 7-D Preliminary Acquisition Notice**
- 7-E Agreement for Appraisal Services (Acquisition)**
- 7-F Sample Appraisal Report Review Form**
- 7-G Written Offer to Purchase (including Statement of the Basis for Determination of Just Compensation)**
- 7-H Final Notice to Acquire by Negotiations**
- 7-I Uniform Relocation Act Acquisition File Checklist**
- 7-J Typical Acquisition Process Under the Uniform Relocation Act**
- 7-K Waiver of Procedures and Rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**
- 7-L “When A Public Agency Acquires Your Property”**
- 7-M Anti-displacement and Relocation Assistance Plan**

EXHIBIT 7-A

PUBLIC INVITATION FOR ACQUISITION OF REAL PROPERTY

(Date of letter to landowner, or publication of notice)

Under provisions of the CDBG program, the (name of grantee: City, Town, or County of _____) publicly invites response from owners with real property located in the CDBG project area (shown on the map below) who desire to sell their property to the (name of grantee) for the purpose of (describe CDBG project). Interested property owners should contact the (name of grantee, local CDBG office, address, telephone number, and TDD number) on or before (date).

Offers to sell under this invitation for acquisition must be on a voluntary basis. If a mutually satisfactory agreement cannot be reached between (name of grantee) and seller, the (name of grantee) will not acquire the offered property.

Attached is a map of the general geographic area under consideration for this CDBG project.

EXHIBIT 7-B

**VOLUNTARY AGREEMENT
BETWEEN GRANTEE AND INDIVIDUAL SELLER**
(used in the case of voluntary acquisition of property)

I/We, the undersigned, (name of seller), owner(s) of the following property: (describe by general location and address, as well as legal description, for example: 345 Chinook Avenue, Lots 8-9, Block C of the Palmer Addition) do hereby voluntarily offer the said property for sale to the (name of grantee) to be used for (description of CDBG activity), in consideration for the amount of (\$ _____). This offer is in response to the (name of grantee's) proposal of purchase dated (date of Public Invitation for Acquisition of Real Property).

The (grantee) has explained my/our rights and benefits as property owner(s) under the Act; has notified me/us that the (grantee) waives its right of condemnation by eminent domain, and therefore will not acquire the property if negotiations fail to result in an amicable agreement; and I/we have received a copy of the Housing and Urban Development (HUD) pamphlet, *When a Public Agency Acquires Your Property*. I/We have read this pamphlet and understand it.

I/We have discussed with a representative of the (County/City or Town) the compensation and other assistance required under the Act. I/We understand the I/we cannot be required to sell the (property description) to the (County/City or Town) for less than the appraised Fair Market Value, and without other assistance to which I/we may be entitled to under the Act.

Date: _____, 20__

Signature of CDBG Grant Administrator:

Signature of Seller(s):

STATE OF MONTANA)

)ss.

County of _____)

This instrument was acknowledged before me on _____,
by _____.

(NOTARIAL SEAL)

Printed Name: _____

NOTARY PUBLIC FOR STATE OF MONTANA

Residing at _____

My Commission expires _____

EXHIBIT 7-C

SAMPLE VOLUNTARY ACQUISITION FILE CHECKLIST

Name of Property Owner _____

Telephone Number _____

Location of Acquired Property _____

Property Use: Single Family Residence Business Agriculture
 Multi-Family Residence Nonprofit

Occupants? No Yes

Tenants? No Yes

If there are tenants, refer to guidance at the end of Chapter 7 and provide relocation assistance.

<u>DATE</u>	<u>DOCUMENTATION IN FILE</u>	<u>AMOUNT</u>
_____	MDOC authorization to incur costs	
_____	Public Invitation for Acquisition of Real Property (7-A)	
_____	Voluntary Agreement Between Grantee and Individual Seller (7-B)	\$ _____
_____	Appraisal	\$ _____
_____	Contract signed/Proof of payment	\$ _____
_____	Survey Conducted and Filed	
_____	Recording of property deed	
_____	Record of settlement costs	\$ _____
_____	Filing of complaint or appeal (if applicable)	
_____	Resolution of complaint or appeal (if applicable)	

As part of its FY 20__ CDBG project, the grantee has acquired the parcel of land described below. The CDBG Office selected this site after soliciting for a voluntary offer by landowners in the general project area. The property was acquired through a voluntary proposal submitted by the owner in response to a public invitation and the CDBG office has determined that the acquisition is exempt from procedures required under the Uniform Act.

The grantee acknowledges that any dislocation of tenants on the property must be conducted according to provisions related to relocation in the Uniform Act, and noted in Chapter 7.

Checklist completed by: (name) _____ (date) _____

(title): _____

EXHIBIT 7-D

PRELIMINARY ACQUISITION NOTICE

(Date)

(name of property owner)

(mailing address)

(City, MT Zip)

Dear (name of property owner):

This is to inform you that the (name of grantee: City, Town, or County of _____) is interested in acquiring your property at (describe by general location, address and legal description, for example 345 Chinook Avenue, Lots 8-9, Block C of the Palmer Addition) to be used for (describe proposed CDBG activity).

A brochure describing your rights and the (City, Town, or County's) procedures for acquiring property is enclosed for your information. If you have any questions, please contact our acquisition/relocation specialist (name) at (telephone number).

The (City, Town, or County) will be hiring an independent appraiser to appraise your property. You have the right to accompany him or her on the property inspection if you wish to do so. A letter inviting you to accompany him or her will be sent by the appraiser at least five days prior to the visit. This notice is not a notice to vacate and it does not establish eligibility for relocation payments or other relocation assistance.

Sincerely,

CDBG Administrator

(Mailing Address)

(telephone number)

Enclosure: brochure entitled *When a Public Agency Acquires Your Property*

AGREEMENT FOR APPRAISAL SERVICES (ACQUISITION)

THIS AGREEMENT entered into this ____ day of _____ 20____, by and between _____ of the City of _____, State of _____, hereinafter referred to as the "Agency," and _____, hereinafter referred to as the "Appraiser."

WITNESSETH THAT:

WHEREAS; the Agency proposes to acquire certain real property and desires that the Appraiser furnish the Agency certain services with respect to such property, including an appraisal of each parcel of the property, and the Appraiser represents that he or she is fully qualified to perform such services and will furnish such services personally; and

WHEREAS the services to be provided under this Agreement are necessary to achieve the purposes of and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

NOW, THEREFORE, the Agency and the Appraiser, for the consideration and under the conditions hereinafter set forth, do agree as follows:

ARTICLE 1. Property To Be Appraised. A description of the real property to be appraised, including an identification of any interests in the real property to be specifically excluded from appraisal, are set forth in the attached Exhibit A. A separate appraisal is to be furnished for each "parcel." (The term "parcel" means any tract or contiguous tracts of land in the same ownership, whether any such tract consists of one or more platted lots or a fractional part of a lot. An easement or other separately held interest in two or more parcels shall be considered to be a separate parcel for appraisal purposes and an exception to the title to the parcels so encumbered. An easement in a parcel that is appurtenant to another parcel to be acquired by the Agency shall be considered to be part of such other parcel and an exception to the title of the parcel encumbered. Each parcel shall be considered to include all rights, title, and interest of the owner in or to any adjacent or abutting streets, alleys, or other public rights of way.

ARTICLE 2. Purpose and Basis of Valuations.

(a) Purpose and Significance of Appraisals. The appraisals to be furnished under this agreement are required by the Agency for its guidance in retaking fair and impartial determinations of fair market value and the just compensation to be offered to each property owner. The Appraiser shall be guided by those objectives when estimating values. Appraisal reports will be reviewed carefully by the Agency. Accordingly, the text of each appraisal report must cover all matters germane to the required valuation findings and must provide a full explanation of the Appraiser's reasoning and his analyses of the evidences of value, so that a reviewer will be able to follow the Appraiser's analyses and understand how he reached his valuation conclusions.

(b) Appraisal Standards. The appraisals under this agreement shall be based on nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value and the rules on the admissibility of evidence of value under the eminent domain law of the State. Factors relating to race, color, religion, sex or national origin, or to racial, religious or ethnic identification of neighborhoods are not relevant to the estimation of value and shall not be considered in connection with appraisals of residential real property.

(c) Date of Valuation. The Appraiser's valuation shall be as of a date concurrent with the preparation of the report unless the Agency has specified some other date of valuation.

(d) Relocation Assistance. The Appraiser's analyses and opinions of property value shall not reflect any allowance for the relocation payments and other assistance provided under the URA.

(e) Influence of Project on Property Value. In forming opinion(s), the Appraiser shall disregard any decrease or increase in the fair market value of the real property to be acquired, prior to the date of valuation, caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner. (In the case of a partial acquisition, using the before-and-after method of valuation, the Appraiser's opinion of the value of the remaining not-to-be-acquired portion of the property shall reflect any increase or decrease in value attributable to the project.) If the determination of changes in value caused by the project is a problem, the Appraiser's report shall cite the ruling followed and its source and shall explain the effect of the ruling on his opinion of value.

ARTICLE 3. Scope of Appraiser's Services. The Appraiser agrees to perform the following services:

(a) Appraise each parcel and prepare and deliver to the Agency, within _____ calendar days after the date of this agreement, _____ copies of the appraisal report(s) conforming to the provisions of this agreement. The Appraiser shall personally inspect each parcel, including all buildings, structures, fixtures, and other improvements to the property. The Appraiser shall give the owner or his designated representative an opportunity to accompany the Appraiser during his detailed inspection of the property. If the owner of a compensable interest in the property or a representative of such owner does not accompany the Appraiser during the inspection, the Appraiser shall include in his appraisal report a copy of his notification to the owner of the opportunity to accompany the Appraiser and evidence of the owner's receipt of such notification. In the process of inspecting the property, the Appraiser shall, to the extent practicable, ascertain the rights of all parties in possession and note for consideration all factual information and comments furnished by the owner or his representative relevant to the appraisal.

(b) Testify as an expert witness on behalf of the Agency in any judicial proceeding involving any property appraised under this agreement. Such services shall include such reasonable time as may be required for reinspection of the property, updating the Appraiser's valuation, participation in pretrial conferences with counsel for the Agency, and testifying in the judicial proceeding. The compensation for such services shall be determined in accordance with Article 6.

(c) Modify or furnish supplements to any appraisal report furnished under this agreement, without additional cost to the Agency, if (1) applicable principles of law with respect to the valuation of the property require the modification or supplementing of such appraisal, (2) material omissions, inaccuracies, or defects in the appraisal report are discovered after delivery and acceptance of the report by the Agency, or (3) the Appraiser receives or becomes aware of relevant additional appraisal information in existence prior to the date the Appraiser signed the report. If there is a significant delay between the date of valuation and the date of acquisition of any parcel or if the property has been materially altered since the appraisal by a fire, a revised determination of the boundaries of the property to be acquired, or other cause, the Appraiser shall, if requested by the Agency, furnish the Agency a supplementary report updating this valuation and the supporting data

and analyses to a current date. The compensation for such updating of an appraisal shall be determined in accordance with Article 6.

(d) Estimate the value of any right or interest proposed to be reserved by the owner in a property appraised by the Appraiser, such as an easement for access to other property of the owner, the right to continue occupancy for an extended period after the Agency acquires the property, or the right to remove any building, structure, fixture, or other improvement. The compensation to be paid to the Appraiser for furnishing any such valuation shall be determined in accordance with Article 6.

(e) Consult with the Agency and its legal counsel regarding services to be performed by the Appraiser, at such time(s) as may be mutually convenient for the parties to this agreement. The Appraiser shall initiate such consultations whenever the Appraiser is in doubt as to whether an element of property is real or personal property or needs legal advice on any aspect of the appraisals to be furnished under this agreement. There shall be no charge by any party for such consultations.

ARTICLE 4. Contents of Appraisal Reports. Each appraisal report to be furnished by the Appraiser under this agreement shall contain certain information and the Appraiser's conclusions and opinions, together with the data and analyses by which they were derived, as set forth below. A separate report shall be submitted for each parcel. However, if more than one parcel is to be appraised, all general data may be included in a separate data volume that is referenced in the separate appraisal reports on the individual parcels. The appraisal report on each parcel shall include the following:

(a) A summary headed "Appraisal Report for _____" that provides the following:

- (1) Project name and number.
- (2) Date of the report.
- (3) Parcel number, address of the property, brief identification of all interests in the property appraised, and the name of the owner(s) including any tenant-owners.
- (4) Date(s) of the Appraiser's inspection of the property with the owner or the owner's designated representative. Include the name of each owner or representative of an owner who accompanied the Appraiser during the inspection and the interest held in the property or the representative capacity of each such person.
- (5) The Appraiser's estimate of the fair market value of the entire parcel and the fair market value of the same interest in the land, as if vacant.
- (6) The limiting conditions of the appraisal, which may include assumptions (i) that the title is good and marketable, (ii) that no responsibility is assumed by the Appraiser for legal matters, especially those affecting the title to the property, (iii) that the legal description of the property and the interest in the property to be appraised, furnished to the Appraiser by the Agency, is correct, and (iv) that no survey of the property has been made. Any other appropriate assumption or limiting condition may be added if it has been specifically approved in writing by the Agency.

- (7) The certifications of the Appraiser (i) that the Appraiser personally made a thorough inspection of the property, (ii) that, to the best of the Appraiser's knowledge and belief, everything contained in the report is true and no relevant and important fact has been omitted, (iii) that neither the Appraiser's employment nor compensation is contingent on the valuation reported, and (iv) that the Appraiser has no past, present, or prospective interest (including that of real estate agent or broker) in the property, the parties involved, or any other interest that would conflict in any way with the services performed or the making of an impartial report.
- (8) A certification that, in the Appraiser's opinion, the fair market value of the property is (an amount to be stated) as of (the date of valuation).
- (9) The signature of the Appraiser.

(b) The name and address of the owner of the property and the name and the address, if known, of any other party known or believed to hold a separate compensable interest in the property.

(c) The street address and an accurate description of each parcel and all interests in the parcel appraised. The property description shall identify all conditions, restrictions, easements, servitudes, and reservations affecting the title. The property description shall specifically exclude and describe any separately held interest in the property that is to be acquired separately or as part of another parcel. The description shall also specifically exclude all separately held interests which are not to be acquired and will not be affected adversely by the Agency's project. If there are any separately held interests in a parcel, which are to be acquired with other interests in the same parcel, such as leaseholds, tenant-owned improvements, life estates, easements, and water, gas, oil, or mineral rights, a description of each such separate interest and the name of its owner shall be furnished.

(d) Off-record title information concerning interests or instruments that affect title, but are not of record; such as leases, options to renew a lease, contracts of sale, and other interests or rights of parties in possession. Such information shall be reported, and if available facts are sufficient, the Appraiser's report shall be based on such additional title information and so noted in the appraisal report. Otherwise, the Appraiser shall refer the matter to the Agency and defer completion of the appraisal until the question is resolved.

(e) Basic property data including pertinent information with respect to such matters as (1) the environment and location of the property, (2) the zoning and any restrictive covenants, conditions, or servitudes affecting the available use or occupancy of the land, (3) the assessed value of the real property and the current annual real estate tax burden, (4) the use and occupancy of the property at time of appraisal, (5) the public improvements, services, and utilities serving and providing access to the property, (6) the character, topography; dimensions, and area of the land, (7) the freedom of the property from special hazards, (8) the current rental and rental history of the property, if rented, (9) the estimated annual costs of ownership and for operation and maintenance of the property, and (10) a description of the buildings, structures, and other improvements, if any, including relevant information as to type of improvement, designed use, construction materials and finish, equipment, dimensions, floor area, age, condition, space or room arrangement, functional utility, and any other characteristics or attributes of the improvements germane to the value of the real property. The appraisal report shall contain a general sketch plat showing the shape and dimensions of the land, the location of the principal improvements on the land, the location of

any easements in the land, and the abutting streets, alleys, or other public rights of way. The report shall also include such photographs, each clearly identified, as may be appropriate.

(f) Report of any condition or occupancy of the property in violation of law that may affect the value of the property.

(g) The Appraiser's opinion as to the highest and best use for the property. The appraisal report shall also include the appraiser's opinions as to any other use(s) for which the property is reasonably suitable or adaptable. If the property is unused vacant land or the highest and best use is not self-evident or is found to differ significantly from the present use, the appraisal report shall contain the analyses by which the Appraiser reached the conclusions as to the highest and best use of the property and as to its suitability or adaptability for any other use(s). The analysis of a potential use shall include consideration of relevant matters, such as the suitability of the location, the environment and the legal and physical attributes of the property for such use, the estimated cost, if any, of converting the property to such use, and the supply, sale price levels, and relative desirability of other properties that would compete for the same kind of use. The analysis of the property for the future use or uses found to be the highest and best use is part of the process of appraising the property and, therefore, may be included in the valuation analysis furnished in accordance with Paragraph 4(h) below.

(h) The opinion of the Appraiser as to the fair market value of the property. The appraisal report shall contain a description of the reasoning process used by the Appraiser in reaching the conclusion as to value and all data and analyses needed to explain and support the valuation. The supporting data and analyses furnished in the appraisal report shall include the following:

- (1) An analysis of the property, from the point of view of evaluating the effect of its characteristics and attributes on its value for the available use or uses for which the property is best suited. Particular attention shall be given to the characteristics of the property most relevant to its value, such as, in the case of an investment property, the income potential and the expenses of ownership, maintenance, and operation.
- (2) An identification of the most recent sale of each property appraised and any other sales of such property during the last five (5) years preceding the appraisal. Such sale(s) of the property appraised and all recent sales of comparable properties considered by the Appraiser in forming the opinion(s) of fair market value shall be verified insofar as practical. The information furnished with respect to each such sale shall include, among other pertinent facts, the names of the grantor and grantee, the date of the sale, the sale price, any special terms or conditions or circumstances of the sale that affected the transaction, and a description of the property and its condition at time of sale in sufficient detail for use in making the appraisal.
- (3) The analyses that constitute the principal basis for the Appraiser's opinion of the fair market value. The appraisal report shall contain the Appraiser's evaluation with respect to previous sales of the property appraised and any recent offer of the owner to sell the property. The appraisal report shall also contain the Appraiser's analysis of each comparable property and its sale in relation to the property appraised. The Appraiser's analysis shall reflect appropriate allowances for the difference in the time of the sale of the comparable properties and the date of appraisal and the differences in the utility, desirability, and productivity of the properties that are pertinent to their relative

value. The appraisal report shall contain a valuation data map showing the location of the property appraised and the comparable properties referred to in the appraisal report.

- (4) All other information, analyses, and estimates considered by the appraiser to be relevant to the estimation of the fair market value of the property.
- (5) If the property appraised is part of a larger parcel in the same ownership or is less than the entire interest of the owner in the property, the appraisal report shall contain the Appraiser's opinion of just compensation for a taking of such property or interest, using the before-and-after method of valuation as interpreted under State law unless it is obvious that there would be no damages or benefits to the remaining property or interest of the owner. However, if the part or interest to be taken is such a small part of the whole property that the damages for the taking can be more accurately estimated directly, that method may be used if permitted under State law, without estimating the fair market value of the entire property of the owner. The foregoing opinions of the Appraiser shall be supported in the report by the data and analyses by which the Appraiser reached his/her conclusions.

For information purposes, the appraisal report shall also contain the Appraiser's estimates of the fair market value of the to-be-acquired part or interest as part of the whole property and the net damages or benefits to the remaining property of the owner. If in the opinion of the Appraiser, acquisition of the part of, or interest in, the property proposed for acquisition would leave the owner with an uneconomic remnant, the Appraiser, shall furnish a separate estimate of the fair market value of a "parcel" comprising both the parcel proposed for acquisition and the uneconomic remnant. (A remainder parcel or interest shall be considered to be an uneconomic remnant if by itself it has little or no utility or value to the owner.)

- (6) Such maps, plans, photographs, or other exhibits as are necessary to explain or illustrate the analyses of the Appraiser.
- (7) The Appraiser's evaluation of the indications of value deduced from the separate analyses of the various evidences of value and an explanation of how the Appraiser reached his/her final conclusion as to the fair market value of the property.

(i) The opinion of the Appraiser as to the fair market value of the land, as if vacant. The valuation shall be for the same interest in the land as is to be acquired in the real property. The report shall contain information with, respect to the available use or uses for which the land would be suitable if vacant, the opinion of the Appraiser as to its highest and best use, and the Appraiser's analysis of the evidences of value and of the use potential by which the Appraiser reached his/her conclusions as to the highest and best use of the land and the land value.

(j) A property analysis if the property is a commercial, industrial, institutional, governmental, or farm property that involves substantial quantities and kinds of fixtures such as machinery and equipment. Any building, structure, fixture, or other improvement, which would be real property if owned by the owner of the land, shall be considered to be real property (even if the improvement is the property of a tenant who has the right to remove it or the obligation to remove it at the expiration

of the lease term). The property analysis must be approved by the Agency before the appraisal is completed and, as approved by the Agency, shall be included as an exhibit in the Appraiser's report. The property analysis shall list, identify, and classify as to ownership and type of improvement, all items of physical property considered to be part of the real property. The property analysis shall also identify tangible personal property located on the premises to the extent reasonably necessary to prevent misunderstandings as to what is regarded as being real or personal property. Buildings, structures, fixtures and other improvements, including their accessories and spare parts, shall be identified and classified -as to ownership and type of property as follows:

(1) Ownership.

- (i) Owner of the land.
- (ii) Each tenant in occupancy.
- (iii) Each non-occupant owner of any fixtures or other improvements, or personal property on the premises.

(2) Type of property.

- (i) Building, structure, or fixed improvement.
- (ii) Building equipment, removable.
- (iii) Fixtures, classified as to whether economically removable for reuse, removable for salvage only, or irremovable.
- (iv) Personal property, identified as to types and approximate amounts, or otherwise, as needed to prevent misunderstandings as to the classification of any item.

If any building, structure, fixture or other improvement is not to be acquired, will not be adversely affected by the Agency's project, and will not be required by the Agency to be removed, such as a pipeline in an easement not to be acquired, such improvement shall be identified as excluded from the appraisal

(k) If machinery and equipment or other fixtures used in a trade or business, farm operation, or institutional or governmental function constitute part of the real property, the appraisal report shall contain a separate schedule which provides separate estimates for each such item, as prescribed below. If there is more than one owner of such items, a separate schedule shall be furnished for each owner. The information and conclusions to be furnished on each item are as follows:

- (1) Description of the item, including, as appropriate, the manufacturer, model and serial number, size or capacity, age and condition, and degree of obsolescence. Accessories and spare parts, special foundations, and power wiring and process piping generally shall be listed separately, following the listing of the item(s) to which they apply.

- (2) Estimate of the replacement cost installed of the item as listed and identified (excluding any elements listed separately). Separately identify the basis of estimated replacement cost (new or used).
- (3) The contributive (enhancement) value of the item to the fair market value of the real property as a whole.
- (4) Estimated fair market value of the item for removal from the property at a purchaser's expense. Such value shall be considered to be the probable selling price if the item were offered for sale for removal from the property at the purchaser's expense, allowing a reasonable time to find a purchaser buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including salvage for serviceable components and scrap when it appears that will provide the highest value.

The schedule(s) of estimates shall be consistent with the property analysis approved by the Agency, as provided in Paragraph 4(j). The Appraiser is permitted to use the services of such technical specialists as may be needed to enable the Appraiser to provide valid estimates and sound valuations. The schedule(s) shall be supported by an explanation of the procedures followed in gathering the necessary market information and technical data. The principal purpose of the Appraiser's accompanying narrative, however, must be to explain his analyses and his evaluations of the dollar amount of the overall contribution of the machinery, equipment, and fixtures to the fair market value of the real property as a whole. The report shall contain any layout plans, sketches, or photographs that are reasonably necessary for locating or identifying the facilities or illustrating the Appraiser's analyses.

(l) If there are separately held interests in the real property to be acquired, such as easements, leaseholds, air rights, life estates, and oil, gas, or mineral rights, and the division of ownership is not of such character as to destroy the practical unity of the property, the Appraiser shall apportion his estimate of the fair market value of the property (all interests in the property to be acquired) to each separately held interest. (However, tenant-owned improvements shall be valued in accordance with Paragraph 4(m) below.) The report shall contain the data, analyses, and reasoning by which the Appraiser made the apportionment. If the "unit rule" is regarded as not applicable because the division of ownership is such as to diminish the fair market value of the property as a whole, the separate interests involved shall be appraised separately.

(m) Tenant-owned improvements. If any building, structure, fixture, or other improvement to the property is identified as being the property of a tenant who has the right or obligation to remove it at the expiration of the lease term, the Appraiser's estimate of the fair market value of the improvement shall be the greatest of (1) the amount which the improvement contributes to the fair market value of the property, (2) the in-place value of the improvement as part of the real property (the depreciated replacement cost of the improvement installed), or (3) the fair market value of the improvement for removal from the property at the purchaser's expense. The appraisal report shall state the basis for the valuation of the improvement and furnish the data and analyses on which the valuation was made.

(n) If the property is a multifamily or mixed-use (residential and nonresidential) property and an owner of a compensable interest in the property also occupies a dwelling in the property, the Appraiser shall furnish an apportionment of the estimate of the fair market value of the whole property to such dwelling and to the remainder of the property. For the purpose of this paragraph, an occupant of a dwelling shall be considered to own a compensable interest in the property if he or

she holds fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from the date of valuation, or holds an interest in a cooperative housing project which includes the right to occupy the dwelling, or is the contract purchaser of any of the foregoing estates or interests, or has a leasehold interest with option to purchase. The Appraiser's report shall explain how the apportionment was made.

ARTICLE 5. Services To Be Provided by Agency. The Agency agrees to furnish the Appraiser the following:

(a) A map or plat, based on official records, of the property described in Article 1, showing the boundaries and dimensions of the parcels to be appraised. Each parcel shall be designated by a number, and the parcel numbers shown on the Appraiser's reports shall correspond to the parcel numbers shown on the map or plot. However, additional parcel numbers may be assigned by the Appraiser for easements appraised separately or for additional parcels revealed while making the appraisals. The Appraiser shall promptly advise the Agency of any, such additions.

(b) An ownership data report for each parcel. That report will show all estates and interests in the parcel as shown of record and consequently shall not be assumed to accurately define the interests to be appraised. The ownership data report on each parcel as shown on the parcel map will include:

- (1) The name (and address, if available) of the owner appearing on record;
- (2) The legal description of the parcel as shown by the conveyance(s) by which the record owner acquired title;
- (3) Identification of the conveyance(s) by which the present owner acquired title, including: The date of the conveyance(s); the date, book and page numbers, and place of recordation; the name (and the address, if available) of the grantor, of such conveyance; the stated consideration; the amount of any mortgages or encumbrances placed of record or to which title was subject at time of conveyance (so far as determinable from an examination of the conveyance); and the amount of any State or local transfer taxes that were based on the amount of the consideration;
- (4) Outstanding estates and other rights or interests of record, including easements, use restrictions, mineral rights, leases, and any known, but unrecorded, interests of other parties. Sufficient *information shall* be furnished to disclose the probable effect of such outstanding interests on the title of the record owner;
- (5) Outstanding special assessments, if any, for public improvements such as streets, sidewalks; public utilities, and similar public facilities;
- (6) The amount of real estate taxes for the current year and the assessed valuation stated separately for land and for improvements.

(c) Legal advice, upon request of the Appraiser, on legal matters affecting the appraisal of any property to be appraised.

ARTICLE 6. Payment. In consideration of the services provided by the Appraiser under this agreement, the Agency agrees to make payments to the Appraiser upon the submission to the Agency of properly certified invoices, as follows:

(a) For appraisal reports accepted by the Agency, and for all other services furnished in accordance with Article 3, except services furnished, in connection with judicial proceedings under Paragraph 3(b), the updating of appraisals under Paragraph 3(c), and the valuation of reservations of rights in owners under Paragraph 3(d), the lump sum of _____ dollars, which shall constitute full payment to the Appraiser for all of such services and for all supplies, materials, and equipment used or furnished by the Appraiser and all expenses incurred by the Appraiser in connection with the performance of such services.

(b) For services furnished by the Appraiser in connection with judicial proceedings as provided in Paragraph 3(b) (except services as an expert witness in such a proceeding), the updating of appraisals as provided in Paragraph 3(c), and the valuation of reservations of rights in owners as provided in Paragraph 3(d), _____ dollars per hour or fraction of an hour actually engaged in performing the services, including travel time. All expenses of the Appraiser, including travel expense and subsistence, shall be borne by the Appraiser.

(c) For services as an expert witness for the Agency in judicial proceedings as provided in Paragraph 3(b), the Appraiser and the Agency hereby agree that the fair and reasonable compensation for the Appraiser's services shall be _____ dollars for each day's attendance in court.

ARTICLE 7. Agreements of Appraiser. As an inducement to the execution of this agreement by the Agency and in consideration of the agreements to be performed by the Agency, the Appraiser agrees that:

(a) Qualifications. The Appraiser is qualified to perform the services to be furnished under this agreement and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform. Attached as Exhibit B, is a statement by the Appraiser, certified by the Appraiser to be true and correct, setting forth the Appraiser's technical qualifications, general appraisal experience, specific experience in appraising properties of the type involved in this agreement, the courts in which he or she has testified as an expert witness, and other information pertinent to establishing his or her technical qualifications.

(b) Solicitation of Agreement. The Appraiser has not employed any person to solicit this agreement and has not made and will not make any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this agreement.

(c) Interest of Appraiser and Appraiser's Employees. The Appraiser does not have any interest (including that of real estate agent or broker) direct or indirect, present or prospective, in any property described in Article 1 or in its sale, or any other interest, whether or not in connection with the property, which would conflict in any manner or degree with the performance of the services and the submission of impartial reports, and has not employed and will not employ, in connection with the services to be furnished under this agreement, any person having any such interest. Until the property is acquired by the Agency or excluded from its project by resolution of its governing body, the Appraiser and any employees of the Appraiser, so long as they are employed by the Appraiser, will not acquire any such interests and will not, for their own account or for other

than the Agency, negotiate for any of the property, perform services in connection with the property, or testify voluntarily as a witness in a condemnation or other proceeding with respect to the property.

(d) Services To Be Confidential. All services, including reports, opinions, and information, to be furnished under this agreement are confidential and shall not be divulged, in whole or in part, to any person, other than to duly authorized representatives of the Agency, without prior written approval of the Agency, except by testimony under oath in a judicial proceeding or as otherwise required by law. The Appraiser shall take all necessary steps to ensure that no member of the Appraiser's staff or organization divulges any such information except as may be required by law.

(e) Facilities and Personnel. The Appraiser has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed. If the Appraiser proposes to employ any person or persons to make any appraisals of machinery and equipment or other specialized elements or attributes of a property appraised under this agreement, the employment of such person or persons for such purpose shall not place the Agency under any obligation to such employee, nor relieve the Appraiser of full responsibility for the faithful performance of the services to be furnished, under this agreement.

(f) Equal Employment Opportunity. During the performance of this agreement:

- (1) The Appraiser will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Appraiser will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Appraiser agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.
- (2) The Appraiser will, in all solicitations or advertisements for employees placed by or on behalf of the Appraiser, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(g) Assignment. The Appraiser's rights, obligations, and duties under this agreement shall not be assigned in whole or in part, but this shall not prohibit the assignment of the proceeds due under this agreement to a bank or financial institution. This agreement may be assigned by the Agency to any corporation, agency, or instrumentality having authority to accept the assignment.

(h) Subcontracting. None of the work or services covered by this agreement shall be subcontracted without the prior approval of the Agency.

(i) Records. The Appraiser shall maintain records of all details with respect to the services to be performed under this agreement, including one complete copy of each appraisal report and related notes, for three (3) years after delivering the report or until the property is acquired by the Agency or the acquisition is abandoned, whichever is later.

(j) Affidavits of Compliance. The Appraiser will, if requested by the Agency, furnish the Agency affidavits certifying compliance with the provisions of this Article 7.

ARTICLE 8. Changes. The Agency, by written notice to the Appraiser, may modify the scope or quantity of the services to be furnished under this agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Appraiser or in the time required for their performance, equitable adjustment shall be made in the provisions of this agreement for payments to the Appraiser or for the time for performance of the services or for both, and this agreement shall be modified by agreement of the parties accordingly.

ARTICLE 9. Termination of Agreement for Cause. If, through any cause, the Appraiser shall fail to fulfill in a timely and proper manner his or her obligations under this agreement, or if the Appraiser shall violate any of the provisions of this agreement; the Agency may upon written notice to the Appraiser terminate the right of the Appraiser to proceed under this agreement or with such part or parts of the agreement as to which there has been default, and may hold the Appraiser liable for any damages caused to the Agency by reason of such default and termination. In the event of such termination, any completed reports prepared by the Appraiser under this agreement shall, at the option of the Agency, become its property and the Appraiser shall be entitled to receive equitable compensation for any work completed to the satisfaction of the Agency. The Appraiser, however, shall not thereby be relieved of liability to the Agency for damages sustained by the Agency by reason of any breach of the agreement by the Appraiser, and the Agency may withhold any payments from the Appraiser for the purpose of setoff until such time as the amount of damages due the Agency from the Appraiser is determined. The Appraiser shall not be held liable for damages under this Article solely for reasons of delay if the delay is due to causes beyond his or her control and without his or her fault or negligence, but this shall not prevent the Agency from terminating this agreement because of such delay.

ARTICLE 10. Interest of Members of Agency. No member of the Agency shall participate in any decision relative to this agreement affecting, directly, or indirectly, his or her personal interests. No such member and no other officer, agent or employee of the Agency having any responsibility or function in connection with this agreement shall have any private interest, direct or indirect, in this agreement or the proceeds of this agreement.

ARTICLE 11. Officials Not To Benefit. No Member of or Delegate to the Congress of the United States of America, and no Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

ARTICLE 12. Notices. Any action by the Agency under this agreement may be taken by or such other person(s) as the Agency may, by written notice(s) to the Appraiser, designate for such purpose. All notices to the Appraiser shall be considered to be properly given if mailed to the address specified below, or delivered personally to the Appraiser. All notices or other papers given to the Agency shall be considered to be sufficiently given if mailed, postage prepaid to at or to such other representative or address as the Agency may designate to the Appraiser in writing.

IN WITNESS WHEREOF, the Agency and the Appraiser have executed this agreement on or as of the date first above written.

(Appraiser)

(Street Address)

(City)

(State)

(Zip code)

(Agency)

By:

(Title)

EXHIBIT 7-F

SAMPLE APPRAISAL REPORT REVIEW FORM

Project: _____

Book Number: _____

Parcel Number:

Name of Appraisers:

1. _____

Project Address:

2. _____

City:

State & Zip:

Owner of Record:

Type of Appraisal: Fee Simple Easement Severance or Partial Take

Property Type:

Zoning: _____

Restrictions: _____

Market Value Estimate

Other: _____

Purpose of the Appraisal:

(1) _____

(2) _____

Date of the Appraisal:

Appraisals Signed and Dated: Yes No

Was the owner or a designated representative invited to accompany the appraisers on the property inspection? Yes No**

****IF THE ANSWER IS "NO", THE APPRAISAL IS UNACCEPTABLE!**

Have the appraisers complied with the appraisal contract? Yes No

Comments:

	Yes	No	NA	Yes	No	NA
I. DESCRIPTION						
A. Local Government Analysis Acceptable?						
B. Neighborhood Analysis Acceptable? (Location, Percentage Buildup, Value Range Stated, Present and Proposed Land Uses, Trends, Occupancy, Employment, Distances to Shopping, Recreation, Fire and Police Protection)						
C. Acceptable Site Description						
D. Acceptable Improvements Description						
E. Acceptable Tax Information						
F. Acceptable Highest and Best Use Analysis						
II. APPRAISAL PROCESS						
A. Direct Sales Comparison Approach						
1. Is the comparable sales data complete, i.e., sales date, grantor, grantee, comparable address, deed book and page no., sales price, complete description?						
2. Is the adjustment analysis satisfactory?						
3. Is the market value reconciled correctly? (That is, no averaging and explanation is satisfactory.)						
B. Cost Approach						
1. Did the appraiser provide adequate support for the land cost estimate?						
2. Did the appraiser provide adequate support for the building cost estimate?						
3. Did the appraiser use acceptable method of estimating accrued depreciation?						
4. Were all forms of depreciation supported?						
5. Is the Cost Approach Summary acceptable?						

List corrections required to make appraisal reports adequate and acceptable (including deficiencies not listed above):

Appraiser #1:

Appraiser#2: _____

Reviewer's Recommendation Regarding Fair Market Value:

Explain the basis for the reviewer's recommendation of Fair Market Value (If there are 2 or more appraisals for each parcel, the reviewer should give a comparative analysis of each appraisal report, and the reasoning for accepting the appraised value of one of the appraisal reports.)

I hereby certify that I have inspected the subject property and the appraiser's comparable sales; that I have no interest in the property, either past, present, or contemplated; that except as noted, the appraisals are complete and technically acceptable; and that the appraisals meet the requirements of the Department of Housing and Urban Development, and those outlined in the appraisers' contracts.

It is recommended that the appraiser's fee of \$ _____

Be Paid Not be paid for the following reasons:

The reviewer recommends that the locality hire another appraiser to appraise the parcel.

Date: _____

Review Appraiser

EXHIBIT 7-G

WRITTEN OFFER TO PURCHASE

Date

(name of property owner)

(mailing address)

(city, MT Zip)

Dear (name of property owner):

This letter serves as a written offer to purchase property at (describe by address or general location and legal description, for example: 345 Chinook Avenue, Lots 8-9, Block 6 of the Palmer Addition), which our records indicate is owned by (name of property owner). This property is required for (describe proposed CDBG activity).

We have had the property appraised by a competent and unbiased fee appraiser and this report has been thoroughly analyzed by a certified review appraiser and found to be well supported. Based on the appraisal and review, the (name of grantee) hereby makes you a firm offer in the amount of (\$ _____) for the purchase of your property.

We feel that the above offer is most equitable and we urge your favorable consideration and acceptance of it. If this meets with your approval, the CDBG Project Manager (name) has prepared an Act of Sale and will assist in any way convenient to you in finalizing the acquisition. Negotiations for the purchase of your property will begin on (date).

In addition to the offered purchase price, the CDBG office will also reimburse you for any incidental costs associated with the transfer of the property. If you feel that the CDBG office has not examined all the relevant information needed to determine just compensation for your property, please contact the acquisition/relocation specialist (name) at (telephone number), who will be more than willing to review the material.

Thank you very much for your cooperation and favorable consideration of this offer.

Sincerely,

(name of Chief Elected Official)

(Mayor or Chairperson, County Commission)

(name of grantee: City, Town, or County of _____)

Enclosure: Statement of the Basis for the Determination of Just Compensation

STATEMENT OF THE BASIS OF DETERMINATION OF JUST COMPENSATION

DESCRIPTION AND LOCATION OF PROPERTY

The (name of grantee: City, Town, or County of _____) proposes to purchase land and improvements at (describe by address or general location and legal description, for example: 345 Chinook Avenue, Lots 8-9, Block 6 of the Palmer Addition) from owner (name) at (owner's address, Montana Zip). It is a (describe use and character of structure and area, for example: single -family residential unit which conforms to zoning, present use, surrounding land use, and area trends).

PURPOSE OF PURCHASE

The (name of grantee) intends to use the parcel for (describe proposed CDBG activity, for example: construction of a new fire station adjacent to the existing library).

IMPROVEMENTS

Describe the structure in detail, for example:

It is a one-story, single-family residence of wood frame construction with concrete foundation, stucco siding, a tar and gravel roof and aluminum gutters and downspouts.

It contains a living room, kitchen, center hall, two bedrooms, and one bath.

Interior finish is hardwood floors, except hall, two bedrooms and one bath.

The kitchen has counters and painted wood cabinets. There are no built-in appliances.

Heat is gas-fired, forced-air, 120,000 BTU furnace.

The house is 25 years old. Design is good. Maintenance is average..

DECLARATION OF OFFER

Based on the appraisal, the (name of grantee) hereby makes you an offer in the amount of (\$ _____) for the purchase of your property. This offer is for the fair market value of your property. This offer does not include any consideration of decrease or increase in value contributed to the project for which it is being acquired. It reflects no relocation payments which the owner/tenant may be entitled to receive under provisions of the *Uniform Relocation and Real Property Acquisition Policies Act of 1970*.

EXHIBIT 7-H

FINAL NOTICE TO ACQUIRE BY NEGOTIATION

Date

(name of property owner)

(mailing address)

(city MT Zip)

Dear (name of property owner):

This letter serves as final written notice of the (name of grantee: City, Town, County of)'s offer to purchase through negotiations your property at (describe by address or general location and legal description, for example: 345 Chinook Avenue, Lots 8-9, Block 6 of the Palmer Addition). We have taken the following steps to attempt to reach a mutually agreed upon price for the property.

Describe dates and actions taken. For example:

May 01, 20__ Submitted a written offer to you of \$37,500.

May 20, 20__ Met with you and your representative to review additional material which you felt should be included in determining just compensation.

May 27, 20__ Submitted a second written offer based on the information you presented, raising the level of compensation to \$39,000. At that time we established June 13, 19__ as the date by which you must indicate your acceptance or refusal of the second written offer.

We have not received any correspondence or communications from you concerning our second written offer of (date of second offer), and therefore consider it refused. In an attempt to avoid litigation and reach an administrative settlement, we are prepared to make one final offer of \$_____ (final offer reached through administrative settlement, generally no more than 10% of just compensation). In the event that you refuse this final offer, the CDBG office will have no choice but to proceed with condemnation of your property on (date of initiation of condemnation; no sooner than 7 days from receipt of this notice), through exercise of the (City, Town or County's) powers of eminent domain as provided for under Title 70, Chapter 30, Part 101 et. seq., MCA).

We strongly recommend that you obtain legal counsel to represent you in these proceedings.

We regret that we must take this action. If you desire to consider our final offer, please contact (name), Acquisition/Relocation Specialist for the (name of grantee) CDBG Office, immediately, at (telephone number).

Sincerely,

(Name)
CDBG Project Manager
(Mailing Address)

EXHIBIT 7-I

UNIFORM RELOCATION ACT ACQUISITION CHECKLIST

Name of Property Owner: _____
Location of Acquired Property: _____
Telephone Number: _____

Property Use: [] Single Family Residence [] Business [] Agriculture
[] Multi-Family Residence [] Nonprofit

Occupants? [] No [] Yes
Tenants? [] No [] Yes

Comments: _____

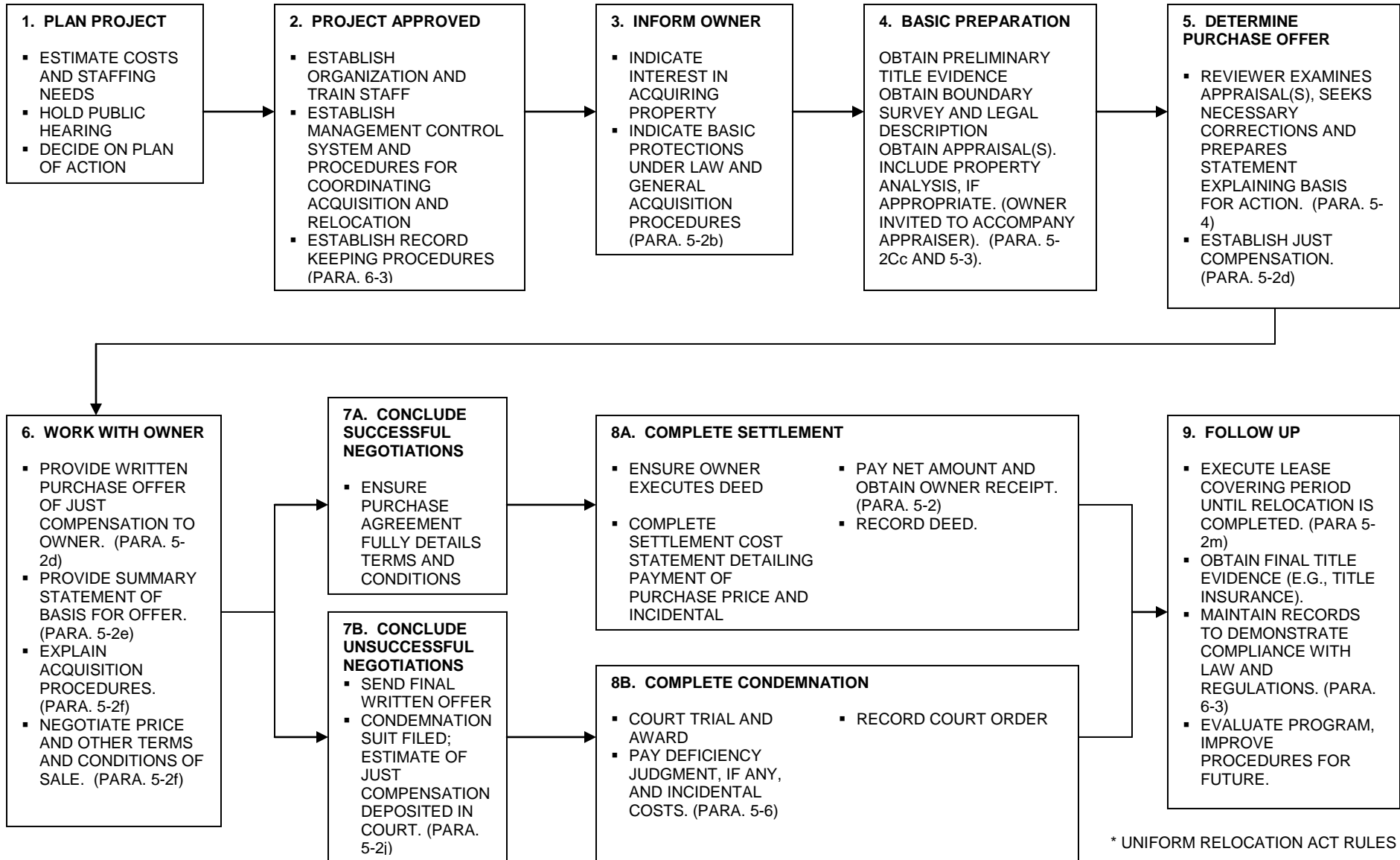
Name(s) of Tenants: _____
Address After Move: _____

Table with 3 columns: DATE, DOCUMENTATION IN FILE, AMOUNT. Rows include MDOC authorization, Preliminary Acquisition Notice issued (7-D), Contract for appraisal (7-E), First appraisal completed, Second appraisal completed (if over \$25,000), Review appraisal completed (7-F), Written Offer to Purchase issued (7-G), and Statement of Determination of Just Compensation.

<u>DATE</u>	<u>DOCUMENTATION IN FILE</u>	<u>AMOUNT</u>
_____	Owner accepted offer	\$_____
_____	Contract signed/Evidence of payment	
_____	Survey Filed	
_____	Recording of property deed	
_____	Record of Settlement Costs	
_____	Agreement for Compensation of Related Improvements <i>(if applicable)</i>	
_____	Justification of Excess Payment <i>(if applicable)</i>	
_____	Final Notice to Acquire by Negotiation issued <i>(if applicable)</i>	\$_____
_____	If condemnation, date proceedings started	
_____	If condemnation, date just compensation deposited with court	\$_____
_____	Filing of complaint or appeal <i>(if applicable)</i>	
_____	Resolution of complaint or appeal (if applicable)	

EXHIBIT 7-J ACQUISITION PROCESS UNDER THE URA*

HUD HANDBOOK 1378
APPENDIX 19



* UNIFORM RELOCATION ACT RULES EFFECTIVE

EXHIBIT 7-K

**WAIVER OF PROCEDURES AND RIGHTS UNDER THE
UNIFORM RELOCATION ASSISTANCE AND
REAL PROPERTY ACQUISITION POLICIES ACT OF 1970**
(used in the case of donation of property)

I/We, as property owner(s), waive, or give up, my/our right to have the (County/City or Town of _____), State of Montana, follow completely the procedures required under the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* (the "Uniform Act"). I/We further waive, or give up, the right to an appraisal and to any and all claims for compensation by the (County/City or Town) with respect to my/our donation of the (property description) described on Exhibit "A" attached to this agreement.

The (County/City or Town of _____) has explained my/our rights and benefits as property owner(s) under the Act; has notified me/us that the (County/City or Town) waives its right of condemnation by eminent domain for acquisition of this property; and I/we have received a copy of the Housing and Urban Development (HUD) pamphlet, *When a Public Agency Acquires Your Property*. I/We have read this pamphlet and understand it.

I/We have offered to donate the (property description) to the (County/City or Town) on _____, 20____. I/We have discussed with a representative of the (County/City or Town) the compensation and other assistance required under the Act. I/We understand the I/we cannot be required to donate or sell the (property description) to the (County/City or Town) for less than the appraised Fair Market Value and without other assistance to which I/we may be entitled to under the Act.

Date: _____, 20____

(Signature of CDBG Grant Administrator)

(Signature of Seller(s))

STATE OF MONTANA)
)ss.
County of _____)

This instrument was acknowledged before me on _____
, by _____.

(NOTARIAL SEAL)

Printed Name: _____
NOTARY PUBLIC FOR STATE OF MONTANA
Residing at _____
My Commission expires _____

EXHIBIT 7-L

“When A Public Agency Acquires Your Property”

HUD Pamphlet: HUD-1041-CPD (Revised 3/2005)

<http://www.hud.gov/offices/cpd/library/relocation/publications/1041.pdf>

Exhibit 7- M

ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

Montana CDBG Program Montana Department of Commerce

1. The Montana Department of Commerce (DOC) encourages applicants to design their project so as to displace as few persons as necessary to meet the goals and objectives of the State CDBG program and critical local community development needs.
2. DOC will carefully consider any proposed relocation and/or displacement activities during application ranking.
3. When a proposed CDBG project could result in direct or indirect involuntary displacement of community residents (including businesses), the applicant must prepare a plan which describes the actions to be taken to assist such persons to remain in their neighborhoods, when they prefer, and to provide equitable and reasonable benefits to those persons who will be involuntarily and permanently displaced. The adequacy of any displacement mitigation plan will be assessed by the Department of Commerce on the basis of:
 - its responsiveness to displaced persons;
 - the timeliness of the remedy; and
 - the reasonableness of projected costs, including safeguards that will be established to assure prudent use of scarce public resources.
4. Grant recipients must replace on a one-for-one basis all occupied and vacant habitable low and moderate income dwelling units demolished or converted to a use other than as low and moderate income housing. The one-for-one replacement requirement will not apply if the U.S. Department of Housing and Urban Development (HUD) finds there is an adequate supply of available, vacant low and moderate income dwelling units in standard condition in the area.
5. DOC will require CDBG recipients to provide benefits to any person involuntarily and permanently displaced as a result of CDBG funded activities in accordance with Title V of the federal Housing and Community Development Act.
6. DOC will require all CDBG recipients to certify that they will comply with this residential anti-displacement and relocation assistance plan.