



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

RUDY MALFABON, P.E., *Director*

In Reply Refer to:

December 9, 2014

TO: ALL LOCATIONS FOR POSTING OF PUBLIC HEARING
Notice of Intent to Act Upon a Regulation

FROM: Bob Madewell, Chief-Roadway Systems Unit
Nevada Department of Transportation

SUBJECT: REQUEST TO POST 'NOTICE OF INTENT TO ACT UPON A REGULATION and
HEARING DOCUMENTS REGARDING ROAD RELINQUISHMENT REGULATIONS.

Please post the enclosed package that contains the "NOTICE OF INTENT TO ACT UPON A REGULATION", Proposed Nevada Administrative Code (NAC) Regulations, and the Proposed Guide to Road Relinquishments, on or before Saturday, December 13, 2014, 9am.

If you have any questions, please contact the following persons at the Nevada Department of Transportation, Roadway Systems Unit. Syd Schlachta at 775-888-7179 or Lawrie Black at 775-888-7726.

Thank you.



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Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

RUDY MALFABON, P.E., *Director*

In Reply Refer to:

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption
Of Temporary Regulations of the
Nevada Department of Transportation

The Nevada Department of Transportation will hold a Public Hearing at 9:30 am, on Monday, the 12th of January of 2015 at 1263 S. Stewart Street, 3rd Floor Conference Room, NDOT Headquarters, Carson City, Nevada. This public hearing is an agenda item on the Department of Transportation Board Agenda for this date. The purpose of the hearing is to receive comments from all interested persons regarding the Adoption of regulations that pertain to chapter 408 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of [NRS 233B.0603](#):

1. This regulation is needed to insure that a process is in place to address road relinquishments or road trades between the State and Cities or Counties. The purpose is to insure that a formal process is in place for all agencies to follow that will describe the process to begin, negotiate and complete road relinquishments and road trades.
2. The proposed regulation is intended to:
 - a. Recommend new NAC 408.182 which will:
 - (1) Provide the definition of the term "Local Government" as used in proposed regulation NAC 408.567.
 - b. Recommend new NAC 408.567 which will:
 - (1) Requires the Department (Nevada Department of Transportation) to work collaboratively with Local Governments to create a process to relinquish roads under each's control.
 - (2) Provide for the development of a Guide to identify the process for proposing, developing, evaluating and completing road relinquishments between the Department and Local Governments.
 - (3) Provide for a process to request new or amended/revised language to the regulation, after it's adoption.
3. The estimated economic effect of the regulation on the State or Local Governments will be determined by negotiation between the State and each Local Government agency at the time of a proposed relinquishment or road trade.
 - a. There shall be no adverse effects on either the State or Local Governments as each party will enter into a cooperative agreement in writing before any relinquishment or road trade is completed. The intent of this regulation is to insure that each agency receives equal or acceptable benefit from the transfer of a road to its control.

- b. The immediate effect will be to allow the State and Local Governments to formally begin discussions regarding road relinquishments and road trades and allow them to plan such action. The long-term effect will be that the State and Local Governments may agree to the transfer of roads in a cooperative manner, thus allowing each agency to make sound decisions for their agencies and become good stewards of the taxpayers money.
4. The cost to the Department of Transportation for enforcement of the proposed regulation will be absorbed in the typical daily cost for staff services
5. There are no overlapping regulations of other state or local governmental agencies or federal agencies that will be affected by this regulation.
6. The proposed regulations are not required by any federal law.
7. The proposed regulation is not federally regulated.
8. The proposed regulation does not place any new fee or increase any existing fee as the current road relinquishment or road transfer process does not contain a fee.

Persons wishing to comment upon the proposed action of the Nevada Department of Transportation may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to **Nevada Department of Transportation, Attn: Roadway Systems Unit, 1263 S. Stewart Street, Safety/Roadway Modular, Carson City, Nevada, 89712**. Written submissions must be received by the Nevada Department of Transportation, Roadway Systems Unit on or before December 31, 2014 at 5:00 PM. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Transportation may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at:

Nevada Department of Transportation,
District I Office,
123 E. Washington Ave,
Las Vegas, NV 89125,

Nevada Department of Transportation,
District II Office,
310 Galletti Way,
Sparks, NV 89431

Nevada Department of Transportation,
District III Office,
1951 Idaho St.,
Elko, NV 89801

Nevada Department of Transportation,
1263 S. Stewart Street,
Carson City, NV 89712

Nevada Department of Transportation,
Tonopah Maintenance Station,
805 Erie Main,
Tonopah, NV 89049

Nevada Department of Transportation,
Winnemucca Maintenance Station
725 West 4th St.
Winnemucca, NV 89446

Nevada Department of Transportation,
Ely Maintenance Station
1401 Ave. F
Ely, NV 89301

and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to [NRS 233B.0653](#), and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty (30) calendar days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

NOTICE OF INTENT TO ACT UPON A REGULATION
January 12, 2015, 9:30am

This notice of hearing has been posted at the following locations:

Nevada Department of Transportation
1236 S. Stewart St.
Carson City, NV 89712

Nevada Department of Transportation
District III Office
1951 Idaho St.
Elko, NV 89801

Nevada Department of Transportation
District I Office
123 E. Washington Ave.
Las Vegas, NV 89125

Nevada Department of Transportation
Winnemucca Maintenance Station
725 West 4th St.
Winnemucca, NV 89446

Nevada Department of Transportation
Tonopah Maintenance Station
805 Erie Main
Tonopah, NV 89049

Nevada Department of Transportation
Ely Maintenance Station
1401 Ave. F
Ely, NV 89301

Nevada Department of Transportation
District II Office
310 Galletti Way
Sparks, NV 89431

RTC of Southern Nevada
600 S. Grand Central Pkwy.
Suite 350
Las Vegas, NV 89106

Washoe County Courthouse
75 Court St.
Reno, NV 89520

Grant Sawyer State Office Building
555 E. Washington Ave.
Las Vegas, NV 89101

Churchill County Library
5553 S. Maine St.
Fallon, NV 89406

Goldfield Public Library
P.O. Box 430, Fourth & Crook St.
Goldfield, NV 89013

Lincoln County Library
93 Main St.
Pioche, NV 89043

Eureka Branch Library
P.O. Box 293, 1125 Central Ave.
Eureka, NV 89316

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Battle Mountain Branch Library
P.O. Box 141, 625 S. Broad St.
Battle Mountain, NV 89820

Pershing County Library
P.O. Box 781
Lovelock, NV 89419

Douglas County Library
P.O. Box 337, 171 Central St.
Minden, NV 89423

Storey County Library
P.O. Box 14, 95 S. R St.
Virginia City, NV 89440

Mineral County Library
P.O. Box 1390, First & A Street
Hawthorne, NV 89415

AGENDA

9:30 AM, January 12, 2015

Department of Transportation, Transportation Board Meeting

3rd Floor Conference Room

1263 S. Stewart Street, Carson City, NV 89712

1. Call to Order-Open the Public Hearing
2. (Staff) Report by the Department on proposed regulations to be adopted pursuant to the requirements of NRS 408.527. The purpose of the proposed regulations is to:
 - A) Provide a definition of the term, “Local Governments”, as referenced in NRS 408.527; (Proposed NAC 408.182)
 - B) Set forth the requirements that the Department will use to work with Local Governments in developing and modifying a guide that will direct the process of relinquishing and trading roads between the Department and Local Governments. (Proposed NAC 408.567)
3. Public Comment and discussion:
 - A) Only public comment relative to the proposed regulations will be taken. Public Comment may be limited to five (5) minutes per person at the discretion of the Board Chair.
4. This item has been included on the agenda as an **ACTION ITEM**.
 - A) Staff recommends that the Board adopt the Temporary Regulation, Proposed NAC 408.182 defining the term “Local Government” as referenced in NRS 408.527.
 - B) Staff recommends that the Board adopt the Temporary Regulation, Proposed NAC 408.567.
 - 1) Requires the Department to work with Local Governments to create a process to relinquish roads under their control.
 - 2) Provides for a process of developing a working manual (referred to as the “Guide”) that will be used to propose, develop, evaluate and complete road relinquishments between the State and Local Governments.
 - 3) Provides for a process of modifying the working manual which may be submitted to the Transportation Board only in the months of October or November each year.
5. Action-Vote on the proposed regulation in Item 4.
6. Close Public Hearing-Adjournment

This notice and agenda has been posted on or before 9 a.m. on the thirtieth (30th) day before the meeting at the locations listed above.

Date: December 9, 2014

Chapter 408 of NAC is hereby amended by adding thereto the provisions set forth as sections _____ and _____ of this regulation.

(NEW) NAC (Recommended Number 408.182) “Local Government” defined. (NRS 408.215). *“Local Government” for the purpose of NAC 408.567 means the legislative body of any county or city.*

(Added to NAC by Dep’t of Transportation, eff. __-__-14)

(NEW) NAC (Recommended Number 408.567) Requirements for the relinquishment of roads and road trades between the Department and Local Governments. (NRS 408.527)

1. The relinquishment process provided for in NRS 408.527 shall be conducted as set forth in this section. The Department shall work collaboratively with Local Governments to create a process by which the Department and Local Governments may relinquish those roads under each’s control to the other entity as provided for in this section.

2. The Department, in cooperation with Local Governments, shall develop a working manual, which shall identify the process for proposing, developing, evaluating, and completing road relinquishments between the Department and Local Governments. This manual shall be entitled “State of Nevada, Department of Transportation, Guide to Roadway Relinquishments” (the “Guide”). The development of the Guide shall be accomplished in the following manner:

(a) The Department shall develop preliminary recommended language for the Guide and shall submit the proposed Guide to the Chief Administrative Officer of each Local Government. Each Local Government shall have a minimum of 45 calendar days to provide comment on the proposed language for the Guide.

(b) Upon completion of the 45-day review period, the Department shall develop a written response to each comment received. The list of comments and responses shall be sent to all Local Governments within 20 calendar days of the close of the 45-day review period.

(c) The Department shall use its best efforts to resolve disagreements, if any, between the Department and any Local Government. If an agreement cannot be reached, the Department shall submit the Guide to the Board for approval at a scheduled public meeting.

(d) All persons in attendance at the scheduled Board meeting shall have an opportunity to provide comment and recommendations to the Board concerning the proposed language.

(e) The Board shall consider the recommendations from the Department and those comments and recommendations of persons in attendance at such scheduled meeting regarding the proposed revisions to the Guide. The Board shall approve or deny the proposed language to

the Guide. In the event the Board denies any portion of the language in the Guide, it shall direct the Department to meet with Local Governments to work on alternative language and submit such alternative language to the Board at a subsequent Board meeting for approval. This resubmission of language to the Board shall not be considered a new request subject to the time limits for a Revision Cycle set forth in Subsection 3 to this Section.

(f) Once approved by the Board, the Department shall place the Guide on its website for public viewing.

3. *The process to seek approval of new or revised language may be commenced by the Department by bringing such revision to the Board once per year during the months of October and/or November upon the prior completion of the following required procedures (the “Revision Cycle”):*

(a) At least 90 calendar days prior to a scheduled Board meeting to approve any revisions to the Guide, the Department shall provide a copy of such proposed revisions to the Chief Administrative Officer of each Local Government.

(b) All Local Governments shall have no less than 30 calendar days to review the proposed revisions to the Guide and provide their comments, if any, to the Department (the “Review Period”).

(c) The Department shall evaluate all written comments within 15 calendar days of the close of the Review Period (the “Evaluation Period”).

(d) The Department shall provide its comments to the Chief Administrative officer of each Local Government within 5 calendar days of the close of the Evaluation Period (the “Notification Period”).

(e) If necessary to resolve any conflicts in the proposed language, if any, between the Department and the Local Governments, the Department shall meet with the representatives of the Local Governments within 10 calendar days of the close of the Notification Period to discuss the disputed language. Such meeting between the Department and Local Governments shall be completed at least 30 calendar days prior to the scheduled Board meeting date as set forth in this subsection 3.

(f) In the event the Department and Local Governments are unsuccessful at resolving any disputed language, the Department shall submit the Guide with its proposed revised language to the Board for approval at the scheduled meeting.

(g) All persons at attendance of the scheduled Board meeting shall have an opportunity to provide comment and recommendations to the Board concerning the proposed language.

(h) The Board shall consider the recommendations from the Department and any comments and recommendations from persons in attendance at the scheduled meeting regarding the

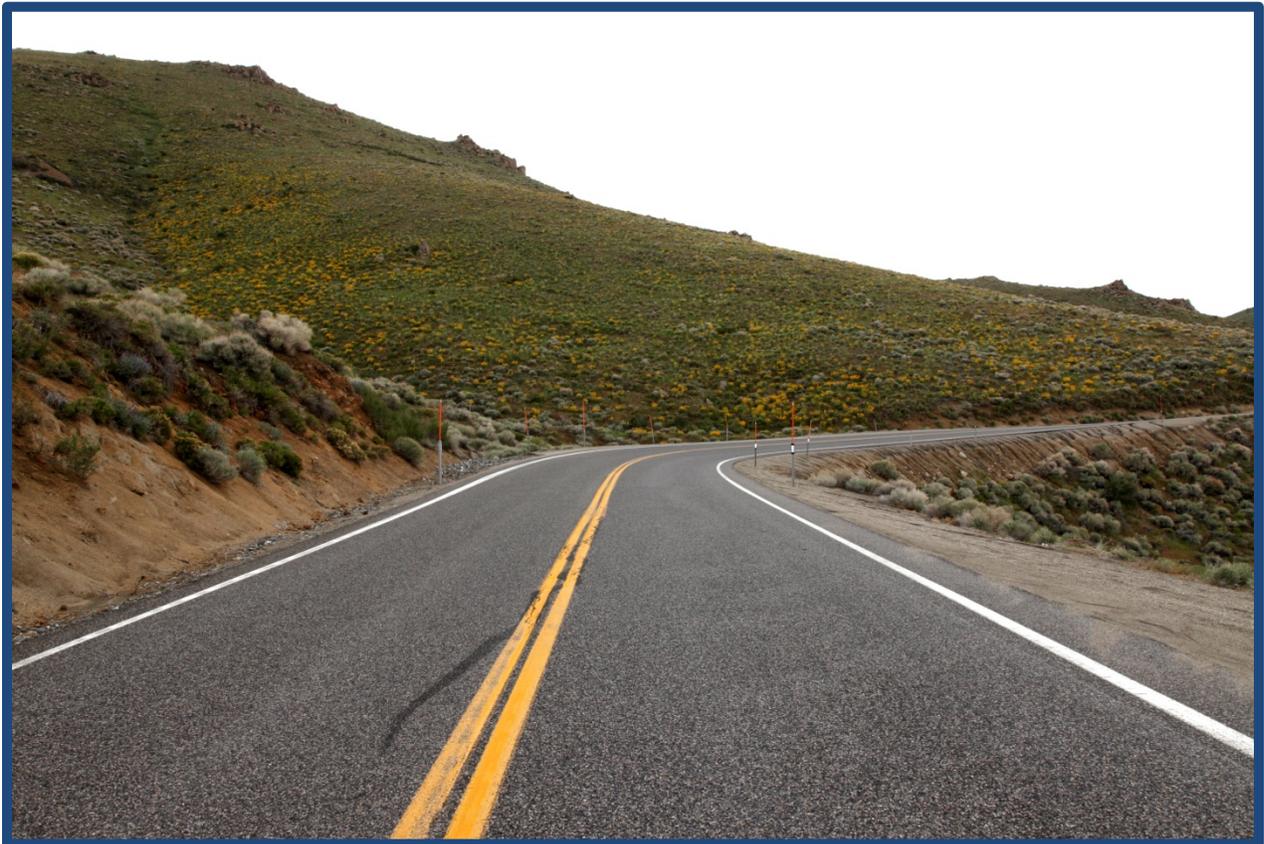
proposed language. The Board shall make a final determination as to the approval of any revisions to the Guide.

(i) If the Board approves of the revisions to the Guide, the newly approved Guide shall become effective upon the Board's approval. The Department shall place the revised Guide on the Department web site along with a statement of the Board's approval.

(j) Those proposed revisions not approved by the Board shall not be adopted into the Guide, and the Department shall continue to use the Guide in existence prior to the scheduled Board meeting. The Department shall not bring to the Board any additional requests for revisions to the Guide until the next subsequent Revision Cycle in accordance with this subparagraph 2.

(Added to NAC by Dep't of Transportation, eff. __-__-14)

**STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
GUIDE TO ROADWAY RELINQUISHMENTS**



Rural Highway

Nevada Department of Transportation

1263 S. Stewart St
Carson City, NV 89712
(775)888-7000

Published by the Planning Division

Roadway Systems Section, 1213 Oregon St, Carson City, NV 89712
For information please contact the State Systems Unit of the
Roadway Systems at (775) 888-7179 or (775) 888-7675

DRAFT



Vers.(11/2014)

Rudy Malfabon, P.E., Director

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SECTION 1: INTRODUCTION

1.1 Definitions

*(The definitions listed below with an asterisk are found in their entirety in the Code of Federal Regulations, CFR 23, Chapter 1, Section 460.2. The full definition found in the CFR shall apply).

Betterment - A physical improvement to a facility (roadbed, roadway or roadside element) either geometrically or structurally, that would be considered above and beyond a state of good repair.

Cost to relinquish - A level of work or financial contribution to facilitate the relinquishment.

Department - State of Nevada, Department of Transportation

Division - Division of State Lands

Exceeds the Departments Needs – A determination by the Department, county or city, that the highway no longer is needed, based on a system analysis.

Equitable Trade Value – Value can be in the form of monetary compensation, other land value including roads, public land or a combination of compensation and land.

Federal Aid Highways – Highways where federal funds have participated in either right-of-way or physical construction.

FHWA- Federal Highway Administration

Highway – NRS 408.070, Highway means roads, bridges, structures, culverts, curbs, drains and all buildings, communication facilities, services and works incidental to highway construction, improvements and maintenance required, laid out, constructed, improved or maintained as such pursuant to constitutional or legislative authority.

Local Government Agency (LGA) - NAC 408.182. The term, “Local Government” for the purpose of NAC 408.567 means the legislative body of any county or city.

***Maintenance** – The preservation of the entire highway, including surfaces, shoulders, roadsides, structures, and such traffic control as necessary for its safe and efficient utilization.

NDOT – Nevada Department of Transportation

***Open to public travel** – Road sections that are available, except during schedule periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars and open to the general public for use without restrictive gates. (Further defined in 23 CFR, Chapter 1, Section 460.2, Code of Federal Regulations).

***Public Authority** – A federal, state, county, town or township, Indian tribe, municipal or other local government or instrumentality thereof, with authority to finance, build, operate, or maintain toll or toll-free highway facilities. (Defined in 23 CFR, Chapter 1, Section 460.2, Code of Federal Regulations).

***Public Road** – Any road under the jurisdiction of and maintained by a public authority and open to public travel. (Defined in 23 CFR, Chapter 1, Section 460.2, Code of Federal Regulations).

Relinquish – The act of turning over to another entity the property rights, liability and maintenance responsibilities of a portion of a state, county or city highway.

Relinquishment by legislative enactment – Using legislative action to delete a portion of a state highway from the State Highway System that no longer serves inter-regional or statewide transportation needs.

Relinquishment by relocation – The same as “relinquishment by superseding.”

Relinquishment by superseding – A state highway has been realigned or built on an alignment that is different than the existing alignment making the old alignment redundant.

Relinquishment of Federal Aid Highways – Conveyance of a portion of a highway right-of-way or facility by a State Highway Agency (SHA) to another government agency for highway use. (Defined in CFR 23, Chapter 1, Subchapter G, Part 620, subpart B, 620.203 (b), Code of Federal Regulations).

Road Traffic and Safety Evaluation (RTSE) – See Figure 2 of this manual.

Relinquishment of collateral facilities – Those local streets and roads that were built or modified during the course of a state highway project and are no longer needed for the State Highway System and are to be relinquished to the appropriate local agency.

Repair- To fix or mend something: to restore something broken or damaged to good condition.

Roadway – NAC 408.245, Means the portion of a highway for vehicular use, including the shoulders and the portion of the highway within the limits of any construction. For the purpose of this manual and its processes, shall also include all appurtenances associated with the highway within the rights of way.

Right-of-way- NRS 408.080, Means land, property or any interest therein acquired for or devoted to highways whether or not the entire area of such is actually used for highway purposes.

Safe Road- As determined by joint agreement after the joint field review and is based partly on data reported using the Road Traffic and Safety Evaluation form shown in Figure 2. Generally means a road that has little or no correctable accidents, that contains pavement widths, cross slopes, and striping that are standard to a road of the nature in question. The road contains no exigent roadside cautions the overall road conditions would lead a prudent person to feel safe, driving the road.

State Highway – For the purposes of this manual, any reference to a State Highway or State Maintained Highway, shall mean highways under the control and ownership of the State of Nevada, Department of Transportation, NDOT.

State of good repair – To fix or mend the roadway to a safe, maintained travel area for vehicles, pedestrians and all other modes in a good condition. This term does not include

betterments or capacity increasing improvements. (See section 4.4 of this manual for more on the State of Good Repair).

1.2 Department Responsibility

Road relinquishments and road transfers have occurred between Local Government Agencies (LGA) and the state, for many years. In 2013, Assembly Bill 18 was approved and revised NRS 408.527 thus clarifying the process that enables these transactions.

The Roadway Systems Unit of the Planning Division of NDOT is responsible for managing the completion of road transfers between the Department and LGA's. Requests to consider road transfers by an LGA starts with a request to the Roadway Systems Unit.

1.3 Purpose and Intent of Manual

The purpose of this manual is to provide guidance in the process and completion of roadway relinquishments either to or from the State of Nevada, Department of Transportation. This manual is to provide a smooth process by which roads can be transferred between the department and LGA's working together in the process. NRS 408.527 shall be followed when completing road relinquishments or road transfers.

This manual was developed with assistance from the following: NDOT Administration-Headquarters, NDOT District Engineers, League of Cities-Nevada, Nevada Association of Counties-NACO, Agency representatives from various local governments representing, cities, counties, and RTC's, NDOT Right of Way Division and NDOT-Roadway Systems Division.

1.4 History

Since the creation of the Department of Transportation in 1957, the state maintained road network has grown and evolved significantly as a result of growth, changing regional economics, and the national development of the Interstate system of highways. As these demographic changes developed, some of the original road system was, or continues to be superseded by relocation, and significant portions no longer serve areas of state significance. The Department currently maintains a mix of 5,400 miles of roadways that service as many as 250,000 + vehicle trips a day down to less than 50.

In recognition of this, the 1999 legislature passed Assembly Concurrent Resolution 3. This resolution directed the director of the Department of Transportation to study the feasibility of transferring state owned roads used primarily for local traffic to local governments. In addition, the study was to examine transferring local roads serving regional or statewide interests to the State. Assembly Concurrent Resolution 3 can be found in the NDOT library or you may request a copy from the office of Roadway Systems, 1263 S. Stewart Street, Safety/Roadway Modular, 93712.

The Department conducted the above mentioned study and submitted its findings to the legislature in June of 2001. Several elements were considered in conducting the study to determine whether a highway should be a state or local route. The most important were: connectivity, accessibility, maintenance costs, travel volume, safety issues, geography, roadway appurtenances, jurisdictional

issues and ownership. The study identified 109 highways (599 miles) under NDOT jurisdiction along with 27 highways (271 miles) under local government jurisdiction for possible exchange of maintenance and in most cases ownership.

Generally, the study defined that the state should maintain roads that are heavily used or provide interstate, inter-county, intercity, intermodal, or national-defense connectivity. The results of the study identified roadways that the state may have interest in transferring to local entities and conversely roadways that local entities may have an interest in transferring to the state. Utilizing the criteria, the study identified a significantly higher number of overall mileages for roadways under state jurisdiction for transfer than for the local entities. The results of the study made it clear that the equitable exchange of roadways represented limited potential when considering the entire list of roadways identified.

In September of 2005, the Nevada Department of Administration Division of Internal Audits conducted an audit of the Departments road transfer process due to the limited success in transferring roads to local governments. In all, only 22 miles of roadway were transferred as of that date. The audit made 3 recommendations to improve the process including: “Eliminating time spent determining road ownership”, “Use alternative methods to transfer roads”, and “Assign staff to coordinate the transfer process”. All 3 recommendations were implemented however, the department was still met with limited success due to local entities reluctance to take on new roadways without long term compensation for maintenance costs or in many cases inability to maintain what is currently in their jurisdiction. Most of the successes to date are the result of a local entity requesting the exchange when it is in their interest for control of access, and to initiate improvements of a priority to the entity. A copy of the September 2005 Division of Internal Audits can be found in the NDOT library or you may request a copy from the office of Roadway Systems, 1263 S. Stewart Street, Safety/Roadway Modular, 93712.

As a result of assigning staff to coordinate the transfer process, additional parameters were established to define what type of roadways should be maintained by the state. Those parameters can be found in Appendix A of this manual.

To date 903 miles of state maintained highways have been identified as candidates for transfer from the State to LGA’s. Of these, 98 miles have been successfully transferred.

Due to the limited success with completing transfers, the director of NDOT at that time, proposed a new strategy to the Board. The department identified roads to be relinquished that had projects in the 2006-2008 Statewide Transportation Program (STIP) for resurfacing, reconstruction and rehabilitation. The proposal to offer “Lump sum” payments was brought to the Board in February of 2006. The Board indicated that we already had approval to use whatever means necessary to relinquish these roads.

During the following years, some road relinquishment and road trades were proposed and a few, such as a road exchange between Carson City and the Department occurred with the construction of Interstate 580, were completed but the list of roads for relinquishment remained high.

In January of 2012, the director of NDOT made a presentation to the Transportation Board on the background, process and current status of State Highway relinquishments to local governments. That

presentation to the Board discussed the 2001 Report to the Legislature and Assembly Concurrent Resolution 3, and the 2005 Audit referred to earlier, and miscellaneous other documents of interest and was concluded as an information item only. However, the need to revitalize the relinquishment process was born from this presentation. NDOT staff was directed to look at NRS 408.527 and revise it to make it work better both for the State and local governments. Staff began later that year to meet with local governments, first via teleconference, then through on-site workshops that occurred in the spring of 2013 to develop a process for addressing relinquishments and road trades. The results of those meetings created the language that was presented to and adopted by the Legislature of the State of Nevada In May of 2013 which amended NRS 408.527 and helped develop this manual as you see it today.

This manual is a first step in providing a focused direction to both, the Department and the local governments on an identified process for developing a road relinquishment or road transfer between agencies. It is a living document and as we move forward, is intended to be modified as issues arise with those modifications only coming after agreement between the Department and local governments.

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SECTION 2: LEGISLATION

2.1 Legislative Statutes:

Nevada Revised Statute NRS 408.527

Procedure for relinquishment of roadways; regulations

1. *Whenever the Department and the county or city concerned have entered into a written agreement providing therefor, and the legislative body of the county or city has adopted a resolution consenting thereto, the Board may relinquish to the county or city:
 - a. Any portion of any state highway which has been deleted from the state highway system by legislative enactment:or
 - b. Any portion of any state highway which has been superseded by relocation or which the Department determines exceeds its needs.*
2. *Whenever the county or city concerned and the Department have entered into a written agreement providing therefor, and the Board has adopted a resolution consenting thereto, the county or city may relinquish to the Department any portion of any county or city road which the Department agrees qualifies to join the state highway system.*
3. *By resolution of the Board, the Department may upon request relinquish to the Division of State Lands of the State Department of Conservation and Natural Resources for the public use of another state agency any portion of any state highway which has been superseded by relocation or which the Department determines exceeds its needs.*
4. *Relinquishment must be made by a resolution. A certified copy of the resolution must be filed with the legislative body of the county or city concerned. The resolution must be recorded in the office of the County Recorder of the county where the land is located and, upon recordation, all right, title and interest of the State in and to that portion of any state highway vests in the county, city or division, as the case may be.*
5. *Nothing in NRS 408.523 limits the power of the Board to relinquish abandoned or vacated portions of a state highway to a county, city or the Division.*
6. *If the Board relinquishes property pursuant to subsection 5, and the purpose for which the property was relinquished is abandoned or ceases to exist, then, absent an agreement or provision of law to the contrary, and regardless of the interest of the Department in the property before it was relinquished, all right, title and interest in the property shall vest in the county, city or Division without reversion to the Department.*
7. *The Board may accept from a county or city any portion of any county or city road which has changed in function such that it has risen to the level of functioning as a state highway. Such a road may be traded for any portion of a state highway relinquished by the Department or accepted by the Department after equitable compensation or trade values have been negotiated and agreed to in writing.*
8. *A county or city may accept from the Department any portion of any state highway which no longer functions to support the state highway system and which exceeds the needs of the*

Department. Such a highway may be traded for any portion of any county or city road relinquished by the county or city or accepted by the county or city after equitable compensation or trade values have been negotiated and agreed to in writing.

- 9. Any portion of a state highway or county or city road that is relinquished or traded pursuant to this section must be placed in good repair, or the parties must establish and agree in writing to equitable monetary compensation. If any highways or roads, or portions thereof, to be relinquished or traded are not of comparable value, the parties must negotiate and agree in writing to equitable monetary compensation or equitable trade considerations.*
- 10. The Department, in cooperation with local governments, shall adopt regulations governing procedural documents that address the process by which highways and roads are relinquished.*
- 11. The vesting of all right, title and interest of the Department in and to portions of any state highways relinquished previously by the Department in the city, county or state agency to which it was relinquished is hereby confirmed.*

DRAFT

SECTION 3: RELINQUISHMENTS and ROAD TRADES

Road trades and Relinquishments should be completed for the entire portion of right of way. Portion relinquishments have occurred in the past causing jurisdictional issues, including maintenance, accident investigation, and confusion to the public. Therefore, relinquishments should include the full width of any road from right of way to right of way and should include the full changeover of all responsibility for the road. Split Jurisdiction roads should be considered for relinquishment only in the case where all jurisdictions with ownership in the road and after its relinquishment are in agreement with the relinquishment.

3.1 Types of Relinquishment

In Nevada there are three types of relinquishments:

- Relinquishment by Legislative enactment
 - a. This relinquishment is completed using legislative action to delete a portion of a state highway from the State Highway System that no longer serves inter-regional or statewide transportation needs. For example, during a legislative session, a highway is recommended for relinquishment and it is completed by legislative vote and not through an agreement process as required by other processes. This action will generally only be used when there is agreement between the Department and the LGA involved and the agreement is in the form of a written letter from the LGA stating their agreement. However, nothing in this manual replaces the ability of the legislature to enact legislation of any kind, including the relinquishment of a state highway.
- Relinquishment by the superseding or relocation of new state highway
 - a. This process is used when a highway is relinquished to an LGA upon the completion of a new roadway that has been realigned or built on an alignment that is different than the existing alignment making the old alignment redundant. This requires a formal process of relinquishment covered by this manual.
- Relinquishment by the changing of a highways primary functionality from a system perspective
 - a. This relinquishment occurs when the Department determines a road to be in excess of its needs or that the road no longer functions as a state highway or when a local agency feels a road has risen to a level of functioning as a state highway. This requires a formal process of relinquishment covered by this manual.

3.2 Appropriateness of Relinquishment

The Department must first determine if a relinquishment makes sense from a system perspective. Criteria have been developed and are applied to a road that is considered for relinquishment, this criterion is primarily system connectivity and functionality related. (See Appendix A). Other factors should also be considered when determining the appropriateness of a relinquishment, such as:

- Future Projects Pending
- Economic Development
- Regional Recreation Use
- Land Use
- LGA's Master Plan

The goal is for the relinquishment or trade to neither be a benefit or burden to either parties but to best serve the travelling public and communities of the State of Nevada.

3.3 Cost to Relinquish

The cost to relinquish or trade roads is established in the negotiation between the State and the Local Public Agency. A joint review of the roads shall be conducted to identify needs and advantages for the relinquishment or trade. Negotiations can include monetary compensation but must be agreed upon in writing, by the negotiating parties. In the event that the State agrees to monetary compensation, the negotiating agent must have budget approval from the Department of Transportation's Director and the budget division, prior to finalizing the agreement.

3.4 Road Trades

NRS 408.527, as it has been changed, allows for the trade of roads from the Department to a county or city (LGA) and also from a county or city (LGA) to the Department. In this sense, a relinquishment does not occur but a trade occurs. Language in the law requires that there be *equitable trade of value*. Value can be in the form of monetary compensation, other land value including roads, public land or a combination of compensation and land. During the negotiation process, the equitable trade of value component will be discussed and the final agreement between the entities will describe what items have been determined to be used as the equitable trade value.

SECTION 4: PROCESS

4.1 Initial Process

All process of developing a road relinquishment or trade shall follow this manual as required by NRS 408.527 and NAC 408.182.

4.1.1 Letter of Intent:

When the Department or LGA wants to relinquish or trade a road, and has determined the type of relinquishment involved, a letter of intent shall be sent to the other party stating the intent to open up dialog for the consideration of a relinquishment. The letter should delineate the highways or roads to be discussed and a reason why they are being considered. At minimum, the letter should contain information such as;

- A description of the highway to be relinquished; i.e., its limits, functionality, connections to other state highways or other relinquishments, and the results of the system analysis decision.
- A short summary of the agency's primary concerns (e.g., lack of maintenance funds, requested improvements, traffic control devices, etc.)
- Clear, legible maps and other attachments as appropriate that show the highway to be relinquished, the condition of the highway, and other features that are of concern to the local agency or NDOT.
- Names, phone numbers, and locations of the appropriate contact persons.

4.1.1(a) Procedure from Department to LGA:

1. Initiation by Roadway Systems using the current list of roads recommended for relinquishment.
 - a. Roadway Systems will develop a letter to the Chief Manager of the LGA (usually the City Manager, County Manager, or Director) recommending dialog be opened
 - b. Cc copy of letter to the District Engineer and Right of Way
2. If initiated by other than Roadway Systems
 - a. Contact Roadway Systems and provide information as shown in item 4.1.1 above. Note that the road must meet the criteria contained in Appendix A.
 - b. Once request to Roadway Systems is made, then Roadway Systems will follow the procedures established in Section 4 of this manual to initiate the process and tracking.

4.1.1(b) Procedure from LGA to the Department:

1. Send Letter of Intent to:
Nevada Department of Transportation
ATT: Chief of Roadway System Division
1263 S. Stewart Street
Carson City, NV, 89712
 - a. Letter should contain, at minimum, the information shown in item 4.1.1 above and must fit into the criteria identified in Appendix B.

4.1.2 Response to letter of Intent:

A response letter should be returned to the initiating agency acknowledging the intent letter and whether or not further discussion should be made. It should indicate the reasons why discussions or negotiations should or should not continue. If the letter of Intent indicates a willingness to proceed with discussions, then a tracking number shall be assigned using the current system in place through the Right of Way division at NDOT for surplus property. This number will be for tracking only.

4.1.3 Initial In House-Field Review:

(The in-house field review is conducted by the Roadway Systems unit for the Department. LGA's should assign this to an appropriate representative)

After the response letter is received and there is indication of further action, a field review should be conducted to gather the basic information about the road(s) in question, i.e., location, length, width, number of lanes, pavement condition, general location and type of visible utilities, structures, intersections, and photographs, etc. This step will provide valuable data for use when the joint field review is set. It will allow the representative to make determinations on issues of interest in preparation for the joint field review which should allow for better discussion.

Figure 1 is a form that can be used to complete the in-house field review.

4.1.4 Road Traffic and Safety Evaluation

A Road Traffic and Safety Evaluation (RTSE) is required to be completed by the initiating agency and will provide data on traffic counts, accident information, proposed planned construction and observations on travel conditions of the road based on a visual review. This information will be helpful to both the initiating agency and to the receiving agency in evaluation of the current and future plans for the road and its current operating characteristics.

Figure 2 is a form to be completed by the initiating agency.

4.2 Joint Party Field Review

After the initial in-house field review issues are evaluated, a Joint Party Field Review should be scheduled. Upon completion of the In-House field review, copies of the review and any issues of concern shall be forwarded to the LGA or the Department, depending on who completed the in-house review. The joint field review should include, at minimum, a representative from the LGA, who shall represent the interest of the LGA, and the District Engineers office for NDOT, along with a representative from the Roadway Systems Unit of NDOT whose role will be to document the discussions and issues raised in the joint review, and to assist with moving the process forward after the completion of the joint field review. The joint review should also include a representative from the various groups at NDOT that may be involved in the discussions of specific items, such as Right of Way, Traffic Operations, Maintenance, Structures etc., if feasible and available. If not available during the joint field review, representative divisions and units shall respond in writing to issues raised by the joint field review team within 30 calendar days of being notified of the request for their response by the Roadway Systems Unit.

Figure 3 is a format that can be used to complete the Joint Party Field Review.

4.3 Negotiations between Local Government Agency and the State

Once the Joint Party Field Review is completed, a meeting should be scheduled by the leading party that first requested the initiation of the relinquishment or road trade. That meeting should include representatives from each agency that are familiar with the issues of the joint field review and other issues of interest, and should also include representatives that are designated to make decisions on behalf of their agency relative to final negotiations but prior to official resolutions.

This negotiation is the beginning of the process to identify the final items that are open for negotiation and resolution of issues prior to the relinquishment process formalizing. Once negotiations have reached a point of agreement, a document should be prepared by the initiating agency delineating the issues and agreements that were reached. This agreement shall be signed by an agency representative charged with authority to sign agreements. The shall become a part of the process for final approval through the body charged with formal approvals in their jurisdiction, such as a City Council, County Commission, State Transportation Board or other charging body empowered to enter into agreements.

Figure 4 is a checklist that can be used to assist in the negotiation process.

4.4 Determining State of Good Repair

State of good repair, for the purpose of this document is to have a safe, well-maintained road that all users, including vehicles, bicycles, motorcycles, pedestrians and all other modes of travel allowed with the right-of-way, can expect as a prudent user. It is the expectations that a prudent driver, bicyclist, or pedestrian (whether walking or in a ada compliant product) would have while using the road, sidewalk etc. Those expectations include but are not limited to, not encountering obstacles in the roadway, not driving or walking on rough or poorly maintained travel areas, poor drainage, inadequate striping and signage, poorly operating traffic signals, poorly operating lighting systems, and roadside obstacles that deter from the safety of the roadway. The term, “State of Good Repair” does not include the installation of new items, betterments or capacity increasing improvements and generally means bringing the existing items found at the time of review, up to a good, useable product.

SECTION 5: NON-AGREEMENT AND CONFLICT RESOLUTION

5.1 Non-agreement

If there is no agreement as to a condition relative to ‘Good Repair’ or there is no agreement on what is an acceptable means of putting the road into a state of good repair, or on any other item, such as trade value, equitable value, etc, the agency not agreeing shall formulate a non-agreement memo.

For memos being sent to the Department (NDOT), the memo should be sent to:

Roadway Systems Office
Attn: Roadway Systems Division Chief
1263 S. Stewart Street
Carson City, Nevada 89712

For memos being sent to the LGA, the memo should be sent to the party assigned by that agency as their representative, who was identified as required in section 4.1 Process, of this document.

The memo shall state what the item of the non-agreement is, the issue or concern with the item of non-agreement, the date of observation that formulated the concern, the reason they feel there is no agreement, and recommended resolutions.

5.1.1 Non-agreement Memo Received by the Department (from LGA)

Once a Non-agreement Memo is received at NDOT it will be logged into the file and forwarded to the District Engineer (or their representative) for review. Within 30 calendar days of receipt of the memo, a meeting will be scheduled by the Roadway Section of NDOT to include necessary NDOT staff that will make a determination as to the response from NDOT on the item or items of disagreement. The District Engineer will formulate the response to the sender after conferring with necessary NDOT staff.

If the District Engineer agrees with the issues raised in the memo, the memo will reflect this agreement and will include suggestions on resolution, which may include agreement with the recommended resolution identified by the sender in the Non-agreement Memo.

If the District Engineer does not agree with the issues raised in the memo, the memo will reflect the disagreement and will include recommended resolutions for resolving the issues raised.

All responses from the District Engineer to the LGA shall include Carbon Copy (CC's) to the Roadway Systems Unit of NDOT, and the Director's Office of NDOT.

It is the goal of NDOT and NRS 408.527 to create a mechanism that allows for a positive resolution to roadway relinquishments or road transfers. All NDOT staff

should attempt to find resolution of disagreements that would best represent the interest of the people of the state of Nevada.

5.1.2 Non-agreement Memo received by an LGA (from the Department)

Once a Non-agreement Memo is received by an LGA, the LGA shall respond within 30 calendar days of receipt of the memo as to their agreement or non-agreement with the issues raised in the Non-agreement Memo. The response shall include their agreement or non-agreement with the issues raised and if in Non-agreement Memo. The memo should state the reasons for the non-agreement and include recommended solutions to resolve any non-agreement.

5.2 Conflict Resolution

If, after receipt of, and response to the Non-agreement Memo, there does not appear to be a foreseeable resolution on the issues raised, a meeting shall be set between the two parties to confer on the items of non-agreement and an attempt to work out a responsible solution. Documentation of this meeting and its results should be sent to the Roadway Systems office of NDOT for addition to the working file.

If it appears that no resolution can be found, the relinquishment or road transfer shall be terminated and each party shall notify the other that they no longer wish to consider this relinquishment.

SECTION 6: AGREEMENTS AND RESOLUTIONS

6.1 Written Agreements

Each relinquishment or road transfer shall be formalized by the District Engineer, of each NDOT District, or their representative, in the form of a “Cooperative Agreement”. The agreement document must be approved by both the Department and LGA. Agreements that contain monetary transfer from the Department shall first be approved by the Budget Division to insure funds are available to complete the transaction. This Agreement must be fully executed prior to moving forward with getting the Resolutions, as discussed below, approved.

6.2 Resolutions

Each relinquishment or road transfer shall be prepared by the Right of Way Division of the Department and will consist of a Resolution Consenting to Relinquishment. The Resolution Consenting must be approved by the body charged in the LGA’s body that is charged with formal approval of resolutions/agreements. The Resolution of Relinquishment is the document that transfers the title to the road.

6.3 Final Official Resolution for Recordation

Once the Resolution Consenting has been approved by the LGA’s body, the matter shall be taken to the State’s Transportation Board for final approval. If approved by the Transportation Board, the Resolution of Relinquishment will be completed and will be recorded in the office of the County Recorder of the county where the land is located

Appendix A

DETERMINING WHAT “EXCEEDS” THE DEPARTMENTS NEEDS:

A determination by the Department, county or city, that the highway no longer is needed, based on a system analysis. The system analysis shall include but not be limited to the following determinations for the highway:

- a. No longer serves to provide connectivity.
- b. No longer serves to provide accessibility
- c. The cost has exceeded the benefit ratio.
- d. Travel volumes are of a nature that the justification of the highway cannot be made.
- e. Safety issues, including the geography and roadway appurtenances overshadow the need for the roadway.
- f. Jurisdictional issues and ownership are of a nature to warrant the relinquishment of the highway to a local entity.

A: Criteria for routes that should be removed from the state roadway system (absent additional justification for inclusion):

1. Routes that cross state and/or county lines, and are functionally classified lower than Rural Major Collector or Urban Minor Arterial.
2. Urban routes functionally classified lower than Urban Principal Arterial\Other.
3. Rural routes functionally classified lower than Rural Minor Arterial.
4. Rural routes with \leq 1 million 2-directional ESAL (equivalent single axel load).

B: Criteria for routes that may be considered for abandonment:

1. Route meets the criteria for removal from the state roadway system.
2. The local public agency has declined to accept responsibility for the route.
3. Route does not meet any of the “should”, or “may” criteria contained in Appendix B for inclusion in the state roadway system.
4. The underlying fee ownership* of the route in question belongs to a public agency and, the abandonment does not adversely affect an abutting property owner’s access.

*If NDOT is the underlying fee owner and the property was acquired on or after April 1st, 1957, the property must be disposed of in accordance with NRS 408.533.

Appendix B

DETERMINING WHAT CONSTITUTES THE NEED TO RAISE A ROAD TO A STATE HIGHWAY BY AN LPA:

A determination by the LPA that the highway has raised to a level of performing as a state highway, based on a system analysis. The system analysis shall include but not be limited to the following determinations for the highway:

A: Criteria for routes that should be included in the state roadway system:

- a. Route is part of the Interstate and/or US Route system(s).
- b. Routes or portions of routes with right of way identified for future corridor needs.
- c. Route is required by previous NDOT agreement for providing access and the purpose of the original agreement is still viable.
- d. Route provides Inter-state and/or Inter-county and/or Inter-city connectivity for travel and/or commerce.
- e. Routes that cross state and/or county lines, provide connectivity to higher order facilities, and are Functionally Classified by NDOT as Rural Major Collector, Urban Minor Arterial, or higher.

B: Criteria that may be considered as additional justification for a routes inclusion in the state roadway system:

- a. Truck traffic (ESAL)
Rural roadways with > 1 Million 2-directional ESAL where the local jurisdiction doesn't have the resources to maintain the route, or where it causes a significant burden.
- b. Routes "Functionally Classified" higher than Local that:
 1. Include a major mountain pass requiring snow removal where the local jurisdiction lacks the resources to keep the route open during severe weather.
 2. Provides the exclusive connectivity of an important agricultural or commercial area to the state roadway system.
 3. Provides exclusive connectivity of "Tribal" facilities or population centers to the state roadway system.
 4. Provides exclusive connectivity to inter-modal facilities of regional significance.
 5. Provides exclusive connectivity of a population center (rated at a minimum of "Census Designated Place") to the state roadway system.
 6. Route provides direct connectivity to a County Seat.
 7. Provides access to a state correctional facility.
 8. Is an Access Route (AR) for an important infrastructure facility (Radar, Weather, Radio Site).
 9. Provides access to state maintenance stations or critical material sites.
 10. Provides exclusive access and/or connectivity to a national or state park, state roadside park, or a state established welcome station. (SP, RP, WS)

FIGURE 1 INITIAL IN-HOUSE CHECK LIST

Date of Review _____ *Reviewer Name* _____

Road or Route Name _____

Location _____

(By county and GPS coordinate @ Begin and End Point)

Limits: _____

(i.e., MP to MP or intersection to intersection)

Number of Lanes NB _____ SB _____ EB _____ WB _____

Lane Widths

NB #1 _____	NB #2 _____	NB #3 _____	
SB #1 _____	SB #2 _____	SB #3 _____	
EB #1 _____	EB #2 _____	EB #3 _____	
WB #1 _____	WB #2 _____	WB #3 _____	

Condition of Striping (include information on bike lanes etc) _____

Medians Yes ___ No ___ Type _____ Width _____

Visible Pavement Condition

NB/EB _____

SB/WB _____

Shoulder Type and Width (if sidewalk-how wide and type)
(considered shoulder from painted edge line to edge of pavement)

NB/EB _____

SB/WB _____

Describe any graded gravel or dirt areas off the edge of pavement. Give approximate measurements of the graded/gravel area from edge of pavement to edge of defined area.

Sidewalk (type and condition, i.e. cracked, broken, weathered, missing small portions etc)

NB/EB _____

SB/WB _____

ADA Facilities present at corners? ___ Yes ___ No

Condition and Location _____

Number of Driveways

NB ____ SB ____ EB ____ WB ____

Visible Utilities (What type if known)

Overhead _____

Underground _____

Traffic Signals/Stop Signs _____

(by Location-on mainline) _____

Bridges/Culverts/Structures _____

(Location and type-Photo) _____

Fences/embankments/slopes adjacent to roadway _____

Visible safety concerns _____

(example: visibility, bushes, road damage, striping, pavement width, missing signs, etc.)
(This information is subjective and should be evaluated by all members in the joint field review)

Misc.Information _____

(all reviews must include a photo of a typical lane in each direction, shoulders, and general pavement condition)

In the space below add any additional notes

FIGURE 2
ROAD TRAFFIC AND SAFETY EVALUATION (RTSE)

Assessment requested for road relinquishment or trade?: _____

Specific location of proposed RTSE :

City/County _____

Route(s): _____

From/To _____

Segment Length: _____ Miles

Describe any improvement plans, planned or scheduled, (including scoping, design, construction, etc.), for this location:

What is the crash experience for the most recent 3-year period (total crashes, fatal crashes, injury crashes, crash rate, pedestrian/bicycle, etc)

What types and causes are shown in the crash statistics for each crash?

Crash 1 _____

Crash 2 _____

Crash 3 _____

Crash 4 _____

(attach additional sheets if necessary)

Average Daily Traffic (ADT) volume for road(s):

Describe any observations that would lead you to believe that a prudent person would have a safety concern for this road: (example such as visibility, road condition, striping issues, construction adjacent to road edge etc).

(attach separate sheet if necessary)

Please include any photos and/or other information that is factual to the location:

Signature of Representative providing data _____

Date _____

FIGURE 3
JOINT PARTY FIELD REVIEW

Date of Review _____

Reviewer Name/s (LPA) _____

Reviewer Name/s (NDOT) _____

Road or Route Name _____

Location (MP to MP) _____

(Give each item below a number then attach a separate sheet with the item number and a description of your issue.)

Pavement Rutting _____ Cracking _____ Pavement Drainage _____
 Full Reconstruct Needed _____ Overlay Needed _____

Striping Centerline _____ Lane Lines _____ Edge line _____

Medians Yes ___ No ___ Type _____ Width _____

Shoulder Type and Width (if sidewalk-how wide and type)
 (considered shoulder from painted edge line to edge of pavement)

NB/EB _____

SB/WB _____

Describe any graded gravel or dirt areas off the edge of pavement. Give approximate measurements of the graded/gravel area from edge of pavement to edge of defined area.

Number of Driveways

NB _____ SB _____ EB _____ WB _____

Visible Utilities (What type if known)

Overhead _____

Underground _____

Traffic Signals/Stop Signs _____

(by Location-on mainline) _____

Bridges/Culverts/Structures _____

(Location and type-Photo) _____

Misc.Information _____

(all reviews must include a photo of a typical lane in each direction, shoulders, and general pavement condition)

FIGURE 4 NEGOTIATION CHECK LIST

Essential Items for Negotiation

Road surface and PCI data
Concrete condition, including sidewalks, curbs-gutters, bridges, sound/retaining walls
All road striping
Signage/signals/street lights/-in place and functioning satisfactorily
Clear property rights
Shoulder/guardrails in good condition
5 year maintenance history
Right of way – full width information and ownership
Copies of all permits, leases, R.O.W. records, maintenance agreements etc.

Items that may be Negotiable

Landscaping
Lighting
Storm drains
Discussion of exchange types (i.e., owned lands traded for roads, road for road e.t.c.)
ADA items (America with Disabilities Act items)
Funding exchange for work
Funding for utility improvements
Road design and improvements to meet road classification

Information needed

Age of roadway
Accident rates
Prior rights
ESALs
Permits/utilities/encroachments/easements
Utility data