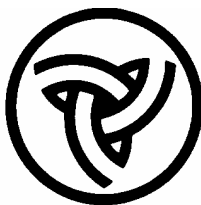


# Highway Jurisdiction Guidelines

## for Highway and Street Systems



March 2006



**Illinois Department of Transportation**

Division of Highways  
Bureau of Local Roads and Streets



# **Highway Jurisdiction Guidelines**

## **for Highway and Street Systems**

Part I: Jurisdictional Transfers

Part II: Vacating and Adding Township &  
Road District Roads

March 2006



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# **INTRODUCTION**

These guidelines summarize highway jurisdiction issues and outline the process required for jurisdictional transfers. It also addresses vacations and additions to the township and road district system. These guidelines take you step by step through the process describing the required actions, and if applicable, alternatives. These guidelines are separated into two parts:

## **Part I - Jurisdictional Transfers**

and

## **Part II -Vacating and Adding Township & Road District Roads**

This summary was derived from the Illinois Compiled Statutes (ILCS) and is meant to serve as a resource. For more details on the process, exact wording, or legal questions, refer to 605 ILCS or contact the Illinois Department of Transportation's (IDOT) District Bureau of Local Roads and Streets. Visit the IDOT website at [www.dot.il.gov](http://www.dot.il.gov) for the most current revision of these guidelines and referenced forms. Legal counsel should be consulted when required by specific situations.

Additional copies may be obtained from:

Illinois Department of Transportation  
Bureau of Local Roads and Streets  
2300 South Dirksen Parkway  
Springfield, IL 62764



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**Part I:**

**Jurisdictional Transfers**





# Chapter 1

## GENERAL INFORMATION

### 1-1 IMPORTANCE OF JURISDICTION

Disputes between highway authorities can arise concerning which entity has jurisdiction for a particular section of highway. Identifying the correct entity that has jurisdiction is important for two reasons:

#### 1-1(a) EXPENSE

Routine maintenance of a highway (debris removal, snow removal, pothole patching, signing, ditch cleaning, vegetation control, etc.) is an expensive operation. When major improvements to highways, including repairs or replacements to structures along the highway segment, are factored in, the cost can consume a substantial portion of an agency's budget.

#### 1-1(b) LIABILITY

A highway authority having jurisdiction may be subject to tort liability and may find itself a defendant in cases involving the condition of highways under its jurisdictional responsibility. The liability risk has continued to become a serious problem as a result of 1) parallel increases in the size and number of tort awards and 2) by the elimination of government immunity for local governments.

The Highway Systems Manager in the Bureau of Local Roads, Illinois Department of Transportation (IDOT), Division of Highways, is the clearinghouse for all jurisdiction issues and can be reached at 217/782-3401 for questions or recommendations to these Highway Jurisdiction Guidelines.

### 1-2 DEFINITION OF 'JURISDICTION'

Jurisdiction is the authority and obligation to administer, control, construct, maintain and operate a highway subject to the provisions of the Illinois Highway Code [Chapter 605 of the Illinois Compiled Statutes (ILCS)].

When an agency has jurisdiction of a street or highway, that agency is responsible for the upkeep of that highway, including reconstruction, signing, maintenance, etc. All of these responsibilities remain with the agency until the jurisdiction is transferred to another highway authority.

**Note:** A jurisdictional transfer does not *automatically* include the transfer of land rights associated with the highway; a separate process is required for land rights. This is discussed further on page 17 under **Land Rights, 4-4**.

## **1-2(a) JURISDICTION VS. MAINTENANCE**

### **1-2(a.1) Highways**

For highways, there is a difference between jurisdictional responsibility and maintenance responsibility. As stated above, jurisdiction entails the responsibility for the entire highway. This includes ensuring that maintenance is accomplished, even if another entity is performing the maintenance duties. For example, a county can enter into an agreement to have another agency perform the maintenance on a section of highway that is under the county's jurisdiction; however, the county is still ultimately responsible for ensuring that the maintenance is performed in a satisfactory manner. A maintenance agreement does not transfer jurisdiction.

### **1-2(a.2) Structures**

The same principles for highway jurisdiction apply to structures. However, certain data items from the Illinois Structure Information System (ISIS) have to be reported to FHWA to satisfy the National Bridge Inspection Standards (NBIS) requirements, and one of these items, the 'maintenance responsibility' field, indicates the actual owner(s) of the bridge. Therefore, for the purposes of ISIS, ownership is interpreted to mean the same as 'maintenance responsibility.'

## **1-3 DEFINITION OF 'HIGHWAY'**

A highway is defined as any public way for vehicular travel which has been established by statute, dedication, or prescription. The term 'highway' includes rights of way, bridges, drainage structures, signs, guardrails, and all other appurtenances necessary for vehicular travel. A highway in a rural area may be called a 'road.' A highway in a municipality may be referred to as a 'street.' [605 ILCS 5/2-202].

**Note:** The term 'roadway' refers to only the portion of highway used for vehicular travel; it does not include the shoulder or adjacent right of way. This is defined in the Illinois Vehicle Code (625 ILCS 5/1-179).

## **1-4 DEFINITION OF 'RIGHT OF WAY'**

Right of way is defined as the land, or interest therein, acquired for or devoted to a highway.

## 1-5 HIGHWAY SYSTEMS & AUTHORITIES

In 1959 the Illinois General Assembly revised and codified the laws relating to public highways and established the current four systems of highways and their associated highway authorities (categorized below):

<u>SYSTEM</u>	<u>HIGHWAY AUTHORITY</u>	<u>STATUTE</u>
State	Department of Transportation	605 ILCS 5/2-101
County	County Board	605 ILCS 5/2-102
Township & Road District	Highway Commissioner*	605 ILCS 5/2-103
Municipal	Corporate Authorities	605 ILCS 5/2-104

\*The highway authority for a county unit road district is the County Board for discretionary functions and the County Engineer for ministerial functions.

A highway included in one of these four systems is under the jurisdiction of the associated highway authority.



## Chapter 2

### JURISDICTIONAL TRANSFERS

#### **2-1 JURISDICTIONAL TRANSFERS (JTs)**

Jurisdictional transfers occur when the jurisdiction of a highway and/or structure is transferred from one highway authority to another.

#### **2-2 STATUTE ALLOWING FOR JURISDICTIONAL TRANSFERS**

605 ILCS 5/4-409 [Contracts with highway authorities] allows for the Illinois Department of Transportation (IDOT) to enter into written contracts with other highway authorities for the jurisdiction of highways. This statute also provides for the Department to approve jurisdictional transfers between other highway authorities.

#### **2-3 STATUTE REQUIRING COOPERATION AMONG HIGHWAY AUTHORITIES**

605 ILCS 5/1-102 [Legislative Declaration] requires that highway transportation development have 'the cooperation of State, county, township, and municipal highway agencies and coordination of their activities on a continuous and partnership basis and the legislature intends such cooperative relationships to accomplish this purpose.' Therefore, even if a statute does not require approval from a particular entity that will be affected by the action, IDOT requests that approval be obtained to allow for open cooperation and communication among all highway authorities involved. For example, when processing jurisdictional transfers for roads on county or township lines, approval from the adjoining county and/or township is not required by statute. However, IDOT requests concurrence from the adjoining highway authorities since the jurisdictional transfer could have an impact on them; in addition, this also ensures that the adjoining entity is aware of the change in jurisdiction for future interaction.

## **2-4 HISTORY OF HIGHWAYS & JURISDICTIONAL TRANSFERS**

The following provides a brief history of the evolution of the responsibility for highways:

- **1913:** The “Act Revising the Law in Relation to Roads and Bridges.” This created the State Highway Department, provided definitions for state-aid roads and the state road and bridge fund, and set up rules/guidance for the establishment of the State Highway System (no road network was established at this time).
- **1915:** Article 4, Section 15d was created which helped to establish the state system of roadways. This section allowed for the counties to advance their allotments for the construction of state-aid roads and stated that all state-aid roads would be repaired and maintained pursuant to Section 32, which 1) provided that the state would be responsible for ensuring the maintenance of state-aid roads, either directly or through the county superintendent of highways, and that state road and bridge funds could be used to pay for this maintenance, and 2) authorized the counties to appropriate the necessary funding and machinery for maintaining state-aid roads and for assisting the townships and road districts with maintenance of their roads as well.
- **1923:** The following wording was added to Article 4, Section 32: “Whenever the words “State-aid road” are used in this section they shall be taken to mean any bridge thereon or which connects any such road or roads. But the word “repair” when applied to bridges shall not include replacing or building a new bridge.”
- **1929:** Section **15d Law/Hard Surface Act** – Article 4, Section 15d provided that all state-aid roadways constructed or improved under its provisions should be repaired and maintained pursuant to the provisions found in Article 4, Section 32. The wording of Section 32 was changed to read that “all roads (state-aid) constructed of cement concrete, bituminous concrete on a cement concrete base, brick or other hard-surfaced type of pavement, patented or otherwise, shall be maintained by the State.”
- **1951:** The Road and Bridge Laws were recodified. Article 4, Section 15d became Article 4, Section 19. Article 4, Section 32 became Article 4, Section 37.
- **1959:** The Road and Bridge Laws were recodified. The former Article 4, Section 19 became Article 5, Section 5-403 and Article 4, Section 37 became Article 5, Section 5-404. The wording of Article 5, Section 5-404 was also changed to reflect the fact that any county highway constructed of a hard surface would become a part of the State highway system, thereby removing that section of roadway from the county highway system. In addition, the present four highway systems (state, county, township, and municipal) were established.

- **1969:** Article 5, Section 5-404 (the **15d Law/Hard Surface Act**) was **repealed** by Public Act (P.A.) 76-371 of the 76<sup>th</sup> General Assembly on July 8, 1969 [(section 5-404 referenced ‘pursuant to 5-403’ which was 15d)]. This meant that the state was no longer required to take a hard surface road, i.e. if a county made a roadway concrete, it no longer automatically became the state’s responsibility.

Section 4-409 (Contracts with highway authority – maintenance and improvement) was added at this time but did not yet have the word “jurisdiction” in the paragraph (‘jurisdiction’ was added on October 1, 1975).

- By law, the state did not have the authority to enter into an agreement to transfer jurisdiction of a state road until October 1, 1975. Up until that point, the only three statutes that allowed for transfers were 5/2-101, 5/3-108, and 5/4-206:

5/2-101: **Definition of state highways.** Excluded from the state highway system those unmarked (state) routes for which an agreement initiated by a local authority had been executed between the department and the local authority providing for other jurisdictional responsibility (the wording of this law ultimately gave the county and the municipality the same mechanism for obtaining jurisdiction over unmarked rural state highways; however, the original intent of the law was to provide a means of giving only municipalities jurisdiction, at their initiation, over unmarked state highways when mutually agreed upon between the municipalities and department – the October 10, 1967 letter from Local Roads Engineer, C. J. Vranek, reiterated the departmental policy and interpretation by stating that this law would be treated as applicable to municipalities only).

5/3-108: **Federal-aid highways.** Any highway constructed as a federal-aid highway shall be a part of the State highway system unless there is an agreement or provision made for its maintenance by the county or municipality, in which case it shall be a part of the county or municipal street system. (This section was amended June 20, 1969 to include “municipality.” Prior to that time, only the county was affected by this statute).

5/4-206: **Relocation of route.** “When advisable to serve traffic needs, any state highway route in or through a municipality may be relocated upon other streets in the municipality and the jurisdiction, maintenance and control of the streets upon the abandoned route shall be assumed by the city, town, village, park district or other municipal corporation.”

- **October 1, 1975:** Section 4-409 of the Illinois Highway Code was amended by adding the key word, “jurisdiction,” to the department’s authority to enter into written contracts with local highway authorities.

The department was then able to transfer jurisdiction of roadways. However, many of the agreements for jurisdictional transfer through the mid- to late-1980’s were verbal; written contracts didn’t become prevalent on a widespread, consistent basis until the early 1990’s.

- **1992:** The Illinois Revised Statutes were recompiled as the Illinois Compiled Statutes. The Illinois Highway Code changed from Chapter 121 to Chapter 605.

## 2-5 TYPES OF JURISDICTIONAL TRANSFERS

There are two types of jurisdictional transfers:

### 2-5(a) MANDATORY

A jurisdictional transfer can occur because it is mandated by statute. For example, a municipality that annexes territory that includes a township road is mandated by statute (605 ILCS 5/6-203 and 65 ILCS 5/7-1-1) to assume jurisdiction of that township road.

**Department of Transportation (IDOT) approval is not required for mandated jurisdictional transfers.**

### 2-5(b) AGREED-TO

Agreed-to jurisdictional transfers occur because of the logical need to transfer authority to another highway system. For example, relocating an existing state highway may result in decreased traffic occurring on the old state highway. Thus, the old state highway may be better served under the jurisdiction of a county, municipality or township/road district highway system. **Department of Transportation (IDOT) approval is required for agreed-to jurisdictional transfers.** See the section entitled **Approval of Jurisdictional Transfers, 2-7** on page 9 regarding the approval for these types of jurisdictional transfers.

Agreed-to jurisdictional transfers can be:

- Associated with an improvement that is state-let or constructed
- Associated with an improvement that is locally-let or constructed
- Not associated with an improvement
- A present worth jurisdictional transfer which provides funding based on the present worth value of the highway and/or structure, and the funding is deposited in the local agency's Motor Fuel Tax (MFT) account (see Present Worth Jurisdictional Transfer, 2-6 on page 9).

Jurisdictional transfers involving the first two situations above will typically have a direct or indirect association with the improvement. The improvement may upgrade the actual segment of highway to be transferred (direct), or the improvement may be in exchange for the local agency accepting the jurisdiction of another highway (indirect).



## **2-6 PRESENT WORTH JURISDICTIONAL TRANSFERS**

Local agencies have the option of receiving funds in exchange for a jurisdictional transfer of a state highway and/or structure. This funding is based on a present worth calculation (determined by IDOT, Office of Planning & Programming) of the highway and/or structure to be transferred. These funds are deposited directly into the local entity's MFT account and can be utilized for MFT-eligible expenditures at a later date. A local section number ending in '-JT' must be assigned to these types of transfers for tracking purposes. If the transfer is linked with a project (i.e. 05-00034-00-WR), the transfer section number will be 05-00034-00-JT. If there is no project linked with the transfer, a section number will have to be assigned by the IDOT District, i.e. 05-00001-00-JT to represent the first jurisdictional transfer for that local agency in FY 2005. This funding is programmed on the state side of the Highway Program, since these are state dollars; however, the Bureau of Local Roads processes and finalizes these types of transfers. See the sample, **Present Worth Agreement** on pages 49-50 that contains the required language necessary to execute the agreement and satisfy the Illinois Comptroller's requirements.

Note: Local agencies also have the option of receiving funds in exchange for a jurisdictional transfer of a local highway and/or structure. Local funding procedures are at the discretion of the local agency conveying the jurisdiction. However, the local agencies must still follow IDOT's procedures for transfer of jurisdiction.

## **2-7 APPROVAL OF JURISDICTIONAL TRANSFERS**

Agreed-to jurisdictional transfers, as prescribed by 605 ILCS 5/4-409, shall be approved by the Illinois Department of Transportation (IDOT). The Highway Systems Manager of the Bureau of Local Roads and Streets is responsible for reviewing all documents involving jurisdictional transfers and other highway systems matters. In addition, this position serves as the clearinghouse for jurisdiction issues by maintaining records/documentation of highway jurisdiction and researching jurisdictional matters that require clarification. The Director of Highways approves all jurisdictional transfers. For jurisdictional transfer agreements in which funding is included above a limit established by the Secretary, then the Secretary, Director of Finance and Administration, and Chief Counsel, in addition to the Director of Highways, must also sign the agreement.

Jurisdictional transfers mandated by the Illinois Compiled Statutes do not require Department of Transportation approval. However, a municipality is required to notify a township regarding an annexed township road that automatically becomes the municipality's jurisdiction (65 ILCS 5/7-1-1).

In addition, pursuant to 605 ILCS 5/1-102 [Legislative Declaration], cooperation among all highway authorities is required (see page 5). The statute states, in part, that "highway transportation system development requires the cooperation of State, county, township, and municipal highway agencies and coordination of their activities on a continuous and partnership basis and the legislature intends such cooperative relationships to accomplish this purpose."

Therefore, when local entities border a road proposed for jurisdictional transfer but are not direct parties to the transfer, we encourage the parties directly involved to obtain concurrence from these other parties. For example, if a county has a roadway on both a county line and a township line, and the county wants to transfer this roadway to the adjoining township, we request that the county also obtain concurrence from the other adjoining township, so that the adjoining township is aware of the transfer, doesn't have any issues with the transfer, and will also know who to deal with in the future if any issues, i.e. maintenance, arise on this roadway.

## **2-8 JURISDICTIONAL TRANSFER RECORDKEEPING**

The Central Bureau of Local Roads and Streets is responsible for maintaining records of all jurisdictional transfers on microfilm/microfiche. The original hard copies of all jurisdictional transfer agreements are retained at the Illinois State Archives.

Local agencies should file approved agreements and attachments at the county courthouse and/or at their highway agency.

## **2-9 HIGHWAY SYSTEM CONTINUITY**

When negotiating a jurisdictional transfer, the proposed transfer should maintain highway system continuity. This means that the limits of the transfer should begin and end at logical termini in order to preserve an integrated highway network. As a rule, a highway should terminate at either a highway within its own system or at a highway that is in a higher system. For example:

- a state highway should begin and end at another state highway.
- a county highway should begin at either another county highway or state highway and end at another county highway, state highway, or traffic generator (605 ILCS 5/5-102). Examples of traffic generators are the corporate limits of a municipality or the entrance to a recreational area, i.e. at a lake.
- a township road can begin and end at another township road, a county highway, or a state highway.

**Note:** Some exceptions to these criteria occur due to extenuating circumstances surrounding the particular jurisdictional transfer; these transfers are evaluated on a case-by-case basis.

## **2-10 FUNCTIONAL CLASSIFICATION**

Functional classification is the process by which highways are grouped into classes or systems based on the type of service they provide in terms of access and mobility. Functional classification often indicates what highway authority would be appropriate for jurisdiction based on the public sector served. Examples of functional classes are: interstates, other principal arterials, major/minor collectors, and local roads [refer to the Office of Planning and Programming's Functional Classification and Urban Area Boundaries Procedures Manual for additional information].

It is important to note that a jurisdictional transfer does not change the functional classification of a highway. Therefore, no functional classification coding changes should be made in IRIS (Illinois Roadway Information System) when a jurisdictional transfer takes effect.

However, when negotiating jurisdictional transfers with local agencies, the functional classification of the road in question should be considered; i.e. it would not be as desirable to transfer a high-type, high-volume road to a township as it would be to transfer it to a county or municipality.



## Chapter 3

### DETERMINING JURISDICTION

#### **3-1 DETERMINING THE JURISDICTION OF HIGHWAYS & STREETS**

Each highway has its own, often unique, history that determines which highway authority has jurisdiction over it. In most instances, the jurisdiction of a highway can be determined by examining maps that are on file in the county clerk's office and/or the Central Bureau of Local Roads and Streets. These maps are considered official documents for determining jurisdiction. But, like all records, they are subject to human error. The Department has encountered situations that revealed mapping errors, transfers that did not get recorded, and other circumstances associated with the recording of jurisdictional transfers. When errors are suspected or when disagreements arise between agencies regarding jurisdictional responsibility, it is necessary to research all sources of documentation throughout the entire history of a specific highway. These problems usually manifest with older highways. To examine the complete history of a particular highway, it is necessary to make a thorough examination of the following areas: a) highway creation, b) relevant statutes, c) written agreements, and d) other documents.

#### **3-1(a) HIGHWAY CREATION**

The term 'creation' is not a reference to the physical construction of a highway; instead, the term references the legal establishment of the highway. Highways can be created in one of the following three ways:

- 3-1(a.1) Statute** – Illinois statutes established the authority to create the various highway systems and provided the financial ability to fund their construction and/or purchase necessary right of way. New laws affecting roads and bridges continue to be enacted.
- 3-1(a.2) Dedication** – This occurs when a landowner donates or dedicates land for public use as a highway.
- 3-1(a.3) Prescription** – This is the acquisition of a highway right of way through its continued use by the public as a highway for fifteen years (reference 605 ILCS 5/2-202). Prescription occurs when the landowner is aware of such use of his land by the public but poses no objections within a 15-year period.

Most highways remain in the same highway system for which they were originally established or created. When it can be shown which highway authority had jurisdiction of a highway upon its creation, it is initially presumed that the jurisdiction still rests with that highway authority. However, it is still necessary to research for any later changes in status.

### **3-2 PERTINENT STATUTES**

It is difficult to include in these guidelines all the statutes that establish, transfer, or otherwise impact the jurisdiction of highways. However, page 16 of these guidelines does include specific references to statutes in the Illinois Highway Code (Chapter 605) and the Illinois Municipal Code (Chapter 65) that directly affect jurisdictional transfers. Although these references are probably the most important, in many instances it is necessary to examine statutes that have only an indirect bearing on jurisdictional responsibilities. It is also necessary to review statutes that were in existence when a highway was created or transferred to another system.

Although federal statutes do not directly determine which public agency is responsible for a particular highway, they do have a substantial impact on systems that include federal-aid highways. The use of federal funds requires a written commitment concerning the future maintenance of the improvement.

### **3-3 WRITTEN AGREEMENTS**

Regardless of which agency created a highway or in which system a highway may be included, it is possible that an interagency agreement may have changed the previous or original jurisdiction. Before any jurisdictional transfers are negotiated, previous agreements should be reviewed to verify the existing jurisdiction.

### **3-4 OTHER DOCUMENTS**

Just as a court may, in the absence of clear documentation as to jurisdictional responsibility, examine the past treatment of a highway by an agency, it is sometimes necessary for the Department, in disputed situations, to examine similar aspects.

The Department maintains records of field maintenance work performed, which is available through each district office. These records may prove valuable in structuring the Department's position in a particular case.

In addition to examining maintenance activities and maintenance agreements, it is often appropriate to determine which agency, if any, has granted permission (permits) for doing work on a highway, such as driveway connections, utility placements, etc.

Local agency records should also be reviewed for documents pertaining to jurisdictional transfers.

## Chapter 4

### ILLINOIS COMPILED STATUTES (ILCS)

#### 4-1 STATUTES THAT AFFECT JURISDICTIONAL TRANSFERS

When the Department reviews and approves a jurisdictional transfer, it must consider the needs of each highway authority and stay within the intent of the Illinois Statutes. This involves researching statutes that are areas of concern for the agencies involved. The chart on the following page is a quick reference and should not be used as the sole resource when reviewing a specific jurisdictional transfer. In addition to the statutes listed on the next page, the Illinois Compiled Statutes also contains definitions of the following terms that are useful in drafting jurisdictional transfers:

#### Chapter 605 (Illinois Highway Code) Definitions:

Section	Description	Section	Description
5/2-202	Highway	5/2-211	Department
5/2-203	State highway	5/2-212	Freeway
5/2-204	County highway	5/2-213	Highway authority
5/2-205	Township road	5/2-214	Maintain-Maintenance
5/2-206	District road	5/2-215	Municipality
5/2-207	Street	5/2-216	Person
5/2-208	Federal-aid highway	5/2-217	Right-of-way
5/2-209	Federal-aid road act	5/2-218	Rural highway or rural road
5/2-210	Construct-Construction	5/2-219	State funds

#### 4-2 STATUTES THAT AFFECT JURISDICTIONAL CHART

See next page for chart.

ILLINOIS STATUTES THAT AFFECT JURISDICTIONAL TRANSFERS  (from the Illinois Compiled Statutes)		DEPT. APPROVAL REQ.	Areas of Concern			
			STATE	COUNTY	TOWNSHIP	MUNICIPALITY
<b>CHAPTER 605 (Illinois Highway Code)</b>						
Section	Description					
5/1-102	Legislative Intent and Declaration	X	X	X	X	X
5/2-101	State Highway System		X			
5/2-102	County Highway System			X		
5/2-103	Township and District Road System				X	
5/2-104	Municipal Street System					X
5/3-104	Federal-Aid Secondary (FAS) Highways		X	X	X	
5/3-104.1	Federal-Aid Urban (FAU) System of Streets and Highways		X	X		X
5/3-104.2	Public Roads not on Federal-aid System		X	X		X
5/3-104.3	Great River Road – National Scenic and Recreational Highway		X	X	X	
5/3-108	Federal Aid Highway as Part of Illinois Highway Systems		X	X		X
5/4-201.5	State Highways Connected to Parks, Forests, etc.		X			
5/4-203	Taking Over Highways by State		X	X	X	X
5/4-204	Description of State Highways Taken Over – Filing		X			
5/4-205	State Highway Extensions Through Municipalities		X			X
5/4-206	Relocation of Extensions Through Municipalities		X			X
5/4-214	Recording Highway Plats		X	X	X	X
5/4-409	Department Contract with and between Highway Authorities (JT Statute)		X	X	X	X
5/5-102	County Highway Systems – Additions – Deletions			X		
5/5-103	Map Entry on Official Records – Changes	X		X		
5/5-104	Total Mileage – County Highway System	X		X		
5/5-105	Changes in County Highway Systems	X		X		
5/5-106	Municipal Extensions of County Highways	X		X		X
5/5-107	Relocation of County Highways	X		X		
5/5-109	Vacation of County Highway – Procedure	X		X		
5/5-110	Recording of Vacated County Highways			X		
5/6-104	Organization of Territory within Municipality into a Road District				X	X
5/6-201.3	Highway Commissioner's Function to Include Public Highways in System				X	
5/6-201.4	District Clerk's Function to Record Roads Used as Public Highways				X	
5/6-301	Width of Township and District Roads				X	
5/6-303	Laying out/Altering/Widening Twp. Roads – Requirements for State Roads		X		X	
5/6-305	Hearing on Petition – Notice – Decision		X		X	
5/6-325	Dedicated Public Roads – When Included in System				X	
5/6-327	Roads for Public and Private Use				X	
5/6-328	Recording Road Plats				X	
5/6-329	Vacated Township or District Roads – Recording				X	
5/7-101	Streets and Alleys – Laying Out, etc. – Extensions					X
5/7-202.3	Extension of Municipal Streets Outside Corporate Limits					X
5/9-101	Cooperative Agreement among Governmental Agencies		X	X	X	X
5/9-127	Title to Vacated Highways		X	X	X	X
<b>Chapter 65 (Municipal Code)</b>						
5/1-2-1	Ordinances and Rules to Execute Power					X
5/7-1-1	Annexation – Contiguous Township and District Roads				X	X
5/11-80-1	Laws Governing Municipal Streets					X
5/11-85-4	Jurisdiction over Joint Municipal – Township Improvement				X	X
5/11-91-1	Vacation of Municipal Streets					X



### 4-3 DEDICATIONS

Dedications occur when a property owner donates, or dedicates, land for public use as a highway. Dedications transfer the roadway surface rights only. The underlying fee, or land rights, still remains with the original owner.

However, only the highway authority with the dedication has the right to release that dedication; the underlying fee owner cannot release it. If a dedication is released, the easement for highway or road purposes is removed. This does not in any way convey an ownership interest, but simply removes the easement for the benefit of the underlying property owner. If underlying fee ownership is in question, a Title Commitment should be obtained. **Note:** The entire roadway dedication does not have to be released at the same time; only a portion of a dedication can be released.

Currently, IDOT does not accept or acquire dedications, unless the underlying land is controversial, i.e. has environmental contaminants, underground storage tanks, etc. IDOT is also trying to 'buy' its dedications, meaning that if additional right of way is needed for a project, even if the land for the roadway was originally dedicated, IDOT tries to go ahead and buy the underlying fee, so the Department has all rights to the property.

IDOT's Central Bureau of Land Acquisition does not keep records pertaining to dedications. Questions concerning dedications should be referred to the IDOT districts or the local entity involved. In some cases, the local courthouse will be the only source. In addition, for a fee, a title company will also search for this land information.

### 4-4 LAND RIGHTS

Effective January 1, 1999, the Illinois legislature passed a new law (605 ILCS 5/4-508(d)) authorizing IDOT to transfer its land rights to a local entity along with the jurisdictional transfer of a highway. These land rights are to be transferred without any compensation from the recipient. However, any conveyance of land rights associated with this statute is with the understanding that the land will be used for public highway use. If the local entity wants to 1) use the land for a non-highway or non-public use, and/or 2) vacate the property, IDOT approval must be obtained, and compensation from the local agency may be required at that time.

For these types of transfers including land rights, the process must be coordinated through both the District and Central Bureau Land Acquisition offices. A check box indicating whether or not a proposed jurisdictional transfer includes a transfer of land rights is included on both the BLR 05210 and BLR 05211 jurisdictional transfer forms, since both of these documents pertain to transfers involving the state (BLR 05212 which involves jurisdictional transfers between only local agencies does not contain the option of a land rights transfer). If a land rights transfer is included as part of a jurisdictional transfer, a letter of intent approved by IDOT is required to be included with the jurisdictional transfer agreement.

**4-5 ANNEXATIONS BY MUNICIPALITIES**

Pursuant to 65 ILCS 5/7-1-1, whenever a municipality annexes property: “The new boundary shall extend to the far side of any adjacent highway and shall include all of every highway within the area annexed. These highways shall be considered to be annexed even though not included in the legal description set forth in the petition for annexation.”

When roads under township jurisdiction are annexed by municipalities, these roads automatically become municipal streets under municipal jurisdiction (see the section below entitled ‘**Townships Cannot Have Jurisdiction in Municipalities**’ for further discussion).

When roads under state or county jurisdiction are annexed by municipalities, these roads remain under state and county jurisdiction; unless a formal agreement is executed that transfers jurisdiction to another highway authority.

**4-6 TOWNSHIPS CANNOT HAVE JURISDICTION IN MUNICIPALITIES**

Pursuant to 605 ILCS 5/6-203, a township highway commissioner has no power or jurisdiction over streets and alleys in municipalities. Therefore, when a municipality annexes property that includes a township road, the annexing municipality automatically assumes jurisdiction of that road. Pursuant to 65 ILCS 5/7-1-1, the municipality is required to notify the affected township when a proposed annexation includes a highway under that township’s jurisdiction. Failure to notify the involved township can result in the municipality having to reimburse the township for any losses or liability incurred by the township for the annexed highway when that highway was already the responsibility of the municipality.

**4-7 DISCONNECTIONS BY MUNICIPALITIES**

When a municipality disconnects or deannexes property from its corporate limits, the streets that were under municipal jurisdiction that now lie outside the corporate limits remain the responsibility of the municipality until a formal agreement is executed that transfers jurisdiction to another highway authority.

**4-8 MUNICIPAL JURISDICTION OUTSIDE OF CORPORATE LIMITS**

Pursuant to Statutes 65 ILCS 5/11-91.2-1, 605 ILCS 5/2-104, and 605 ILCS 5/7-202.3, municipalities can have jurisdiction of roads outside their corporate limits. These roads should be contiguous to the corporate limits and connect to existing streets within the municipality.

#### **4-9 MUNICIPAL EXTENSIONS OF COUNTY HIGHWAYS**

The county board, by resolution approved by IDOT, may designate an existing street as a municipal extension of a county highway. The street will remain part of the municipal street system until construction by the county commences; then only the portion being constructed or improved will become part of the county highway system (605 ILCS 5/5-106). The county should obtain concurrence from the municipality prior to designating a municipal extension. Approval by the corporate authorities of municipalities with populations over 500 is required before counties may construct or maintain a street within the corporate limits of a municipality. Approval is not required if the municipality has a population of 500 or less (605 ILCS 5/5-408); however, counties are encouraged to obtain concurrence from municipalities with a population of 500 or less (605 ILCS 5/1-102).

#### **4-10 VACATIONS OF COUNTY HIGHWAYS**

Vacation is the process by which a county officially removes a road from the county highway system. The process for vacating a county highway is explained in 605 ILCS 5/5-109 and 5/5-110. IDOT approval is required for vacations of county highways.

#### **4-11 VACATIONS/ABANDONMENTS BY NON-USE (TOWNSHIP ROADS)**

From IDOT's perspective, a public highway remains a public highway until it is officially vacated (see the **Vacation** section below). Even when a township road has been determined to be impassable and the township does not receive Motor Fuel Tax (MFT) monies for the road segment, it is still considered a road from IDOT's perspective. If the township decides to reopen the road and improve it, they would start receiving MFT monies at that time; however, a township road has to be 0.04 mile long to receive MFT funding.

#### **4-12 VACATION**

Vacation is the process by which a township officially removes the road from the township highway system (605 ILCS 5/6-303-5/6-315). IDOT approval is not required for vacations of township roads.

When a roadway is vacated, the private property created by the vacation of a public right of way should be transferred back to the original property owner, or if not known, then equally to the properties on each side of the road. When there is a natural obstruction on one side of the road or where the road extends along the right of way of a railroad, river, or canal, the township highway commissioner is authorized to transfer the entire width of the right of way to the property on one side of the former right of way. However, in 2005, under the 94<sup>th</sup> General Assembly, 605 ILCS 5/9-127 was amended to provide that a highway authority that is vacating right of way may sell vacated property to a third party at fair market value as long as the original property owners have had the right of first refusal regarding whether they wish to acquire the vacated property.

**4-13 ABANDONMENT BY NON-USE**

For situations in which a township road has been unused for a number of years, is overgrown with vegetation and, in some cases, has even been gated by one of the adjoining property owners, the road could be considered abandoned by non-use; however, IDOT still considers this a public highway unless it has been officially vacated.

If a private citizen or other interested party contends that a township road that is not open to public travel has been abandoned by non-use, this issue has to be resolved either through the local highway authorities or in the courts. The court is the entity that determines whether a roadway has been abandoned. IDOT has no policy or guidance in this area. Issues of this nature are referred to the county engineer and the county state's attorney. IDOT would not be involved in any legal proceedings regarding this matter, since this is handled between the highway commissioner, the public, and the courts.

The courts consider three factors in determining if a road has been abandoned by non-use.

1. Non-use of the road for a period of time (the length of time is not defined; it is up to the court to decide that based on each case);
2. Whether or not the public acquired the legal right to use another route, either new or existing, for access;
3. Whether the necessity for the road has ceased to exist.

When a court finds that a highway has indeed been abandoned, the highway reverts to the original property owners.

## Chapter 5

### DOCUMENTATION REQUIREMENTS

#### 5-1 JURISDICTIONAL TRANSFER DOCUMENTATION REQUIREMENTS

The Central Bureau of Local Roads and Streets should be notified of all jurisdictional transfers (both mandatory and agreed-to) for review and recordkeeping purposes. The District and/or the Local Agency is responsible for notifying the Central Bureau of Local Roads and Streets of proposed and completed jurisdictional transfers, and ensuring that the proper documentation is submitted to IDOT for processing. The documentation outlined below is used to review the jurisdictional transfers for compliance with the Illinois Compiled Statutes, to maintain records of all jurisdictional transfers, and to approve those transfers requiring Departmental approval. In addition, these documents are maintained by the Department and are considered official documents for establishing jurisdiction.

#### 5-2 FORMS

One of the three Bureau of Local Roads (BLR) forms listed below should be used for agreed-to jurisdictional transfers. The first two are for jurisdictional transfers between the state and a local agency; these include transfers of either 1) a state highway to a local entity, or 2) a local highway to the state. The third form is for jurisdictional transfers between local agencies only. These forms are available for download from IDOT's website at [www.dot.il.gov](http://www.dot.il.gov). Each form lists the additional documents required for jurisdictional transfers involving municipalities, counties, or townships.

##### 5-2(a) BLR-05210 (page 43)

This form is used when an **improvement is included** with the jurisdictional transfer. It is also used for Present Worth jurisdictional transfers that involve transfers in exchange for funding deposited in the local entity's MFT account (see page 9 for further details). This form does not have a signature block; therefore, it is included as an exhibit to the agreement (to be labeled as Exhibit A, B, etc.). The following paragraph is used in the agreement text to incorporate the form as an exhibit:

"The (Local Agency) and the State have agreed to a jurisdictional transfer for the portion of highway described in this agreement. A copy of the jurisdictional transfer is attached as Exhibit \_\_, and made a part hereof."

**5-2(b) BLR-05211** (page 44)

This form can serve as a stand-alone agreement for jurisdictional transfers when **no improvement** is involved, because it has a signature block.

**5-2(c) BLR-05212** (page 45)

This form can serve as a stand-alone agreement for jurisdictional transfers **between local agencies**.

**Note:** The BLR forms should not be altered. However, if the forms are altered in any way from their original format upon submittal to IDOT for approval, then the BLR designation in the lower right corner of the form should be removed, since the form no longer represents the standard IDOT form.

**5-3 ADDENDA**

The following information pertains to all three BLR forms:

**5-3(a) ADDENDUM # 1** (page 46)

The **location map** should be labeled as **Addendum #1**.

**5-3(b) ADDENDUM # 2** (pages 47 and 48)

The Local Agency **ordinance** or **resolution** (not applicable for agreements involving townships) should be labeled as **Addendum #2**.

**5-3(c) SUPPLEMENTS**

Any additional information included with the jurisdictional transfer should be labeled as Addendum #3, #4, etc. Examples of additional information are: stipulations to the agreement, plan sheets, etc.

## 5-4 FORMS DOCUMENTATION

The following descriptions correspond to the lettered labels on the blank forms for BLR 05210 (page 43), BLR 05211 (page 44) and BLR 05212 (page 45).

- A. **Conveyor/Recipient** – The agreement should clearly indicate the highway authority conveying and the highway authority receiving the segment of highway involved in the jurisdictional transfer.
- For the BLR 05210 and 05211 forms dealing with transfers between the state and a local entity, this is identified by the Type of Systems Transfer (discussed below). The local agency is listed in the upper left corner under Local Agency.
  - For the BLR 05212 form dealing with transfers between local agencies, the conveyor is entered in the upper left corner; the recipient is entered in the upper right corner
  - Note:** For all forms, if a municipality or township is either the conveyor or recipient, it is preferable to include the county name in parentheses under 'County' to aid in identifying the location of the jurisdictional transfer.
- B. **Indicate Type of System Transfer** – This is included on the BLR 05210 and 05211 forms in the upper right corner and identifies whether the jurisdictional transfer is:
- Type 1: from the **state to a local** highway system –or-
  - Type 2: from a **local to state** highway system
- C. **Section Number** – If an improvement is involved, the section number of the project should be entered in the upper left corner on the BLR 05210 and 05211 form. If a Present Worth jurisdictional transfer is involved, the section number should end in '-JT.'
- D. **Name** – Should include the actual name of the road, i.e. 'Smith Road.'
- E. **Route** – Should identify the key route utilized by IDOT in identifying the highway to be transferred (i.e. County Highway (CH) 3, Township Road (TR) 62, FAU 1234, FAS 123, etc.)
- F. **Length** – The length of highway to be transferred should be an accurately measured length indicated to the nearest hundredth of a mile. In addition to measuring the distance in miles, the transfer distance can also be indicated in terms of kilometers. The District Bureau of Program Development (Road Inventory staff) is responsible for verifying the length of the transfer.

- G. **Termini** - A clear description should be provided for the highway and the beginning and ending points involved in the transfer. The following are example termini descriptions:

Rural Areas:

- "From Township Road (TR) 123 to TR 345, in its entirety." (use this type of description when clear highway references are available)
- "From the NW corner of Section 17, T4N, R8E southerly 4 miles to the SE corner of Section 32, T4N, R8E, in its entirety." (use this type of description when clear highway references are not available)

Urban Areas:

- "From the east edge of pavement of First Street to the west edge of pavement of Washington Street, in its entirety."

**Notes:**

- The phrase, '**in its entirety**,' should be included at the end of the location description, because this represents that the limits of the jurisdictional transfer include the right of way 'from right of way line to right of way line.'
- When describing the transfer of frontage roads, ramps, service drives, etc., the phrase, 'between the right of way line and the access control line,' should be included before 'in its entirety.'
- When describing the limits of the jurisdictional transfer, the wording of the termini description should be consistent between the agreement itself and any ordinances or resolutions that may be included with the agreement.

- H. **Structures** – All structures within the limits of the jurisdictional transfer should be identified as either being included or excluded from the transfer by checking either the 'does' or 'does not' box and including the structure numbers on the line provided. Any structure not specifically excluded is considered part of the jurisdictional transfer.

If no structure exists within the highway segment to be jurisdictionally transferred, then 'N/A' (for 'not applicable') should be entered on the structure line provided and neither box should be checked.

- I. **Land Rights Transfer** – Check the appropriate box as to whether the jurisdictional transfer includes a transfer of land rights (see page 17 for details). If a transfer of land rights is included with the transfer, then a letter of intent by the local entity and approved by IDOT must be included with the jurisdictional transfer agreement.
- J. **Effective Jurisdictional Transfer Date** – The date and method by which a jurisdictional transfer takes place should be clearly defined. For this reason, a well-defined statement is required for agreed-to jurisdictional transfers (see page 27 for a further discussion and clarification of the **Effective Date of a Jurisdictional Transfer**). Mandated jurisdictional transfers will occur as specified by the Illinois Compiled Statutes. The State-Local agreement forms (BLR 05210 and BLR 05211) contain five choices for the effective date of jurisdictional transfer. The Local-Local agreement form (BLR 05212) is open-ended; the effective date of jurisdictional transfer must be filled in.



- K. **Other Information** – Any additional information that may assist in identifying the transfer. Jurisdictional transfers involving an improvement should include the applicable project number, state section number, local agency section number, job number, contract number, etc. This information and description/terms of the improvement project should be included in the text of the agreement. The BLR form would be an attachment.
- L. **Location Map** – A map (minimum 8 ½" x 11") must be included to provide the location of the highway to be transferred. The map should delineate the limits of the portion of highway to be transferred and include a north arrow (see page 46 for an example of a **location map**).
- M. **Resolutions and Ordinances** – The Illinois Compiled Statutes require a resolution from the county and an ordinance from the municipality for an agreed-to jurisdictional transfer. The resolution or the ordinance must be certified by the clerk for the Local Agency involved. (See pages 47 and 48 for an example of an **ordinance** and a **resolution**). When describing the limits of the jurisdictional transfer, the wording of the termini description should be consistent between the agreement itself and any ordinances or resolutions that may be included with the agreement.

## **5-5 NUMBER OF ORIGINALS TO BE SUBMITTED**

A minimum of **two** original signed documents is required for processing jurisdictional transfers. However, see the following breakdown for additional requirements:

### **5-5(a) STATE-LOCAL JT AGREEMENTS**

A minimum of **two** original signed agreements is required. IDOT retains one original agreement for its records and sends the other original to the local agency accepting jurisdiction. If the transfer agreement involves more than one local agency, then additional originals would be needed for each additional local agency.

### **5-5(b) LOCAL-LOCAL JT AGREEMENTS**

A minimum of **three** original signed agreements is requested, since IDOT retains one original for its records and sends the other two originals to both the conveyer and recipient local agencies. If the transfer agreement involves more than two local agencies, then additional originals would be needed for each additional local agency.

**Note:** If a jurisdictional transfer agreement involves funding above a limit established by the Secretary (i.e. a present worth jurisdictional transfer that allows for the deposit of funds into the local's MFT account), then the agreement has to be signed by the following four IDOT individuals: 1) the Secretary of Transportation, 2) the Director of Highways, 3) the Director of Finance and Administration, and 4) Chief Counsel. In these cases, only two original agreements will be signed; therefore, it is only necessary to submit two original agreements for processing.

### **5-6 MUNICIPAL JURISDICTIONAL TRANSFERS – DOCUMENTATION REQUIREMENTS**

- **BLR form** – either BLR 05210, 05211, or 05212
- **Ordinance** – Any jurisdictional transfer with a municipality should contain a municipal ordinance passed by the corporate authorities of that municipality providing for the transfer and for the addition or deletion of the highway segment to/from the municipal street system. The ordinance should have a number assigned to it by the municipal clerk and should be signed and sealed by the municipal clerk.
- **Location Map** – A map (minimum 8 ½” x 11”) must be included to provide the location of the highway to be transferred. The map should delineate the limits of the portion of highway to be transferred and include a north arrow (see page 46 for an example of a **location map**).

### **5-7 COUNTY JURISDICTIONAL TRANSFERS – DOCUMENTATION REQUIREMENTS**

- **BLR form** – either BLR 05210, 05211, or 05212
- **Resolution** – Any jurisdictional transfer with a county should contain a county resolution passed by the county board providing for the transfer and for the addition or deletion of the highway segment to/from the county highway system. The resolution should have a number assigned to it by the county clerk and should be signed and sealed by the county clerk.
- **Location Map** – A map (minimum 8 ½” x 11”) must be included to provide the location of the highway to be transferred. The map should delineate the limits of the portion of highway to be transferred and include a north arrow (see page 46 for an example of a **location map**).

### **5-8 TOWNSHIP JURISDICTIONAL TRANSFERS – DOCUMENTATION REQUIREMENTS**

- **BLR form** – either BLR 05210, 05211, or 05212
- **Location Map** – A map (minimum 8 ½” x 11”) must be included to provide the location of the highway to be transferred. The map should delineate the limits of the portion of highway to be transferred and include a north arrow (see page 46 for an example of a **location map**). Since the highway commissioner is the authority granted the power to approve changes to the township or road district road system, no ordinance or resolution is required for the township.

## Chapter 6

### EFFECTIVE DATE OF JURISDICTIONAL TRANSFER

#### 6-1 EFFECTIVE DATE OF JURISDICTIONAL TRANSFER

The effective date of a jurisdictional transfer is an integral part of the transfer process. This signifies the date that the recipient highway authority actually accepts the transfer of the highway segment and takes over the ultimate maintenance obligation and legal responsibility for that highway. Therefore, the statement used to establish the effective date of jurisdictional transfer should not be ambiguous. When specifying the effective date of a jurisdictional transfer, the wording used should be consistent within the agreement itself and on any resolution, ordinance, or addendum that may be attached to the agreement.

Every jurisdictional transfer agreement requires a well-defined statement to determine the date the transfer becomes effective. The requirements of the statement are completed on a date known as the date of occurrence. However, the jurisdictional transfer process is better served by establishing the effective date of transfer 21 calendar days after the date of occurrence. This 21-day period allows time for notification of the jurisdictional transfer to all necessary parties. For example, if a jurisdictional transfer is to occur 21 calendar days after the execution of the agreement, the date of occurrence is the date of actual agreement execution by IDOT (final execution). However, the effective date of transfer occurs 21 days after IDOT executed the agreement.

When an existing road and/or structure is being transferred, then any of the JT effective date choices discussed below is acceptable to use. However, if the road and/or structure to be transferred is not yet built, then the JT effective date should be contingent upon the final inspection or acceptance of the project by the agencies involved. It is not possible to transfer a road and/or structure that does not yet exist.

#### 6-1(a) STATE-LOCAL AGREEMENTS

The BLR 05210 and 05211 forms are used for agreements between the state and one or more local agencies and provide four choices (discussed below) for the effective date of jurisdictional transfer. The BLR 05210 can be used for 1) JTs that include improvements (either state-let/constructed or locally-let/constructed) and 2) present worth JTs that provide for funds based on the calculated value of the highway and/or structure to be deposited in the local's MFT account.

**6-1(a.1) State-Let or State-Constructed Projects**

1. **Final Inspection by the State (Type “ “)** – This is defined as the last field inspection upon physical completion of the project and approval by the Regional Engineer. Physical completion of the project is defined as 99.9 percent complete, which is calculated as the value of completed work divided by the total adjusted contract value, and then multiplied by 100. The ‘Type’ refers to either Type A or Type B which are differentiated by the type of documentation used:

Type A: Form BC-71, *Final Inspection Report of State Road Work*, is used (see page 55). The date of occurrence is the Regional Engineer’s date of approval of the BC-71 form.

Type B: The *Report of Final Inspection* (see page 57) is used. The date of occurrence is the Regional Engineer’s date of approval of the final field inspection.

2. **Acceptance by the State** – For this statement, all work has been completed, the final inspection of the completed work has been conducted, and all contractor paperwork is finalized and approved by the Central Bureau of Construction and/or the Bureau of Local Roads and Streets.

Form BC-107, *Final Acceptance of Improvement*, is used (see page 56). The date of occurrence is the approval date indicated on the form.

3. **Execution of Agreement** – Agreement execution occurs when all parties to the agreement have signed it. IDOT is the last entity to approve and sign the jurisdictional transfer. When IDOT signs the agreement, it is considered final or fully executed. When only the local officials have signed the agreement, it is referred to as partially or locally-executed. This statement may be used when a prompt transfer is desired, which may or may not include an improvement.

The date of occurrence is the date IDOT signs the agreement.

4. **Approval of Land Conveyance** – This occurs when the jurisdictional transfer includes a transfer to land rights (discussed on page 17). The date of occurrence is when the quitclaim deed is filed.

**6-1(a.2) Locally-Let or Locally-Constructed Projects**

1. **Final Inspection by the Local Agency** – This is defined as the last field inspection upon physical completion of the project and approval by the County Engineer/Superintendent of Highways, the Highway Commissioner, or the appropriate municipal official. Physical completion of the project is defined as 99.9 percent complete, which is calculated as the value of completed work divided by the total adjusted contract value, and then multiplied by 100.

The *Report of Final Inspection* (see page 57) is used. The date of occurrence is the date of approval of the final field inspection by the County Engineer/Superintendent of Highways, the Highway Commissioner, or the appropriate municipal official.

2. **Acceptance by the Local Agency** – For this statement, all work has been completed, the final inspection of the completed work has been conducted, and all contractor paperwork is finalized and approved by the local agency.

The date of occurrence is the date of final payment to the contractor.

3. **Execution of Agreement** – Agreement execution occurs when all parties to the agreement have signed it. IDOT is the last entity to approve and sign the jurisdictional transfer. When IDOT signs the agreement, it is considered final or fully executed. When only the local officials have signed the agreement, it is referred to as partially or locally-executed. This statement may be used when a prompt transfer is desired, which may or may not include an improvement.

The date of occurrence is the date IDOT signs the agreement.

4. **Approval of Land Conveyance** - This occurs when the jurisdictional transfer includes a transfer of land rights (discussed on page 17). The date of occurrence is when the quitclaim deed is filed.

## **6-1(b) LOCAL-LOCAL AGREEMENTS**

The BLR 05212 form is used for agreements between one or more local agencies and provides for an open-ended choice for the effective date of jurisdictional transfer. Local agencies are encouraged to utilize the selections discussed on page 28 regarding Local-Let or Constructed Projects.

Those local agencies using other terminology for the effective date of transfer are advised to be careful in ensuring that the meaning is clear. For example, if the jurisdictional transfer is to be effective upon "Notification of Acceptance by the Local Agency," and if the project was accepted in January, but the appropriate local agency was not notified until May, then the effective date of transfer would not occur until May.



## Chapter 7

### CODING JURISDICTIONAL TRANSFERS IN IRIS

#### 7-1 CODING JURISDICTIONAL TRANSFERS IN IRIS

Transfers of jurisdiction include the maintenance responsibility unless otherwise noted in the jurisdictional transfer agreement. Therefore, when coding completed jurisdictional transfers in IRIS, both the jurisdictional and maintenance responsibilities fields should be changed to reflect the new responsible party. If for example, the county has jurisdiction of a particular highway segment, but they have a maintenance agreement with the township whereby the township will maintain that highway segment, then the jurisdictional responsibility should be coded as 'county', and the maintenance responsibility should be coded as 'township.'

When a **county** accepts jurisdiction of a highway, the key route should be coded in IRIS as a County Highway (code '5') **or** other applicable code, i.e. FAU, FAS, etc. The key route is actually determined by functional classification.

When a **township** accepts jurisdiction of a highway, the key route should be coded in IRIS as a Township Road (code '7') **or** other applicable code, i.e. FAS, OR, etc. The key route is actually determined by functional classification.





## Chapter 8

# JURISDICTIONAL TRANSFER AGREEMENT PROCESSING PROCEDURES

### 8-1 JT AGREEMENT PROCESSING PROCEDURES

Due to the Central Bureau of Design and Environment (BDE) policy implemented in September 2004 regarding joint agency agreements, BDE is no longer involved in reviewing, distributing, or providing the districts with comments related to jurisdictional transfers. Therefore, the districts are now responsible for virtually all the functions associated with the local agency agreement process that were formerly performed by BDE (if the agreement requires Secretary/Director signatures, BDE will continue to obtain those signatures to send back to the district). It is very important that every Jurisdictional Transfer (JT) agreement be distributed to the Central Bureau of Local Roads and Streets for review.

The Central Bureau of Local Roads and Streets (CBLRS) is still responsible for distributing and processing JT agreements that would normally flow through CBLRS; these include those JTs that 1) involve an improvement on a local road, 2) don't involve an improvement, and 3) are present worth JTs.

#### 8-1(a) JTs INVOLVING IMPROVMENTS ON A LOCAL ROAD

The districts should follow their normal procedures for submitting these types of agreements to the CBLRS Project Support staff for processing. The Project Support staff will distribute the agreements to the appropriate staff within the department for review and comments and compile the comments to send back to the district for action.

#### 8-1(b) JTs WITH NO IMPROVEMENTS

The districts should submit JT agreements that do not involve funding or improvements directly to the Highway Systems Manager in the Central Bureau of Local Roads and Streets for processing. The Highway Systems Manager will distribute the agreements to the appropriate staff within the department (see the Distribution List on page 36) for review and comment and compile the comments to send back to the district for action.

**8-1(c) PRESENT WORTH JTs**

The districts should submit present worth JT agreements directly to the Highway Systems Manager in the Central Bureau of Local Roads and Streets for processing. The Highway Systems Manager will distribute the agreements to the appropriate staff within the department (see the distribution list on page 36) for review and comment and compile the comments to send back to the district for action. Present Worth calculations are determined by IDOT, Office of Planning & Programming, Planning Systems.

**\*It is preferable that all JT agreements be submitted in draft form for review prior to obtaining the local agency's signature. If revisions to the agreement are necessary for approval, it is easier to make the changes prior to any signatures.\***

## Chapter 9

### DISTRIBUTION OF JT AGREEMENTS

#### 9-1 Distribution of JT Agreements

##### 9-1(a) BY DISTRICTS

For those types of JT agreements associated with state routes that the districts used to send to Central BDE for processing, the districts are now responsible for distributing these agreements for review comments. The following distribution should now be used:

##### Draft JT agreements for review

###### All Cases

- Appropriate bureaus within the district
- Central Local Roads and Streets
- Statewide Program Planning
- Central Operations

###### When Affected

- Central Bridge Office
- Chief Counsel's Office
- Central Land Acquisition

**\*It is preferable that all JT agreements be submitted in draft form for review prior to obtaining the local agency's signature. If revisions to the agreement are necessary for approval, it is easier to make the changes prior to any signatures.\***

##### Executed JT agreements

###### Originals

- Highway Authority
- Design and Environment

###### Copies

- Other appropriate local officials
- Local Roads and Streets
- Operations
- Statewide Program Planning
- Urban Program Planning
- District

**9-1(b) BY BUREAU OF LOCAL ROADS AND STREETS**

**Draft JT agreements for review involving STATE route**

All Cases

- Statewide Program Planning
- Operations

When Affected

- Central Bridge Office
- Chief Counsel's Office
- Central Land Acquisition

**Draft JT agreements for review involving LOCAL routes only**

When Affected

- Operations
- Bridge Office
- Chief Counsel's Office
- Central Land Acquisition

**\*It is preferable that all JT agreements be submitted in draft form for review prior to obtaining the local agency's signature. If revisions to the agreement are necessary for approval, it is easier to make the changes prior to any signatures.\***

**Executed JT agreements involving STATE route**

Originals

- Highway Authority
- Local Roads & Streets

Copies

- Other appropriate local officials
- Design & Environment
- Operations
- Statewide Program Planning
- Urban Program Planning
- Traffic Safety
- District

**Executed JT agreements involving LOCAL route**

Originals

- Highway Authority
- Local Roads & Streets

Copies

- Other appropriate local officials
- Urban Program Planning
- Traffic Safety
- District

## 9-2 Notification of Jurisdictional Transfer Date

### 9-2(a) AGREED TO TRANSFERS

All agreements involving agreed-to jurisdictional transfers should have associated notification letters to confirm the effective jurisdictional transfer date.

#### 9-2(a.1) Locally State-Local Agency Agreements

The Regional Engineer is responsible for providing the official notification to confirm the jurisdictional transfer date for state-local JTs involving improvements that result in an effective jurisdictional transfer date beyond the 21-day timeframe listed on the agreement (i.e. final inspection or acceptance).

The Central Bureau of Local Roads and Streets (CBLRS) is responsible for providing the official notification to confirm the jurisdictional transfer date for state-local JTs that do not involve improvements and have an effective jurisdictional transfer date contingent upon or 21 days after execution of the agreement (this includes present worth JTs).

#### 9-2(a.1) Local-Local Agency Agreements

The Central Bureau of Local Roads and Streets (CBLRS) is responsible for providing the official notification for all local-local JTs that require departmental approval (as opposed to a mandatory transfer). For those JTs not effective upon execution of the agreement, the local agencies should notify the District Bureau of Local Roads and Streets of the completed transfer (i.e. the date of final inspection, project completion, etc.). The district should then inform the CBLRS, so that the CBLRS can provide the notification to the necessary parties confirming the effective jurisdictional date.

**\*All agencies involved in a jurisdictional transfer should be notified promptly of the transfer date.\***

### 9-2(b) MANDATORY TRANSFERS

The Central Bureau of Local Roads and Streets should be informed of mandatory transfers by the district and/or the local agency involved; however, the CBLRS does not issue any form of notification to confirm the transfer date. Since these transfers are recorded as prescribed by law, the agencies involved are responsible among themselves for confirming the transfer date.

### 9-3 JT NOTIFICATION LETTERS

The following distribution should be used for all JT notifications. See pages 51-54 for examples of notification letter formats.

#### Original notification letter:

- When **municipalities** or **townships** are involved, send the original notification letter to the highway authority (mayor or township commissioner) accepting the jurisdictional transfer.
- If a **county** is accepting the jurisdictional transfer, send the original notification letter to the county clerk.

**Note:** If the transfer involves a JT transferring a local highway to the state highway system, send the notification letter to the highway authority *conveying* jurisdiction.

#### Copies of the notification letter:

Send copies of the notification letter to the appropriate local agency officials as follows:

- **County Transfers**  
cc: County Engineer/Superintendent of Highways
- **Township/Road District Transfers**  
cc: County Engineer/Superintendent of Highways
- **Municipal Transfer**  
cc: Municipal Clerk  
Municipal Engineer

Send blind carbon copies (bcc) of the notification letter as follows:

bcc: Engineer of Local Roads and Streets  
Bureau of Urban Program Planning  
Engineer of Design and Environment (involving state routes only)  
Bureau of Statewide Program Planning (involving state routes only)  
Engineer of Operations (involving state routes only)  
Division of Traffic Safety  
Appropriate District Bureaus

**Attachments:**

- A map showing the location of the jurisdictional transfer is required for all letters.
- If the jurisdictional transfer occurs at the same time the executed agreement is sent, then the agreement should be included with the notification letter.
- If the jurisdictional transfer occurs at a later date (and the executed agreement has already been sent), then the notification letter should only include a location map.
- A copy of the document used to record the transferring statement is required for the Central Bureau of Local Roads and Streets. This document can consist of either a BC-71, a Report of Final Inspection, a BC-107, a copy of the Final Payment, an Execution Letter, or other appropriate hard copy information.





**FORMS  
AND  
SAMPLE  
DOCUMENTS  
FOR  
JURISDICTIONAL  
TRANSFERS**





Local Agency		Type of Systems Transfer	
Municipality:	<b>A</b>	<b>Type 1</b> From: State Highway System To: Local Highway System	<b>Type 2</b> From: Local Highway System To: State Highway System
Township/Road District:	<b>A</b>		
County:	<b>A</b>	Indicate Type of Systems Transfer : <b>B</b>	
Section Number:	<b>C</b>		

The above local agency, and the State of Illinois, acting by and through its Department of Transportation, agree to transfer the jurisdiction of the designated location in the manner indicated above under **Type of Systems Transfer**

**Location Description**

Name     **D**     Route     **E**     Length     **F**      
 Termini     **G**    

This transfer  does  does not include Structure No.     **H**    

The transfer  does  does not include a transfer to land rights (4-508). If “does”, attach letter of intent approved by the Department.     **I**    

WHEREAS, the authority to enter into this contract is granted the STATE by Section 4-409 of the Illinois Highway Code and the authority to make changes in the State Highway System is granted the State under Section 2-101 of the Illinois Highway Code.

**Include for Municipalities Only**

WHEREAS, the authority to make changes to the Municipal Street System is granted to the Municipality by Section 7-101 of the Illinois Highway Code

NOW THEREFORE IT IS AGREED that the corporate authority of said municipality will pass an ordinance providing for the transfer of the above location and shall attach hereto and make a part hereof a copy of a location map as Addendum No. 1 and a copy of the ordinance as Addendum No. 2, and

**Include for Counties Only**

WHEREAS, the authority to make changes to the County Highway System is granted to the County by Section 5-105 of the Illinois Highway Code.

NOW THEREFORE IT IS AGREED that the County Board of said County will pass a resolution providing for the transfer of the above location and shall attach hereto and make a part hereof a copy of a location map as Addendum No. 1 and a copy of the resolution as Addendum No. 2, and

**Include for Township/Road Districts Only**

WHEREAS, the authority to make changes to the Township/Road District System is granted to the Highway Commissioner under Section 6-201.3 of the Illinois Highway Code and said Highway Commissioner shall attach hereto and make a part hereof a copy of a location map as Addendum No. 1, and

IT IS MUTUALLY AGREED, that this jurisdictional transfer will become effective 21 calendar days after:

(Check One)

**J**

- |                                                                   |                                                      |
|-------------------------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> Final Inspection by the State (Type “ ”) | <input type="checkbox"/> Execution of Agreement      |
| <input type="checkbox"/> Acceptance by the State                  | <input type="checkbox"/> Approval of Land Conveyance |

**Supplements**

Additional information and/or stipulations, if any, are hereby attached and identified below as being a part of this jurisdictional transfer.

Supplement \_\_\_\_\_  
 (Insert supplement numbers of letters and page numbers, if applicable.)

IT IS FURTHER AGREED, that the provisions of this jurisdictional transfer shall be binding and inure to the benefit of the parties hereto, their successors and assigns.



# Local Agency State Agreement for Jurisdictional Transfer

Local Agency		Type of Systems Transfer	
Municipality:	A	<b>Type 1</b>	<b>Type 2</b>
Township/Road District:	A	From: State Highway System	From: Local Highway System
County:	A	To: Local Highway System	To: State Highway System
Section Number	C	Indicate Type of Systems Transfer : <b>B</b>	

The above local agency, hereinafter referred to as "LA", and the State of Illinois, acting by and through its Department of Transportation, agree, to transfer the jurisdiction of the designated location in the manner indicated above under **Type of Systems Transfer**.

**Location Description**

Name \_\_\_\_\_ **D**                                      Route \_\_\_\_\_ **E**                                      Length \_\_\_\_\_ **F**  
 Termini \_\_\_\_\_ **G**

This transfer  does  does not include Structure No. \_\_\_\_\_ **H**

The transfer  does  does not include a transfer to land rights (4-508). If "does", attach letter of intent approved by the Department. **I**

WHEREAS, the authority to enter into this contract is granted the STATE by Section 4-409 of the Illinois Highway Code and the authority to make changes in the State Highway System is granted the State under Section 2-101 of the Illinois Highway Code.

**Include for Municipalities Only**

WHEREAS, the authority to make changes to the Municipal Street System is granted to the Municipality by Section 7-101 of the Illinois Highway Code

NOW THEREFORE IT IS AGREED that the corporate authority of said municipality will pass an ordinance providing for the transfer of the above location and shall attach hereto and make a part hereof a copy of a location map as Addendum No. 1 and a copy of the ordinance as Addendum No. 2, and

**Include for Counties Only**

WHEREAS, the authority to make changes to the County Highway System is granted to the County by Section 5-105 of the Illinois Highway Code.

NOW THEREFORE IT IS AGREED that the County Board of said County will pass a resolution providing for the transfer of the above location and shall attach hereto and make a part hereof a copy of a location map as Addendum No, 1 and a copy of the resolution as Addendum No. 2, and

**Include for Township/Road Districts Only**

WHEREAS, the authority to make changes to the Township/Road District System is granted to the Highway Commissioner under Section 6-201.3 of the Illinois Highway Code and said Highway Commissioner shall attach hereto and make a part hereof a copy of a location map as Addendum No. 1, and

IT IS MUTUALLY AGREED, that this jurisdictional transfer will become effective 21 calendar days after (check one)  
 Execution of Agreement    Acceptance by the State    Final Inspection by the State (Type" ")  
 Approval of Land Conveyance **J**

**Supplements**

Additional information and/or stipulations, if any, are hereby attached and identified below as being a part of this agreement  
 Supplement \_\_\_\_\_  
(Insert supplement numbers of letters and page numbers, if applicable.)

APPROVED

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Chairman County Board/Mayor/Village President/etc.

Signature \_\_\_\_\_

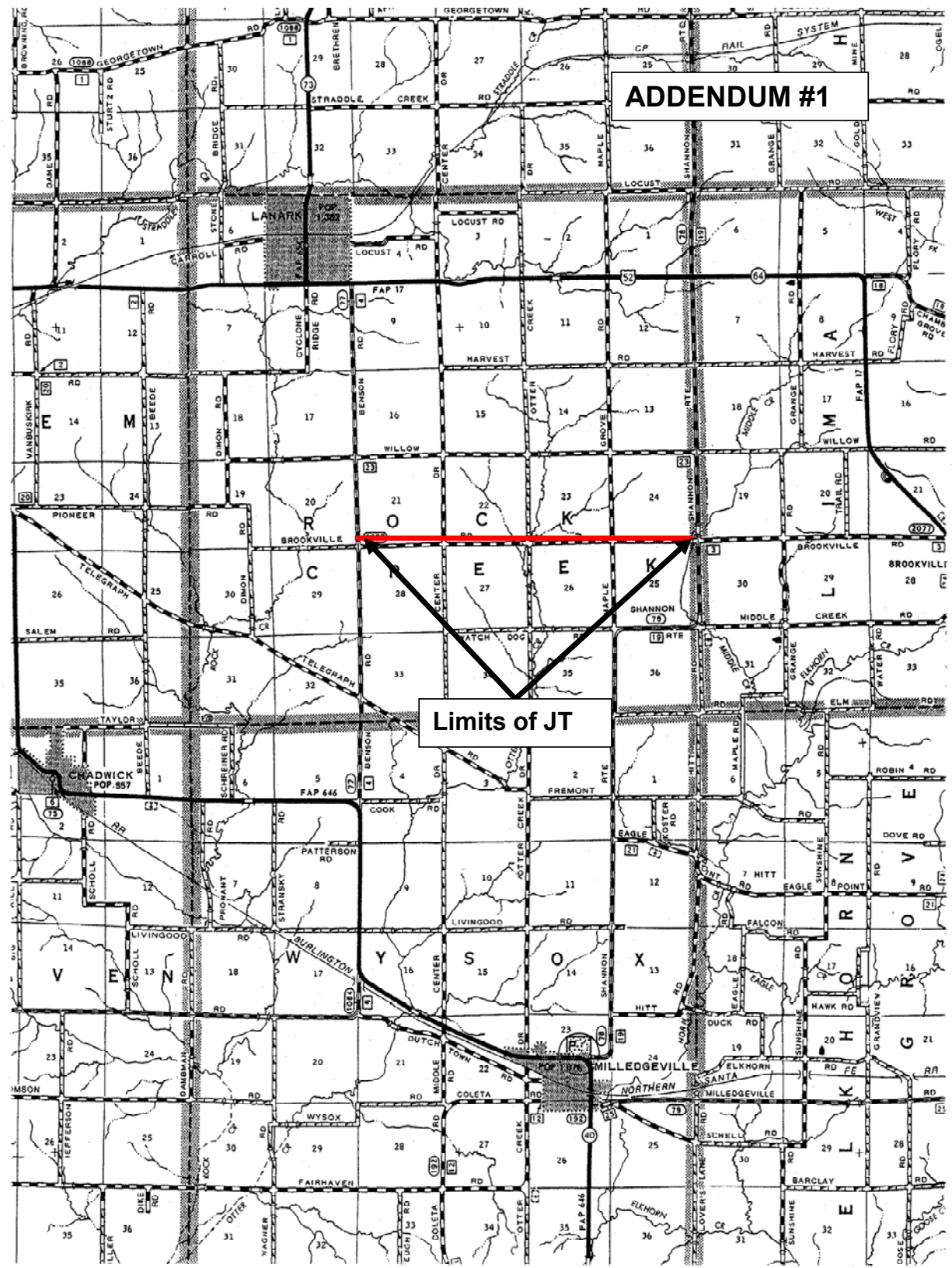
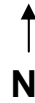
APPROVED                                      STATE OF ILLINOIS  
 DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_  
 Director of Highways

Date \_\_\_\_\_



# SAMPLE LOCATION MAP



Limits of JT

ADDENDUM #1

**Municipal Ordinance No. \_\_\_\_\_**

Providing for the (addition/deletion) of \_\_\_\_\_ Street from (Location A) to (Location B) (to/from) the Municipal Street System of the (City/Town/Village) of \_\_\_\_\_, \_\_\_\_\_ County, Illinois.

Whereas the (City/Town/Village) of \_\_\_\_\_ and the (County/State) of \_\_\_\_\_ under date of \_\_\_\_\_, 20\_\_, entered into an agreement for transfer of jurisdiction of \_\_\_\_\_ Street to the (State Highway/County Highway/Municipal Street) System.

Now, therefore, be it ordained by the (City Council/President/Board of Trustees) of the (City/Town/Village) of \_\_\_\_\_ that \_\_\_\_\_ Street from (Location A) to (Location B) be (added to/deleted from) the Municipal Street System.

The (City/Town/Village) Clerk is directed to forward a certified copy of this Ordinance to the State of Illinois through its Regional Engineer's office at \_\_\_\_\_, Illinois.

Certificate

I, \_\_\_\_\_, (City/Town/Village) Clerk in and for the (City/Town/Village) of \_\_\_\_\_ in the County of \_\_\_\_\_ in the State of Illinois, and keeper of the records and files thereof, as provided by statute, do hereby certify the foregoing to be a true, perfect, and complete copy of an ordinance passed by the (City Council/President/Board of Trustees) of the (City/Town/Village) of \_\_\_\_\_ at its \_\_\_\_\_ meeting held on \_\_\_\_\_, 20\_\_.

In testimony whereof, I have hereunto set my hand and affixed the seal of (City/Village) at my office this \_\_\_ day of (month), 20\_\_.

(SEAL)

\_\_\_\_\_  
(City/Town/Village) Clerk

**Note: the description of the location of the road to be added to or deleted from the Municipal Street System should correspond to the same description provided throughout the jurisdictional transfer agreement and on the BLR form.**

**County Resolution No. \_\_\_\_\_**

Providing for the (addition/deletion) of (co. hwy./street/road) from (Location A) to (Location B) [in (village/city), Illinois (if applicable)] (to/from) the County Highway System in \_\_\_\_\_ County, Illinois.

Whereas the County Board of \_\_\_\_\_ and the (State/City/Village/Township) of \_\_\_\_\_ entered into an agreement for transfer of jurisdiction of the above location to the (State Highway, County Highway, Municipal Street, Township Road) System.

Now, therefore, be it resolved, that the above location, with Department of Transportation approval, be (added to/deleted from) the highway system of \_\_\_\_\_ County and that said route (be/ is) identified as County Highway (Number) from (Location A) to (Location B).

Be it further resolved, that the clerk is hereby directed to transmit three certified copies of this Resolution to the State through its Regional Engineer's Office at \_\_\_\_\_, Illinois.

Certificate

I, \_\_\_\_\_, County Clerk in and for said County in the State of Illinois, and keeper of the records and files thereof, as provided by statute, do hereby certify the foregoing to be a true, perfect, and complete copy of a Resolution adopted by the County Board of \_\_\_\_\_ County at its \_\_\_\_\_ meeting held on \_\_\_\_\_, 20\_\_.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County at my office in \_\_\_\_\_, in said County, this \_\_\_\_ day of (month), 20\_\_.

(SEAL)

\_\_\_\_\_  
County Clerk

**Note: the description of the location of the road to be added to or deleted from the County Highway System should correspond to the same description provided throughout the jurisdictional transfer agreement and on the BLR form.**



**SAMPLE AGREEMENT FORMAT FOR  
PRESENT WORTH JT**

**JURISDICTIONAL TRANSFER  
AGREEMENT**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_ by and between the STATE OF ILLINOIS, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called the STATE, and the VILLAGE OF \_\_\_\_\_, in \_\_\_\_\_ County, the State of Illinois, hereinafter called the VILLAGE.

**WITNESSETH**

This AGREEMENT will be identified as:

- STATE Job Number \_-\_-\_-\_- and VILLAGE Section \_\_-\_\_\_\_-\_\_-JT, and
- PPS Number \_-\_\_\_\_-\_\_\_\_ (FY \_\_)

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

I. THE VILLAGE AGREES:

1. Funds received through this AGREEMENT will be deposited into the VILLAGE'S Motor Fuel Tax account and expended in accordance with Motor Fuel Tax standards, policies, and procedures.
2. If applicable, to maintain, for a minimum of three (3) years after the completion of any contracts, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with the contract. The contract and all books, records and supporting documents related to the contract shall be available for review and audit by the Auditor General or other STATE auditors; and the VILLAGE agrees to cooperate fully with any audit conducted by the Auditor General or other STATE auditors and to provide full access to all relevant materials. Failure to maintain the books, records and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract for which adequate books, records and supporting documentation are not available to support their purported disbursement.
3. The jurisdiction and maintenance of any projects, in which these funds are expended on, will remain the responsibility of the VILLAGE.
4. To accept jurisdiction and maintenance 21 days after execution of this AGREEMENT of the following section of highway in its present condition:
  - Road A from Point B to Point C, in its entirety, as described in Exhibit A (BLR 05210 form), attached hereto and made a part hereof.

**...cont. SAMPLE PRESENT WORTH JT AGREEMENT**

**II. IT IS MUTUALLY AGREED:**

1. The STATE agrees to pay the VILLAGE a lump sum total of \$ \_\_\_\_\_ upon execution of this AGREEMENT.
2. All projects for the construction of fixed works which are financed in whole or in part with funds provided by this agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) unless the provisions of that Act exempt its application.
3. This AGREEMENT shall be binding upon and inure to the benefits of the parties, their successors, and assigns.
4. Obligations of the STATE shall cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or applicable Federal Funding source fails to appropriate or otherwise make available funds for the work contemplated herein.

Executed by the VILLAGE, the  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

VILLAGE OF \_\_\_\_\_  
\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

(SEAL)

By execution of this agreement and under penalties of perjury, the VILLAGE certifies that its correct Federal Taxpayer Identification Number (TIN) is \_\_\_\_\_ and that it is doing business as a government entity.

**STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION**

This Agreement executed on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY:

\_\_\_\_\_, Secretary, Illinois Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_, Director of Highways/Chief Engineer

\_\_\_\_\_, Chief Counsel

\_\_\_\_\_, Director of Finance & Administration

**SAMPLE LETTER DISTRIBUTED BY  
CENTRAL LOCAL ROADS AND STREETS  
FOR JT OCCURRING IN FUTURE**



## **Illinois Department of Transportation**

2300 South Dirksen Parkway / Springfield, Illinois / 62764

June 14, 2004

Notification of Jurisdictional Transfer

Any County and Blank Township  
No-Name Road (CH 1): From Road A to Road B

Mr. John Doe  
Blank Twp. Hwy. Commissioner  
123 W. Road  
Village, IL 61234

Dear Mr. Doe:

In accordance with the terms of the agreements executed on June 14, 2004, the transfer of highway jurisdiction for No-Name Road, including the associated structures along this highway segment, from Any County to Blank Township will occur 21 days after the final inspection by the township of the construction project identified as Section 12-34567-89-RS. A map is attached showing the location of the affected highways.

It is Any County's responsibility to notify the Department through the District X office in City of the date of final inspection of the construction project. The District X office will then notify the Central Office, so that the effective date of jurisdictional transfer can be recorded and notification can be sent to the appropriate personnel.

Sincerely,

Bureau Chief, P.E.  
Engineer of Local Roads and Streets

Attachment

cc:

bcc:

**SAMPLE NOTIFICATION LETTER DISTRIBUTED BY  
CENTRAL LOCAL ROADS AND STREETS  
FOR JT INVOLVING LOCAL AGENCIES**



## **Illinois Department of Transportation**

2300 South Dirksen Parkway / Springfield, Illinois / 62764

November 15, 2004

Notification of Jurisdictional Transfer

Any County and Blank Township  
No-Name Road (CH 1): From Road A to Road B

Mr. John Doe  
Blank Twp. Hwy. Commissioner  
123 W. Road  
City, IL 61234

Dear Mr. Doe:

In accordance with the terms of the agreement executed on June 14, 2004, the transfer of highway jurisdiction for No-Name Road, including the associated structures along this highway segment, from Any County to Blank Township is confirmed to have occurred November 2, 2004, 21 days after the final inspection by the township of the construction project identified as Section 12-34567-89-RS. A map is attached showing the location of the affected highways.

Sincerely,

Bureau Chief, P.E.  
Engineer of Local Roads and Streets

Attachment

cc:

bcc:

**SAMPLE NOTIFICATION LETTER DISTRIBUTED BY  
CENTRAL LOCAL ROADS AND STREETS  
FOR JT DIRECTLY ASSOCIATED WITH EXECUTION OF AGREEMENT**



## **Illinois Department of Transportation**

2300 South Dirksen Parkway / Springfield, Illinois / 62764

June 7, 2004

Notification of Jurisdictional Transfer

State and Any County

State Highway: From Point A easterly 0.69 mile to Point B

Mr. John Doe  
Any County Clerk  
123 W. Road  
City, Illinois 61234

Dear Mr. Doe:

In accordance with the terms of the agreement executed on June 4, 2004, the transfer of jurisdiction for the highway noted above from the State of Illinois to Any County is confirmed to have occurred on June 4, 2004. A map is attached showing the location of the affected highway.

Also, in accordance with the agreement, the state will issue a warrant to the county for the sum of \$251,029 which the county shall deposit into their Motor Fuel Tax account. These funds are to be utilized for appropriate MFT expenditures. The central Bureau of Local Roads and Streets will enter a credit transaction in the department's records to reflect this increase in the county's MFT balance. This will finalize the transfer and the District office can close the MFT section for this agreement.

Sincerely,

Bureau Chief, P.E.  
Engineer of Local Roads and Streets

Attachment

cc:

bcc:

**SAMPLE NOTIFICATION LETTER PROVIDED BY  
THE DISTRICT  
FOR A JT INVOLVING A STATE ROUTE**



## **Illinois Department of Transportation**

2300 South Dirksen Parkway / Springfield, Illinois / 62764

April 14, 2004

Notification: Date of Jurisdictional Transfer

State-City of \_\_\_\_\_ Agreement

State Section: 123 RS-1

Any County

FAU 9876

Contract: 24680

Re: Jurisdictional Transfer of 123 Street from Point A to Point B

Ms. Jane Doe

City Mayor

987 E. Street

City, IL 69876

Dear Ms. Doe:

In accordance with the terms of the agreement executed on October 25, 2003, the transfer of highway jurisdiction from the State of Illinois to the City of \_\_\_\_\_ is confirmed to occur on April 29, 2004. A map is attached showing the location of the affected highway.

Sincerely,

\_\_\_\_\_  
Regional Engineer

cc:

bcc:



County \_\_\_\_\_

Section \_\_\_\_\_

Route \_\_\_\_\_

District \_\_\_\_\_  
Contract No. \_\_\_\_\_  
Job No. \_\_\_\_\_

Project \_\_\_\_\_

Director of Highways  
Chief Engineer  
Department of Transportation  
Springfield, Illinois

Contractor \_\_\_\_\_

Address \_\_\_\_\_

On \_\_\_\_\_, final inspection was made of work designated and same was found to be completed substantially in accordance with all of the requirements of the plans, specifications and contract. The improvement begins at Station \_\_\_\_\_ and ends at Station \_\_\_\_\_ Gross length \_\_\_\_\_  
The work is located between (nearest town) \_\_\_\_\_ and (nearest town) \_\_\_\_\_  
on (marked route) \_\_\_\_\_.

Nature of* Improvement	Surface or Bridge		Summary of Length Built			Within Corporate limits of	Station to Station
	Type	Width	Net Length	Shoulders Width	Type		
<b>Total</b>							

\* Describe nature of improvements as (1) PCC Pavement: (2) W&RS: (3) Resurfacing: (4) Bridge Widening: (5) Bridge Repairs: (6) Bridge (new): (7) Prepared. Omission and equations should be noted. Use above space for remarks and comments. If additional space is necessary use additional BC-71 Form(s).

**General Information**

Date contract awarded \_\_\_\_\_ Construction began \_\_\_\_\_ Construction completed \_\_\_\_\_  
Punch List Completed \_\_\_\_\_ Date pavement opened to traffic \_\_\_\_\_  
Was work completed under traffic? \_\_\_\_\_ Contract time limit \_\_\_\_\_ + \_\_\_\_\_ WD's Working days used \_\_\_\_\_  
Extension(s) \_\_\_\_\_ Liquidated damages (days) \_\_\_\_\_ Working days added by authorization(s) \_\_\_\_\_  
Subcontractors \_\_\_\_\_

Resident and Inspectors \_\_\_\_\_ Contractor's Superintendent \_\_\_\_\_

Bonding Company \_\_\_\_\_

Final Inspection made by \_\_\_\_\_  
(State personnel) \_\_\_\_\_ (Date) \_\_\_\_\_

\_\_\_\_\_  
Regional Engineer Date

Passed \_\_\_\_\_  
Engineer of Construction Date

Contract Price \_\_\_\_\_  
Additions \_\_\_\_\_  
Deductions \_\_\_\_\_  
Total Cost \_\_\_\_\_



Improved by \_\_\_\_\_ funds. District \_\_\_\_\_

**Designation by Department of Transportation**

Route \_\_\_\_\_ Section \_\_\_\_\_

County \_\_\_\_\_ Project \_\_\_\_\_

Contract \_\_\_\_\_ Job \_\_\_\_\_

**General Information**

Type of \_\_\_\_\_

\_\_\_\_\_ Pavement \_\_\_\_\_

Total cost \_\_\_\_\_ Length of \_\_\_\_\_

To: \_\_\_\_\_ (Date) \_\_\_\_\_  
Contractor \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Gentlemen:

This work has been satisfactorily completed in reasonably close conformity with all of the requirements of the contract and is hereby accepted by the Department of Transportation.

Very truly yours,

\_\_\_\_\_  
Engineer of Construction

- Copies to -
- Bureau of Accounting & Auditing
- Bureau of Urban Program Planning
- Engineer of Design
- Engineer of Local Roads & Streets
- Engineer of Operations
- Regional Engineer
- Local Agency Official
- File



\*JURISDICTIONAL TRANSFER – “REPORT OF FINAL INSPECTION”

PROJECT IMPROVEMENT:

DATE:

Route:  
Section:  
County:  
District:  
Project No.:  
Job No:  
Contract No.:  
Contractor:

Location:

On \_\_\_\_\_ (date) \_\_\_\_\_, the final inspection for the above-referenced section was held with the following people in attendance:

The following deficiencies were noted:

The final inspection is

Approved \_\_\_\_\_  
Regional Engineer or  
County Engineers/Superintendent of Highways or  
Highway Commissioner or  
Appropriate Municipal Official  
Date

cc:  
To be determined by the agency using this form. However, a copy of this form is required by the Central Bureau of Local Roads and Streets and should be attached to the notification letter.

**Note: The Districts should note that this example is intended only for jurisdictional transfers associated with an improvement. Any similar document used by the District Bureau of Construction may be modified to include application to jurisdictional transfers.**



**Part II:**

**Vacating and Adding  
Township & Road District Roads**



## Chapter 10

### OVERVIEW

#### 10-1 THE PROBLEM

Over the years, local governments have acquired or have been given property to be dedicated as public right of way. Most of the recent dedications require the road to be built, and/or a sufficient bond be submitted before townships will accept the right of way. In most cases, this system works quite well. Sometimes, however, the project is delayed or abandoned, the bond becomes insufficient to cover construction costs, and the road doesn't get built.

Also, every township seems to have vacant right of way that has existed for so long that no one can remember why it was needed in the first place. People have also become more transient, and different neighborhoods become more desirable to live and work in, leaving roads that were once vital parts of the township transportation system barely used or even unused.

These unused rights of way and under-used roads create problems in many ways. The biggest problems seem to be financial. As local governmental budgets tighten, valuable time and money is spent repairing and maintaining not only the under-used road itself, but also the bridges, culverts, and drainage ways along the road. An infrequently used road that did not require attention or money may become a high cost road if a new residence is built along it. Property taxes from the new residence would not cover the increased costs of road maintenance. The new residence could not have been made if the road had been vacated, unless a developer/owner recreates the road.

Other problems include: the tendency of some people to dump garbage in these unused rights of way; unsightly weeds that can grow unchecked; property owners that are required to follow building setbacks for roads - even when one doesn't or shouldn't really exist; and old rights of way that become the center of disputes over access to private property. Also land, which rarely serves any public purpose, remains idle when it could be divided and transferred to adjoining land owners and therefore goes on the tax rolls.

Some township road commissioners worry that if the road mileage in their road district becomes too small, they will be abolished. However, state law provides for such abolition only if the total mileage does not "exceed a total of 4 miles (6.44 km) in length" (605 ILCS 5/6-130). Most townships have from 30 (48.28 km) to 40 (64.37 km) miles of road. Also, the state may not be including these roads if they are impassable.

## **10-2 THE PROCESS**

This guideline takes you step by step through the vacation and addition process, describing the required actions and alternatives. The explanations basically follow the outline of the state law for this process.

Many of the steps described may not actually occur if no one appeals the decisions of the highway commissioner. However, these steps are important for citizens who may wish to pursue an alternative decision.

In order to make it easier to carry out this process, we included sample documents at the end of this section.

If you wish assistance in locating the owners of land adjacent to a road, you may find help at the County Recorder of Deeds. This department should have property maps and records which make this task fairly easy.

### **10-2(a) AN EASIER ALTERNATIVE FOR ROADS IN OLD SUBDIVISIONS**

Owners of undeveloped subdivisions can ask to have its lots and roads vacated with a simple document and a copy of the plat. This can be approved by the road official and plat officer of the County with no public hearing and with only the cost of recording.

### **10-2(b) THE SHORT PROCESS**

The process described below allows the opportunities for appeal and accommodation of land owners' interests.

If a vacation is not controversial and all adjacent land owners agree to it or are indifferent, there will be *no*:

- Appeals;
- Separate processes with the County Engineer;
- Extra public notices;
- Damage release documents; or,
- Agreement or assessment documents.

**10-2(b)     THE SHORT PROCESS** (continued)

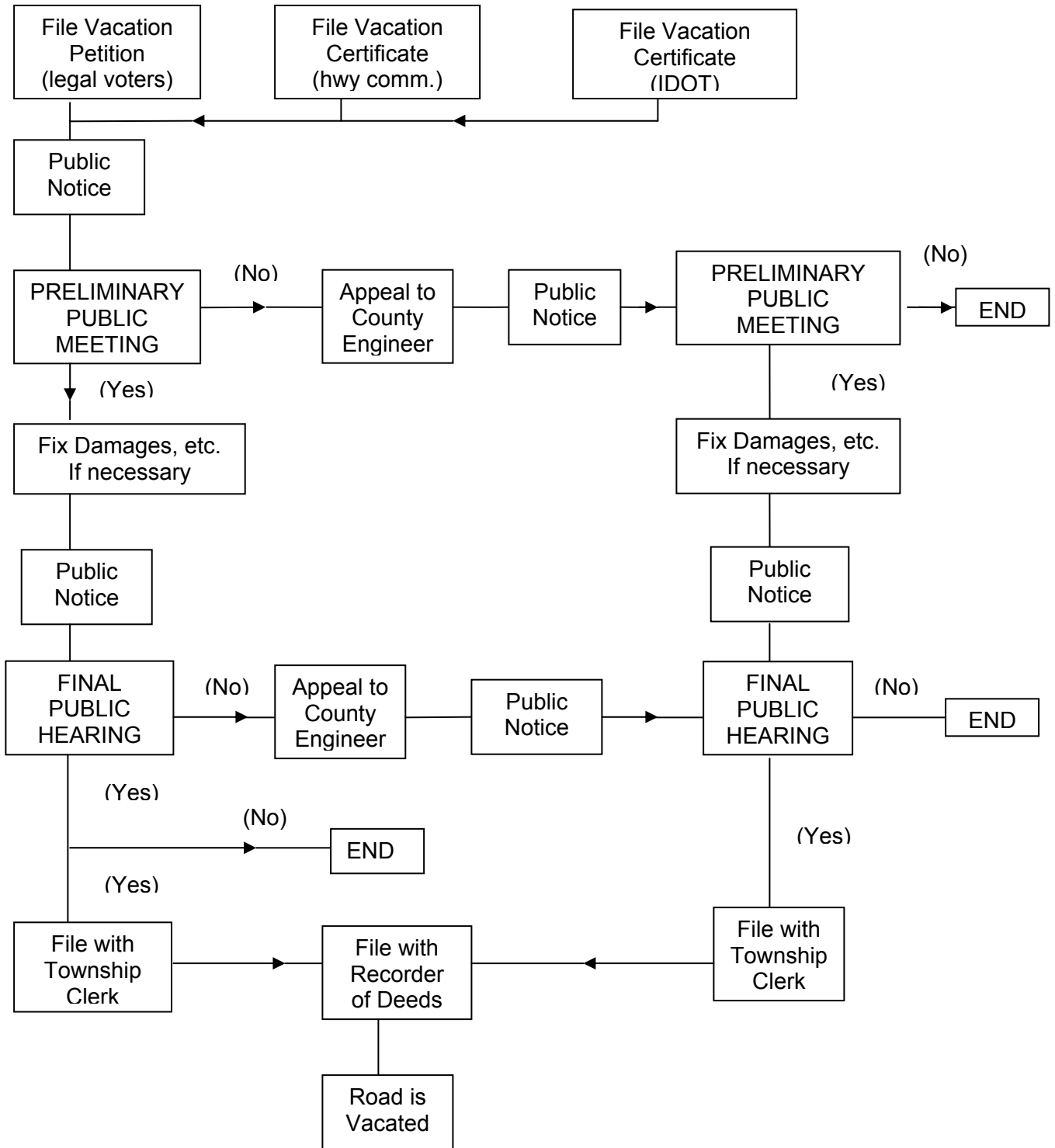
The process *will* be:

1. The petition is initiated, including original or most complete, legal description of the road;
2. Public notice is made and adjacent land owners are notified of time and location of public meeting;
3. The preliminary Public Meeting and Final Public Hearings are held at the same time;
4. The road commissioner fills out the proper documents;
5. The township clerk files these with the necessary offices.

The short process is outlined in a flow chart on page 65 of these guidelines and the individual steps are marked with arrows, accompanied by a written description.

NOTE: When the title "County Engineer" is used in these guidelines, it also includes Cook County Superintendent of Highways.

## VACATING TOWNSHIP ROADS\*

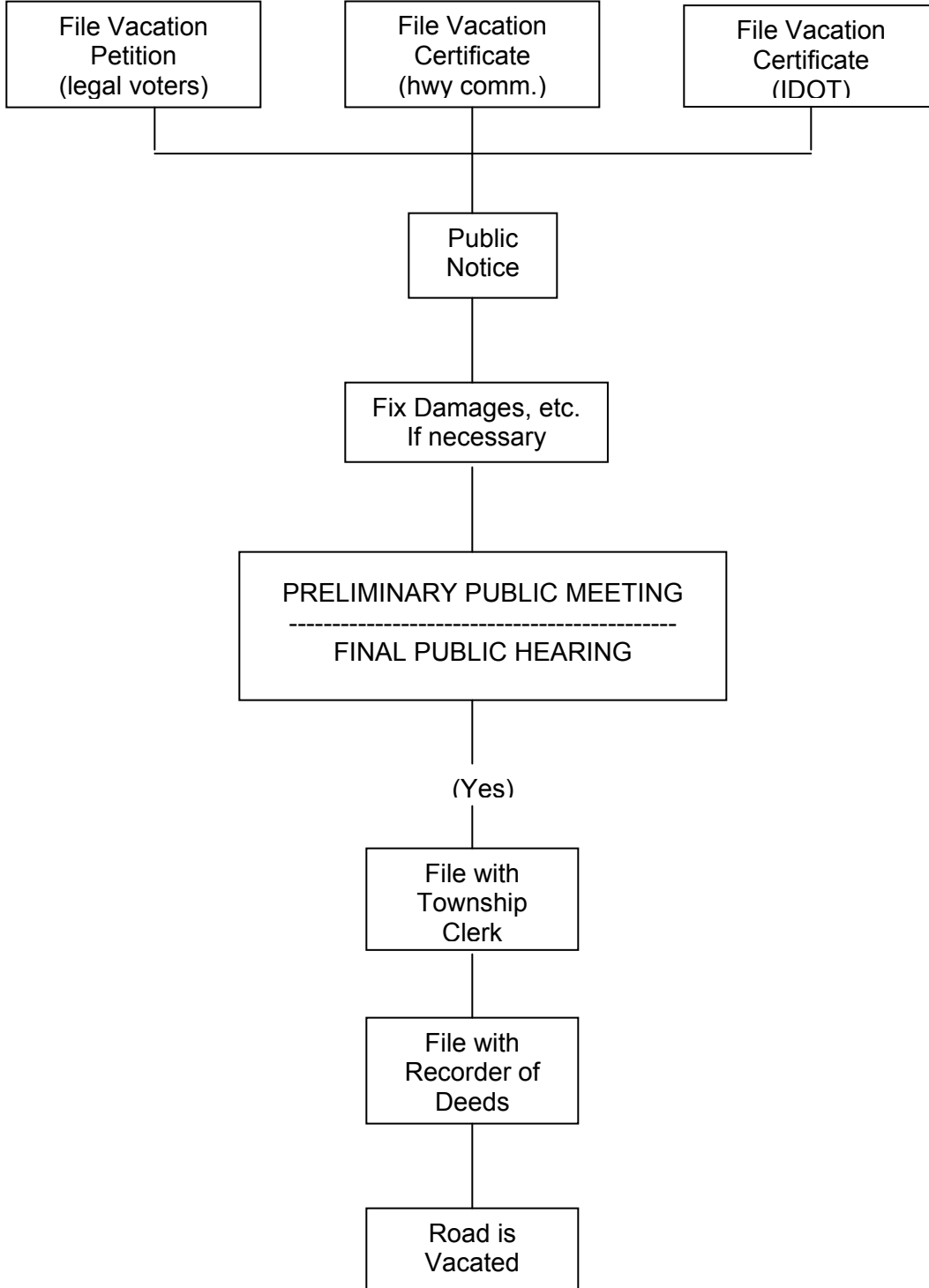


**NOTE:** (Yes) indicates a decision in favor of the road vacation.  
 (No) indicates a decision not in favor of the road vacation.  
 If all required notices and procedures are followed, both hearings can be held at the same time

**\*Same procedure to be used for additions**



## VACATING TOWNSHIP ROADS THE SHORT PROCESS



**NOTE:** (Yes) indicates a decision in favor of the road vacation.  
If all required notices and procedures are followed, both hearings can be held at the same time.



## Chapter 11

### GENERAL INFORMATION

#### **11-1 INDIVIDUALS INVOLVED IN PROCESS (605 ILCS 5/6-301-303)**

The following is a list of the primary individuals involved in the process of vacating a township road:

- Highway Commissioner - refers to the township or road district commissioner.
- County Engineer - refers to the county road official formerly known as the county superintendent of highways; except in Cook County, he/she will still be identified as the County Superintendent of Highways.
- Road Official - refers to either the highway commissioner or county engineer, whichever has jurisdiction at that point in the vacation process. (Note: The title "road official" is not found in the Illinois Compile Statutes)
- Township Clerks - are included in the Illinois Compiled Statutes' definition of "district clerks."

#### **11-2 ASSIGNMENT OF OLD RIGHT OF WAY (605 ILCS 5/6-302)**

When possible, the private property created by the vacation of a public right of way should be transferred back to the original property owner, or if not known, then by common law, equally to the properties on each side of the road. Where there is a natural obstruction on one side of the road or where the road extends along the right of way of any railroad, river or canal, the road official is authorized to transfer the entire width of right of way to the property on one side of the former right of way.

However, in 2005 under the 94<sup>th</sup> General Assembly, 605 ILCS 5/9-127 was amended to provide that a highway authority that is vacating right of way may sell vacated property to a third party at fair market value as long as the original property owners have had the right of first refusal regarding whether they wish to acquire the vacated property.



## Chapter 12

### ROAD VACATION PETITION

#### **12-1 WHO MAY FILE** (605 ILCS 5/6-303)

The process of vacating a township road can begin only in one of the following ways:

- Legal voters living within a township may file a petition with the highway commissioner. The petition must contain signatures of:
  - a) a minimum of 5 percent of the total number of legal voters within the township; or
  - b) 12 legal voters within the township; whichever is fewer.
- Highway commissioners may start road vacation proceedings themselves by filing a road vacation certificate with the township clerk and county clerk.
- The Illinois Department of Transportation may file a road vacation certificate with the highway commissioner when the vacation of a township road is required by the construction, operation, or maintenance of a State highway.

#### **12-2 MINIMUM INFORMATION ON PETITION** (605 ILCS 5/6-303)

The petition, or certificate, requesting the vacation of a road should, at minimum:

- State the purpose of the petition;
- Contain the legal description of the road and a description of which part is to be vacated;
- Be signed by the appropriate individual(s), and
- Provide a simple map of its location.



## Chapter 13

### PRELIMINARY PUBLIC MEETING

#### **13-1 SETTING DATE, TIME AND LOCATION (605 ILCS 5/6-305)**

The highway commissioner will set a time and location for a public meeting when the road vacation petition or certificate is received. The meeting must be held at a location that allows the highway commissioner to examine the road, hear reasons for or against vacating the road, and make a preliminary decision regarding the proposed vacation.

#### **13-2 PUBLIC NOTICE (605 ILCS 5/6-305)**

The highway commissioner must give written notice of the preliminary public meeting at least 10 days before the meeting to:

- The county engineer, and
- Any municipality which is within 1.5 miles from the road to be vacated, provided the municipality has the authority to enforce its 1.5 mile planning jurisdiction.

A notice of this preliminary public meeting must be published at least 10 days prior to this meeting in:

- At least one newspaper published within the township; or
- In the absence of such paper, one paper of general circulation within a township; or
- In the absence of such papers, notice must be posted in 5 of the most public places in the township which are in the vicinity of the road to be vacated.

**13-3 ADJOURNMENT (605 ILCS 5/6-305)**

The highway commissioner may adjourn the first preliminary public meeting for up to 10 days if all of the following notice is given:

- Advance written notice is given to the County Engineer
- Advance written notice is given to any municipality which is within 1.5 miles from the road to be vacated, provided the municipality has the authority to enforce its 1.5 mile planning jurisdiction
- A public announcement is made at the time and place of the hearing indicating the adjournment, and
- A notice of adjournment is posted at the time and place of the hearing.

**13-4 CRITERIA FOR DECISION (605 ILCS 5/6-305)**

The decision of the highway commissioner must be based upon the following criteria:

- The vacation must be in the public and economic interest, and
- All people residing or owning land within 2 miles of any portion of the road proposed to be vacated must still have reasonable access (but not necessarily by a direct route), by way of motor vehicle or other portable farm machinery commonly used in the area, to farmland they own or operate and to community and trade centers after the road is vacated.



### **13-5 CONSOLIDATION OF PRELIMINARY AND FINAL HEARINGS (605 ILCS-305)**

The final public hearing may be held at the same time as the preliminary or adjourned public meeting if:

- All damages have been released
- The original or most complete, legal description is used
- There are no objectors, and
- All required notifications and procedures for a final hearing are followed, including mailing and delivering a written notice to all owners of the property adjacent to the road which is the subject of the hearing.

If all of the above criteria are not met, a separate, final hearing must be held.



## Chapter 14

### PRELIMINARY DECISION

#### **14-1 MEMORANDUM OF DECISION (605 ILCS 5/6-306)**

After announcing a decision at a preliminary public meeting, the highway commissioner will then draft a brief memorandum that contains the decision and the findings leading to this decision. The highway commissioner should sign the memorandum, attach it to the original petition or certificate, and file it with the township clerk no later than 5 days after the preliminary public hearing.

In addition to filing the memorandum with the township clerk, the highway commissioner will also send copies of the original petition or certificate, and memorandum of decision to:

- The county engineer, and
- Any municipality which is within 1.5 miles from the road to be vacated, provided the municipality has the authority to enforce its 1.5 mile planning jurisdiction.

#### **14-2 SURVEY (605 ILCS 5/6-307)**

The state law for vacating roads deals with laying out new roads, and widening or altering roads, as well as with vacating roads. It therefore requires a survey to be made so that the new or changed road can be accurately located. However, an existing road cannot be described, for vacating purposes, more accurately than by the description which brought it into existence. It would be prudent to compare the description on the petition with records at the County Highway Department, at the Township Clerk, and at the Recorder of Deeds and amend it if necessary.

#### **14-3 PETITION TO RESURVEY (605 ILCS 5/6-307)**

A petition signed by 12 land owners residing in the township requesting the road be resurveyed may be submitted to the road official. Upon receiving this petition, the road official must, within a reasonable time, employ a competent surveyor and have the road described in this petition surveyed. Although this provision is meant for the laying out or altering of roads, the law does not exclude vacations from it.

**14-4 DAMAGES (605 ILCS 5/6-308-309)**

The road official issuing the preliminary order to vacate will represent the township in all matters relating to damages. When a preliminary memorandum to vacate has been filed with the township clerk and a survey and plat of the road have been completed, negotiations to determine likely damages to landowners caused by the road vacation will then begin.

- Damages will be settled when the landowner(s) and the road official enter into a contract in which the terms are specified. This contract must be signed by both the landowner and the road official, and filed and recorded with the final memorandum of vacation.
- Damages may also be released by land owners. Release documents must be in writing and filed and recorded with the copy of the final memorandum of vacation. This release permanently bars the current and future owners of property incurring damages of all further claims for damages.

**14-5 INDUCEMENTS (605 ILCS 5/6-310)**

Any person or persons interested in the vacation of any township road is authorized to offer inducements to the road official for the vacation of any such road. Inducements can be offered only by entering into a contract with the road official to pay money or other valuable thing to the township for the benefit of the township's road funds.

## Chapter 15

### APPEAL OF PRELIMINARY DECISION

#### **15-1 ELIGIBILITY TO APPEAL** (605 ILCS 5/6-306)

If the highway commissioner makes a preliminary decision to deny the petition to vacate a road, any 3 of the original petitioners may appeal this decision to the County Engineer. This appeal must be filed with the township clerk no later than 10 days after the decision to deny the petition was made (at the preliminary public meeting).

The township clerk will then send the original petition to vacate and the appeal of the highway commissioner's decision to the County Engineer.

#### **15-2 SETTING DATE, TIME AND LOCATION** (605 ILCS 5/6-306 & 5/6-311)

The County Engineer will hold a public hearing no later than 20 days after receiving the appeal petition from the township clerk. The County Engineer will use this appeal hearing to hear and consider reasons for or against the proposed vacation. The county engineer will have the authority to conduct the appeal hearing in the same manner as the final hearing.

#### **15-3 PUBLIC NOTICE** (605 ILCS 5/6-305)

The County Engineer must give notice of this public hearing by:

- Publication of the notice in at least one newspaper published in the township, or
- If there is no such newspaper, publication in at least one newspaper of general circulation in the township, or
- In the absence of such generally circulated newspaper, by posting notices in 5 of the most public places in the township in the vicinity of the road at least 5 days prior to the hearing.
- Mailing or delivering a written notice to all owners of the property adjacent to the road which is the subject of the hearing.

Also, a written notice may be mailed or delivered to every person known to have been present at earlier hearings, and to every other person who requests notice of further hearings.

**15-4 PRELIMINARY DECISION (605 ILCS 5/6-306 & 5/6-311)**

At the appeal hearing, the County Engineer will make a decision regarding the proposed vacation, and then draft a brief memorandum indicating this decision and reasons for the decision. This memorandum must be attached to the appeal petition and filed in the office of the township clerk no later than 5 days after the appeal hearing.

This decision of the County Engineer will be considered as a preliminary decision. However, if the County Engineer agrees with the highway commissioner's decision to deny the vacation petition, then this decision is final.

## Chapter 16

### FINAL HEARING

#### **16-1 FINAL ORDER** (605 ILCS 5/6-311)

If the original preliminary decision was not appealed, the highway commissioner will be the road official responsible for holding the final hearing. If the preliminary decision was appealed to the county engineer, then the county engineer will be the road official responsible for holding the final hearing.

#### **16-2 SETTING DATE, TIME AND LOCATION** (605 ILCS 5/6-311)

No later than 20 days after likely damages have been officially agreed upon (a signed contract) by both parties, or after such damages have been officially released; the road official will hold a public hearing. At this hearing, the road official will hear reasons for or against vacating the road, and publicly announce a final decision regarding the proposed vacation.

#### **16-3 PUBLIC NOTICE** (605 ILCS 5/6-311)

The road official or county engineer must give notice of such public hearing by:

- Publication of the notice in at least one newspaper published in the township, or
- In the absence of such paper, publication in one paper of general circulation within the township, or
- In the absence of such papers, notice shall be posted in 5 most public places in the district in the vicinity of the road to be vacated for at least 5 days prior to the hearing.
- Mailing or delivering a written notice to all owners of the property adjacent to the road which is the subject of the hearing.

Written notice may be mailed or delivered to every person known to have been present at earlier hearings, and to every other person who requests notice of further hearings.

**16-4 COUNTY ENGINEER CONDUCTING FINAL HEARING (605 ILCS 5/6-311)**

The county engineer, if conducting the final hearing, has the authority to:

- Administer oaths
- Permit the introduction of evidence and cross examination of witnesses by persons and/or counsel
- Require that every person offering testimony does so under oath or affirmation and can be the subject of cross examination. However, the technical rules of evidence required in circuit courts do not apply to this hearing, and
- Secure and retain a stenographic transcript of all of the proceedings of the hearing; and
- Determine the advisability of the proposed vacation.



## Chapter 17

### FINAL DECISION

#### **17-1 CRITERIA FOR DECISION (605 ILCS 5/6-305)**

Any decision relating to the vacation of a road must be based upon the following criteria:

- The vacation is in the public and economic interest, and
- All people residing or owning land within 2 miles of any portion of the road proposed to be vacated must still have reasonable access (but not necessarily by a direct route), by way of a motor vehicle or other portable farm machinery commonly used in the area, to farmland they own or operate and to community and trade centers after the road is vacated.

#### **17-2 FILING FINAL MEMORANDUM (605 ILCS 5/6-313)**

After a public announcement of a decision relating to the vacation of the road, the road official must draft a memorandum containing the decision and findings leading to this decision. The memorandum ordering a road vacation must contain positive responses to the above criteria.

The road official must file the following documents with the township clerk no later than 5 days after the date the final order of vacation is filed with the township clerk:

- The signed memorandum of final decision
- A definite description of the road to be vacated (legal description)
- A copy of the original plat of the road to be vacated (if available)
- The original petition
- All damage release documents (if there are any)
- All agreement or assessment contracts (if there are any).



## Chapter 18

### APPEAL OF FINAL DECISION

#### **18-1 DEADLINE TO APPEAL (605 ILCS 5/6-306)**

If the decision at the final hearing was made by the highway commissioner, an appeal of this decision may be made to the County Engineer. This appeal must be filed with the township clerk no more than 10 days after the highway commissioner's final decision is filed with the township clerk.

#### **18-2 WHO MAY APPEAL (605 ILCS 5/6-306)**

People wishing to appeal the final decision of the highway commissioner must meet the following criteria:

- Any 3 qualified petitioners (legal voters residing within the township) who may have signed the petition to vacate, or
- Any 3 legal voters residing within 2 miles of any portion of the road to be vacated, or
- Any 3 other persons owning land operated as a farm within 2 miles from any portion of such road.

Anyone meeting the above criteria must also meet at least one of the following requirements:

- Are legal voters residing within the township, or
- Have raised objections at the final hearing and will be directly and adversely affected by the proposed vacation.

#### **18-3 SETTING DATE, TIME, AND LOCATION (605 ILCS 5/6-306)**

The township clerk, upon receiving the appeal petition, will mail or deliver all papers relating to the proposed vacation to the County Engineer. The County Engineer will hold a public hearing within the township no later than 20 days after receiving from the township clerk all of the papers relating to the proposed vacation. The county engineer will have the authority to conduct the appeal hearing in the same manner as the final hearing.

**18-4 PUBLIC NOTICE (605 ILCS 5/6-311)**

The road official or county engineer must give notice of such public hearing by:

- Publication of the notice in at least one newspaper published in the township, or
- In the absence of such paper, publication in one paper of general circulation within the township, or
- In the absence of such papers, notice shall be posted in 5 most public places in the district in the vicinity of the road to be vacated for at least 5 days prior to the hearing.
- Mailing or delivering a written notice to all owners of the property adjacent to the road which is the subject of the hearing.

Written notice may be mailed or delivered to every person known to have been present at earlier hearings and to every other person who requests notice of further hearings.

**18-5 APPROVAL OF VACATION (605 ILCS 5/6-311)**

The county engineer, if deciding in favor of vacating the road, will then:

- a) Draft a memorandum ordering the road to be vacated. The signed memorandum must contain or be attached to a legal description and plat of the road to be vacated.
- b) File the following documents with the township clerk no later than 5 days after publicly announcing this final decision:
  - The signed memorandum of final decision
  - A definite description of the road to be vacated (legal description)
  - A copy of the original plat of the road to be vacated (if available)
  - The original petition
  - Any damage release documents
  - Any agreement or assessment contracts

**18-6 DENIAL OF VACATION (605 ILCS 5/6-315)**

The county engineer, if deciding against vacating the road, will draft a memorandum indicating the denial of the proposed vacation. This memorandum will have the effect of annulling and revoking all proceedings and agreements with respect to damages that have been negotiated and/or discussed during the vacation process.



## Chapter 19

### RECORDING VACATION

#### **19-1 RECORDING VACATION (605 ILCS 5/6-313, 315)**

It is the duty of the township clerk to record the road official's road vacation order and the plat of the survey in a proper book to be kept for that purpose in the township clerk's office.

It is also the duty of the township clerk to record the road official's road vacation order and the plat of the survey with the county recorder of deeds.

**NOTE:** IT IS VERY IMPORTANT THAT THE ROAD VACATION ORDER BE FILED WITH THE RECORDER OF DEEDS! RECORDING THIS DOCUMENT WILL PERMANENTLY INFORM THE PUBLIC OF THE CHANGE IN STATUS OF THE ROAD AND WILL SAVE THE TOWNSHIP AND PROPERTY OWNERS FROM MANY PROBLEMS LATER.

It is also important and beneficial to notify the County Engineer and Illinois Department of Transportation, Bureau of Local Roads and Streets, Highway Systems Manager, 2300 South Dirksen Parkway, Springfield, IL 62764.





## Chapter 20

### JUDICIAL REVIEW

#### **20-1 JUDICIAL REVIEW (605 ILCS 5/6-315)**

Judicial review may be pursued in the manner provided in the Illinois Compile Statutes after the final order of the County Engineer is filed with the township clerk.



## Chapter 21

### ADDING A TOWNSHIP HIGHWAY

#### 21-1 ADDING A TOWNSHIP HIGHWAY

The procedure for addition of a township highway is similar to the vacation of a road. When adding a highway to a township system, please follow the chart on page 64 and appropriate statutes, as noted. However, the procedures for “preliminary decision” are not used when adding a highway to the township highway system.



**SAMPLE DOCUMENTS**

**FOR**

**VACATING**

**TOWNSHIP**

**ROADS**



\_\_\_\_\_  
Township  
( \_\_\_\_\_ )  
County

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(name of newspaper)

Attn: \_\_\_\_\_

\_\_\_\_\_  
(street address)

\_\_\_\_\_  
(city/state/zip code)

**RE: Publication of Notice of Public Hearing**

Dear \_\_\_\_\_:

Please publish the enclosed notice in the a.m./p.m. edition of \_\_\_\_\_,  
(name of newspaper)

on or before \_\_\_\_\_.  
(date of publication)

If there are any questions, please contact me.

Sincerely,

\_\_\_\_\_  
Highway Commissioner

\_\_\_\_\_  
(telephone number)

# Road Vacation Petition

We the undersigned, who represent at least five (5) percent legal voters, or are twelve (12) legal voters, whichever may be fewer, of \_\_\_\_\_ Township, in the county of \_\_\_\_\_ respectfully request that the duly elected township highway commissioner vacate \_\_\_\_\_, which is the legal public right of way described as follows:

(name of township)

(county)

(name of road)

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____



**(Road Vacation Petition Continued)**

I, \_\_\_\_\_, attest that the above persons, to the best of my knowledge, are qualified petitioners, and whose signatures are true and correct and executed in my presence.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

STATE OF ILLINOIS )

) SS

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the uses and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

# Road Vacation Certificate

I, \_\_\_\_\_, the duly elected highway commissioner for  
(highway commissioner)  
\_\_\_\_\_ Township, in the county of \_\_\_\_\_,  
(name of township) (county)  
hereby submit this document as evidence of my intention to begin proceedings which will result  
in the vacation of \_\_\_\_\_ which is the legal public right-of-  
(name)

way described as follows:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Highway Commissioner

STATE OF ILLINOIS )  
) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the uses and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

## Notice of Public Hearing

Notice is hereby given that pursuant to the State of Illinois Compiled Statutes, the

\_\_\_\_\_ Township highway commissioner will hold a public hearing on  
(name of township)

\_\_\_\_\_, \_\_\_\_\_ to  
(day of week) (date) (time)

To examine \_\_\_\_\_ and to hear reasons for or against vacating  
(road to be added)

this right of way. The hearing will be held at \_\_\_\_\_.  
(location of hearing)

The legal description of the right of way to be added is as follows:

## Preliminary Decision of Road Vacation

I, \_\_\_\_\_, the duly elected highway commissioner of \_\_\_\_\_ Township, in the county of \_\_\_\_\_, after examining the right of way and hearing reasons for and against the vacation of \_\_\_\_\_ during a preliminary public meeting which was held \_\_\_\_\_, \_\_\_\_\_, and finding that said vacation is in the public and economic interest; and that all persons residing or owning land within two (2) miles of this road retains reasonable access to their property, hereby submit this document as an indication of my intention to hold a final public hearing and to submit a final order to vacate the public right of way stated above and described as follows:

(Continued on next page)

**(Preliminary Decision of Road Vacation Continued)**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Highway Commissioner

STATE OF ILLINOIS )  
                                          ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the use and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public

# Notice of Adjournment

THE PUBLIC HEARING SCHEDULED TO BE HELD BY THE \_\_\_\_\_  
(name of township)  
TOWNSHIP, IN THE COUNTY OF \_\_\_\_\_, TOWNSHIP  
(county)  
HIGHWAY COMMISSIONER AT \_\_\_\_\_  
(location of hearing)  
ON \_\_\_\_\_, \_\_\_\_\_, AT  
(day of week) (date)  
\_\_\_\_\_, TO ALLOW FOR AN INSPECTION OF  
(time)  
\_\_\_\_\_, WHICH IS DESCRIBED BELOW, AND TO  
(name of road)  
HEAR ARGUMENTS FOR OR AGAINST VACATING THIS RIGHT OF WAY, HAS BEEN  
RESCHEDULED TO \_\_\_\_\_,  
(day of week) (date)  
AT \_\_\_\_\_,  
(time) (location of hearing)

The legal description of the proposed right of way to be vacated:

\_\_\_\_\_  
Highway Commissioner

\_\_\_\_\_  
Date

## **Petition to Appeal Highway Commissioner Preliminary Decision**

We the undersigned, who represent three (3) of the petitioners of the original petition to vacate a road in \_\_\_\_\_ Township, in the county of \_\_\_\_\_  
(name of township) (county)  
hereby state our objection to the preliminary decision regarding the vacation of

\_\_\_\_\_, which is described below, by the township  
(road name)  
highway commissioner and request that the county engineer review this road vacation petition and subject right of way, and make a decision regarding this proposed vacation. The legal description of this right of way is as follows:

(Continued on next page)





## **Petition to Appeal Highway Commissioner Final Decision**

We the undersigned, hereby object to the final decision made by the township highway commissioner in regards to the vacation of \_\_\_\_\_, which is described below, and request that the county engineer review the road vacation petition and this road, and to make a final decision regarding the proposed vacation. The legal description of this right of way is as follows:

<b>Name</b>	<b>Address</b>
_____	_____
_____	_____
_____	_____



## Final Order of Road Vacation

I, \_\_\_\_\_, the duly elected highway commissioner  
\_\_\_\_\_ Township, in the county of \_\_\_\_\_  
after examining the right of way and hearing reasons for and against the vacation of  
\_\_\_\_\_ during a final public hearing which was  
held \_\_\_\_\_, \_\_\_\_\_, and finding that said vacation is in the public and  
economic interest; and that all persons residing or owning land within two (2) miles of this road  
retains reasonable access to their property, hereby submit this document to officially vacate the  
public right of way stated above and described as follows:

(Continued on next page)

## Final Order of Road Vacation Continued

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Highway Commissioner

STATE OF ILLINOIS )  
                                          ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the use and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**SAMPLE DOCUMENTS**

**FOR**

**ADDITIONS TO**

**TOWNSHIP**

**ROADS**



\_\_\_\_\_

Township

( \_\_\_\_\_ )

County

\_\_\_\_\_ (date)

\_\_\_\_\_ (name of newspaper)

Attn: \_\_\_\_\_

\_\_\_\_\_ (street address)

\_\_\_\_\_ (city/state/zip code)

**RE: Publication of Notice of Public Hearing**

Dear \_\_\_\_\_:

Please publish the enclosed notice in the a.m./p.m. edition of \_\_\_\_\_, (name of newspaper)

on or before \_\_\_\_\_ (date of publication).

If there are any questions, please contact me.

Sincerely,

\_\_\_\_\_

Highway Commissioner

\_\_\_\_\_

(telephone number)

# Road Addition Petition

We the undersigned, who represent at least five (5) percent legal voters, or are twelve (12) legal voters, whichever may be fewer, of \_\_\_\_\_ Township, in the county of \_\_\_\_\_ respectfully request that the duly elected township highway commissioner add \_\_\_\_\_, which is the legal public right of way described as follows:

(name of township)

(county)

(name of road)

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____



**(Road Addition Petition Continued)**

I, \_\_\_\_\_, attest that the above persons, to the best of my knowledge, are qualified petitioners, and whose signatures are true and correct and executed in my presence.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

STATE OF ILLINOIS )

) SS

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the uses and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public

## Road Addition Certificate

I, \_\_\_\_\_, the duly elected highway commissioner for  
(highway commissioner)  
 \_\_\_\_\_ Township, in the county of \_\_\_\_\_,  
(name of township) (county)  
 hereby submit this document as evidence of my intention to begin proceedings which will result  
 is the addition of \_\_\_\_\_ which is the legal public right of way  
(name)  
 described as follows:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Highway Commissioner

STATE OF ILLINOIS )  
                                   ) SS  
 COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the uses and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public

## Notice of Public Hearing

Notice is hereby given that pursuant to the State of Illinois Compiled Statutes, the

\_\_\_\_\_ Township highway commissioner will hold a public hearing on  
(name of township)  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ to  
(day of week) (date) (time)  
to examine \_\_\_\_\_ and to hear reasons for or against vacating  
(road to be added)  
this right of way. The hearing will be held at \_\_\_\_\_.  
(location of hearing)

The legal description of the right of way to be added is as follows:

## **Petition to Appeal Highway Commissioner Preliminary Decision**

We the undersigned, who represent three (3) of the petitioners of the original petition to vacate a road in \_\_\_\_\_ Township, in the county of \_\_\_\_\_  
(name of township) (county)  
hereby state our objection to the preliminary decision regarding the addition of

\_\_\_\_\_, which is described below, by the township  
(road name)  
highway commissioner and request that the county engineer review this road vacation petition and subject right of way, and make a decision regarding this proposed vacation. The legal description of this right of way is as follows:

(Continued on next page)

**(Petition to Appeal Highway Commissioner Continued)**

Name	Address
_____	_____
_____	_____
_____	_____

I, \_\_\_\_\_, attest that the above persons, to the best of my knowledge, are qualified to sign this appeal petition, and whose signatures are true and correct and executed in my presence.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the use and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## Notice of Adjournment

THE PUBLIC HEARING SCHEDULED TO BE HELD BY THE \_\_\_\_\_  
(name of township)  
TOWNSHIP, IN THE COUNTY OF \_\_\_\_\_, TOWNSHIP  
(county)  
HIGHWAY COMMISSIONER AT \_\_\_\_\_  
(location of hearing)  
ON \_\_\_\_\_, \_\_\_\_\_, AT  
(day of week) (date)  
\_\_\_\_\_, TO ALLOW FOR AN INSPECTION OF  
(time)  
\_\_\_\_\_, WHICH IS DESCRIBED BELOW, AND TO  
(name of road)  
HEAR ARGUMENTS FOR OR AGAINST ADDING THIS RIGHT OF WAY, HAS BEEN  
RESCHEDULED TO \_\_\_\_\_,  
(day of week) (date)  
AT \_\_\_\_\_,  
(time) (location of hearing)

The legal description of the proposed right of way to be added:

\_\_\_\_\_  
Highway Commissioner

\_\_\_\_\_  
Date

## **Petition to Appeal Highway Commissioner Final Decision**

We the undersigned, hereby object to the final decision made by the township highway commissioner in regards to the addition of \_\_\_\_\_, which is described below, and request that the county engineer review the road addition petition and this road, and to make a final decision regarding the proposed addition. The legal description of this right of way is as follows:

<b>Name</b>	<b>Address</b>
_____	_____
_____	_____
_____	_____





## Final Order of Road Addition

I, \_\_\_\_\_, the duly elected highway commissioner  
\_\_\_\_\_ Township, in the county of \_\_\_\_\_  
after examining the right of way and hearing reasons for and against the addition of  
\_\_\_\_\_ during a final public hearing which was  
held \_\_\_\_\_, \_\_\_\_\_, and finding that said addition is in the public and  
economic interest; and that all persons residing or owning land within two (2) miles of this road  
retains reasonable access to their property, hereby submit this document to officially add the  
public right of way stated above and described as follows:

(Continued on next page)

## Final Order of Road Addition Continued

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Highway Commissioner

STATE OF ILLINOIS )  
                                  ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public, in and for the county and state aforementioned, DO HEREBY CERTIFY that \_\_\_\_\_, who is personally known to me to be the person who signed the foregoing document, and acknowledge that he signed said document as his free and voluntary act and deed and for the use and purposes herein stated.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public





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